

2nd CONSTITUTIONAL CONVENTION
32nd Day - July 19, 1985
(Session) - Tape #2 (Side B)

NABORS: Propose an amendment to article ten to the Northern Marianas Constitution to provide for a uniform fiscal management policy period. Be it adopted by the Second Constitutional Convention colon: Upon ratification pursuant to section 5, article 18 of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows colon: One period. Effective upon ratification comma, new sections blank and blank are added to article 10 Taxation and Public Finance to read colon: Section blank colon: Control of Public Finance period underlined. The Department of Finance or its successor department shall control and regulate the expenditure of public funds. The Department shall promulgate rules including accounting procedures that require public officials to provide full and reasonable documentation that public funds are expended for public purposes period. Quote section blank colon: Taxpayers Right of Action period underlined. A taxpayer may bring an action against the government or one of its instrumentalities in order to enjoin the expenditure of public funds for other than public purposes or a breach of fiduciary duty period. The court shall award cost and attorneys fees to any person who prevails in such action in a reasonable amount relative to the public benefit of the suit period close quote.

MENDIOLA: Mr. President.

PRESIDENT: Yes acting floorleader Mendiola.

MENDIOLA: I move that the Committee Recommendation No. 59 be adopted for the first, I mean second and final reading.

Second.

PRESIDENT: It has been moved and seconded to adopt Committee Recommendation No. 59. Discussion. Delegate Mafnas.

MAFNAS: Mr. President, I support Committee Recommendation 59. However, I have reservations on line 5, lines 5 through 8 in putting this in our Constitution. Under Public Law 1-8, as amended, the Director of Finance has the authority to promulgate rules and regulations pertaining to expenditure of funds. My question is, is the committee, rather the - I would like, I wonder whether the committee's implying that the Director of Finance has yet to promulgate appropriate rules and regulations.

PRESIDENT: Can

GUERRERO: Mr. President

PRESIDENT: Chairman Guerrero.

GUERRERO: I yield to the member of the committee

PRESIDENT: Delegate Igitol.

GUERRERO: Dele - Delegate Igitol.

IGITOL: Yes Mr. President. The Director of Finance has promulgated rules in regards to the public finance and regulations. However, the intention here is that the Constitution will rec - direct the Director of Finance to regulate regulations so that all the so-called three branches will adhere to that policy. At this time, the legislature does not wish to accept the regulation made by the administration because they say it is only applicable to the executive branch.

MAFNAS: Mr. President.

PRESIDENT: Yes Delegate Mafnas, continue.

MAFNAS: The Director of Finance is the custodian of public funds. He is the disbursing officer, he is the chief procurement officer, he is the chief accountant who obligates funds in accordance with the appropriation. He is the chief tax assessor and collector. Under Public Law 1-8, as amended, the Director of Finance can promulgate or is authorized to promulgate rules and regulations governing his department and in under the same law, Public 8, Public Law 1-8, as amended, the Director of Finance upon promulgation, upon promulgation of such rules and regulations can publish them in the Commonwealth Register and they will have the effect and force of law and I don't understand this provision. The legislature, even the court, will be governed by such rules and regulations because the Director has the authority to promulgate. There is a provision in our law when rules and regulations are promulgated and they become effective, they have the effect and force of law. If the legislature violates such rules and regulations, then there is a recourse so I don't understand the provision.

IGITOL: Mr. President.

PRESIDENT: Delegate Guerrero.

GUERRERO: Yes, the concern raised by Delegate Mafnas is very well taken during the public hearing and the testimony of course from the Director of Finance himself. Now, by allowing the Department of Finance coming up and promulgating necessary rules and regulation, this is - would well define what are the public purposes will be. Whether public purposes means to allow you entertaining a bar waitresses in any of this so-called nightclubs or public perposes mean to say that the entertaining amount each of the, say, so-called public officials. I think this is the part of allowing and giving the public finance, or I'm sorry not the public

finance but the Director of Finance this authority so he can promulgate all this necessary rules and regulations to regulate how the public fund should be expended as appropriated by the legislature.

TORRES: Point of information.

PRESIDENT: State your point Delegate Torres.

TORRES: Delegate Guerrero mentioned public purposes. I think public purposes will be defined when we voted on that committee recommendation on public purpose will be defined by the legislature, not the Finance Department.

GUERRERO: Yes

TORRES: So I think, I think Delegate Mafnas is still in order.

GUERRERO: May I continue

PRESIDENT: Please.

GUERRERO: I appreciate that, the point of information and we do understand of course that eventually we'll be voting also on that public purposes but that will further strengthen the responsibility of the disbursing officer. That means the Director of Finance. This very provision is nothing more but to establish procedurals, regulations, how is the, how will it be the public funds to be expended. Now, another information during the hearing that there are times the Director of Finance or any part of his own administrative responsible person refuses maybe to disburse such request for disbursement. But for the, in the absence of that regulation under his own jurisdiction, he just cannot refuse to disburse unless he refuse it somebody will take him to court. There is some adverse or differences of opinion at time when he make the request whether a public purpose mean such as that request and the ruling came out and it says you have to, you have to give him a reimbursement or disburse of that fund because it's appropriated to his agency, or appropriated to his so-called mayor's if it's a mayor or so-called to public officials if it's public officials. So these are the concerns that eventually would be defined under this department rules and regulations.

MAFNAS: Mr. President. Has the Director of Finance, or had he promulgated rules and regulations pertaining to allowable expenditures. What are allowable expenditures.

IGITOL: Mr. President

MAFNAS: Is there, are there regulations right now in the Commonwealth Register defining allowable expenditures, that's the question.

IGITOL: At this time Mr. President, there is no written regulations regarding allowable expenses or expenditure. We take it to the account that we use our common sense when we have the documentations but when we exercise that common sense, somehow they said they are given the reasonable allowance so it's up to them to use it by law.

MAFNAS: So the problem, Mr. President, is that we have no rules and regulations. Governing not only public officials but what are allowable expenditures or expenses. If this is intended to cover reasonable allowances, then the problem is we don't have any and I am very sure that if the Director of Finance, under his authority in section 257 of 1 CMC, if he exercises that authority, the legislature, or the mayors, or any elected officials will comply with, with such rules and regulations. That's the problem. The problem is that we don't have presently rules and regulations governing such expenditures.

IGITOL: Mr. President

PRESIDENT: Delegate Igitol

IGITOL: Although we don't have, we don't have the written regulations regarding that expenditure, the Director of Finance once wrote a letter, or memo, to the AG's probably back in 19, early 1981, citing those type of expenditures and we gave him the reason that we felt that we're not suppose to disburse those funds in accordance to the receipts. However, at that point, the previous AG wrote back that the legislature were only acting as a disbursing agency to other department, I mean branch, government branch.

MAFNAS: Mr. President

PRESIDENT: Yes Delegate Mafnas.

MAFNAS: Section 2, 2553 of 1 CMC states that the Director of Finance responsibilities is to maintain accounting and disburse funds. To disburse funds pursuant to authority of law. Under section 2, 2557 of 1 CMC, the Director of Finance has the authority to promulgate rules and regulations and if I may, I would like to read it. The Director of Finance may adopt rules and regulations, not inconsistent with law regarding those matters within the jurisdiction and to provide penalties, both civil and criminal for violation thereof unquote. Naturally, the Attorney General will write back to the Director of Finance and says you have no authority to deny a request for reimbursement because there are no rules and regulations governing such request. So in the absence of the rules and regulations, the Director of Finance cannot just use his common sense and says that I am required a receipt when there is a taxi fare reimbursement in excess of \$15 per transaction. So in the absence of those rules and regulations, the Director of

Finance has no basis to deny my request, other than common sense. So what I'm saying here is that under 2557 of the Northern Marianas Code, the Director of Finance has the authority to promulgate the necessary rules and regulations and I don't see the need for the line, the provision giving again the Director of Finance that authority because he already has it.

IGITOL: Mr. President.

PRESIDENT: State your point Delegate Guerrero.

GUERRERO: Yes, Mr. President, if we include the provision, the very concern under the Constitution, that will mandate it, the Director of Finance, the law is a law, yes we understand that. But it could be easily amended by the legislature. If it's in the Constitution, the Director of Finance mandated that he must do it. Thank you.

PRESIDENT: Delegate Igitol.

IGITOL: Yes, further to

MAFNAS: I'm not satisfied.

IGITOL: Further to Delegate Mafnas' inquiry, we do have, not an official regulation, but we do have in draft forms which is gonna be incorporated to the manual for administration and hasn't been acted on because the Governor has appointed a special task force to look, to combine those regulations into manuals for administration and those man - procedures, we have written way back about almost eight months ago and they haven't acted upon to be officialized or accepted. Furthermore, like Delegate Guerrero is saying, if we don't have, we don't have this regulation here in the Constitution, the legislature will like, if you give him the legislative veto power, the legislature can easily veto any regulations that they don't want that is really applicable or apply to them. But if it is in the Constitution, they cannot kill that regulation. This is mostly because of public purposes, of public funds that we thought are not, are misused.

PRESIDENT: I think Delegate Villanueva wants to amend his statement.

VILLANUEVA: Yeah, the committee, during its deliberation discussed ideas on how this regulation should be promulgated and how it should be enforced. We found that different branches of government, as well as the instrumentalities would not abide by what regulation that the Department of Finance come out with and what enforcement they provide. With the deletion of appropriated for three branches of government and including, including every branches of government, including the instrumentalities and putting this in the Constitution as, as the law of the land, the so-called

different branches of government at the present time have their own interpretation of reasonable allowance. For example, in the Washington Representative, they call it official representation. In the house they call it, oh in the senate and the house they call it representation allowance. In the executive branch they call it contingency fund or in the Mayor's office they call it entertainment and in, I, I don't know what they call it in the judiciary branch, but by putting this in the Constitution and the committee really, the committee felt that by putting this in the Constitution we can call it one name, public purpose. And public purpose at least can be defined by the Director of Finance and put it into regulation or promulgate rules and regulations and this does, this cannot be vetoed by the legislature as far as the Attorney General's opinion here is concern on that legislative veto of course that's subject to interpretation but the committee felt that what we don't have right now even though it's in the Public Law 1-8, as amended, is a uniform set of rules and regulations that can be enforceable.

PRESIDENT: Are you adding on.

IGITOL: Yes, President Guerrero.

PRESIDENT: Delegate Igitol.

IGITOL: Another reason for putting this regulation in to control public finance is that we have a procedure that, like the forms, purchase order forms, we, the Finance has come, came out with the regulation instructions and formats, yet the legislature came up with their own version of purchase orders. They refuse to accept the, the purchase orders that was promulgated by the Department of Finance and they also refuse to go into the system that we have. They all, in other words, they want all their forms or requests be processed manually, rather than through the system that we have. This is why, I, I felt that we should put in a uniform policy that everyone should use within the government because the government is really spending a lot of money for that system.

NABORS: Point of information.

PRESIDENT: State your point Delegate Nabors.

NABORS: I think it would simplify matters if we were to get distributed for delegate eyes only, samples, examples of what we're talking about.

MAFNAS: No, Mr. President, I still have the floor.

PRESIDENT: Would you yield, Delegate Mafnas.

MAFNAS: If it relates to my concern.

GUERRERO: It does not relate to your concern.

PRESIDENT: Therefore, Delegate Mafnas still has the floor.

But this is a point of information.

PRESIDENT: Point of information, no point of information is only providing information to the, to what's being discussed

GUERRERO: Right.

PRESIDENT: Unless point of order has priority over point of information.

TORRES: Point of information relating to Delegate Mafnas.

MAFNAS: Please enlighten me.

TORRES: Yes. The Committee on Finance would like to think that it is giving a de facto power to the De - to the Department of Finance in determining what is public purpose through rules and regulation. When in fact this perceived de facto power is neutralized by the fact that we are giving the legislature the power to define public purpose in the first place. In addition to that, we are giving the legislature the power to veto regulations. So the de facto power is lost. Is neutralized.

MAFNAS: Mr. President.

PRESIDENT: Continue Delegate Mafnas.

MAFNAS: Now it's clear that the Director of Finance has the authority to promulgate rules and regulations and he has yet to promulgate rules and regulations and the Director of Finance, when he rejects a request for reimbursement, public officials counter or objected to his objection and there is a fear that the legislature would probably strip off the Director of Finance authority to promulgate rules and regulations should he promulgate in accordance, or promulgate governing what are reasonable expenditures or allowable expenditures. While I disagree with that fear because that is underestimating and insulting, rather, the legislature. Now, because the purpose is clear by having this provision, I will probably agree to duplicating the provision in the Code and I so move for the previous question.

Second.

PRESIDENT: Those in. We're gonna vote on Committee Recommendation No. 59. Secretary Nabors, can you take the roll call.

NABORS: Thank you Mr. President. Delegate Calvo

Abstain

Delegate Cing

Yes

Delegate Guerrero, Herman

Yes

Delegate Guerrero, Lorenzo

Extra yes

Delegate Igisomar

Delegate Igitol

Double yes

Delegate Inos

Yes

Delegate Kaipat

Yes

Delegate King

Hunggan

Delegate Limes

Delegate Lizama

Delegate Mafnas

Yes

Delegate Mendiola

Yes

Delegate Manglona

Yes

Delegate Mundo

Abstain

Delegate Nabors

Yes

Delegate Ogumoro

Yes

Delegate Tenorio

Yes

Delegate Pangelinan

Delegate Reyes

Yes

Delegate Tomokane

Yes

Delegate Torres

Yes

Delegate Villagomez

Delegate Villanueva

Yo yo

Delegate Pangelinan

Delegate Limes

Delegate Lizama

Delegate Igisomar and

Delegate Mundo

Abstain.

NABORS: Mr. President, I have 17 affirmative votes, I have zero negative votes, I have two abstentions and I have five absences.

PRESIDENT: Committee Recommendation No. 59 passed by 19 votes.

NABORS: Motion.

PRESIDENT: Yes Delegate Nabors.

NABORS: Mr. President, I move that we recess until 1:30

Second

Second

PRESIDENT: Those in favor of recessing at 1:30 please say aye.

AYE

IGITOL: Point of information

VILLANUEVA: Recess until 1:30

IGITOL: Point of information Mr. President. Are we, are we reference to the request from Mr.

NABORS: I withdraw my motion.

I withdraw my second

I withdraw my second

OGUMORO: Wait

PRESIDENT: Can we get a, why are you withdrawing your motion.

NABORS: For the reason that we're going to have the opening of the Carolinian at 3:00.

IGITOL: 2:30 recess

PRESIDENT: Delegate Ogumoro.

OGUMORO: If I may suggest that we continue our discussion and finish up with Committee Recommendation No. 60 so that we will, I'm sorry, 36, so that we could have ample time to discuss the measures that are calendared under the general orders of the day before we go, go off for the 3:30 ceremony this afternoon.

VILLANUEVA: Second.

PRESIDENT: Can we have some recess in view of, for at least ten minutes for people that might want to make amendment to Committee Recommendation No. 60.

MAFNAS: Yes, no objection Mr. President, you have the power to do it.

PRESIDENT: Thank you Delegate Mafnas. Recess for ten minutes.

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NABORS: Thank you Mr. President. Committee Recommendation No. 60. A proposed constitutional amendment to amend article 11, section 4 and 5 relative to the Marianas Public Land Corporation period. Be it adopted by the Second Constitutional Convention colon: Upon ratification pursuant to section 5, article 18 of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30 comma, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows colon: One period. Effective upon ratification comma, section 4 of article 11 is amended to read colon: Quote section 4 period. Marianas Public Land Corporation period underlined. There is hereby established the Marianas Public Land Corporation period. A paren. Corporation shall have five directors colon appointed by the governor with the advise and consent of the senate comma, who shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent period. B paren. One director shall be a resident of the first senatorial district comma, one shall be a resident of the second senatorial district comma, and three shall be residents of the third senatorial district semi-colon; provided comma, that of the five directors comma, at least one shall be a woman, at least one shall be a person of Carolinian descent period. Each director shall be a citizen or a national of the United States comma, a resident of the Commonwealth for at least five years immediately preceding the day on which the director takes office comma, a person with at least two years management experience comma, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months comma, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent period. C parent. The director shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years period. A director may not hold a full-time paid position in the Corporation period. The director shall be held in strict standards, two strict standards of fiduciary care period. D paren, the Corporation shall have the powers available to a Corporation under the Commonwealth law and shall act only by the affirmative vote of the majority of five directors period. E. The director shall make an annual written report to the people of the Commonwealth describing the management of the public lands and the nature and effect of transfers of interests in public lands made during the preceding year and disclosing the interests of the directors in Commonwealth land period. F paren. After this Constitution has been in effect for at least ten years comma, the Corporation may be dissolved and its function may be transferred to the executive branch of government by the affirmative vote of a majority of the members of each house of the legislature period. Close quote. Two, roman numeral two period. Effective upon ratification comma, section 5

of article 11 is amended to read quote: Section five period. Fundamental Policies period underlined. The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities. A paren. The Corporation shall make available some portion of the public lands for a homesteading program period. A person is not eligible for more than one agricultural and one village homestead period. A person may not receive a freehold interest in the homestead for three years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least 15 years as of the effective date of this Constitution period. At any time after receiving a - the freehold interest comma, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land period. Other requirements relating to the homestead program shall be provided by law period. B paren. The Corporation may not transfer freehold interest in public lands for 20 years after the effective date of this Constitution comma, except for homesteads as provided under section 5a comma, or to another agency of the government for use for a public purpose comma, or for land exchanges to accomplish the purpose of - as authorized by law period. C paren. The Corporation may not transfer a leasehold interest in public lands that exceeds 25 years including renewal rights period. An extension of not more than 15 years may be given upon approval of 2/3 - ah 3/4th of the members of the legislature period. D paren. The Corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the unanimous approval of the five directors period. E paren. The Corporation may not transfer an interest comma, and may prohibit the erection of permanent structure comma, in public lands located within 150 feet off the high water mark of a sandy beach comma, except that the Corporation may authorize construction of facilities for public purposes. F paren. The Corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate period. G paren. The Corporation shall receive all monies from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to subsection 5(d) paren comma, and shall transfer these monies after the end of the fiscal year to the Marianas Public Land Trust except that the Corporation shall retain the amount necessary to meet reasonable expenses of administration and management comma, land surveying comma, homestead development comma, and any other expenses reasonably necessary for the accomplishment of its functions period. The annual budget of the Corporation shall be submitted to the legislature for review and concurrence period. Failure of the legislature to act on the submitted budget within 60 days after receipt shall constitute concurrence period. The Corporation may submit a multi-year budget for the purpose of reserving receipts of one year for expenditure in a later year

comma, but the Corporation may not obligate or expend funds except pursuant to the annual budget concurred by the legislature period. An act to concur the budget of the Corporation may originate in either house of the legislature and may not be vetoed by the governor period. The legislature may not modify the budget of the Corporation during the fiscal year it is in effect period. Close quote.

PRESIDENT: Acting floorleader Mendiola.

MENDIOLA: Thank you Mr. President. I move for the adoption of Committee Report No. 60 for second and final reading.

Second.

Second.

PRESIDENT: It has been moved and seconded to adopt Committee Recommendation No. 60. Discussion. Delegate - let me first recognize Delegate Tenorio.

TENORIO: Thank you Mr. President. I have here a proposed floor amendment to Committee Recommendation No. 60 which reads, I think this has been passed around to every delegate. I move to amend Committee Recommendation No. 60 as follows: One, on page 5, line 4, delete the words review and concurrence and insert the words information purpose only. No. 2. Page 5, line 4 through line 15, delete the rest of the text of the proposal beginning with the words failure of the legislature and ending is in effect period close quote. No. 3. On page 2, line 19, delete the word ten and insert twelve. On page 4, I mean on No. 4, page 2, line 21, put a period after the word government and strike out the remainder of the sentence. No. 5 on page 2, line 5, delete the word full-time. Thank you.

MENDIOLA: Second.

PRESIDENT: It has been moved and seconded to floor, proposed floor amendment to Committee Recommendation No. 60 as offered by Delegate Tenorio. Discussion on the amendment.

MAFNAS: No need.

KING: No, no discussion.

NABORS: End debate.

KING: Second.

PRESIDENT: We recognize first Delegate Inos.

Mungga Rit ma maisen, ahe agun.

INOS: No, this is on the text pertaining to part b, not on the -
am I in order

PRESIDENT: (Unclear)

MENDIOLA: You're out of order.

PRESIDENT: We're discussing on the amendment.

INOS: Well, we're making an amendment, I was just, I'm just gonna
ask a question that attracts my attention.

PRESIDENT: On the amendment.

INOS: I will yield for now, but I have a question.

PRESIDENT: Discussion on the amendment. Delegate Ogumoro do
you want to discuss the amendment.

OGUMORO: Yes Mr. President. On page 5, two of the amendments are,
one is to delete on line 4 the phrase for review and concurrence
and then the other amendment is on that same line beginning with
the word failure to delete that portion all the way up to the word
effect on line 15. Just to get some comments from the introducer
of the amendment as to why we are proposing an amendment, that
amendment to the Committee Recommendation, thank you.

PRESIDENT: Delegate Tenorio.

TENORIO: Thank you Mr. President. By putting the words
information purpose only, I don't feel that we need the rest of the
phrases so the rest of the ideas after that, the Public Land
Corporation is now being watched by, first of all by the Public
Auditor, and also the Public Land Corporation has been audited
periodically by an independent auditor and also Public Land
Corporation is under watch also by the Public Land Trust. I think
that enough watchdogs are being applied to Public Land Corporation.
Thank you.

PRESIDENT: Delegate Ogumoro, are you finished.

OGUMORO: That's all Mr. President.

PRESIDENT: Excuse me.

OGUMORO: I'm through, Mr. President.

PRESIDENT: I'm sorry, I'm not hearing you.

MENDIOLA: She's through.

MAFNAS: She's through

OGUMORO: I yield for now Mr. President.

PRESIDENT: Oh, thank you. Delegate Igitol.

IGITOL: Mr. President, on page 5, line 4, as indicated by Delegate Tenorio, the second sentence there it says information purpose only. I would like to ask if, if it's all right to put 's' on the purpose.

TENORIO: That's fine. No, no objection Mr. President, if that is proper.

MAFNAS: I second that.

NABORS: Motion to end debate.

MAFNAS: Second.

MENDIOLA: Wait.

Ahi, eyo ha na amendment nai.

This amendment nai.

PRESIDENT: We're discussing on the amendment. Delegate Mendiola, do you have discussion on the amendment.

NABORS: Motion.

MENDIOLA: Never mind Mr. President.

NABORS: Motion Mr. President.

PRESIDENT: Delegate Nabors.

NABORS: Motion to end debate.

MENDIOLA: Second.

OGUMORO: Second.

PRESIDENT: Those in favor of ending debate say aye.

AYE.

PRESIDENT: Those oppose say nay. Motion carried. Let's vote on the amendment. Those in favor of the amendment say aye.

AYE.

PRESIDENT: Those oppose say nay. Motion carried. We're back to the original Committee Amendment as amended.

MENDIOLA: Mr. President.

PRESIDENT: Delegate Mendiola.

MENDIOLA: I move to amend page 4, line 7, 8. To delete unanimous approval of the five directors and insert approval by the legislature.

NABORS: Second.

No objection.

PRESIDENT: It has been moved and seconded to delete on page 4, line 7 and 8 unanimous approval of the five directors and insert approval of the legislature.

NABORS: Motion to end debate.

PRESIDENT: Discussion.

MAFNAS: Mr. President, discussion.

PRESIDENT: Delegate Mafnas.

MAFNAS: I would like to, if there is no objection on the floor, to further amend that and insert after approval of the legislature, in a joint session.

MENDIOLA: Second.

TENORIO: No objection.

PRESIDENT: No objection.

GUERRERO: Clarification Mr. President.

PRESIDENT: Delegate Guerrero.

GUERRERO: Yeah, okay, just clarification on your amendment.

MENDIOLA: Yes sir.

GUERRERO: You said majority members of the legislature or what.

MENDIOLA: Yeah, just majority, both houses.

MAFNAS: In a joint session.

NABORS: Second.

MENDIOLA: On joint session.

GUERRERO: Yes.

NABORS: No objection.

REYES: Objection.

PRESIDENT: Delegate Reyes.

REYES: Mr. President, my objection to that amendment is that it would stifle the operation of the Corporation further by having to wait for all this legislative concurrence.

PRESIDENT: Delegate Guerrero.

GUERRERO: Mr. President, I support the amendment proposed by Delegate Mendiola to reinstate back the majority concurrence of the majority members of the legislature. I am more confident that the total members of 25 of the legislature would be a lot better decision to protect the interest of our land

MAFNAS: Point of information, 24 members.

GUERRERO: 25 members, if I'm not mis - 24 members, I stand corrected, rather than the five directors in the Public Land Corporation. I believe that it should be, reinstate that provision for the interest of our people. Thank you.

PRESIDENT: Delegate Calvo, did you have your hand up. Delegate Manglona.

MANGLONA: Mr. President, if a corporation or if an investor wants more than five hectares we're gonna make it difficult for them to get it. This investor will have a lot of money so let him take to Japan 24 people under his expense, rather than just five people. Thank you.

MENDIOLA: That's right.

NABORS: No objection.

PRESIDENT: Delegate Mafnas.

MAFNAS: I move to end debate.

Second.

PRESIDENT: It has been moved and seconded to end debate. Those in favor say aye.

AYE

PRESIDENT: Those oppose say nay.

Nay

PRESIDENT: Motion carried. We're voting now on the proposed amendment offered by Delegate Mendiola and subsequent amendment by

MENDIOLA: Delegate Mafnas

PRESIDENT: Delegate Mafnas. Those in favor of the amendment.

TENORIO: Point of information Mr. President, can you read the amendment.

PRESIDENT: The amendment will read on line 4, I mean page 4, line 7 and 8 it should read delete on the unanimous approval of the five directors and it should read approval of the legislature in a joint session.

TENORIO: Is that by majority, simple majority.

MENDIOLA: Yes.

PRESIDENT: Is there a simple majority in your amendment or just implied.

MENDIOLA: Majority.

Majority

Majority is simple.

PRESIDENT: Okay, those in favor say aye.

AYE

PRESIDENT: Those oppose say nay

Nay

No

PRESIDENT: Can I have a show of hands, in favor of;

7

PRESIDENT: Those oppose.

2

1

PRESIDENT: Motion carried.

NABORS: Motion to end debate.

PRESIDENT: We're back to the main amendment as further amended. Delegate Inos.

INOS: Just a concern on section b of this particular provision. Under section 4b, we're stating out requirements for directorship. I'm just wondering, since under article 3, we made a provision there for executive assistant for Carolinian Affairs and then I notice that we will be going on first reading for the Executive Assistant for Women's Affairs. Wouldn't this be intruding in their functions by already stating in here, I would be assuming that we're taking some of the responsibilities away from the, the respected offices. I'm assuming that we're passing the Women's Affairs

MAFNAS: Mr. President.

TORRES: Point of order.

PRESIDENT: I guess we can only assume at this stage Delegate Inos. Delegate Ogumoro.

OGUMORO: I share the concern of Delegate Inos, however, our action or the existence of the office of Carolinian Affairs and that, or the proposed, should the proposed amendment pass on the special assistant to the Governor for Women's Affairs should have no bearing on the section that Delegate Inos is making reference to. I feel that that provision is in order, unless, maybe she's seeing something else that we are not seeing.

PRESIDENT: Delegate Inos.

INOS: I'm just noticing under article 3, section 18, Executive Assistant for Carolinian Affairs and that the executive assistant shall be a member of the Governor's Council and shall advise the governor on matters affecting persons of Carolinian descent within the Commonwealth. So when we're making a confirmation for boards, commissions and trustees, that this person will also be included in that decision and will be the person advising the governor on such matters.

PRESIDENT: No, that's different.

OGUMORO: I understand that and I realize that concern. But I know that we're only talking, I mean there's only one person, let's say for the executive assistant for Carolinian Affairs who would be speaking on behalf of the Carolinians. He would not have the time to go and really sit in the deliberations of each of the boards and commissions that will be set up or that are in existence in the Commonwealth at this stage, so for that reason, I do not see that there is any problem with the proposed section. Thank you.

NABORS: Motion to end debate.

PRESIDENT: Delegate Tomokane.

TOMOKANE: Just for clarification, Mr. President, can the secretary recite again the provision 'f' on page 2.

NABORS: F paren. After this Constitution has been in effect for at least 12 years comma, the Corporation may be, may be dissolved and its functions may be transferred to the executive branch of government period.

MAFNAS: Is that may be or shall be.

May.

TOMOKANE: I thought we voted on shall and

MAFNAS: Right.

TOMOKANE: All the mays replaced by shall on the first reading.

MAFNAS: I second that.

NABORS: Mr. President, I don't think we were, made a correction on first reading. I think the motion was voted down and I think now, if there is no objection, since the amendment has passed, we now need to strike may and insert shall on lines 19 and 20.

MAFNAS: No objection.

TENORIO: No objection Mr. President, if that's the proper word to use.

NABORS: And I thank my colleague

TENORIO: It's just a matter of using the proper word.

NABORS: And I thank my colleague for the observation.

TENORIO: No objection.

PRESIDENT: No objection so

KING: Objection. I'd like Delegate Nabors to put that in writing.

NABORS: Motion to end debate.

OGUMORO: Second.

Second.

PRESIDENT: Were you objecting Delegate King.

MAFNAS: He withdraw it Mr. Chairman, Mr. President, he withdraw his objection.

Recess

PRESIDENT: Can you state for the record, Delegate King.

I want it in writing.

KING: I'm gonna withdraw because he's honest thank you.

PRESIDENT: Thank you. There's a motion to end debate.

Second

Second.

PRESIDENT: Those in favor of ending debate say aye.

AYE

PRESIDENT: Those oppose say nay. Motion carried. We're voting now on Committee Recommendation No. 60 as amended. By roll call,

NABORS: Delegate Calvo.

Yes.

Delegate Cing

Yes

Delegate Guerrero, Herman

Yes

Delegate Guerrero, Lorenzo

Aye

Delegate Igisomar

Delegate Igitol

Yes

Delegate Inos

Yes

Delegate Kaipat

Yes

Delegate King

Hunggan

Delegate Limes

Delegate Lizama

Delegate Mafnas

Yes

Delegate Mendiola

Yes

Delegate Manglona

Yes

Delegate Mundo

Yes

Delegate Nabors

Yes

Delegate Ogumoro

Yes

Delegate Pangelinan

Delegate Reyes

Yes

Delegate Tenorio

Yes

Delegate Tomokane

Yes

Delegate Torres

Yes

Delegate Villagomez

and Delegate Villanueva

Yo, Ohwel

NABORS: Mr. President, I have 19 affirmative votes, I have zero negative votes and I have five absences.

PRESIDENT: Committee Recommendation 60 is adopted by unanimous vote of all members present. Let's take

36

PRESIDENT: 36.

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NABORS: Thank you. Committee Recommendation No. 36. A proposed amendment to add a new section to article 2 to authorize legislative veto of certain types of executive acts period. Be it adopted by the Second Constitutional Convention colon: Upon ratification pursuant to section 5, article 18 of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30 comma, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows colon: One period. Effective upon ratification comma, article 2 is amended to add a new section to read colon: Quote section blank period. Legislative Veto underlined. The legislature may provide for legislative review and veto of specific executive actions involving rulemaking authority or establishment of policy by joint resolution period. Legislative veto shall not extend to the application of rules or regulations to individual cases period close quote.

MENDIOLA: Mr. President.

PRESIDENT: Yes acting floorleader Mendiola.

MENDIOLA: I move that Committee Recommendation No. 36 be adopted for the - for its second and final reading.

NABORS: Second.

PRESIDENT: It has been moved and seconded to adopt Committee Recommendation 36 for second and final reading. Discussion.

NABORS: Mr. President.

PRESIDENT: Delegate Nabors.

NABORS: Mr. President. I'd like to move that we file Committee Recommendation No. 36.

MAFNAS: Second. Mr. President.

PRESIDENT: Yes Delegate Mafnas.

MAFNAS: The legislature now has that authority. If they wish to reserve this authority, they can do it. If there are rules and regulations that are not consistent with the intent of law, then they can pass a bill nullifying or addressing the intent. I think that this provision will probably be challenged and there will probably be a constitutional question should it be adopted by our people. So rather than to have a provision that is unconstitutional in our Constitution, I support the filing of Committee Recommendation No. 36. (end of side B)