



COMMISSION ON DECOLONIZATION
Regular Monthly Meeting Minutes
June 18, 2024 | 3:00 p.m.

- I. Call to Order:** 3:18 p.m.
- II. Roll Call**
 1. **Hon. Lourdes Leon Guerrero**
 2. **Hon. Therese Terlaje (excused)**
 3. **Hon. Tina Muña-Barnes**
 4. **Hon. Frank Blas**
 5. **Hon. Jesse Alig (excused)**
 6. **Hon. Eddie Duenas**
 7. **Dr. Michael Bevacqua (excused)**
 8. **Dr. Mary Cruz**
 9. **Dr. Kenneth Gofigan Kuper (excused)**
 10. **Ty Whitaker**
 11. **Victoria “Lola” Leon Guerrero (excused)**
 12. **Dewey Huffer**
 13. **Other**
 - a. **Joe Mesa**
 - b. **Staff-Office of Speaker Terlaje**
- III. Approval of Minutes** - Regular Monthly Board Meeting - May 7, 2024
 - a. **Motion by Vice Speaker Barnes**
 - b. **Seconded by Sen. Blas Jr.**
 - c. **Motion passed by consensus.**
- IV. Financial Report**
 - a. **Melvin Won Pat-Borja:** Reminded task forces to send invoices for their purchase orders as soon as possible to process pending payments.



V. Old Business

a. Plebiscite Update & Strategy Discussion

1. Attorney General Moylan's legal opinion

- a) **Melvin Won Pat-Borja:** Reported that Attorney General (AG) Moylan responded to items that are of concern in regard to eligibility and moving forward with a vote given the parameters that were established in the original Guam law. The AG's opinion stated that if there is going to be a publicly funded government funded plebiscite or political status referendum there cannot be limitations on voter eligibility. If the native inhabitant definition were to continue to be utilized as was established in the law that created the Commission on Decolonization then a vote will have to be run by a non-governmental organization (NGO). There's nothing that would prevent another organization from conducting a vote, but the Commission on Decolonization (COD) would not have a role in an NGO-led plebiscite, but would continue to educate. The Commission would not be able to use funds to provide information about a NGO-led plebiscite. Encouraged the board members to provide their own responses to AG Moylan's legal opinion.

2. COD response to legal opinion

- a) **Melvin Won Pat-Borja:** Reported that COD provided a response to AG Moylan's legal opinion. Discussed how AG Moylan discussed federal recognition and tribal status. The challenge is that Guam is not one of the First Nation tribes that is within a nation within a nation arrangement. Noted that there absolutely would be implications on Guam's international recognition as a non-self governing territory.
- b) **Vice Speaker Barnes:** Discussed some of the personal statements made by the AG in his opinion, noting that COD is not meant to decide whether Guam wants any of the three political status options. Discussed in looking through the opinion whether action would be taken to seek change in the Organic Act or congressional legislation.



- c) **Melvin Won Pat-Borja:** Discussed further action which would be to work with the legislature to figure out how to move forward. The challenge with the plebiscite which is part of COD's mandate is being held hostage until it can be figured out on a legislative level in order to address the judicial challenge. If the vote were to be made open to everyone, then the Legislature would have to either repeal the law that was challenged in *Davis v. Guam* and replace or to amend the law to reflect the court's ruling to make the vote open to every eligible voter. If not, then the Legislature and the Commission would step out of the way in order for an NGO to facilitate a plebiscite. COD would then exist purely as an educational and public awareness arm.
- d) **Governor Lou Leon Guerrero:** Discussed if a vote were to be government funded then every eligible voter would be allowed to vote. If the vote were to be for native inhabitants then it would be an NGO who would conduct a plebiscite. After the conduction of an NGO led plebiscite, the results would be sent in a form of a resolution to the Legislature. The Legislature would endorse the results and send it up to Congress. Discussed if a plebiscite were to be done quickly, then everyone would be able to vote. Stated how the government cannot influence any NGO to move forward because they would not have to adhere to election law, but would be able to set their own criteria for voting. Discussed her personal position where she has made it very clear that for herself Guam's native inhabitants should self-determine. Posed questions to the board whether a plebiscite should be for Guam's native inhabitants or for every eligible voter.
- e) **Vice Speaker Barnes:** Shared her own personal position in upholding a native inhabitant vote.
- f) **Governor Lou Leon Guerrero:** Noted that the definition has been discussed to a degree. Native Inhabitant definition was cited from the 1950 Organic Act as prescribed by Congress.
- g) **Dr. Mary Cruz:** Noted that the place of the board is to be in charge of education efforts and not to decide on who should vote in a plebiscite.
- h) **Melvin Won Pat-Borja:** Noted that COD's charge is to facilitate education and the referendum, but facilitating the referendum has been defined through a clear procedure through the law which is through eligibility which has been challenged. In order for COD to execute its mandate in entirety, then the Legislature would need to either repeal the law and replace it or amend the part of the law that was found to be unconstitutional.



- i) **Dr. Mary Cruz:** Stated her concern that she is unsure if the Board should be taking a position on voter eligibility. The charge of the Board is to carry out its mandate, which is up to the Legislature to draft and pass.
- j) **Melvin Won Pat-Borja:** Stated that the question is at a legislative level right now. Stated that if a straw poll would be taken amongst board members, if there was consensus that everyone should vote, the mandate is still contrary to the board's decision which requires legislative action. Noted that if a vote were to be run by an NGO then COD would have to stay disconnected from it. Otherwise, the NGO would be viewed as a proxy for the government.
- k) **Governor Lou Leon Guerrero:** Agreed with previous points made by Dr. Cruz, it is a serious policy to make on the board level, it is up to the Legislature to decide. Stated that at a policy level, under the direction of the courts, for a native inhabitant vote it will have to be led by an NGO, for it to be government funded it will have to be open to everyone.
- l) **Vice Speaker Barnes:** Stated if the law states it is under a native inhabitant definition, if the Organic Act specifically has the native inhabitant definition. The definition of native inhabitants would give a clear definition to what a Chamorro is.
- m) **Governor Lou Leon Guerrero:** Asked about native inhabitant eligibility. The law was declared unconstitutional. The government cannot run a plebiscite under the current definition. COD's mandate would have to be looked at.
- n) **Sen. Frank Blas Jr.:** Asked about the pathways for the plebiscite. Asked about where these paths came from, asked for a path which is a hybrid of the available options.
- o) **Melvin Won Pat-Borja:** Stated the options came from the decision made by the 9th Circuit Court. Stated that if a plebiscite would not be run by the government then the decision would be binding. Stated the other option outside these two options, Congress could authorize a plebiscite through an overruling of the 9th Circuit Court decision, but is tough due to a lack of voting representation in Congress. Stated that Puerto Rico has attempted to do this but recent legislation has not passed through the Senate yet.
- p) **Sen. Frank Blas Jr.:** Stated that there are a number of limitations that already exist. A congressional fix could be pursued. Asked if there is legislation action could be taken.
- q) **Melvin Won Pat-Borja:** Stated that legislative action can be taken to allow for everyone to vote. The board is not necessarily authorized to change or create policy, the board was built under the framework of the existing law. The board is an assembly of subject matter experts and the task forces, the board can weigh in on legislative action.



b. UNPO Membership & Updates

1. **Melvin Won Pat-Borja:** Reported that issues providing payment fees with the UNPO leadership has been resolved and DOA has been communicated with so fees can be paid. The Governor was elected to be a member of the UNPO Regular Presidency on May 16, 2024. Membership within the Regular Presidency provides Guam more access to the UNPO leadership and to petition it more directly.

V. **New Business**

a. Micronesian Islands Forum- June 3-4, 2024

1. **Melvin Won Pat-Borja:** Reported that Guam hosted the Micronesian Islands Forum (MIF). MIF leaders agreed to sign a resolution to support Guam, CNMI, and American Samoa's applications to associate membership in the Pacific Islands Forum (PIF).
2. **Vice Speaker Barnes:** Reported that a similar resolution was made at the last meeting of the Association of Pacific Island Legislatures. This resolution will be sent to petition support for Guam's application for associate membership in PIF.
3. **Governor Lou Leon Guerrero:** Reported that the Secretary of State also wrote a letter supporting Guam's associate membership application as well as for CNMI and American Samoa.

VI. **United Nations Updates**

a. UN Caribbean Regional Seminar- May 14-16, 2024 | Caracas, Venezuela

1. **Melvin Won Pat-Borja:** Reported that he was the Governor's designee for the Regional Seminar and testified on her behalf. The focus for testimony was for support of Guam's request for a UN Visiting Mission, the acknowledgement of *Giha Mo'na: A Self-Determination Study for Guåhan*, the funding of and support for a diplomacy training program and an offer to have Guam be the host for the Pacific Regional Seminar. The UN visiting mission has already been approved by the United States. It is important to have the committee recognize that Guam has done what it can with the last thing needed is for the committee to make a funding commitment to execute the mission. The British Virgin Islands is scheduled for the next visiting mission in August. Guam received support for its ask of a UN visiting mission and for a diplomacy training program specifically from the Pacific nations. Meetings were held with the permanent missions of Tonga and Fiji.



b. UN C-24 - June 10-21, 2024

1. **Melvin Won Pat-Borja:** Reported that he was the Governor's designee and testified on her behalf. Funding for travel was provided via the Governor's office. Harmony Palaganas also provided testimony on behalf of COD. Meetings were held with the permanent missions of FSM, Palau, Timor Leste, Fiji, and Tonga. Unfortunately, a meeting was not held with the USUN which was unexpected. The staff member that was previously engaged with is being reassigned. Work regarding PIF was shared in meetings with the Tonga and Fiji ambassadors. In Guam's testimony, the offer to host the Pacific Regional Seminar was shared which requires the approval of the United States.

VII. COD Office Updates

a. Community outreach & Community Engagement Plan

1. **Melvin Won Pat-Borja:** Reported that COD continues to host *Challenge the Status Quo* on Wave 105.1 FM. A national news group, Scripps News, is on island doing a piece on militarization of Guam. The group has engaged with COD to meet for an interview. The educational resource inventory is continuing to be distributed and is at a low level.

VIII. Task Force Updates

a. Statehood

1. **Fmr. Senator Eddie Duenas:** Reported that the taskforce is currently working with Shooting Star Productions to produce Statehood Task Force TV ads.

- a. **Melvin Won Pat-Borja:** Stated that funds will need to be spent in order to encumber available task force funds before it expires.

b. Independence

1. No updates.

c. Free Association

1. **Melvin Won Pat-Borja:** Stated a replacement for a task force lead for Free Association is needed. Inquired with the Board to seek leadership to take up the Task Force.

IX. Open Floor

a. **Sen. Frank Blas Jr.:** Provided thanks to Melvin for the updates and the progress made by COD.

X. Adjournment

- a. Motion made by Sen. Frank Bas Jr.
- b. Seconded by Vice Speaker Barnes.
- c. Motion passed by consensus.
- d. Meeting adjourned at 4:27 p.m.