



Republic of the Philippines

OFFICE OF THE PRESIDENT

PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT

Excerpts from the Minutes of the 109th PCSD Regular Meeting

SP Session Hall, Legislative Bldg., Puerto Princesa City

13 August 2004



Present:

- | | | | |
|-----|---|---|---------------|
| 1. | Rep. Abraham Kahlil B. Mitra
Palawan rep. (2 nd District), House of Representatives | - | Chairman |
| 2. | Hon. Mario Joel T. Reyes
Provincial Governor | - | Vice Chairman |
| 3. | Dir. Winston G. Arzaga, PCSDS | - | Secretary |
| 4. | Rep. Antonio C. Alvarez
Palawan rep. (1 st District), House of Representatives | - | Member |
| 5. | Secretary Vicente S. Perez
Department of Energy | - | Member |
| 6. | Presidential Assistant Alfredo E. Abueg, Jr.
Office of the President | - | Member |
| 7. | Vice Gov. David A. Ponce de Leon
Sangguniang Panlalawigan, Palawan | - | Member |
| 8. | Usec Ceasar M. Drilon, DA
Represented by Dir. Virgilio Alforque, BFAR-R4 | - | Member |
| 9. | Usec Renato De Rueda, DENR | - | Member |
| 10. | DDG Augusto B. Santos, NEDA
Represented by Dir. Oscar Balbastro, NEDA RO4 | - | Member |
| 11. | Hon. Lucena Demaala, Pres., League of Mun. | - | Member |
| 12. | Kgwd. Evelyn Rodriguez, Pres., Liga ng mga Brgy. | - | Member |
| 13. | VADM Ruben G. Domingo, WESCOM Comm. | - | Member |
| 14. | Atty. Joselito C. Alisuag, SEMP-NP Rep | - | Member |
| 15. | Rev. Fr. Armando R. Limsa, NGO Representative | - | Member |
| 16. | Mr. Angel Antic, Business Sector Representative | - | Member |
| 17. | Col. Dominador A. Flores, PNP
Represented by Col. Arsenio Piñacate | - | Member |

Absent:

- | | | | |
|----|--|---|--------|
| 1. | Mayor Edward S. Hagedorn, Puerto Princesa City | - | Member |
|----|--|---|--------|
-

PCSD RESOLUTION NO. 04-232

**A RESOLUTION DECLARING THE POSITION OF PCSDS
EXECUTIVE DIRECTOR VACANT AND APPOINTING
MR. NELSON P. DEVANADERA THERETO**

WHEREAS, on its 109th Council Meeting last 13 August 2004, the Palawan Council for Sustainable Development (PCSD) was in receipt of a letter dated 05 August 2004 from Her Excellency Gloria Macapagal-Arroyo, President of the Philippines, personally delivered to the Council by Hon. Vicente S. Perez, Secretary of Energy and special cabinet officer for Palawan stating that it is the President's desire that *"Mr. Nelson P. Devanadera be appointed as the Executive Director of the Council vice Winston G. Arzaga"*;

"PCSDS: Working together towards sustaining the future."

WHEREAS, being under the Office of the President, this Council is subject to the expressed desire of the President of the Republic;

WHEREAS, Sec. 20 of Republic Act No. 7611 creating this Council provides that "the executive director shall be appointed by the council;"

WHEREAS, in October 24, 2002, Mr. Winston G. Arzaga was appointed by this Council as executive director in a temporary capacity also by virtue of the President's letter of desire, replacing then Executive Director, Atty. Joselito Alisuag;

WHEREAS, Mr. Arzaga during the said meeting had argued that he could not be replaced as executive director being a career service officer enjoying security of tenure, invoking Sec. 35 of the Implementing Rules and Regulations (IRR) of R.A. No. 7611, in which it is stated that the staff and employees of the Council, including the executive director is covered by civil service rules;

WHEREAS, while it is conceded that this Council's IRR indeed provides that the position of executive director, among others, is to be covered by civil service rules, it is likewise true that Sec. 20 of R.A. No. 7611, which is the mother legislation, does not so provide for qualifications, stating clearly as above-quoted, that the executive director is to be appointed by the Council, thereby unmistakably conveying the legislative intent that the position of executive director is one and remains to be a position of trust and confidence and service as such is at the pleasure of the appointing power which is this Council;

WHEREAS, it is moreover an established principle of statutory construction that implementing rules cannot be inconsistent and must always adhere to its mother legislation as held in the case of *Salalima vs. Guingona* (257 SCRA 55), which states that "no rule or regulation may alter, amend or contravene a provision of law. Implementing Rules should conform, not clash with the law they implement, for a regulation which operates to create a rule out of harmony with the statute is a nullity".

WHEREAS, it has been firmly etched in numerous jurisprudential authority that entry into the career service under the civil service system depends upon the statute creating the position which may or may not prescribe the qualifications to be possessed at the period of such entry by an applicant or nominee thereof;

WHEREAS, pursuant to the foregoing ruling of the Supreme Court, it is generally understood that if and when the statute creating the position does not prescribe any qualification therefor, the position is deemed to be one of trust and confidence and appointment thereto as well as removal therefrom is within the prerogative of the appointing power;

WHEREAS, on the argument of Mr. Arzaga that his position has been decided by the Civil Service Commission as permanent, it is well to quote the decision of the Supreme Court in the case of *Luego vs. Civil Service Commission*, (288 SCRA 622), the pertinent portion of which states: "The Civil Service Commission is not empowered to determine the kind or nature of appointment whether temporary or permanent extended by the appointing power". In the case of *Tolentino vs. de Jesus*, (56 SCRA 167) the High Court also ruled that: "Obtaining a civil service eligibility did not *ipso facto* convert his temporary appointment into a permanent one". What is required is a new appointment since a permanent appointment is not a continuation of the temporary appointment. These are two distinct acts of appointing authority (*Torio vs CSC*, 209 SCRA 677). Finally, in the case of *Quitaquit vs Villanueva* (107 Phil 1060) the Supreme Court ruled that "What characterizes an appointment is not the nature of the item filled but the nature of the appointment extended";

WHEREAS, likewise in the case of *Rapisosa vs. Civil Service Commission*, 228 SCRA 622, the Supreme Court has held that the Civil Service Commission's authority to attest appointments does not include the authority to establish the same position as permanent for it is an essential discretionary power and must be performed by the officer on whom it is vested

according to his best lights, the only condition being that the appointee should possess the minimum qualification required by law.”

WHEREAS, this Council, since 1993 up to the present, has exercised its power of appointment and removal of its executive directors in at least four times:

WHEREAS, this Council takes serious note of the fact that Mr. Arzaga has committed a breach of trust when he sued in court the Chairman, Vice-chairman and five members of the Council over his alleged impending removal in July 2004, implying bad faith on their part; worse, it appears that the lawyers Mr. Arzaga engaged as counsel were retained legal counsel of the Council itself; this act of Mr. Arzaga utilizing retained legal counsel of the PCSD for his own interest and benefit and against the said members of the Council constitutes Gross Misconduct;


WHEREFORE, foregoing premises considered, the Council **RESOLVES**, AS IT IS hereby resolved to declare the position of PCSDS Executive Director vacant and to appoint Mr. Nelson P. Devanadera as the new Executive Director.

RESOLVED further that copies of this Resolution be furnished the Office of the President, Malacañang, and the Civil Service Commission, Central Office and its Regional Office.

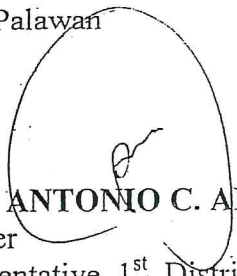
Unanimously adopted this 13th day of August 2004 at Puerto Princesa City.



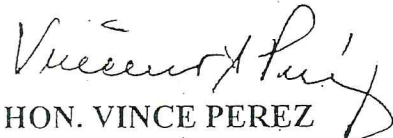
HON. ABRAHAM KAHLIL B. MITRA
Chairman
Representative, 2nd District, Palawan



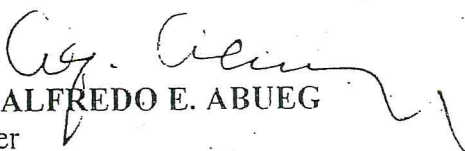
HON. MARIO JOEL T. REYES
Vice Chairman
Governor, Palawan




HON. ANTONIO C. ALVAREZ
Member
Representative, 1st District, Palawan



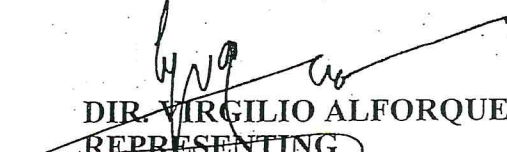
HON. VINCE PEREZ
Member
Secretary, DOE




HON. ALFREDO E. ABUEG
Member
Presidential Assistant for MIMAROPA
Office of the President




HON. DAVID A. PONCE DE LEON
Member
Sangguniang Panlalawigan Representative

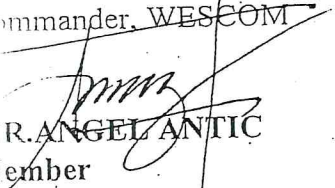



DIR. VIRGILIO ALFORQUE
REPRESENTING
HON. CESAR M. DRILON
Member
Undersecretary, DA



HON. RENATO B. DE RUEDA
Member
Deputy Secretary, DENR


HON. EVELYN V. RODRIGUEZ
Member
President, Liga ng mga Barangay


ADM. RUBEN G. DOMINGO
Member
Commander, WESCOM


MR. ANGEL ANTIC
Member
Business Sector Representative


DIR. OSCAR BALBASTRO
REPRESENTING
HON. AUGUSTO B. SANTOS
Member
Deputy Director-General, NEDA


HON. LUCENA D. DEMAALA
Member
President, League of Municipalities

REV. FR. ARMANDO LIMSA
Member
NGO Representative


COL. ARSENIO PINACATE
REPRESENTING
COL. DOMINADOR FLORES
Member
PNP


ATTY. JOSELITO C. ALISUAG
Member
SEMP-NP