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FIRST CONSTITUTIONAL CONVENTION OF THE TERRITORY OF GUAM

Twenty-Second General Session, 2 February 1970

A G E N D A

1. Call to order
2. Prayer
3. Roll call.
4. Leave of absence
5. Communications
6. Approval of minutes of previous session
7. Reports:
 - a. Executive Committee
 - b. Councils
 - c. Committees
8. Address by Former Governor MANUEL F. L. GUERRERO
9. Notices and resolutions
 - a. Convention rules
10. Privilege of the floor
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FIRST CONSTITUTIONAL CONVENTION
OF THE TERRITORY OF GUAM

MINUTES OF MEETING

The Twenty-Second General Session of the First Constitutional Convention of the Territory of Guam convened at the University of Guam, in the Audio-Visual Room at 8:00 p.m., on February 2, 1970. Mr. Antonio H. Palomo, President of the Constitutional Convention, presided. The meeting was called to order.

PRAYER

The Chaplain offered the following prayer:

"O Heavenly Father, we pray you to keep us ever under your protection and guidance. Help us to see your will in all our undertakings. May our deliberations be free from all personal interests and feelings. Let us work only for the glory of your holy name. Bless the task that awaits us at the moment. Give us the endurance to persevere in our work for the betterment of our territory and the welfare of our people. We ask these through the name of your Son, Our Lord Jesus Christ. AMEN."

ROLL CALL

Roll call was taken. The following delegates were present:

Tomas F. Mendiola, Rufo L. Calvo, David S. Terlaje, Jose C. Quintanilla, Charles F. Toves, Joe Madedog, Vicente M. Angoco, Joaquin G. Blaz, Jose L. Cepeda, Joe T. San Agustin, Betty S. Guerrero, Jose P. San Nicolas, Lorenzo T. Siguenza, William A. Flores, Jose R. Rivera, Gregorio M. Borja, Joseph B. Cruz, Francisco R. Santos, James S. Brooks, Antonio H. Palomo, Adrian C. Sanchez, Robert E. Leon Guerrero, Tomas T. Aguon, Antonio A. Calvo, Juan G. Blas, Francisco B. Aguon.

Absent:

Howard G. Trapp, Jose B. Santos, Pedro A. E. Manibusan, Jesus S. Camacho, Franklin J. Quitugua, Pilar C. Lujan, Enrique L. G. Untalan, Jose M. Garrido, Malcom H. Merrill, Jr., Jose T. Barcinas, Theodore Nelson, Joaquin V. E. Manibusan, Frank G. Lujan, Jose S. Lizama, Joseph F. Ada, Lorenzo C. Leon Guerrero.

There was a quorum present.

LEAVE OF ABSENCE

Mr. Palomo reported that Mr. Joseph F. Ada asked to be excused. Without objection the above named individual was excused.

Mr. Francisco R. Santos moved to suspend the rules in order to hear the guest speaker, The Honorable Manuel F. L. Guerrero.

The motion was seconded and passed unanimously.

Mr. Palomo appointed Messrs. Jose C. Quintanilla, Gregorio M. Borja, and Jose L. Cepeda as the committee to escort the speaker to and from the meeting hall.

Mr. Guerrero's speech, and questions and answers are appended to the minutes.

COMMUNICATIONS

There were no communications.

APPROVAL OF MINUTES

It was moved, seconded, and passed without objection that the minutes of the previous session be approved.

REPORTS

There were no reports.

MOTIONS AND RESOLUTIONS

Mr. Juan Blas moved to adopt the proposed Convention Rules as presented. He added that the counsel had made an analysis, which was distributed at the session for the delegates perusal. He pointed out the urgency of adopting the rules in view of the deadlines for submitting proposals.

The motion was seconded, and the floor opened for discussion.

Mr. Joe San Agustin congratulated counsel on providing the delegates with an analysis of the proposed rules. He questioned RULE XII, Section 5.b., that the propositions be referred to the Executive Committee. He understood that the propositions were to be introduced on the floor, and asked for an explanation of why they are to be referred to the Executive Committee.

Mr. Blas pointed out that due to the deadlines of the Convention, after May 1, 1970 the propositions would be turned over to the Executive Committee and in turn presented to the floor for second and third reading. He reminded the delegates that any propositions prior to this would go through normal procedure.

Mr. San Agustin stated that he wanted to be assured that any proposition referred to the Executive Committee after May 1, 1970 would not be buried, and that all propositions would be referred to the floor for discussion. Since it is just a matter of procedure, Mr. San Agustin agreed to the rule as it stood.

Mrs. Betty Guerrero stated that Rule Xiii asserts that the Committee on Style and Drafting would be reduced to three members, and they would have final say about the drafting of the document. She asked for an explanation of the word "edit".

Mr. Blas stated that due to the lack of quorum at previous meetings of the committee it was decided to cut the number to three. He pointed out it is not the intent of the Rules Committee to give the Style and Drafting Committee more power. By cutting the membership to three a quorum would be possible; therefore the committee can expedite matters immediately.

Mrs. Guerrero stated that she wanted to know what the word "edit" implied.

Mr. David Terlaje moved to amend the motion on the floor to read that the proposed Convention Rules be adopted "subject to amendment".

The motion was seconded.

Mr. Gregorio Borja pointed out that he gave up his important position on the Finance and Taxation Committee in order that a fellow delegate from Santa Rita could be appointed to the Style and Drafting Committee. Now it appears that he is going to be eliminated from this committee. He was appointed to the Jury Trial Committee, and that committee never functioned. Mr. Borja objected that since the Style and Drafting Committee is ready to function, he is being eliminated again.

Mr. Blas stated that names were not mentioned in the proposed rules. The Committee on Convention Rules did not intend for it to be taken as such - it could mean anyone.

Mr. San Agustin stated that the Committee on Style and Drafting never met; therefore the Committee on Convention Rules did not have any basis to say that there was never a quorum. He suggested that the committee remain at the present membership of five.

Mrs. Guerrero added that the rules also stated that each committee consist of seven members. The committees now contain varying numbers. She asked if the remaining numbers as decided by the Executive Committee and appointed by the president remain the same in view of the fact that the Convention has already operated on that premise. These members are ready to submit their reports, and to change the number now would defeat the purpose of the committee. She suggested that someone should amend the rules to that effect.

Mr. Blas stated that anything done prior to the adoption of the rules stands. If a committee is established after the adoption of the rules the number would have to be as specified in the rules.

Mr. San Agustin questioned the process of eliminating the members from the committees. He felt if this was not clarified, it would create chaos and confusion which would slow down the work of the Convention:

Mr. Joseph Cruz pointed out that Rule IX, Section 2.c., states who should be a part of the Style and Drafting Committee. (Asst. Vice-President of Procedural Affairs) The Chairman or Vice-Chairman cannot be removed, and that leaves only two members eligible for elimination. He felt that the elimination should not be made by the three remaining members.

Mr. Adrian Sanchez moved to vote on the previous question.

The motion was seconded and carried.

Mr. Palomo stated that the motion as amended was "to adopt the proposed Convention Rules subject to future correction."

A vote was taken and the motion duly adopted.

PRIVILEGES OF THE FLOOR

Mr. Borja asked what was the status of the supplemental budget request.

Mr. Palomo stated that the supplemental budget request was submitted to the legislature, and assumed that it had been referred to the Committee on Finance and Taxation for review. It was now up to the legislature to act. He added there has been no public hearing scheduled on the request.

Mr. Francisco Santos asked for a copy of the resolution on the supplemental budget request. (Resolution 8)

Mr. Adrian Sanchez commented on the supplemental budget request of \$25,000. He stated that he was asked at a different hearing by the Finance Committee, if the Convention was submitting a supplemental budget request. He felt that they would be favorable in supporting the Convention's request. He added that he thought that the chance of getting the appropriation was good.

Mr. Jose Quintanilla pointed out that the Convention is nearing the crucial period of work, and that a quorum is necessary every time the Convention meets. He stressed that since the Convention is meeting twice a month, that every member should make an effort to attend. He suggested that the president write a letter to all members who have been continually absent from the sessions, asking them to be present.

Mrs. Guerrero referring to Mr. Quintanilla's remarks, felt that this point was well taken care of in the rules. She asked the delegates to submit their proposals for scheduling as soon as possible.

Mr. Joaquin Blaz asked if the resolution on the supplemental budget request was put to the floor. (Resolution 8)

Upon request the secretary read Resolution 8.

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

It was moved, seconded, and passed without objection to adjourn at 9:15 p.m.

APPROVED BY:

s/Leonotia J. Miller
Recorder

s/Antonio M. Palomo
ANTONIO M. PALOMO, President

s/Betty S. Guerrero
BETTY S. GUERRERO, Secretary

The Honorable Manuel F. L. Guerrero

Address to Constitutional Convention

February 2, 1970

Mr. President, members of the Constitutional Convention, Ladies and Gentlemen:

I want to thank you all for inviting me to join this forum to discuss proposed changes in the Organic Act to contribute to better government and a more enlightened citizenry.

The writing of a constitution is a Herculean task, and I do not propose to burden this group with all my thoughts and experiences with relation to possible improvements in the Organic Act.

Rather, I shall confine my remarks to three matters which I believe are of basic importance. I refer, first of all, to the need at this time to increase local power and responsibility at the village level, secondly, to a long, hard look at the item veto provision of the Organic Act of 1950, and finally, the anomaly of the "acting governor" clause of the Elective Governor Act.

In addition to having some experience in the practice of government in Guam, I have followed with keen interest the proceedings of this convention. I have ridden the circuit at the village level and listened to the problems presented and the opinions and desires expressed by our citizens.

There is definite and almost universal sentiment and logical argument in favor of reinstatement of certain phases of village responsibility which would permit the people at the village level to participate to a greater degree in the management of their affairs. The feeling is for a return to the practice curtailed because of the needs of the time in the early 1950s -- similar to the old New England Town Meeting of Colonial days.

There is no question that the curtailment was justified by a series of unfortunate experiences. For sufficient cause, the Village Public Works programs, the collections of fees, fines and utility accounts, permits and some licenses, as well as a portion of the general security and public safety services -- all these were ended or sharply curtailed at the village level. At the same time, the maintenance of sanitary environment and other assignments were taken from the Commissioners.

While it is true that the common good was served at the time by the transfer of these functions from the village level to the more efficient and more readily accountability of the central government, I put it to you

that in light of increased communications and needs, that same efficiency and accountability might very well be better served now by a transfer of these functions back to the villages.

Certainly the people feel strongly that the central government lacks control and responsiveness to their needs at the local level; certainly they feel that the central government is not doing the job they, the taxpayers, expect. They want responsibility and authority closer to the people and, in view of the increasing political awareness and sophistication of our people, I feel it is time to reverse the trend from centralization to disperse services in order to better serve the people.

In other words, the people are clamoring for another level of government, a level closer to their specific needs. At the same time, they wish to participate in the management of their affairs at a higher plateau of involvement. In the process, they feel they will come to grips with local needs, including capital improvements and more efficient and better services.

I feel this is a healthy sign of growth and maturity, a desire to assume the fuller tasks of responsible citizenship. If we are ready now to elect our own leadership and lawmakers, we are ready to meet the challenge of local government as well.

I want to make it clear at this point that the people are seeking improved services and are referring to the inability of the central government to meet growing demands for a more equitable distribution of funds and development throughout the territory.

In the face of this inability, the people now want to recall into existence the local government to relieve the congested central government of what now appears to be an impossible task. The people are tired of waiting in lines at government offices, critical of the centralized growth of commercial and economic development, and they want a portion of this growth to spread to the villages.

They are suspicious that our people are getting second-class treatment at the village area and that the government is moving further away from its sources of power and authority. In a word, they are fearful that if this trend continues, they will find themselves strangers in their own community, voiceless in their own government.

I, for one, am proud and pleased that our people are vigilant, watchful and forthright in their expressions, ideas and feelings, and I suggest that they are talking sense on this issue.

I suggest that we take a long, hard look at our present governmental structure and locate the areas where we can reorganize and decentralize to give back to the villages some of the urgent and immediate functions and services that are properly theirs.

Some of the areas at the initial stages can be programmed along these lines:

1 -- Redefine responsibilities and duties of the Elective Commissioners to include management and responsibility, as well as accountability.

2 -- Organization of Village Councils or Advisory Groups, members of which would be nominated by the Commissioner, appointed by the Governor and possibly confirmed by the Legislature.

3 -- Arrange needed financial assistance to finance administration and operation of village government.

4 -- Give financial assistance for sanitation within village jurisdiction, as a fair exchange for relief on the central government.

5-- Provide financial assistance on the same basis for police and security precautions within the village jurisdictions.

6 -- Restore and assist Village Public Works.

7 -- Assign to the Commissioner full responsibility for all government property within the village.

8 -- Assign the Commissioner full responsibility for parks, playgrounds and recreational areas within the village and provide financial support.

9 -- Set up collection offices at the village level under the supervision of the Commissioner.

10 -- Provide the Commissioner, in case of emergency at the village level, with power to call for assistance at high priority from the central government and its agencies.

These are some of the ideas discussed at the village meetings. They are worthy of strict attention and thoughtful consideration.

Turning now to the present Organic Act, I would suggest to you that the section relative to the "item veto" of Legislative appropriation acts, I must state candidly that it places far too much power in the hands of the governor.

Ours is a government, like that of the United States, of checks and balances. I am not, as you may know, an advocate of the weak executive, but I am convinced that an imbalance of powers as between the executive and legislative branches can lead to chaos and tyranny. The item veto can be employed to usurp power from the legislature, giving the executive, the governor, the final word. Guam is required, as is the President of the United States, to accept all of a piece of legislation or veto all of it.

Finally, the inevitability of intense political activity at all levels makes it advisable to take a second look at a curious provision -- both the Elective Governor Act and the Organic Act itself.

Both laws provide that the Secretary of Guam (under the original Act) or the Lieutenant Governor (after January, 1971) shall have the powers of the governor in the "temporary incapacity" or "temporary absence" of the governor.

I strongly submit that this is a dangerous practice and, in light of modern transportation and communications, an unnecessary one.

In a case -- and this is not terribly far-fetched -- where the governor and lieutenant governor are of two points of view, this could result in complete reversals of policy each time the governor went to Sainan or Washington. It is even conceivable -- as occurred in Louisiana some years ago -- that the lieutenant governor could elect to decide when the governor is "incapacitated" even when the governor felt he was perfectly capable.

But more to the point is the fact that, beginning in 1971, the people of Guam will be electing their governor. It is neither realistic nor just that a substitute governor should step into the place of the man elected by the people merely because urgent business in behalf of the people takes the governor away from the island.

Finally, the measure is impractical. It is impossible to transfer the powers and the responsibilities of the governor's office so cavalierly without risking ridiculous consequences.

I suggest, then, that the law be reworded to provide that the governor of Guam remains the governor no matter where he may be, so long as he is capable of exercising his function. It should be possible, in such a case, for the governor to make specific delegations of authority but in no case can he delegate the responsibility of his office.

Thank you and Good Evening.

QUESTIONS AND ANSWERS

Mr. Gregorio Borja asked whether it would be possible to transfer the functions of the Chief Commissioner to the Lieutenant Governor so that he will have more power and more contact with the villages.

Mr. Guerrero in reply, felt that it is possible but not a valid point at this time. He went further to state that the Lieutenant Governor will have his work cut out for him, and suggested that a department of local government be established for the purpose of coordinating and arranging the many requests of the village commissioners until such time as recommendations in his remarks are accomplished.

Mr. David Terlaje asked whether the elected governor's influence in Washington would be less than an appointed governor.

Mr. Guerrero pointed out there will be more recognition in Washington of a governor who is elected by the people. He pointed out that the Organic Act and its subsequent amendments is a creature of Congress and he cannot see how the same branch of government will deny recognition. Summarizing his stand on this question, he assured Mr. Terlaje that this will result in a stronger executive branch since the elected governor carries the mandate of this area of the Pacific under American jurisdiction.

Mr. Francisco Santos asked for Mr. Guerrero's comments in connection with the Federal Comptroller.

Mr. Guerrero explained that he opposed this provision of the Organic Act. The intent of this provision in his opinion is an intrusion upon the government of Guam. He compared this situation by pointing out that if the Constitutional Convention delegates are not able to conduct their business, and require someone to supervise the proceedings of the Convention then he felt that the Constitutional Convention should not be convened. The Organic Act was enacted without consulting the people. Mr. Guerrero could not understand when Congress felt that the people of Guam were ready for a further step in self government by allowing them to elect their own governor, why it also appointed someone to police the government administration.

Mr. Palomo reminded the delegates that they were to stay within the realm of Mr. Guerrero's talk.

Mr. Juan Blas referring to Mr. Guerrero's suggestion for increased autonomy on the village level, asked how the village government is to be funded.

Mr. Guerrero pointed out that the central government will provide the financial needs.

Mr. Joe San Agustin asked what is the relationship of the village government with the central legislative body.

Mr. Guerrero replied that it would be best to retain the status quo until the island has assumed the apportionment attitude. He explained that like anything else government must begin somewhere in the right direction in order to have public support. He hesitated to suggest at this time that local government development followed the legislative apportionment, unless it is decided to apportion the island into districts -- consisting of all 19 districts of the present, or a combination of districts to create counties.

Mr. Borja asked Mr. Guerrero's opinion of the statement on the pocket veto made by Governor Camacho when he addressed the delegates on January 19, 1970.

Mr. Guerrero felt that he is in no position to make judgement on the statement made by the Governor, and further feels it unethical for him to discuss the position given. However, in his case he felt that the 10 day provision of law gives him sufficient time to study the bill and submit it to the legislature.

Mr. Terlaje commenting on a districting bill currently before the legislature, asked Mr. Guerrero for his opinion on the recommendation to have a commissioner in the new district while retaining the present village commissioner system and using these as assistant commissioners.

Mr. Guerrero explained that in his visits to the villages he found out that the people in the local level wanted separate identification; using as examples, Ordot, Tamuning, and Ipao, which felt they should each have a commissioner. Since it appears that this is the will of the people, his feelings are that the present commissioner system be retained.