



The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

STANDING COMMITTEE REPORT NO. 20-05

Date: March 15, 2017
RE: Senate Bill 20-02

Honorable Arnold I. Palacios
President of the Senate
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

S Adopted 3/22/17

Dear Mr. President:

Your Committee on Resources, Economic Development and Programs, to which was referred Senate Bill 20-02, entitled:

To establish the Office of Planning and Development; and for other purposes.

begs leave to report as follows:

I. RECOMMENDATION:

Pursuant to considerable discussion and deliberation, your Committee recommends that S.B. 20-02 be passed in the form of Senate Draft 1.

II. ANALYSIS:

A.) Purpose:

The purpose of Senate Bill 20-02 is to establish a CNMI Comprehensive Sustainable Development Plan that shall serve as a guide for the future long-range development of the CNMI using and improving existing plans, maps and other resources; identify the goals, objectives, policies, and priorities for the CNMI; provide a basis for determining priorities and allocating limited resources, such as public funds, services, human resources, land, energy, water, and other resources; improve coordination of federal, and CNMI plans, policies, programs, projects, and regulatory activities; and to establish a system for plan formulation and program coordination to provide for an integration of all major CNMI and individual island activities.

B.) Committee Findings:

Your Committee finds that finds the CNMI is currently going through an economic growth and new developments are wide-spread in the CNMI. There are new major siting projects in Garapan, Capitol Hill, As Terlaje on the island of Saipan as well as sporadic smaller developments throughout the island. Moreover, there are also at least two major siting projects on the island of Tinian that are already moving towards the construction phase. However, the CNMI does not have a master plan outlining comprehensive land use, the establishment of communities, schools, roads, and infrastructure, and the development economic districts and businesses.

Currently, individuals, developers, and investors are constructing homes, buildings, hotels, apartments and other major developments without the benefit of a “CNMI Comprehensive Sustainable Development Plan,” to ensure that such new developments can be accommodated by the current infrastructure of the islands and will not unduly burden such infrastructure in the years come. In addition to the infrastructure, the CNMI should have a Comprehensive Sustainable Development Plan that ensures the protection of the scarce resources including land, natural resources, and human resources. The ocean, reefs, corals, lagoons and beaches in the CNMI are beginning to show signs of pollution, overcrowding, and overfishing. Moreover, the highways, roads, and drainage systems in the CNMI require major repairs and upgrades.

Accordingly, Legislature finds that there is a need to improve the planning process in the CNMI to increase the effectiveness of government and private services and actions, to improve coordination among different agencies and levels of government, to provide for wise use of the CNMI’s resources and to guide the future development of the CNMI. The Legislature further finds that improving the planning process in the CNMI means utilizing the existing expertise within the various CNMI planning agencies as well as obtaining and incorporating information from the public and the business communities regarding the nature, extent, and areas of most desirable growth and conservation. There should also an Office of Planning and Development that serves as clearinghouse for all information related to development, planning, and resource use in the CNMI.

The Committee further finds that the Office of Planning and Development should establish a CNMI Comprehensive Sustainable Development Plan and control all land use plans of the CNMI. As such, 2 CMC § 7231 must be amended to ensure that all land use districts are consistent with the CNMI Comprehensive Sustainable Development Plan. Section 7231 must also be amended to transfer the authority to create land use districts from the Zoning Board to the Office of Planning and Development.

C.) Legislative History:

Senate Bill 20-02 was introduced by Senator Arnold I. Palacios on January 10, 2017 and was subsequently referred to the Senate Standing Committee on Resources and Economic Development and Programs for disposition.

D.) Public Hearing and Comment:

There was no public hearing. The Committee received comments from the Mayors of Saipan and Rota, and the Commonwealth Development Authority. In the 19th Senate, the Committee also received comments from the Attorney General, the Governor's Office, and BECQ which were incorporated in the bill.

E.) Estimated Fiscal Cost:

The enactment of Senate Bill 20-02 will result in additional costs to the CNMI Government in the form of personnel and operation expenses for the new Office of Planning and Development. However, the benefits and financial savings of proper planning and development will protect the government, the environment and the people and such benefits greatly outweigh the costs.

F.) Summary of Committee Amendments:

There are two technical committee amendments to correct the spelling of "finds" on line 19, page 1 and delete the word "office" on line 13, page 6.

G.) Section by Section Analysis:

- Section 2 of this Act establishes the Commonwealth Office of Planning and Development within the Office of the Governor. The Office shall be headed by a Director to be appointed by the Governor. An Advisory Board is also established to develop and prepare a CNMI comprehensive sustainable development plan for the CNMI. The responsibilities and authority of the Office of Planning and Development, the process for adopting the Plan, and other pertinent information are also set forth in this section. This section also places the of Office of Capital Improvement Plans under the Office of Planning and Development.
- Section 3 of this Act amends 2 CMC § 7231 to gives the Office of Planning and Development the authority to create land use districts in Saipan and mandates that land use districts are consistent with the CNMI Comprehensive Development Plan.

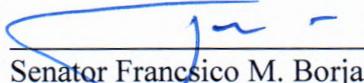
H.) Legal Analysis/Issues:

Senate Bill 20-02 is consistent with the constitution and the laws of the Commonwealth of the Northern Mariana Islands.

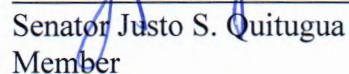
III. CONCLUSION:

After considerable discussion and deliberation on the bill, your Committee recommends that the full body of the Senate pass Senate Bill No. 20-02 in the form of Senate Draft 1.

Respectfully submitted,

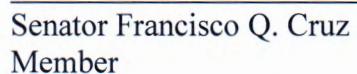

Senator Francisco M. Borja
Chairperson


Senator Sixto K. Igisomar
Member

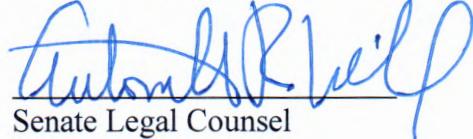

Senator Justo S. Quitugua
Member


Senator Jude U. Hofsneider
Vice-Chairperson


Senator Steve K. Mesngon
Member


Senator Francisco Q. Cruz
Member

Reviewed by:


Senate Legal Counsel

TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2017

S. B. NO. 20-02, SD1

A BILL FOR AN ACT

To establish the Office of Planning and Development; and for other purposes.

BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited as the “CNMI Planning and
2 Development Act of 2017.”

3 **Section 2. Findings and Purpose.** The legislature finds the CNMI is presently
4 going through an economic growth and new developments are wide-spread in the CNMI.
5 However, the CNMI does not have a master plan outlining comprehensive land use, the
6 establishment of communities, schools, roads, and infrastructure, and the development
7 economic districts and businesses. Currently, individuals, developers, and investors are
8 constructing homes, buildings, hotels, apartments and other major developments without
9 the benefit of a “CNMI Comprehensive Sustainable Development Plan,” to ensure that
10 such new developments can be accommodated by the current infrastructure of the islands
11 and will not unduly burden such infrastructure in the years come. In addition to the
12 infrastructure, the CNMI should have a Comprehensive Sustainable Development Plan
13 that ensures the protection of the scarce resources including land, natural resources, and
14 human resources.

15 Accordingly, Legislature finds that there is a need to improve the planning
16 process in the CNMI to increase the effectiveness of government and private actions, to
17 improve coordination among different agencies and levels of government, to provide for
18 wise use of the CNMI’s resources and to guide the future development of the CNMI. The
19 Legislature further finds that improving the planning process in the CNMI means

1 utilizing the existing expertise within the various CNMI planning agencies as well as
2 obtaining and incorporating information from the public and the business communities
3 regarding the nature, extent, and areas of most desirable growth and conservation. There
4 should also an Office of Planning and Development that serves as clearinghouse for all
5 information related to development, planning, and resource use in the CNMI.

6 The purpose of this article is to establish a CNMI Comprehensive Sustainable
7 Development Plan that shall serve as a guide for the future long-range development of the
8 CNMI using and improving existing plans, maps and other resources; identify the goals,
9 objectives, policies, and priorities for the CNMI; provide a basis for determining
10 priorities and allocating limited resources, such as public funds, services, human
11 resources, land, energy, water, and other resources; improve coordination of federal, and
12 CNMI plans, policies, programs, projects, and regulatory activities; and to establish a
13 system for plan formulation and program coordination to provide for an integration of all
14 major CNMI and individual island activities.

15 **Section 3. Amendment.** Title 1, Division 2, Part 1, Chapter 1 of the
16 Commonwealth Code is hereby amended by adding a new article 11 to read as follows:

17 **“Article 11. Commonwealth Planning and Development.”**

18 **§ 20171. Office of Planning and Development; Establishment.**

19 (a) There is established within the Office of the Governor, a Commonwealth
20 Office of Planning and Development.

21 (b) The Commonwealth Office of Planning and Development shall be
22 administered by a Director for Planning and Development who shall be appointed by the
23 Governor and serve at the pleasure of the Governor. The Director shall be required to
24 analyze and interpret development trends and information of all kinds, to appraise and
25 coordinate planning programs and supervise the execution of the responsibilities of the
26 Advisory Council for Planning and Development in accordance with the policies set forth
27 in this article.

1 (c) The Director shall be responsible for the administration of this article and shall
2 supervise the staff of the Office of Planning and Development which, in addition to its
3 regular duties.

4 (d) The Director shall have the following qualifications:

5 (1) Bachelor's Degree from a United States accredited university in
6 planning, architecture, engineering, business administration, public administration
7 or related field and at least seven (7) years of administrative management
8 experience; or

9 (2) Master's Degree or higher from a United States accredited university
10 in planning, architecture, engineering, business, public administration, or related
11 field and at least four (4) years of administrative management experience.

12 **§ 20172. Office of Planning and Development; Staff Organization.**

13 The staff of the Office of Planning and Development shall be organized into such
14 divisions, sections, or units as are sufficient to appraise, coordinate and assist in the
15 preparation of long-range planning programs for the economic and infrastructure
16 development of the CNMI. Expertise, either singly or collectively, should be evident in
17 such areas as conservation, demography, economics, environment, infrastructure, land
18 utilization, natural resources, transportation, urban and rural design, utilities, and visitor
19 industry. Preparation of planning elements not the duty and function of staff and line
20 agencies, shall be the responsibility of the staff of the Office of Planning and
21 Development.

22 **§ 20173. Office of Planning and Development: Responsibilities and**
23 **Authority.**

24 The responsibilities and authority of the Office of Planning and Development
25 shall be:

26 (a) Prepare Plan. To cause to be prepared, through the services of a consortium of
27 both public and private experts possessing diverse planning experience and expertise, a
28 CNMI comprehensive sustainable development plan (the Plan), which shall provide short

1 and long-range guidance for the economic, infrastructure, and physical development of
2 the CNMI, and which shall contain a statement of development objectives, standards and
3 principles with respect to the most desirable use of land within the CNMI for residential,
4 recreational, agricultural, commercial, industrial, and other uses completely serviced by
5 an access and circulation network and infrastructure consistent with proper protection to
6 enhance the quality of the environment and preserve the CNMI's natural beauty and
7 historical heritage;

8 (b) Assist Planning. To harmonize, improve and assist in implementing
9 comprehensive planning activities at all levels of government;

10 (c) Insure Consistency. To ensure that the current planning programs and projects
11 are consistent with the comprehensive development plan and the policies enumerated in
12 this article;

13 (d) Rules. To adopt any necessary rules or regulations in accordance with the
14 Administrative Procedure Act and to exercise all other powers necessary and proper for
15 the discharge of its responsibilities;

16 (e) Recommendations. To develop all elements of the comprehensive
17 development plan for the CNMI as in this article, and to make detailed written
18 recommendations to the Governor, including minority dissenting opinion groups for
19 further study and review;

20 (f) Agreements. To enter into and carry out any agreement or agreements in
21 connection with the provisions of this article and to solicit assistance from public, private
22 or Federal sources as required in the development planning process and which are not
23 inconsistent with or contrary to the laws of the CNMI; and

24 (g) Annual Report. To deliver to the Governor and the Presiding officers of the
25 Legislature on the last Monday of January of each year a written report of the planning
26 program and progress.

27 **§ 20174. Office of Planning and Development; Powers.**

1 In the execution of its responsibilities under this Article, the Office is authorized
2 to perform the following functions:

3 (a) Grants. To apply for and accept grants, loans, contributions, appropriations
4 and assistance from the Federal government and from any other sources, public or
5 private, and enter into and carry out contracts or agreements in connection therewith, and
6 include in any contract for financial assistance with the Federal laws as it may deem
7 reasonable and appropriate and which are not inconsistent with the purposes of this
8 Article and the laws of the CNMI;

9 (b) Contracts. To contract for any professional services if such work or services
10 cannot satisfactorily be performed by its employees;

11 (c) Studies. To conduct, or cause to be conducted, investigations, studies, surveys,
12 research and analysis relating to physical, human, social, and economic development of
13 The CNMI and to publish the results thereof;

14 (d) Policies. To develop and recommend policies to foster and promote the
15 improvement of planning activity and development quality;

16 (e) Private Services. To utilize to the fullest extent possible, the services, facilities
17 and information of public and private agencies and organizations and individuals in order
18 that duplication of effort and expenses may be avoided;

19 (f) Appraise Plans. To review, appraise and make such use as it sees fit of all
20 existing plans, inclusive of any plans presently being prepared;

21 (g) Data Bank. To develop an information system and data bank for the continual
22 collection and storage of public information needed or utilized in the development plan
23 process; and

24 (h) Statistics. To conduct research and to disseminate statistical findings relative
25 to producing data needed for economic and community planning on the CNMI if
26 necessary to supplement statistical information from the Central Statistics Division of the
27 Department of Commerce.

28 **§ 20175. Advisory Council for Planning and Development.**

1 (a) In the Commonwealth Office of Planning and Development, there shall be a
2 Commonwealth Planning and Development Advisory Council to be chaired by the
3 Council member voted on by a majority vote of the members of the Council and shall be
4 comprised of the following members:

- 5 (1) Director of Planning and Development;
6 (2) Administrator of the Office of Environmental Coastal Quality;
7 (3) Secretary of the Department of Public Works;
8 (4) Secretary of the Department of Public Lands;
9 (5) Secretary of the Department of Lands and Natural Resources;
10 (6) Secretary of the Department of Commerce;
11 (7) Zoning Administrator;
12 (8) Director of the Commonwealth Utilities Corporation;
13 (9) Director of the Marianas Visitors Bureau; ~~Office~~
14 (10) A representative from the Office of the Mayor of Rota;
15 (11) A representative from the Office of the Mayor of Tinian and
16 Aguiguan;
17 (12) A representative from the Office of the Mayor of Saipan;
18 (13) A representative from the Office of the Mayor of the Northern
19 Islands;
20 (14) Chairperson of the Saipan Chamber of Commerce; and
21 (15) Chairperson of the Governor's Strategic Economic Development
22 Council.

23 (b) The Commonwealth Planning and Development Advisory Board consisting of
24 fifteen voting members shall have at least two female members and two members who
25 are of Carolinian descent.

26 (c) The Commonwealth Planning and Development Advisory Board shall prepare
27 a CNMI comprehensive sustainable development plan as set forth in § 20173(a) of this
28 article.

1 **§ 20176. Content of the Commonwealth Comprehensive Sustainable**
2 **Development Plan.**

3 The Comprehensive Sustainable Development Plan for The CNMI shall contain
4 specific elements as follows:

5 (a) Land Use. A land-use element together with the appropriate zoning
6 recommendations supporting distribution, location and the extent of uses of land for
7 housing, business, industry, agriculture, recreation, education, public buildings, open
8 space, conservation and other categories of public and private uses of land, which include
9 islands, reef and lagoon areas, and the sea within the territorial waters, inclusive of a
10 statement of the standards of population and building density and building intensity for
11 the various districts and other areas covered by the Plan, and regulatory criteria governing
12 the use, development and subdivision of land; provided that the land use plan for public
13 lands shall be consistent with any land use plan prepared the Department of Public Lands;

14 (b) Community Design. A community design element consisting of standards and
15 principles governing the subdivision and development of land and showing recommended
16 designs for community and neighborhood development and redevelopment, including
17 sites for schools, parks, playgrounds and other community uses;

18 (c) Transportation. A transportation element which would provide a
19 comprehensive transportation and circulation system consisting of existing and proposed
20 major routes, thoroughfares, highways, and collector streets; locations of rights-of-way,
21 terminals, viaducts, and grade separation, port, harbor, aviation and mass transit lines,
22 and related facilities, all of which are correlated with the land use element of the Plan;

23 (d) Regulations. A regulatory element concerning parking facilities and building
24 setback lines and the delineations of such systems on the land, a system of street naming,
25 housing and building numbering, and such other matters as may be related to the
26 improvement of circulation of traffic;

1 (e) Public Facilities. A public services and facilities element showing general
2 plans for sewage, refuse disposal, drainage, and local utilities, and rights-of-way,
3 easements, and facilities for them;

4 (f) Public Lands. A public lands element that provides an inventory of all
5 government of the CNMI and federal lands;

6 (g) Public Buildings. A public buildings element identifying locations and
7 arrangement of civic and community centers, public schools, libraries, police and fire
8 stations, and other public buildings, including their architecture and the landscape
9 treatment of their grounds;

10 (h) Housing. A housing element consisting of standards and plans for elimination
11 of substandard dwelling conditions, the improvement of housing, and the provision of
12 adequate sites for housing;

13 (i) Redevelopment. A redevelopment element for the elimination of unsafe or
14 blighted areas, community redevelopment and the revitalization of housing sites, business
15 and industrial sites, public building sites, and for other purposes authorized by law;

16 (j) Conservation. A conservation element to guide the conservation, development,
17 and utilization of natural resources including forests, soils, rivers and other waters,
18 harbors, fisheries, wildlife, minerals, and other natural resources which, as sub elements,
19 may also incorporate the following:

20 (1) Reclamation of land and waters;

21 (2) Flood control;

22 (3) Prevention and control of pollution of streams and other waters;

23 (4) Regulations of the use of land in stream channels and conservation
24 areas;

25 (5) Prevention, control, and correction of the erosion of soils, beaches, and
26 shores; and

27 (6) Protection of watersheds.

1 (k) Recreation. A recreation element establishing a comprehensive system of
2 areas and public sites for recreation, including the following and, when practicable, their
3 locations and proposed development:

- 4 (1) Natural reservations,
5 (2) Parks,
6 (3) Parkways,
7 (4) Beaches,
8 (5) Reef and lagoons,
9 (6) Playgrounds,
10 (7) Historic and archaeological sites, and
11 (8) Other recreation areas.

12 (l) Safety. A safety element for the protection of the community from natural and
13 man-made hazards including features necessary for such protection as evacuation routes,
14 peak load water supply requirements, minimum road widths, clearances around
15 structures, geologic hazard mapping in areas of known geologic hazards;

16 (m) Tourism. A visitor industry element which will establish cooperation and
17 coordination between the public and private sectors to provide for steady and regulated
18 growth within the visitor industry, while developing the industry in a manner that will
19 continue to provide new business and job opportunities and steady employment for the
20 people of the CNMI, and which will enable The CNMI's people to obtain job training
21 and education geared for upward job mobility within the industry;

22 (n) Development Policy. An overall development strategy including short and
23 long-range socioeconomic development strategy to include policy, opportunities, and
24 programs to address or alleviate problems concerning health services, manpower
25 planning, employment opportunity, education, elimination of poverty, law enforcement,
26 welfare, substandard housing, consumer protection, public revenue and expenditures,
27 cultural heritage preservation, visitor industry, and the like to include population

1 characteristics and economic analysis with projections for each region and sub-region of
2 the island;

3 (o) Capital Improvements. A short and long-range capital improvements program
4 and projects to be derived from public and private input and compiled from schedules of
5 proposed capital improvements submitted to the Director by each department, agency,
6 division, board, commission, branch, and instrumentality of the government of the
7 CNMI; and which shall provide recommendations and identify programs for the balanced
8 development of the island's port, highway, communication, and public transportation
9 facilities including, but not limited to, institutions of higher learning, health and welfare
10 facilities, correctional institutions, elementary and secondary schools, electric power,
11 water, telephone, sewer and other utility facilities;

12 (p) Labor Work Force. A labor work force element which will establish
13 cooperation and coordination between the public and private sectors to provide for a
14 sufficient amount of qualified work force for all the industries in the CNMI, while
15 developing the CNMI industries in a sustainable manner that will continue to provide
16 new business and job opportunities and steady employment for the people of the CNMI;

17 (q) Policy Statements. A statement of specific policies for at least each of the
18 following general areas: Socio-economic and human resource development, natural
19 resource development, environmental protection, historical, and cultural preservation,
20 public safety, housing and community development, education, land-use and population
21 growth, visitor industry, or in other areas deemed appropriate by the Council;

22 (r) Other Elements. Such additional elements dealing with other subjects, which
23 in the judgment of the Council relate to the physical development of the CNMI.

24 **§ 20177. Support and Coordination for Comprehensive Planning.**

25 All agencies, departments, boards, commissions and other instrumentalities of the
26 government of The CNMI shall review their present statutory authority, administrative
27 regulations and current planning policies and procedures to determine whether there is
28 any duplication, any deficiencies or inconsistencies therein which prohibit or tend to

1 prohibit integration, coordination and compliance with respect to the purposes and
2 provisions of this Article and shall thereafter propose to the Director at a date determined
3 by the Director such measures as may be necessary to bring their planning authority
4 functions and programs into conformity with the intent, purposes, and procedures set
5 forth in this Article. All master plans, development plans, long-range plans, and the like
6 prepared by public agencies shall be submitted to the Director for processing as part of
7 the comprehensive planning program. Emphasis will be placed on the continuing nature
8 of the comprehensive plan program rather than a final completion of a single plan. The
9 Director may assign, with concurrence of the director or other head of the agency
10 involved, planning staffs or portions thereof of staff or line agencies who shall prepare
11 portions of the plan under the supervision of the Office of Planning and Development.

12 **§ 20178. Plan Review: Public Hearings.**

13 The Plan or any of its elements prepared by the various public agencies or any
14 private entity, shall be submitted to the Council for review. Within forty-five (45) days
15 following receipt of any such element or elements by the Council, the Council shall hold
16 one (1) or more public hearings thereon. Announcements of such hearings shall be
17 printed in a newspaper of general circulation in the CNMI ten (10) days and one (1) day
18 prior thereto. Summaries of the element or elements to be heard shall be prepared by the
19 Council and submitted to appropriate news media.

20 **§ 20179. Plan Submission.**

21 Within thirty (30) days after the hearing of the Plan or any of its elements, the
22 Council shall submit to the Governor its recommendation thereon including a summary
23 of testimony at the hearing(s).

24 **§ 20180. Cooperation of Other Departments and Agencies.**

25 Every department and agency of the government of the CNMI is hereby directed
26 to render such assistance to the Office of Planning and Development and the Council as
27 the Council may require.

28 **§ 20181. Plan Adoption.**

1 The Plan or any of its elements received by the Governor from the Council shall
2 be approved, disapproved or referred to the Council for further recommendation prior to
3 approval. The Governor shall have sixty (60) calendar days to act on the Plan or any of its
4 elements submitted; provided, however, that if no action is taken thereon within sixty
5 (60) calendar days after submission, the Plan or any of its elements so submitted shall be
6 deemed approved by the Governor. Within ten (10) calendar days of approval by the
7 Governor, the Plan or any of its elements shall be submitted to the Legislature for
8 adoption. The Legislature shall review and approve or disapprove the Plan or any of its
9 elements within sixty (60) calendar days of its receipt. In the event of failure by the
10 Legislature to act within such sixty (60) calendar day period, the Plan or any of its
11 elements so submitted shall be deemed approved.

12 **§ 20182. Plan Implementation and Financing.**

13 The Comprehensive Sustainable Development Plan shall contain a schedule of
14 programs and projects to be implemented annually. Funding for such programs and
15 projects shall be identified in the Plan by the project's or program's principal or
16 administering government agency or instrumentalities. Funding for programs or projects
17 contained in the Plan which do not fall under the authority or responsibility of any
18 particular department, agency, or instrumentality of the government of the CNMI shall be
19 met by annual appropriation of the Legislature.

20 **§ 20183. Annual Budget.**

21 The Director shall prepare and submit the Office's first annual fiscal year budget
22 to the Legislature within ninety (90) calendar days of the enactment of this article, and
23 thereafter shall submit its annual budgets prior to the end of each fiscal year. Such budget
24 shall contain a financial breakdown of personnel, administrative and all operating costs to
25 be incurred by the Office of Planning and Development and the Council in the
26 performance of provisions set forth in this article. Said personnel expenditures shall be
27 applied to the full staffing requirements of the Office of Planning and Development and
28 Council as submitted to the Legislature by the Director.

1 **§ 20184. Master Plan Proposals.**

2 The Council shall proceed to develop proposals consisting of a scope of work and
3 cost estimates for all elements of the Plan. The Council shall incorporate in its annual
4 budget submission to the Legislature the amount of financial resources needed to
5 facilitate the objectives of this article.

6 **§ 20185. Coordination of Effort.**

7 Any existing Committee, Commission, Task Force or body mandated to engage in
8 planning for the CNMI or for particular areas or jurisdictions within the CNMI, shall seek
9 to ensure that such planning efforts are provided the appropriate financial, human,
10 technical and support resources necessary to accomplish any mandates or requirements of
11 law relative to development planning; provided, however, that such planning efforts are
12 supportive of and consistent with the intent of this article.

13 For purposes of this article, all plans prepared by any department, agency or
14 instrumentality of the government of the CNMI shall be circulated to other agencies or
15 instrumentalities affected by such plan and to the Office of Planning and Development
16 for review and finalization not later than sixty (60) days prior to submission of the plan to
17 the Council.

18 **§ 20186. CIP Office: Placement to the Office of Planning and Development.**

19 The Office of Capital Improvement Plans is hereby placed under the Office of
20 Planning and Development under the Office of the Governor and shall be the designated
21 state agency for capital improvement plan purposes."

22 **Section 4. Amendment.** 2 CMC § 7231 is hereby amended to read as follows:

23 **"§ 7231. Land Use Districts.**

24 (a) Creation. Land use districts shall be established to preserve, protect and
25 encourage the development of lands in the Commonwealth for those uses to which the
26 lands are best suited in accordance with sound planning principles and in the interest of
27 the health and welfare of the people of the Commonwealth. In preparing its zoning plan
28 ~~the Zoning Board~~ consistent with the CNMI Comprehensive Development Plan, the

1 Office of Planning and Development shall, in addition to carrying out the stated general
2 purposes and policies of this chapter, specifically establish and employ:

- 3 (1) Standards for subdivision development;
- 4 (2) A system of flood control and flood plain, wetlands, and watershed
5 management;
- 6 (3) Provisions which encourage fresh water conservation;
- 7 (4) Provisions which encourage energy conservation and conversion to
8 renewable energy sources, particularly protecting lands which would be suitable
9 for use in association with an ocean thermal energy conversion system;
- 10 (5) Restrictions on the placement and size of commercial advertising
11 signage;
- 12 (6) Protections for lands having special, exceptional, critical, or unique
13 biological productivity, the loss of which would jeopardize the continued
14 existence of any species of wildlife on any island or its surrounding waters;
- 15 (7) Protections for lands having special, exceptional, critical, or unique
16 scenic, historic, archaeological, architectural, topographic, geologic, ethnologic,
17 scientific, cultural, or recreational significance;
- 18 (8) In commercial areas and within lands which are a primary focus of the
19 tourism industry, restrictions and requirements which protect the aesthetic and
20 utilitarian values of these areas, including, but not limited to, minimum lot size,
21 density, setback, landscaping, parking, site coverage, and building height; and
- 22 (9) Protections for lands in intensive agricultural use or with a high
23 capacity for growing crops, including, but not limited to flowers, foliage, fruits,
24 forage and timber, or for raising of livestock or the propagation of fish or game.

25 To the extent compatible with Commonwealth laws and constitutional provisions
26 on the management of public lands, the zoning plan shall promote or create a system of
27 public parks, beach access, recreation areas and wild and natural areas.

1 The ~~Zoning Board~~ Office of Planning and Development shall also endeavor to
2 structure the zoning plan so that its effect upon the present economic values of land is
3 relatively neutral. Lastly, the ~~Zoning Board~~ Office of Planning and Development shall
4 avoid zoning that precludes the building of a residence on a homestead property because
5 of minimum lot size requirements.

6 (b) Maps. Once adopted by law, the maps showing the boundaries of districts
7 shall be kept permanently on file in the Office of the Planning and Development zoning
8 ~~administrator's office~~."

9 **Section 5. Severability.** If any provision of this Act or the application of any
10 such provision to any person or circumstance should be held invalid by a court of
11 competent jurisdiction, the remainder of this Act or the application of its provisions to
12 persons or circumstances other than those to which it is held invalid shall not be affected
13 thereby.

14 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
15 be construed as affecting any existing right acquired under contract or acquired under
16 statutes repealed or under any rule, regulation or order adopted under the statutes.
17 Repealers contained in this Act shall not affect any proceeding instituted under or
18 pursuant to prior law. The enactment of this Act shall not have the effect of terminating,
19 or in any way modifying, any liability civil or criminal, which shall already be in
20 existence at the date this Act becomes effective.

21 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
22 Governor or upon its becoming law without such approval.

Prefiled:

Date: 01/10/17

Introduced By: /s/

Sen. Arnold I. Palacios

SENATE BILL NO. 20-02, SD1

Reviewed for Legal Sufficiency by:

/s/ Antonette R. Villagomez

Senate Legal Counsel



Commonwealth of the Northern Mariana Islands Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950
www.oagenmi.net

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

August 26, 2016

OAGSB: 2016-45

Hon. Arnold I. Palacios
Chairman
Committee on Federal Relations and Independent Agencies
19th Northern Mariana Islands Commonwealth Legislature
PO Box 500129
Saipan, MP 96950

CNMI LEGISLATURE

Received By: TSP
Date: 8/20/16
Time: 8am

(S.B. 20-02)

Re: Request for Comments on Senate Bills 19-95, 19-67, 19-100, and 19-101, and Senate Legislative Initiative 19-03.

Dear Chairman Palacios:

Thank you for requesting comments from the Office of the Attorney General on Senate Bills 19-95, 19-67, 19-100, and 19-101, and Senate Legislative Initiative 19-03. We have reviewed the versions of the bills that you transmitted to us on July 15, 2016, and offer the following comments for your consideration. Please note that a follow-up letter regarding Senate Legislative Initiative 19-03 will be forthcoming.

S.B. 19-95

This bill seeks to create an Office of Planning and Development within the CNMI. The purpose of the Office of Planning and Development is to create a “comprehensive development plan” that will improve coordination amongst different government agencies by providing guidance on long-term CNMI development strategies. The Legislature should revise S.B. 19-95 because it contains vague terms, terms are used inconsistently, and it provides the Office with authority already designated to another governmental agency.

1. A number of terms within the bill are vague and are used inconsistently.

Section 20173(a) states that the Office prepares a comprehensive development plan, which provides “short and long-range guidance for the economic, infrastructure, supra structure, and physical development of the CNMI” 1 CMC § 20173(a). Here, the term “supra structure” is unclear because that term is not readily definable.

Section 20173(d) states that the Office may adopt any rules or regulations in accordance with the “Administrative Adjudication Law.” It is unclear the statute or set of statutes the Legislature is referring to as the “Administrative Adjudication Law.”

Section 20175 is entitled “Advisory Council for Planning and Development,” but subsection (a) and (b) of that section refers to the council as the “Commonwealth Planning and Development Advisory Board.” Other sections within the bill refer to that body as a “council.” This term should be used uniformly throughout the bill.

Section 20177 states that the Advisory Council may assign, with concurrence of the director of the agency involved, the staff of other agencies to prepare plans under the “Office of Plans & Statistics.” The Commonwealth does not have an “Office of Plans & Statistics.” This term should be changed to the “Office of Planning and Development.”

2. *Section 20174(h) authorizes the Office of Planning and Development to perform a duty and responsibility of the Central Statistics Division.*

Section 20174(h) authorizes the Office of Planning and Development “to conduct research and to disseminate statistical findings relative to producing data needed for economic community planning on the CNMI.” This authority overlaps with the Central Statistics Division authority “to collect, compile and report all official statistics covering social, economic and demographic fields as required for the purpose of making policy decisions and to carry out the purposes of this article and to conduct pertinent censuses and surveys.” 1 CMC § 2482(b). The Legislature should remove § 20174(h) because statistical information will be available via the Central Statistics Division.

3. *Section 20175(b) requires the Advisory Council consist of twelve voting members, and of those twelve members, two must be female and two must be of Carolinian descent.*

Section 20175(b) does not state the procedure when two of the members comprising the board are neither women nor of Carolinian descent. Here, a procedure is important because it will provide a fair resolution to the selection of the Advisory Council’s members in the event that the members listed in § 20175(a) do not consist of two female members or two members of Carolinian descent. Further, § 20175(b) states that the board must consist of twelve voting members, but § 20175(a) only provides for eleven voting members.

S.B. 19-67

Senate Bill 19-67 will shorten the period of employment ineligibility for the 18th CNMI Legislature’s members and their immediate families with any casino licensed under the “Gaming” chapter.

“A public official shall not participate in, vote on, influence, or attempt to influence an official decision if the public official . . . has a . . . potential benefit from the matter under consideration by the governmental entity of which the public official is a member.” 1 CMC § 8535(a). Moreover, “[a] public official . . . shall not use . . . the public position to obtain private financial gain, contract, employment, license, or other personal or private advantage, direct or indirect . . . for a relative . . .” 1 CMC § 8532(a).

Any member of the 19th CNMI Legislature that were members of the 18th CNMI Legislature should not vote on S.B. 19-67. If those members vote on S.B. 19-67, then those members will likely be in violation of 1 CMC §§ 8532(a) and 8535(a) because they would be using their current position to obtain personal advantages for themselves and relatives and they would be voting on an official decision that they could potentially benefit from.

S.B. 19-100

Section 2107(b) states the “Division of Motor Vehicle may, upon application by the owner, provided a certificate . . .” The “Division of Motor Vehicle” should be revised to the “Bureau of Motor Vehicles” and the word “provided” should be changed to present tense.

Further, the amendments do not indicate when the owner must apply for the certificate of non-operation and whether the owner must make any assurances that the vehicle is actually being repaired. Without these requirements, the owner may skirt the \$30 late fee by simply paying for a \$15.00 certificate.

S.B. 19-101

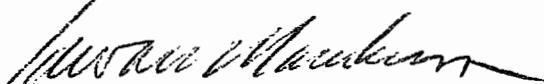
“[U]nless a statute impairs fundamental rights or involves an inherently suspect classification, ‘legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.’” *Del Monte v. Wilson*, 824 P.2d 632, 635 (Cal. 1992) (quoting *Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985)). Here, S.B. 19-101 seeks to further the CNMI’s legitimate state interests of honoring and rewarding veterans and protecting the right of its own bona fide residents to attend public universities on a preferential tuition basis. *Del Monte*, 824 P.2d at 639 (Cal. 1992) (“[T]he state may choose to honor and reward veterans, and thus may discriminate between veterans and nonveterans in the allocation of benefits.”); *Vlandis v. Kline*, 412 U.S. 441, 452–53 (1973) (“[A] State has a legitimate interest in protecting and preserving . . . the right of its own bona fide residents to attend [the state’s public university] on a preferential tuition basis.”). The classifications are rationally related to furthering legitimate state interests because they waive tuition for veterans that have been domiciled within the CNMI for a period of at least one year prior to enrollment at NMC.

Although facially constitutional, the Legislature should consider amending § 101(b) to clarify that the individual must be domiciled in the CNMI for a period of at least one year prior to enrollment at the Northern Marianas College—not prior to enlistment in the military. *See Del Monte*, 824 P.2d at 639 (Cal. 1992) (“A statute that divides veterans into two classes, with greater benefits for [veterans that were residents prior to military service], cannot be justified.”). It should also consider removing the sentence “The Legislature finds that the Commonwealth should extend certain benefits to veterans who have served our country and have returned home.” The Legislature should remove that sentence because distinguishing between veterans who lived in the CNMI and returned home and veterans who have recently moved to the CNMI likely violates the Equal Protection Clause of the United States Constitution. *See Hooper v. Bernalillo Cnty. Assessor*, 472 U.S. 612, 623–24 (1985) (holding that the New Mexico veterans’ tax exemption statute violates the guarantees of the Equal Protection Clause of the Fourteenth Amendment because the statute discriminates against veterans who settled in the State after May 8, 1976, and this discrimination “is not supported by any identifiable state interest.”).

The Legislature should also consider restricting the total amount of benefits that can be received, require that the student exhaust their right educational benefits afforded by the United States Department of Veterans Affairs, and state that veterans receiving federal education benefits are ineligible to receive CNMI educational benefits simultaneously. *See Cal. Mil. & Vet. Code Ann.* §§ 981.3, 981.6 (West) (enacting similar restrictions). These and other similar restrictions are present in California—the state the Legislature refers to in § 1 to support its enactment of this bill.

Please let me know if you have any question on our comments.

Sincerely,



EDWARD MANIBUSAN

Attorney General

cc: Governor
Lt. Governor
Deputy Attorney General
SAPLR



SAIPAN CHAMBER OF COMMERCE

P.O. Box 500806 Saipan, MP 96950 • Tel (670) 234 7150 • Fa
(670) 234 7151
www.saipanchamber.com
info@saipanchamber.com

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Senator Arnold I. Palacios
19th Northern Marianas Commonwealth Legislature
PO Box 500586
Saipan, MP 96950

Dear Senator Palacios,

The Governmental Relations Committee for the Saipan Chamber of Commerce (SCC) respectfully submits our position on the following bill:

(SB 20-02)

SB 19-95-CNMI Planning and Development Act of 2016-To establish the Office of Planning and Development, and for other purposes.

- The SCC recognizes the importance of this bill and strongly supports the intent of this bill.

We appreciate the opportunity to give our opinion on how this bill affects the business climate of our island.

Regards,

Velma M. Palacios
President, SCC Board of Directors



STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • Fax 670 664-3711



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October 3, 2016

Honorable Arnold I. Palacios
Chairman, Senate Committee on Resources,
Economic Development & Programs
THE SENATE,
19th Northern Marianas Commonwealth Legislature
P.O. Box 500129, Capitol Hill
Saipan, MP 96950
(S.B. 20-02)

Subject: Senate Bill No. 19-95, "To Establish the Office of Planning
and Development"

Dear Mr. Chairman:

We are writing on behalf of the CNMI State Board of Education (Board) and CNMI Public School System (PSS) to transmit our support for this bill. We agree that as the CNMI grows and our economy improves, we need a long-term plan for development that accounts for both a growing population and infrastructure. PSS has already created a long term plan for its needs and is glad to share it with the planning agency once it is established. We hope that PSS is included in any master plan and that our needs, including new schools, is taken into consideration. It is imperative that the planning office incorporate the needs of PSS as we already have overcrowded schools and are in need of new facilities to accommodate our growing size. We look forward to this bill moving forward and are hopeful that we will be consulted when this plan is created.

We appreciate your time in reviewing our concerns, please let us know if you have any questions.

Sincerely,

Herman T. Guerrero
Chairperson
State Board of Education

Glenn P. Muna
Acting Commissioner of Education
Public School System

Cc: Members, State Board of Education

CNMI LEGISLATURE

Received By: *fzr*
Date: *10/4/14*
Time: *110 pm*

STUDENTS FIRST



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

August 09, 2016

FA16-0507

Honorable Arnold I. Palacios
Senate Vice President – 19th Legislature
Chairman, Federal Relations & Independent Agencies
P.O. Box 500129
Saipan, MP 96950

Subject: Comments on Senate Bill 19-95

(S.B. 20-02)

CNMI LEGISLATURE

Received By: JSP
Date: 8/10/16
Time: 9:45am

Dear Chairman Palacios:

Thank you for the opportunity to comment on SB19-95 entitled “To establish the Office of Planning and Development; and for other purposes” (the bill). The Department of Public Lands (DPL) fully supports the general intent of the bill as proper and thorough planning is vital in preserving the natural beauty and culture of our islands while allowing for development to achieve economic sustainability. This is especially true for small isolated communities such as ours, however, there are several concerns I would like raise as follows:

§ 20175. Advisory Council for Planning and Development.

The bill does not delineate the role and responsibilities of the “advisory board” or whether the board will be an authoritative board or purely advisory. With DPL’s recent experiences this was a key point that we expended significant time and resources to clarify. Additionally, the bill states that the Director of the Office of Planning (OPP) will “supervise the execution of the responsibilities of the Planning Advisory Council in accordance with the policies set forth in this article”. This provides the OPP Director authority over the board which may be problematic as boards generally either direct organizations via policy making, or guidance via advice.

Recommendation 1: Establish the nature of the board and a clear chain of command in the bill.

§ 20177. Support and Coordination for Comprehensive Planning.

The bill states that “All agencies, departments, boards, commissions and other instrumentalities of the government of the CNMI shall review their present statutory authority, administrative regulations and current planning policies and procedures to determine whether there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit integration, coordination and compliance with respect to the purposes and provisions of this Article”. As you may be aware, the existence and purpose of DPL stems from our Constitution and there could be an instance where DPL may be prohibited from fully integrating its plans with the comprehensive plan envisioned when the bill was drafted.

Recommendation 2: Insert that conformance will be to the extent the Act does not contradict the Constitution.

§ 20176. Content of the Commonwealth Comprehensive Development Plan.

This subsection itemizes the elements of the Comprehensive Development Plan for the CNMI, one element of concern is the following:

(f) Public Lands. A public lands element that provides an inventory of all government of The CNMI and federal lands;

As you may be aware our Constitution defines “public lands” which are distinct from government owned and other lands. Element (f) as written may cause confusion as government lands and public lands are not one and the same.

Recommendation 3: Add a separate element for public lands.

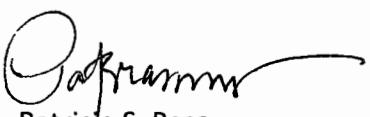
§ 20181. Plan Adoption.

What effect would adoption of the plan have on departmental or agency plans?

Recommendation 4: Clarify the effect of the plan being adopted on departmental or agency plans.

I respectfully submit DPL’s comments and recommendations and cannot support the bill as written. I respectfully request that it be withheld from vote until it is amended to take DPL’s concerns into consideration.

Respectfully,



Patricia S. Rasa
Acting Secretary, DPL

/rsv



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

OFFICE OF THE MAYOR

MUNICIPALITY OF SAIPAN

Ladera Center Building, Beach Road, Oleai

P.O. Box 501457

Saipan, MP 96950



David M. Apatang
Mayor of Saipan

Tel: (670) 234-6208 Fax: (670) 234-1190 Email: saipanmayorsoffice@gmail.com

March 7, 2017

The Honorable Francisco M. Borja
Chairman
Senate Standing Committee on Resources,
Economic Development and Program
The Senate
Twentieth Northern Marianas Commonwealth
Legislature
Capitol Hill, Saipan MP 96950
VIA PERSONAL DELIVERY

Re: Comments on Senate Bill No. 20-02

Dear Mr. Chairman:

We have reviewed Senate Bill No. 20-02 and given the likelihood that its content might be duplicative of existing statutes, we would prefer additional time to compose our written comments. But we want to express in brief our general concerns about the bill.

The intent of the bill, if it becomes law, is to establish a new office in the Office of the Governor. In this current time of grave challenges that our government in trying to figure out how to handle and get under control, it might be too premature to even start adding to our plate more than we can manage. We are unsure what the impact of establishing a new office would be to the general fund but it might be good for the author of the bill to share such information to everyone interested in the bill, as that would permit someone to carefully weigh the benefits or lack of benefits to be derived from the bill.

Our other concern about establishing a planning office is whether it would eliminate crossovers or duplicities of responsibilities and tasks of other government agencies. We believe there are enough agencies that are charged with developing plans and policies to guide land development, infrastructure development and improvements, and so forth. If the CNMI believes it must have planning office, then each municipality should have its own, embedded in existing agencies. Having a centralized planning office for all three senatorial districts might be palatable, but questionably if it would be practical.

Now, if you and your committee are convinced that establishing a centralized planning office would be pragmatic then we must defer to you and your committee. We only encourage that those other government agencies responsible for the management and disposition of public lands,

regulating land use, regulating development and protecting the environment, developing multi-year plans, etc. be given the mandate to develop a plan for the respective senatorial districts and designate (maybe by law) a single agency to be the lead in overseeing the implementation of the plan and enforcing its provisions. A new agency that is or will be basically charged with performing tasks that other agencies are already tasked to carry out might not be in the best interest of the CNMI.

Thank you for giving us the opportunity to comment on Senate Bill No. 20-02.

Sincerely,



DAVID M. APATANG
Mayor, Municipality of Saipan



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

OFFICE OF THE MAYOR

THE HONORABLE EFRAIM M. ATALIG

Mayor of the Municipality of Rota

Mailing Address: Post Office Box 537 Rota, MP 96951

Phone: 670.532.9451 / 9452 * Fax No.: 670.532.9454 * Email: mayorefraimatalig@gmail.com



March 03, 2017

Senator Francisco M Borja
Chairman, Committee on Resources, Economic Dev. & Program
20th Northern Marianas Comm. Legislature
P.O. Box 500129
Saipan, MP 96950

Dear Mr. Chairman:

I am happy to comment on the following bills for which I am thankful for your providing me a copy:

S.B. No. 20-02

This bill would have a far reaching effect on the way the Commonwealth government operates and on the community as a whole. The functions and responsibilities this proposed agency, the Commonwealth Office of Planning and Development require the office to work with many agencies and departments of the government especially Public Works, Public Lands, Historic Preservation, Labor, etc. In short, the office is tasked with developing a Master Plan for the commonwealth which is presently the province of the Zoning Board.

There are now realities that exist on Saipan that are absent on Rota and perhaps even on Tinian. Because of the different dynamics among the Municipalities, I recommend that this bill would be crafted in such a way that separate master plans for each of the municipalities would be developed. Perhaps after each master plan is adopted, the commonwealth of master plans would be put together. Of course, the Office of Planning and Development would still be responsible with the task of coordinating the creation of each master plans. I do not want to see a plan that says CNMI plan for development but Rota is placed under an asterisk.

S.B. 20-09

The present Public Service System Rules and Regulations (PSSR&R) position vacancy announcements show a substitution provision in which a one-year college, for example, may be substituted for a one-year work experience and vice versa. Perhaps the intent of this bill is for this legal provision to have a public law protection instead of just an agency rules and regulations.

Thank you, Mr. Chairman for requesting for my comments on the above bills.

Sincerely,

Efraim M. Atalig



March 6, 2017

The Honorable Francisco M. Borja
Chairman, Senate Committee on
Resources, Economic Development and program
Twentieth Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Re: Senate Bill No. 20-02 - "To establish the Office of Planning and Development and for other purposes"

Dear Mr. Chairman:

The management of Commonwealth Development Authority (CDA) fully support this Senate legislation with the following suggested modifications:

1. Amend Section 20175(a) to include the Executive Director of the Commonwealth Development Authority in the membership of the Advisory Planning and Development Council.

Comment: I believe it is important for CDA to be involved in the deliberation of the Council especially when dealing on issues relating to public financing by way of the bond market or other external financing sources to fund CIP-related projects such as those described in the legislation. As you know, CDA is statutorily mandated to serve as financial advisor or coordinator with respect to public borrowing by the Commonwealth, its departments, autonomous public agencies and public corporations.

2. After the last sentence in Section 20176(o), add the following to read:

"The schedules of proposed capital improvements submitted to the Director by each department, agency, division, board, commission, branch and instrumentality of the government of the CNMI shall specify with respect to each capital improvement project the following: (a) name and brief description of project; (b) location of project; (c) commencement and completion dates of construction; (d) estimated project development costs; (e) estimated annual capital outlays; (f) prospective source of

Comments on S.B. 20-02

March 6, 2017

Page 2

funding; and (g) if project is to be financed through public borrowing (bond financing), the estimated amount of public borrowing, duration of repayment, estimated annual debt service, and assets pledged to secure the indebtedness."

Comment: In approving this component of the comprehensive development plan, the public and the Governor as well as the Legislature would want to know if there are funds identified to defray the capital cost of the proposed CIP projects being planned for by the planning and implementing government agencies and private entities. The above information will provide this answer. One of the critical component of any short or long-range development plan is the funding mechanism which may involve allocating internally generated revenues or through public financing by way of the bond market or other external sources. It is important, in my view, that the funding for each capital improvement projects be identified and earmarked for proposed capital improvement project.

Thank you for this opportunity to submit our views on this very important legislation. We hope your Committee would move it forward for Senate action.

If I can be of further assistance in this regard, please let me know.

Respectfully,



Manuel A. Sablan
Executive Director

xc: CDA Board of Directors



ZONING BOARD
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Caller Box 10007, Saipan, MP 96950 Tel. 670-234-9661, FAX 234-9666
E-mail ZoningBoard@zoning.gov.mp

Diego C. Blanco, Chairman
Bruce Bateman., Vice-Chairman
Mariano Taitano, Treasurer

Joe E. Ayuyu Jr., Secretary
Joel C. Camacho, Member

March 21, 2017

Honorable Arnold I. Palacios
President
The Senate
20th CNMI Legislature
Saipan MP 96950

Re: Comments on Senate Bill 20-02, SD1

Dear Senate President Palacios:

As an agency directly involved in the regulation of land uses, I am hereby submitting the Zoning Office's comments on SB 20-02 SDI, which seeks to establish an office for Planning and Development for the Commonwealth of the Northern Mariana Islands. These comments do not reflect the opinion of the Commonwealth Zoning Board ("Zoning Board").

The Zoning Office supports the intent of this bill as amended from its earlier version. The creation of a Planning & Development office to centralize information from agencies will be most beneficial for our government and the CNMI's economic process to ensure that developments are supported by available infrastructures and resources within our means. It is our understanding that the office of Planning & Development would not have regulatory functions, but would prepare a comprehensive development plan to guide the regulatory process for the CNMI.

We note that this bill seeks to change one section of the Zoning Code of the Commonwealth of the Northern Mariana Islands, 2 CMC §§ 7201-7255, while leaving related sections throughout the Zoning Code unchanged. The bill would change § 7231, Land Use Districts, to transfer the functions of the Zoning Board to the office of Planning & Development, while leaving the Zoning Board's power unchanged with respect to other sections of the law. These sections include, among others, § 7242, which sets forth procedures to changes in district boundaries, uses, and requirements, and § 7221, which governs public participation on proposed land use districts, boundaries, or regulations. It is unclear as to whether or not this Act seeks to take

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RECEIVED
DATE: 3/22/17 3 pm

away, in its entirety, the responsibilities of the Zoning Board to determine and make recommendations to the Legislature on land use districts. Simply changing § 7231 will lead to confusion in the interpretation of the code. This office seeks your clarification in this area, and hopes that the Zoning Board will be officially asked to submit comments on this issue.

Thank you for your attention to this matter.

Sincerely,



Therese T. Ogumoro
Zoning Administrator

cc: Zoning Board members



MARIANAS

P.O. BOX 500861 CK
SAIPAN, MP 96950
TEL. (670) 664-3200/1
FAX: (670) 664-3237
E-mail mva@mymarianas.com
www.mymarianas.com

March 21, 2017

Senator Francisco M. Borja
Chairman
Standing Committee on Resources, Economic Development and Programs
20th Northern Marianas Commonwealth Legislature
Capitol Hill
P.O. Box 500129
Saipan, MP 96950

Re: S.B. 20-02

Hafa Adai Chairman Borja:

The Marianas Visitors Authority would like to submit comments on Senate Bill 20-02, "To establish the Office of Planning and Development; and for other purposes."

The MVA recognizes the importance of planned development and generally supports the formation of the Office of Planning and Development. However, the MVA is concerned that this legislation may not adequately ensure that OPD is run in a professional manner.

This bill expects many different government agencies to work together on issues in which their authority appears to overlap with that of the OPD. If the agencies and OPD disagree, there is no method for determining which agency's decision will control.

Additionally, designating the OPD Director to serve at the pleasure of the Governor invites future administrations to undo the work of the current office. Planning is a highly-specialized task, and to ensure that the OPD Director is properly qualified, the bill should require that the OPD Director be certified by the American Institute of Certified Planners (AICP). The OPD should be organized as an independent agency, not a subdivision of the Governor's Office.

The MVA recognizes that everyone will be interested in the OPD's work, but believes that an Advisory Council of 15 members is simply too large to be practical. Furthermore, most of the members of the Council will serve as a result of their jobs: very few members will be appointed to serve on the Council alone. The requirement for two members to be Carolinian and for two members to be women will severely restrict membership. Ideally, merit alone should be the only hiring or appointing guideline for such an important agency.

Section 20176(m) allows the plan and thus the OPD to "regulate the growth of the tourist industry," and section 20176(q) allows OPD to make policy statements for the tourism

PATA
Parish Atoll Tourism Association



3/22/17 9:50 -

industry. The MVA is already responsible for this. If the OPD and the MVA were to adopt conflicting policies, the Commonwealth's tourism industry could be seriously damaged. OPD's authority to regulate the tourism industry should be limited to a planner's customary role, which is to ensure that new developments are properly supplied with public services and do not have serious adverse effects on the rest of the economy.

Zoning on Saipan is legislatively mandated. The Saipan Zoning law of 2013 would have to be amended in major ways for the OPD to take over the duties this bill would transfer from the Zoning Office to the OPD via section 20186. Likewise, the Bill, as written, could infringe on DPL's constitutional authority to manage public lands. A Constitutional Amendment will have to be effected to make this change. Section 20176 cedes exclusive land use designation powers to the OPD and the Advisory Council under the CNMI Comprehensive Sustainable Development Plan in contradiction to the standard operating practice of Zoning Offices making such determinations.

MVA notes that the Advisory Council and the OPD appear to have overlapping authority. As written, both have the authority to prepare a plan and both seem to have budget preparation authority. Ultimate responsibility needs to be clearly delineated. If the Council is only advisory, as its name implies, this needs to be made clear in the Bill.

The Bill's proposal to ensure "sustainability" can only be properly implemented by experienced professional planners. Otherwise, "sustainability" could serve as a vague excuse to limit development by businesses that lack political clout.

Section 20175(a)(9) incorrectly labels the Marianas Visitors Authority as the Marianas Visitors Bureau.

Section 20181 allows default inaction to produce an "approved" result, and also gives both the governor and the legislature the ability to line-item veto elements of the plan. This would greatly damage the ability of the OPD to carry out its planning mandate without excessive political influence.

Section 20182 appears to allow OPD to order other agencies how to spend their funds. This could result in serious disagreements over spending priorities.

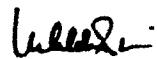
MVA recognizes and applauds the Public Hearings component and the diverse stakeholder interaction at the Advisory Council level which may, if heeded, ameliorate some of the concerns above.

MVA, at the suggestion of its Counsel, recommends that instead of reinventing the planning wheel, the drafters of the Bill and the various groups advocating this approach to Development Planning should work from the American Planning Association's "Growing Smart Legislative Guidebook." This extensive guide contains legislative options for planning

organizations, with explanations for why one would choose one option over another. It is an invaluable resource that can be found at
https://www.huduser.gov/Publications/pdf/growingasmart_guide.pdf

We recommend this Bill be amended to reflect our concerns noted above.

Kind regards,



Marian Aldan-Pierce
Chairwoman
Board of Directors
Marianas Visitors Authority