



House Journal

Adopted:
January 9, 2008

2nd Day

Eleventh Special Session

Thursday, January 3, 2008

The House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature convened its Second Day, Eleventh Special Session on Thursday, January 3, 2008, at 10:22 a.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Oscar M. Babauta, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll and ten members were present. Representatives Joseph P. Deleon Guerrero, Benjamin B. Seman, Stanley T. McGinnis Torres and Ray N. Yumul came in late; Representatives Martin B. Ada, Florencio T. Deleon Guerrero, Crispin M. Ogo and Justo S. Quitugua were absent and excused for the day's session.

Speaker Babauta: We constitute a quorum for today's session. Without objection, I hereby appoint Representative Lizama to be our Floor Leader Pro Tem this morning.

There was no objection from the Floor.

Speaker Babauta: So ordered. I will now call for a very brief recess so that Representative Tenorio to present a resolution -- the Chair on behalf of the Fourteenth -- and of course, the Fifteenth Legislature a resolution to the late Honorable Justice Ramon Villagomez. Short recess.

The House recessed at 10:24 a.m.

RECESS

The House reconvened at 10:35 a.m.

Speaker Babauta: We are back to our plenary session.

ADOPTION OF JOURNALS

None

INTRODUCTION OF BILLS

H. B. No. 15-328: A Bill for an Act to make appropriations for the operations and activities of the government of the Commonwealth of the Northern Mariana Islands, its agencies, instrumentalities, and independent programs, and to provide budget authority for government corporations for Fiscal Year 2008; and for other purposes.

Offered by: Representative Edwin P. Aldan

Representative Aldan: Mr. Speaker, without objection, I would like to request to place this on the Calendar on First Reading.

There was no objection raised.

Speaker Babauta: Without objection, will place H. B. NO. 14-328 on the Bill Calendar for disposal by the members no necessarily today, but maybe tomorrow morning.

H. B. NO. 15-329: A Bill for an Act o amend 9 CMC § 5657 regarding accessible parking for persons with disabilities, and for other purposes.

Offered by: Representative Stanley T. Torres

Representative Torres: I am introducing the bill as introduced by the Committee of the Whole, I request that we place it on the Bill Calendar for passage on Final Reading, if there is no objection.

There was no objection, H. B. NO. 15-329 was placed on the Bill Calendar.

Speaker Babauta: So ordered, we will place the bill on the Calendar and we will dispose of it on the Bill Calendar. I am pretty sure most of us will avail with that provision in the future.

H. B. NO. 15-330: A Bill for an Act to amend 1 CMC § 6601(b) to clarify the method of recounting ballots in election contests.

Offered by: Representative Candido B. Taman

Representative Taman: I would like to place H. B. NO. 15-33 on today's Bill Calendar too, if there is no objection, for appropriate actions.

Speaker Babauta: That sounds good. Is there any objection?

There was no objection from the Floor and H. B. NO. 15-330 was placed on the Bill Calendar.

H. L. B. NO. 15-78: A Local Revenue Bill for an Act for the Third Senatorial District to raise local revenues by permitting certain non-gaming activities; and for other purposes.

Offered by: Representative Jesus SN. Lizama and three others

Speaker Babauta: Just of the information of the members, Representative Ada was in the building earlier but had to leave because there is a death in the family. Mr. Eugenio Borja (Tan Rosa) who lives in As Teo passed away.

INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

None

HOUSE COMMUNICATIONS

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Speaker Babauta: I recognize the Floor Leader.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. I move for the adoption of H. R. NO. 15-222, House Draft 1.

The motion was seconded.

H. R. No. 15-222, HD1: A HOUSE RESOLUTION TO REQUEST THAT THE UNITED STATES NAVY DEFER ALL LIVE-FIRE BOMBING ACTIVITIES ON THE ISLAND OF FARALLON DE MENDINILLA AND COMMENCE A DIALOGUE WITH THE CNMI GOVERNMENT REGARDING THE CONSERVATION OF THE ISLAND AND ITS PHYSICAL INTEGRITY, NATURAL ENVIRONMENT, AND WILD & MARINE LIFE.

Speaker Babauta: Let me recognize the author, Representative Ray Yumul, for discussion.

Representative Yumul: Thank you, Mr. Speaker. I have a House substitute that I would like introduce. I would like to move for the adoption of H. R. NO. 15-222, in the form of House Substitute 1 and the attachment to be made to the Resolution.

The motion was seconded. Representative Yumul's amendment reads:

“A HOUSE RESOLUTION TO REQUEST THAT THE UNITED STATES NAVY DEFER ALL LIVE-FIRE BOMBING ACTIVITIES ON THE ISLAND OF FARALLON DE MENDINILLA AND COMMENCE A DIALOGUE WITH THE CNMI GOVERNMENT REGARDING THE CONSERVATION OF THE ISLAND AND ITS PHYSICAL INTEGRITY, NATURAL ENVIRONMENT, AND WILD & MARINE LIFE.

WHEREAS, the Island of Farallon De Mendinilla (FDM) is an island in the Northern Islands archipelago of the CNMI, which is uninhabited by humans but home to various animal and plant species both on land and in the offshore marine waters; and

WHEREAS, since at least 1976, the United States government used FDM as a bombardment range by the U.S. Navy and U.S. Air Force pursuant to Section 802 of Article VIII of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and

WHEREAS, the use of FDM as live-fire bombing range has raised concerns about environmental degradation and the physical destruction of the northern end of the island; and

WHEREAS, FDM's physical destruction is so severe that a hole pierces the middle part of the island and a portion of the southern end has been nearly disconnected from the rest of the island; and

WHEREAS, the Year 2004 FDM marine survey raised concerns about whether the environmental changes observed between 2003 and 2004 were the result of: (i) increased training activities, (ii) the result of a direct hit by Typhoon Tingting, or (iii) a combination of these and/or other factors; and

WHEREAS, the Year 2005 Assessment of Marine and Fisheries Resources for FDM (Year 2005 FDM marine survey) by the U.S. Navy reported observations of craters, small rock fragments, metal fragments, and sparrow missile embedded in the sea floor; and

WHEREAS, the Year 2005 FDM marine survey further reported that FDM is heavily eroded and surrounded by steep, unstable sea cliffs; and

WHEREAS, the U.S. Geological Survey recorded 601 earthquakes in the vicinity of FDM between years 2002-2005, with magnitudes of up to 6.3 during years 2003, 2004, and 2005; and

WHEREAS, the Year 2005 FDM marine survey reports that the historical level of bombing on FDM is as follows: (i) 3039 bombs in 2001, (ii) 2326 bombs in 2002, (iii) 1534 bombs in 2003, and (iv) 2328 bombs in 2004; and

WHEREAS, the Year 2005 FDM marine survey determined that the coral damage as reported in the Year 2004 FDM marine survey that “. . . large portion of the living corals with branching or plating growth forms sustained significant breakage. . .” was result of exceptionally large waves produced by Typhoon Tingting; and

WHEREAS, the Year 2005 FDM marine survey further states that the environmental changes and physical damage reported in 2004 were most likely the result of wave damage from the passage of Typhoon Tingting, which is questionable due to the fact that the Island of Sarigan rather than FDM appeared to be directly hit by Typhoon Tingting; and

WHEREAS, Typhoon Tingting passed north of FDM at 69 miles per hour at 00:00 zulu on June 28, 2004 and the strongest point at 86 miles per hour at 06:00 zulu on the same day pursuant to the Western Pacific Ocean – Typhoon Path, Tracing, and Storm Status Information; and

WHEREAS, the visible physical damage throughout the island of FDM and especially the southern end of the island raises serious concerns regarding existing conservation measures in place, which may not be sufficient to protect the geological integrity of the island; and

WHEREAS, although the CNMI government is cognizant of its agreement with the United States government to lease FDM in order to carry its defense responsibilities, FDM reverts back the CNMI after the lease, and therefore, the CNMI and the United States governments must protect the geological integrity of the FDM as much as possible for future use and disposition;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature that the House hereby requests the United States Navy to defer all live-fire bombing activities on the Island of Farallon De Mendinilla and commence a dialogue with the CNMI government regarding the conservation of the island and its physical integrity, natural environment, and wild & marine life; and

BE IT FURTHER RESOLVED that the Speaker of the House of Representatives shall certify, and the House Clerk shall attest to the adoption of this resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Donald C. Winter, Secretary of the United States Navy; the Honorable Robert M. Gates, Secretary of the Department of Defense, the Honorable Dirk Kempthorne, Secretary of the Department of Interior; the Honorable Benigno R. Fitial, the Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Pete A. Tenorio, Resident

Representative to the United States; the Honorable Nick J. Rahall II, Chairman of the House Committee on Natural Resources, 110th United States Congress; the Honorable Ike Skelton, Chairman of the House Committee on Armed Services, 110th United States Congress; and the Honorable Joseph M. Mendiola, Senate President of the 15th Northern Marianas Commonwealth Legislature; Mr. Ignacio Dela Cruz, Secretary of the Department of Lands and Natural Resources and Member of the Western Pacific Regional Fishery Management Council; and Mr. Benigno Sablan, Member of the Western Pacific Regional Fishery Management Council.”

Speaker Babauta: Discussion on the substitution. I recognize Representative Ray Tebuteb.

Representative Tebuteb: Thank you, Mr. Speaker. If I may, I would like to ask the author to summarize what he just substituted from the original version.

Representative Yumul: Mr. Speaker, we have added additional whereas clauses starting on page 2. We have reported that based on the 2005 marine survey, the experts did make a comment that there is heavily eroded steep and unstable sea cliff lines on the island; 601 earthquakes in the vicinity between the year 2002 through 2005, and the actual number of bombs that were dropped from the years 2001, 2002, 2003 and 2004. We have also included a statement that the report determined that coral damage was present in the 2004 survey and that there were exceptional large breakages, and they are contributing it to Typhoon Tingting. We have also include the actual route or path of Typhoon Tingting that it was not even a direct hit in that the Typhoon passed about 69 miles per hour and it was north of the island. That was a very slow or weak typhoon in our opinion. These are just added in to bring out basically the concerns that we should relay to the Department of the Navy that there a lot of questions on the report. I have given each member a copy of the actual 2005 assessment so that you can read the reports for themselves. It brings up more questions that it does answers. Lastly we added the Secretary of the United States Navy and the Secretary of the Department of the Interior as part of the transmittals.

Speaker Babauta: Representative Tebuteb, you still have the floor.

Representative Tebuteb: Thank you, Mr. Speaker. I have no objection to the Resolution. One of the concerns is the reasons behind the resolution, we have to defer and also commence dialogue. And with all due respect to Representative Yumul and every one in this room, I am kind of curious are you not so much in support of the intention of the U.S. Armed Forces in utilizing this Covenant Agreement over if we just take this resolution to commence a dialogue more than defer the bombing activities. I am not quite sure.

Representative Yumul: The reason to defer is to stop any kind of activity that is going to damage or further destabilize the island. It is the only way to allow a time period to lapse. Even if deferment is not pushed for example, you cannot go on that island and start trekking around without possibly getting yourself blown up. You cannot swim in the area and start poking at ordinances that are lying on the seabed without possibly getting blown up. So the idea here is obviously that we need to stop to further bombing activities because we do not know for certain if the cliff line is really unstable to the point where you cannot even walk on it without possible breaking through on some of the cliff line areas. We do not know that. That is why the request for deferment so that we allow the island to settle perhaps even a couple of weather fronts to pass through and if anything falls off the island, then after that point maybe it might be possible to even set foot. The Navy themselves would rather just fly at low altitudes probably in a helicopter to do an aerial survey. The island at this point, based on the number of bombs that have been dropped over the many years that it has been used as a bombing range, it is too dangerous to even set foot on. I will tell you that right now. That is a fact.

So we can not effectively go in to do a comprehensive analysis to include even specimens of sea life to determine whether they have been poisoned or not, to look at the vegetation to see if they have leached in poisons or not and a whole strew of other types of activities that needs to be conducted that needs to give a hundred percent shakedown if you will and to do a complete analysis. The analyses they have been doing are basically just visual analysis. They are just taking photos and making observations. They have not gone in and actually done soil samples. They have not done any type of activities to that effect so we need to stop the activities so that we can prepare for an actual onsite visit.

Representative Tebuteb: Mr. Speaker, I understand that. My last question is that we are asking the U.S. Navy to defer and to begin dialogue, should we then also include other agencies other than the United States Navy such as the typhoon experts?

Speaker Babauta: I was about to clarify with Representative Yumul whether that division that is engaged with the Department of Defense that were here several months ago notifying us about their intention to do an assessment up North, with respect to defense environmental issues. Representative Kaipat, do you have any knowledge about that.

Representative Kaipat: Not directly, Mr. Speaker. I just want to comment about the intent of this resolution. I believe all the author is saying is just he just wants any future bombings to stop while this is being discussed. That does not stop the group that came here from doing the assessment. That is what he is asking for actually – is to take a breather and assess. Do we want this island to completely be obliterated and fall off into the ocean before we do something about it or is it not the appropriation thing to do given the data that has been collected so far to assess whether this activity be allowed to continue or perhaps we need to dialogue about any future continuation of this type of activity. We do realize the value of Farallon De Mendinilla (FDM) to the U. S. Military, but again, we have to make a decision how much is that island worth to us. Not only the island but the environment itself, the surrounding waters, and again, the safety aspect of it. So as far as my view of this Resolution, all Representative Yumul is asking for is for there to be some kind of a breather while dialogue is entertained. Am I correct, Representative Yumul? And while I am at it, I just wanted to point out that at the last session when we discussed this Resolution, there was a suggestion that the representative of WESPAC be informed and I do not see the representative's name in this, so I just want to bring that up.

Representative Yumul: A minor oversight on that.

Speaker Babauta: We will allow the author before adoption to inject that. We are cognizant of the fact that the Covenant granted the U.S. Department of Defense that usage of those areas and other areas in the Mariana Islands. As the Representative Kaipat says, Representative Yumul just wanted to make sure that the island is assessed and assessed carefully so that the impact would not travel south or otherwise further north. I am not sure, I am not an expert on environmental issues but somehow that has to be mitigated one way or the other. We all know that Representative Yumul is very supportive of defense issues himself being a member of the U. S. Army Branch on a reserved basis and I see no reason why he should not bring up these issues on his professional life as a member of the legislature. But it is up for the members to debate this issue and try to conclude it today. Representative Tebuteb, does that answer the second question that you alluded to.

Representative Tebuteb: I guess what I am asking is that if we are serious about the issue here, then maybe not a Resolution but a House Joint Resolution, if I may.

Representative Yumul: A House Joint Resolution is certainly more effective in that respect, but considering the number of days we have left, we can always take it up in the 16th Legislature. I am very serious with this Resolution. If we were to look at the military's history here in the CNMI, FDM is really the only island that they have actively utilized on a continuing basis year after year. Now that there are activities on Guam and because the military is also looking to expand their training grounds possibly utilizing Tinian for the first time on a more active role I think even looking at islands to the north, I think it behooves us to go and assess FDM critically so that we can see what type of impact will be set the islands if we allow the expansion of training. This is as close as we are going to get to actual military activity in terms of live fire training. We can not go to Puerto Rico since it has already been shut down and assess their environmental impact on bombing activities. Maybe we might want to go down to Australia but I think this would be a great way to *(End of Tape 1, side A) (Beginning side B)* ... is kosher with the members here then they can continue to bomb the island, they can continue to do what they are doing but we need basically a complete analysis, which we do not have. We need this so that we can also decide for ourselves whether we want to expand any other land mass for this type of activity because it is a big environmental impact. I even came across video footage that I wanted to show to the members where an F-15 jet flew over and video taped an actual bombing run. On the first pass, he seemed to have it right on the center of mass on this small peninsula or branch of an extension of the main body of the island. But on the second pass, you can see the explosion occur slightly closer to one of the cliff lines and that whole area was engulfed in debris, smoke, and dust. Just by looking at that there is debris that would fall into the ocean. The problem here that I have been saying is because of a prior lawsuit from 1997, the whole island can not be used as a live fire bombing anymore. They are subjected to a small section which is very narrow and unlike larger land masses where if you displace earth by dropping bomb and craters start to develop, you can easily put the earth back into the whole, pack it down and you are ready to go. But with FDM there is just no way for you to return the soil back to the island, it is in the ocean. I think we really need to look at this issue very seriously because this island is not going to last another fifty years with the way the military has been utilizing it.

Speaker Babauta: Representative Tebuteb, you still have the floor.

Representative Tebuteb: Thank you, Mr. Speaker. I did say that that was going to be my last comment, but I will make it very short. I guess the worst case scenario for the military or the CNMI is that it is already damaged and the worst case is that the bombings will stop. So we have a lease agreement that we may have to fall back or go back on our words for that.

Speaker Babauta: Thank you. I now recognize the Minority Leader.

Representative Palacios: Mr. Speaker, this is not the first time that this issue of FDM has been brought up in many forums over two or three decades. Every once in a while, this issue is brought up. I hope that the gesture of the Resolution is just it – a resolution urging the Department of Defense or the U.S. Navy to defer action until an environmental assessment is done. Actually what it is calling for is an environmental assessment report to be done on the past impact and potential impact that the activities will have on this island. Being in an agency where in actuality we have taken a forefront raising these issues over a decade ago, and putting the Department of Defense basically on notice that they are required to comply with certain federal laws. Those have, I believe, been complied with. Certainly it is not out of place or inappropriate for Representative Yumul to call for this reassessment. He is using a report as an attachment to the Resolution. Mind you, this is

a report that is done by their staff. This report is done periodically as part of the assessment requirement that we have over the years through NIPA and other federal laws have been able to have the Department of Defense on a periodic basis. These are biologists and ecologists that are under contract at the Department of Defense or the U. S. Navy. So these guys do it periodically, they are required to do it. Where this is going to go is certainly an expression or the sentiment of the 15th Legislature House of Representatives whether indeed the assessments are going to be done independently. It needs to be done independently. There is more to this than just a resolution. We need to push beyond today if we really want this assessments to be done through our regulatory agencies be it the Coastal Resources Management (CRM) Office, Fish and Wildlife Division, or the Division of Environmental Quality (DEQ). It needs to be taken beyond that. I remember a rather significant study amounting to several hundred thousand dollars that was commissioned by the Department of Defense after the Western Pacific Fisheries Council stepped in and through a fisheries management requirement, required the U. S. Navy to do an assessment on impact of fisheries and marine life around FDM. So it has to go beyond this. If we are just going to introduce a resolution and let it die, this resolution would have absolutely no value. We do not need to go through a resolution; we can have our regulatory agencies engage in these particular issues. For all we know, they probably have the reports, an assessment report that was done last year, sitting in their offices. I do not know, but we need to have it engaged and communicate with our own regulatory agencies as well as the federal regulatory agencies that are and should be involved with this particular issue. So perhaps, Mr. Speaker, we should just adopt this Resolution as a sentiment of the House.

Speaker Babauta: Thank you. Let me recognize the author for a technical amendment because we discussed about including a member of the WESPAC, so without objection we will allow the House Clerk and the Legal Counsel to include that as a minor technical amendment because it was include last session's discussion.

Representative Yumul: Mr. Speaker, just for the information of the members, on page 10 of the report it did cite Mr. Benigno Sablan as the Vice Chair of WESPAC and gave communication with regards to that. It is the second paragraph from the bottom and I quote: The opinion of Ben Sablan, Vice Chair of the Western Pacific Fisheries Management Council fish stocks at FDM are comparable or superior to the near shore stocks around most of the other islands in this archipelago." It was a personal communication from 2005.

Speaker Babauta: Okay, ready for the adoption of H. R. NO. 15-222 House Substitute 1 with the understanding that the clerk, the counsel and the author would include the WESPAC Chair. Who is the WESPAC Chair – Mr. Sablan?

Representative Yumul: The CNMI representative.

Speaker Babauta: Right.

There was no further discussion and the motion to adopt H. R. NO. 15-222, HS1 was carried by voice vote.

Speaker Babauta: H. R. NO. 16-222, HS1 is hereby adopted.

Representative Palacios. Mr. Speaker, can I make clarification?

Speaker Babauta: Continue.

Representative Palacios: I believe it is Sylvan Igisomar that has been appointed by the Governor to represent the state government or the Commonwealth government in this organization. So maybe we should include Mr. Sylvan Igisomar.

Speaker Babauta: So we will include that. Clerk, work with Representative Yumul.

Floor Leader Pro Tem Lizama: Mr. Speaker, a minor change on page 3 line 15 “the Honorable Pete A. Agulto”, just strikeout “A.” and insert “Tenorio”.

Speaker Babauta: Thank you for your observation. We will consider those technical changes. Before we move on to the next order of business, I will call for a two-minute recess so that we may allow a member to get something from his office. Short recess.

The House recessed at 11:04 a.m.

RECESS

The House reconvened at 11:15 a.m.

(The recording began after recess when Representative Torres was holding the floor.)

Representative Torres: Mr. Speaker, just a short statement. Everybody sees a green orange in front of us. It signifies your green power of this House. And as the green power in this House is numbered, it is ceremonial of your farewell as a Speaker and leader of the green power of this House. Thank you and enjoy.

Speaker Babauta: Thank you, Representative Torres, what more can I say. I know you asked for that short statement. I thank the member for allowing me to allow you to make a comment. However, I can only assume you made that because of one special person in the Chamber this morning. I do not want to go further, but I thank you for your gracious comment Representative Torres and if I may, if you have any left over green orange, your Speaker will love to have them to induce myself over the weekend.

Representative Torres. As you can see, I am wearing blue, and the Secretary of Finance is also wearing blue. So, the blue power is coming in, in the next House.

Speaker Babauta: Thank you. Minority Leader.

Representative Palacios: Thank you, Mr. Speaker. I would actually like to inquire as to why a lot of the messages from the Governor or those of the Senate communications are not in the Calendar. I know that we committed ourselves to working on the budget today, and other pressing legislations but I believe that several messages from the Governor are critically important that we look at, as well as Senate communications, Mr. Speaker.

Speaker Babauta: Thank you for bringing that up. I purposely requested because the intent was actually to dwell on the appropriation measure this morning. However, be assured that the communications would appear on tomorrow’s Order of Business for the members’ disposal. It will

be done on tomorrow's agenda. Also, I would like to inform the members that I intend to call a *sine die* session on Wednesday at 9:00 a.m. That would be the last House session so that we may give our Legislative Bureau staff the time to work and organize the facilities and other administrative part for the Sixteenth Congress. Minority Leader.

Representative Palacios: Thank you, Mr. Speaker. With that said, I would like to reiterate my concern on the issue of the cover funds. Let me make it perfectly clear, Mr. Speaker, that I have no question about the intents and purposes that the Executive Branch have exercised in paying the rebates on this particular issue. My concern and the issues that I raised during our last session is for the Chair and our legal counsel to research whether these funds do not need to be reported to this Body. That is the basic question that I have. What I see, Mr. Speaker is a continuing saga in the local media, and that really is not what my intent was. My intent was to make sure that the Administration did not have to report this. It is my humble opinion that the Administration does have to report it and make a proposal, or if need be inform the House, at the very least the Chair of this Body, of the Administration's intention. Perhaps, the Special Assistant for the Governor—the PIO's statement in yesterday's paper said that this is the result of the Executive Branch's effort and only the Executive Branch and that therefore since the legislature had no role in securing the funds that it should not—in so many words, basically implied and insinuated that we have no business questioning. I take issue with that because this body does a constitutional role, and it is any Administration's role to make this negotiation on behalf of the people of the Commonwealth, and negotiate in good faith for the benefit of our people. Perhaps, it was a misstatement on his part – I will give him that benefit of the doubt – but if I were another individual, I would probably say that that is unbecoming. But, I will not go there. I respect the Administration and I commend them for closing up this particular issue. The question still has to be asked—what role this body has in any fund, any tax revenue fund. I hope that the Chair would convey through an official communication to the Executive Branch and avoid the pissing contest that is happening now in the media. I have asked the legal counsel on several occasions. I know that they have been rather bombarded with the assignments at hand, with the budget, but I believe that this is an issue that we must clarify and put to rest once and for all. It is fundamental, it is basic, and we need to put it to rest. Thank you, Mr. Speaker.

Speaker Babauta: Thank you, Minority Leader, and again, let me clarify further the concerns raised by the Minority Leader last session. He was more or less curious to know the legal provisions and any part of the constitution the authority of both the Executive Branch and the Legislative Branch with respect to the issue that was raised primarily on the cover over taxes returned to the CNMI. That request was made to my office and that of the legal counsel and not to the Executive Branch. That is the clarification that I want to make this morning to all the media that are present this morning. That concern brought up by the Minority was addressed to the Chair and, of course, through my office requesting the legal counsel's comment as to what is the traditional practice and what has been the practice in the past pursuant to laws. Whether there are statutes governing an automatic reserve of those funds primarily for rebates. I understand yesterday—I have not glanced at the entire provisions—but there certain provisions of our CNMI Code that requires and authorizes our Secretary of Finance to reserve any revenue into the Commonwealth for rebate purposes and that is pursuant to 4 CMC 1741. Let me assure the Minority Leader that I will definitely convey an official message after details are received from the counsel and that of our Executive Branch's responsible agencies. We now move down to Item 15. Clerk, take note that Representative Seman is present in the Chamber. Is your cooking done—are the patients all fed? Very good.

BILL CALENDAR

Speaker Babauta: I recognize the Floor Leader.

Floor Leader Pro Tem Lizama: Mr. Speaker, I move to suspend pertinent rules for the placement on today's Bill Calendar of the following House Bills: H. B. NO. 15-328, H. B. NO. 15-329, and H. B. NO. 15-330.

The motion was seconded and carried by voice vote.

Speaker Babauta: The motion is carried and H. B. NO. 15-328, H. B. NO. 15-329, and H. B. NO. 15-330 are hereby placed on today's Bill Calendar for the House's consideration. You may proceed, Floor Leader.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. I move for the passage of H. B. NO. 15-329 on First and Final Reading.

The motion was seconded.

H. B. NO. 15-329: A BILL FOR AN ACT TO AMEND 9 CMC § 5657 REGARDING ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES, AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion on the Bill. Let me ask the author—is there an existing law or is this in addition?

Representative Stanley Torres: This is an amendment to existing law to expand it requiring all facilities—private, small establishments or public area that do not provide parking space for the ADA. This is a request from the Northern Marianas Protection and Advocacy Systems, Inc. ("IMPASSE") as a result of the comment by the Department of Public Safety Commissioner that the existing law is not that strong to be enforced. This is a result of that comment.

Speaker Babauta: So you have made dialogue with the Commissioner of DPS on this issue.

Representative Stanley Torres: It is enough that the statement he made is that he is not willing to enforce so I took NMPASI's recommendation.

The Chair recognized Representative Yumul.

Representative Yumul: My question to the author of the bill starting on line 19. How would this section affect existing establishments that were grandfathered? In other words, if a facility had been constructed whereas it is not able to provide for ample parking space, how would this bill work with that? Also, I believe the Zoning Board would have factored this in. I believe the Department of Public Works also has a requirement on any new buildings being constructed that certain number of parking space is based on the unit.

Speaker Babauta: What I am aware of is that any present facility is mandated by present statute to provide for an accessible parking for disabled persons. If this bill becomes law, the Zoning Board would have to take this into consideration. Since a local structured board strictly for the Third Senatorial District any laws approved by the local delegation with respect to this issue, the Board

would have to comply with this CNMI statute. I think the Zoning Law not only includes aesthetic aspects but also parking lots.

Representative Yumul: There are two types of parking—one is for cars, starting on page 1, line 15 and the other for vans starting on line 3 page 2. Then if you apply line 19 which is the priority?—Does the business have to provide for both, the van and one vehicle, or does it have the option depending on available parking space? In other words, if a business establishment only has cars and then a van cannot park or a van accessible parking space is not available, can that person then request the Attorney General's Office to sue because the establishment failed to provide a van accessible parking space, but they did provide for a car.

Speaker Babauta: This bill purports to do just that—a handicapped parking for a regular car and an installation also for a van. Representative Torres.

Representative Stanley Torres: I think the people that will be enforcing this should come up with some kind of flexibility that if they mandate that a blue box be designated, it could be made large enough so that it can accommodate either van or car. I saw that some establishments enlarged their blue boxes that would accommodate a trailer too.

Speaker Babauta: Let me ask the counsel—Ian, is our standard disability parking inconsistent with the federal statute.

Legal Counsel Ian Catlett: I think whenever they come up with a design it would have to be consistent with the ADA. That is what is behind this at the core. The Federal law is what is dictating this statute. From this statute, the regulations – and you are correct about the Zoning Board, it would have to follow this statute and what the federal law say, but that is where the real determination is. It is under the Americans with Disabilities Act.

Speaker Babauta: That is what I assumed. Minority Leader.

Representative Palacios: You know, Mr. Speaker, that I do not believe we really need to continue to amend. I believe the original statute empowered the Department of Public Safety to put the regulations on this. But if DPS does not want to put the regulations together to make the adjustments for this and we put it in statute again, we will never end. We will continue to amend this. The purpose of this legislation, Mr. Speaker—we can cut discussion and pass it. When executive agencies are empowered to promulgate rules and regulations, they are given the flexibility to do this so that it does not have to come back to the legislature.

Speaker Babauta: Representative Kaipat.

Representative Kaipat. It all boils down ... (*End of Tape 1, side B*) --(*Start of Tape 2 side A*) ...parking illegally. So whether it is new or old, it boils down to work force and enforcement, and making the general public aware that they are breaking the law every time they pull in. I have often wondered if the owners of the stores would even come out and say something to the customers. But, that is a very pervasive—they pull in, walk into the store, and a few minutes later they are gone. By the time you call the police, they are long gone. I really think that a good public education needs also to go out there to make people more aware to stop doing this. Thank you.

Speaker Babauta: Thank you. Ready? Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 15-329 on First and Final Reading that resulted as follows:

Representative Martin B. Ada	excused
Representative Edwin P. Aldan	yes
Representative Francisco S. Dela Cruz	yes
Representative Florencio T. Deleon Guerrero	excused
Representative Joseph P. Deleon Guerrero	yes
Representative Jacinta M. Kaipat	yes
Representative Jesus SN. Lizama	yes
Representative Crispin M. Ogo	excused
Representative Arnold I. Palacios	yes
Representative Justo S. Quitugua	excused
Representative Benjamin B. Seman	yes
Representative Candido B. Taman	yes
Representative Ramon A. Tebuteb	yes
Representative Manuel A. Tenorio	yes
Representative Stanley T. Torres	excused
Representative Absalon V. Waki, Jr.	no
Representative Ray N. Yumul	yes
Representative Oscar M. Babauta	yes

Speaker Babauta: By a vote of 13 “yes”, H. B. NO. 15-329 passes the House on First and Final Reading. Floor Leader, continue with one more and then we will break for lunch.

Floor Leader Pro Tem Lizama: Mr. Speaker, on H. B. NO. 15-330, I move for the passage on First Reading only.

The motion was seconded.

H. B. NO. 15-330: A BILL FOR AN ACT TO AMEND 1 CMC § 6601(B) TO CLARIFY THE METHOD OF RECOUNTING BALLOTS IN ELECTION CONTESTS.

Speaker Babauta: Discussion on the motion made by the Floor Leader to pass H. B. NO. 15-330 on First Reading. May I ask the author to clarify page 2.

Representative Taman: Mr. Speaker, I have just consulted with our legal counsel and perhaps we will be coming in with a substitute to the original bill.

Speaker Babauta: Okay. The motion is for passage on First Reading only.

There was no further discussion, the motion to pass H. B. NO. 15-330 on First Reading was carried by voice vote.

Speaker Babauta: The motion carries and H. B. NO. 15-330 passes on First Reading. The consensus of the House—it is 11:40 and I wish to have our employees break for lunch and we will come back at 1:30 p.m. for more green power. Okay, the House stands recessed until 1:30 this afternoon. I kindly request the members to be present so that we can start the dialogue on our Fiscal Year 2008 budget. Recess until 1:30 p.m.

The House recessed at 11:48 a.m.

RECESS

The House reconvened at 2:08 a.m.

Speaker Babauta: We are back in session. Floor Leader.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. Mr. Speaker, I move for the passage of H. B. NO. 15-328 on First Reading only.

The motion was seconded.

H. B. NO. 15-328: A BILL FOR AN ACT TO MAKE APPROPRIATIONS FOR THE OPERATIONS AND ACTIVITIES OF THE GOVERNMENT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, ITS AGENCIES, INSTRUMENTALITIES, AND INDEPENDENT PROGRAMS, AND TO PROVIDE BUDGET AUTHORITY FOR GOVERNMENT CORPORATIONS FOR FISCAL YEAR 2008; AND FOR OTHER PURPOSES.

Speaker Babauta: We will discuss H. B. NO. 15-328, the Fiscal Year 2008 Budget on First Reading. The floor is open for discussion. I recognize the Minority Leader.

Representative Palacios: Mr. Speaker, there seems to be significant discrepancies and needs to be adjusted, as well as some submission and input from the Public School System (PSS) that they would like to see certain provisions changed or modified. So, I believe that it is appropriate that we sit and hash this out and negotiate amongst ourselves.

Representative Stanley Torres: Point of information.

Speaker Babauta: State your point of information, Representative Torres.

Representative Stanley Torres: Mr. Speaker, I am kind of confused hearing the Minority Leader—is the budget turned over to the Minority?

Speaker Babauta: Let me further clarify that—this issue is not necessarily a majority or of the leadership, or for that matter the minority's issue. This is an issue for the House of Representatives, inclusively. As Representative Joe Deleon Guerrero says, we need to indulge ourselves so that we can have a conclusive conclusion in closing up this term and having a budget for the CNMI Government. Not only that, but we have to cognizant of the fact that we have two new seats for the 16th House of Representatives and we need to consider those and other vital government services. So I ask each of you please to participate today and hopefully we can resolve this if not today, maybe tomorrow morning if it need be. I would like to point out again that the last session of the 15th House of Representatives will take place on January 9, 2008, at nine in the morning. That will be the last official act of the 15th House of Representatives. So at the wishes of the members, we will move for a recess until we resolve some issues arising out of the budget package for 2008. I recognize a motion.

Floor Leader Pro Tem Lizama: I move to recess.

Speaker Babauta: The motion is to recess and we will rise back into session once we hash out the provisions of H. B. NO. 15-328, the Budget Act of 2008. The motion is undebatable.

The motion was seconded and carried by voice vote.

MISCELLANEOUS BUSINESS

None

ADJOURNMENT

The House stood recessed at 2:12 p.m.

Respectfully submitted,

Evelyn C. Fleming
House Clerk

APPEARANCE OF LOCAL BILLS

FIRST APPEARANCE: First Appearance of a local bill is the day of introduction

SECOND APPEARANCE: H. L. B. No. 15-78: A Local Revenue Bill for an Act for the Third Senatorial District to raise local revenues by permitting certain non-gaming activities; and for other purposes. (Representative Jesus SN. Lizama +3)

THIRD APPEARANCE: NONE