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OFFICE OF THE SANGGUNIANG PANLALAWIGAN SECRETARY

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that at the regular session duly constituted of the Sangguniang Panlalawigan, Province of Pangasinan, held on February 12, 2024 at the Session Hall, Capitol Building, Lingayen, Pangasinan, the following provincial resolution was approved:

Authored by SP Member Haidee S. Pacheco

PROVINCIAL RESOLUTION NO. 238-2024

APPROVING AND ADOPTING AS ITS DECISION EN BANC, THE RESOLUTION OF THE COMMITTEE ON GOOD GOVERNMENT AND ACCOUNTABILITY OF PUBLIC OFFICERS, JUSTICE AND HUMAN RIGHTS IN SP ADMINISTRATIVE CASE NO. 02-2022

WHEREAS, the Sangguniang Panlalawigan was in receipt of an Administrative Complaint filed on August 1, 2022 by Engr. Paquito B. Balajadia against Mayor Danilo C. Uy of the Local Government Unit of Sison, Pangasinan;

WHEREAS, the said case was referred to the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights and was docketed as SP Administrative Case No. 02-2022 by the 11th Sangguniang Panlalawigan;

WHEREAS, after several hearings, careful review and study on the said case, the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights submitted its Decision which was adopted as Committee Report No. 09-2024 by the Sangguniang Panlalawigan, to wit;

DECISION

Before this Committee is an administrative complaint for Grave Abuse of Authority filed by Engr. Paquito B. Balajadia, the Municipal Engineer of Sison, Pangasinan, against Mayor Danilo C. Uy, the incumbent Mayor of the said municipality. The Complainant was also designated as the Municipal Building Official by the Department of Public Works and Highways.



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ANTECEDENT FACTS

January 4, 2021, the Respondent issued Executive Order No. 01, Series of 2021, hereinafter referred to as ("EO No. 2021-01"). The purpose of the issuance of EO No. 2021-01 is the creation of a property inventory task force with the Complainant being designated as its task force head. Based on the aforesaid EO No. 2021-01, the said inventory task force shall have the following duties and functions:

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a) **FULL INVENTORY OF PROPERTY AND EQUIPMENT OWNED BY THE MUNICIPAL GOVERNMENT OF SISON, PANGASINAN**

1. Prepare a yearly inventory plan and identification of office/s due for inventory;
2. Prepare memoranda for signature of the Local Chief Executive and dissemination to the different offices;
3. Perform actual inventory of all property and equipment owned by the Municipal Government of Sison;
4. Inspect and label all property and equipment owned by the Municipal Government, secure validation by the accountable officer, and subsequently attach sticker/bar code to each property/equipment;
5. Encode, update and validate reports from each office;
6. Encode, update and review property acknowledgement receipt for approval and dissemination per office;
7. Furnish the Municipal Mayor, Municipal Accountant and the Resident Auditor if the latter so requests, of the inventory report and monthly progress report;
8. Maintain a current and properly updated record of physical count inventory of property and equipment, with their corresponding location, machine copies of land titles/proof of ownership of property owned by the Municipal Government, and keep custody of the same including the property acknowledgment receipt; and
9. Recommend scientific and economic receipt, warehousing, and issuance of materials and equipment for their best safekeeping and rapid availability.



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- b) **FULL DETERMINATION AND PLOTTING OF PORTIONS OF BUED RIVER PRIVATELY APPORTIONED**
1. *Closely coordinate with the Municipal and Provincial Assessor in identifying and securing documents pertaining to portions of Bued River over which private individuals manage to obtain tax declarations/semblance of private ownership;*
 2. *Keep custody of copies of tax declarations and similar documents over portions of Bued River issued in favor of private individuals;*
 3. *Plot the portions of Bued River claimed by private individuals, and cross-checking the same with the tax declarations and similar documents in its custody and that of the Municipal and Provincial Assessor;*
 4. *Conduct physical inspection of the portions of Bued River which had been subjected to private ownership;*
 5. *Recommend to the Municipal Mayor proper measures, including engineering and legal interventions, in order to maintain integrity of the Bued River as a property of public dominion; and*
 6. *Submit monthly report to the Municipal Mayor on the progress of the inventory.*
- c) **OTHER FUNCTIONS.** *The Task Force shall likewise perform such other functions as the Local Chief Executive may direct, to safeguard public interest over property and equipment owned by the Municipal Government and those belonging to public domain.*

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In the aforementioned EO No. 2021-01, the Complainant was also directed to “perform no other public function, task and duty” except those enumerated in the order and that he relocate to Sison Stadia which is to serve as his office. Simultaneous to the issuance of EO No. 01-2021, the Respondent also issued Office Order No. 01-2021, hereinafter referred to as (“OO No. 2021-01”) designating Engr. Rogelio V. Toralba Jr., hereinafter referred to as (“OIC Toralba”), as the Officer-in-Charge of the Municipal Engineering Office to be made effective on the same date as the issuance of EO No. 2021-01.

The Complainant complied to EO No. 2021-01 and reported for work at the Sison Stadia for the month of January 2021. He conducted inventory of the properties of the municipality and field work. He then subsequently filed a special privilege leave on February 2-4, 2021 and then for a vacation leave on February 5, 2021 to March 15, 2021.



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But prior to his filings of these consecutive leaves, he sent a letter to the Respondent raising his issues with regard to his designation as head of the Property Inventory Task Force and the installation of OIC Toralba. In this letter, he impugned the legality of the issuances of both EO No. 01-2021 and OO No. 01-2021 stating that the issuances of the said orders unduly deprive him the opportunity to perform his functions as Municipal Engineer.

The Respondent then sent a letter to the Complainant on reiterating his designation as Head of the Property Inventory Task Force the reason being that it is in consideration of the technical requirements, sensitivity, engineering and public works nature of the pertinent functions. Furthermore, the Respondent stated in the same letter that it is necessary and urgent due to incidents of acquisition and/or issuance of tax declarations in favor of the private individuals over dried portions of Bued River.

The Complainant responded thereto on February 22, 2021 claiming that his designation as head of the task force, the directive to perform no other function, his transfer of place of assignment from the Municipal Engineer's Office to Sison Stadia and the designation of an officer-in-charge in the Municipal Engineering office are tantamount to removal and dismissal as Municipal Engineer.

In a subsequent letter, he stated that he reported for work on March 16, 2021 but was allegedly prevented from performing his tasks since OIC Toralba was already there performing his duties. According to the Complainant this dampened his morale and the subsequent events rendered it impossible for him to perform his functions as the municipal engineer.

Thereafter, a Return-to-Work Order was sent to the Complainant on March 26, 2021 signed by Administrative Officer V Leah R. Bustillo, hereinafter referred to as ("Admin Officer Bustillo") stating that the Complainant has not reported for work since March 16, 2021 and that any unauthorized absences may be faced with legal sanctions. The Complainant responded thereto in his letter stating that since his previous letters assailing the legality of his reassignment remains unresolved and has decided raised the matters to the proper government authorities.

Admin Officer Bustillo then sent another letter to the Complainant informing him that he will no longer be entitled to receive his salary for unauthorized absences due to his failure to return to work despite notice. Subsequently, a second notice for Return-to-Work Order was issued to the Complainant. He was directed to report for work as the designated head of taskforce and warned him that his failure to comply with said order within three (3) days from receipt thereof shall merit legal sanctions.

However, prior thereto, the Complainant sent a letter complaint dated April 20, 2021 to Ombudsman Samuel R. Martires, stating that he was constrained to file a complaint to his office since his complaint against the Respondent was never addressed. He attached therewith his affidavit/complaint detailing the circumstances which led to his current predicament.



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Admin Officer Bustillo sent an endorsement letter to the Respondent requesting for appropriate action and recommendation with regard to the unauthorized absences and failure to report for work of the Complainant. A Case Report and Findings by Admin Officer Bustillo was made against the Complainant and pursuant to the said report, the Respondent was separated from his service and was formally dropped from the roll.

In response thereto, the Complainant sent a letter to the Respondent, ultimately assailed his separation from service by mere notice and requested for a definitive order from him with regard to his position as the Municipal Engineer. To which the Respondent responded through a letter and opined that the Complainant's letter is a mere rehash of his previous communications, advising the Complainant to ventilate his issues with regard to his status to the Civil Service Commission.

A Summon by this Committee was sent to the Respondent on August 12, 2022 which required him to file his Answer within fifteen (15) days from receipt. The Respondent was able to comply thereto with the filing of his Answer on August 25, 2022. The Committee also directed the Complainant on September 5, 2021 to file his amended complaint in order to comply with Section 60 of the Local Government Code and the corresponding rules of procedure in filing a complaint for administrative cases.

The Complainant filed his Amended Affidavit-Complaint on September 16, 2022. The Respondent filed a Motion to Expunge Amended Complaint on September 22, 2022 on the ground that this filing was without leave from the Sangguniang Panlalawigan and after the Respondent filed his Answer. This motion was denied by this Committee on February 13, 2023 since the filing of the Amended Complaint was pursuant to the letter notice sent to the Complainant.

The Respondent was subsequently ordered to file his Amended Answer which was filed on February 28, 2023 after which the parties were required to submit their respective Pre-trial Briefs before the Pre-trial Conference. The Respondent filed his Pre-trial Brief of March 17, 2023 while the Complainant filed his own on March 20, 2023. The Pre-trial Conference was held on March 23, 2023, and after the termination of which, the parties were required to submit their respective Position Papers.

Both parties submitted their respective Position Papers. Hence, the instant case submitted for was decision by this Committee.

ISSUE(S) TO BE RESOLVED

On the basis of the records of the case, the issues to be resolved by this Committee can be summarized through the following points:



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1. *Whether or not the Respondent may be held guilty of Grave Abuse of Authority and Grave Misconduct on the basis of the evidence presented.*

RULING

On the propriety of the issuance of EO No. 2021-01 and OO No. 2021-21 by the Respondent.

According to the 1987 Administrative Code, executive orders are defined as acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive orders. In furtherance of the devolution powers of the President to chief executives of local government units, an executive order is a signed, written, and published directive from the mayor that manages operations of the city [municipal] government. They are numbered consecutively, so executive orders may be referenced by their assigned number, or their topic. These are official directives or commands from the mayor and concerns the implementation or enforcement of rules, policies and procedures which have the force of law.

Based on the Respondent's complaint, the issuance of the EO No. 2021-01 is pursuant to the Commission on Audit Circular No. 2020-006, hereinafter referred to as (the "Circular No. 6"), dated January 31, 2020; Audit Observation Memorandum 2020-014, hereinafter referred to as ("Memorandum No. 14") and Audit Observation Memorandum 2020-015, hereinafter referred to as ("Memorandum No. 15") both dated February 28, 2020. We shall examine these circular and memoranda in seriatim.

Circular No. 6

In the examination of Circular No. 6, the purpose of which is to prescribe the general guidelines and procedures on inventory taking, recognition of PPE and disposition for non-existing/missing PPE items for the one-time cleansing of PPE accounts of government agencies. This is in order to establish PPE balances that are verifiable as to existence, condition and accountability.

The aforesaid circular even provides a definition of Property, Plant and Equipment (PPE) because it is important to note that it comprises a significant portion of the total assets of the government:

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4.1 PPE are tangible items that are:

a. purchased, constructed, developed or otherwise acquired;

b. held for use in the production or supply of goods or services or to produce program outputs;



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- c. for rental to others (other than investment property);*
- d. for administrative purposes;*
- e. expected to be used during more than one reporting period; and*
- f. not intended for resale in the ordinary course of operations.*

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To elucidate, we shall refer to the Revised Chart of Accounts, in order to be apprised with a complete account to see what constitutes PPE. Based on the aforesaid Chart, the following table are particularly itemized and listed PPEs to be accounted by each local government agency in their reportorial requirements to COA:

TABLE OF ACCOUNTS

Property, Plant and Equipment
Land

- 1. Land Improvements*
 - a. Aquaculture Structures*
 - b. Reforestation Projects*
 - c. Other Land Improvements*

Infrastructure Assets

- 1. Road Networks*
- 2. Flood Control Systems*
- 3. Sewer Systems*
- 4. Water Supply Systems*
- 5. Power Supply Systems*
- 6. Communication Networks*
- 7. Seaport Systems*
- 8. Airport Systems*
- 9. Park, Plazas, and Monuments*
- 10. Railway Systems*
- 11. Other Infrastructure Systems*

Buildings and Other Structures

- 1. Buildings*
- 2. School Buildings*
- 3. Hospitals and Health Centers*
- 4. Markets*
- 5. Slaughterhouses*
- 6. Hostels and Dormitories*
- 7. Other Structures*



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Machinery and Equipment

1. *Machinery*
2. *Office Equipment*
3. *Information and Communications Technology Equipment*
4. *Agricultural and Forestry Equipment*
5. *Marine and Fishery Equipment*
6. *Airport Equipment*
7. *Communications Equipment*
8. *Construction and Heavy Equipment*
9. *Disaster Response and Rescue Equipment*
 - a. *Firefighting Equipment and Accessories*
 - b. *Flood and Rescue Equipment*
 - c. *Earthquake Rescue Equipment*
 - d. *Volcanic Eruption Rescue Equipment*
 - e. *Landslide Rescue Equipment*
10. *Military, Police and Security Equipment*
11. *Medical Equipment*
12. *Printing Equipment*
13. *Sports Equipment*
14. *Technical and Scientific Equipment*
15. *Other Equipment*

Transportation Equipment

1. *Motor Vehicles*
2. *Trains*
3. *Aircrafts and Aircrafts Ground Equipment*
4. *Watercrafts*
5. *Other Transportation Equipment*

Furniture, Fixtures and Books

1. *Furniture and Fixtures*
2. *Books*

Leased Assets

1. *Land*
2. *Buildings and Other Structures*

Machinery and Equipment

3. *Machinery and Equipment*
4. *Transportation Equipment*
5. *Furniture and Fixtures*
6. *Other Leased Assets*

Leased Assets Improvements

1. *Land*
2. *Improvements, Buildings and Other Structures*
3. *Other Leased Assets Improvements*



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Heritage Assets

- 1. Historical Buildings*
- 2. Works of Arts and Archeological Specimens*
- 3. Other Heritage Assets*

Service Concession Tangible Assets

- 1. Road Networks*
- 2. Flood Control Systems*
- 3. Sewer Systems*
- 4. Water Supply Systems*
- 5. Power Supply Systems*
- 6. Communication Networks*
- 7. Seaport Systems*
- 8. Airport Systems*
- 9. Park, Plazas, and Monuments*
- 10. Railway Systems*
- 11. Buildings and Other Infrastructure Systems*
- 12. Other Service Concession Assets*

Bearer Trees, Plants and Crops

- 1. Bearer Trees, Plants and Crops*
- 2. Growing Bearer Trees, Plants and Crops*

Construction in Progress

- 1. Land Improvements*
- 2. Infrastructure Assets*
- 3. Buildings and Other Structures*
- 4. Leased Assets*
- 5. Leased Assets Improvements*
- 6. Furniture and Fixtures*
- 7. Heritage Assets*
- 8. Service Concession Assets*

Other Property, Plant and Equipment

- 1. Work/Zoo and/or Other Animals*
- 2. Growing Work/Zoo and Other Animals*
- 3. Other Property, Plant and Equipment*

Biological Assets

Bearer Biological Assets

- 1. Breeding Stocks*
- 2. Livestock*
- 3. Trees, Plants and Crops*
- 4. Aquaculture*
- 5. Other Bearer Biological Assets*

Consumable Biological Assets

- 1. Livestock Held for Consumption/Sale/Distribution*
- 2. Trees, Plants and Crops Held for Consumption/Sale/Distribution*
- 3. Other Consumable Biological Assets*



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This table comprises all the needed PPE that the task force must take into account in their inventory. These further evidences the necessity of technical expertise and wealth of experience needed in spearheading a task force which will perform the physical inventory of the properties of the municipality in order to fulfill its mandates and functions. The enormous task of completing the inventory of the PPE of the municipality lies in the hands of the composition of the inventory task force.

Alongside with the creation of the inventory committee, the Chief Executive of the municipality must see to it that the inventory committee is comprised of adequate number of members and that the inventory committee must be able to conduct the physical inventory of the PPE within three months or less with the said committee having members from the Accounting and Property Division/Unit. The time constraint and the urgency of the task to be performed presupposes that the members of the task force is well apprised with their functions and duties.

Circular No. 6 further mandates that the members of the inventory committee shall be relieved of all their regular duties in order to devote their full time in the conduct of the physical inventory taking until the same is completed. Hence, the issuance of the subsequent OO 2021-01 was also with valid foundation given that the Complainant has to perform a huge task requiring his full attention and expertise.

The aforesaid circular even decrees the physical counting, recognition, recording and tagging of all the existing PPEs and the disposition of non-existing/missing PPEs of the concerned government office. Which is why the perusal of the guidelines in the circular recommends the establishment of an inventory committee tasked with the performance of the physical inventory and tagging of the PPEs. It is of no consequence therefore that an inventory committee, in the instant case, a task force created to perform this essential function was an important directive by the Chief Executive in order to comply with the said regulations by COA.

Memorandum No. 14

The creation of the inventory committee was also made imperative by the issuance of Memorandum No. 14 to the municipality of Sison, actually a month after the issuance of Circular No. 6. Memorandum No. 14 was issued for the prime reason that although the municipal accounting office has already identified all the properties of the municipality, the actual physical condition and existence of these properties cannot be verified due to lack of physical inventory report.

In fact, the aforesaid memorandum determined that a total net book value of P435,893,518.56 of PPE as of December 31, 2019 cannot be ascertained because of the inability of the municipality to conduct physical inventory. Hence, the memorandum recommended that an inventory committee should conduct the physical counting of all the PPE of the municipality and consequently prepare a report thereof to be submitted to the Auditor in compliance with Section 124 of the New Government Accounting System, Volume I.



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Memorandum No. 15

Memorandum No. 15 also bolstered the necessity of the creation of the inventory committee as it also required the municipality to conduct physical inventory of all local road networks funded by the municipality. It even required specifically the Municipal Engineer to prepare a list of road inventory and its vicinity map for easy identification during and after the physical inventory.

The aforesaid Memorandum stated that a recorded amount of Road Networks account totaling P144,139,586.22 could not be ascertained and its existence could not be established due to management's failure to comply with the requirements set under COA Circular No. 2015-008 dated November 23, 2015 on fair presentation of Infrastructures Asset.

The Manual on the New Government Accounting System for Local Government Units provides that public infrastructures which includes roads shall be recorded in the Registry of Public Infrastructure and disclosed in the Notes to Financial Statements. With the adoption of the Philippine Public Sector Accounting Standards (PPSAs), infrastructure assets which include road networks shall be taken up as Property, Plant and Equipment.

Therefore, there is a need for an updated accounting and reporting for the local road network construction and maintenance system primarily for the fair presentation of the account Infrastructure assets in the financial statements. It has been defined that Infrastructure assets are assets that usually display some or all of the following characteristics:

- a. Part of a system or network;*
- b. Specialized in nature and do not have alternative uses;*
- c. Immovable; and*
- d. Subject to constraints on disposal.*

Public infrastructure shall form part of and be recorded in the books as Property, Plant and Equipment. To be specific, it includes among others the road network system. This may be composed of (a) road lot, (b) road pavement, (c) drainage and slope protection structures and (d) other miscellaneous structures.

Memorandum No. 15 recommended the creation of an inventory committee who shall be responsible in the conduct of physical inventory of local road networks funded by the municipality. The examination of the memorandum reflects that it specifically directs herein Complainant as the Municipal Engineer at the time to prepare a list of road inventory and its vicinity map for easy identification during and after the physical inventory.



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These factual antecedents negate the contention of the Complainant that EO 2021-01 was issued wantonly, capriciously and whimsically by the Respondent. The circular, memoranda and the new government accounting system serve as the legal basis for the issuance of the executive order by herein Respondent. As the Chief Executive of the Municipality of Sison, the Respondent is well within his mandate to implement the necessary rules, regulations and orders of the national government. Therefore, the designation of the Complainant as head of the task force is well within the ambits of the aforesaid statutory laws.

On the issue on whether the Respondent can be held to have gravely abused his authority as the Municipal Mayor.

Grave abuse of authority has been defined as a misdemeanor committed by a public officer, who under color of his office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury; it is an act of cruelty, severity, or excessive use of authority.

In order for this Committee to find that grave abuse of authority has been committed by herein Respondent, substantial evidence which is that amount of relevant evidence that

a reasonable mind might accept as adequate to support a conclusion, such being the quantum of proof required in administrative cases must exist. It cannot be gainsaid that the perusal of the Complainant's evidence provides otherwise.

The Complainant mere allegation that Respondent committed acts constitutive of "abuse of authority" shall not merit as substantial evidence. Finding that the issuance of EO 2021-01 and OO 2021-01 is with legal bases, the contention of the Complainant that he was prevented from performing his function as municipal engineer by the designation of an office-in-charge committed abuse of his authority as the mayor. Such abuse must equate to being arbitrary, oppressive, and capricious which cannot be proved by mere allegation of the Complainant alone.

The Complainant presented the affidavit of Alex L. Lopez Sr. to corroborate this allegation, however, this evidence is clearly self-serving and convenient to the Complainant. Aside from the fact that the said affiant is the Complainant's brother-in-law, his affidavit only contains general averments without stating positive or overt acts performed by the officer-in-charge depriving the Complainant to perform his supposed duty.

The Supreme Court even stressed that like other grave offenses classified under the Civil Service laws, bad faith must attend the act complained of. Bad faith connotes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. In the instant case, there is no evidence presented which could directly impute that the Respondent acted in bad faith or that he has adverse intention towards the Complainant.



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He was not demoted, rather, he was designated to lead a group to perform an important task serviceable to the municipality. His allegation that the task force was a farce is even without basis given that the initial acts of performing his duty as head was only done for a month. He actually filed almost a one and half month of special privilege and vacation leaves before he gone AWOL.

This leads us to the evaluation of the evidence proffered by the Respondent in relation to the Complainant's continuous refusal to report for work. Being the newly designated head of the duly constituted task force, his refusal to comply with the two (2) Return to Work Orders evidences misconduct and gross negligence of duty which are grounds for disciplinary action pursuant to Section 60 (c)(f) of the Local Government Code.

Perforce, the consequent instance of his being dropped from the Roll is with sufficient basis given that he was twice directed to return to work despite his unapproved absences but was adamant in his rejection to do so. It is incumbent upon the Complainant to submit himself to these orders of the municipal mayor. He is not being denied to ventilate his complaints, however, he still has to perform the functions of his office in order to not impede the public service which he is equally duty-bound to do.

WHEREFORE, premises considered, the Complaint is hereby DISMISSED for LACK OF MERIT.

SO ORDERED.

February 12, 2024. Lingayen Pangasinan.

Respectfully Submitted:

*(sgd.) SP MEMBER HAIDEE S. PACHECO
Chairman*

WHEREAS, the Sangguniang Panlalawigan finds the said Decision to be in order;

WHEREFORE, in view of the foregoing, on motion of SP Member Haidee S. Pacheco, duly seconded, it was -

RESOLVED, by the Sangguniang Panlalawigan in session assembled to approve, as it is hereby approved and adopted as its decision en banc, the Recommendation of the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights in SP Administrative Case No. 02-2022;



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RESOLVED FURTHER, that copies of this resolution be furnished to Engr. Paquito B. Balajadia, Mayor Danilo C. Uy of Sison, Pangasinan and their counsels, for their information and guidance.

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


MARK RONALD D.G. LAMBINO
Vice Governor
(Presiding Officer)