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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 October 14, 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. 958-2024

ADOPTING AND APPROVING THE DECISION OF THE COMMITTEE ON GOOD GOVERNMENT AND ACCOUNTABILITY OF PUBLIC OFFICERS, JUSTICE AND HUMAN RIGHTS AS EMBODIED IN COMMITTEE REPORT NO. 46-2024 IN THE IMPOSITION OF PENALTIES ON THE RESPONDENT IN ADMINISTRATIVE CASE NO. 02-2024 AND ENDORSING THE SAME TO THE PROPER OFFICE/AGENCY FOR IMPLEMENTATION

WHEREAS, the Sangguniang Panlalawigan was in receipt of the formal endorsement from the Anti-Red Tape Authority (ARTA) for the further investigation and filing of appropriate charges in relation to the Complaint filed by Bryan S. Gomez and Rowel S. Gonzales against Mayor Julio F. Parayno III and Ronald San Juan (Head of Business Processing & Licensing Officer) of Urdaneta City, Pangasinan, for violation of Section 21 (b) and (e) of Republic Act No. 11032 and Section 60 (c) of Republic Act No. 7160;

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. 02-2024;

WHEREAS, after careful study and review of the merits of the case as well as the pleadings filed the parties herein, the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights has submitted its Decision which was adopted as Committee Report No. 46-2024 by the Sangguniang Panlalawigan on its October 14, 2024 Regular Session;

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

NOW THEREFORE, on motion of SP Member Napoleon C. Fontelera, Jr, duly seconded, it was –

RESOLVED, by the Sangguniang Panlalawigan in session assembled, to adopt and approve, as it is hereby adopted and approved, the Decision of the Committee on Good Government and Accountability of Public Officers embodied in Committee Report No. 46-2024 in the imposition of penalties on the respondent Mayor in SP Administrative Case No. 02-2024, as follows:



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DECISION

Before this Committee is an administrative complaint for (1) Violation of Section 21 (b) of RA 11032, (2) Violation of Section 21 (e) of RA 11032, otherwise known as Ease of Doing Business and Efficient Government Service Delivery Act of 2018 and (3) Violation of Section 60 (c) of RA 7160 otherwise known as the Local Government Code of 1991 filed by complainant Bryan Gomez and Rowel Gonzales through the indorsement of Anti-Red Tape Authority (ARTA) to this Committee.

ANTECEDENT FACTS

REVM Tipuso Poultry Farm, Inc. Is a corporation engaged in the business of poultry farming which is located at Brgy. Tipuso, Urданeta City, Pangasinan.

In 2019, residents of a neighboring barangay, Brgy. Pedro T. Orata, signed a Petition against REVM due to massive and unmitigated proliferation of flies over the years.

On October 7, 2019, the Sangguniang Barangay of Pedro T. Orata passed SB Resolution No. 35 series of 2019 supporting the people affected by the flies.

On June 11, 2020, and through the recommendation of the City Health Office, respondent Parayno III issued a Cease-and-Desist Order against REVM mandating its temporary closure due to sanitation violations.

On September 22, 2020, Barangay Pedro T. Orata passed SB Resolution No. 54 series of 2020 endorsing the petition against REVM.

On October 4, 2020, Our Lady of Lourdes Parish Catholic Church also filed a Petition to close the REVM poultry farm to the Office of Vice Mayor Jimmy Parayno.

Respondent Parayno III convened meetings and dialogues with the leaders of barangay Pedro T. Orata, the Catholic Church, concerned citizens, the City Health Office and representative of REVM.

A mutual agreement was arrived at between and among the parties that (a) No loading of chickens shall be made by REVM until all requirements are complied with, and (b) REVM shall secure clearances from the neighboring barangays of Macalong, Bactad and Pedro T. Orata.

REVM continued its operation, which constitutes flagrant violation and willful disobedience to the temporary closure order.

Thus, REVM was not issued its 2021 business permit.



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Complainant Rowel Gonzales filed complaint with the Department of Interior and Local Government (DILG) against the respondent Parayno III for the non-issuance to REVM of its business permit for 2021.

On June 16, 2021 the DILG issued a Fact-finding Report with a recommendation to “take no further action on the complaint.”

On February 16, 2021, ARTA received a complaint through electronic mail from Mr. Bryan S. Gomez, representing REVM Tipuso Poultry Farm, Inc. (REVM) against Punong Barangay (PB) Neil G. Tablada of Brgy. Pedro T. Orata, Urdaneta City, Pangasinan for the latter’s refusal to issue a barangay clearance, in violation of RA 11032.

The said complaint was docketed as CTN: 2021-0217-5498.

ARTA issued a Notice to Explain to PB Tablada.

In compliance, PB Tablada submitted his explanation and alleged therein, among others, the inaction of REVM to address the issues and blatant disregard of the agreements made during their dialogues with the City Mayor and the barangay council of Pedro T. Orata.

On March 17, 2021, ARTA sent an email to complainant Gomez directing him to comment on the Explanation submitted by PB Tablada, and also to submit his Sworn Complaint Affidavit.

On March 24, 2021, complainant Gomez submitted his Sworn Complaint Affidavit together with the supporting documents, thereby charging PB Tablada for violation of Section 13 (a), (d) and (e) of RA 11032.

On June 10, 2021, ARTA issued a Disposition on the said complaint whereby it stated that since REVM poultry farm is located at barangay Tipusu, PB Tablada of barangay Pedro T. Orata cannot be compelled to issue the subject barangay clearance to REVM otherwise that would constitute an ultra vires act or in excess of the mandated authority of PB Tablada. Hence, the refusal of PB Tablada to issue the barangay clearance requested by complainant REVM is with due cause. However, a Notice of Warning and Compliance Order was issued against PB Tablada for non-submission of the most updated and recent Citizen’s Charter pursuant to RA 11032.

On June 15, 2021, complainant Bryan Gomez submitted to ARTA a Supplemental complaint-affidavit/sworn statement against City mayor Julio F. Parayno III and the City BPLO Head San Juan, for violation of Section 21 (a), (b), (d) and (e) of RA 11032, with a request for Automatic approval of their 2021 business permit.



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Complainant Gomez attached an Affidavit of Completeness attesting to the facts that (1) REVM, through its bookkeeper Jover Mendiguarin, applied for the renewal of the business permit of REVM with the Business One Stop Shop (BOSS) at the Business Permit and Licensing Office (BPLO) of urdaneta City; (2) Mendiguarin submitted all the required documents as stated by the citizen's charter of Urданeta City; (3) Mendiguarin tried to tender REVM's payment of the required fees but the same was refused; (4) despite submission of all required documents and tender of payment of fees, REVM's application was refused by the BPLO; and (5) REVM is applying for an automatic approval/extension.

Rowel Surla Gonzales also executed a Sworn Statement charging City Mayor Parayno III and BPLO Head Ronald San Juan for violation of Sections 13 (a), (d) and (e) of RA 11032.

The said supplemental complaint-affidavit/sworn statement was entertained by ARTA as under the same case docket number CTN: 2021-0217-5498.

In the said supplemental complaint and sworn statement, complainants Gomez and Gonzales stated the following:

That the City Health Office recommended the temporary closure of REVM poultry farm until all the necessary recommendations are complied;

That on June 11, 2020, Mayor Parayno III issued a cease and desist order (CDO);

That REVM complied with the recommendations and the same was communicated to the Mayor on August 10, 2020;

That the Mayor issued a CDO ordering the closure of the facility;

That on January 12, 2020, the Mayor instructed complainant Gonzales to secure barangay clearances from barangays Tiposu, Bactad East, Macalong and Pedro T. Orata;

That even if REVM poultry farm is located in barangay Tiposu, complainant Gonzales acceded and was able to secure barangay clearances from Tiposu, Bactad East and Macalong. The fourth barangay, Pedro T. Orata, did not issue a barangay clearance;

On February 16, 2021, REVM applied for a business permit with the City's Business One Stop shop (BOSS). However, the evaluator insisted on the four barangay clearances per instruction of the respondent City Mayor Parayno III.



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On March 8, 2021, REVM sent a letter request to respondent City Mayor Parayno III for him to formally write the reasons for disapproval of its business permit application.

On March 25, 2021, respondent City Mayor Parayno III responded by stating therein the requirement of barangay clearances from four barangays for renewal of business permit.

On August 28, 2023, ARTA issued a Resolution recommending the forwarding of the instant case and records to the Sanggunian Panlalawigan (SP) of the Province of Pangasinan for the filing of appropriate charges against respondent City Mayor Parayno for violation of Sections 21(b) and (e) of RA 11032 and Section 60 (c) of RA 7160, against BPLO Head Ronald San Juan for violation of Section 21 (b) of RA 11302, and against Sanitary Inspector Darren Macaraeg for violation of Section 21 (e) of RA 11302.

On May 8, 2024 the SP Secretariat received the indorsement from ARTA and the same was subsequently referred to this Committee for proper action.

On May 22, 2024, this Committee received a copy of the Verification and Certification of Non-Forum Shopping which is also dated May 22, 2024, filed by complainant Rowel Gonzales personally and through LBC express courier.

In relation thereto, this Committee issued an Order dated May 22, 2024 taking note of the filing of the said Verification and Certification.

On May 23, 2024, this Committee issued an Order taking cognizance of the case but only in so far as respondent City Mayor Parayno III is concerned, the other two respondents not being elective officials.

On May 24, 2024, this Committee issued the summons directing the respondent City Mayor Parayno III to file his Verified Answer within an unextendible period of fifteen (15) days from receipt thereof.

On June 7, 2024, this Committee received a letter from Atty. Mera Lyka A. Timan stating withdrawal of the complaint against respondent Parayno III and Mr. Ronald San Juan by the complainant Bryan s. Gomez.

On June 11, 2024, respondent Parayno III filed his Verified Answer to the complaint.

On June 18, 2024, this Committee issued an Order directing Atty. Timan to submit pertinent documents in relation to the withdrawal of the complaint by complainant Bryan Gomez.

Complainants Gomez and Gonzales were likewise directed to comment on the withdrawal of complaint submitted by Atty. Timan.



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On June 25, 2024, this Committee received the compliance of Atty. Timan through the submission of a Secretary's Certificate and a Manifestation of Bryan S. Gomez confirming his withdrawal of the complaint against respondent Parayno III.

On July 4, 2024, complainant Rowel S. Gonzales filed his comment to the withdrawal of complaint. On the same day, he likewise filed his Comment to the Answer of the respondent Parayno III, with a prayer for preventive suspension.

On July 8, 2024, this Committee issued an Order acting on the withdrawal of the complaint by Mr. Bryan S. Gomez, whereby this Committee ruled that affidavits of desistance are immaterial in administrative proceedings where the purpose is to protect the public service based on the time-honored principle that public office is a public trust. Further, this committee took note of the existence of a prima facie evidence for the instant administrative case to proceed. Hence, this Committee resolved to proceed with the hearing of the case despite the withdrawal of complaint by Mr. Bryan Gomez.

On July 15, 2024, the respondent Parayno III filed his Comment/Rejoinder with Motion To Dismiss.

On August 2, 2024, the Committee issued a Recommendation embodied in a Committee Report No. 35-2024 which contained the unanimous agreement between and among all the members of this Committee that the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent mayor could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence in this case. Consequently, a preventive suspension of the respondent mayor was recommended, and since there are several charges against the respondent mayor, a period of ninety (90) days preventive suspension was recommended.

On August 14, 2024, an Order was issued by this Committee setting the case for Pre-trial Conference.

On September 2, 2024, a hearing for Pre-trial conference was conducted where both parties and their counsels appeared.

Thereafter, parties were given a period of fifteen (15) days within which to file their respective position papers, attaching therein their supporting documentary evidence including the judicial affidavits of their witnesses.

Respondent Mayor Parayno III filed a motion for reconsideration of the Order dated September 2, 2024 which was denied by virtue of an Order dated September 16, 2024.

The complainant filed his Position Paper on September 24, 2024, while the respondent filed his Position Paper on September 26, 2024.



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Hence, the case was submitted for decision.

ISSUES

On the basis of the records of the case, the issues to be resolved by this Committee are the following, to wit:

- A. Whether or not this Committee has jurisdiction over the subject matter of the present administrative case;
- B. Whether or not there is legal personality of complainants Bryan Gomez and Rowel S. Gonzales to file the instant complaint;
- C. Whether or not the complaint is defective;
- D. Whether or not there was a violation of the substantial and procedural process against the respondent in the filing of the instant complaint;
- E. Whether the preventive suspension was validly imposed;
- F. Whether or not the complainants has a cause of action against the respondent;
- G. Whether or not the subject matter of the instant case is now already moot and academic;
- H. Whether or not the respondent Mayor Parayno III is guilty of violation of Section 21 (b) of RA 11032;
- I. Whether or not the respondent Mayor Parayno III is guilty of violation of Section 21 (e) of RA 11032;
- J. Whether or not the respondent Mayor Parayno III is guilty of violation of Section 60 (c) of RA 7160.

RULING

Anent the first issue: DOES THIS COMMITTEE HAVE JURISDICTION OVER THE SUBJECT MATTER OF THE PRESENT ADMINISTRATIVE CASE?

To begin with, the respondent Mayor Parayno III was charged with two acts of violation of RA 11032 (Section 21 (b), and Section 21 (e) and one act of violation of RA 7160 Section 60 (c).



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While it is true that Section 15 of RA 11032 provides that “the administrative jurisdiction on any violation of the provisions of this Act shall be vested in either the CSC or Ombudsman as determined by appropriate laws and issuances”, this particular provision does not necessarily divest the Sanggunian Panglalawigan of its jurisdiction over the charges of violation of Section 21 (b) and (e) of RA 11032.

In the case of *Franklin Alejandro v. Office of the Ombudsman Fact-finding and Intelligence Bureau, Rep. By Atty. Maria Olivia Elena A. Roxas, G.R. No. 173121, April 3, 2013*, the Supreme Court ruled:

X X X

The Office of the Ombudsman was created by no less than the Constitution. It is tasked to exercise disciplinary authority over all elective and appointive officials, save only for impeachable officers. While Section 21 of the Ombudsman Act and the Local Government Code both provide for the procedure to discipline elective officials, the seeming conflicts between the two laws have been resolved in cases decided by this Court.

X X X

The two laws may be reconciled by understanding the primary jurisdiction and concurrent jurisdiction of the Office of the Ombudsman.

X X X

The Ombudsman has concurrent jurisdiction over administrative cases which are within the jurisdiction of the regular courts or administrative agencies.

X X X

From the above ruling of the Supreme Court, violations of RA 11032 by an elective official like herein respondent Mayor Parayno III may be taken cognizance of by the Sanggunian Panlalawigan as an administrative body with quasi-judicial functions.

Further, by the wordings of the ARTA Resolution, the instant case and the records were forwarded to the Sanggunian Panglalawigan of the Province of Pangasinan for the filing of the appropriate charges against the respondent Mayor Parayno III for violation of Section 21 (b) and (e) of RA 11032.

When ARTA forwarded its Resolution and the records of the case to the Sanggunian The dispositive portion of the ARTA Resolution only confirmed the jurisdiction of the Sanggunian Panglalawigan to conduct hearing on the administrative cases against the respondent Mayor Parayno III.



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Further, be it stressed that the respondent Mayor Parayno III was charged not only for violation of Section 21(b) and (e) of RA 11032 but also under Section 60 (c) of RA 7160, a law that particularly provides for the disciplinary authority of the Sanggunian Panglalawigan.

Henceforth, the instant administrative case against the respondent Mayor Parayno III is well-within the jurisdiction of the Sanggunian Panglalawigan of the Province of Pangasinan, through this Committee.

Anent the Second Issue: DO COMPLAINANTS BRYAN S. GOMEZ AND ROWEL S. GONZALES HAVE LEGAL PERSONALITY TO FILE THE INSTANT COMPLAINT?

When ARTA forwarded its Resolution and the records of the case to the Sanggunian Panglalawigan for filing of the appropriate charges, the complainants now are actually not only Bryan S. Gomez and Rowel S. Gonzales, but also ARTA.

Pursuant to Section 17 (d) of RA 11032, ARTA is an investigative agency which is mandated to “initiate investigation, motu proprio or upon a receipt of a complaint, refer the same to an appropriate agency, or file cases for violations of this Act.”

Akin to a public prosecutor, ARTA is an inquisitorial proceeding to determine the existence of a prima facie case against possible violators of RA 11032, and when it does determine the existence of a prima facie case, it can file a case against violators of RA 11032.

As such, regardless of whether or not complainant Bryan S. Gomez and Rowel S. Gonzales has the legal personality to file the instant complaint before the Sangguniang Panlalawigan, the instant complaint may still proceed with ARTA as the complainant.

Moreover, the administrative proceedings before the Sangguniang Panlalawigan is governed by its Rules of Procedure In Administrative Cases Before the Committee On Good Government And Accountability of Public Officers of the Sangguniang Panlalawigan of Pangasinan. Section 6 thereof provides:

“Section 6. Who may file complaint. - Any person may file a verified complaint with the Secretariat of the Sangguniang Panlalawigan either personally or through counsel.”

Thus, “any person” like complainant Bryan S. Gomez or Rowel S. Gonzales may file a verified complaint with the Sangguniang Panlalawigan, either in their personal capacity or by color of an authority from a person or entity that they represent.



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Anent the Third Issue: IS THE COMPLAINT DEFECTIVE?

Be it noted that there were two separate complaints/sworn statements filed with ARTA against respondent Mayor Parayno III.

The first one is that which was executed by Bryan S. Gomez denominated as SUPPLEMENTAL COMPLAINT-AFFIDAVIT dated June 15, 2021. A perusal of the said supplemental complaint-affidavit would show that:

I. It was dated June 15, 2021.

II. It was duly notarized before a Notary Public

III. It attached a copy of the Secretary's Certificate dated June 14, 2021 granting Bryan S. Gomez the authority to file a complaint against Hon. Julio F. Parayno (Mayor of Urdaneta City) and Ronald San Juan of Urdaneta BPLO

However, the said supplemental complaint-affidavit/sworn statement does not contain a verification and certification against forum-shopping.

The second one was executed by Rowel S. Gonzales denominated as Sworn Statement. A perusal of the said sworn statement would show that:

I. It was notarized before a Notary Public but not dated

II. It does not contain a verification and certification against forum shopping

Records would show, however, that on May 22, 2024, complainant Rowel S. Gonzales filed a Verification and Certification Against Non-Forum Shopping which is also dated May 22, 2024 and duly subscribed before a Notary Public, particularly pointing as reference to his complaint against respondent Mayor Parayno III.

The requirement under Section 6 of the Rules of Procedure In Administrative Cases Before the Committee On Good Government And Accountability of Public Officers of the Sangguniang Panlalawigan of Pangasinan is that a complaint must be a verified complaint.

Henceforth, the complaint filed before the Sangguniang Panlalawigan through the verified Sworn Statement of Rowel S. Gonzales is deemed sufficient in form and substance pursuant to Section 6 of the Rules of Procedure In Administrative Cases Before the Committee On Good Government And Accountability of Public Officers of the Sangguniang Panlalawigan of Pangasinan.



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Anent the Fourth and Fifth Issues: WAS THERE A VIOLATION OF THE SUBSTANTIAL AND PROCEDURAL PROCESS AGAINST THE RESPONDENT IN THE FILING OF THE INSTANT COMPLAINT?

DO COMPLAINANTS HAVE A CAUSE OF ACTION AGAINST THE RESPONDENT?

It is the contention of the respondent Parayno III that there was a violation of due process for his alleged failure to file his answer before ARTA.

The inquisitorial proceedings that took place before the ARTA is separate from the administrative proceedings that is taking place on the instant case. In so far as this Committee is concerned, the on going administrative proceedings commenced upon the indorsement of the case from ARTA to the Sangguniang Panglalawigan for proper charges of Violation of Section 21 (b) and (e) of RA 11032 and Section 60 (c) against respondent Parayno III.

Section 5 of the Rules of Procedure In Administrative Cases Before the Committee On Good Government And Accountability of Public Officers of the Sangguniang Panlalawigan of Pangasinan provides:

“Section. Filing of complaint. - No complaint shall be docketed by the Secretariat of the Sangguniang Panlalawigan unless it is duly verified by the complainant.”

Just as before this Committee could issue the first Order from receipt of the forwarded records of the case, complainant Rowel S. Gonzales duly filed his Verification and Certification Against Non-Forum Shopping with reference to his Sworn Statement against respondent Parayno III.

Records would show the following chronology of events:

- I. The Committee issued its first Order dated May 22, 2024 taking note of the filing of the said Verification and Certification Against Non-Forum Shopping.*
- II. Thereafter, this Committee issued the next Order dated May 23, 2024 taking cognizance of the case.*
- III. The next Order dated May 24, 2024 was issued directing the issuance of summons and service thereof to the respondent Parayno III.*
- IV. Subsequently, summons was duly served to the respondent, who in turn filed his Verified Answer.*



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V. Complainant Gonzales filed his Reply with Prayer for a preventive suspension.

VI. Respondent Parayno III filed his Comment/Rejoinder with Motion To Dismiss.

Clearly, there was no violation of the substantive and procedural process in so far as this administrative proceedings are concerned. The rules and procedures were followed accordingly.

Anent the Sixth Issue: WAS THERE A VALID IMPOSITION OF THE PREVENTIVE SUSPENSION?

Section 29, Rule VI (Preventive Suspension) of the Rules of Procedure In administrative Cases Before the Committee on Good Government and Accountability of Public Officers of the Sangguniang Panlalawigan of Pangasinan provides:

“Section 29. Imposition. - Upon recommendation of the Committee on Good Government and Accountability of Public Officers and affirmed by the Sangguniang Panlalawigan in session assembled, preventive suspension may be issued by the Provincial Governor at anytime after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is a great probability that the continuance is a threat to the safety and integrity of the records and evidence. However, no preventive suspension shall be imposed prior to the 90-day period immediately preceding local elections, it shall be deemed automatically lifted upon the start of said period.”

Per the above provision, for a valid imposition of a preventive suspension to lie, it must adhere to the following procedures, to wit:

- (a) That the imposition must be made “at anytime after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is a great probability that the continuance is a threat to the safety and integrity of the records and evidence”
- (b) The Committee shall make a Recommendation
- (c) The Recommendation shall be affirmed by the Sangguniang Panlalawigan in session assembled

Records would show that the Committee issued the Recommendation on August 2, 2024. The said Recommendation partook the nature of a Committee Report.



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A Committee Report is an internal document of the Committee and of the Sangguniang Panlalawigan that is not mandatorily furnished to the parties. It is, however, available upon request of any interested party.

The Recommendation/Committee Report was received by the SP Secretariat at about 4 o'clock in the afternoon of August 2, 2024 but the SP Secretariat has already then printed out copies of the Order of Business for August 5, 2024 regular session. Thus, as a matter of practice, any measure or matter that comes after the Order of Business has been printed out may be introduced on the day of the regular session by way of an Addendum, as in the case of the subject Recommendation.

On August 5, 2024, the Recommendation/Committee Report was introduced to the plenary by way of an addendum. The said Committee Report was duly adopted and upon motion without objection, the same was taken up for Second Reading under suspended rules. Under suspended rules, measures are approved on Second Reading so long as there are no objections from any member of the Body. Since there were no objections, the recommendation for the imposition of a preventive suspension of the respondent Parayno III was approved by way of Provincial Resolution No. 756-2024.

Records would show that the transmittal by the SP Secretariat of the approved Provincial Resolution No. 756-2024 to the Office of the Governor was dated August 9, 2024, while the Letter of Implementation of the suspension order by the Governor was dated August 8, 2024, such that it would appear that the Letter of Implementation by the Governor came ahead of the transmittal.

The discrepancy in the dates is not material as to make the imposition of preventive suspension invalid or ineffective. It is not the date of the transmittal that gives the function of the Governor to implement the suspension order, but rather, it is the date of passage of the resolution recommending the imposition of a preventive suspension order.

To emphasize, Provincial Resolution No. 756-2024 is a resolution adopting and approving the recommendation in the imposition of preventive suspension of the respondent Parayno III and indorsing the same to the Governor. It was not a resolution directly imposing upon the respondent Parayno III a preventive suspension because the power to impose suspension pertains to the Governor.

While it is true that there is only one case docket number covering the instant case, there are, however, three acts of violations or offenses charged against the respondent Parayno III. The three acts of violations or offenses are separate and distinct from one another such that each act of violation or offense constitutes a single case for which a preventive suspension may be individually imposed.



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Considering that there are three acts of violation charged against herein respondent Parayno III, the imposition of a 90-day preventive suspension is in order.

Anent the Seventh Issue: IS THE SUBJECT MATTER OF THE INSTANT CASE NOW RENDERED MOOT AND ACADEMIC?

The subject matter of the instant case is the violation of Section 21 (b) of RA 11032, violation of Section 21 (e), and violation of Section 60 (c) of RA 7160 as charged against the respondent Parayno III.

Administrative cases are imbued with public interest. The withdrawal of complaint by complainant Bryan Gomez does not ipso facto terminate the case and render the subject matter moot and academic.

Not even the instance that the non-issuance of the 2021 business permit is no longer an issue because REVM was already issued its business permit in the year 2022 and thereafter, will render the instant case moot and academic.

In the case of Hon. Paquito N. Ochoa, Jr., vs. Hon. Rozanno Rufino B. Biazon, Et. Al., G.R. No.216634, October 14, 2020, the Supreme Court held:

“It is elementary that in an administrative case, a complainant is a mere witness. No private interest is involved in an administrative case as the offense committed is against the government.”

Therefore, the subject matter remains to be in controversy that has to be adjudicated upon by this Committee.

Anent the Eighth, Ninth and Tenth Issues: IS THE RESPONDENT MAYOR PARAYNO III GUILTY OF VIOLATION OF SECTION 21 (b) AND (e) OF RA 11032 and SECTION 60 (c) of RA 7160?

Section 21 (b) and (e) of RA 11032 provides:

“Section 21. Violations and Persons Liable. - Any person who performs or cause the performance of the following acts shall be liable:

- (a) X x x
- (b) Imposition of other requirements other than those listed in the Citizen’s Charter
- (c) X x x
- (d) X x x
- (e) Failure to render government services within the prescribed processing time on any application or request without due cause



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- (f) X x x
- (g) X x x
- (h) X x

Section 60 of RA 7160 otherwise known as the Local Government Code of 1991 provides:

“Section 60. Grounds for Disciplinary Actions. - An elective official may be disciplined, suspended, or removed from office on any of the following grounds:

- (a) X x x
- (b) X x x
- (c) Dishonesty, oppression, misconduct in office, gross negligence or dereliction of duty
- (d) X x x
- (e) X x x
- (f) X x x
- (g) X x x
- (h) X x x

Evidence would show that REVM filed an application for issuance of business permit for the year 2021 before the Business one Stop Shop (BOSS) of Urdaneta City. The same was not granted on the ground that the applicant failed to present the required four (4) barangay clearances from Barangays Tipuso, Bactad, Macalong and Pedro T. Orata. The applicant, however was able to present three barangay clearance from Tipuso, the barangay where the poultry farm is located, and barangay clearances from Bactad and Macalong. Barangay Pedro T. Orata did not issue a barangay clearance. The matter was communicated to the respondent Mayor Parayno III who, in a response letter dated March 25, 2021, said:

“x x x What your company needs to do is to comply with certain requirements.

In my meeting with Mr. Rowel Gonzales, (Farm Manager of REVM and Brgy. Captain Dionisio Mansat (Punong Barangay of Tipuso), last January, we agreed that your farm needs to obtain Barangay Clearances from four (4) barangays. This includes Barangay Pedro T. Orata, which has a standing complaint from residents due to the proliferation of flies during your previous harvest.

However, as of this writing, you have not yet complied, which makes me think that you have not exerted enough efforts to obtain the documents.

x x x



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The above letter response bolsters the allegation of the complainant Rowel Gonzales that the BOSS personnel who attended to the application for the 2021 business permit of REVM verbally requested the submission of the four (4) barangay clearances per instruction of the respondent Parayno III.

Also, the above letter response of the respondent Parayno III confirms the fact that the only lacking requirement of REVM to be issued its 2021 business permit is the barangay clearance from Barangay Pedro T. Orata.

Admittedly, REVM poultry farm is located in Barangay Tipuso, and the Citizen's Charter of Urdaneta City provides specific requirements for the issuance of business permit, among others, the Barangay Clearance from the barangay where the business is located.

In this case, REVM poultry farm is located in Barangay Tipuso. Hence, the submission of the barangay clearance from Barangay Tipuso is already in compliance with the requirements as provided for under the Citizen's Charter.

To hold or deny the issuance of the business permit of the applicant on the ground of failure to submit a document which is not listed among the required documents under the Citizen's charter is tantamount to imposition of other requirements other than those listed in the Citizen's Charter, and constitutes a violation of section 21 (b) of RA 11302.

Evidence also showed that the applicant REVM wrote a letter dated March 8, 2021 to the respondent Parayno III which was duly received on same date March 8, 2021 by the office of the latter per the stamp receipt. In the said letter, applicant REVM requested the respondent Parayno III to write the reasons why their application for renewal of business permit was rejected.

It was on March 25, 2021 when the respondent Parayno III wrote a response to the letter request of the applicant REVM, that is, seventeen (17) days from the receipt by the office of the respondent Parayno III of the letter request of the applicant REVM.

As correctly pointed out by ARTA in its Resolution dated August 8, 2023, the City's 2021 Citizens Charter is silent on the period for acting on a written letter-request. However, in the absence thereof, there is the provisions of Section 9(b) of RA 11302 which shall be applied.

"Section 9. Accessing Government Services. - The following shall be adopted by all government offices and agencies:



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X X X

(b) Action of offices. –

“(1) All applications or requests submitted shall be acted upon by the assigned officer or employee within the prescribed processing time stated in the Citizen’s Charter which shall not be longer than three (3) working days in the case of simple transactions and seven (7) working days in the case of complex transactions from the date the request and/or complete application or request was received.

“For applications or requests involving activities which pose danger to public health, public safety, public morals, public policy, and highly technical application, the prescribed processing time shall in no case be longer than twenty (20) working days or as determined by the government agency or instrumentality concerned, whichever is shorter.

“The maximum time prescribed above may be extended only once for the same number of days, which shall be indicated in the Citizen’s Charter. Prior to the lapse of the processing time, the office or agency concerned shall notify the applicant or requesting party in writing of the reason for the extension of the final date of release of the government service/s requested. Such written notification shall be signed by the applicant or requesting party to serve as proof of notice. X x x”

Section 4(m) of RA 11032 defines Simple Transaction as applications or requests submitted by applicants or requesting parties of a government office or agency which only require ministerial actions on the part of the public officer or employee, or that which present only inconsequential issues for the resolution by an officer or employee of said government.

The letter-request of applicant REVM to the respondent Parayno III to write the reasons why its application for renewal of business permit falls well-within the above definition of a Simple Transaction, hence the same must have been acted upon within three (3) working days.

Even if the said letter-request is to be treated as a complex transaction, still, the same should have been acted upon within seven (7) working days.

In the instant case, however, the letter response of respondent Parayno III would show that he only acted upon the letter-request of applicant REVM seventeen (17) days from receipt thereof, which is much longer than the prescribed period of three (3) or (7) working days, and an utter violation of Section 21 (e) of RA 11032.



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As regards the charge against herein respondent of violation of Section 60 (c), the evidence are insufficient to prove the same, hence, respondent Parayno III is hereby found not guilty as charged.

WHEREFORE, the Committee finds respondent Parayno III **GUILTY** of violation of Section 21 (b) and violation of Section 21 (e) both of RA 11032. As to the charge for violation of Section 60 (c) of RA 7160, the Committee finds respondent Parayno III **NOT GUILTY**. Accordingly, respondent Parayno III is meted a penalty of six (6) months suspension for violation of Section 21 (b) and another six (6) months suspension for violation of Section 21 (e) of RA 11032, pursuant to Section 2 Rule 11 of Administrative Order No. 23, Series of 1992.

SO ORDERED.

October 11, 2024. Lingayen, Pangasinan.

Respectfully Submitted:

(Sgd)

SP MEMBER HAIDEE S. PACHECO
Chairman

RESOLVED FURTHER, that this Resolution be endorsed to the proper office/agency for implementation;

RESOLVED FINALLY, that copies of this Resolution be furnished to the Department of Interior and Local Government, Governor Ramon V. Guico III, Mayor Julio Parayno III, and Mr. Rowel S. Gonzales and Bryan S. Gomez and their counsels, for their information and guidance.

(On Official Business)

SHIELA MARIE F. BANIQUED
Sangguniang Panlalawigan Member
(Presiding Officer Pro Tempore)

NAPOLEON C. FONTELERA, JR.
Sangguniang Panlalawigan Member
(Floor Leader)

NOEL C. BINCE
Sangguniang Panlalawigan Member
(Assistant Floor Leader)

(On Official Business)

APOLONIA DG. BACAY
Sangguniang Panlalawigan Member


PHILIP THEODORE E. CRUZ
Sangguniang Panlalawigan Member



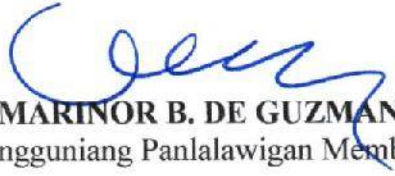
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HAIDEE S. PACHECO
Sangguniang Panlalawigan Member

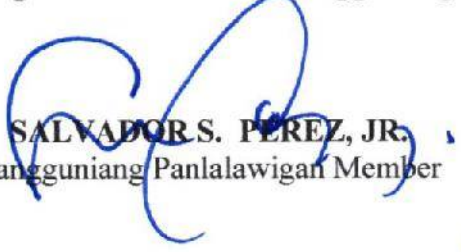

VICI M. VENTANILLA
Sangguniang Panlalawigan Member



MARINOR B. DE GUZMAN
Sangguniang Panlalawigan Member



JERRY AGERICO B. ROSARIO
Sangguniang Panlalawigan Member



ROSARY GRACIA P. PEREZ-TABABA
Sangguniang Panlalawigan Member


NICHOLI JAN LOUIE Q. SISON
Sangguniang Panlalawigan Member



SALVADOR S. PEREZ, JR.
Sangguniang Panlalawigan Member


CAROLYN D. SISON
Sangguniang Panlalawigan Member
(PCL Representative)



JOYCE D. FERNANDEZ
Sangguniang Panlalawigan Member
(Sangguniang Kabataan Representative)


RAUL R. SABANGAN
Sangguniang Panlalawigan Member
(Liga ng mga Barangay Representative)

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


MARK RONALD DG. LAMBINO
Vice Governor
(Presiding Officer)