



Excerpt from the
MINUTES OF THE 18TH REGULAR SESSION OF THE SANGGUNIANG BAYAN OF BAYBAY,
LEYTE HELD IN THE SESSION HALL ON JUNE 15, 2004.

PRESENT:

HON. DEOGRACIAS E. PERNITEZ.....	Sangguniang Bayan Member & Actg. Presiding Officer
HON. JOSE C. GO.....	Sangguniang Bayan Member
HON. MANUEL A. CHAN.....	-do-
HON. EDUARDO S. GUINOCOR, JR.....	-do-
HON. EDGARDO R. OMPOY.....	-do-
HON. REX A. RETANA.....	-do-
HON. JUANITO B. MODINA.....	-do-
HON. MICHAEL L. CARI.....	-do-
HON. GUALBERTO B. PICAL, JR.....	-do-

ABSENT:

HON. FLORANTE M. CAYUNDA.....	OIC, Office of the Mayor
HON. VICENTE G. VELOSO.....	SB Member, OB, China

RESOLUTION NO. 095

A RESOLUTION ENACTING AN ORDINANCE DECLARING A MORATORIUM ON ALL MINING ACTIVITIES AND THE PROCESSING OF APPLICATION OF THE SAME IN THE MUNICIPALITY OF BAYBAY, LEYTE FOR A PERIOD OF FIFTEEN (15) YEARS AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

**SPONSORED & INTRO. BY: HON. J. B. MODINA, HON. D. E. PERNITEZ AND
HON. R. A. RETANA**

WHEREAS, this August body is seriously concerned about the deleterious effects of mining activities on the environment and remaining natural resources of the Municipality of Baybay, and the effects on the livelihood and general welfare of the constituents of Baybay;

WHEREAS, the Municipality of Baybay is an agricultural and fisheries based economy which would be seriously damaged or destroyed by any mining activities;

WHEREAS, the geography of western Leyte of steep forested mountains and narrow lowland coastal plain is very fragile and any disturbance in the mountain would damage the forest, watersheds, water supply, irrigation and river systems. The coastal marine ecosystems would also be negatively affected. This will lead to impoverishment and poisoning of both farmers and fishermen in Baybay;

WHEREAS, approximate 50% of the last remaining forest in Leyte is in the Municipality of Baybay. This forest provides water, land stability and climatic balance. It is also the home to many species of endangered flora and fauna;

WHEREAS, it is the opinion of the body that financial income received by the municipality from Mining Companies will never be enough to compensate for the irreversible damage to the land, forest, watersystem, marine ecosystems, livelihood and health of Baybayanos which would result from mining activities;

- more over -

REX A. RETANA
SB Member

JUANITO B. MODINA
SB Member

MICHAEL L. CARI
SB Member

GUALBERTO B. PICAL, JR.
SB Member

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WHEREAS, there have been a number of mining companies interested to exploit the resources of Baybay-(Safariland, IDHI and the PNOC);etc.

WHEREAS, the 1995 Mining Act does not adequately protect the rights of the residents, landowners, and inhabitants and areas targeted by mining companies.

WHEREAS, it is the constitutional right of every filipino to have a "balanced and healthful ecology in accord with the rhythm and harmony of nature" (Article II sec. 16, Philippine Constitution);

WHEREAS, in order to protect the rights and resources of the people of Baybay this August body moves to implement an ordinance to put a moratorium on mining in Baybay, Leyte;

MUNICIPAL ORDINANCE NO.003 s.2004

AN ORDINANCE DECLARING A MORATORIUM ON ALL MINING ACTIVITIES AND AND THE PROCESSING OF APPLICATION OF THE SAME IN THE MUNICIPALITY OF BAYBAY, LEYTE FOR A PERIOD OF FIFTEEN (15) YEARS AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

Be it ordained by the Sangguniang Bayan, Baybay, Leyte in session assembled and by authority of the same that:

SECTION 1. - The Local Government Code provides that it is the declared policy of the state that the territorial and political subdivisions of the state shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities and resources. (LGC Sec. 2 (a));

It is likewise the policy of the state to require all national agencies and offices to conduct periodic consultations with appropriate LGU's, non-governmental and people organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions (LGC Sec. 2 (c));

The local government further states that local government unit shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction. (LGC Sec. 3 (i))

Further every local government unit shall exercise the powers expressly granted, those necessity implied therefrom, as well as powers necessary, appropriate or incidental for its efficient and effective governance and those which are essential to the promotion of the general welfare. (LGC Sec 16)

Also it is the express duty of the Sangguniang Bayan to protect the environment and impose appropriate penalties for acts which endanger the

environment, and which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance. (LGC Sec. 447 (I)(vi))

EDGARDO R. OMPOY
SB Member

EDUARDO S. GUINOCOR, JR.
SB Member

JOSE C. GO
SB Member

REX M. RETANA
SB Member

JUANITO B. MODINA
SB Member

MICHAEL L. CARI
SB Member

GUABERTO B. PICAL, JR.
SB Member

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SECTION 2. - Declaration of Policy - In its concern for the protection and conservation of the remaining natural resources of the municipality and the general welfare of the constituents of Baybay, Leyte the Sangguniang Bayan henceforth declares a moratorium on all large scale mining activities and large scale quarrying activities within the Municipality of Baybay. It shall be unlawful for any person or business entity to engage in land clearing, prospecting, exploration, drilling, excavation, mining transport of mineral ores and such other activities in furtherance of and/or preparatory to large scale mining operations and large scale quarrying for a period of fifteen (15) years.

SECTION 3. - Definition of terms -

Large Scale Mining - as regulated by R.A. 7942, Act 1995

- 1) can be filipino or joint filipino/foreign owned company;
- 2) using machinery for extracting and processing ores.

Small Scale Minig as regulated the R.A. 7076

1. Only Filipino Company
2. using manual labor only
3. up top 20 ha. area.

"Minerals- refers to all naturally occuring in organic substances solid, liquid, gas or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy,

Mining - means all activities involving exploration feasibility, development, utilization and processing of minerals ores.

Moratorium - an emergency act of legislation or a government edict authorizing to suspend payments or projects for a given period of time.

SECTION 4 - Any person found violating this ordinance shall be penalized with a fine of not less than P2,000 but not more than P2,500.00 imprisonment or not less than 4 mos., but not more than 6 mos. and the confiscation and forfeiture of all products, equipment and other paraphernalia used in the activity.

If the accused is a corporation or a business enterprise, the penalty shall be imposed upon the President and other officers and such other persons who have caused the commission of such acts.

SECTION. 5 - Exclusions - Excluded in this ordinance are all commercial sand and gravel permittees granted by the local government and agencies concerned.

SECTION 6. - To provide the mechanics for the implementation of this ordinance, the Chief Executive of this municipality shall issue an executive order creating a Municipal Task Force to be composed of officials chosen at his discretion.

SECTION 7. - Should any provision of this ordinance be later declared as unconstitutional thesame shall not affect other provisions hereof.

SECTION 8. - All existing ordinance or provisions of an ordinance inconsistent herewith is deemed modified amended or repealed.

REX J. RETANA
SB Member

JUANITO B. MODINA
SB Member

MICHAEL L. CARI
SB Member

GUALBERTO S. PICAL, JR.
SB Member

EDUARDO S. GUTAMOLOR, JR.

SB Member

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SB Member

JOSE A. GO

SB Member

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SECTION 9. - This ordinance shall take effect after its the approval of the Sangguniang Panlalawigan.

Enacted June 15, 2004, Hon. Manuel A. Chan voted against.

I HEREBY CERTIFY to the correctness of the foregoing ordinance which was duly adopted by the Sangguniang Bayan during its regular session held on June 15, 2004.

AMELITO V. BORNEO
Secretary to the SB

ATTESTED AND CERTIFIED TO BE
DULY ADOPTED:

DEOGRACIAS E. PERNITEZ
Sangguniang Bayan Member &
Actg. Presiding Officer

APPROVED BY HIS HONOR:

JOSE CARLOS L. CARI
Municipal Mayor

JOS C. GO
SB Member

EDUARDO S. GILINCOCH, JR.
SB Member

EDGARDO R. ONPOY
SB Member

GUALBERTO S. PICAL, JR.
SB Member

MICHAEL L. CARI
SB Member

JUANITO B. MODINA
SB Member

REX A. RETANA
SB Member