

Excerpt from the

MINUTES OF THE 21ST REGULAR SESSION OF THE SANGGUNIANG BAYAN OF BAYBAY, LEYTE HELD IN THE SESSION HALL ON JUNE 6, 2006.

PRESENT:

HON. FLORANTE M. CAYUNDA.....	Municipal Vice Mayor & Presiding Office
HON. ERNESTO M. BUTAWAN.....	Sangguniang Bayan Member
HON. VICENTE G. VELOSO.....	-do-
HON. DEOGRACIAS E. PERNITEZ.....	-do-
HON. JOSE C. GO.....	-do-
HON. EDGARDO R. OMPOY.....	-do-
HON. JUANITO B. MODINA.....	-do-
HON. REX A. RETANA.....	-do-
HON. MICHAEL L. CARI.....	-do-
HON. GUALBERTO B. PICAL, JR.....	-do-

ABSENT:

HON. EDUARDO S. GUINOCOR, JR..... SB Member, OB, Tacloban

MUNICIPAL ORDINANCE NO., 003 S. 2006

AN ORDINANCE AMENDING MUN. ORDINANCE NO. 002 S. 2001 ESTABLISHING A PROCEDURE OF THE QUASI-JUDICIAL POWER OF THE SANGGUNIANG BAYAN OF BAYBAY, LEYTE.

: SPONSORED & INTRO. BY: SBM ERNESTO M. BUTAWAN & ALL SB MEMBERS
PRESENT

Be it ordained by the Sangguniang Bayan of the Municipality of Baybay, Province of Leyte, in session assembled, that:

SECTION 1. COVERAGE. These rules and procedures shall apply to administrative disciplinary cases filed against Barangay Officials.

SECTION 2. DISCIPLINARY AUTHORITY. All Administrative complaints, duly verified against elective officials mentioned in the preceding Section shall be acted upon by the Sangguniang Bayan.

SECTION 3. GROUNDS.- An elective Barangay Officials may be disciplined, suspended, or removed from office on any of the following grounds.

- Disloyalty to the Republic of the Philippines;
- Culpable violation of the Constitution;
- Dishonesty, oppression, misconduct in office, gross negligence or dereliction of duty.
- Commission of any offenses involving moral turpitude or an punishable by at least prison mayor, which is from six (6) years and one (1) day to twelve (12) years imprisonment.
- Abuse of Authority
- Unauthorized absence for fifteen (15) consecutive working days in case of local chief executive and four (4) consecutive sessions in the case of members of the sanggunian.
- Application for, or acquisition of foreign citizenship or residence of the status of an immigration of another country; and

- more over-

- h) Such other grounds as may be provided by the Local Government Code of 1991, Republic Act No. 6713, Republic Act No. 3019, Administrative Code of 1987 Revised Penal Code; and all other applicable general and special laws.

SECTION 4. HOW INITIATED.- An administrative case may be initiated by any private individual or any government officer or employee by filing a verified complaint against any barangay official.

SECTION 5. - FORM OF COMPLAINT. The Verified complaint, accompanied by affidavits of witnesses or evidences in support of the charge, shall be addressed to the Sangguniang Bayan, it shall be drawn in clear, simple, and concise language and in methodical manner as to appraise the respondent of the nature of the charge against him and to enable him to prepare his defense. The party filing the complaint shall be called the complainant, while the official against whom the complaint is filed shall be called the respondent.

SECTION 6. WHERE FILED.- the complaint shall be filed with the Sangguniang Bayan Secretary.

SECTION 7. FILING FEE. A fee of Five Hundred Pesos (P500.00) shall be charge for every complaint filed payable to the Treasurer of the Municipality of Baybay.

Pauper complainants duly certified as such in accordance with the Rules of Court shall be exempted from the payment of the filing fee.

SECTION 8. NOTICE. - Within seven (7) days after the complaint is filed, the Sangguniang Bayan shall issue an order requiring the respondent to submit his verified answer within fifteen (15) days from his receipt thereof.

SECTION 9. FORM OF ANSWER - The verified answer, accompanied by affidavits of witnesses or evidences in support of the defense, shall be addressed to the Sangguniang Bayan.

SECTION 10. FAILURE TO ANSWER. - Unreasonable failure of respondent to file his verified answer within fifteen (15) days from receipt of the complaint against him shall be considered as waiver of his right to present evidence in his behalf.

SECTION 11. EVALUATION. Within twenty (20) days from the time all issues were joined (from filing of the last pleading complaint, Answer, Reply) the Sangguniang Bayan shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings.

SECTION 12. DISMISSAL MOTU PROPIO . If the Sangguniang Bayan determines that there is no prima facie case to warrant the institution of formal administrative proceedings, it shall, motu proprio dismiss the case, together with recommended decision, resolution, and other.

SECTION 13. PRELIMINARY CONFERENCE.- If the Sangguniang Bayan determine that there is a prima facie case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, summon the parties to a preliminary conference to answer the following.

- a) Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record;
- b) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid unnecessary proof, the limitation of number of witnesses and such other matters, as may aid the prompt disposition of the case.

- c) The Sangguniang Bayan, however may in its discretion proceed to conduct the administrative proceedings.

SECTION 14. 90-DAY BAN. No preliminary investigation shall be imposed within ninety (90) days immediately prior to any local election.

SECTION 15. PROCEDURAL DUE PROCESS. The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel. To confront and cross-examine the witnesses, against him, and to require the attendance of witnesses and the production of documents through the compulsory process of subpoena or duces tecum.

SECTION 16. NOTICE OF HEARING. -The parties and their witnesses shall be notified by subpoena of the scheduled hearing at least five (5) days before the date thereof, stating the date, time and place of the hearing.

SECTION 17. RECOMMENDATION BY THE CHAIRMAN OF COMMITTEE ON LAWS. After the termination of the proceedings, the Sangguniang Bayan shall by a vote of majority present render a decision as to the merit of the complainant and thereafter refers the same to the Chairman of the Committee of Laws for the penning of the decision.

SECTION 18. REQUEST FOR SUBPOENA. - If the party desires the attendance of a witness of the production of documents, he should make formal request for the issuance of the necessary subpoena duces at least three (3) days before the scheduled hearing.

SECTION 19. POSTPONEMENT. Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsels and other similar case. No postponement for a period longer than seven (7) days shall be allowed, and in no case shall be total number of postponement for one party be more than twenty (20) days.

SECTION 20. STENOGRAPHIC RECORDS OF PROCEEDINGS. The testimony of each witnesses and the manifestation of the parties and counsels during an investigation shall be taken in shorthand or stenotype. A transcript of the proceedings made by the official stenographer or steno typist and duly certified by him shall be prima facie in correct statement of such proceedings.

SECTION 21. ORDER OF HEARING . The order of hearing shall be as follows

- a) The complainant shall produce the evidence on his part.
- b) The respondent shall then offer evidence in support of his defense, and
- c) the parties may then respectively offer their rebuttal and surrebuttal.

SECTION 22. ORDER OF EXAMINATION. The Order in which a witness maybe examined shall be as follows.

- a) Direct examination by the complainant;
- b) Cross examination by the respondent;
- c) Redirect examination by the complainant; and
- d) Re-cross examination by the respondent.

SECTION 23. CLARIFICATORY QUESTION. -the Presiding officer and the Sangguniang Bayan members may ask clarificatory questions to the witnesses during the proceedings.

SECTION. 24. MEMORANDA. The Sangguniang Bayan may allow the parties to submit their respective memoranda together with their respective draft resolutions and orders for the consideration of the Sangguniang Bayan, within fifteen (15) days after the termination of the formal investigation.

SECTION 25. RULES OF EVIDENCE. In administrative disciplinary proceedings.

- a) The Sangguniang Bayan may admit and give probative worth to evidence commonly accepted by reasonably prudent mind in the conduct their affairs.
- b) Documentary evidence may be received in the form of copies or excerpts, if the original not readily available. Upon the request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public offer, a certified copy thereof may be accepted.
- c. The Sangguniang Bayan may take the notice of judicially cognizable facts and or generally technical or scientific facts within its specializes knowledge. The parties shall be notice and afforded an opportunity to contest the facts so noticed.

SECTION 26. MARKING OF EXHIBITS - All documentary evidence or exhibits shall be properly marked by letter (A, B, C, etc.), if presented by the complainant and by numbers (1, 2, 3,) if presented by respondent.

SECTION 27. RECORDS CLASSIFICATION. Records in administrative disciplinary cases are classified as confidential in nature and any information as to the charges, accusation, or facts adduced may not be released, and such records may not be available, except to the proper authorities and upon request to the parties-in-interest of their authorized representatives on the "need-to-know" basis pursuant to Memorandum Circular No. 78 dated August 14, 1964, as amended by Memorandum Circular No. 196 dated July 19, 1968, prescribing rules governing security of classified matter in government offices.

SECTION 28. RENDITION OF DECISION - The Sangguniang Bayan shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision shall immediately by furnished the respondent and all interested parties.

SECTION 29. FINALITY OF DECISION. -The decision of the Sangguniang Bayan shall become final and executory after the lapse of thirty (30) days from receipt of a copy thereof by the complainant or the respondent as the case may be unless a motion for reconsideration is filed within the said such period. Save in exceptionally meritorious cases, only one motion for reconsideration by any one party shall be allowed, which shall suspend the running of the 30-day reglemantory period.

SECTION 30. EXECUTION PENDING APPEAL. An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal. In the event the appeal results is an exoneration, the respondent shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

SECTION 31. SUSPENSION OR REMOVAL. A respondent found guilty of any of the offenses enumerated in Section 3 hereof may be meted the penalty of suspension or removal depending on the evidence presented and aggravating or mitigating circumstances that may be considered by the Sangguniang Bayan.

SECTION 32. SUSPENSION . The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office.

SECTION 33. REMOVAL. An elective Barangay Official shall may be removed from office on the grounds enumerated in Sec. 3 hereof by order of the proper court or the Sangguniang Bayan whichever first acquires jurisdiction to the exclusion of the other.

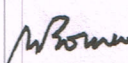
SECTION 34. EFFECTIVITY. - this ordinance shall take effect fifteen (15) days upon approval.

This penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.

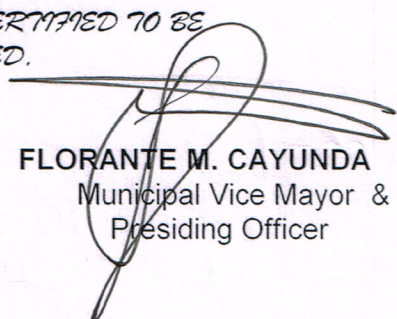
ENACTED, June 6, 2006.

RESOLVED, FURTHER, to let certified copies of this ordinance be furnished to the Sangguniang Panlalawigan of Leyte, Tacloban City, and all other offices concerned for their information and guidance.

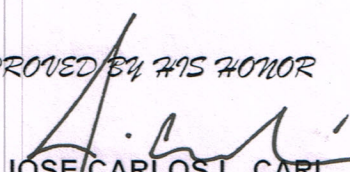
I HEREBY CERTIFY to the correctness of the foregoing ordinance which was duly adopted by the Sangguniang Bayan during its regular session held on June 6, 2006.


AMELITO V. BORNEO
Secretary to the SB

ATTESTED AND CERTIFIED TO BE
DULY ADOPTED.


FLORANTE M. CAYUNDA
Municipal Vice Mayor &
Presiding Officer

APPROVED BY HIS HONOR


JOSE CARLOS L. CARI
Municipal Mayor