



Republic of the Philippines
Province of Bukidnon
MUNICIPALITY OF MANOLO FORTICH

OFFICE OF THE SANGGUNIAN BAYAN

(088-230) 2460/ e-mail: sbmanoloportich@yahoo.com

EXCERPT FROM THE MINUTES OF THE 6TH REGULAR SESSION OF THE 15TH SANGGUNIAN BAYAN OF MANOLO FORTICH, BUKIDNON WHICH WAS HELD AT THE SANGGUNIAN BAYAN SESSION HALL ON FEBRUARY 11, 2009.

PRESENT:

HON. HILARIO B. PAUSANOS, JR.

Presiding Officer

Municipal Vice Mayor

Majority Floor Leader

HON. EVELIO E. CORDOVEZ

Sangguniang Bayan Member

HON. ALEX D. PAYANGGA

Sangguniang Bayan Member

HON. MIGUEL D. DEMATA

Sangguniang Bayan Member

HON. VICTORIO G. DAGUNLAY

Sangguniang Bayan Member

HON. WARLEO A. GOAYAN

Sangguniang Bayan Member

HON. DIOSDADO N. DITONA

Sangguniang Bayan Member

HON. RONULFO D. GANAS

Sangguniang Bayan Member

HON. RAUL S. MIÑOZA

Liga ng mga Brgy. Rep.

HON. LESTER REY L. ARAÑA

SK Federation Rep.

ABSENT:

HON. VISMINDA Q. DUMOTAN

Sangguniang Bayan Member

RESOLUTION NO. 2009-07

(6th Regular Session)

RESOLUTION ADOPTING AN ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON THE INVESTIGATION OF ADMINISTRATIVE CASES FILED AGAINST ELECTIVE BARANGAY OFFICIALS.

Introduced by: Hon. Atty. Evelio E. Cordovez

WHEREAS, the Local Government Code of 1991 explicitly vests unto the sanggunian the authority to hear and decide administrative complaints against elective barangay officials;

WHEREAS, there is a need to adopt rules and procedures to be observed in the exercise by the Sangguniang Bayan of its quasi-judicial power to effect a just, speedy and inexpensive determination of administrative cases and to safeguard the rights of the parties involve therein;

WHEREAS, adopting the said internal Rules and Procedures would ensure order in its proceedings and prescribe the appropriate comportment of its members in the performance of its quasi-judicial functions.

NOW THEREFORE, upon motion of the Hon. Atty. Evelio E. Cordovez and unanimously seconded, be it **RESOLVE** as it is hereby **RESOLVED**, that this body adopt the Rules and Procedures in the Investigation of Administrative Complaints filed against any elective barangay officials of this municipality.

ORDINANCE NO. 2009-669

ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON THE INVESTIGATION OF ADMINISTRATIVE CASES FILED AGAINST ELECTIVE BARANGAY OFFICIALS.

GENERAL PROVISIONS

Section 1. Title – These rules and procedure shall be known as the Rules and Procedure on Administrative Cases filed in the Sangguniang Bayan.

Section 2. Coverage – These rules and procedure shall apply to administrative disciplinary cases filed against elective barangay officials, this municipality.

Section 3. Investigating Authority – The Sangguniang Bayan en banc sitting as Disciplinary Tribunal shall conduct hearing and investigation on all administrative disciplinary cases.

Section 4. Technical Rules and Administrative Investigation – Administrative investigations shall be conducted without necessarily adhering strictly to technical rules of procedure and evidence applicable to judicial proceedings.

Section 5. Definition of Terms – The terms hereunder shall be construed as follows:

- a. **“Abuse of Authority”** is an excessive use of power or authority. It constitute acts committed in excess of one’s power or authority as conferred on him by the law or outside of one’s duties and functions; acts which the officer has no legal reason to do at all, and where he acts without authority whatsoever or exceeds or abuses his power.
- b. **“After the Issues are Joined”** means that the complaint has been answered and there are no longer any substantial preliminary issue that remains to be threshed out. It also refers to that which the parties to a cause arrive at that stage in their pleading where one asserts a fact to be so, and the other denies it.
- c. **“Appeal”** is a complaint to a superior court or quasi-judicial body of an injustice or error committed by an inferior court or quasi-judicial body.
- d. **“Culpable Violation to the Constitution”** is a deliberate or willful and intentional violation of the Constitution which includes but not limited to arbitrary detention, delay in the delivery of detained person; violation of dwelling or domicile; dissolution of peaceful meetings; crimes against religious worship and illegal searches.
- e. **“Dishonesty”** is construed as the concealment or distortion of truth in a matter of fact relevant to one’s office or connected with the performance of his duties. Lack of honesty or integrity or disposition to deceive or defraud such as, for instance, malversation, falsification, etc.
- f. **“Disloyalty to the Republic of the Philippines”** is an act renouncing or seeking to remove allegiance from the Republic such as for instance; espionage, treason, conspiracy and proposal to commit treason, inciting to war or giving motives to reprisals, correspondence to hostile country, piracy and mutiny on the high seas and qualified piracy.
- g. **“Due Process”** means that the official complained of or charged (respondent) should be notified of the charges against him and given the opportunity to defend himself with the procedure in the conduct of administrative investigations properly observed.
- h. **“Forum-Shopping”** refers to the filing of the same complaint before another agency or any tribunal against the same party involving the same acts or causes of action.
- i. **“Grave Abuse of Discretion”** are such capricious and whimsical exercise of judgement as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be patent and gross as to amount to an evasion of positive duty or to virtual refusal to perform the duty enjoined by or to act all in contemplation of law.
- j. **“Misconduct in office, Gross Negligence or Dereliction of duty”** has been defined as “transgression of some established and definite rule of acts on work particularly unlawful

behavior or gross negligence by the public officer. It is improper if it implies wrongful intent and not mere error of judgment and must, as a general rule, have a direct relation to and be connected with the performance of official duties, amounting either to mal-administration or willful, intentional neglect and failure to discharge the duties of the office.

- k. **"Moral Turpitude.** Is an act of baseless, vileness or depravity in the private duties which a man owes his fellowmen or to society in general, contrary to the accepted and customary rule of rights and duty between man and woman or conduct contrary to justice, honesty, modesty or good morals. When the crime involving moral turpitude is not linked with the performance of official duties, conviction by final judgment is required as a condition precedent to administrative action.
- l. **"Negligence"** is the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would not do.
- m. **"Oppression"** – is an act of cruelty, to treat another being with unjust and harshness; to rule over tyrannically. These acts must be done in the performance of an official task and with the intent to commit an unlawful act that will result in injury to others.
- n. **"Party Adversely Affected"** refers to the respondent against whom a decision in a disciplinary case has been rendered.
- o. **"Person Complained Of"** refers to the person who is the subject of a complaint but who is not yet formally charged by the disciplining authority.
- p. **Prima Facie Case** – case supported by sufficient evidence to justify a favorable verdict unless contradicted by other evidence.
- q. **"Probable Cause"** a well-founded belief that a crime has been committed and the responded is probably guilty thereof, and should be for trial.
- r. **"Quasi-Judicial Power"** refers to the power vested by law to the sanggunian to investigate, hear and determine, or ascertain facts and draw conclusions from them as basis for its official action in the conduct of administrative proceedings.
- s. **"Respondent"** refers to the person who is formally charged by the disciplining authority.
- t. **"Subpoena duces tecum"** is the power to require the production of books, papers, documents, and other pertinent data, upon request of any party before or during the hearing upon showing of general relevance.
- u. **"Substantial evidence-** is that amount of relevant evidence in which a reasonable mind might accept as adequate to justify a conclusion.
- v. **"Verified Complaint"** is a complaint that has verification that is an averment by the party making a pleading that he is prepared to establish the truth of the facts which he has pleaded; and that the statements made therein are true of his own knowledge and duly notarized.
- w. **"Conflict of Interest"** when a Sanggunian member is related to any of the litigating parties within the 4th Civil Degree of consanguinity or has pecuniary interest either directly or indirectly on the matter or issue of the administrative case filed before the body.

RULE II

GROUND FOR ADMINISTRATIVE DISCIPLINARY ACTION

Section 1. Grounds for Disciplinary Action – a) An elective barangay official may be censured, reprimanded, suspended, or removed from office after due notice and hearing on any of the following grounds:

behavior or gross negligence by the public officer. It is improper and wrong conduct and implies wrongful intent and not mere error of judgment and must, as a general rule, have a direct relation to and be connected with the performance of official duties, amounting either to mal-administration or willful, intentional neglect and failure to discharge the duties of the office.

- k. **"Moral Turpitude.** Is an act of baseless, vileness or depravity in the private duties which a man owes his fellowmen or to society in general, contrary to the accepted and customary rule of rights and duty between man and woman or conduct contrary to justice, honesty, modesty or good morals. When the crime involving moral turpitude is not linked with the performance of official duties, conviction by final judgment is required as a condition precedent to administrative action.
- l. **"Negligence"** is the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would not do.
- m. **"Oppression"** – is an act of cruelty, to treat another being with unjust and harshness; to rule over tyrannically. These acts must be done in the performance of an official task and with the intent to commit an unlawful act that will result in injury to others.
- n. **"Party Adversely Affected"** refers to the respondent against whom a decision in a disciplinary case has been rendered.
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- v. **"Verified Complaint"** is a complaint that has verification that is an averment by the party making a pleading that he is prepared to establish the truth of the facts which he has pleaded; and that the statements made therein are true of his own knowledge and duly notarized.
- w. **"Conflict of Interest"** refers in general to one where it maybe reasonably deducted that a member of a sanggunian may not act in the public interest due to some private or pecuniary interest either directly or indirectly on the matter or issue of the administrative case filed before the body or related to any of the litigating parties within the 4th civil degree of consanguinity or affinity that may tend to affect this judgment to the prejudice of the service or the public.

RULE II

GROUND FOR ADMINISTRATIVE DISCIPLINARY ACTION

Section 1. Grounds for Disciplinary Action – a) An elective barangay official may be censured, reprimanded, suspended, or removed from office after due notice and hearing on any of the following grounds:

- 1.) Disloyalty to the Republic of the Philippines
 - 2.) Culpable violation of the Constitution
 - 3.) Dishonesty, Oppression, Misconduct in office, Gross negligence or Dereliction of duty
 - 4.) Commissions of any offense involving moral turpitude or an offense punishable by at least prison mayor, which is from six (6) years and one (1) day to twelve (12) years imprisonment.
 - 5.) Abuse of authority
 - 6.) Unauthorized absence for fifteen (15) consecutive working days in the case of the Punong Barangay and four (4) consecutive sessions in case of members of the Sangguniang Barangay.
 - 7.) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
 - 8.) Such other grounds as may be provided by the Local Government Code, and other laws.
- b) An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

RULE III

COMPLAINT

Section 1. How Initiated – An Administrative complaint may be initiated by any person by filing a verified (sworn) written complaint against any elective barangay officials this municipality.

Unverified complaint shall be returned to the complainant for compliance to the provision on verification.

No anonymous complaint shall be entertained.

Section 2. Form of Complaint – The complaint accompanied by affidavits of witnesses or evidences in support of the charge, shall be addressed to the Sangguniang Bayan. It should be written in clear, simple and concise language and in methodical manner as to apprise the elective barangay official concerned of the nature and cause of the accusation against him and to enable him to prepare his defense and answer.

The complaint shall contain the following:

- a. Full name and address of the complainant;
- b. Full name and address of the person complained of as well as his positions and office of employment;
- c. A narration of the relevant and material facts of omissions or violations allegedly committed by the elective barangay official/s;
- d. Certified true copies of documentary evidence and affidavits of his witnesses, if any, and;
- e. Certification of non-forum shopping

In the absence of anyone of the aforementioned requirements, the complaint shall be dismissed.

The complaint and documentary evidence shall be in fourteen (14) legible copies.

Section 3. Where Filed – The complaint shall be filed with the office of the Secretary to the Sangguniang Bayan who shall transmit the same to the office of the Municipal Vice Mayor, as presiding officer of the Sangguniang Bayan within forty eight (48) hours from receipt of the same.

All pleadings, briefs, memoranda, motions and other papers, affidavits filed before the Sangguniang Bayan shall be in fourteen (14) legible copies, with proof of service of one (1) copy upon each of the adverse parties. Pauper complainants duly certified as such by the Municipal Social Welfare and Development Office (MSWDO) shall be exempted from the requirements of the number of copies and filing fee.

Copies of the complaint shall be furnished to the Office of the Provincial Governor, Provincial Office of the Department of Interior and Local Government, Office of the Municipal Mayor.

Section 4. Filing Fee – A fee of Two Hundred Pesos (P200.00) shall be charged for every complaint filed with the Office of the Secretary to the Sangguniang Bayan. The filing fee shall be paid at the Office of the Municipal Treasurer.

Section 5. Withdrawal of the Complaint – The withdrawal of the complaint does not result in its outright dismissal nor discharge of the person complained of from any administrative liability. Where there is obvious truth or merit to the allegations in the complaint or there is documentary evidence that would tend to prove the guilt of the person complained of, the same would be given due course. The complainant shall be called by the Sangguniang Bayan to determine the authenticity of the desistance that complainant has decided willingly and voluntarily.

Section 6. Limitations in the Conduct of Investigation and Imposition of Suspension – The Conduct of Administrative Investigation and Imposition of Suspension are subject to the following limitations:

- (1) No investigation shall be held within ninety (90) days immediately prior to any local election.
- (2) No preventive suspension shall be imposed within the same period. If preventive suspension has been imposed prior to the (90) day period immediately preceding local elections, it shall be deemed automatically lifted upon the start of the said period.

RULE IV

ANSWER

Section 1. Notice – Within seven (7) days after receipt of the complaint which is sufficient in form and substance, the Sangguniang Bayan en banc shall require the person complained of to submit his verified answer within fifteen (15) days from receipt thereof.

Section 2. Form of Answer – The answer of the person complained of shall be in writing and under oath and shall be drawn in clear, simple, and concise language and in methodical manner. It shall contain material facts and applicable laws including documentary evidence, sworn statements covering testimonies of witnesses if there be any, in support of his case.

Section 3. Where Filed – The answer shall be addressed to the Sangguniang Bayan and submitted to the office of the Secretary to the Sanggunian, who shall transmit the same to the office of Vice Mayor as Presiding Officer of the Sangguniang Bayan within 48 hours from receipt thereof.

The answer and all other pleadings, briefs, memoranda, motions and other papers, affidavits filed with the Sangguniang Bayan shall be in fourteen (14) legible copies, with proofs of service of one (1) copy upon each of the adverse parties.

Copies of the answer shall be furnished to the Office of the Provincial Governor, Provincial Office of the Department of Interior and Local Government, Office of the Municipal Mayor.

Section 4. Failure to Answer – If the person complained of fails to file his verified answer within fifteen (15) days from receipt of the complaint against him/her shall be considered as waiver of his right to present evidence in his behalf and formal investigation may commence.

RULE V

PRELIMINARY INVESTIGATION

Section 1. Preliminary Investigation – A preliminary investigation involves the ex-parte examination of records and documents submitted by the complainant and by the person complained of as well as documents readily available from other government offices.

Section 2. Evaluation – Within ten (10) days from the receipt of the answer, the Sangguniang Bayan shall determine whether there is a prima facie case to warrant the institution of formal

administrative proceedings. If there is a prima facie case, the Sangguniang Bayan shall set the case for preliminary conference and administrative proceedings shall thereafter be conducted. If warranted preventive suspension may be imposed.

Section 3. Dismissal of the Complaint – If the Sangguniang Bayan determines that there is no prima facie case to warrant the institution of formal administrative proceedings, it may, within the same period prescribed under the preceding section, by itself outright dismiss the case.

The decision of the Sangguniang Bayan on the complaint shall be final and executory.

RULE VI

PREVENTIVE SUSPENSION

Section 1. Preventive Suspension – At any time 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 in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and evidence, may recommend for the preventive suspension of the respondents. These three requisites must all be present before preventive suspension may be imposed.

Section 2. Imposition of Preventive Suspension – The preventive suspension recommended by the Sangguniang Bayan may be imposed by the Municipal Mayor.

Section 3. Period of Preventive Suspension – Any single preventive suspension of an elective local official shall not extend sixty (60) days. In the event that several administrative cases are filed against an elective barangay official he cannot be placed under preventive suspension for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

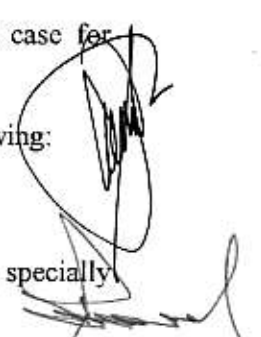
Section 4. Expiration of Preventive Suspension – Upon expiration of the preventive suspension, the suspended elective barangay official shall be deemed reinstated in office without prejudice to the continuation of the proceedings against him, which shall be terminated within one hundred twenty (120) days from the time he was formally notified of the case against him. If the delay on the proceedings of the case is due to his fault, neglect, or request, other than the appeal duly filed, the duration of such delay shall be counted in computing the time of termination of the case.

Section 5. Salary of Respondent Pending Suspension – The respondent elective barangay official who is under preventive suspension shall receive no salary or compensation during such suspension. Upon subsequent exoneration and reinstatement, however, he shall be paid his full salary or compensation including other emoluments accruing during his suspension.

RULE VII

PRELIMINARY CONFERENCE

Section 1. Preliminary Conference – Within ten (10) days from the determination that there is a prima facie case, the Sangguniang Bayan shall set the case for preliminary conference and administrative proceedings shall thereafter be conducted. If warranted preventive suspension may be imposed. The Sangguniang Bayan shall summon the parties to consider 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; and
 - (b) If the parties desire a formal investigation, to consider and agree on any of the following:
 1. Simplification of facts;
 2. The possibility of obtaining stipulation or admission of facts and of documents specially affidavits and depositions to avoid unnecessary proof;
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3. The limitation of Number of witnesses, and other names;
4. Identifications and markings of evidence of the parties;
5. Dates of subsequent hearings, and;
6. Such other matters as may aid in the prompt and just resolution of the case.

No evidence shall be allowed during the hearing which was not submitted or presented during the preliminary conference, unless good cause is shown for the admission of additional evidence.

The Sangguniang Bayan shall encourage the parties and their counsels to enter at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall be subject to the approval of the Sangguniang Bayan en banc that sits as disciplinary tribunal.

After the preliminary conference, the Sangguniang Bayan shall issue an order reciting the matters taken up thereon, including the facts stipulated and the evidences marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

Section 2. Request for Clarification – The Sangguniang Bayan shall not entertain request for clarifications, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceedings. If any of these pleadings are interposed by the respondent, the same shall be considered as an answer and shall be evaluated as such.

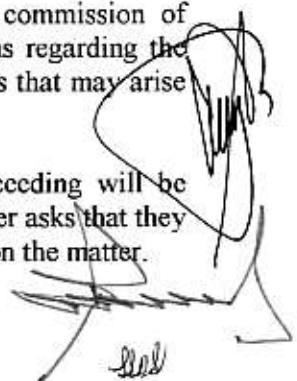
RULE VIII

PRESIDING OFFICER

Section 1. Presiding Officer– The Municipal Vice Mayor shall act as Presiding Officer in the conduct of Administrative Investigation and shall make sure that the contending parties are given equal opportunity to prove or demolish the offense charge. His duty is only to act as Presiding Officer. He cannot vote when the charges are submitted for resolution after the trial, except in case of a tie. In the event that the Vice Mayor is unable to act as the Presiding Officer for justifiable or legal reasons, the members present and constituting a quorum shall elect from among themselves a Presiding Officer for the hearing and trial of the said Administrative Case filed before the Sangguniang Bayan acting as an Administrative Body.

As Presiding Officer:

1. He directs the proceedings of the investigating body.
2. He shall be no different from judges of lower courts who determine how parties shall present their evidence. For this purpose, he has the power to make and issue, in the name of the sanggunian, orders, instructions necessary to effectively meet the objective of the administrative hearing.
3. He can compel the attendance of witnesses, enforce obedience of its orders and issue orders or resolution he deems essential or conducive to the ends of the justice.
4. Since the administrative investigation involves questions about proof of commission of alleged offenses, the Presiding Officer is authorized to rule on all questions regarding the relevancy, materiality or redundancy of evidence and the incidental questions that may arise in the course of the proceedings.
5. The orders or rulings of the Presiding Officer in the course of the proceeding will be considered as ruling of the sanggunian, unless the Sangguniang Bayan Member asks that they vote on it to determine the sentiments of the rest of the sanggunian members on the matter.



6. Although clothed with the authority to issue appropriate rulings, the Presiding Officer is not precluded from consulting the Sangguniang Bayan members on getting their sentiments on the pending issue before he acts on it.

RULE IX

FORMAL INVESTIGATION

Section 1. Hearings – Within ten (10) days from issuance of the order on the matters when during the preliminary conference, the Sangguniang Bayan shall commence the investigation of the case.

Section 2. Procedural Due Process – The respondent shall be accorded full of opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, to require the attendance to witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum.

If the respondent appears without the aid of a counsel, he shall be deemed to have waived his right thereto.

Section 3. Who Conducts the Hearing – The Sangguniang Bayan en banc sitting as Disciplinary Tribunal shall conduct the administrative disciplinary investigation.

Section 4. 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.

Failure of the respondent to appear for three consecutive scheduled hearings despite due notice, the investigation shall proceed ex parte and the respondent is deemed to have waived his right to be present and to submit evidence in his favor and during those hearings.

Failure of complainant to appear for three consecutive scheduled hearings despite notice shall be cause for the dismissal of the complaint.

Section 5. Venue of Hearing – The venue shall be at the Sangguniang Bayan Session Hall. No firearm shall be allowed inside the venue during the hearing.

Section 6. Postponement – Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, upon proof of the physical inability of the party to appear in the scheduled date and time like illness of the parties or counsels and other similar cases. No postponement for a period longer than seven (7) days shall be allowed. A party may avail of only one (1) postponement.

Section 7. Stenographic Record of the Proceedings – The testimony of each witness and the manifestation of the parties and counsels during the investigation shall be prima facie correct statement of such proceedings as duly certified by the stenographer or steno typist.

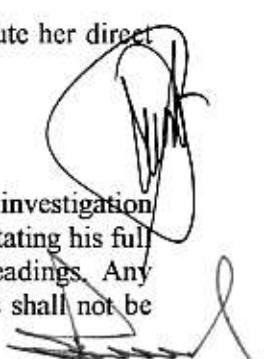
Section 8. Preliminary matters – At the start of the hearing, the Presiding officer shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

Before taking the testimony of the witness, the Presiding Officer shall direct the Secretary to the Sanggunian to place the witness under oath and then take his name, address, civil status, age, and place of employment.

A sworn statement of the witness(es) properly identified and affirmed shall constitute her direct testimony, copy furnished the other party.

Clarificatory questions may be also asked by the members of Sangguniang Bayan.

Section 9. Appearance of counsel – Any counsel appearing before any hearing or investigation shall manifest orally or in writing, his appearance for either the respondent or complainant, stating his full name, IBP receipt and exact address where he can be served with notices and other pleadings. Any pleading or appearance of a counsel without complying with the above stated requirements shall not be recognized.



Section 10. Order of Hearing – The order of hearing shall be as follows:

- (a) The complainant shall produce the evidence on his/her part, called direct examination.
- (b) Cross-examination by respondent.
- (c) After the complainant rests its case, then
- (d) The respondent shall then offer evidence in support of his defense, called direct examination.
- (e) Cross-examination by complainant
- (f) After the respondents rests its case, then
- (g) The parties may then respectively offer rebutting evidence, unless for good reasons and in the furtherance of justice, permit them to offer evidence upon their original case.

Section 11. Order of Examination – The order in which a witness may be examined shall be as follows:

- (a) Direct examination by the proponent;
- (b) Cross-examination by the opponent;
- (c) Re-direct examination by the proponents; and
- (d) Re-cross examination by the opponent.

Section 12. What are Considered Direct Examination – The Sangguniang Bayan may direct, simplifying the preceding Sections 10 and 11 hereof, to consider the pleadings and affidavits as direct examination by the opponent.

Section 13. Memoranda – The parties may be allowed to submit their respective memoranda for the consideration of the Sangguniang Bayan en banc within fifteen (15) days after the termination of the formal investigation.

Section 14. Request for Subpoena – If a party desires the attendance of witness or the production of documents, he should make formal request for the issuance of the necessary subpoena or subpoena duces tecum at least three (3) days before the scheduled hearing.

Section 15. Sequence of Presentation of Evidence – The sequence of presentation of evidence by the parties shall be the following:

- (1) Evidence for Complainant;
- (2) Formal offer of evidence for complainant preparatory to resting his case;
- (3) Evidence for respondent;
- (4) Formal offer of evidence for respondent preparatory to resting his case;
- (5) Rebuttal evidences are not, due to expediency, normally resorted to in administrative investigation; and
- (6) Filing of simultaneous memoranda.

Section 16. Evidence – (a) **Non-technical Procedure** – The investigation shall be conducted solely for the purpose of ascertaining the truth and without necessarily adhering to technical rules applicable in judicial proceedings.

- (b) **Material and Relevant Evidence** – The Sangguniang Bayan shall accept all evidences having materiality and relevancy to the case. In case of doubt, the body should resolve for the admission of the evidence subject to the objection interposed against the admission.

- (c) **Marking** – All documentary evidences or exhibits shall be properly marked by letters (A, B, C, ect.) if presented by the complainant and by numbers (1,2, 3, etc.) if presented by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked “Folder of Exhibits” which shall also be attached to the records.
- (d) **Quantum of Evidence** – The quantum of evidence required in administrative proceeding is substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. The standard of substantial evidence is satisfied when there is a reasonable ground to believe that respondent has committed the offense charged.

RULE X

PENALTIES

Section 1. Reprimand, Censure, Suspension or Removal – A respondent found guilty of any of the offenses enumerated in the grounds for Administrative Disciplinary Action may be metted the penalty of reprimand, censure, suspension or removal depending on the evidence presented and the aggravating or mitigating circumstances that may be considered by the Sangguniang Bayan.

Reprimand/censure – The penalty of reprimand or censure shall not carry with it any accessory penalty nor result in the temporary cessation of work.

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.

During the period of suspension, respondent shall receive no salary and all other money benefits including leave credits.

Removal – An elective official may be removed from office on the grounds enumerated in the Grounds for Administrative Disciplinary Action by order of the proper court.

The 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.

RULE XI

DECISION

Section 1. Rendition of Decision – The Sangguniang Bayan duly assembled as disciplinary Tribunal shall render judgment on the administrative offense/ charge. Each Sangguniang Bayan member shall be called to state his or her opinion on the respondents’ culpability for the offense. A Sangguniang Bayan member, if he/she wants to, may explain his or her vote for not more than five (5) minutes.

If the Sangguniang Bayan members are not inclined to verbally explain their votes, they may do it in writing instead or reserve the right to do so within 24 hours after the votes are cast.

Indubitably, a member of this Sanggunian is representing the people and not necessarily his own self and as such he should be required take a stand, one way or the other on every issue or action submitted for decision to this Administrative Body. Hence, it is hereby made as a general rule that no member of this Sanggunian shall abstain from voting except when from the beginning of the administrative hearing, he/she inhibited himself/herself by reason of being related to any of the litigating parties within the 4th civil degree of consanguinity or affinity has pecuniary interest either directly or indirectly on the matter or issue of the Administrative Case being acted upon by the Body.

Upon the conclusion of the roll call voting, the “guilty” and “not guilty” will be tallied to determine the final resolution of the Sangguniang Bayan on the administrative complaint against erring elective official.

Section 2. Writing of Decision – The Sangguniang Bayan, after it has reached its verdict may through a resolution create a committee who shall prepare the draft of the body's decision or verdict. The draft of the decision shall however be subject to the consideration and adoption/ approval by the majority vote of the Sangguniang Bayan Members. The decision shall state clearly and distinctly the facts and the reasons for such decision. Copies of said decision shall immediately furnish the respondent and all the other interested parties. Receipt by either counsel or party shall be deemed to be a valid service.

The period to perfect a motion for reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, whichever is later.

Copies of the decision shall, within 15 days from the promulgation thereof, be furnished to the Municipal Mayor, Provincial Governor and the Department of Interior and Local Government Provincial Office.

Section 3. 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, by the parties in interest or their authorized representatives on the "need to know" basis.

RULE XII

MOTION FOR RECONSIDERATION

Section 1. Filing of Motion for Consideration – The party adversely affected by the decision may file a motion for reconsideration with the Sangguniang Bayan within fifteen (15) days from receipt thereof.

Section 2. When Deemed Filed – A motion for reconsideration sent by mail shall be deemed filed on the date shown by the post mark on the envelope which shall be attached on the document and in the case of personal delivery, the date stamped thereon by the office of the Secretary to the Sangguniang Bayan.

Section 3. Grounds for Motions for Reconsideration – The motion for reconsideration shall be based for any of the following:

- a) New evidence has been discovered which materially affects the decision rendered, or
- b) The decision is not supported by the evidence on record, or
- c) Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 4. Limitation – Only one motion for reconsideration shall be entertained.

Section 5. Effect of Filing – A motion for reconsideration shall not stay the execution of a decision. In the event that a decision is considered as to result in a exoneration, the respondent shall be paid his salary and such other emoluments accruing during the period of his suspension or removal.

RULE XII

APPEAL

Section 1. Who May Appeal – Appeal is available only to the party adversely affected by the decision in an administrative case.

Section 2. Administrative Appeals – The decision in Administrative Cases filed before the Sangguniang Bayan against any barangay official may, within thirty (30) days from receipt thereof, be appealed to the Sangguniang Panlalawigan.

If no appeal is made within thirty (30) days from receipt of the decision, the decision shall become final and executory.

Section 3. Effect of Appeal – The 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 in an exoneration, he shall be paid his salary and such other emoluments during the pendency of the appeal.

RULE XIII

MISCELLANEOUS PROVISIONS

Section 1. Effect and Application of relevant Laws – In all matters not provided in these Rules, the Rules of Court and the 1987 Administrative Code shall apply in a suppletory character.

Section 2. Other Matters not Embraced by These Rules – Any and all matters that may not be included in these rules shall, whenever necessary, be treated in accordance with pertinent provisions of existing laws, rules and regulations that may be relevant and applicable thereto.

Section 3. Suspension of the Rules – Nothing in this section however, prohibits the Sangguniang Bayan from suspending these Rules by a 2/3 majority vote of the members present, there being a quorum, to take up any matter deemed important and/or urgent.

Section 4. Computation of Period – In computing any period of time prescribed by these rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday, in which case the period shall run until the end of the next working day which is neither a Saturday, a Sunday nor a legal holiday.

Section 5. Repealing Clause – All ordinances, issuance or orders contradictory to this provisions thereto in whole or in whole or in part shall hereby be amended or modified.


Section 6. Effectivity – These Rules shall take effect upon the approval of the Sangguniang Bayan.

APPROVED. FEBRUARY 18, 2009

CERTIFIED CORRECT:


LYDIA LASTIMOSA
Secretary to the Sangguniang Bayan

CERTIFIED AND ATTESTED TO HAVE BEEN
APPROVED & ENACTED ON FEBRUARY 18, 2009:


HILARIO PAUSANOS
Presiding Officer
Municipal Vice Mayor

APPROVED:


ROGELIO N. QUIÑO
Municipal Mayor