



Republic of the Philippines
Province of Sorsogon
CITY OF SORSOGON



Office of the Sangguniang Panlungsod

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION OF THE SEVENTH CITY COUNCIL HELD AT THE SESSION HALL ON OCTOBER 1, 2019.

PRESENT:

HON. MARK ERIC C. DIONEDA
City Vice Mayor/Presiding Officer

BACON DISTRICT

Hon. Jo Abegail C. Dioneda
Hon. Danilo A. Deladia

EAST DISTRICT

Hon. Ralph Walter R. Lubiano
Hon. Mary Ellen D. Jamisola
Hon. Franco Eric O. Ravanilla
Hon. Joven G. Laura

WEST DISTRICT

Hon. Nestor J. Baldon
Hon. Erwin J. Duana
Hon. Fernando David H. Duran, III
Hon. Rebecca D. Aquino

EX-OFFICIO MEMBERS

ABC Pres. Ma. Teresa D. Perdigon
SK Fed. Pres. Lorenz S. Abenion

ABSENT: Hon. Hilario D. Dioneda
Hon. Melchor P. Atutubo

Resolution No. 155, Series of 2019

(Proponent: Hon. Franco Eric O. Ravanilla)

RESOLUTION ENACTING AN ORDINANCE DECLARING VACANT THE BOARD OF DIRECTORS OF SORSOGON CITY WATER DISTRICT (SCWD), INCLUDING THE POSITION OF GENERAL MANAGER, AND URGING THE CITY MAYOR TO APPOINT A NEW SET OF SCWD TRUSTEES AND GENERAL MANAGER

WHEREAS, police power, as an inherent attribute of sovereignty, is the power vested by the Constitution in the legislature to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the Constitution, as they shall judge to be for the good and welfare of the commonwealth, and for the subjects of the same. Our Congress delegated police power to the Local Government Units (LGUs) thru the Local Government Code of 1991;

WHEREAS, this local legislative body, under Section 458 (5) of the Local Government Code of 1991, is specifically vested with the power to approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for in Section 17 of this Code, and shall:

“(vii) Subject to existing laws, establish and provide for the maintenance, repair and operation of an efficient waterworks system for the inhabitants and to purify the source of the water supply; regulate the construction, maintenance, repair of hydrants, pumps, cisterns and reservoirs; protect the purity and quantity of the water supply of the city and, for this purpose, extend the coverage of appropriate ordinances over all the territory of the drainage area of the said water supply and within one hundred (100) meters of the reservoir, conduit, canal, aqueduct, pumping station or watershed used in connection with the water service; and regulate the consumption, use or wastage and fix and collect charges therefor.”

“(viii) Regulate the drilling and excavation of the ground for the laying of water, gas, sewer and other pipes and the construction, repair and maintenance of public drains, sewers, cesspools, tunnels and similar structures. xxx,”

WHEREAS, on June 02, 2016, the present-day Board of Directors of the Sorsogon City Water District (SCWD) and the so-called PRIMEWATER Infrastructure Corporation have entered into a **Joint Venture Agreement** for the operation-in-tandem of the Water District for **PROFIT** without, however, the benefit of prior public hearing;

WHEREAS, for the last three (3) years since the execution of the aforesaid **Joint Venture Agreement** on June 02, 2016, **public clamor** against the lamentable quality of the City’s water supply; its murky dirtiness that threatens the health and wellbeing of Sorsogoneños; the scarcity thereof in spite of its skyrocketing cost being billed the consumers, **is growing stronger by the day**, thereby prompting this local legislative body to look into the matter;

WHEREAS, by just sifting through the welter of legalese and technocratic verbiage used in the subject **Joint Venture Agreement**, it is found out that such an agreement actually installs and institutionalizes, a profit-seeking corporate middleman in the person of **PRIMEWATER Infrastructure Corporation** to operate in-between the SCWD and its hapless consumers. Consequently, the cost of the dirty water presently being rationed off, thru such a corporate middleman in the name of SCWD, has inordinately increased, to the damage and prejudice of the City and its people;

WHEREAS, a profit-seeking corporate middleman is anathema to an essentially non-profit public utility as the SCWD. The present-day SCWD Board of Directors, either out of dereliction of duty, or diffident servility to the past city administration, or both, should therefore be blamed for such a serious predicament being suffered by the people of Sorsogon City, and the resulting quandary now besetting the City Government about that corporate middleman now practically controlling the affairs of SCWD.

WHEREAS, in accordance with sub-section 4.1 of the aforesaid joint venture agreement, the SCWD is given the sum of ₱10,000,000.00 per annum by the PRIMEWATER Infrastructure Corporation since the execution of the agreement three years ago on June 02, 2016 in the guise of revenue share. This annuity is paid to the SCWD at the rate of ₱1,000,000.00 per month. The total sum now of the annuity is ₱30,000,000.00, which, however, is unaccounted for by the SCWD Board of Directors;

WHEREAS, having gotten wind of the foregoing anomalies, this local legislative body passed Resolution No. 035-s-2019, requesting the members of the SCWD Board of Directors to tender their courtesy resignation. They, however, refused. In support of

their refusal, they invoked DILG Secretary Eduardo Año's Memorandum Circular No, 2019-03 dated 18 January 2019, to the effect that "Water Districts are autonomous agencies independent of local governments";

WHEREAS, treating water districts — such as the SCWD — as autonomous organisms independent of, or on equal footing with, if not superior to, their hosts — such as the City of Sorsogon— is no different from placing them on top of an ivory tower suffused in rarefied atmosphere, unreachable, untouchable and intractable, free from any interference, howsoever legal or moral, from the very local government units and the Filipino people whence water districts derive their reason for existence and sustenance. Doing so is tantamount to putting the world upside down;

WHEREAS, under Section 4, Article X of the 1987 Philippine Constitution, the President of the Philippines exercises general supervision over local governments. Thus, "Under our present system of government, executive power is vested in the President. The members of the Cabinet and other executive officials are merely alter egos. As such, they are subject to the power of control of the President, at whose will and behest they can be removed from office; or their actions and decisions changed, suspended or reversed";

WHEREAS, "In contrast, the heads of political subdivisions are elected by the people. Their sovereign powers emanate from the electorate, to whom they are directly accountable. By constitutional fiat, they are subject to the President's supervision only, **not control**, so long as their acts are exercised within the sphere of their legitimate powers. By the same token, the President may not withhold or alter any authority or power given them by the Constitution and the law."¹ And neither can his alter ego in the person of DILG Secretary Eduardo Año. He cannot degrade, or worse, nullify by a mere memorandum circular, the police power delegated by Congress to the Local Government Units (LGUs) thru the Local Government Code of 1991;

WHEREAS, and clearly then, "the President or any of his alter egos cannot interfere in local affairs as long as the concerned local government unit acts within the parameters of the law and the Constitution. Any directive therefore by the President or any of his alter egos seeking to alter the wisdom of a law-conforming judgment on local affairs of a local government unit is a patent nullity because it violates the principle of local autonomy and separation of powers of the executive and legislative departments in governing municipal corporations";

WHEREAS, "Under the doctrine of implication, **the power to appoint carries with it the power to remove.**" xxx. The exception to this is when the law expressly provides otherwise – that is, when the power to remove is expressly vested in an office or authority other than the appointing power. xxx." The exception does not, however, obtain in this case. For under Section 3, paragraph (b) of Presidential Decree No. 198, as amended by Presidential Decree No. 768, it is provided:

"(b) Appointing Authority.— The person empowered to appoint the members of the Board of Directors of a local water district depending upon the geographic coverage and population make-up of the particular district. In the event that more than seventy-five percent of the total active water service connections of a local water districts are within the boundary of any city or municipality, **the appointing authority shall be the mayor of the city or municipality, as the case may be**; otherwise, the

appointing authority shall be the governor of the province within which the district is located: Provided, That if the existing waterworks system in the city or municipality established as a water district under this Decree is operated and managed by the province, initial appointment shall be extended by the governor of the province. Subsequent appointments shall be as specified herein." Xxxxx

WHEREAS, the City Mayor of Sorsogon, being the appointing authority of the SCWD Board of Directors, has also the power to remove them for cause. The review, as well as approval, of such removal for cause by the LWUA under Section 11 of the same Decree has been repealed by Section 534 (f) of the Local Government Code of 1991; such review and approval by the LWUA being repugnant to the principle of autonomy of local government units animating the said Code. Thus, Section 534 (f) expressly provides:

“(f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are **inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.**”

WHEREAS, on September 11, 2019, the five (5) statutory members of the SCWD Board have already tendered their resignation, not to the appointing authority, the City Mayor, however, but to the LWUA in one patent display of disdain; and their resignation, according to them, would be effective upon approval by this administrative-regulatory body;

WHEREAS, this Local Legislative Body, in the exercise of police power vested in it by Section 16 of the Local Government Code of 1991 under the general welfare clause, has every right and duty to protect the health, safety and wellbeing of the people of Sorsogon City, especially in times like this when their health, safety and wellbeing are put in jeopardy by the Board of Directors of SCWD;

WHEREAS, in the spirit of due process, the members of the SCWD Board of Directors have been given the opportunity by this local legislative body in an open session to air their side in regard to the matters at hand. The SCWD directors, however, chose to boycott the session especially scheduled for them on September 12, 2019, at 9:00 in the morning;

WHEREAS, “The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side. A formal or trial-type hearing is not at all times and in all instances essential, as the due process requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand” ;

NOW, THEREFORE, upon motion of **Hon. Franco Eric O. Ravanilla**, duly seconded by **Hon. Joven G. Laura**, let an ordinance be ENACTED, as it is hereby ENACTED, declaring VACANT all the five (5) seats in the SCWD Board of Trustees, including the position of General Manager; and urging the City Mayor to appoint a new set of SCWD directors that can effectively address and solve the problem about the City’s potable water supply;

City Ordinance No. 014, Series of 2019

AN ORDINANCE DECLARING VACANT THE BOARD OF DIRECTORS OF SORSOGON CITY WATER DISTRICT (SCWD), INCLUDING THE POSITION OF GENERAL MANAGER, AND URGING THE CITY MAYOR TO APPOINT A NEW SET OF SCWD TRUSTEES AND GENERAL MANAGER

BE IT ORDAINED by the Sangguniang Panlungsod in session that:

SECTION 1 TITLE

This ordinance shall be known as the “**Ordinance for the declaration of vacancies in the SCWD Board of Trustees, including the position of General Manager**”.

SECTION 2 DECLARATION OF VACANCIES

It is hereby declared as vacant the positions in the Sorsogon City Board of Trustees and the position of the General Manager.

SECTION 3 SEPARABILITY CLAUSE

If any provision of this Ordinance is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue in full force and effect.

SECTION 4 REPEALING CLAUSE

All ordinances, local issuances or rules inconsistent with the provisions of this Ordinance are hereby repealed or modified accordingly.

SECTION 5 EFFECTIVITY

This ordinance shall take effect immediately upon its approval by the Sangguniang Panlungsod and after compliance with the law on public dissemination and publication.

DATE APPROVED: **October 1, 2019**

I HEREBY CERTIFY to the correctness of the foregoing resolution and ordinance.



NOEL G. DREU

Secretary to the Sangguniang Panlungsod

Attested:



REBECCA D. AQUINO
City Councilor/Temporary Presiding Officer

Approved:



MA. ESTER E. HAMOR
City Mayor