

REPUBLIC OF THE PHILIPPINES
PROVINCE OF SORSOGON
SORSOGON
OFFICE OF THE SECRETARIAS PANGALAWIGAN

December 6, 2005

TRANSMITTAL NO. 237

TRANSMITTED TO: 1. The Honorable Mayor
2. The Sangguniang Bayan
Matnog, Sorsogon

Respectfully transmitted the attached subject
for information/file/records/reference purposes:

RESOLUTION NO. 206-05 - RESOLUTION REMANDING TO
THE MUNICIPALITIES OF MATNOG MUNICIPAL ORDINANCE
NO. 04-2005 ENTITLED: "AN ORDINANCE AUTHORIZING
SCRECO I TO CONDUCT CLEARING OPERATIONS PARTICU-
LARLY THE TREES AND BRANCHES AND OTHER VEGETATION
THAT TOUCHES OR ABOUT TO TOUCH THE ELECTRIC POWER
LINES WITHIN THE TERRITORIAL JURISDICTION OF MATNOG,
SORSOGON AND BULUSAN MUNICIPAL ORDINANCE NO. 02-
2005 ENTITLED: "AN ORDINANCE ESTABLISHING THE COM-
PREHENSIVE SOLID WASTE MANAGEMENT IN THE MUNICIPA-
LITY OF BULUSAN, SORSOGON".

TRANSMITTED BY:


WILLIAM H. DELGADO

SP Secretary



Republic of the Philippines
PROVINCE OF SORSOGON
Sorsogon City

SANGGUNIANG PANLALAWIGAN

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN, HELD AT ITS SESSION HALL, SP BUILDING, CAPITOL COMPOUND, SORSOGON CITY, ON NOVEMBER 07, 2005.

PRESENT Hon. Antonio H. Escudero, Jr., Vice Governor/Presiding Officer

1st District

Hon. Rebecca de Leon-Aquino
Hon. Rosario D. Diaz
Hon. Arnulfo L. Perete
Hon. Everesto L. Relativo
Hon. Francisco L. Ravanilla

2nd District

Hon. Joy L. Dellomas-Fundano
Hon. Jocelyn Y. Lelis
Hon. Bernard H. Hao
Hon. Olaf S. Gotladera

Hon. Marian G. Guysayko – Provincial President, Sangguniang Kabataan
Hon. George S. Chew – Provincial president, Liga ng mga Barangay
Hon. Michael G Go – Provincial President, Provincial Councilors League

ABSENT: Hon. Arze G. Glipo

-o0o-

RESOLUTION NO. 206-05

RESOLUTION REMANDING TO THE MUNICIPALITIES OF MATNOG MUNICIPAL ORDINANCE NO. 04-2005 ENTITLED: "AN ORDINANCE AUTHORIZING SORECO I TO CONDUCT CLEARING OPERATIONS PARTICULARLY THE TREES AND BRANCHES AND OTHER VEGETATION THAT TOUCHES OR ABOUT TO TOUCH THE ELECTRIC POWER LINES WITHIN THE TERRITORIAL JURISDICTION OF MATNOG, SORSOGON AND BULUSAN MUNICIPAL ORDINANCE NO. 02-2005 ENTITLED: "AN ORDINANCE ESTABLISHING THE COMPREHENSIVE SOLID WASTE MANAGEMENT IN THE MUNICIPALITY OF BULUSAN, SORSOGON."

WHEREAS, submitted for consideration of the Sangguniang Panlalawigan were Municipal Ordinance Nos. 04-2005 and 02-2005 of the Municipalities of Matnog and Bulusan, Sorsogon, respectively;

WHEREAS, the SP Committees on Environment & Natural Resources and Rules, Privileges & Amendments, to which the above subjects were referred, hereby submit their findings and recommendations, to wit:

"On Bulusan Municipal Ordinance No. 02-2005

Subject ordinance sets into motion the implementation of RA 9003, otherwise known as the "Philippine Ecological Solid Waste Management Act of 2000" and its implementing rules and regulations in the local setting by enacting its own and local version – the Comprehensive Waste Management Ordinance. This ordinance also aims to help the LGU protect, preserve and conserve its local ecosystem through proper wastes disposal and education through information dissemination. Moreover, this enactment will be of greater value and will play a vital role in the development eco-tourism of the locality.

However, regrettably, the Joint Committee is withholding its approval due to some major findings affecting the greater substance and efficiency of the implementation of the same, to wit:

1. It was suggested by the representative of the EMB-DENR, Regional Office V, that a barangay Materials Recovery Facility (MRF) should at least be considered under Article VI, Waste Processing and Resource Recovery provision of the subject ordinance.

2. Section 22 of the same should be deleted, and should form a separate ordinance.
3. The same has no provision on prohibited acts. Hence, it is advised that Section 48 of the Implementing Rules and Regulations of RA 9003 be included under Article VI, Violation and Penalty, being a mandatory provision.
4. The same failed to observe the mandatory provisions of Section 59 of R.A. 7160 when they provided thereon to the effect that "*This ordinance shall take effect upon approval and after proper information dissemination.*" No ordinance shall take effect without posting and/or publication without offending the due process clause enshrined under our Constitution. Rectification of which is of utmost importance so as to achieve validity in form and substance, as well as in their enforcements.

Hence, it is a must that this defective ordinance is returned to the Sanggunian of origin for its information and appropriate action.

-oOo-

On Matnog Ordinance No. 04-2005

The Joint Committee is well aware that the general welfare clause of the 1991 Local Government Code authorizes the municipal council to enact ordinances and make regulations as may be necessary and in accordance with the law for the health and safety, peace and order, among others. However, it is worth noting that the general welfare clause cannot be invoked as basis in passing subject ordinance because the same is not all encompassing nor comprehensive nor universal in its application.

Moreover, it is not within the power of the Sangguniang Bayan to authorize SORECO I to perform its own function, SORECO I being not within the jurisdiction of the Sangguniang Bayan in matters of its internal operations, one of which is the maintenance of power lines which includes the cutting of hovering trees and/or its branches over the power lines.

All that the Sangguniang Bayan could do is to pass a resolution enjoining SORECO I to perform its function properly to better serve its constituents.

Foregoing premises considered, it is regrettably recommended that the same should be returned to the municipality of origin with the advice that the same should be embodied in a resolution not in an ordinance."

NOW, THEREFORE, on motion of Hon. Arnulfo L. Perete, duly seconded by Hon. Everesto L. Relativo, the Board **RESOLVED**, as it is hereby **DONE**, to remand to the Municipalities of Matnog and Bulusan, Sorsogon, the aforesaid Municipal Ordinance Nos. 04-2005 and 02-2005, respectively, inviting their attention to the above findings and recommendations

LET COPIES of this resolution be furnished the Honorable Mayors and Sangguniang Bayans of the Municipalities of Matnog and Bulusan, Sorsogon, for their respective information, guidance and appropriate action.

APPROVED UNANIMOUSLY.

-oOo-

I HEREBY CERTIFY to the correctness of the foregoing.


WILLIAM H. DELGADO

Secretary to the Sangguniang Panlalawigan

ATTESTED:


ANTONIO H. ESCUDERO, JR., MNSA