

RESOLUTION NO. _____
(Series of 2025)

Item No. _____
For 2nd Reading
131st Regular Session
March 11, 2025
Tandag City **13**

DENYING THE MOTION FOR RECONSIDERATION OF RESPONDENT, HON. BETTY ENSOMO-PIMENTEL, MUNICIPAL MAYOR, RELATIVE TO ADMINISTRATIVE CASE NO. 08-2024 FILED BY HON. JESSA P. MATE-TECSON, ET AL. (COMPLAINANTS), SANGGUNIAN BAYAN MEMBERS, ALL OF THE MUNICIPALITY OF TAGO, THIS PROVINCE FOR GRAVE MISCONDUCT.

SPONSORS:

**HON. ANTONIO C. AZARCON, HON. JOSE DUMAGAN, JR.,
HON. ANTHONY JOSEPH P. CAÑEDO, HON. GINES
RICKY J. SAYAWAN, SR., HON. RAUL K. SALAZAR,
HON. AMADO M. LAYNO, JR., HON. MARGARITA G.
GARAY, HON. CONRAD C. CEJOCO, HON. MELANIE JOY
M. GUNO, HON. JIMMY I. GUINSOD, HON. JOHN PAUL
C. PIMENTEL AND HON. YURI ART EUFY R.
SANCHEZ**

WHEREAS, an Administrative Case has been filed before the 20th Sangguniang Panlalawigan dated November 14, 2024 by Jessa P. Mate-Tecson, Virginia P. Gomez, Jopie L. Cahatian, Maribel R. Espinoza, Wilfredo M. Yu, Ira Minette C. Pimentel, Maribel P. Gualvez, Jenebert L. Gaco, Vince Dylan E. Curada, Emmanuel P. Isiang, and Engr. Tristan Angelo Avila of Trident Engineering Services, Complainants against Municipal Mayor Hon. Betty Ensomo-Pimentel, Respondent, all are Public Officials of the Municipality of Tago, this Province for Grave Misconduct docketed as Administrative Case No. 08-2024;

WHEREAS, after thorough deliberation, discussions and weighing of submitted Position Papers of both parties dated January 21, 2025, the Committee determined that the Respondent is guilty of Nonfeasance and has recommended a 30-day suspension without pay as the appropriate penalty;

WHEREAS, during the 124th Regular Session of the 20th Sangguniang Panlalawigan on January 28, 2025, the Body adopted the Decision of the Committee En Banc on Administrative Case No. 08-2024 entitled 'Jessa P. Mate-Tecson et.al. versus Mayor Betty Ensomo-Pimentel for "Grave Misconduct" through Resolution No. 2796-25 finding the respondent guilty for Nonfeasance with a Penalty of Suspension for a period of thirty (30) days without pay;

WHEREAS, the elements of grave misconduct are not present in the above-mentioned case as there is no substantial evidence to show that the Respondent committed any of those additional elements of grave misconduct that exist to qualify petitioner's misconduct as grave. Her offense merely constitutes nonfeasance;

WHEREAS, nonfeasance is the omission of some act which ought to be performed by a public officer. Respondent fails to act on what was required of her under the law. Respondent refused to help for the implementation of the project when in fact she could have facilitated the success of its implementation;

WHEREAS, the refusal of the respondent to help in the implementation of the project despite ready compliance of the contractor prejudiced the programs of the government, especially the general welfare of the people of Tago;

WHEREAS, the August Body was in receipt of a Motion for Reconsideration from the Respondent on February 27, 2025;

WHEREAS, there are five errors that the Respondent through her Counsel advances in her Motion for Reconsideration against the Honorable Body who rendered the decision. First, is that the honorable body erred in concluding that the respondent is guilty of nonfeasance despite lack of substantial evidence. Second, error presented by the respondent, is that the honorable body misapprehended the facts leading to an erroneous conclusion. Third, the honorable body erred in considering nonfeasance as necessarily included in misconduct. The two are separate and distinct offenses. Fourth, the resolution violated the respondent's right to due process. Fifth, the resolution intrudes into the discretion and wisdom of the respondent and even suggests to compromise the legal requirements for the issuance of a building permit;

WHEREAS, it may be true that the two crimes are distinct with each other, but it is also true based on the principles of statutory construction, that when one is accused of a higher crime or an action or omission that is punishable by a higher penalty, it is the lower crime or the actions or omissions that is punishable by a lower penalty is necessarily carried or forms a part of the higher defined crime. Meaning, that nonfeasance is part and parcel of the gross misconduct that is the original accusation against the respondent. What the respondent's counsel is arguing is that it is the other way around. She was not charged of nonfeasance and was found guilty of gross misconduct. She was charged of misconduct, so necessarily the acts of nonfeasance is covered under the above-mentioned principles;

WHEREAS, due process was granted to the Respondent. She has all the opportunity to present herself, which she did when she submitted her position paper on the matter because the parties choose that the proceeding will be by way of submission of position paper. Both parties submitted their position papers. Hence, due process matter has been complied with by this August Body;

WHEREAS, the Supreme Court said that administrative findings should be based on a holistic consideration of all evidence rather than a selective analysis. The August Body did not only focus on a single act of Respondent, but also the acts of other witnesses;

WHEREAS, the Respondent Mayor has all the discretion in order to fill in the deficiency in the Applicant's Application for Business Permit. There were two buildings that were erected on the same lot. Both buildings do not have a title over the lot, the barangay and the municipality allowed the buildings to be constructed and to exist. Accordingly, the Mayor instructed through a letter to the municipal engineer. The latter declared that it was the mayor who instructed them to send the documents to her before signing anything. This shows that the mayor has a hands-on knowledge and hands-on the process of the application for a building permit as evidenced by the admission of the building officers or officials of the municipality that Respondent blocked the issuance of the said building permit;

WHEREAS, based from the Motion for Reconsideration, there were no new matters/evidences presented by the Respondent in order to convince the August Body to justify the reversion of its finding and reconsider its decision. This August Body maintains its assertion as reflected in SP Resolution No. 2796-25. Hence, the Motion for Reconsideration manifested by the Respondent is denied;

WHEREAS, after a careful deliberation on the Motion for Reconsideration during the Committee En Banc meeting held on March 4, 2025, the Committee unanimously voted to deny the Motion for Reconsideration filed by the Respondent, Hon. Betty Ensomo-Pimentel. The denial was based on the absence of any additional evidence that would warrant a reversal of the decision. Consequently, the Committee remained unconvinced by her assertions;

WHEREAS, in view of the foregoing, and on motion of _____ and jointly seconded by _____;

NOW THEREFORE

BE IT RESOLVED by the Sangguniang Panlalawigan of Surigao del Sur to deny the Motion for Reconsideration of Respondent, Hon. Betty Ensomo-Pimentel, Municipal Mayor, relative to Administrative Case No. 08-2024 filed by Hon. Jessa P. Mate-Tecson, Virginia P. Gomez, Jopie L. Cahatian, Maribel R. Espinoza, Wilfredo M. Yu, Ira Minette C. Pimentel, Maribel P. Gualvez, Jenebert L. Gaco, Vince Dylan E. Curada, Emmanuel P. Isiang, Sangguniang Bayan Members and Engr. Tristan Angelo Avila of Trident Engineering Services (Complainants), all of the Municipality of Tago, this Province for Grave Misconduct.

RESOLVED FINALLY: To furnish copies of this Resolution to Hon. Jessa P. Mate-Tecson, et al, (Complainants), Sangguninag Bayan Members and to Hon. Betty Ensomo-Pimentel, Municipal Mayor, all of the Municipality of Tago, this Province for their information and guidance.

ADOPTED this _____ at the City of Tandag, Province of Surigao del Sur by
unanimous votes of all the Sangguniang Panlalawigan Members present.

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I HEREBY CERTIFY to the correctness of the foregoing Resolution.

TCMRES. __DENYING MOTION