



PORT OF GUAM

ATURIDAT / PUETTON GUAHAN

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Eddie Baza Calvo
Governor of Guam

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**MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS
Thursday, August 23, 2012**

I. CALL TO ORDER

There being a quorum, the regular meeting of the Board of Directors was called to order at 11:45 a.m., Thursday, August 23, 2012. Present at the meeting were:

Daniel Tydingco, Chairman – *Telephonic Participation*
Michael Benito, Vice Chairman
Shelly Gibson, Board Secretary
Christine Baleto, Member
Mary C. Torres, General Manager
Atty. Mike Phillips, Legal Counsel

Absent were Board member Eduardo Ilao and Anisia B. Terlaje, Deputy General Manager. Also present were AnnMarie Muna-AM Insurance; Wayne Baumunk-Coral Reef Marine Center; Jimmy Camacho-Office of Senator Tom Ada; Fishermen: Peter Gervcio, John “Atulai” Taitano, JR Howser and Joseph Cruz; John Bell-Law office of Phillips&Bordallo; Thelma Hechanova-OCCAM Solutions; Kaleo Moylan-KM&T and Port Management staff.

Without objections, the Vice Chairman first entertained Cementon Micronesia and KM&T items under old business and called upon representatives to provide updates on this matter. At this time, there were no Cementon Micronesia representatives present.

Mr. Kaleo Moylan, KM&T representative said positive discussions have been made with NAVFAC Marianas relative to the following: distance from the nearest port lease to navy’s property line; location of the dolphin pier to the coast guard traffic boundary lines; encroachment of port lease property line on the navy’s property boundary lanes. Mr. Moylan mentioned to NAVFAC that there is additional information needed prior to further engaging with the port Board relative to finalizing the lease. He indicated that KM&T also received the topographic boundary survey map and wetland map from the Port. The General Manager said in the meantime, the Port will be sending a letter to KM&T advising if there are any outstanding items, such as reports and financial models needed.

II. APPROVAL OF MINUTES

a. July 26, 2012: At this time, the minutes were deferred until the arrival of director Gibson. There were no objections.

III. PUBLIC COMMENT

a. **Public Comment:** Mr. Wayne Baumunk, Coral Reef Marine Center presented the Board with pictures depicting the conditions of Agat marina which is in dire need of repairs.

These include the following:

- **Derelict/Abandoned Boats** – Should be removed. It is not well maintained and endangers other boats.
- **Boat Sewage Pumpout Station** – Has not been in operation for a long time. This is a federal requirement that all vessels be able to pumpout their sewage. Currently, every commercial vessels dump either inside the harbor or outside the harbor, directly into the water.
- **Sanitation Bins** – Suggested to install cameras at the dumpster site as Agat private residents dispose of their personal garbage into the bins which overflows and is an eye-sore to the public and tourists that patron the Agat marina.
- **D-dock** – It is falling apart, disconnected.
- **B-dock or C-dock** – Particularly the one next to the green post is totally disconnected and renders the dock unusable.
- **Overall docks** – There are holes, and missing lumber. It is a lawsuit waiting to happen.
- **Power Pedestals** – It is loose and unattached. Unsure whether there is power to them or not.
- **Floating Dock** – There is a section of a floating dock that is loose inside the harbor.
- **Stairs** – The stairs and railings is unsafe.

The General Manager thanked Mr. Baumunk for sharing these concerns. She pointed out that at the previous meeting the Commercial Manager addressed the deterioration of Agat marina and have indicated there to be no plans at the moment or funding source to perform a complete restoration of those docks which is estimated to be about \$700K per dock to replace. The General Manager proposes to pursue a plan of action and prepare a scope of work and have the Planning division look at possible funding source to repair the Agat marina facilities.

The Vice Chairman mentioned that although there may not be funding available at this time to perform an overall fix to the marina, he asked that items easily fixable should be addressed, such as securing the trash bins with a fence around it; checking whether those power lines are 'hot' near exposed water. Other areas that are potentially hazardous, such as docks floating in the water would prefer that those areas are closed off and not accessible to the public.

b. **Employee Comment:** None.

c. **PAGGMA Association:** Mr. John B. Santos, PAGGMA President invited everyone to the Labor Day picnic scheduled for September 2, 2012. The Port tent will be located directly behind the Guam Visitors Bureau, Ypao Beach.

IV. GENERAL MANAGERS REPORT

1. **New Zealand Military Vessels:** The military vessel HMZNS Endeavor and Te Kaha called port on August 18 and stayed until August 22. A typical navy vessel armed with weapons, radars, sonar and electronic monitoring systems. The ships call to Guam was to replenish provisions and for some rest and relaxation for the crew.

2. **New Shipping Line Calls to Guam:** Swire Shipping owned and operated by the China Navigation Company, made its first call to Guam August 21, 2012. With a fleet of multi-purpose vessels equipped to handle break-bulk, containerized and bulk cargos, Swire offers shipping links in Asia, Pacific Island, Australia, New Zealand, North America, Europe, the Middle East and the Indian Sub Continent. This vessel is expected to call port every 16 to 17 days.

3. **GDP Marina Phase II:** Authorization to proceed was issued by OIA for the Phase II of the Hagatna marina renovations. Deadline to submit a bid is September 5, 2012.

4. **Adopt-A-School Programs:** Operations and Maintenance division did an outstanding job on the cleanup efforts of the adopt-a-school program. She commended the Operations Manager as well as the Maintenance Manager for organizing a very dedicated team. Appreciation is also made to PAGGMA for supporting the group.

V. REPORTS

a. **List-Federal Grant & Local Funding Programs:** Ms. Dorothy P. Harris, Chief Planner presented the following: the Port is a recipient of a brand new port police vehicle through the Department of Homeland Security funding; aside from the GDP marina Phase II project, another bid has been issued for the EOC Center. Anticipated upcoming projects are the portable container screener; and harbor of refuge mooring repairs.

Mrs. Baleto noticed that the 'end date' of the grant reflects an expiry period; however, still showing a remaining balance. She advised that the report should be appropriately reflected for purposes of tracking. Ms. Harris said efforts are currently being made to determine whether such balance can be reprogrammed for other projects and will ensure it is reflected on the report. She informed the Board that all recipients of federal grants have been advised to expedite the expenditure of the funds and she assured the members that is the aim of the planning division. The 2013 Grant Plan was presented to the Board for information.

b. **Financial Report:** The financial report for the month of July 2012 was presented to the Board for information. Mrs. Baleto advised management to monitor the accounts receivables. The Chairman asked the status of the fiscal year 2013 budget. The General Manager said it is a work in progress. Although there is a draft, she expressed that there are several considerations that need to be thought through based on the different scenarios and unknowns at this point. The General Manager preferred that a more refined version be made available for Board review which will be in two weeks time. The Vice Chairman asked that the draft budget management is currently working on be forwarded to the Board for review.

Mrs. Baleto asked that the financial report be made available to the Board two days prior to the meeting.

At this time, director Gibson is in attendance at the board meeting, 12:25 p.m.

c. **Insurance Report:** The insurance report for the month of July 2012 was presented to the Board for information.

1. **Guam YTK**

Mrs. AnnMarie Muna, AM Insurance said this matter has been a longstanding issue. She explained that initially this was entertained as a Marine Liability policy; however, over time with correspondence produced it is believed that this may fall under the Directors & Officers Liability policy. She said information is necessary from the Port as to when this claim arose so the correct D&O underwriter can be put on notice.

d. **Operation Productivity Report:** The operations productivity report for the month of July 2012 was presented to the Board for information. This report contains information on domestic and foreign vessels recap for Matson, Islander, Shuttle, MELL and Kyowa.

At this time, prior to the Chairman being excused from the meeting to attend another engagement, approval of the minutes was called.

II. APPROVAL OF MINUTES

a. **July 26, 2012:** The Chairman made motion to approve the minutes of July 26, 2012 subject to corrections, seconded by the Vice Chairman. In calling for the vote, all those who voted in favor of the motion were the Chairman, the Vice Chairman, and director Gibson. Mrs. Baleto abstained for purposes of not being present at such meeting. The motion on the floor passed by a majority vote.

V. REPORTS (cont.)

e. **Property Leasing/Port Development:** In addition to the property report of July 24, 2012 that was presented to the Board at the previous meeting, Mr. Glenn B. Nelson, Commercial Manager reported on the following:

1. **KM&T** – In order to assist in the proposal, Cement Plus/KM&T was asked to be guided by the Port letter dated January 28, 2011 to address any outstanding items required to be submitted to the Port. A reminder letter to this effect was also provided to KM&T on June 13, 2012.

2. **Hanson-Lot 6:** Formally engaged Hanson to negotiate extended term rents for Lot 6. The extent of the proposal basically was to offer Hanson the appraised value of the adjacent lot (Lot 5). A response is expected tomorrow.

3. **Tristar-Performance Bond Requirement:** Request is being made to waive the performance bond requirement identified in the November 2009 assignment between Shell and Tristar. It is a \$250K requirement in place for a period of five years; however, Tristar has since proven to be operationally and financially competent. The Vice Chairman asked whether this affects or is a component of the lease. Mr. Nelson said it is a management agreement by way of a request for proposal. Mrs. Baleto asked whether there would be alternate recourse should Tristar not continue with their performance. Mr. Nelson said there is a \$100M liability insurance coverage requirement that is made part of the management agreement. He mentioned that there would be no loss revenue to the Port if the performance bond requirement is waived. The General Manager said Tristar has shown their commitment to Guam and contributes to the local economy, and based on their track record requested Board consideration to dispense the bond requirement. This arrangement was made back in November 2009 for purposes that Tristar was unknown to the Port. The Vice Chairman asked that a copy of the management agreement be provided to the Board and Legal Counsel for review.

f. **Marina Report:** Mr. Felix P. Pangelinan, Harbor Master said the Port continues to enforce the marina rules and regulations and is working with Legal Counsel on the triple A process to better define the activities/boundaries and any other areas of improvement.

In the interim, Mr. Pangelinan said the Port is proposing a special initiative that is aimed to enable seasonal net fishing within a well defined area of the Gregorio D. Perez Marina, more commonly known as Agana Boat Basin, but outside the navigational channel. This effort is being made in coordination with Department of Agriculture and is hopeful that it takes effect latter part next month. The Vice Chairman asked how the permitting arrangement will be handled. Mr. Pangelinan said the permitting requirements will be under the purview of Department of Agriculture. The General Manager mentioned that this initiative is being guided under the premise that such activity is enabled through Title 5 GCA Chapter 63 §63116 with regard to "Taking of Fish". The Port's involvement, as mandated by U.S. Coast Guard, is to preserve the navigational easement into the Port, so certain areas are restricted because it would compromise the movement of vessels in and out of the marina which is the Port's main concern. If there are areas that are deemed to be in the outer basin not in the direct line of movement, then those areas perhaps can be available for fishing. At this time, the General Manager presented a picture that depicts the delineation of the proposed initiative of the designated net fishing areas as well as restricted areas. She indicated that the intent of the marina rules and regulations is to address the safety measures of vessels traversing the channels and not necessarily the fishing activities.

At this time, the general public (anglers/netters) was recognized to express their concerns, which were as follows:

- when will a designated area for fishing be established
- all should adhere to the marina rules and regulations
- how many times will this special permitting be provided within the year
- disparity in harvesting – permitting rules and/or designation of site needs to accommodate both anglers and netters

- enforcement to prevent fishermen from selling their harvest which is prohibited
- special permitting will present more conflicts
- assurance that special permitting will be enforced

The Vice Chairman appreciates the concerns expressed and mentioned that this special 'seasonal' permitting is simply a port initiative that will be coordinated with Department of Agriculture or any other regulatory agencies to determine whether it is permissible and/or doable. Legal Counsel said based on his review, netting is allowed in the general description of what Department of Agriculture may permit as their rules allow for fishing in the marinas. On the contrary, the Port's marina rules and regulations is specific indicating 'no netting'. He agrees with the General Manager that the intent of the prohibition is for purposes of safety concerns on vessel movement in and out of the marina. Legal Counsel mentioned that the Department of Agriculture has the authority to allow for these kinds of activities and not the Port.

RECESS

At this time, the members agreed to recess the meeting for lunch. The meeting recessed at 1:15 p.m.

RECONVENED

The members reconvened the meeting at 1:30 p.m.

g. **Procurement Report:** Mrs. Alma B. Javier, Procurement Manager presented the following:

1. **Port Insurance** – Understands that the insurance bid package and specifications has been routed to Legal Counsel for review and concurrence. Once completed, GSA will begin to advertise the bid on a newspaper of general circulation.
2. **RFP No. 12-003 Performance Management Services for Port Cranes** – An announcement was issued on June 29, 2012; pre-proposal held on July 19, 2012 and deadline to submit is September 14.
3. **IFB No. 12-006 Design/Build Port Security Enhancement Program** – An announcement was issued on August 1, 2012; pre-bid meeting on August 16, 2012 and submission deadline on September 14.
4. **IFB No. 12-007 GDP Hagatna Marina Renovation & Site Improvement, Phase II** – An announcement was issued on August 2, 2012; pre-bid meeting on August 17, 2012 and submission deadline on September 5, 2012.
5. **Contract Renewal Options** – For Board's information, currently there are three contracts due for renewal options, namely IRIS Ltd (Mike Moody); AM Insurance and PMC Medical Isla. These items are pending Legal Counsel's review on whether such options are permissible. The Vice Chairman noticed that Mr. Moody's contract expired on August 2012 and asked the status of the contract. Legal Counsel said that is a policy call by the Board or management on whether the desire is to renew the contract. The General Manager recalled that

Board directive was to extend Mr. Moody's contract on a month-to-month basis for two months subject to Legal Counsel's review for legality and form of the contract renewal options. She said that in speaking with Mr. Moody, he was not acceptable to the arrangement. The General Manager presented a letter from Mr. Moody expressing his concerns which state in part that "the proposed amendment would effectively abrogate the five-year agreement signed by himself and the Port back in 2010 and that there is no reasonable cause for prematurely terminating the relationship." This is being presented to the Board for disposition. The Vice Chairman recalled board directive to Legal Counsel was to determine whether multi-year contracts are valid or does it need to be re-issued. He advised Legal Counsel to address this issue soonest for the Board to respond accordingly, unless it is the desire of this Board to rebid this out. Ms. Gibson said she would like to rebid this service. Mrs. Baleto asked for the procurement process of this service. Mrs. Javier said the complete process would be sixty days – bid issuance, negotiation, then contract process. Mrs. Baleto asked whether there would be any impact to the Port during this period without a risk management services. The Vice Chairman understands that all the crucial projects requiring this type of service has already been addressed, so there should not be an immediate impact. Without further discussions, the General Manager was advised to terminate Mr. Moody's services and rebid the risk management services.

h. **Safety Report:** Mr. Francisco C. Roberto, Safety Administrator presented the personal injuries and industrial accidents indicating 10 recorded and 15 accidents, respectfully. He said to date the Port has expended a total of \$28,290.00 for medical services. Ms. Gibson asked whether any of these incidents stemmed from the lack of personnel protective equipments. Mr. Roberto replied negatively.

For Board's information, Mr. Roberto announced that the U.S. Coast Guard annual inspection is scheduled for September 18-19, 2012.

i. **2013 Training and Travel Plan:** Mrs. Francine T. Rocio, Personnel Services Administrator presented the 2012 training and travel as well as the proposed 2013 travel. She said every fiscal year during the budget preparation the division heads are asked to provide anticipated travel/trainings to the Human Resource office. Ms. Gibson asked for the Human Resource department to begin a repository of all travel and training.

VI. OLD BUSINESS

3. **PUC Matters:** For Board's information, the General Manager said the PUC will be holding its meeting on August 27, 2012 which will include port matters relating to the Crane Sales Contract as well as Port's request for extension on the reports. Those include: 5 year tariff rate plan; management review; upgrade to the marina facilities; and financing plan Phase I-A and Phase I-B.

4. **ANZ-Letter of Offer (Crane), USDA:** The General Manager said the Port submitted a counter-offer to ANZ on August 22, 2012 on the loan conditions which were consistent with the Board's concerns. She said in the event this effort falls through, discussions have already been made with GEDA who is prepared to assist the Port in this endeavor. All indications with USDA were positive as well.

5. **GEDA Loan Status:** The General Manager said it is hopeful that the request for proposal be issued this month by GEDA on the commercial lending institution for the proposed financing of the Port's service life extension repairs on the Port's wharf in the amount up to \$10M. The package has been updated to reflect the insertion of the financial management system and the yard equipment as agreed upon by the Board.

6. **Port Modernization Program-Implementation Plan:** The General Manager said the technical development team meets on a regular basis. The team is closely working with the Guam Environmental Protection Agency to ensure there is a plan for all environmental mitigation efforts. She mentioned that MARAD had solicited information on previous works performed by the Port's OAE Consultant to avoid duplication in engineering services, surveying and the like.

7. **PAG-GFT Contract:** Tabled, until next meeting.

8. **New Carrier Outreach Status:** The General Manager said there has been some initial effort made by director Gibson. The Vice Chairman understands the need for a new carrier; however, felt that perhaps until the Port acquires the cranes, and the port modernization plan is in process, it would be much easier to outreach at that point.

VII. NEW BUSINESS

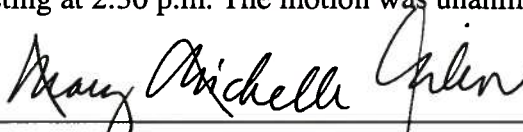
a. **Cruise Shipping, Marina Bay Cruise Centre Singapore, September 17-18, 2012:** The Vice Chairman made motion to approve travel authorization for director Gibson to attend the Cruise Shipping, Marina Bay Cruise Center in Singapore scheduled for September 17-18, 2012. And for purposes of travel cost, the registration and per diem will be borne by the Port. Motion was seconded by Mrs. Baleto and was unanimously approved.

VIII. EXECUTIVE SESSION

No executive session items discussed.

IX. ADJOURNMENT

There being no further business to discuss, it was moved by Mrs. Baleto and seconded by the Ms. Gibson to adjourn the meeting at 2:30 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors

