



**PORT OF GUAM**

ATURIDAT I PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

1026 Cabras Highway, Suite 201, Piti, Guam 96925

Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445

Website: [www.portguam.com](http://www.portguam.com)



Eddie Baza Calvo

Governor of Guam

Ray Tenorio

Lieutenant Governor

**MINUTES OF THE  
REGULAR MEETING OF THE BOARD OF DIRECTORS  
Thursday, March 22, 2012**

**I. CALL TO ORDER**

There being a quorum, the regular meeting of the Board of Directors was called to order at 11:50 a.m., Thursday, March 22, 2012. Present at the meeting were:

Daniel Tydingco, Chairman  
Michael Benito, Vice Chairman  
Shelly Gibson, Board Secretary  
Eduardo Ilao, Member  
Christine Baletto, Member  
Mary C. Torres, General Manager  
Anisia B. Terlaje, Deputy General Manager  
Atty. Mike Phillips, Legal Counsel  
Atty. Rick Bordallo, Co-Counsel

Also present were Jimmy Camacho-Senator Tom Ada's office; Thelma Hechanova-Ocean Solutions; Thomas Hertslet-Triple J Express Tire; Jack Mowreader-PMT EA; John Dennett-Agility (Tristar) and Port Management staff.

**II. APPROVAL OF MINUTES**

a. **January 26, 2012:** The Vice Chairman made motion to approve the minutes of January 26, 2012 subject to correction. The motion was seconded by Ms. Gibson and was unanimously passed.

b. **February 17, 2012:** The Vice Chairman made motion to approve the minutes of February 17, 2012 subject to correction. The motion was seconded by Mr. Ilao and was unanimously passed.

**IV. OLD BUSINESS**

1. **Financial Report:** The financial report for the month of January 2012 and February 2012 was presented to the Board for information. Board presented concerns for management consideration: revert back to the previous format on the financial reporting; prepare the mid-year budget; and receivables for leases to determine whether accounts are collectible items.

2. **Insurance Report:** The insurance report for January 2012 and February 2012 was presented to the Board for information. The Chairman recalled that the item on Watts Construction has been resolved. Ms. Gibson replied in the affirmative as to settlement; however, for this particular purpose attempt is being made to recover cost on legal fees with the insurance company under the D&O policy coverage.

3. **List – Federal Grant / Local Funding Programs:** The General Manager informed the Board of discussions held with USDA and ANZ representatives regarding the withdrawal of the Guaranteed USDA Loan of \$25M for the port modernization program. She stated USDA representatives have informed the Port that application for another direct loan will be considered in the future. The Vice Chairman recalled differently at the recent meeting discussion held last week with Mr. Chris Kanazawa, State Director of USDA and preferred that clarification be made. The Chairman advised management to prepare a letter reflecting the meeting with Mr. Kanazawa on March 16, 2012 and to also follow up on the Port's request for extension of the \$14M USDA loan.

a. **Status of USDOT Tiger Grant IV Application:** The General Manager said the Port submitted the Tiger Grant IV application on March 19, 2012; totaling \$20.7M of port projects. Confirmation of receipt has been made by the U.S. Department of Transportation. The estimated timeframe to receive status on the application is about six weeks.

4. **Marina Ribbon Cutting and Phase II Grants:** The Chairman congratulated management and staff on the completion of Phase I GDP marina renovation/site improvements and arranging for a ribbon cutting ceremony for this accomplishment.

Mrs. Dorothy P. Harris, Chief Planner said the Phase II improvement to GDP Marina will be funded through the Office of Insular Affairs, Department of Interior in the amount of \$2.5M. Staff is currently finalizing the scope of work for submission to DOI and upon approval will issue the authorization to proceed to the Port. The bid issuance for this project will be for construction management and actual construction as the design work has already been completed. The estimated timeframe to commence actual construction would be 90 days.

5. **Port Modernization Program – Implementation Plan:** The General Manager briefed the members on the latest developments that has taken place which included: recent movements involving the port users, stakeholders, local officials regarding the Washington D.C. meeting of February 24, 2012; and letter dated February 29, 2012 to the Maritime Administration regarding risk mitigation at the Port which MARAD has yet to respond.

6. **Program Management Manual:** The General Manager said the Port has received MARAD's comment on the protocol manual dated February 22, 2012. She said it is clearly not a final version, but there are discussions to be cognizant of each party's needs and interest and ensure it is clarified before moving forward with a technical development team. The Chairman asked whether that version was erroneously submitted on the part of MARAD as it provides signatories of former officials of the Maritime Administrator, Governor of Guam, Port Chairman and Port General Manager. He commented that perhaps this is the wrong version that

was inadvertently transmitted. The Chairman expressed that he contemplated a version he provided that is red lined from the last working session held between both parties and recalled that it was forwarded to MARAD for legal review and format. He was concerned that it has been permutated over the course of a year and a half and the time and effort put forth. The General Manager said she will work closely with representatives of MARAD and PMT-EA on this matter.

7. **Ratification of Resolution No. 2012-02 - Designation of Signatories:** The Vice Chairman made motion to ratify Board Resolution No. 2012-02 relative to the designation of signatories for the Port Authority of Guam, seconded by Ms. Gibson. Motion was unanimously approved. Ms. Gibson asked that management ensure the order in which the signatories apply is adhered to and complied with.

8. **Approval of Resolution No. 2012-03 – Creation of Positions:** At the previous meeting, the Board authorized management to proceed with the transparency process for the positions of Assistant Maintenance Manager and Assistant Operations Manager positions which has since been completed in accordance with Section 6303 of Title 4, GCA. The General Manager advised the Board there was a conversion component to this request in that two existing positions in the staffing pattern were used to create the proposed positions currently before the Board. As a result of the transparency process, she said there is opposition submitted against the conversion of existing positions for the two proposed positions. She explained the positions of the Assistant Maintenance Manager and Assistant Operations Manager removed the Assistant Harbor Master and the Assistant Port Police Chief positions. The Chairman asked clarification as to whether the opposition was based on the replacement of the positions that are presently in the staffing pattern or the reallocation of funding of the existing positions to the created positions. The General Manager replied that the opposition addresses both circumstances. She said the Harbor Master and Chief of Police in making these concerns known to management has expressed that their respective FTE's are vital positions to support their 24 hour operation. The Chairman asked how long those positions have been unfilled. Mrs. Vivian C. Leon, Corporate Services Manager said the Assistant Chief of Police is about six years and the Assistant Harbor Master since May 2011. Mr. Felix R. Pangelinan, Harbor Master added the arrangement under the former General Manager was to go through a rotational basis of the Marine Traffic Controller staff allowing them the opportunity to be detailed to the Assistant Harbor Master position. He then later learned of this conversation and funding reallocation. Mrs. Leon clarified that the two positions were not funded for this fiscal year budget. The Chairman commented at the previous meeting it was reported that funding was available for the created positions. Mrs. Leon replied that is correct. She explained that funding has been identified for the proposed positions through other internal sources and not that of those respective FTE's.

After discussion, the Vice Chairman understands that the FTE's has not been filled for an extended period of time, but those respective divisions continues to operate. He said he does not understand the reasoning to cease the process of going forward with the two proposed positions that the Board has identified to be necessary positions. The Chairman mentioned that the transparency process will continue without any impact to the existing vacant FTE's; furthermore, the General Manager is to identify funding for the proposed positions.

The Vice Chairman made motion to approve Board Resolution No. 2012-03 relative to approving the creation of Assistant Maintenance Manager and Assistant Operations Manager positions in the classified service at a Pay Grade N as authorized under Title 4, Guam Code Annotated, Sections 6303(d) and 6303.1, seconded by Mrs. Baletto, subject to the availability of funds. Motion was unanimously approved.

9. **Recently Enacted Tariff: PAG Docket 11-01 Petition for Tariff Rate Relief:**  
The General Manager presented PAG Docket 11-01 relative to the Port's petition for tariff rate relief. She stated the order required the Port to provide the following reports:

1. Five year plan detailing any tariff increases for the next five years;
2. Conduct a sensitivity analysis to determine event impacts in Japan and the United States;
3. Plan for the upgrade of marina facilities; and
4. Financing plan for the completion of Phase I and Phase II of the 2007 Port Master Plan.

The General Manager said items 1 thru 3 are due August 22, 2012, while item 4 was provided a deadline of November 2012. She expressed concern with item 2 which will require a great deal of investment and whether it serves the Port's purpose. She stated whether there is some flexibility to instead provide a management audit or business model. The Chairman understands these recommendations are part of an order previously adopted by the Public Utilities Commission (PUC); however, if there are items that require clarification it should be brought to their attention. The Chairman said since the Port will soon be going before the PUC seeking surcharge authority for the acquisition of the cranes this may change the direction of these items. He advised management to prepare a letter requesting to conduct a management audit instead of a sensitivity analysis.

10. **Container Yard Lighting:** The General Manager said a ground breaking ceremony was held on March 22, 2012 which went well. The meeting held yesterday were to address the roles and responsibilities on this project for Port, PMT and MARAD.

#### IV. NEW BUSINESS

1. **IFB PAG CIP-012-002 Design/Build Electrical Upgrades – Distribution Subpanel Boards:** The General Manager said on February 21, 2012, a bid was issued to solicit construction work for the design/build electrical upgrades. Eleven firms expressed interest, seven of which submitted a response to the bid on March 20, 2012. Port staff reviewed the technical response on the lowest bidder and outcome of their review is the project be awarded to MD Crisostomo, Inc.

The Vice Chairman made motion to approve the award to MD Crisostomo, Inc. in the amount of \$60,874.00 for IFB PAG CIP-012-002 Design/Build Electrical Upgrade Distribution Subpanel Boards. Motion was seconded by Mr. Ilao and was unanimously approved.

In relation to procurement matters, the Chairman instructed management to ensure those procurement contracts nearing its expiration dates that sufficient time be provided to present to the Board for review in order to avoid any delays, especially those which require PUC approval.

2. **Travel Authorization Request:**

a. **AAPA Port Finance Seminar – April 17-19, 2012, Miami, Florida:**

Mrs. Baleto made motion to approve travel authorization for Mr. Glenn B. Nelson, Commercial Manager to attend the AAPA Professional Port Manager (PPM) Certification Program for the Port Finance Seminar scheduled for April 17-19, 2012, Miami, Florida. Motion was seconded by Ms. Gibson and was unanimously approved.

b. **Cost Benefit Analysis Course – May 8-10, 2012, Hawaii:**

The General Manager said recommendation is being made to authorize three Port staff to attend the cost benefit analysis course which will assist in them in preparing grants. The benefits of this training will instill the skill sets of those employees in preparing future grant applications. The travel and training is federally funded under the Port Security Grant Program.

Mrs. Baleto made motion to approve travel authorization for three Port staff to attend the Cost Benefit Analysis Course scheduled for May 8-10, 2012 in Hawaii, seconded by Mr. Ilaio. Motion was unanimously approved.

c. **FY2012 National UASI/Homeland Security Grants Conference – May**

**21-24, 2012, Columbus, Ohio:** The General Manager said recommendation is being requested to allow five staff to attend the national security conference for purposes of enhancing the Port's maritime and security initiatives. Topics to be covered include: best practices, lessons learned, real life experiences, useful examples, and policy insights that can further improve a jurisdiction's emergency management and response capabilities. This travel and training will be federally funded under the Port Security Grant Program.

Mr. Ilaio made motion to approve travel authorization for up to five port and management staff to attend the FY2012 National UASI/Homeland Security Grants Conference scheduled for May 21-24, 2012 in Columbus, Ohio. Motion was seconded by Mrs. Baleto and was unanimously approved.

For Board's information, the General Manager provided a list of anticipated trainings/conferences.

3. **Loan Facility Procurement for Service Life Extension Repairs:** At this time, the General Manager yielded to Mr. Jose B. Guevara, Financial Affairs Controller to apprise the Board about a meeting held with Guam Economic Development Agency. At the request of GEDA, Mr. Guevara said a meeting was held recently with GEDA and Bank of America/Meryl Lynch representatives on revenue bonds borrowing. He understands that GEDA is going through the process of a request for proposal to acquire professional services for Underwriters for all Utilities which the Port has been deemed identified as pursuant to law. This meeting was

to keep the Port apprised of other financing alternatives available. The Chairman advised management to formalize the initiatives with USDA and ANZ on their respective financial assistance to the Port; \$14M acquisition of cranes and the service life extension; and obtain clarity on the quotation with the insurance company.

## **V. PUBLIC COMMENT**

As a long time resident of Guam, Mr. Thomas Hertslet, Triple J Express Tire expressed concern with the developments of the wharves. He said the Port is important to the community as it is where 95% of all the goods and services come into Guam. He said the repairs of the F5 wharf should be fully repaired now and not just a temporary fix because in ten years having to fix it again would be too costly. He was most especially concerned with the military buildup in the near future, and expressed the repair of F5 wharf should be fixed properly. Mr. Hertslet suggested there be a collaborative effort from all stakeholders, federal and local officials to obtain the necessary funds to ensure proper repair is made to the wharves. The Chairman understands the concerns expressed and have assured Mr. Hertslet efforts have been made relative to this matter and the Port is working closely with the federal partners in this endeavor; unfortunately there is no luxury of time nor is there a vast amount of financial resources that would bring those wharves to a preferred condition and state at this time.

Before moving into executive session, Legal Counsel advised the Board that the Crane Negotiation item should be addressed in an open meeting.

1. **Crane Negotiations:** Co-Counsel said there is a non-binding agreement prepared by Matson/Horizon relative to the terms of the acquisition of the POLA cranes. He mentioned that irrespective of what those terms indicate, the Board would need to determine whether to acquire the cranes or not. He said the non-binding agreement is like a term sheet, although there are some provisions stipulated do not legally bind the Port into purchasing the cranes or to do anything at this point even if the document is executed. The Chairman clarified whether the POLA Crane Negotiation Team would need to provide recommendations to the Board for consideration. Co-Counsel replied the Negotiation Team should present the agreements and recommendations to the Board. The Vice Chairman asked Legal Counsel whether the Port can sign the term sheet at this time. Legal Counsel replied positively.

At this time, Board discussion took place on whether this meeting should be recessed to allow time for the Negotiation Team to gather the necessary information.

Ms. Gibson brought the Board's attention to the following sections of Public Law 31-145: Section 3(b) Conflicts Prohibited and Section 3(c) Assessment. Legal Counsel was advised to look into those sections.

## **VI. EXECUTIVE SESSION**

At this time, the Board went into executive session. Executive Session ended at 1:25 p.m. The Board went back into the regular meeting session.

Items addressed in executive session includes: Lease and Property Issues and GFT Matters.

**RECESSED:** The Vice Chairman made motion to recess the meeting subject to the call of the Chairman, seconded by Mr. Ilao. Motion was unanimously passed. The meeting recessed at 2:00 p.m.

**RECONVENED:** There being a quorum, the Chairman called the meeting to order at 11:55 a.m., Friday, March 30, 2012. Present at the meeting were:

Daniel Tydingco, Chairman  
Michael Benito, Vice Chairman  
Shelly Gibson, Board Secretary  
Eduardo Ilao, Member  
Christine Baleto, Member  
Mary C. Torres, General Manager  
Anisia B. Terlaje, Deputy General Manager  
Atty. Rick Bordallo, Legal Counsel

Also present were Jimmy Camacho-Senator Tom Ada's office; Guam Legislature-Chris Garilo, Carlo Branch and Carlos Pangelinan, Senator BJ Cruz and Port Management staff.

#### IV. NEW BUSINESS

3. **Loan Facility Procurement for Service Life Extension Repairs:** The Chairman said MARAD has yet to provide their assessment on the waterfront and learned the report may be transmitted by next month. However, the Owner's Agent Engineer has completed its assessment which compels the Port to proceed forward with the repairs. He stated there will be impacts that the Port would need to be consider, i.e., insurability, increase in premiums and Port's ability to get proper funding. As an alternative, there have been discussions to seek a private loan facility procurement for service life extension repairs which was estimated to be up to \$15M. The General Manager said a meeting has been arranged for Monday, April 2, 2012 to work with GEDA in facilitating this process. The Chairman clarified with Legal Counsel that as part of the process in procuring a loan facility through a request for proposal, the Port is mandated to go through GEDA. Legal Counsel replied that is correct.

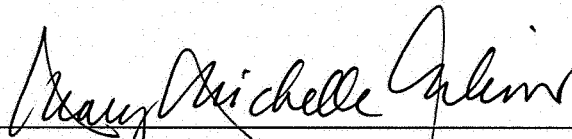
Without objections, the Chairman said for purposes of initializing the relationship with GEDA, he authorized management to engage with the Guam Economic Development Agency. Legal Counsel read the following: *The Board authorizes and directs the General Manager to initiate the loan facility procurement process with GEDCA to procure a loan in an amount up to \$15M to fund the service life extension repairs for the wharfs and to take such actions as is necessary and consistent with the law.*

The Chairman advised Legal Counsel to make minor correction to reflect 'GEDA' rather than 'GEDCA' as such agency reverted back to its former agency title. Mr. Ilao asked whether the direction is to proceed in parallel while waiting on MARAD's assessment report. The Chairman said the Port has been unofficially advised to expect the assessment report of the wharf by next month; however, absent any official statement to that effect, the Port is publicly compelled to move forward and has a responsibility to ensure that all efforts are made on the waterfront repairs. The Chairman reminded the members the Port had sent a letter to MARAD seeking to use \$15M of the \$50M DOT grant funding to support the repairs of F5, but no response from MARAD has been received to date.

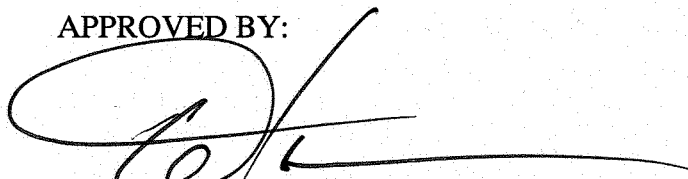
The Vice Chairman made motion to adopt resolution authorizing the Port to initiate the procurement process with the Guam Economic Development Agency to procure a loan in an amount up to \$15M to fund the service life extension repairs for the wharfs and to take such actions as is necessary and consistent with the law. Motion was seconded by Mr. Ilao and was unanimously approved.

#### VIII. ADJOURNMENT

There being no further business to discuss, it was moved by the Vice Chairman and seconded by Mrs. Baleto to adjourn the meeting at 12:05 p.m. The motion was unanimously passed.

  
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MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:

  
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DANIEL J. TYDINGCO, Chairman, Board of Directors

