



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



Eddie Baza Calvo
Governor of Guam
Ray Tenorio
Lieutenant Governor

**MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS
Tuesday, May 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., Tuesday, May 22, 2012. Present at the meeting were:

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

Absent was Ms. Anisia B. Terlaje, Deputy General Manager. Also present were Thelma Hechanova-OCCAM Solutions; Jimmy Camacho-Senator Tom Ada's office; AnnMarie Muna-AM Insurance; Chris Carilo-Guam Legislature; Benjamin Cruz-Senator; PB/OAE-Jeff Schechtman/Jeff Peck and Port Management staff.

II. APPROVAL OF MINUTES

- a. **April 26, 2012:** Mrs. Baleto made motion to approve the minutes of April 26, 2012 subject to correction. The motion was seconded by the Vice Chairman and was unanimously passed.
- b. **May 15, 2012:** The Vice Chairman made motion to approve the minutes of May 15, 2012 subject to correction, seconded by Mrs. Baleto. Motion was unanimously passed.

III. PUBLIC COMMENT

- a. **Public Comment:** Mr. Benjamin Cruz, Vice Speaker of the 31st Guam Legislature requested copies of the public notices for May 15, 2012 special Board meeting.
- b. **Employee Comment:** None.
- c. **PAGGMA Association:** None.

IV. COMMUNICATIONS

1. **Letter to Senator Thomas Ada dated May 2, 2012 regarding Guam YTK Termination of Lease:** For informational purposes, the General Manager mentioned that the status of the Guam YTK matter was provided to the Oversight Chair as requested at the informational briefing held on April 17, 2012.

2. **PAG response to MARAD Seismic Risk Analysis Report:** The General Manager said the Port had received the draft Seismic Risk Analysis Report for berths F-4 and F-6 from MARAD on May 3, 2012. MARAD conducted a presentation of the report and had advised the Port to provide questions, comments or concerns prior to its finalization. In response to this, the Port provided its review of the report which basically outlines its understanding of the study's conclusion as follows:

- Berth F-4 - potential for bulkhead failure is dominated by soil failure; potential instability and soil liquefaction failure may occur during earthquake of magnitude 6.5 or greater; mean probability of failure during a remaining service life of 20 years is 9.5%, also with berth F-6.
- There is a chance that both berths could fail during earthquakes of magnitude larger than 7.0 accompanied by ground acceleration greater than .50g. The mean probability of simultaneous failure of both berths during a remaining service life of 20 years is 2%.
- Mean probability calculations result from a broader range of probabilities with confidence interval of 5-95%.

The Chairman asked the status of the service life extension issue. As directed by the Board, the General Manager said the Port is pursuing to finance the maintenance and repair of the service life extension projects through commercial lending. She mentioned MARAD had acknowledged this movement forward for expediency purposes. At this point, the projects which should not be delayed are the maintenance repair of F-5 columns, spalling and exposed rebar and installing a cathodic protection system. She indicated although optional and can be delayed for a couple of years was the soil stabilization which is the third component of the project.

The General Manager said her understanding was in October 2011, the service life extension work for F5 was contemplated in Phase 1A which was approved collectively by MARAD and Port. However, the review of the last version of the implementation plan, the \$5M allocated for the F5 repair was not included in the document. As a result, management then proceeded with Board's direction in looking into commercial loans for these repairs.

The General Manager expressed concern about the stability of the F5 waterfront and maintenance and repairs would need to be considered for the columns. She said knowing the \$5M was not made part of the itemized breakdown of October 2011 and if it was considered it would impact the uplands project. The General Manager said it would be in the best interest of the Port knowing the urgency in getting the repairs done, to proceed with the plan of action the Board had provided guidance on a couple of months ago. The Chairman was concerned about the replication or overlap in projects, and stated although the \$5M may not be clearly identified

in October 2011 from the collective agreement between the Port and stakeholders, he remembered a portion was identified for the F5 repairs which would then be fewer monies to be borrowed from a private lending institution. He asked management to seek clarification from MARAD. The General Manager reiterated in review of the documents, such funding for the repairs of F5 was not included as a line item and the implementation plan only referenced upland work. The Chairman asked management as to what was the \$5M MARAD had alluded to during their recent visit. The General Manager responded it may have been contemplated at one point; however, the implementation plan document prepared by their PMT did not include it as a line item. She cautioned the Board if MARAD considers the F5 repairs, there would be a whole series of implications that could happen, such as, portions of the uplands projects would be impacted as a result of funding shortfalls; there would be delays in the existing projects on the part of PMT-EA's efforts that has been finalized for September 2012; and delivery. The General Manager recommended the Port move forward with the F5 column repairs and the cathodic protection work. The Chairman asked if the \$2M for F5 repairs and \$3.5M for the cathodic protection is correct. The General Manager stated those numbers would need to be updated, but believes the estimate cost for both projects would be about \$4M-\$5M.

The Vice Chairman also recalled the \$5M was for marine repairs and asked if this be clarified with MARAD. He also stated MARAD should be held to a timeline in producing the final version of the seismic analysis report. The Chairman said if in fact MARAD did set aside \$5M for the waterfront which they verbally noted, there shouldn't be delays with the environmental work expected to be done by September 2012. The General Manager said what needs to be determined is whether the F5 repairs is in the Environmental Assessment as is or does it have to be amended; and will MARAD honor and accept the marine design completed by OAE or would it be redone resulting in a duplication of effort with associated costs. She advised the Board the marine design is being funded by a grant right now. At this time, the Chairman directed the General Manager to proceed down the track with GEDA; seek clarification from MARAD on the \$5M and hold MARAD to a timeline in producing the final product of the seismic analysis report.

3. **KM&T Lease Application:** The General Manager stated this matter was brought before the prior Board in December 2010 and a presentation was made by Cement Plus Development. The proposed objective is to finance and develop a piled wharf and pier at M1 area across the bay. The prior Board authorized management to continue discussion and negotiate the project parameters with KM&T representatives. She stated based on her review of the file, in January 2011 the Port sent a letter to the company requesting information necessary to continue forward with discussions, such as revenue projections, project phasing, development plans, drawings, financing and management proposals. Records reveal this was the last communication that had transpired.

The General Manager mentioned in April 2012, the company made contact with the Port looking to re-engage with the dialogue. She said during the meeting she suggested the company present their development to the Board and provide them an opportunity to understand what is being proposed. The Chairman said he had met with KM&T representatives and they did indicate their desire to get their project back on the table. He advised management to do what is

necessary as long as it is within the four corners of the law and the parameters to help facilitate this proposal. The Chairman asked that KM&T be invited to the next Board meeting.

V. OLD BUSINESS

1. **Financial Report:** The mid-year budget is currently being worked on.
2. **Insurance Report:** The insurance report for the month of April 2012 was presented to the Board for information.

- a. **Watts Construction:** Although the matter of Watts Construction has been resolved, this particular claim is specific to considering paying legal fees. Ms. Annmarie Muna, AM Insurance reported the underwriters have yet to decide whether legal fees will be paid, but did inquire as to the amount expensed by the Port. She indicated it is unlikely the underwriters will consider the full amount to be recovered, but what was recommended to her during a discussion was a 25% claim. She asked for Port's direction as to whether that would be acceptable or what the Port anticipates, in order to officially advise the underwriters. The General Manager was directed to work with AM Insurance on this matter.

- b. **Guam YTK:** The General Manager understands there may be an outstanding insurance issue with respect to Guam YTK. Ms. Muna said there is a standard questionnaire on the renewal application for the Directors & Officers Liability Insurance which requires information as to whether there are any outstanding claims that needs to be noted. The General Manager mentioned to Legal Counsel a review needs to be made as she recalls on the audit documents Guam YTK was removed from the Port's financial as a potential liability. The General Manager was concerned there should be consistency with Port's bookings and insurance disclosures, and for Legal Counsel to revalidate if there is a potential claim.

3. **List – Federal Grant / Local Funding Programs:** The Chairman asked that a public notice be issued for the Hagatna marina projects on docks A, B and C as this is an improvement moving forward for the Port. The General Manager said management will commence the notice as soon as Legal Counsel approves the contract as to form.

Mrs. Baleto asked whether those funded programs indicating 'closed' and still have a remaining balance whether such monies are returned to the grantor. Ms. Dorothy P. Harris, Chief Planner replied not necessarily, as those could potentially be applied to other projects by way of an amendment. She mentioned projects indicated completed, the contract is closed.

4. **Port Modernization Program – Implementation Plan:** The General Manager said continuous meetings are being held with the Technical Development Team and are presenting the projects before the Project Oversight Team for approval. Projects soon to be underway is the demolition of Warehouse II and retrofit of the CFS Building. She said this is on fast track as the team meets once a week. Target date for bid award is at the end of the year.

For informational purposes, the General Manager provided the Board with the Phase 1-A scope of work summary description of the port modernization implementation breakdown as prepared by PMT-EA.

5. **Procurement Packages Status:** For Board's information.

6. **PUC petitions for crane purchase, interim maintenance agreement, and surcharge authority:** The General Manager said a letter dated May 18, 2012 has been sent to the Public Utilities Commission (PUC) relative to the Port filing a petition to seek approval of the sale of Guam cranes and spare parts agreement as well as the interim agreement for crane maintenance as mandated in Public Law 31-145. The PUC Administrative Law Judge will then file a petition to the PUC on May 21, 2012. Relative to the crane surcharge, a public notice is scheduled for May 24, 2012, and 60 days thereafter, the Port will file a petition to the PUC to commence the crane surcharge hearing process.

7. **Task Order No. 28-11 – Project Management:** As directed at the previous meeting, the General Manager provided a memorandum dated May 18, 2012 which addresses the concerns of the Board relative to the services rendered by the Port's Owner's Agency/Engineer Consultant as well as MARAD's Program Management Team EA Contractor. She stated each task order for the modernization program is scrutinized in order to reduce the effort of utilizing the Port's consultant and allowing management to handle those tasking. She assured the Board with management's expertise, they can certainly work towards being more accountable to their positions and deliver a fair and competent level of expertise to the port. The General Manager mentioned she has been working diligently with OAE on how to scale down their level of service in an effort to reduce cost, and to allow division heads to take on those projects with the understanding at some point the Port will be poised to move forward with the modernization program on its own.

However, at this time, she felt it would not be prudent to dispense the OAE as the Port does not have the depth of resources in-house, the credentials to set the foundation for the program, respond to shaping forces and manage the technical conversations needed to keep federal agents continuously aligned with the Port's needs and priorities. She pointed out the memorandum of understanding between the Port and MARAD identifies the two sets of engineers in that OAE's role is to help the Port develop and control the program, while the PMT-EA is to implement the program. Having said this, the General Manager requested for Board's consideration to approve Task Order 28-11 covering the period of June 2012 thru September 2012 in the amount of \$396,450.00.

Ms. Gibson encouraged management to avail themselves and take advantage of the expertise and knowledge of the Port's consultants when on island. Mrs. Baleto commented what already is established overall is the focus on the port modernization and needs to move forward. The Vice Chairman said although he appreciates the work of the Port's consultant, he wants to ensure the task order before this Board is specific to work performed on the strong points of OAE as there are certain tasking that can be done by management, such as grants, marketing and

financing. The Chairman recalled a memorandum from the previous meeting dated May 14, 2012, identifies engineering related items and presents no issue for OAE to take lead on.

Ms. Gibson made motion to approve Task Order 28-11 Project Management in the amount of \$396,450.00 for the period of June 2012 thru September 2012 with the appended memorandum to the Board dated May 14, 2012, seconded by Mrs. Baleto. Motion was unanimously approved.

8. **APP 99th Annual Conference, July 18-21, 2012, Guam – Port Conference Attendance:** The General Manager said as a member of the Association of Pacific Ports, the 99th Annual Conference will be held in Guam on July 18-21, 2012 and request for Port participation. Without objections, the Chairman authorized the General Manager to determine the pertinent port personnel participation. He also encouraged the Board members to attend if their schedule permits.

9. **US DOT Secretary Ray LaHood Visit:** The General Manager said in coordination with the front office, the itinerary of Secretary Ray LaHood is scheduled to meet with Port representatives on May 26, 2012 to include the Port Users Group. There may be other attendees which will include Governor Eddie Calvo. She said further communication with the front office will be made.

10. **HR Procedures and Operations:** As a result of recent events, the General Manager said management will develop a standard operating procedure that will include a checklist for the processing of applications. Considerations are also being made to safeguarding and restricting certain areas of the Human Resource department.

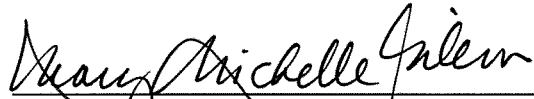
At the Board's recommendation, management sought assistance from both the Civil Service Commission (CSC) and the Department of Administration (DOA) to conduct reviews of the Port's recruitment personnel actions. CSC will be presenting the request to its Board of Directors for approval on May 24, 2012 for the first 6 personnel files and any future requests made. In discussions with DOA, they will determine what level of support can be provided to the Port and what options are available within the government. The Chairman advised the General Manager to look into whether assistance can be provided by Homeland Security on the TWIC card process that is a prerequisite of certain Port positions.

VI. NEW BUSINESS

1. **Cabras Marine Corporation – Proposed Port West Gate Access (PAG's Easement Request):** Tabled, until the next meeting.

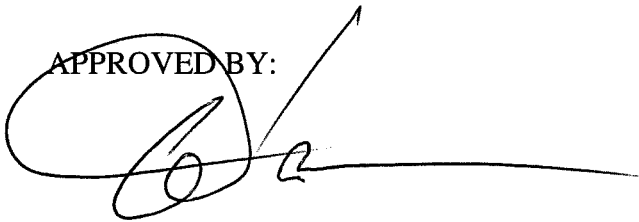
VII. ADJOURNMENT

There being no further business to discuss, it was moved by the Vice Chairman and seconded by Ms. Gibson to adjourn the meeting at 1:15 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors

