



PORT OF GUAM
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Eddie Baza Calvo
Governor of Guam
Ray Tenorio
Lieutenant Governor

**MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS
Thursday, September 20, 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, September 20, 2012. Present at the meeting were:

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

Also present were Tricia Granillo/Alan Rixon/Steve Terlaje-AM Insurance; Jimmy Camacho-Office of Senator Tom Ada; Mike Moody-Iris Ltd., Albert Tsutsui-KM&T and Port Management staff.

II. APPROVAL OF MINUTES

a. **August 23, 2012:** The Vice Chairman made motion to approve the minutes of August 23, 2012 subject to correction. The motion was seconded by Mrs. Baleto and was unanimously passed.

III. PUBLIC COMMENT

- a. **Public Comment:** None.
- b. **Employee Comment:** None.
- c. **PAGGMA Association:** Mr. John B. Santos, PAGGMA President said the Labor Day picnic was a success. He said the association is now working on the Port Week festivities, having the opening ceremony on October 15 at the Port Authority with the grand finale on October 19 at Nikko Hotel. Mr. Santos said there are events already in progress such as the softball. The billiard tournament and karaoke contest will be held this evening. He encouraged all to attend and participate.

IV. GENERAL MANAGERS REPORT

1. F-5 M&R/SLE; PAG IT and Equipment Project: GEDA, on behalf of Port issued an RFP on September 14, 2012 seeking financial assistance from any bank, banks or commercial lending institutions to provide a loan of an amount not to exceed \$10M to provide funding for the Port service life extension repairs for the Port's wharf, upgrade of its financial management information technology systems and acquisition of one cargo handling equipment. Deadline for submission of proposal is September 28.
2. Amendment request re: GR07060-11-12 Owner's Agent Engineer (OAE) Support Services: On August 6, 2012, the Port submitted a request to the front office for a grant amendment to GR07060-11-12 to support the execution of the port modernization program. On September 14, 2012, the Port was advised by Mr. Gary Kuwabara, Regional Director, Office of Economic Adjustment that the grant amendment was approved by OEA Director. Based on this, the Port has additional funding to support the port modernization program through 2014.
3. Port Outreach Project: The Port will begin its outreach to the Port Users Group on the new crane surcharge application to the Public Utilities Commission next week.
4. Formosa Television Interview: The Chairman and myself contributed to the interview conducted by visiting FTV journalists this week. The Port will be featured in a news story on Formosa Television in Taiwan on the military buildup, port modernization plan and investment opportunities.
5. "Sun Princess" Port Call: The passenger cruise ship is scheduled to call port on October 13, 2012. Passenger capacity is 2272 with a crew of 924.
6. Port Week October 15-19, 2012: The Board was presented with the scheduled port week activities and were encouraged to attend.

V. REPORTS

At this time and without objections, the Chairman entertained item e. property matters under Reports.

e. Property Leasing/Port Development: Mr. Glenn B. Nelson, Commercial Manager requested for Board authorization for management to formally engage in further discussions with Mobil with cause to finalize the November 2, 2012 version of the draft settlement agreement aimed to resolve several long standing issues related to various claims by and between the Port and Mobil in the course and manner consistent with staff recommendations as noted in the July 24, 2012 property report to the Board of Directors. The long standing issues include: rebate claim, golf pier maintenance fee claim, manager's compensation claim and unpaid interim rent claim. Mr. Nelson said once negotiations have been completed, this matter will be brought before the Board for final approval.

The Vice Chairman said he did not have any problem with management engaging Mobil on this matter. There were no objections from the remaining members.

a. **List-Federal Grant & Local Funding Programs:** Ms. Dorothy P. Harris, Chief Planner said the Port received notice of (grant) award for \$250K from the Western Pacific Regional Management Council which will be used to repair/replace existing Agat marina slips of dock A and B. Staff also submitted an application for \$100K for harbor of refuge under Boating Infrastructure Grant Program administered by the U.S. Fish and Wildlife Services with the purpose to construct, renovate and maintain the harbor of refuge facilities for transient vessels.

Mrs. Baleto asked whether management was able to reprogram the remaining balance of \$60K plus from the Hagatna marina renovation/site improvement project of phase I. Ms. Harris replied negatively and said those funds will revert back to the grantor. Mrs. Baleto asked that planning monitor other port projects in the event there are remaining balances that can be reprogrammed to other projects.

b. **Finance Report:** This item to be addressed with Fiscal Year 2013 Budget Approval under new business.

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

d. **Operation Productivity Report:** The operations productivity report for the month of August 2012 was presented to the Board for information. Mr. John B. Santos, Operations Manager said in comparing the months of July and August 2012, the report specific to containers are as follows:

Containers	July	August	Diff
Discharge	4394	3809	585
Loaded	4189	3841	348
Total Moves	8583	7650	933

The Vice Chairman asked whether the decrease in containers is normal. Mr. Santos said the range is about 7000.

Mr. Santos mentioned that the challenge operations face is proper lighting. The Chairman asked whether the lighting project is on track. Mr. Simeon Delos Santos, Engineer Manager said the project is about a month and half delayed as the manufacturer for the light post was not able to obtain the raw materials.

The Chairman asked that the operations report include prior year vessel activity for purposes of month-to-month comparison.

f. **Marina Report:** The General Manager said the latest development on the fisheries issue is that management sought the assistance of Department of Land Management to help with the surveying of the delineation points of the Hagatna marina consistent with what was presented to the Board. She said this continues to be a work in progress.

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

1. **RFP No. 12-003 Performance Management Services for Port Cranes** – The deadline to submit a proposal was September 14. There were two respondents to this RFP.

2. **RFP No. 12-004 Risk Management Services** – As directed at the last Board meeting, the risk management services was announced on September 4, 2012; pre-bid meeting on September 1, 2012 and submission deadline on September 25.

3. **IFB No. 12-005 Design/Build GDP Hagatna Marina New Waterline** – An announcement was issued on September 4, 2012; pre-bid meeting on September 13, 2012 and submission deadline on September 25.

4. **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 extension submission deadline on September 28.

5. **IFB No. 12-008 Design/Build Concrete Storm Drain Channel System Repair** – An announcement was issued on September 4, 2012; pre-bid meeting on September 14, 2012 and submission deadline on September 26.

6. **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 extension submission deadline on September 12, 2012. Mrs. Javier request for Board's approval to award the construction contract for the Hagatna phase II project.

Mr. Ilaio made motion to approve the award contract to Black Construction Corporation for IFB No. 12-007 GDP Hagatna marina renovation and site improvement Phase II, seconded by Mrs. Baleto. The motion was unanimously approved.

The Vice Chairman advised management to publish the announcement of the award for the Phase II project.

As the matter relates and without objections, Mrs. Javier continued to address item d. FY2013 Insurance Coverage of old business.

d. **IFB GSA/PAG-006-12 FY2013 Insurance Coverage:** Mrs. Javier said the procurement solicitation of the insurance coverage for the Port Authority was performed by the General Services Agency (GSA) and as a result, she requested for Board's approval of the FY2013 Insurance Coverage. She advised the Board that the property insurance schedule does not include the POLA cranes as the transfer of title has yet to be completed. She noted that if the POLA cranes become part of port asset, there may be additional premiums to be made.

Ms. Gibson made motion to approve the General Services Agency (GSA) bid award for IFB GSA/PAG-006-12 FY2013 Insurance Coverage to AM Insurance in the amount of \$1,957,484.75 subject to change upon acquisition of POLA cranes, seconded by Mr. Iao. Those who voted in favor of the motion were the Chairman, Ms. Gibson and Mr. Iao. The Vice Chairman recused himself due to potential conflict. Director Baletto abstained. The motion on the floor was approved by a majority vote.

Contract Management – Renewal Options

Mrs. Javier mentioned that the following contracts due for option renewal are pending Board action on whether to proceed with such services. These are as follows:

- AM Insurance – October 1, 2012: Broker Services – The General Manager recommended that perhaps AM Insurance services is not necessary at this point as the solicitation has gone through with GSA and has been awarded which would render this service obsolete. There were no objections from the Board.
- PMC Medical Isla – October 6, 2012: Annual physical examinations for port employees as required by the Department of Transportation – Management was advised to proceed forward with the renewal option for PMC Medical Isla services.
- Galaide Services – October 31, 2012: Creative design – The Chairman asked why the Port is outsourcing marketing when there exists a marketing division within the Port. He asked that a synopsis be prepared on the contract services and justify the need for such services.

h. **Safety Report:** Mr. Francisco C. Roberto, Safety Administrator presented the personal injuries and industrial accidents for September 2012 indicating 11 reported and 12 accidents, respectively. He said the Port received an inspection report from U.S. Coast Guard on port facilities that was conducted on September 13, 2012. Overall, the Port did well, however there were few discrepancies found specific to the need to certify the sprinkler system (WH1, WH2, EQMR and CFS); smoking in non-designated areas in the compound; four fire hydrants from F5 thru F6 were found to be not working. Mr. Roberto mentioned that a citation may be issued for smoking in non-designated smoking areas.

VI. OLD BUSINESS

a. **Fiscal Year 2013 Budget Approval:** A brief summary of the fiscal year 2013 budget is as follows:

- Overview: the 2013 budget proposes total operating revenues of \$37.4M and projected to increase to \$41.5M once the crane surcharge is approved by PUC.
- Revenues: the Port implemented the new terminal tariff rates in March 2012. The full year implementation of the new tariff rates and regulations is estimated to provide total

cargo revenue of \$29.9M. This increases the cargo revenues by 8% and the overall revenues by 7% from \$35M in FY2012 to \$37.4M in FY2013.

- Operating Expenses & Expenditures: the Port is positioned to acquire the POLA cranes for \$12M and plans to undertake another \$10M loan for the service life extension wharf projects, top lifters and terminal operating system; overall expenditures \$52.6M.
- Cash Flow Summary: the cash flow reveals that the funds from operation represent 40% of source funds and 55% from cash reserves. Overtime has been reduced by 50%.
- Debt Service Ration Requirement: the current debt service ratio requirement is 1.3. It is calculated by net profit (loss) before depreciation, interest, tax, and amortization divided by principal and interest commitments. The Port currently has \$3.5M loan for the purchase of cargo handling equipments and a pending loan offer of \$12M for the procurement of gantry cranes. The Port also put out a loan service for \$10M for the service life extension repairs of the wharves, a top lifter and terminal operating system. Based on the proposed FY2013 budget, the new profit before depreciation and interest expense without federal reimbursement is \$4.4M and the total principal and interest for the 3 loans is projected at \$2.6M. This results into a debt service ratio of 1.7 which meets the requirement.

In review of the revenue projections, Mrs. Baleto expressed concern that if there are revenues being relied on that is not based on actuals and budgeting against anticipated revenues with no basis would render a deficit. For instance, the crane surcharge is showing a 16% increase in revenue and assuming that cargo throughput does not increase and remains flat lined, and the expenditures is at an increase of 20%, the Port would run deficit. Mr. Jose B. Guevara, Financial Affairs Controller said the new tariff rate was implemented in March 2012, so five months of the beginning of the fiscal year is the lesser rate, seven months of the next fiscal year is the higher rate. It is based on the actual cargo incurred this year, multiplied by current rate which is the basis of the increase. So it is not based on cargo, but on the seven months that is now annualized rather than the five months. Mrs. Baleto requested for more time to review the budget and asked to work with management off-line to address these issues.

After some discussion, the members were leading to authorize an interim budget for the quarter using fiscal year 2012 budget. The General Manager informed the Board of the implications if the desire is to remain with fiscal year 2012 budget. The impact would be that the 'new vacant' positions would not be filled, particularly with the Assistant Operations Manager and the Assistant Maintenance Manager as these positions fall under fiscal year 2013 budget. She mentioned that the filling of these two positions is a directive from the Board at prior meetings. Mrs. Baleto suggested that the funds budgeted for overtime can be used as a funding source and be allocated to support the 'new vacant' position salaries.

The Chairman said although made part of the 'new vacant' positions, he had concerns with the tariff administrator position and did not understand why it is before the Board. He recalled discussions on this issue that rather than filling this position to re-class existing positions accordingly to reflect the additional responsibilities. Ms. Gibson said a tariff administrator position is needed who would be dedicated to prepare projections and forecast. She indicated that the port consultants recommended that the Port have a designated tariff administrator.

Mrs. Baletto made motion to approve an interim budget using mid-year 2012 budget for fiscal year 2013 first quarter to include approval on the 'new vacant' positions totaling five to be funded by overtime monies up to \$151,506.70. The motion was seconded by Ms. Gibson and was unanimously approved.

b. **PUC Matters:** The General Manager said the Public Utilities Commission will hold a meeting on September 25, 2012 which will include port matters relating to a review of the ANZ letter of offer, status report on the petition for Port crane surcharge, and a review of the port insurance agreement. For purposes of filing with PUC, the General Manager requested for Board's approval on Resolution No. 2012-07.

Mr. Ilaio made motion to approve Resolution No. 2012-07 relative to approving the Port Authority of Guam's insurance coverage for Fiscal Year 2013, seconded by Mrs. Baletto. Those who voted in favor of the motion were the Chairman, Mr. Ilaio and Mrs. Baletto. The Vice Chairman recused himself due to potential conflict. Director Gibson opposed. The motion on the floor was approved by a majority vote.

c. **ANZ-Letter of Offer (Crane), USDA:** The General Manager requested for Board's approval on Resolution No. 2012-06. Mrs. Baletto made motion to approve Resolution No. 2012-06 relative to the approval and acceptance of the Letter of Offer for the \$12 million commercial loan with ANZ Bank for purposes of acquiring POLA Cranes 14, 16 and 17. Motion was seconded by Ms. Gibson and was unanimously approved.

e. **Cementon Micronesia:** The General Manager said a status meeting was held yesterday with representatives of Mobil, Cementon and the Port Authority to discuss the Users Agreement. She said a summary of the meeting was shared with the Board and legal counsel via email. The Chairman understands the efforts in expediting this matter; however, legal counsel advises that the Users Agreement between the Port Authority and Mobil postdates the procurement laws which may affect the procurement of the valves. The General Manager said the management agreement provides a capital improvement clause that allows Mobil to make repairs, purchase parts as well as a cost recovery clause which is in line with the procurement law with regard to time and material. She understands legal counsel's position to pertain to a procurement process that deals with a bid and construction project which is different from purchasing a part and getting reimbursed. The General Manager informed the Board that there is a similar management agreement with another tenant of the Port which includes a cost recovery clause which the Port had recently exercised. Legal Counsel said PMC's are not prohibited by procurement, but there is a procurement method to establish a PMC, similar to the one established for the acquisition of the POLA Cranes which was mandated by the legislature. The General Manager requested to meet with legal counsel to further discuss this matter. The Vice Chairman expressed concern that this issue has been in discussion for quite some time and advised legal counsel and management to look to resolve this issue expeditiously.

f. **KM&T:** Mr. Albert Tsusui, KM&T representative presented a site development plan before the Board that identifies the distance for Navy's concern for security as well as the proposed relocated plan for non-encroachment. Mr. Tsusui shared with the Board a dialogue

between KM&T and Navy representatives in order to help move the KM&T project forward. Information is as follows:

1. Status of the U.S. Coast Guard and Navy concerns of the project: the security at minimum distance from the Navy's occupied facilities; and the dolphin pier location to the U.S. Coast Guard traffic boundary.

Mr. Tsusui said KM&T received a response from the Joint Region Marianas indicating that if there is a lease in place with the Port, Navy would assist in providing any information needed for this project. The other option is for the Port to engage NAVFAC directly or authorize KM&T letter of authorization to do so. He mentioned that KM&T's position is for the Port to engage NAVFAC since M1 property is Port asset. KM&T representative Kaleo Moylan spoke to Port's legal counsel about this matter and Port counsel indicated that he would bring this matter before this Board to provide guidance on how to proceed.

2. Encroachment of Port lease property line on the Navy's property at the seashore embankment

Mr. Tsusui said at the last Port Board meeting Mr. Moylan submitted a drawing showing KM&T engineering's recommendation of relocating Port's lease property line. He said the relocation would not affect the usable leased area for the project and would not lessen the lease cost, however, the solution to satisfy the Navy's concern for encroachment must be provided legally by the Port. Therefore this matter should be directed to the Navy along with PAG's request for responses to the concerns addressed in item 1 above.

As a result, Mr. Tsusui requested for Board guidance on how to approach this issue in order to proceed with the finalization of the lease proposal. He also requested for the Port to provide a cad file in order for KM&T to address the Port's wetland concerns.

The Chairman asked whether the Port engaged with NAVFAC personnel. Mr. Tsusui recalled that Mr. Glenn B. Nelson, Commercial Manager was involved in the initial stages of this project and requested for his assistance. The Chairman advised the General Manager to dispatch management resources to engage NAVFAC directly and in conjunction with KM&T as well. There were no objections.

g. **Port Modernization Program-Implementation Plan:** No new developments to report at this time.

h. **PAG-GFT Contract:** The Chairman said this matter has been discussed at prior meetings and asked for the Board's pleasure on this item. The Vice Chairman said he is waiting for some feedback on this matter. Ms. Gibson requests for a second opinion. Mrs. Baleto said she does not know enough about the issues surrounding this matter. Mr. Ilaio mentioned that he has no opposition to the contract. The Chairman called for a motion.

Mr. Ilao made motion to approve the contract between the Port Authority of Guam and the Guam Federation of Teachers, seconded by the Vice Chairman. Those who voted in favor of the motion were the Chairman, the Vice Chairman and Mr. Ilao. Director Baletto abstained. Director Gibson opposed. The motion on the floor was approved by a majority vote.

i. **Travel and Training Repository:** The General Manager said the Port established a Port travel and training repository to allow the information and knowledge gathered by its employees who travel off-island and attend training on island to be shared with all other employees within the agency. The repository is housed within the Port's Human Resources department.

j. **New Carrier Outreach Status:** The Chairman asked whether there is effort to attract businesses to the Port. The Vice Chairman said this matter was discussed at the previous meeting and that because there are many activities going on with the Port: the acquisition of the cranes, the port modernization plan, the approval of the loans; that perhaps it would be easier to outreach once projects start to calm down. The Chairman said that may be true, however, would like for the Marketing division to begin to prepare a plan, sales pitch for Board's review.

The General Manager said the front office in collaboration with other agencies to include the Port is currently devising a plan to market Guam. The Chairman mentioned that in addition to the front office's initiative, would also like for the Port to develop its own plan. The General Manager said she will work with the Marketing division to create a press pack which can be used for the front office's initiative as well.

VII. NEW BUSINESS

a. **IRTB Training and Law Enforcement Rifle/Firearms Instructor Course, September 25-October 26, 2012:** Mrs. Baletto made motion to approve travel authorization for Port Police personnel to attend the IRTB Training and Law Enforcement Rifle/Firearms Instructor Course on September 25 thru October 26, 2012. Motion was seconded by Ms. Gibson and was unanimously approved.

b. **Dredging 2012, October 22-25, 2012:** Mrs. Baletto made motion to approve travel authorization for the Engineer Manager and Engineer Technician II to attend the Dredging 2012: Dredging and Environmental Innovation on October 22-25, 2012 held in San Diego, California. Motion seconded by Mr. Ilao and was unanimously approved.

VIII. EXECUTIVE SESSION

At this time, the members agreed to go into executive session. Executive session commenced at 2:20 p.m. Executive session ended at 2:45 p.m. The Board is now back in regular meeting session.

Items addressed in executive session includes:

- Personnel Matters: General Manager Key Performance Indicators
- PAG-GFT Union
- Employee Salary Increment Process
- Civil Service Commission Case

IX. ADJOURNMENT

There being no further business to discuss, it was moved by Mr. Iao and seconded by the Mrs. Baleto to adjourn the meeting at 2:45 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors

