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Governor of Guam

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**MINUTES OF THE**  
**REGULAR MEETING OF THE BOARD OF DIRECTORS**  
**Wednesday, July 28, 2010**

**I. CALL TO ORDER**

There being a quorum, the regular meeting of the Board of Directors was called to order at 5:10 p.m., Wednesday, July 28, 2010. Present at the meeting were:

Monte Mesa, Chairman  
Jovyna Lujan, Vice Chairperson  
Marilou Lacson, Board Secretary  
Joseph Camacho, Member  
William Beery, Member  
Enrique Agustin, General Manager  
Vivian C. Leon, Deputy General Manager, *Interim*  
Atty. Ike Aguigui, Legal Counsel  
Atty. Rebecca Santo Tomas, Co-Counsel

Also present were Jimmy Camacho-Senator Tom Ada's office; AnnMarie Muna-AM Insurance; Chip Brown-(PMT) EA Engineering, Science & Technology; Matthew Smith-(OAE) Parsons Brinckerhoff Americas and Port Management staff.

**II. APPROVAL OF MINUTES**

a. **June 17, 2010:** Before the approval of minutes, the Chairman made correction on page 2, last paragraph that should reflect the 30% Terminal Design working session was held at 'Sheraton Hotel', rather than 'Marriott Hotel'. Without further corrections made, Mrs. Lacson made a motion to approve the minutes of June 17, 2010 subject to correction. The motion was seconded by Mr. Camacho and was unanimously passed.

a. **July 1, 2010:** Before the approval of minutes, the Chairman noted for the record that member Joseph Camacho was in fact present at this special Board meeting of July 1, 2010. Without further corrections made, Mr. Camacho made a motion to approve the minutes of July 1, 2010 subject to correction. The motion was seconded by Mrs. Lacson and was unanimously passed.

### III. CHAIRMANS REPORT

a. 2010 Supplemental Appropriations Act – The U.S. House of Representative today passed the final version of H.R. 4899, which includes funding for the Port Authority of Guam. Specifically, the provision authorizes the Department of Defense to transfer \$50M of operations and maintenance funds to the Port of Guam Improvement Enterprise Fund which is now pending the signature of the U.S. President Barack Obama. Funds in the enterprise fund will be administered by the Department of ~~Defense~~ <sup>TRANSPORTATION</sup> Maritime Administration.

b. Matson/Horizon Lines Letter of July 6, 2010 – Acknowledge receipt of Matson/Horizon Lines letter of July 6, 2010 relative to their suggestion on acquisition of the POLA cranes by the Port and third party agreement and advised management to respond accordingly.

c. Office of Economic Adjustment Visit – Had the opportunity to meet with Mr. Gary Kuwabara, Program Manager of OEA. Discussions were on the TIGER II application and funding assistance to acquire two Project Management Accountants to assist in the financial management and control of funds related to the port modernization program.

### IV. GENERAL MANAGERS REPORT

1. Public Law 30-100 Information Briefing, Port Modernization – Management went before the Committee on Utilities, Transportation, Public Works & Veterans Affairs on June 22, 2010 for an information briefing. Management conducted presentation of the port modernization relative to projects and funding which went well.

2. ATOSSCOM Conference – The Association of Terminal Operators, Stevedoring and Shipping Companies of Micronesia held its 37<sup>th</sup> Annual Meeting on July 19-20, 2010 at the Marriott Hotel. Topics of discussion includes: port modernization plan; update on military buildup on Guam and impact on the region; training programs; transportation; regional tariff; common goals and interest.

3. 40ton Condensing A/C Unit – On July 12, 2010 the facility division has commenced the replacement/installation of the 40ton condensing air-conditioning unit located at the Administration Building. This project is slated to be completed on August 12, if not sooner.

4. Altavia Vessel – During operations on July 15, operations staff encountered an infestation of spiders onboard Altavia. Regulatory agencies were contacted immediately to remedy the situation. During coordination and communication with all parties involved, Altavia vessel departed Guam waters on July 19 and upon return, the vessel will be allowed re-entry only after all has passed inspection and cleared of such contamination.

5. 30% Design Terminal Development Plan – OAE has completed and transmitted the final 30% on July 23, 2010. Management has made arrangements to hand over the design of the terminal development plan to the PMT-EA.

6. Port Tours Conducted – July 12-OCAJI Group-Overseas Construction Association of Japan, Inc.; July 15-Philips-Danotech LED Company. The presentation and tour held July 27 was of significance as it was for Washington DC officials namely U.S. Deputy Secretary of Defense William J. Lynn; Under Secretary of the Navy Robert Work; Deputy Under Secretary of Defense (I&E) Dorothy Robyn; LtGen Terry Robling, Commanding General; and representatives from Joint Region Marianas/Joint Guam Program Office/Marianas Force Pacific namely RADM Paul Bushong; Executive Director David Bice; Director John Jackson.

7. Mercator Report – As you recall, Port Users Group acquired the consulting services of Mercator International, LLC to assess the mode of operation of the port terminal which includes the high level modeling of proposed grounding operations and port development/operations planning. The report has since been completed and was presented to Port Management by the Port Users Group.

## V. REPORTS

a. List-Federal Grant & Local Funding Program: Mr. Camacho asked that the USDA loan of \$14M indicate status to note that there is discussions taking place with USDA regarding whether to continue to obligate or de-obligate those funds.

b. Insurance Report: For Board's information. As the matter relates, the Chairman mentioned that the request for proposal for the Insurance Brokerage Services is in progress. Also, on the Risk Management Services, the contract is currently being finalized.

c. Operation Productivity Reports: The Chairman asked that the report include a monthly total on the Vessel Chassis (Inbound) Count Report.

d. Marina Report: Mr. Joe Ragasa, Facilities Maintenance Superintendent said the dock C repair in Hagatna marina is still ongoing. Repairs completed were the slips and the main gangway; however, during the repair work it was found that other areas are in need of repair. He mentioned that dock C is still a closed area, until such time funding is received for replacement and repair. The Chairman said a concern was brought to his attention on the Harbor of Refuge safety and security and asked management to look into this matter. The Deputy General Manager said the Port will be submitting a grant application under the FY2011 Harbor of Refuge Boating Infrastructure Grant for renovation of the Harbor of Refuge.

e. Safety Report: Mr. Francisco Roberto, Safety Administrator presented the Safety Report and mentioned that for this reporting period there are no personal injuries and one industrial accident. On the workers' compensation cost quarterly assessment, the fourth quarter amounted to about \$60K. This is due to off-island medical treatment of an employee. The first thru third quarters cost less than \$9K in workers' compensation.

Mr. Roberto took this time to report on his participation in the OSHA 5400 Maritime Train-the-Trainer Education Program in San Diego, California from June 21-24, 2010, resulting

in his receiving certification which certifies him to train other port employees. He thanked the Board for this opportunity.

Relative to the Altavia Vessel on infestation of spiders, Mr. Roberto mentioned that fumigation of the pier side and WHII was done on July 23 and July 27 by No Ka Oi, which determined that no spiders were found. He commended the Stevedores for being mindful of these unusual events. The Chairman was encouraged by the actions taken by all parties involved to remedy this situation, and advised to continue the work of diligence and thoroughness with all foreign vessels or irregular service of vessels calling this port.

Committee Reports:

a. **Finance Committee:** The financial report for the month of June 2010 was for Board's information.

Mr. Camacho said the Finance committee met on June 30, 2010 and addressed the following.

1. FY 2011 Budget – Increases on potential revenues; expense items: PMC, PUC, Tariff Study, COLA and loan financing.

2. Tariff Study Update – Consultants are looking at Port operating cost, loan payments, PMC cost and other new cost the Port will be absorbing in the coming fiscal year and will come up with tariffs to essentially cover these costs. Consultants will also simplify the tariff structure so that all related cost for each transaction can be easily identified.

3. USDA Direct Loan and Guaranteed Loan \$14M for Crane Purchase – USDA continues to obligate on behalf of the Port and this obligation will go through this fiscal year. Based on the estimated borrowing capacity the Port has no option but may have to de-obligate the \$14M loan. It was asked of the Port's OAE Consultant to update the financial feasibility study, at little or no cost, relative to the change in cargo forecast in order to give a new perspective on the borrowing capacity as the Port is mandated by Public Law 30-100 to purchase two cranes by December 2012. The cost of cranes is not included under Phase 1A, so funds to support this acquisition will have to be sought elsewhere. If the maximum loan capacity has changed, then the Port would need to go back to the Legislature to request amendment on the maximum loan ceiling.

4. USDA Meeting – A meeting was held with USDA representatives regarding the \$50M loan (\$25M Direct / \$25M Guaranteed) and their support on the development of a Protocol Manual. The support given was based on the understanding that there will be a clear delineation and outline of how the various parties will work together: Port, PMT-EA, MARAD, USDA and ANZ. USDA was given the perspective on how the funding will be controlled which they had did not object to. USDA made recommendations that the Port have some input in terms of the loan covenants on how to protect the port revenues to ensure the loans are paid back.

b. **Maintenance/Equipment Committee:** Mr. Ernest G. Candoleta, Maintenance Manager presented the Ship to Shore Crane Working Hours & Downtime Report; and Cargo Handling Equipment Maintenance/Repair Cost Report. The Chairman asked that the report include the deficiencies of the POLA Cranes in order to track reoccurring problems, if any. On the mobile harbor crane, Mr. Candoleta mentioned that work on installation and realignment continues to be performed, once completed a change out will be made to the main hoist and wire rope. Mr. Camacho asked whether there are any issues with the availability of the POLA Cranes in terms of a maintenance standpoint, specifically, has it ever been on downtime for maintenance repair. The Chairman mentioned that based on the report provided it shows a downtime for the first six months year to date is 2.9%.

c. **Human Resources Committee:** Mrs. Lacson presented the following items.

1. **Budgeted Position Filled** – Clerk III for Finance division as well as Refrigeration Mechanic I and Electrician II for the Facility division. These positions were either vacated based on resignation, retirement or transfer.

2. **Pay Grade Reassignments – Mobile Equipment Dispatcher** - At the previous meeting, the Board authorized management to proceed with the transparency process for the Mobile Equipment Dispatcher position which has since been completed. Being presented in Resolution No. 2010-08 for Board approval is in accordance with Public Law 30-43, Section 2(e)(6), personnel rules and regulations and policy memorandum 10-01. Mrs. Lacson made motion to approve Resolution No. 2010-08 relative to approving the pay grade reassignment for the Mobile Equipment Dispatcher as authorized under Public Law 30-43 and the Port Authority of Guam's Personnel Rules and Regulations, seconded by the Vice Chairperson. Motion was unanimously approved.

3. **Port's Drug-Free Workplace Program** – A timeline on the drug-free workplace program was presented to the Board for their information. Anticipated implementation date is October 1, 2010.

d. **Property Leasing/Port Development Committee:** The Deputy General Manager mentioned that the Notice of Area Availability is scheduled to be advertised tomorrow in Marianas Variety and next week in the Pacific Daily News. The Chairman asked management to respond to the letter submitted by Mobil on July 19, 2010 relative to Area A, Tank #4 Out of Service Notification. The Deputy General Manager said this matter on Mobil has been forwarded to legal counsel to review the management agreement and determine what options are available to the Port.

e. **Procurement Advisory Committee:** Mrs. Alma B. Javier, Procurement & Supply Manager presented the following items.

1. **PMC-RFP** – While information on this RFP cannot be released at this time due to the ongoing procurement process, management is seeking Board approval to enter into cost negotiations with the highest ranked offeror. The Vice Chairperson made motion to authorize

management to enter into cost negotiations with the highest ranked offeror of the Performance Management Contract RFP PAG-010-003, seconded by Mr. Camacho. Motion was unanimously approved.

2. **Uniform Program** – Request authorization for management to form a committee to establish a uniform program for the port employees and plan implementation on FY 2011. This promotes a new and professional image for the employees. Management was advised to provide study on uniform program, include cost proposal, guidelines, employee input.

f. **Building Facility Committee:** The committee met this month and discussed PB invoices. It was decided for port staff and PB to meet on a weekly basis on the invoices; and ensure the process of reimbursements is done quickly. PB was also asked to prepare a schedule on the remaining task orders as they are 60% complete on task orders. He asked the status of the Protocol Manual. The Deputy General Manager said the MOU is currently with the Governor's office as there were revisions made by the Port to address OEA's concerns.

Mr. Beery presented the OAE Task Order No. 26-3 relative to TIGER II Grant Application Services for Board's approval. He mentioned that the purpose is to provide technical assistance. Mr. Beery made motion to approve OAE Task Order No. 26-3 – TIGER II Grant Application Services in the amount of \$50,000.00, seconded by Mr. Camacho. Motion was unanimously approved.

## VI. OLD BUSINESS

a. **ANZ/USDA Guarantee \$3.5M:** Mr. Jose B. Guevara, Financial Affairs Controller understands the parties have concluded with negotiations on the terms and that this matter has been brought before the PUC. He mentioned that being presented before the Board is the Loan and Security Agreement and the Uniform Commercial Code-Financing Statement and request authorization for management to proceed. Mr. Camacho asked the status on the tax exemption with the Attorney General's office as he understands that Department of Revenue & Taxation had granted the tax exemption. The Deputy General Manager said contact was made with the Attorney General's office and they had advised that an opinion will be forthcoming.

Mr. Beery made motion to authorize management to proceed with the ANZ/USDA Guarantee \$3.5M as presented specific to Loan and Security Agreement, Form UCC-1 Financing Statement and Promissory Note, subject to the following conditions: 1) Attorney General concurs with confirmation letter, 2) obtain Public Utilities Commission concurrence, and 3) tax exempt status confirming to the bank on the net proceeds of the loan from Department of Revenue and Taxation. Motion was seconded by Mrs. Lacson and was approved by a majority vote. Member Camacho recused himself from voting on this motion due to conflict of interest.

b. **Board Resolution No. 2010-07 – Cementon Micronesia Lease:** The Deputy General Manager said management requested the Port's Oversight Chair to introduce legislation to amend the lease for Cementon Micronesia of up to twenty years. Currently the lease is for

five years. Cementon Micronesia is investing up to \$12M of construction activity on the cement silo facility. The resolution is to support the extension of the lease term.

The Chairman asked whether the bill itself outlines any of the concerns and conditions shared by the Board at previous meetings. The Deputy General Manager said during discussions with the Oversight Chair it was mentioned by the Port that changes not be made on the contract with Cementon Micronesia, but rather to extend the terms of the lease. A meeting is scheduled this Friday to further review the proposed legislation. Mr. Camacho asked whether the lease rates will be impacted. The Deputy General Manager said the lease rates remain in that every 5 years a review of the rates will be made and a mechanism is in place for that purpose. Mr. Beery asked whether a performance bond is in the contract in order to provide the Port the ability to terminate the lease in the event no development or investment is made. The Deputy General Manager said discussions have been made on this issue and will re-address that matter at the meeting.

Mr. Beery made motion to approve Resolution No. 2010-07 relative to requesting *I Maga'Lahen Guahan and the Mina'Trenta Na Liheslaturan Guahan* to support legislation to approve extension of the terms of the lease agreement between Cementon Micronesia, LLC and Port Authority of Guam for Parcel 3-1 on Cabras Island, Piti, Guam for a total of up to twenty (20) years. Motion was seconded by Mrs. Lacson and was unanimously approved.

c. **Board Resolution No. 2010-08 – Pay Grade Reassignment (Mobile Equipment Dispatcher)**: (Item addressed under HR committee.)

## VII. NEW BUSINESS

a. **Board Ratification:**

1. Disbursement of Funds – ATOSSCOM Conference July 19-20, 2010 – As a member of the ATOSSCOM, the Port Authority sponsored the conference in the amount of \$500.00 and is being presented for Board ratification. Mr. Camacho made motion to ratify the disbursement of funds in the amount of \$500.00 to sponsor the Association of Terminal Operators, Stevedoring and Shipping Companies (ATOSSCOM) of Micronesia 37<sup>th</sup> Annual Conference held on July 19-20, 2010 of which the Port Authority of Guam is a member of, seconded by Mr. Beery. Motion was unanimously approved.

2. Micronesian Chief Executive Summit – Saipan, June 23, 2010 – The Chairman of the Board was invited to the Summit to conduct a presentation on the “Development for Micronesian Cruise Destination”. His participation was to represent the Port Authority. This is now being presented for Board ratification. Mr. Camacho made motion to ratify the travel accommodations in the amount of \$503.11 for Mr. Monte D. Mesa, Port Authority Board Chairman participation in the Micronesian Chief Executive Summit held June 23, 2010 in Saipan, CNMI to represent the Port Authority of Guam. Motion was seconded by Mrs. Lacson and was unanimously approved.

b. **Marine Terminal Management Training Program, Hyatt Regency Jacksonville, Riverfront, Jacksonville, Florida – October 25-28, 2010:** The Deputy General Manager recommended for the Transportation Superintendent and Terminal Superintendent be given the opportunity to participate in this program. Mrs. Lacson made motion to approve the recommendation for two port representatives to attend the AAPA Marine Terminal Management Training Program, Jacksonville, Florida on October 25-28, 2010, subject to management providing the financial implications for approval of the travel authorization, seconded by the Vice Chairperson. Motion was unanimously approved.

#### VIII. PUBLIC COMMENT

- a. **Port Users Group Comment:** None.
- b. **General Public Comment:** None.
- c. **Employee Comment:** None.

#### IX. EXECUTIVE SESSION

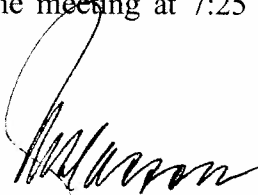
**RECESSED:** Meeting recessed at 6:40 p.m.

**RECONVENED:** The meeting reconvened at 6:50 p.m.

At this time, the Board went into executive session. Executive Session ended at 7:25 p.m. The Board is now back in regular meeting session. Items addressed in executive session include Guam YTK and Watts Constructors Civil Case No. CV10-00002.

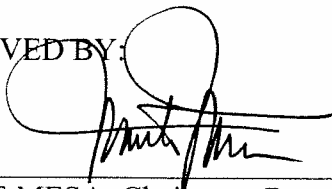
#### X. ADJOURNMENT

There being no further business to discuss, it was moved by the Vice Chairperson and seconded by Mrs. Lacson to adjourn the meeting at 7:25 p.m. The motion was unanimously passed.



MARILOU LACSON, Board Secretary, Board of Directors

APPROVED BY:



MONTE MESA, Chairman, Board of Directors

*WORK CORRECTION NOTED.*

