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MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS
Thursday, March 25, 2010

I. CALL TO ORDER

There being a quorum, the regular meeting of the Board of Directors was called to order at 5:00 p.m., Thursday, March 25, 2010. Present at the meeting were:

Monte Mesa, Chairman
Marilou Lacson, Board Secretary
William Beery, Member
Enrique Agustin, General Manager
Vivian C. Leon, Deputy General Manager, *Interim*
Atty. Rebecca Santo Tomas, Co-Counsel

Absent were Board members Ms. Jovyna Lujan, Vice Chairperson and Mr. Joseph Camacho. Also present were PAG Chief Negotiator-Kenneth Tagawa; Jimmy Camacho-Senator Tom Ada's office; AnnMarie Muna-AM Insurance and Port Management staff.

II. APPROVAL OF MINUTES

a. **February 25, 2010:** Before approval of minutes, the Chairman made the following corrections: page 2, item 3 should indicate *Washington D.C.*; and page 2, item 4 should read *from any federal grant*. Without further corrections made, Mr. Beery made a motion to approve the minutes of February 25, 2010 subject to correction. The motion was seconded by Mrs. Lacson and was unanimously passed.

III. CHAIRMANS REPORT

1. **Washington D.C. Briefing** – Understands Governor Felix Camacho maintains continual dialogue relative to federal agency sourcing of federal funds, such as Department of Defense, Department of Transportation Maritime Administration, Department of Interior and Office of Economic Adjustment.

2. **Plan B** – Encouraged to hear management has already commenced discussions and working on options for Plan B as a result of Port's recent denial of its \$50M application of the DOT ARRA/Tiger Grant. Also, exploring financial strategy with GEDA, looking at all the possibilities should the Port not succeed in getting federal funds.

3. SeaTrade Cruise Shipping Conference – Attended the cruise shipping conference on March 15-18, 2010 in Miami Beach Florida and was very encouraged in terms of Guam and its position in the cruise region destination. This industry is driven by European and American passenger cruise because of its climate and regional conveniences; however the movement in the industry today is moving towards Asia. Looking at a five year strategy to enhance our region as a cruise destination and the theme is Magnificent Micronesia. As Port is a member of ATOSSCOM, it's important to get their cooperation to further develop this Magnificent Micronesia unique destination, such as Phonpei, Chuuk, Yap, Palau, CNMI all have unique attributes. Port attendees at the conference had an opportunity to provide a presentation of the islands. Guam can be a hub, but is unable to stand alone, requiring the support of the other islands. Looking forward to engage with island partners, the ATOSSCOM group, working along with the Guam Visitors Bureau, Chamber of Commerce in an effort of coordinating a Port Conference. Encouraged by the port team being engaged and embracing this endeavor in developing our cruise industry.

4. TOC Asia 2010 Seminar, Shanghai International Convention Center – At this time, the Chairman yielded to member Lacson to provide a report on the TOC Asia Seminar. Mrs. Lacson mentioned that she was accompanied by Mrs. Sooja Suk, Systems Manager to attend the TOC Asia 2010 Seminar in Shanghai on March 16-18. In route to Shanghai was a stopover in Manila and was able to take the opportunity to tour ICTSI Port Terminal and had gathered information on the different terminal operating systems, gates systems, security systems. ICTSI is in the process of transitioning to an upgraded terminal operating system which is the SPARCS N4. This system allows for gate to yard to vessel systems which allows for computations and configurations. The Terminal Operating Conference Asia Seminar in Shanghai is a venue where all port manufacturers basically showcased their products. Zebra Enterprise Solutions hosted the Port team and had also discussed the SPARCS N4 terminal operating system, developed by Navis, which is part of ZES. SPARCS N4 TOS is a fully integrated solution from gate to yard to vessel, eliminating the manual processes and costly errors required to keep systems in sync. This system makes it easy to standardize into a single managing business processes across multiple operations. Other topics include: terminal concessions/operators market; port financing; exploring sources capital; security and safety; networking.

5. Hawaii Visit – In route back to Guam, was able to stopover in Hawaii and made network relationships with the office of Senator Daniel K. Inouye, Chairman of U.S. Senate Committee on Appropriations. Although not able to personally meet with Senator Inouye, Governor Felix Camacho is making appointments to meet with him next month and perhaps during that time, this visit will be accompanied by Port representatives to be able to share the port modernization in an effort to gain Senator Inouye's assistance to secure federal appropriations for the years 2012/2013 for not only the Port Authority, but the entire island as well. Secondly, had the opportunity to meet with Deputy Director Mike Formby, Ports of Hawaii and was able to observe their cruise ship passenger vessel operation. Hawaii Ports provided survey information in terms of building their cruise ship industry which has been emailed to Board members that will help shape Port Authority's development in the cruise line industry in our region.

IV. GENERAL MANAGERS REPORT

1. Procurement & Supply Manager – Introduced Mrs. Alma Javier as the Port's Procurement & Supply Manager. Everyone present welcomed her aboard the Port Authority.
2. MARAD PMT – No new development other than the review of the PMT Selection is still before the Department of Transportation Secretary Ray LaHood.
3. PAG Funding-Plan B – With the denial of the Port's application of the \$50M ARRA Tiger Grant, management has met several times on its Plan B which focused on organic growth and limited financial capacity of the Port. Discussions were also held with JGPO representatives: David Hopkins, Paul Fisher, Garrett Triplett on the capital recovery charge. It was expressed by JGPO that this military charge contemplated by the Port will be a challenge as it borders on discrimination against the military.

The Chairman recalled that this charge is being applied by other ports, particularly in the East Coast and asked management to look into the method of its implementation.

4. Resolution No. 299-30 – *Resolution to reaffirm the decree of P.L. 13-87 as it relates to the cargo handling requirements of its impacts on the Port Modernization Program and the resulting economic vitality of the Commercial Port of Guam.* This basically reaffirms that the Port Authority is the only commercial seaport for commercial cargo operation. The resolution was passed by the Legislature on March 19.
5. Bill 355-30 – *An act to amend Section 10101 and 10105(i) of Chapter 10, Title 12, Guam Code Annotated relative to the Jose D. Leon Guerrero Commercial Port's Authority to Lease Real Property.* This proposed legislation allows for the Port Authority to enter into long term lease of its properties for a term of up to 20 or 30 years.

Without objections, the members entertained the Finance Committee report.

- a. **Finance Committee:** The financial report for the month of February 2010 was for Board's information. The Chairman asked management to look into the Energy Savings Program. It was mentioned that in operations there are utilities that are reimbursable, ie: reefer plugs. It was advised to notate this reimbursable in the financial report. As to water consumption, until completion of deduct meter installation will determine actual water usage of Port. Management is currently working with Guam Water Authority.

Mr. Jose B. Guevara, Financial Affairs Controller informed the members that the Public Utilities Commission at its PUC meeting this evening will entertain Port Docket 09-01 PAG Procurement for Tariff/Rate Consultant. Request is being made by the Port to seek authorization from the PUC to proceed forward with the procurement process for consultant services.

V. REPORTS

c. **Operations Productivity Report:** Mr. John B. Santos mentioned that the Port anticipates aggregate vessel calling port on April and June/July. This April shipment will include an aggregate of 9K metric tons for projects unknown at this time. The Chairman advised that as lessons learned in the case of Katarina, for management to ensure proper documentation, clearances from respective regulatory agencies are complied with. The General Manager assured that these areas of control will be adhered to.

d. **Marina Report:** Mr. Ernest G. Candoleta, Maintenance Manager reported that the damaged plank on dock A in Agat marina have been replaced. At Agat marina B dock, two missing branch slips will be replaced and the materials are currently on order following the procurement process.

The Chairman asked the status of dock C repairs. Mr. Candoleta said the type of repairs made is more of a 'band-aide' fix and has been completed; however will be requiring a more permanent fix of that area. He mentioned that routine checks are made once a week. Mr. Simeon Delos Santos, Engineer Manager said a bid has been issued for a design/build project, but this is for improvements to Hagatna marina dock A first because this area is mostly used by marina users. He mentioned that the scope of work allows options to the Offeror on the type of composites to use, such as aluminum, concrete, and so forth, but must be in compliance with the specifications. Improvements to other docks will be made as soon as funding is identified.

The Chairman understands that Mr. Peter Macleod, Insurance Adjuster is to arrive Guam next month, and advised AM Insurance to look into whether the Hagatna marina dock C incident is a possible claim. If affirmed, those monies will be used for its permanent improvement.

The Chairman acknowledged the analysis of Alternative Management Regimes Small Boat Marinas which will be forwarded to the Property committee for disposition.

Remaining items under Reports were for Board's information.

Committee Reports:

b. **Maintenance/Equipment Committee:** Mr. Candoleta mentioned that the parts for the mobile harbor crane have been received and repair work will commence tomorrow. Also, in place of the RTG's, the top lifters are used against operations. The Foxtrot (RTG) has been taken off-line and will be surveyed. In the event Operations have no use for the Echo (RTG), then it will be taken off-line as well.

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

1. **Budgeted Positions Filled** – Positions in Finance, Strategic Planning, Safety, Stevedoring, Terminal and Transportation were filled. These positions were approved in the FY2010 budget and were subsequently vacated because of resignation, retirement or transfer.

2. Pay Grade Reassignments and Amendment to Job Specification – Tabled, until next board meeting.

3. Performance Management Tool – KPI – Key Performance Indicators are still under review by the port's consultant and upon completion, will be forwarded to the HR committee for their disposition.

d. **Property Leasing/Port Development Committee:** At the previous meeting, the Deputy General Manager said the Board had approved management's recommendations relative to Shell and IP&E. One of the recommendations involved CFIUS approval requirement which Legal Counsel was advised to provide further clarification and has since rendered an opinion. Therefore, it is being requested that based upon further clarification the Board approve the waiver of the CFIUS approval requirement.

Mrs. Lacson made motion to approve waiver on the Committee on Foreign Investment in the United States (CFIUS) approval for Shell/IP&E Assignment subject to the following conditions: IP&E to obtain approval if it is ever required by a federal agency; IP&E to indemnify the Port Authority for any liability for failing to obtain CFIUS approval prior to the assignment, seconded by Mr. Beery. Motion was unanimously approved.

e. **Procurement Advisory Committee:** Mrs. Alma B. Javier, Procurement & Supply Manager presented the following items that are currently in the solicitation process:

- i. Request for Proposal:
 - Risk Management Services
 - Construction & Management services for Hagatna marina
 - Concessionaire for Agat marina
 - PMC for the Management of Cargo Terminal Operator and Maintenance of Cargo Handling Equipment
 - Comprehensive Tariff Study
- ii. Invitation for Bids – Construction:
 - Design/Build for Hagatna marina Dock Repairs
 - Hagatna marina Renovation and Site Improvements – Phase I (Relative to Sheet Pilings)
- iii. Invitation for Bids through GSA:
 - Purchase of 40-ton Condensing Unit
 - Web Hosting Development
 - POP 3 Email Service for 200 Accounts
 - Purchase of 42 A/C Split Units
 - Purchase of Telescopic Spreader Bar

1. Draft Executive Order-Procurement – For Board's information.

f. **Building Facility Committee:** Mr. Candoleta said the renovation of the Mens Restroom is 90% complete and 40% completed for the Ladies Restroom. Door replacement for both the TWIC office and board room is in progress.

VI. OLD BUSINESS

a. **OAE Task Order No. 28 - Project Management:** As directed by the Board at its previous meeting, Mr. Beery mentioned that PB has prepared a priority list on the task orders relative to the port modernization program. This information has been shared with the members prior to this meeting. The priority list showed task orders completed; task orders of priority, design, specifications, studies and so forth. Mr. Beery said in order for OAE to proceed forward in executing the modernization program under the master plan, all the task orders are still very relevant and valid, and would be performed in priority order. He reminded the Board that how Task Order 28 - Project Management came about was back in October 2009 the project management amounts were taken out of each individual task orders and lumped into a task order identified as Task Order 28 – Project Management. The original amount was \$710,567.00 which was the anticipated amount to expend by February 2010. Mr. Beery explained that all the task orders did not get kicked-off as quickly as anticipated, so the amount expended was \$335,567.00. He mentioned that as a result of the Committee’s meeting, OAE was asked to estimate a high/maximum number on what it would take to complete all the task orders on the presumption that it can be done within one year from February 2010. OAE then provided a fairly substantial number of another \$1.8M. Mr. Beery said this is based on time and materials and would need to be monitored on a month-to-month basis. The basic principal behind Task Order 28 as amended is a good one as it allows for flexibility and ability to move forward with the modernization program.

Mr. Beery made motion to approve Owner’s Agent/Engineering Task Order No. 28 Amendment 1 – Project Management as proposed by PB Americas and to authorize its extension to February 18, 2011, subject to monthly reviews. Motion was seconded by Mrs. Lacson and unanimously approved.

As the matter relates, Mr. Beery made motion to authorize extension to December 31, 2010 for the following Owner’s Agent/Engineer Task Orders, seconded by Mrs. Lacson. Motion was unanimously approved.

- Task Order 1 (Amendment 2) – Kick-off & Implementation Plan
- Task Order 4 (Amendment 2) – Prepare Permit Application
- Task Order 7 (Amendment 5) – PMC Advertisement Support
- Task Order 9 (Amendment 2) – Terminal Alternative Analysis-Development & Operations Plans
- Task Order 10 (Amendment 2) – Performance & Technical Requirements for Truck Gates & TOS
- Task Order 17 (Amendment 1) – Dredge, Reclamation, and Disposal Planning
- Task Order 18 (Amendment 1) – Dredge Sediment Characterization
- Task Order 22 (Amendment 1) – Dredge Sediment Coring Samples

b. **Pay Grade Reassignment: Building Maintenance Superintendent; Administrative Aide; Buyer I & II:** Tabled, until next board meeting.

VII. NEW BUSINESS

- a. **Public Law 30-96** – *An Act to Transfer Properties under the Jurisdiction of the Port Authority of Guam to the Jurisdiction of the Guam Ancestral Lands Commission, by adding a new §80105(A) to Title 21, Guam Code Annotated*
- b. **Public Law 30-100** – *An Act to amend Section 4 of Public Law 30-57, relative to the Jose D. Leon Guerrero Commercial Port of Guam Master Plan Update 2007 Report*
- c. **Public Law 30-105** – *An Act to amend §6217 of Chapter 6 of Title 4, Guam Code Annotated, relative to ensuring that the Public Employees who work at night receive Night Differential Pay*

Items a thru c under New Business was for Board's information.

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 6:55 p.m.

RECONVENED: The meeting reconvened at 7:00 p.m.

At this time, the Board went into executive session. Executive Session ended at 7:20 p.m. The Board is now back in regular meeting session. Items addressed in executive session include GFT Collective Bargaining Unit; Watts Constructors Civil Case No. CV10-00002 and Guam YTK.

1. **Guam YTK** – Mr. Beery made motion to authorize management to work with Legal Counsel in finalizing the arbitration agreement of the third arbitrator relative to the Guam YTK case, seconded by Mrs. Lacson. Motion was unanimously approved.
2. **Hanson Cement** – Management was advised to work with Legal Counsel in the review of the Hanson Permanente Cement Case No. CV01-00005 to determine whether it is a case worth pursuing.
3. **Community Outreach Program** – The Chairman asked for clarification relative to the OEA funding on the Community Outreach Program. The Deputy General Manager said there are three components to this grant: Community Outreach Program; Financial Feasibility

and Implementation Plan. She said the Community Outreach Program is at \$350K and the Implementation Plan at \$350K. The Port has submitted invoices in the amount of \$174K for reimbursement of the Implementation Plan; however, is placed on hold because of the investigation on the Community Outreach Program. Management has provided the front office via Ms. Carol Perez a memorandum copy to the Attorney General indicating that PB Americas has fulfilled its deliverables on the web portal and understands this information was forwarded to the Chief of Staff. She wondered whether the information provided is sufficient for the release of the funding. The Deputy General Manager was advised to provide the Chairman the information so that he may communicate with the front office on this matter.

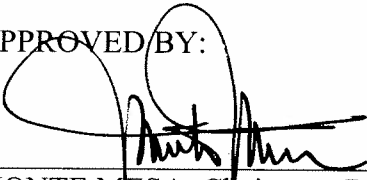
X. ADJOURNMENT

There being no further business to discuss, it was moved by Mr. Beery 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

