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MC Fwd: GSWA Minutes - October 11, 2017

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11/28/2017	11/28/2017	Guam Solid Waste Authority	GSWA Minutes - October 11, 2017*	34-17-1272

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GL# 34-17-1272
Speaker Benjamin J.F. Cruz

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Please find approved minutes attached from GSWA Board meeting.

Thanks,

Alicia Fejeran, Waste Management Services Supervisor

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OFFICE OF SPEAKER BENJAMIN J.F. CRUZ

Committee on Appropriations and Adjudication

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2017 10-11 Approved GSWA Board Meeting Minutes.pdf
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GUAM SOLID WASTE AUTHORITY
BOARD OF DIRECTORS' MEETING
October 11, 2017 @ 11 a.m.
Guam Solid Waste Authority
GSWA Conference Room, Tamuning

I. Call to Order

The Guam Solid Waste Authority Board of Directors' meeting was called to order by Chairman, Andrew Gayle, at 11:05 am.

II. Roll Call

Board Members:

Andrew Gayle	Chairman
Jonathan Denight	Vice Chairman
Minakshi Hemlani	Secretary
Joseph Duenas	Board Member

Management & Staff:

David Manning	Receiver Representative (via telephone)
Chace Anderson	Receiver Operations Manager
Greg Martin	GSWA General Manager
Coleen Cruz	GSWA Customer Service
Chelsea Cruz	GSWA Customer Service

Guests:

Georgette Concepcion	Board Legal Counsel
Ron White	Green Group Holdings
Promilla Sullivan	Court Reporter
Vanessa Williams	GSWA Legal Counsel
Jennifer Dulla	Office of Senator Telena Nelson

III. Approval of Minutes

Board Members reviewed draft minutes from the September 6, 2017 Board Meeting. Board Member Joseph Duenas said that revision was needed to his statement under the Open Discussion section that he suggested "the possibilities of placing taxes" on goods brought in through the Port Authority. Board Member Duenas explained that there is an existing tax on goods and what he suggested was a transferring of tipping fees. Subject to the revisions stated, Board Member Duenas moved to approve the minutes. Board Secretary, Minakshi Hemlani, seconded the motion. The motion passed unanimously.

IV. Reports

a. Management/Receiver's Report

i. Monthly Tonnages and Collections

Receiver Operations Manager, Chace Anderson, reported to the Board that there was a 1.26% increase in the tonnage from the previous fiscal year down at the Layon landfill

ii. Operating Budget

Receiver Representative, David Manning, reported that in September 2017, cash collections were down because of the timing of billing. He reported that for the entire year there was an increase of about 4.2% in revenue from the Residential Accounts. He also reported that there was a strong increase in revenue from the Guam Water Authority due to the increase of the disposal of the bio-solids. Mr. Manning cautioned that the budget report was preliminary and subject to change during the

auditing process; however, he did not expect it to change significantly. Mr. Manning reported that majority of the budget categories are under budget.

b. Remaining Court Ordered Tasks

i. Residential Transfer Station Upgrades

Receiver Operations Manager Anderson informed the Board that the Agat transfer station, and Maloloj & Dededo upgrades were progressing and expected to be complete before January 2018, based on the assurances given the Court by Core Tech at the recent status hearing. The gas migration issue will not be resolved by January 2018, and the matter is awaiting further guidance from the Court.

ii. Environmental Closure of Dededo Transfer Station

Receiver Operations Manager Anderson reported that the closure should be completed by January 2018.

iii. Ordot Cap Maintenance

Receiver Operations Manager Anderson reported that negotiations were ongoing with two potential vendors for a 6 to 7-year term contract with options. Receiver Representative, Mr. Manning, added that he is hopeful that the negotiations will result in a contract.

iv. Quality Control Engineer for Cap Maintenance

No RFP released at this time.

v. Trustee

No RFP released at this time.

c. Committee Reports

i. Team Search – GM and Controller

a. Controller

GSWA General Manager, Greg Martin, reported that there were two Controller candidates that he was interested in interviewing, included one from off island. He stated that the candidate from Minneapolis had significant experience with landfills and he would like to fly him to Guam for an in-person interview. The GM will work with the subcommittee during the vetting process. The Board was informed by the Receiver Operations Manager that if they do intend to fly someone to Guam business class, they would need prior approval from the Governor.
Vice Chairman, Jonathan Denight, moved for GSWA to fly the qualified candidate to Guam for a second interview. Board Member Duenas seconded the motion. The motion was passed unanimously.

b. GM Perquisites

Vice Chairman Denight requested that the Board consider providing General Manager Martin with a vehicle allowance. Board Legal Counsel, Georgette Concepcion, stated that if the Board decided to provide the GM with a vehicle allowance, it could amend his contract. Board Legal Counsel Conception stated that although the Receiver requested DOA and the Attorney General approve the original contract, amendments to the GM's contract did not have to go through DOA or the AG's office per GSWA's enabling act. Receiver Operations Manager Anderson suggested, as another option, that the Board increase the GM's salary rather than provide a vehicle allowance.

Vice Chairman Denight moved to provide the GM with a vehicle allowance of $600.00 per month, to include vehicle cost, fuel, and insurance. The Board discussed the proposed motion and whether a vehicle allowance would be subject to income tax and if yes, what would be the actual net value of the allowance. Board Member Duenas moved to amend Vice Chairman Denight's motion increasing the GM's vehicle allowance to $650.00 per month. Board Secretary Hemlani seconded the motion. The motion passed unanimously.

On the issue of whether the GM should be provided with a separate vehicle allowance or whether his base salary should be increased, Board Secretary Hemlani moved to amend the GM's contract to include a separate vehicle allowance of $650.00 per month. Vice Chairman Denight seconded. The motion passed unanimously.

The Board discussed the out-of-pocket expenses the GM had already incurred in renting a vehicle. Board Secretary Hemlani moved for GSWA to reimburse the GM for car rental expenses incurred. Board Member Duenas seconded he motion. The motion was passed unanimously.

GM Martin advised the Board that because he had incurred so many out-of-pocket expenses in fronting the cost of temporary housing and car rental, he was unable to pay for his moving expenses. His household items arrived in Guam, but the shipping company requested payment before release. Per the GM's contract, he must pay moving expense and then seek reimbursement; the Receiver could not pay the shipping company directly. Receiver Representative Manning stated that reimbursement could be made within a week after proof of payment had been submitted.

ii. Personnel Transition

a. Status of Proposed Legislation

Board Chairman, Andrew Gayle, reported that proposed GSWA legislation submitted by Senator Ada was passed by the Guam Legislature with some floor amendments, and it was currently in the Governor's Office pending signature.

b. Transition of Current Gov. Guam workers and contract workers

Board Member Duenas reported that letters had been drafted for PHR contracted employees and GSWA government employees to reassure both sets of employees that the Board was working to secure their jobs continue after the transition. Chairman Gayle advised that Alicia Fejeran would receive a letter reassuring her of the same thing.

Board Member Duenas moved to have Board Chairman Gayle execute the letters prepared. Board Secretary Hemlani seconded the motion. The motion passed unanimously.

c. Transition Issue: Pacific Human Resources and the Organic Act

[The title of this subsection was revised from that stated on the Oct. 11, 2017 BOD Meeting Agenda to accurately reflect the discussion held.]

The issues regarding the assignment of the temporary labor contract between the Receiver and Pacific Human Resources to the GSWA Board had not been resolved. Board Legal Counsel Concepcion reported that the Attorney General was expected to issue a legal opinion addressing the issue, differentiating GSWA's current situation from a previous opinion provided by an Asst. AG that such assignments would violate the Organic Act.

V. Unfinished Business

a. Updates to GSWA Rules

Receiver Operations Manager Anderson reported that updates to GSWA Operation Rules and Regulations remained unfinished.

b. Rate Adoption by PUC

PUC Rate Adoption is addressed in the pending legislation.

c. Board Member terms expiring

Chairman Gayle requested Board Legal Counsel Conception draft a letter addressed to Governor Calvo informing him of certain Board Member terms that were due to expire; the Chairman would sign the letter and have it submitted to the Governor's Office. The Chairman also requested that a legal opinion from Board Legal Counsel Conception regarding the process for Chairman appointment.

VI. New Business

Adoption of DOA Personnel Rules and Regulations and Memorandum of Understanding with the Department of Administration for Administrative Support.

Board Legal Counsel Concepcion, recommended the Board adopt Department of Administration's ("DOA") Rules and Regulations for GSWA. She also advised the Board that it may amend or repeal the existing DOA Rules and Regulations at a later date if needed.

Board Secretary Hemlani moved for GM Martin to work with Pacific Human Resources Inc. to amend the DOA Rules and Regulations before the Board promulgates the Final Rules and Regulations. Board Member Duenas seconded the motion. The motion passed unanimously.

Board Legal Counsel Conception reported that the Receiver called a meeting with representatives of the Attorney General's Office, DOA, and herself. She reported that the AG recommended that GSWA enter into a Memorandum of Understanding ("MOU') with DOA to codify the work DOA currently performs for GSWA under Receivership. The AG said that the MOU would allow for DOA to continue such services for GSWA after transition. The Board directed Board Legal Counsel Conception to circulate a draft MOU to it and the Receiver.

Board Member Duenas moved for GSWA to enter into a MOU with DOA for services to continue after transition from Receivership. Vice Chairman Denight seconded the motion. The motion passed unanimously.

GM Transition Plan

The Board requested GM Martin educate himself on existing GSWA operations and create an projected plan/outline for management post-Receivership that could be presented to the Court on at the next hearing scheduled for October 19, 2017.

Legal transition issues

GSWA Legal Counsel, Vanessa Williams, reported on pending GSWA cases. The Lot 450 case involved the legal "taking" of land located near the Ordot Dump by GSWA. GSWA Legal Counsel Williams explained that different expert appraisals were causing the legal battle as to what compensation was due to the land owners. The property was approximately 10 acres and the different values ranged from $480k to $4.1M, if loss of use damages were calculated. In response to Board Chairman Gayle question, GSWA Legal Counsel Williams said that money to pay the former landowners would come from GSWA funds. Mr. Manning said that GSWA had already paid the former landowners the amount of the government's appraisal of the land, but if their new and clearly excessive claims were upheld the Government of Guam should be responsible for the debt. Trial was scheduled to begin before Judge Barcinas on November 16, 2017.

A second case pending in the Superior Court was GSWA's claim for liquidated damages against Maeda Pacific Corporation, in the amount of $663k. Trial was scheduled to begin on March 12, 2018.

GSWA Legal Counsel Williams reported that there was case pending before the Civil Service Commission ("CSC") by former GSWA employee Acfalle. The Administrative Law Judge had recused from the case, and a merit hearing was tentatively scheduled to begin in January 2018. GSWA Legal Counsel Williams reported that there was a motion made

by Mr. Acfalle's contesting the Receiver's authority, and therefore Vanessa William's authority, to represent GSWA before the CSC.

GSWA Legal Counsel Williams reported a final matter before the Superior Court involving a "total taking" of Lot 3434 in connection with the environmental closure of the Ordot Dump. The appraised value of the land (approximately $800k) had been paid to the Court but ownership of the land remained unresolved. The Receiver believes the land may already be owned by the Government of Guam; however, there was also a claim of ownership by private parties. Judge Lamorena in the Superior Court of Guam directed that the ownership issue to be resolved by a land registration proceeding.

The Board discussed how litigation and other legal matters on behalf of GSWA should be handled post-Receivership. Board Chairman Gayle suggested the formation of a subcommittee to address legal matters related to the transition. Board Secretary Hemlani agreed to the head of the subcommittee and work along with the Board Chairman.

VII. Open Discussion

None.

VIII. Public Forum

Green Group Holdings ("GGH") representative, Ron White, followed up on a previous discussion with the Board about the equipment issue at the Layon Landfill. He informed the Board that GGH started the purchasing process for new equipment. He also informed the Board that his replacement, Norm Kivett, would arrive in December 2017. Mr. Kivett was Mr. White's predecessor at the Layon Landfill and is familiar with its operations.

IX. Next Meeting

The Board scheduled its next meeting for November 1, 2017 at 11am at the Guam Solid Waste Authority conference room.

X. Adjourn

Board Secretary Hemlani moved to adjourn the meeting at 12:42 p.m. Board Member Duenas seconded the motion The motion passed unanimously.