

## **BOARD OF TRUSTEES**

### **Regular Meeting**

Friday, October 31, 2008, 12:00 p.m.

Retirement Fund Conference Room

## **MINUTES**

### **DEFINED BENEFITS**

#### **I. ATTENDANCE, QUORUM, AND CALL TO ORDER**

After determining a quorum was present, the Retirement Fund Board of Trustees Regular Meeting for the Defined Benefits Plan was called to order at 12:25 p.m. Friday, October 31, 2008, in the Retirement Fund Conference Room. Chairman Joe T. San Agustin officiated.

#### **Board of Trustees Present:**

Joe T. San Agustin, Chairman  
Gerard A. Cruz, Treasurer  
James J. Taylor, Secretary  
George A. Santos, Trustee  
Katherine T.E. Taitano, Trustee  
Antolina S. Leon Guerrero, Trustee

#### **Board of Trustees Absent:**

Wilfred P. Leon Guerrero, Vice-Chairman

#### **Staff Present:**

Paula Blas, Director  
Diana Bernardo, Controller  
Rosalia Bordallo, General Accounting Supervisor  
Jackie Blas, Recording Secretary  
Dr. John C. Steele, Retirement Fund Medical Consultant  
Kenneth Dunstan, Benefit Program Administrator  
Jackie Sablan, Benefit Specialist II  
Lena Sanchez, Benefit Specialist II

#### **Public Present:**

Mark Heath, Metropolitan West Capital Management  
Bernadita D.C. Taitague

Secretary James Taylor informed the Board of Trustees that he helped to create a virtual U.S. bank for Biz/ed, a comprehensive website developed to support business education in the United Kingdom. The website address is: ([www.bized.co.uk/virtual/usbank/index.htm](http://www.bized.co.uk/virtual/usbank/index.htm)). The Board congratulated Secretary Taylor on his work. Trustee Antolina Leon Guerrero asked whether it is an on-line Course. Secretary Taylor replied, "Yes."

## **II. REVIEW AND APPROVAL OF BOARD MINUTES**

### **A. July 25, 2008 Regular Meeting, August 1, 2008 Reconvened Meeting and August 29, 2008 Regular Meeting**

**On motion of Trustee George Santos, seconded by Secretary James Taylor, and without objection, the Minutes of July 25, 2008 Regular Meeting, August 1, 2008 Reconvened Meeting and August 29, 2008 Regular Meeting were approved, subject to corrections. Motion passed.**

### **B. September 26, 2008 Regular Meeting and October 3, 2008 Reconvened Meeting**

**Trustee George Santos, seconded by Secretary James Taylor, moved to table the Minutes of September 26, 2008 Regular Meeting and October 3, 2008 Reconvened Meeting. Without objection, the motion passed.**

## **III. CORRESPONDENCE**

### **A. October 3, 2008 Letter from Gary Lisenbee, Metropolitan West Capital Management, Regarding Evergreen's Ownership Percentage**

Chairman San Agustin stated that there is a change in ownership on Metropolitan West Capital Management. It is now owned by Evergreen. Evergreen's ownership percentage has changed to 77% from 73%. Chairman San Agustin stated that the founding principals of Metropolitan West Capital Management retained 23% equity in the firm.

### **B. October 28, 2008 Letter to Governor Felix Camacho from Senator Frank Blas, Jr. Regarding October 27, 2008 Pacific Daily News Article**

Chairman San Agustin stated that Governor Felix Camacho is diverting the money for the COLA Award to be used for the closure of the Ordot dump. Chairman San Agustin stated that he had a running dialogue with the Governor on this matter.

## **IV. INFORMATIONAL ITEMS**

None

## **V. DIRECTOR'S REPORT - EXECUTIVE SUMMARY**

### ***1. Candelaria Rios, et al. vs. Joseph Ada, et al. (Special Proceeding Case No. SP206-93) -***

Director Paula Blas stated that the government rating of BBB has gone up to a B+. Rosalia Bordallo, General Accounting Supervisor, stated that there is a \$20 Million surplus. Treasurer Gerard Cruz asked where the surplus is. Director Blas stated that it is not known. Chairman San Agustin asked whether the Retirement Fund will buy the \$246 Million Bond. Chairman San Agustin stated that he saw Attorney Smith's ad in the paper regarding the COLA Award. Chairman San Agustin stated that two ladies were billed \$6,000.00 each on a \$10,000.00 COLA Award. Director Blas stated that some

attorneys are charging a flat fee. Trustee Antolina Leon Guerrero asked how much is still pending. Director Blas stated that there is \$3 Million pending the identification of deceased beneficiary's estate.

**2. *Global Custody Services*** - Director Blas stated that all assets from First Hawaiian Bank/JP Morgan have been successfully transferred to Northern Trust. Reconciliation/audit of the portfolios is currently ongoing. Director Blas stated that the Retirement Fund is still not participating in securities lending.

**3. *Real Estate Investment Trusts (REITS)*** - Director Blas stated that the Board at their September 26, 2008 meeting, decided to defer funding for the new managers (Cornerstone Real Estate Advisers, Security Capital Research & Management) until December 2008.

**4. *U.S. Domestic Small Capitalization Core Equity*** - Director Blas stated that the Board had also decided to defer funding of Thomson Horstmann & Bryant until December 2008.

**5. *Request for Proposal (RFP): U.S. Domestic Large Capitalization Growth Equity*** - Director Blas stated that the new account for one of the new large capitalization growth managers (Winslow Capital Management) has been set up with Northern Trust. The new manager is waiting for the transfer of assets to them.

Director Blas stated that the INTECH/JANUS agreement is ready for Board consideration. Director Blas stated that there are two considerations being presented to the Board:

1. A petition presented by INTECH regarding the Retirement Fund investment mandates, specifically Section 8157. Director Blas stated that Legal Counsel has reviewed the Petition and agrees that the Petition does protect the Retirement Fund; and
2. Additional changes requested by ITECH to the Investment Management Agreement are not legally in the Retirement Fund's favor and Legal Counsel is recommending not accepting these changes.

Director Blas stated that Legal Counsel has recommended moving forward with this. Director Blas stated that Legal Counsel indicated that the guidelines in the Investment Policy Statement (IPS) discussed in the Petition provide that, in addition to the statutory investment limitation, a minimum of 75% of investments in Common Stock must meet the Section 8157 requirements. Director Blas stated that Legal Counsel suggested accepting this. Treasurer Cruz stated that the requirements of Section 8157 with respect to 50% of investments of the Fund, are applied at the total Retirement Fund level and not at the manager level and that the Fund takes into account the requirements of Section 8157(A) in the course of the Fund's allocation of Fund assets to be managed by its various managers for purposes of compliance with Section 8157(a). Mrs. Bordallo stated that they have a Board policy to lower it. Treasurer Cruz stated that No. 9 on Page 3 of attachment A reads that "While Petitioner has been informed by the Fund that Section 8157(A) requirements are applied at the Fund level and not at the manager, level, Petitioner submits that its management process does not readily provide for tracking of certain attributes of investment in equities to be assured that the requirements of Section 8157(a) are always met by its allocated portion of Fund assets." Trustee Antolina Leon Guerrero asked whether it is in compliance with the law. Mrs. Bordallo stated that it is in compliance with the dividend rule. It may not meet the requirements of Section 8157. Chairman San Agustin asked why they are concerned of the overall. Chairman San Agustin suggested holding them to the IPS.

Chairman San Agustin recommended referring Items 1 and 2 to the Investment Committee for evaluation.

**6. Request for Proposal (RFP): Legal Services** - Director Blas stated that the Selection Panel recommendation will be submitted at the December 5, 2008 meeting.

**7. Request for Proposal (RFP): Proxy Voting Services** - Director Blas stated that the Glass Lewis Agreement is ready for signatures. However, prior to signing the agreement, a draft Proxy Voting Policy should be adopted by the Board and in place. The policy needs to be decided on at today's meeting. Secretary Taylor stated that he reviewed both draft policies and the Investment Committee recommends adopting the short policy.

**Secretary James Taylor, seconded by Treasurer Gerard Cruz, moved to adopt the short policy. Without objection, the motion passed.**

**8. Request for Proposal (RFP): Defined Benefit Investment Consultant Services** - Director Blas stated that the RFP closed on October 24, 2008. The Selection Panel will consist of Chairman Joe San Agustin, Trustee Antolina Leon Guerrero, and Rosalia Bordallo, General Accounting Supervisor.

**9. Request for Proposal (RFP): Banking Services** - Director Blas stated that the RFP closed on October 30, 2008. The Selection Panel will consist of Vice-Chairman Wilfred Leon Guerrero, Secretary James Taylor, and Trustee Antolina Leon Guerrero. Director Blas stated that there were four responses: First Hawaiian Bank, Bank of Guam, Bank of Hawaii and Citizens Security Bank. Secretary Taylor informed the Board that he has a conflict of interest with regard to the RFP. Chairman San Agustin asked Trustee Katherine Taitano to replace Secretary Taylor. Mrs. Bordallo suggested including a staff member on the Selection Panel as this affects operations. Chairman San Agustin stated that staff could provide input.

**10. Public Law 23-38** - Director Blas stated that the monthly interest payments for the Guam Memorial Hospital Authority (GMHA) and Guam Public School System (GPSS) are current.

**11. Bernstein Litowitz Berger and Grossmann (BLBG)** - Director Blas stated that she received a copy of the amended class action suit against Lehman Brothers. Director Blas suggested deferring this matter until Vice-Chairman Leon Guerrero's return. Treasurer Cruz stated that he will summarize the report.

### **Financial Report**

**1. Contributions** - Director Blas stated that all agencies are current with their Fiscal Year 2009 employer and employee contributions.

**2. Financial Statements / Fiscal Year 2008 Audit** - Director Blas stated that the books for the month ending September 2008 and the books for the fiscal year ending September 30, 2008 will both be closed next week. Director Blas stated that once this is completed, the Fiscal Year 2008 audit will commence.

**3. Fiscal Year 2009 Retirees' Supplemental Benefits** - Director Blas stated that the Supplemental benefits for retirees and survivors for the month of October 2008 were paid.

4. **Medicare Reimbursements** - Director Blas stated that the Retirement Fund continues to receive the Fiscal Year 2009 monthly allotments and payments are processed accordingly. Trustee Leon Guerrero asked how retirees are finding out about the reimbursement. Director Blas stated that it is through the Department of Public Health and Social Services.

5. **Fiscal Year 2009 Annual COLA** - Director Blas stated that the fiscal year annual COLA check of \$1,100.00 for retirees and survivors were printed on Wednesday and given to the General Fund.

## VI. LEGAL COUNSEL'S REPORT

No report was made at this time.

## VII. TREASURER'S REPORT OF FINANCIAL STATUS

Treasurer Cruz stated that the Treasurer's Report is provided, at this meeting. It covers the Retirement Fund's Statement of Plan Assets (unaudited) for both the Defined Benefit (DB) Plan and the Defined Contribution (DC) Plan for the month ended September 30, 2008.

## VIII. STANDING COMMITTEE REPORTS

### A. Members and Benefits Committee

Trustee George Santos presented his Committee's October 2008 report to the Board of Trustees.

**Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 18, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of October 8, 2008 and subsequent meetings thereafter. Without objection, the motion passed.**

Chairman San Agustin stated that case numbers have been assigned on the appeal cases currently before the Board of Trustees. Chairman San Agustin stated that Dr. John Steele will present the cases to the Board. The Board's decision will be guided by the American Medical Association (AMA) Guidelines. The names of the applicants are not provided or known to the Board. Chairman San Agustin stated that if the applicant would like to address the Board, he or she would have to waive their right to the privacy of their medical records and he or she must state his or her name for the record. The applicant will be given five to seven minutes to address the Board. Chairman San Agustin read out loud the definition of disability: "A total and permanent disability for the purposes of this Chapter is one which results from some impairment of body or mind which can be expected to result in death, or can be expected to last for a continuous period of not less than twelve months. The impairment shall be one that substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that he/she would be competent to perform were it not for that impairment, and if founded upon condition which render it reasonably certain that it will continue indefinitely."

## **DISABILITY APPEALS: CASE NO. 08-0545**

Dr. John Steele read out loud his summary notes of April 8, 2008. Dr. Steele stated that the 60 year old applicant applied for disability in December 2007. Chairman San Agustin stated that four physicians ranked the applicant as follows: 15%, 43%, 52% and 43%. The AMA Guidelines threshold is 75%. Dr. Steele stated that the applicant's systems are prolonged. The applicant has a permanent disability but does not have a total disability. Secretary Taylor asked what the Guam law on the threshold is. Director Blas stated that there is no minimum, no degree. Treasurer Cruz stated that the Board adopted the 75% threshold of total disability.

Dr. Steele stated that applicant was denied disability by the Board on May 29, 2008. Secretary Taylor stated that the applicant did not rate close to the 75% threshold. Dr. Steele stated that if the rating is below 50%, disability is denied. If the rating is over 50% to 75% the applicant would be seen by the Members and Benefits Committee. Treasurer Cruz stated that it is not much deviation.

At this time Chairman San Agustin stated that the applicant will be given five to seven minutes to address the Board of Trustees and that if the applicant wishes to do so, he/she will be waiving his/her right of privacy.

Applicant Bernadita D.C. Taitague addresses that Board at this time and acknowledges waiving her right of privacy. Mrs. Taitague stated that she is 60 years old, she read out her prepared statement. Chairman San Agustin asked whether Mrs. Taitague has a local physician. Mrs. Taitague replied, Dr. Christopher Herzer. Chairman San Agustin asked if Mrs. Taitague's local physicians have her medical records. Mrs. Taitague stated that she informed Dr. John Taitano and Dr. Fred Schroeder of what was done. Chairman San Agustin stated that Dr. Taitano and Dr. Schroeder rated Mrs. Taitague below 50%. The physician from Pennsylvania, Dr. Daniel Hely, also rated her below 50%. Chairman San Agustin stated that the applicant must be totally disabled. Mrs. Taitague stated that she was rated only on her spine. Chairman San Agustin stated that Mrs. Taitague's physician from Pennsylvania stated that she is not totally disabled. Chairman San Agustin stated that the law says that you must be totally disabled. Treasurer Cruz asked whether the pain is only when sitting down. Mr. Taitague stated that she can not sit down for more than two hours. Treasurer Cruz asked what did Mrs. Taitague's physician from Pennsylvania say. Mrs. Taitague stated that according to her spinal, she is totally disabled. Trustee Taitano made a clarification that Dr. Hely received the form to fill out. Trustee Taitano asked whether the other physicians get the report from Dr. Hely. Chairman San Agustin stated that even Dr. Hely indicated that Mrs. Taitague is not totally disabled and rated her 13%. Trustee Taitano stated that the rating was based on her spinal. Trustee Taitano stated that Dr. Hely marked "Yes" on Page 1.

Treasurer Cruz asked Dr. Steele for his opinion. Dr. Steele stated that Mrs. Taitague does not seem totally disabled. Her main symptom is a pain which is difficult to examine. Dr. Steele stated that there is no therapy program.

Secretary Taylor stated that the law needs to be fixed. Treasurer Cruz stated that this is only temporary. Chairman San Agustin stated that the initial disability cases go before the Board.

**Treasurer Gerard Cruz, seconded by Trustee Antolina Leon Guerrero, moved to deny the appeal of Case No. 08-6196 based on all the physicians' ranking of disability. With a unanimous vote of yes, the motion passed. Vice-Chairman Wilfred Leon Guerrero was absent.**

*Treasurer Gerard Cruz asked to be excused from the meeting at this time (2:15 p.m.)*

**B. Investment Committee**

Secretary Taylor stated that a copy of the Defined Benefit Plan Unrealized Gain (Loss) Summary as of August 31, 2008, September 30, 2008 and October 28, 2008, and a Summary of Transactions for the Fiscal Year Ending September 30, 2008 are provided at this meeting for the Board's information. Secretary Taylor reported that one of the Investment Managers informed the Retirement Fund that they had problems with their investments in American International Group of which they owned \$61,000 in stocks. The stocks were purchased at \$3,415,084.15 and were then sold at \$150,980.25 for a total loss of \$3,264,103.90. Secretary Taylor stated that this is for informational purposes.

Secretary Taylor stated that if you take the Market as of July 31, 2008 the total portfolio was \$1,240,316,159 and the Market as of August 31, 2008, the total portfolio was \$1,225,453,177. At that time the Retirement Fund had a loss of \$14,862,983. The Market as of September 30, 2008, the portfolio was \$1,129,664,599 with a loss of \$95,788,578. Secretary Taylor stated that by October 2008, the Retirement Fund had a loss of \$166,617,924. Secretary Taylor stated that the Retirement Fund started out with a cost of \$1,212,602,742 and about \$249,556,067 of loss cost.

**C. Audit Committee**

No report was made at this time.

**D. Governmental Liaison**

No report was made at this time.

**IX. OLD BUSINESS**

None

**X. NEW BUSINESS**

**A. Health Insurance Study**

Director Blas stated that Richard Wright with Milliman Consulting will assist the Retirement Fund on the health insurance study.

**XI. OPEN DISCUSSION / GENERAL PUBLIC INPUT**

None

**XII. ANNOUNCEMENTS**

None

### **XIII. ADJOURNMENT**

**There being no further business before the Board for the Defined Benefits Plan, on motion of Trustee George Santos, seconded by Trustee Antolina Leon Guerrero, and without objection, the meeting was adjourned at 2:22 p.m. Motion passed.**

**I hereby certify that the foregoing is a full, true and correct copy of the Minutes of October 31, 2008 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on March 6, 2009.**

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**James J. Taylor, Board Secretary**

**RECORDING SECRETARY:**

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**Jackie Blas**