



GOVERNMENT OF GUAM
RETIREMENT FUND
 STABILITY · SECURITY · REWARDS

BOARD OF TRUSTEES

Regular Meeting

Friday, April 29, 2011, 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 1:10 p.m. Friday, April 29, 2011, in the Retirement Fund Conference Room. Chairman Joe T. San Agustin officiated.

Board of Trustees Present:

Joe T. San Agustin, Chairman
 Antolina S. Leon Guerrero, Secretary
 Wilfred G. Aflague, Trustee
 George A. Santos, Trustee

Board of Trustees Absent:

Wilfred P. Leon Guerrero, Vice-Chairman
(Excused)
 Gerard A. Cruz, Treasurer *(Excused)*
 Katherine T.E. Taitano, Trustee *(Excused)*

Staff Present:

Paula Blas, Director
 Diana Bernardo, Controller
 Rosalia Bordallo, General Accounting Supervisor
 Jackie Blas, Recording Secretary
 Alice Taijeron, Great-West Retirement Services
 Kenneth Dunstan, Benefit Program Administrator
 Lena Sanchez, Benefit Specialist II
 Jackie Sablan, Benefit Specialist II

Public Present:

Ricky Hernandez, Senator Ben Pangelinan's Office of Finance and Budget
 Matthew Diaz, Kristel Carpo, and Camilo Lorenzo, UOG Students

Paula M. Blas
 Director

Trustees:

Joe T. San Agustin
 Chairman

Wilfred P. Leon Guerrero, Ed.D
 Vice-Chairman
 Investment Committee, Chairman

Antolina S. Leon Guerrero
 Secretary

Gerard A. Cruz
 Treasurer
 Audit & Operations Committee,
 Chairman

George A. Santos
 Members' & Benefits Committee,
 Chairman

Katherine T.E. Taitano
 Trustee

Wilfred G. Aflague
 Trustee

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. March 25, 2011 Regular Meeting and April 1, 2011 Reconvened Meeting

Chairman San Agustin inquired about the case with Luis Reyes. Director Paula Blas stated that the Court rendered an award to Mr. Reyes. Chairman San Agustin questioned why the Retirement Fund continues to pay Mr. Reyes when we are trying to recover \$120,000.00 from him. Director Blas stated that the Retirement Fund has the right to off-set from Mr. Reyes' annuity. Rosalia Bordallo, General Accounting Supervisor, stated that the law states that the Retirement Fund can collect and off-set but not take the annuitant's whole salary. Chairman San Agustin stated that we need to have a payment agreement in place. Director Blas stated that Mr. Reyes is also trying to collect from the Department of Education (DOE) the award of \$250,000.00. Director Blas stated that she will proceed with the collection process under the Retirement Fund statute. Trustee Wilfred Aflague asked when collection will commence. Mrs. Bordallo stated that the Retirement Fund needs to notify Mr. Reyes and then he will be given 180 days to gradually increase payments to the full monthly amount. Collections will commence in May 2011.

Chairman San Agustin inquired about the Writ of Mandate against Guam Memorial Hospital Authority (GMHA). Director Blas indicated that she will follow up with Legal Counsel regarding an update. Chairman San Agustin mentioned that he raised the question with Legal Counsel on whether the Legislature has the right to set the rate of return of trust money.

On motion of Trustee George Santos, seconded by Secretary Antolina Leon Guerrero, and without objection, the Minutes of March 25, 2011 Regular Meeting and April 1, 2011 Reconvened Meeting were approved, subject to technical corrections. Motion unanimously passed.

III. CORRESPONDENCE

A. March 28, 2011 Letter from Benita Manglona, Acting Director, Department of Administration (DOA), to Frank Campillo, SelectCare Health Plan, Regarding Utilization Data

Chairman San Agustin stated that the letter from the Acting Director of DOA to SelectCare regarding the Utilization Data is provided for the Board's information.

B. MetLife Article: "Remodeling the Benefits and Retirement Income Space"

Chairman San Agustin stated that this article is provided for the Board's information.

IV. INFORMATIONAL ITEMS

None

V. DIRECTOR'S REPORT - EXECUTIVE SUMMARY

I. Candelaria Rios, et al. vs. Joseph Ada, et al. (Special Proceeding Case No. SP206-93) – Director Blas stated that as of March 14, 2011, the Guam Economic Development Authority (GEDA) issued a Request for Proposal (RFP) requesting for proposals to provide a loan for approximately \$20 Million for the purpose of paying outstanding Certificates of Claims issued to COLA Awardees. The RFP closed on March 29, 2011. Director Blas stated that as of April 18, 2011, there were no responses

to the RFP. Director Blas further stated that as of April 28, 2011, in accordance with Public Law 30-101, the Retirement Fund processed checks for retirees who initially opted out and not covered by the COLA settlement.

2. **Public Law 28-38: Interest Only Payments** – Director Blas stated that the monthly interest payments for DOE and GMHA due on April 10, 2011 were paid. The Retirement Fund continues to process retirement applications for DOE. GMHA retirement applications will be suspended until GMHA is current with their employee and employer contributions.

3. **Guam Memorial Hospital Authority Outstanding Contributions** – Director Blas stated that as of April 26, 2011, Judge Vernon Perez had not rendered his decision on the Writ of Mandate. Chairman San Agustin inquired about the outstanding balance. Director Blas stated that it is \$6.8 Million for both the Defined Benefit (DB) Plan and the Defined Contribution (DC) Plan. The DB Plan alone is \$5.2 Million.

4. **Bernstein Litowitz Berger and Grossmann (BLBG)** – Director Blas stated that BLBG's Litigation Status Report dated April 25, 2011 on the following lawsuits is provided for the Board's information:

- **Lehman Brothers** – Director Blas stated that BLBG is still waiting for the court's decision on the motion to dismiss.
- **Wells Fargo** – Director Blas stated that a jury trial is scheduled for August 27, 2012.
- **Genzyme Corporation** – Director Blas stated that BLBG is still waiting for the court's decision on the motion to dismiss.
- **Countrywide** – Director Blas stated that the court issued an order placing an indefinite continuance on the final approval hearing date. BLBG believes this is likely related to ongoing negotiations between all parties regarding the requests for exclusions.
- **AXA Rosenberg** – Director Blas stated that the complaint was filed on February 3, 2011.

5. **Legislative Bills: Bill 156-31 (COR) – Appropriates \$9.8 Million Reimbursed from Guam Waterworks Authority to Government of Guam for the Payment of Tax Refunds for 2009 and Prior and to Pay for Interest and Principal for Cost of Living Allowances** – Director Blas stated that this bill will authorize 50% of the reimbursement for tax refunds and the remaining 50% of the reimbursement for interest and principal for the COLA. Director Blas stated that the public hearing was held on April 27, 2011.

Financial Report

1. **Contributions** – Director Blas stated that as of April 26, 2011, all agencies, with the exception of GMHA, are current with their Fiscal Year 2011 employee and employer contributions.

2. **Financial Statements** – Director Blas stated that the books for the month ending March 2011 were closed on April 20, 2011.

3. **Fiscal Year 2011 Retirees' Supplement Benefits** – Director Blas stated that the supplemental benefits for retirees and survivors for the month of April 2011 were paid.

4. **Fiscal Year 2011 Medicare Reimbursements** – Director Blas stated that the Retirement Fund received the April 2011 allotment from the General Fund and payments were processed accordingly.

VI. LEGAL COUNSEL'S REPORT

Potential Investment in Okkodo High School Expansion Project - Director Blas stated that Legal Counsel has provided an advisory letter describing some of the risks associated with purchasing Qualified School Construction Lease Certificates in connection with the Okkodo High School Expansion Project. Director Blas stated that this item went before the Investment Committee and they requested for a legal opinion. Director Blas stated that Legal Counsel opined that this is not a permissible investment. Chairman San Agustin stated that the investment proposal was not packaged properly. Chairman San Agustin referred this matter back to the Investment Committee.

VII. TREASURER'S REPORT OF FINANCIAL STATUS

Director Blas stated that the Treasurer's Report is provided at this meeting. It covers the Retirement Fund's Statement of Plan Assets (unaudited) and Prior Year Receivables for both the DB Plan and the DC Plan for the month ended March 31, 2011. Mrs. Bordallo stated that the Retirement Fund is still within its drawdown authority.

VIII. STANDING COMMITTEE REPORTS

A. Members and Benefits Committee

Trustee George Santos presented his Committee's April 2011 report to the Board of Trustees.

Trustee George Santos, seconded by Secretary Antolina Leon Guerrero, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 11, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of April 20, 2011 and subsequent meetings thereafter. Without objection, the motion unanimously passed.

1. Disability Applications – Trustee Santos stated that based on their review and findings during their meeting of April 20, 2011, the following applications, contained on Page 12, are recommended for presentation to the Board for their discussion and disposition.

Chairman San Agustin informed everyone present at today's meeting that the disability applicants are referred to by their case numbers. The names of the applicants are not provided or known by the Board of Trustees. Chairman San Agustin stated that if an applicant would like to address the Board, he/she would have to waive his/her rights to the privacy of their medical records and he/she must state his/her name for the record. Chairman San Agustin indicated that no one present at today's meeting wished to address the Board.

a. DISABILITY CASE NO. 10-007

Secretary Antolina Leon Guerrero stated that this 54 year old Executive Director of the Guam Ancestral Land Commission applied for Disability Retirement on July 8, 2010. The applicant's symptoms were of episodes of dizziness (vertigo). The applicant was assessed by the following physicians: On July 23, 2010, Dr. Vincent Duenas estimated 29% disability; on October 19, 2010, Dr. Patrick Santos estimated 30% disability; and on October 26, 2010, Dr. Fred Schroeder estimated 10%

impairment of the whole person by AMA Guidelines. Secretary Leon Guerrero stated that to ensure the applicant's disability status, the Retirement Fund arranged another medical evaluation on March 4, 2011 by Dr. Doris Lim. Dr. Lim estimated a disability of 7% for chronic vertigo and nystagmus. Dr. John Steele, the Retirement Fund's Medical Consultant, agreed that the applicant suffered a Class III disability with 11 to 30% impairment of the whole person. The Retirement Fund's Medical Consultant agreed with all three physicians' findings and recommends denial of disability pension. Secretary Leon Guerrero made a motion to deny disability retirement for Disability Case No. 10-007. Trustee Wilfred Aflague stated that he objects to the motion.

Secretary Antolina Leon Guerrero, seconded by Trustee George Santos, moved to deny Disability Retirement for Disability Case No. 10-007. With one objection, the motion failed.

Chairman Joe San Agustin indicated that only four Board Members are present at today's meeting and it takes all four votes to pass the motion. Chairman San Agustin stated that Disability Case No. 10-007 is now in the pending file.

b. DISABILITY CASE NO. 10-008

Secretary Leon Guerrero stated that this 61 year old Certified Nurse Assistant from Guam Memorial Hospital Authority applied for Disability Retirement on July 9, 2010. The applicant's symptoms included urine incontinence, nephritic syndrome, kidney failure, heart impairment, diabetes, and hypertension. The applicant was examined by Dr. Patrick Santos for the Retirement Fund on March 6, 2011. He assessed the applicant's disability by AMA Guidelines as 90%. The applicant was examined by Dr. Vincent Duenas on August 13, 2010. He assessed the applicant's disability by AMA Guidelines as 71%. On March 14, 2011, the applicant was assessed for the Retirement Fund by Dr. Fred Schroeder. He assessed the applicant's disability by AMA Guidelines as 91%. Secretary Leon Guerrero stated that the Retirement Fund's Medical Consultant agrees with the findings of the other physicians who have assessed the applicant and recommends full disability pension.

Secretary Antolina Leon Guerrero, seconded by Trustee George Santos, moved to approve full disability pension for Disability Case No. 10-008. With a unanimous affirmative vote, the motion passed.

RECESS: 1:45 P.M.

RECONVENED: 1:52 P.M.

B. Investment Committee

Chairman San Agustin stated that the Investment Committee report is being passed on file.

IX. TRAVEL REPORT

A. Secretary Antolina Leon Guerrero and Director Paula Blas: IFEBP Investments Institute April 11-13, 2011, Las Vegas, Nevada

Chairman San Agustin stated that Secretary Leon Guerrero and Director Blas' travel report on the International Foundation Investments Institute they attended on April 11-13, 2011 in Las Vegas, Nevada is provided for the Board's information.

X. OLD BUSINESS

None

XI. NEW BUSINESS

A. Proposed Bill to Increase Survivor's Annuity by Ten Percent (10%)

Chairman San Agustin stated that other Pension Funds have a higher survivor's annuity rate. On Guam, of 1,500 survivors, 1,300 are making less than \$20,000.00 a year. The proposed bill is to increase the survivor's annuity by ten percent (10%). Chairman San Agustin stated that survivors are barely making it to pay their utilities and health insurance. Chairman San Agustin stated that he spoke to Senator Ben Pangelinan regarding this matter and he seems agreeable and would like to see the draft bill. Secretary Leon Guerrero asked what the impact to the Retirement Fund with the 10% increase is. Mrs. Bordallo stated that it would be \$5 Million a year to fund this benefit. Director Blas stated that we would need to liquidate more to make the benefit payments. Secretary Leon Guerrero stated that this will benefit the survivors, but it will affect the Retirement Fund. Secretary Leon Guerrero stated that the question is whether it is the Board's responsibility to focus on our Fund members as opposed to their survivors. Is the Retirement Fund in a position to increase our member benefits? Trustee Aflague asked how many potential survivors are there. Mrs. Bordallo stated that there are 5,700 in addition to the 1,500. Director Blas asked whether the Legislature is going to fund this at 31%. Chairman San Agustin stated that he does not know whether the Legislature will fund this but all he knows is there is an injustice to the survivors. Mrs. Bordallo pointed out that there is a 1972 law that increases a certain percentage of the annuitant's pension every year on the annuitant's anniversary date. Director Blas stated that we need to look at the threshold. Trustee Aflague suggested referring this matter to the Investment Committee. Chairman San Agustin stated that it should be referred to Management. Trustee Aflague stated that the minimum annuity of \$1,200.00 should be looked at. What is the poverty level line used by the Office of Public Accountability (OPA). Mrs. Bordallo stated that the poverty level line used is \$28,000.00. Director Blas stated that she will look at the increment schedule and work with the threshold. Chairman San Agustin recommended having Management work it out and get alternatives. We need to help these survivors. Trustee Aflague stated that we need to look at other benefits including child stipend. Trustee Santos stated that the challenge is for Management to come up with something better for the Chairman's target population of 1,500.

B. Due Diligence for Custodial Banking and Trust Banking Relationship

Chairman San Agustin inquired about the due diligence for Custodial Banking and Trust Banking Services. Controller Diana Bernardo stated that the Retirement Fund did conduct due diligence on Trust Banking Services with Northern Trust. Chairman San Agustin asked how the Exchange Traded Funds (ETFs) is running. Mrs. Bordallo stated that it is in a mutual fund. Director Blas stated that it mirrors the Index Fund. Chairman San Agustin stated that we need to see the flow of cash. Chairman

San Agustin asked when was the last due diligence for Custodial Banking and Trust Banking Services. Controller Bernardo stated that it was in August 2010. Controller Bernardo stated that she will be scheduling another due diligence for Custodial Banking Services.

C. Office of Public Accountability (OPA) Report – “Retirement Fund’s Unintended Windfall”

Chairman San Agustin referred to Page 2 of the Executive Summary of the OPA report. The report shows \$34 Million owed by DOE and GMHA. Chairman San Agustin stated that the OPA concluded in her report that the Government of Guam overpaid the Retirement Fund and recommends enacting legislation to apply the Retirement Fund’s unintended windfall of \$14.8 Million to \$18.1 Million to the remaining retirement liability balances of DOE and GMHA. Controller Bernardo handed out a recomputation sheet showing the OPA’s scenario and the Retirement Fund’s scenario. Controller Bernardo stated that the OPA did not include Fiscal Year 2004 in their computation. Chairman San Agustin asked for a scenario further back. Director Blas stated that the OPA only worked with the Department of Administration (DOA), not with the Retirement Fund. Chairman San Agustin asked Controller Bernardo to show an historical record of delinquencies. Trustee Santos requested to also show the OPA figures. Director Blas stated that if anything, the government owes the Retirement Fund money.

XII. OPEN DISCUSSION / GENERAL PUBLIC INPUT

None

XIII. ANNOUNCEMENTS

None

XIV. ADJOURNMENT

There being no further business before the Board for the Defined Benefits Plan, on motion of Secretary Antolina Leon Guerrero, seconded by Trustee George Santos, and without objection, the meeting was adjourned at 3:00 p.m. Motion unanimously passed.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of April 29, 2011 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on May 27, 2011.



ANTOLINA S. LEON GUERRERO, Board Secretary

RECORDING SECRETARY:



Jackie Blas