



GOVERNMENT OF GUAM  
**RETIREMENT FUND**  
 STABILITY • SECURITY • REWARDS

Eddie Baza Calvo  
 Governor

Ray Tenorio  
 Lieutenant Governor

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

Katherine T.E. Taitano  
 Trustee

James R.F. Duenas  
 Trustee

David M. O'Brien  
 Trustee

**BOARD OF TRUSTEES**  
**Regular Meeting**  
 Friday, January 31, 2014, 12:30 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 1:31 p.m. Friday, January 31, 2014, in the Retirement Fund Conference Room. Chairman Joe T. San Agustin officiated.

**Board of Trustees Present:**

Joe T. San Agustin, Chairman  
 Wilfred P. Leon Guerrero, Vice Chairman  
 Antolina S. Leon Guerrero, Secretary  
 Gerard A. Cruz, Treasurer  
 James R.F. Duenas, Trustee  
 David M. O'Brien, Trustee

**Board of Trustees Absent:**

Katherine T.E. Taitano, Trustee (*Excused*)

**Staff Present:**

Paula Blas, Director  
 Diana Bernardo, Controller  
 Rosalia Bordallo, General Accounting Supervisor  
 Jackie Blas, Recording Secretary  
 Peter Duenas, Acting Benefit Program Administrator  
 Jackie Sablan & Lena Sanchez, Benefit Specialist II

**Medical Consultant Present:**

Dr. Laura Post

**Public Present:**

Tom Budinger, Adelante Capital Management USA  
 Christian Cristobal, Senator Ben Pangelinan's Office  
 Zosef Branch

## II. REVIEW AND APPROVAL OF BOARD MINUTES

### A. December 20, 2013 Regular Meeting

On motion of Treasurer Gerard Cruz, seconded by Secretary Antolina Leon Guerrero, and without objection, the Minutes of December 20, 2013 Regular Meeting were approved, subject to technical corrections. Motion unanimously passed.

## III. CORRESPONDENCE

None

## 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 Retirement Fund maintains a list of deceased COLA Awardees who did not name a beneficiary, or whose beneficiary may be deceased. COLA award disbursements for these individuals will be made to their respective estates.

2. *Bernstein Litowitz Berger and Grossmann (BLBG)* - Director Blas stated that BLBG's Litigation Status Report dated January 22, 2014 on the following lawsuits is provided for the Board's information. Director Blas stated that these cases are highly confidential and BLBG asked that the cases not be discussed in a public forum.

- **Lehman Brothers**
- **Genzyme Corporation**
- **MF Global**
- **Invacare Corporation**

3. *Legislative Bills / Public Laws*

- **Bill 245-32 – Relative to Public Law 32-086: Investment Sections of the Defined Benefits Plans of the Government of Guam Retirement Fund**

Director Blas stated that Public Law 32-086 (Bill 170-32) as amended was enacted into law on November 27, 2013. A review of the law as amended was provided by Maggie Ralbovsky of Wilshire Associates and Legal Counsel Joanne Grimes. A recommendation made by Ms. Ralbovsky and Legal Counsel was to request for the removal of the floor amendments made on Public Law 32-086. Director Blas stated that Bill 245-32 was introduced to address the removal of the amendments made in Public Law 32-086. A public hearing on Bill 245-32 was held on January 14, 2014. Bill 245 has been moved to third reading and may be voted on tonight at 6:00 p.m.

- **Bill 228-32 – Relative to the Exemption of Beneficiaries of the Defined Benefit Retirement Plan from Suspension of their Annuity Payments for Limited Term Appointments as School Bus Drivers or Automotive Mechanics**

Director Blas stated that the Retirement Fund provided comments on government policy and the original intent behind the suspension of annuities provision. Bill 228-32 is on the agenda for the Legislature's January 2014 session.

- **Bill 224-32 – Relative to Clarifying Legal and Contractual Remedies in Guam Procurement Law**

Director Blas stated that Bill 224-32 would amend various sections of Guam's Procurement Code purportedly by clarifying legal and contractual remedies in Guam procurement law. Because the proposed amendments go far beyond clarifying the law to include significant material changes to the Procurement Law, which are likely to discourage competition and hinder the Retirement Fund's ability to procure qualified professional services at reasonable costs, the Retirement Fund submitted testimony opposing the passage of Bill 224-32. Bill 224 has been moved to second reading.

**4. Director and Officers (D&O) Liability Insurance** – Director Blas stated that additional information is pending from the underwriters. The Retirement Fund's D&O policy will expire on May 3, 2014. IFB-GGRF No. 14-001 will provide an increase in coverage and will close on February 12, 2014.

**5. Competitive Wage Plan (aka: Hay Plan)** – Director Blas stated that the Governor submitted the Competitive Wage Plan to the Legislature on January 15, 2014. If the Legislature allows the Plan to move forward, the Hay Plan will be effective on February 14, 2014. Director Blas stated that the Legislature held a briefing on Friday, January 24, 2014, to discuss the effects of the proposed Plan. As a result, Bill 268-32 was introduced which proposes amendments to the Plan. A public hearing on Bill 268-32 was held at Noon today. Director Blas stated that if the Plan is approved as submitted, the cost to the Retirement Fund would be approximately \$60,000 (inclusive of Medicare and Retirement contributions) to implement the Plan. Trustee David O'Brien asked whether the Board has a position on the Hay Study implementation. Director Blas stated that the Retirement Fund is concerned with the remittance of contributions. Chairman San Agustin stated that it is not the Retirement Fund's concern. Director Blas stated that the cost to the Retirement Fund for its employees is \$60,000.00. Trustee O'Brien stated that there is money to fund this year, but what about next year. Director Blas stated that it will have an impact on the contribution rate. Treasurer Gerard Cruz stated that there are positive effects on funding. Director Blas stated that the Defined Benefit (DB) Plan is a closed plan and its members are close to the end of service. Trustee O'Brien stated that the DB Plan employees are between the mid-point and max to retirement.

Vice Chairmen Wilfred Leon Guerrero stated that there are two Retirement Fund positions which are not included in the Hay Study [the Controller and the Director]. Rosalia Bordallo, General Accounting Supervisor, clarified that the Controller is included in the Hay Study. Director Blas stated that the Controller is linked to the Merit Pay Scale. Vice Chairman Leon Guerrero stated that the Board should evaluate the Director. Chairman San Agustin suggested amending the step to delete the provision to tie in the Director's salary. Vice Chairman Leon Guerrero stated that this is something the Board needs to address.

6. **Board of Trustees Election** – Director Blas stated that the Retirement Fund in cooperation with the Guam Election Commission (GEC) will hold the Government of Guam Retirement Fund Board of Trustees Election on Saturday, June 14, 2014, to fill the four (4) elected offices – two (2) Elected Retirees and two (2) Elected Active Members, which term expires July 2, 2014. Director Blas stated that the Notice of Election is scheduled to appear in the Pacific Daily News on Wednesday, February 19, 2014. Candidate packets will be available on the same day at the Guam Election Commission. Deadline for submission of Nominating Petitions and Candidates Statement of Eligibility is Thursday, March 20, 2014.

Chairman San Agustin informed the elected Board of Trustees that after March 20, 2014, the elected Board members are not allowed to travel under the Retirement Fund.

### **Financial Report**

1. **Contributions** - Director Blas stated that as of January 28, 2014, all agencies are current with their Fiscal Year 2014 employee and employer contributions.

2. **Financial Statements** - Director Blas stated that the books for the month ending November 2013 were closed on January 17, 2014.

3. **Fiscal Year 2013 Audit** - Director Blas stated that the audit for Fiscal Year Ending September 30, 2013 is ongoing. The final audit reports are scheduled to be issued no later than February 28, 2014.

4. **Fiscal Year 2014 Retirees' Supplemental Benefits** - Director Blas stated that supplemental benefits for retirees and survivors for the month of January 2014 were paid.

5. **Fiscal Year 2014 Medicare Reimbursements** - Director Blas stated that the Retirement Fund received the January 2014 allotment from the General Fund and reimbursements were processed accordingly.

6. **1099R and 1099 Miscellaneous** – Director Blas stated that the 1099s were mailed out this morning.

## **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) and Prior Year Receivables for both the Defined Benefit (DB) Plan and the Defined Contribution (DC) Plan for the month ended November 30, 2013.

Treasurer Cruz stated that the total assets as of November 30, 2013 were \$1.9 Billion. The drawdown is still within its existing authority.

## VIII. STANDING COMMITTEE REPORTS

### A. Investment Committee

Vice Chairman Leon Guerrero requested to move the Investment Committee Report before the M&B Report. The Board of Trustees indicated that they have no objection to having the Investment Committee Report before the M&B Report.

Vice Chairman Leon Guerrero reported that the Investment Committee Meeting was held on January 30, 2014. The Committee reviewed and approved the Investment Committee Minutes of December 13, 2013 and the Due Diligence Meeting Minutes of August 28, and 29, 2013, for the Quarter Ended June 30, 2013. Vice Chairman Leon Guerrero stated that as of January 24, 2014, the size of the Retirement Fund's portfolio is \$1.568244 Billion. Vice Chairman Leon Guerrero stated that the asset allocation was maxed by 20 basis points and if the law is amended it will take care of it. We anticipate a rebalancing.

*Next Quarterly Performance Meeting* – Vice Chairman Leon Guerrero stated that the next Quarterly Performance Meeting is tentatively scheduled for February 26, and 27, 2014.

**Treasurer Gerard Cruz, seconded by Trustee James Duenas, moved to accept the Investment Committee Report. Without objection, the motion unanimously passed.**

### B. Members and Benefits Committee

Secretary Antolina Leon Guerrero presented the Committee's January 2014 report to the Board of Trustees. Secretary Leon Guerrero informed the Board that the M&B Committee is looking at tracking disability applications.

**Secretary Antolina Leon Guerrero, seconded by Trustee David O'Brien, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 9, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of January 8, 2014 and subsequent meetings thereafter. Without objection, the motion unanimously passed.**

#### **DISABILITY CASE NO. 13-002**

Secretary Leon Guerrero stated that this case was heard in October 2013 and the applicant was referred for a reexamination. Secretary Leon Guerrero stated that the applicant is a 60 year old School Bus Driver Supervisor with the Department of Public Works with 22 years and 9 months of service. The applicant applied for disability on February 15, 2013. The reason for application is Paralysis in Left Arm due to Stroke, Cataracts (Blurred Vision), and Left Toe Amputation. Secretary Leon Guerrero stated that the applicant was examined by Dr. Vincent Duenas on September 10, 2013 and Dr. Patrick Santos on August 15, 2013. Dr. Santos gave a rating of 70% whole-person impairment. Dr. Duenas gave a rating of 68% whole-person impairment. Both physicians found that the applicant is medically impaired by a number of diagnoses and symptoms, but their ratings were below 75%.

Secretary Leon Guerrero stated that the applicant was re-examined by Dr. Santos on December 25, 2013. Dr. Santos gave a rating of 100% whole-person impairment and that the applicant's impairment precludes the applicant from work. Secretary Leon Guerrero stated that the Retirement Fund's Medical Consultant finds that the applicant is medically impaired by a number of diagnoses and symptoms and considers a full disability pension is appropriate for this applicant.

Chairman San Agustin read out loud the definition of total and permanent disability in §8123 of Title 4, Guam Code Annotated - Total and Permanent Disability: "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 (12) 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."

Dr. Laura Post, Retirement Fund's Medical Consultant, stated that the cut-off on the AMA standards is 75% whole body impairment. Dr. Post stated that in October 2013, full disability pension was not appropriate at that time. Chairman San Agustin stated that the applicant was reexamined by Dr. Santos and his rating is now 100% whole body impairment. Dr. Post stated that Dr. Santos conducted a thorough examination and report. Trustee O'Brien stated that the Medical Consultant's recommendation in October 2013 was for the applicant to wait one year for a reexamination. Chairman San Agustin stated that the applicant should be reexamined by the other two physicians. Dr. Post stated that she evaluated all three physicians' reports. Secretary Leon Guerrero stated that the Board decided in October 2013 to have the applicant reexamined in one year, which was in December 2013, as recommended by the Retirement Fund's Medical Consultant. Dr. Post stated that she now recommends approval for a disability pension. Treasurer Cruz stated that the review process starts with the numbers and it is then based on the entire application.

At this time Chairman San Agustin asked whether the applicant is present noting that if the applicant would like to address the Board, he/she would have to waive his/her right to the privacy of his/her medical records and he/she must state his/her name for the record. Chairman San Agustin indicated that no one came forward.

**Secretary Antolina Leon Guerrero, seconded by Trustee David O'Brien, moved to accept the Retirement Fund's Medical Consultant's findings and recommendation that a full disability pension is appropriate at this time and to approve a full disability pension for Disability Case No. 13-002. Votes as follows: Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, Treasurer Gerard Cruz, Vice Chairman Wilfred Leon Guerrero, Trustee James Duenas, Chairman Joe San Agustin. With six "Yes" votes, the motion unanimously passed. Trustee Katherine Taitano was absent.**

#### **DISABILITY CASE NO. 12-010**

Secretary Leon Guerrero stated that the applicant is a 61 year old Vocational Rehabilitation Counselor II with the Department of Integrated Services for Individuals with Disabilities with 20 years and 9 months of service. The applicant applied for disability on May 2, 2012. The reason for application is S/P Cerebro-Vascular Accident (CVA) with impaired Gait, Unclear Speech, Dementia, Falls Risk, and Loss of Strength in the Upper Extremity.

The applicant was examined by Dr. Patrick Santos on October 27, 2013, Dr. Vincent Duenas on December 3, 2013, and Dr. Fred Schroeder on September 23, 2013. Dr. Santos gave a rating of 83% whole-person impairment, Dr. Duenas gave a rating of 53% whole-person impairment, and Dr. Schroeder gave a rating of 61% whole-person impairment. Secretary Leon Guerrero stated that the Retirement Fund's Medical Consultant finds that a full disability pension is not appropriate for this applicant at this time.

Secretary Leon Guerrero stated that the applicant's whole body impairment may be less than 75%, but two physicians' report states that the applicant will have a hard time holding a job. Trustee O'Brien suggested getting a third Independent Medical Examiner's (IME) evaluation. Dr. Post stated that part of the reason she made the recommendation was Dr. Duenas was using the 4th Edition and is using the wrong text which may give a discrepancy. Dr. Post noted that she recommends that Dr. Duenas reevaluate the applicant using the most current edition of the AMA Guidelines. Chairman San Agustin suggested having Dr. Post review the rescoring by Dr. Duenas. Treasurer Cruz stated that the issue is that the wrong guideline was used by Dr. Duenas. Trustee O'Brien stated that Dr. Post will review Dr. Duenas rescoring and provide another written recommendation to the Board.

Secretary Leon Guerrero asked whether an approval today will be retroactive. Secretary Leon Guerrero stated that after looking at the two physicians' reports, she is ready to vote on this case for approval of a disability pension. Treasurer Cruz stated that it is an inaccurate score and it would be a bad procedure to vote on it. Trustee O'Brien stated that we need to go through the process with integrity. Director Blas stated that if the Board approved it today, the applicant must first exhaust all leave balances.

At this time Chairman San Agustin asked whether the applicant is present noting that if the applicant would like to address the Board, he/she would have to waive his/her right to the privacy of his/her medical records and he/she must state his/her name for the record. Chairman San Agustin recognized the applicant and asked the applicant to please state his name for the record. The applicant stated that his name is Zosef Branch and he is a Vocational Rehabilitation Counselor. Treasurer Cruz asked Mr. Branch whether he is currently working. Mr. Branch stated that he goes to work because he has to. Treasurer Cruz asked Mr. Branch what he does at work. Mr. Branch stated that he looks at papers. Treasurer Cruz asked Mr. Branch whether he has a hard time moving. Mr. Branch stated that he does have a hard time moving. Treasurer Cruz asked Mr. Branch whether someone helps him at work. Mr. Branch stated that he moves around by himself. Treasurer Cruz asked Mr. Branch whether he is taking medications. Mr. Branch stated that he takes his medication in the morning and in the evening. Treasurer Cruz asked whether there are any side effects. Mr. Branch's wife stated that her husband takes a lot of medications. Dr. Post stated that Mr. Branch has at least 13 medications for his high blood pressure, gout, pain, and cholesterol. Dr. Post stated that Mr. Branch has had several strokes and gets checked regularly. Treasurer Cruz asked Mr. Branch whether he is undergoing therapy. Mr. Branch, replied, "No."

**Secretary Antolina Leon Guerrero, seconded by Trustee David O'Brien, moved to accept the Retirement Fund's Medical Consultant's recommendation to have Dr. Vincent Duenas reevaluate the applicant using the most current edition of the AMA Guidelines. Votes as follows: Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, Treasurer Gerard Cruz, Vice Chairman Wilfred Leon Guerrero, Trustee James Duenas, Chairman Joe San Agustin. With six "Yes" votes, the motion unanimously passed. Trustee Katherine Taitano was absent.**

**Secretary Antolina Leon Guerrero, seconded by Vice Chairman Wilfred Leon Guerrero, moved to table Disability Case No. 12-010, pending the rescoring by Dr. Vincent Duenas. Votes as follows: Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, Treasurer Gerard Cruz, Vice Chairman Wilfred Leon Guerrero, Trustee James Duenas, Chairman Joe San Agustin. With six "Yes" votes, the motion unanimously passed. Trustee Katherine Taitano was absent.**

Director Blas stated that she will check if Dr. Duenas could complete and submit his rescoring by next week Wednesday, February 5, 2014. Vice Chairman Leon Guerrero suggested to recess today's meeting and reconvene next week Wednesday, February 5, 2014, at 12:00 Noon.

**IX. TRAVEL REPORT**

**A. Trustee David O'Brien: Opal Financial Group's Public Funds Summit – January 7-9, 2014, Scottsdale, Arizona**

Chairman San Agustin stated that Trustee O'Brien's travel report on the Opal Financial Group's Public Funds Summit he attended on January 7-9, 2014 in Scottsdale, Arizona, is submitted for the Board's information.

**X. OLD BUSINESS**

None

**XI. NEW BUSINESS**

**A. Implementation of the Hay Study Pay Plan**

Director Blas stated that this item was discussed under Director's Report.

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

None

**XIII. ANNOUNCEMENTS**

None



**XIV. RECESS**

**Treasurer Gerard Cruz, seconded by Trustee David O'Brien, moved to recess the Defined Benefit Plan meeting, and without objection, the Board of Trustees meeting for the Defined Benefit Plan recessed at 2:39 p.m. on Friday, January 31, 2014, and will reconvene on Wednesday, February 5, 2014, at 12:00 Noon in the Retirement Fund Conference Room. Motion unanimously passed.**

**I hereby certify that the foregoing is a full, true and correct copy of the Minutes of January 31, 2014 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on February 28, 2014.**



**ANTOLINA S. LEON GUERRERO, Board Secretary**

**RECORDING SECRETARY:**



**Jackie Blas**