



GOVERNMENT OF GUAM
RETIREMENT FUND
 STABILITY • SECURITY • REWARDS

Eddie Baza Calvo
 Governor

Ray Tenorio
 Lieutenant Governor

Paula M. Blas
 Director

BOARD OF TRUSTEES
Regular Meeting
 Friday, March 28, 2014, 12:30 p.m.
 Retirement Fund Conference Room

MINUTES

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

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 1:35 p.m. Friday, March 28, 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:

Diana Bernardo, Acting Director
 Rosalia Bordallo, General Accounting Supervisor
 Jackie Blas, Recording Secretary
 Greg Perez, Benefit Specialist III
 Jackie Sablan & Lena Sanchez, Benefit Specialist II

Medical Consultant Present:

Dr. Laura Post

Public Present:

Andriana Quitugua, UOG Student
 Selina Onedera-Salas, Senator Ben Pangelinan's Office
 Jesse Manglona and Evelyn Mantanona

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. February 28, 2014 Regular Meeting

On motion of Trustee David O'Brien, seconded by Secretary Antolina Leon Guerrero, and without objection, the Minutes of February 28, 2014 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)* – Acting Director Diana Bernardo 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. Acting Director Bernardo stated that there are about 300 COLA Awardee beneficiaries yet to be paid. There is a balance of \$3.9 Million.

2. *Bernstein Litowitz Berger and Grossmann (BLBG)* – Acting Director Bernardo stated that BLBG's Litigation Status Report dated March 24, 2014 on the following lawsuits is provided for the Board's information. Acting Director Bernardo 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 289-32 – Relative to Permitting Alternative Dispute Resolution in Contracts Approved by the Government of Guam Retirement Fund**

Acting Director Bernardo stated that Bill 289-32 would provide the Retirement Fund Board of Trustees with greater flexibility and discretion in matters involving the Retirement Fund's solicitation, selection, and retention of professional service providers. Specifically, Bill 289-32 would authorize the use of Alternative Dispute Resolution (ADR) in contracts between the Retirement Fund and its professional service providers. Acting Director Bernardo stated that by clarifying ADR as an authorized process for resolving contract disputes, the Retirement Fund anticipates that it will encourage a greater pool of potential qualified service providers and lead to more competitive pricing.

Acting Director Bernardo stated that Bill 289-32 expands the options for resolving disputes, but does not change the law applicable to determining liability or damages. The Board of Trustees will not be required to agree to ADR, but it will have the flexibility to determine if, under the circumstances, ADR is in the best interest of the Retirement Fund.

A public hearing was held on March 18, 2014 and is expected to be reported out of Committee for the early April 2014 Legislative Session.

4. **Board of Trustees Election** – Acting Director Bernardo stated that the Retirement Fund in cooperation with the Guam Election Commission will hold the 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. The election will be held at the Retirement Fund Office in Maite.

The nominations for the Retiree Offices closed with three (3) Retirees:

- **Wilfred P. Leon Guerrero**
- **Joe T. San Agustin**
- **George A. Santos**

The nominations for the Active Member Office closed with four (4) Active Members:

- **Anthony C. Blaz**
- **James R.F. Duenas**
- **David M. O'Brien**
- **Albert H. Santos**

Vice Chairman Wilfred Leon Guerrero asked who Albert Santos is. Acting Director Bernardo stated that Mr. Santos is an Engineer with GHURA. Vice Chairman Leon Guerrero asked whether the election will be advertised. Chairman San Agustin stated that it will be advertised in the newsletter and newspaper. Acting Director Bernardo stated that there will be an insert in the newsletter. Rosalia Bordallo, General Accounting Supervisor, stated that the newsletters are sent to retirees only. The newsletters are not mailed to the active employees. Acting Director Bernardo stated that the newsletters are sent to the government agencies. Ms. Bordallo stated that if we place an ad in the Pacific Daily News and the Marianas Variety, everyone will be informed. Secretary Antolina Leon Guerrero suggested that the notice also be placed on the Retirement Fund's website. Vice Chairman Leon Guerrero recommended publishing an ad in the newspaper. Treasurer Gerard Cruz stated that it should be published at least twice.

5. **Director and Officers (D&O) Liability Insurance** – Chairman San Agustin inquired about the status of the D&O insurance. Acting Director Bernardo stated that it should now be in effect.

6. **Director's Salary** – Chairman San Agustin inquired about the Director's salary. Acting Director Bernardo stated that it is still pending.

Financial Report

1. **Contributions** – Acting Director Bernardo stated that as of March 25, 2014, all agencies are current with their Fiscal Year 2014 employee and employer contributions.

2. **Financial Statements** – Acting Director Bernardo stated that the books for the month ending February 2014 were closed on March 13, 2014.

3. ***Fiscal Year 2014 Retirees' Supplemental Benefits*** – Acting Director Bernardo stated that supplemental benefits for retirees and survivors for the month of March 2014 were paid. Chairman San Agustin stated that he is concerned about the number of retirees making less than \$40,000 per year after 1995. These retirees are not receiving supplemental benefits.

4. ***Fiscal Year 2014 Medicare Reimbursements*** – Acting Director Bernardo stated that the Retirement Fund received the March 2014 allotment from the General Fund and reimbursements were processed accordingly. Chairman San Agustin stated that he has been receiving comments from retirees regarding obtaining the required verification of Medicare deduction or payment. Chairman San Agustin stated that the retirees are being informed by Social Security to obtain the verification online. Chairman San Agustin suggested that Retirement Fund staff to obtain the information for the retirees online. Trustee David O'Brien stated that staff will have to create a Social Security Account for the retiree. Acting Director Bernardo stated that staff could assist them in getting into the site. Ms. Bordallo stated that we need to do it for them. Secretary Leon Guerrero stated that we will need to prepare a Release Form for the Retirement Fund to obtain the information for the retirees.

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 February 28, 2014. Treasurer Cruz stated that the total combined assets as of February 28, 2014 were \$2 Billion. The drawdown schedule is still within its existing authority through March 2014. Acting Director Bernardo stated that we need drawdown authority going forward.

Treasurer Cruz stated that the recommended principal drawdown is \$3.5 Million a month through the remainder of Fiscal Year 2014.

Treasurer Gerard Cruz, seconded by Secretary Antolina Leon Guerrero, moved to approve the recommended drawdown of up to \$3.5 Million per month for the next six (6) months. Without objection, the motion unanimously passed.

VIII. STANDING COMMITTEE REPORTS

A. Investment Committee

Vice Chairman Leon Guerrero reported that the Investment Committee Meeting was held on March 21, 2014. The Committee reviewed and approved the Investment Committee Minutes of February 27, 2014.

Next Quarterly Performance Meeting – Vice Chairman Leon Guerrero stated that the next Quarterly Performance Meeting is tentatively scheduled for May 28, and 29, 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 Leon Guerrero presented the Committee's March 2014 report to the Board of Trustees.

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 12, and Page 14, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of March 19, 2014 and subsequent meetings thereafter. Without objection, the motion unanimously passed.

DISABILITY CASE NO. 13-015 (Page 13)

Secretary Leon Guerrero stated that the applicant is a 56 year old Heavy Equipment Mechanic II with the Guam Waterworks Authority with 24+ years of service. The applicant applied for disability on September 13, 2013. The reason for application is stroke and nerve damage to the leg. Secretary Leon Guerrero stated that the applicant was examined by Dr. Patrick Santos on December 31, 2013 and Dr. Fred Schroeder on January 30, 2014. Dr. Santos gave a rating of 100% whole-person impairment. Dr. Schroeder gave a rating of 86% whole-person impairment. Both physicians found that the applicant's impairment is permanent in nature and 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 at this time for 13-015.

Trustee O'Brien stated that one point made by the Medical Consultant is that both of the Independent Medical Examiners (IME) gave a rating over the threshold of 75%. Chairman San Agustin asked why the applicant's Primary Medical Doctor (PMD) rating was lower than the two IMEs. Trustee James Duenas stated that the applicant's ailment has progressed since then. Dr. Laura Post, the Retirement Fund's Medical Consultant, stated that Dr. William Gerling has the mind set that people are capable of working and that if they are rehabilitated they could return to work. The other thing is that the assessment was done prior to some of the more impairing consequences – diabetes, kidney disease, and ongoing high blood pressure. Dr. Gerling's assessment came at a time when there were less impairment or when the impairments were less severe. And, Dr. Post stated that she is not certain whether Dr. Gerling is a trained disability evaluator. Dr. Post stated that she considered this case with the aforementioned thoughts and also the reports submitted.

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. 13-015. 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. 13-018 (Page 13)

Secretary Leon Guerrero stated that the applicant is a 50 year old Agricultural Research Technician with the University of Guam with approximately 28 years of service. The applicant applied for disability on May 5, 2013. The reason for application is Spinal Stenosis, Gout, Arthritis with Erosions to Multiple Joints, Hypertension, and Obesity. Secretary Leon Guerrero stated that the applicant was examined by Dr. Patrick Santos on January 3, 2014 and Dr. Fred Schroeder on January 27, 2014. Dr. Santos gave a rating of 63% whole-person impairment and that the impairment precludes the applicant from work. Dr. Schroeder gave a rating of 57% whole-person impairment and has a question whether or not those impairments preclude 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; one Independent Medical Examiner (IME) and supervisor consider the applicant capable of meaningful work; and that the applicant is likely to show improvement with lifestyle changes. Secretary Leon Guerrero stated that the Retirement Fund's Medical Consultant does not consider a full disability pension is appropriate at this time for 13-018.

Chairman San Agustin pointed out that the two Primary Medical Doctors (PMDs) both gave a rating of 100%. Dr. Post stated that this is common that the PMD has a personal relationship with the claimant and is usually on the claimant's side. Dr. Post stated that based on the reports submitted by the IMEs and the actual medical records, she gave a rating of 60%. Dr. Post stated that in this case there are a couple of primary care providers. Dr. Janna Wilgus is the first one and Dr. Felix Cabrera is the second one. Both PMDs found that the impairment is permanent and estimated the whole-person impairment at 100%. The reports for both of them are very similar. Both PMDs used only part of the standard disability determination evaluation form. Dr. Post stated that she would hypothesize that both PMDs are not so familiar with the process of medical disability evaluation. Dr. Post stated that a statement was made in the report that the applicant has been absent from work for two years. That statement was made in 2010, 2011, and 2012 and it seems like it was just copied from the previous report. The department head wrote a comprehensive statement that the applicant is able of continuing work even if the applicant is unable to perform the duties of his/her actual position title. In his statement, the department head stated that if certain lifestyle changes were made, the applicant's high blood pressure may be under control and may in turn address the applicant's back pain and provide a higher level of function.

Chairman San Agustin read out loud the definition of 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 if it were not for that impairment and if founded upon condition which render it reasonably certain that it will continue indefinitely."** Chairman San Agustin stated that even the department head had stated that the applicant has been afforded light duties and is still capable of working. Chairman San Agustin stated that it seems that the two PMDs were comparing

notes. Dr. Post stated that the PMDs are not trained on medical disability evaluations. Dr. Post reiterated that usually the patients have a personal relationship with their PMD.

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's sister. Evelyn Mantanona stated that she is a sibling of the applicant, Jesse Manglona. She stated that Jesse has had medical issues for the past 5 years. He is obese, but it is medical heredity. He is not the only one in the family that is at that weight. Out of 13 in the family, 6 are obese and there are also nieces and nephews. Our mother is huge. A statement was made that his problem is because of his lifestyle. He is not lazy. Jesse's problem is not only obesity. His lower spinal cord is not straight, it's deviated. It may have some percentage to do with his weight. The two PMDs and the two IMEs have indicated that Jesse has a permanent back issue that he will endure for the rest of his life. Even if Jesse loses 200 pounds, he will still have that issue with his back. He attempts to go to work. There are times that he takes several days off from work. A few years ago, he only took off from work once a week. Jesse is a hard working person, he is father of five boys, he loves to farm, but he is medically challenged. There are times when his pain moves down and he loses his balance so he has to sit. Jesse stated that when he goes in to work he can't stand up long; he has to sit down. Jesse's supervisor asked him when his disability case will end. His PMD could not understand where that question was coming from. Jesse does not miss work because he wants to. Jesse has exhausted all his leave. There are times he goes on leave without pay because of the excruciating pain, which comes very frequently.

Chairman San Agustin stated that by law, the applicant must be examined by three physicians. The Board is guided by the law and the medical findings. There is a medical threshold of 75%. The applicant was given a rating of 63%, 57%, and 100%. The applicant's supervisor felt that the applicant can still work. Chairman San Agustin asked what options are available for the applicant with 28 years of service. Acting Director Bernardo stated that the applicant could retire with a reduced annuity. Secretary Leon Guerrero asked Dr. Post whether she has any additional thoughts on this given the feedback from Evelyn and Jesse. Dr. Post stated that living with chronic pain is difficult. It causes depression. There is pain medication prescribed, which is Tramadol. It is a low level pain killer. Dr. Post noted that with Spinal Stenosis, the spine works with a series of interlocked bones and they stack up until there is flexibility in them. Their primary job is to protect the spinal cord. It holds the spinal cord in place to the pelvic bones and when it is overgrown the tail end of the spinal cord is pinched. If it is at a certain angle at the lower back, you tend to feel to lose your balance. Dr. Post stated that the applicant's upper body parts are working properly. The pain is in his lower body. Treasurer Cruz asked whether Spinal Stenosis is progressive. Dr. Post replied, "No, usually not." Dr. Post stated that many different parts of his body are functioning okay. The applicant has issues with his legs, knees, and ankle, with pain, obesity, and high blood pressure.

Vice Chairman Leon Guerrero asked Dr. Post how she arrived at the percentage of disability. Vice Chairman Leon Guerrero noted that the two PMDs gave a rating of 100%, one IME gave a rating of 63%, and the other IME gave a rating of 57%. Dr. Post stated that she looked through all the medical records and looked through the table of each body part. Dr. Post stated that she wrote the percentage for each part of the body. Dr. Post stated that after going through the whole process she arrived at a rating of 60%. Dr. Post stated that the two PMDs are not trained as disability evaluators and also may have a personal relationship with the applicant. Vice Chairman Leon Guerrero inquired about a

statement made about reducing alcohol consumption. Dr. Post stated that it is mentioned a couple of times in the report by the physicians. A number of cans a day could contribute to high cholesterol, high blood pressure, and obesity. Ms. Mantanona stated that the records indicate 1 to 3 cans on a daily basis. Jesse does not consume alcohol regularly. Dr. Post stated that there is a test that can be used by an addiction specialist. Ms. Mantanona asked whether the results of the test in his record. Dr. Post stated that she makes notes of each section of the different factors that would contribute to an impairment rating and it is not so much the alcohol consumption that contributed to the impairment rating. Dr. Post stated that alcohol could make the pain worse and his cholesterol level and high blood pressure rise. Ms. Mantanona asked which doctor other than Dr. Felix Cabrera mentioned the use of alcohol. Ms. Mantanona stated that what she read did not state on a daily basis. Dr. Post stated that it is on the alcohol screening questionnaire. This is to determine if it is social drinking or problem drinking and if it is problem drinking, it is an issue that needs to be addressed. Ms. Mantanona stated that her brother is not an alcoholic. Vice Chairman Leon Guerrero stated that he only mentioned the alcohol consumption to see what it has to do with reducing the Body Mass Index (BMI). Dr. Post stated that the calories and pounds added on by alcohol consumption is part of the reason for mentioning it. Secretary Leon Guerrero stated that it really was not in reference to the alcohol consumption, it is in reference to the BMI and the impact it may have. Dr. Post stated that alcohol use disorder is when the disorder interferes with something else. Dr. Post stated that she is just saying that this is based on what Dr. Cabrera and others wrote in their report. Dr. Post stated that she raised this issue so it can be addressed to make life easier for the applicant. Vice Chairman Leon Guerrero asked whether reducing or quitting consumption of alcohol should be one of those lifestyle changes. Dr. Post stated that shedding those extra calories per week would be helpful. Vice Chairman Leon Guerrero asked Dr. Post what lifestyle changes she would recommend. Dr. Post stated that the applicant should see a nutritionist and have reasonable portions of food. Exercise would also be a part of it and that would also lower his high blood pressure and cholesterol.

Ms. Mantanona stated that she would like clarification with regards to the PMDs report being incomplete. Chairman San Agustin stated that it looks like the physicians are sharing the report. Dr. Post stated that some of the pages are missing. Ms. Mantanona stated that she wanted to make a clarification that documents from Dr. Wilgus came from Jesse. Ms. Mantanona stated that Dr. Wilgus' recommendation was dated February 24, 2011. That has nothing to do with Dr. Cabrera. Dr. Cabrera had not seen this report. Dr. Cabrera made a full evaluation. Ms. Mantanona stated that she does not understand why the report is incomplete. Chairman San Agustin stated that two IMEs gave a rating of below the 75% threshold and Dr. Post also gave a rating of below 75%. PMDs usually have a personal relationship with their patients. Ms. Mantanona stated that it appears that the applicant's PMD has no weight in anything. Chairman San Agustin stated that he does have weight, but in this case it is contrary to the IMEs findings. The three other physicians came out with three different conclusions, which are different from the PMDs' conclusion. Ms. Mantanona stated that the decision already was no because the IMEs did not give a rating of 75% or above. Secretary Leon Guerrero stated that the physicians use guidelines to come up with the rating. The PMDs don't necessarily use that guideline. Secretary Leon Guerrero stated that without a PMD recommendation for disability, we will not consider the application at all. The PMDs have to state whether or not their patients have an impairment. Secretary Leon Guerrero stated that the percentage given is looked at, but not necessarily always a factor. Ms. Mantanona stated that Jesse has been denied disability before. Jackie Sablan and Lena Sanchez, Benefit Specialists II, confirmed that the applicant had previously been denied disability. Treasurer Cruz asked whether it was for the same ailment. Ms. Mantanona replied, "Yes." The Board indicated that they were not aware that the applicant was previously denied disability. Dr.

Post stated that there was an evaluation and assessment done. There was a functional assessment for each body area. Dr. Post stated that there is a difference in physical findings and a functional assessment. It is important to have a regular physical examination. Dr. Post stated that she went through the whole process and came up with 60%.

Ms. Mantanona stated that she has a difficult time understanding where the PMDs' rating comes in. Ms. Mantanona stated that she understands the objective and subjective findings. Ms. Mantanona stated that Dr. Cabrera mentioned to Jesse that if he needs him to be here to share his position as his PMD, to just let him know. Dr. Post stated that she read Dr. Cabrera's report and she is not sure if Dr. Cabrera is trained in the medical disability evaluation process. Dr. Post believes the two IMEs are trained. Dr. Post stated that she is not saying that the PMDs are incompetent or lying.

Treasurer Cruz asked the applicant what his normal day is like. Jesse stated that it takes awhile to get out of bed then get ready for work. Jesse stated that he drives for 1 hour to get to work from Inarajan to Yigo. Jesse stated that he trims the fence area and carries a chair to sit as he can't stand up long. The pain also occurs while he is driving the riding mower. Treasurer Cruz asked whether he is taking any medications. Jesse stated that he takes tramadol twice a day. Treasurer Cruz asked whether the medications are prescribed by his physician. Dr. Post replied, "Yes." Dr. Post stated that tramadol could be as high as 600 milligram a day. Vice Chairman Leon Guerrero asked the applicant where he lives. Jesse replied, "Inarajan." Dr. Post stated that the 1 hour drive will hurt his back. Treasurer Cruz asked whether the pain medication is helping. Jesse stated that when the pain is really bad that he holds on to the fence for awhile. Treasurer Cruz asked whether there are any light duties he would consider. Jesse replied, "Yes, but they don't care if he is in pain." Treasurer Cruz asked whether there is any pressure at work. Jesse stated that his co-workers are complaining why he is always sitting down. Jesse stated that he told his supervisor to tell his co-workers that he has a doctor's document. Treasurer Cruz asked the applicant what his day is like after work and on weekends. Jesse stated that he stays home and he sometimes goes fishing. Treasurer Cruz asked whether the applicant has any active activities with his sons. Jesse stated that they go to the ranch at times. Treasurer Cruz asked the applicant what he will do if he is granted disability. Jesse stated that he has gotten worse since 2011. Jesse stated that he used to be able to stand for 10 minutes, but now it's less than 5 minutes.

Treasurer Cruz stated that the Board is obligated to follow a clear mandate which is total and permanent disability of the whole body. The series of pain of the whole body falls below the threshold of 75%. Treasurer Cruz stated that the recourse would be to reapply. Trustee O'Brien asked whether the applicant has asked to work in the southern site. Jesse stated that he did ask his supervisor, but he did not respond. Trustee O'Brien asked whether the farms in the south are close to where the applicant lives. Jesse replied, "Yes." Treasurer Cruz asked the applicant if there is anything he would like to add. Jesse stated that he reapplied because the pain is progressing. Chairman San Agustin stated that there is evidence of progression from the prior report to the current report. Ms. Mantanona stated that she would like to concur with Chairman San Agustin. Secretary Leon Guerrero stated that there are new evaluations [since the initial application for disability]. Vice Chairman Leon Guerrero stated that Dr. Schroeder's rating is the same as before and Dr. Santos shows that it is progressing. Chairman San Agustin stated that the two PMDs are the same. Secretary Leon Guerrero stated that she does not agree with comparing the findings from the prior evaluations and the current ones. Secretary Leon Guerrero stated that she does not believe in going through the old reports. Dr. Post stated that part of the physicians' job is to be neutral. The IMEs might not even remember the patients.

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 not appropriate at this time and to disapprove a full disability pension for Disability Case No. 13-018. Votes as follows: Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, Treasurer Gerard Cruz, Trustee James Duenas, Chairman Joe San Agustin. With five "Yes" votes, the motion passed. Vice Chairman Wilfred Leon Guerrero abstained. Trustee Katherine Taitano was absent.

Ms. Mantanona asked whether it is possible to recommend a reevaluation with another physician. Vice Chairman Leon Guerrero stated that he sees a change in Dr. Santos' evaluation. Secretary Leon Guerrero stated that although there is a change, it is still below 75%. Vice Chairman Leon Guerrero stated that the change in rating in disability is major information brought forward. Trustee Duenas stated that one of the ratings changed from 36% to 63%. Trustee Duenas asked whether it is possible to have a secondary evaluation. Dr. Post stated that this is a procedurally sound disability evaluation. It has no effect on her recommendation. Vice Chairman Leon Guerrero asked whether it would have helped had you known the history. Dr. Post replied, "No." Trustee O'Brien stated that the current evaluations were very close and both were below 75%. Vice Chairman Leon Guerrero asked whether Dr. Post's statement "at this time" means things will change. Dr. Post replied, "Yes, things may get better or worse." This is based on the reports today. Chairman San Agustin stated that there is no limitation to reapply. Ms. Sanchez stated that if the applicant is going to reapply, the applicant would need to submit documents providing new evidence to be presented to the M&B Committee. Trustee O'Brien asked who pays should the applicant reapply. Ms. Sanchez stated that the IME is paid by the Retirement Fund. Trustee O'Brien suggested amending the motion and getting another PMD. Vice Chairman Leon Guerrero suggested amending the motion and getting a third IME. Dr. Post stated that this is a dangerous path to take a third IME. It is a satisfying solution, but it is not supported by the IME Disability Retirement Fund process. Dr. Post stated that this was entertained once and the numbers were very discrepant. Vice Chairman Leon Guerrero stated that he is struggling with the fact that he just learned a few minutes ago that the applicant was denied before. Secretary Leon Guerrero stated that we should not be considering prior applications. We need to look at what is being presented today. Chairman San Agustin stated that if an applicant is granted disability the law states that there is a re-examination process twice within the first seven years.

Secretary Leon Guerrero stated that the applicant goes to work. The law is very clear on when we can grant disability and that is when the applicant can't go to work. Vice Chairman Leon Guerrero stated that he wants to clarify the difference in findings. Trustee Duenas stated that one of the findings changed and the other didn't.

Vice Chairman Wilfred Leon Guerrero, seconded by Trustee James Duenas, moved to amend the motion to refer the applicant to a Third Independent Medical Examiner.

Acting Director Bernardo stated that depending on the third IME's recommendation, unless there are new facts, it may not even affect Dr. Post's recommendation. Treasurer Cruz stated that there is a procedurally sound process in place. Vice Chairman Leon Guerrero stated that he is bothered by the inconsistent rating. Vice Chairman Leon Guerrero stated that he is concerned that the disease is progressing. Treasurer Cruz stated that, looking at the current reports, the applicant's spine is progressively causing the applicant to be inactive. Treasurer Cruz stated that he agrees that it is progressive, but it does not rise to the definition of total and permanent disability. If we refer the

applicant to a third IME, we will be setting precedence. Vice Chairman Leon Guerrero stated that he would like to withdraw his amendment.

Vice Chairman Wilfred Leon Guerrero and Trustee James Duenas moved to withdraw their motion to refer the applicant to a Third Independent Medical Examiner.

Trustee O'Brien stated that the issue is the integrity of the process. The M&B Committee is taking the evaluations and recommendations from the IMEs and Dr. Post very seriously. The Committee deals with the process. Vice Chairman Leon Guerrero stated that since some of the physicians are not trained in the medical disability evaluations, the Board should look into this and have the physicians trained. Dr. Post stated that there is the general Medical School and then work with someone who is trained and certified with the American Association of Disability Evaluator doctors. Treasurer Cruz stated that there are only two physicians that are trained and qualified. Secretary Leon Guerrero asked Dr. Post to send the M&B Committee information on resources for getting the physicians trained. Dr. Post stated that she will email the information. Trustee O'Brien asked Dr. Post if she could discuss this with the M&B Committee at their next meeting. Dr. Post stated that she will.

IX. OLD BUSINESS

None

X. NEW BUSINESS

None

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 Vice Chairman Wilfred Leon Guerrero, seconded by Trustee James Duenas, and without objection, the meeting was adjourned at 4:03 p.m. Motion unanimously passed.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of March 28, 2014 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on April 25, 2014.



ANTOLINA S. LEON GUERRERO, Board Secretary

RECORDING SECRETARY:


Jackie Blas