



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, January 29, 2016, 12:00 Noon
 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 1:43 p.m. Friday, January 29, 2016, 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
 Gerard A. Cruz, Treasurer
 David M. O'Brien, Trustee

Board of Trustees Absent:

Wilfred P. Leon Guerrero, Vice Chairman (*Excused*)
 Anthony C. Blaz, Trustee (*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 Tajjeron, Director, Client Relations & Plan Counseling, Empower Retirement
 Jackie Sablan & Lena Sanchez, Benefit Specialist II

Medical Consultant Present:

Dr. Laura Post (*2:00 p.m.*)

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

David M. O'Brien
 Trustee

Albert H. Santos
 Trustee

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. December 16, 2015 Regular Meeting

Trustee David O'Brien, seconded by Treasurer Gerard Cruz, moved to approve the Minutes of the December 16, 2015 Regular Meeting, subject to technical corrections. Without objection, the motion 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)*** - 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)*** - BLBG's Litigation Status Report dated January 20, 2016 on the following lawsuits is provided for the Board's information. These cases are highly confidential and BLBG asked that the cases not be discussed in a public forum.

- **MF Global**
- **Invacare Corporation**

Director Paula Blas stated that at the December 16, 2015 Board Meeting, the Board accepted BLBG's recommendation to a settlement in the MF Global lawsuit of \$20 Million or higher. BLBG was able to settle the MF Global lawsuit in the amount of \$29.8 Million.

Financial Report

1. ***Contributions*** - Director Blas stated that as of January 26, 2016, all agencies are current with their Fiscal Year 2016 employee and employer contributions with the exception of the Guam Memorial Hospital Authority (GMHA). As reported during Board of Trustees DC meeting, GMHA is trailing 5 pay periods in retirement contributions.

2. ***Financial Statements*** - Director Blas stated that the books for the month ended November 30, 2015 were closed on December 29, 2015, and the books for the month ended December 31, 2015 is scheduled to close by February 5, 2016.

3. ***Fiscal Year 2016 Retirees' Supplemental Benefits*** - Director Blas stated that supplemental benefits for retirees and survivors for the month of January 2016 were paid.

4. ***Fiscal Year 2016 Medicare Reimbursements*** - Director Blas stated that the Retirement Fund received the January 2016 allotment from the General Fund and reimbursements were processed accordingly.

VI. LEGAL COUNSEL'S REPORT

Director Blas informed the Board that the Retirement Fund's Legal Counsel has amended and restated the Government of Guam Deferred Compensation Plan, consistent with the intent that it qualify as a "eligible deferred compensation plan" under Section 457(b) of the United States Internal Revenue Code and the "mirror" provisions of the Guam Territorial Income Tax Code as such provisions apply to such plans sponsored by the Government of Guam. The effective date of the amendment and restatement of the Plan is January 1, 2016.

Director Blas stated that the amendment to the "Surviving Spouse" definition was needed to comply as well at including a Roth deferral feature in the Plan restatement, which allows Plan participants to make after-tax contributions. Trustee David O'Brien asked whether the Roth will be retroactive back to January 1, 2016. Alice Taijeron, Director, Client Relations & Plan Counseling, Empower Retirement, stated that she will look into it. Treasurer Gerard Cruz stated that it should be prospective.

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 Fiduciary Net Position and Prior Year Receivables for both the Defined Benefit (DB) Plan and the Defined Contribution (DC) Plan for the month ended November 30, 2015.

Treasurer Cruz stated that the drawdown schedule is still within its amended authority of \$4.5 Million. Treasurer Cruz stated that he will revisit the drawdown schedule in February 2016.

VIII. STANDING COMMITTEE REPORTS

A. Investment Committee

Treasurer Cruz stated that there was no Investment Committee Meeting in January 2016.

Next Quarterly Performance Meeting – Treasurer Cruz informed the Board that the next Quarterly Performance Meeting is scheduled for February 24, and 25, 2016. Trustee O'Brien inquired about Risk Parity. Director Blas stated that Maggie Ralbovsky of Wilshire Associates will answer questions or concerns regarding Risk Parity during next month's due diligence meeting.

B. Members and Benefits Committee

Secretary Antolina Leon Guerrero presented the Committee's January 2016 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, including the attached Annuity Worksheets and relevant documents, based on the Committee's review and findings during their meeting of January 22, 2016. Without objection, the motion passed.

DISABILITY CASE NO. 15-005

Secretary Leon Guerrero stated that the applicant is a 59 year old Administrative Officer with the Guam Power Authority with 24 years of service. The applicant applied for disability on January 27, 2015. The application was submitted to the Retirement Fund on September 22, 2015. The applicant was examined by Dr. Brian Kim on October 19, 2015, and Dr. Kevin Leung on November 30, 2015. Dr. Kim gave a rating of 100% whole-person impairment and indicated that the impairment is permanent and it does preclude the applicant from gainful work; and Dr. Leung gave a rating of 100% whole-person impairment and also indicated that the impairment is permanent and it does preclude the applicant from gainful work. Dr. Laura Post, the Retirement Fund's Medical Consultant, finds that the applicant is impaired by both acute and chronic general medical diagnoses, with multiple associated symptoms. Based on review of the applicant's records and pursuant to the reports from the two (2) Independent Medical Examiners (IMEs), not in the context of criteria based upon the American Medical Association's Sixth Edition of Guides to the Evaluation of Permanent Impairment (2008), and pursuant to irregularities in both IME reports, despite the average FEWPIR of the two IMEs being 100%, it is not possible to make a determination of whether a disability pension is appropriate for 15-005 at this time.

Dr. Post pointed out that she is concerned as to whether or not the IMEs provided care for the applicant. Trustee O'Brien asked whether with the liver transplant, the applicant will be able to continue to work. Dr. Post stated that the applicant is on the waiting list for a suitable donor. Dr. Post stated that if the liver transplant occurs, it may alleviate some of the associated problems of the Hepatitis C and the cancer that's there. Trustee O'Brien inquired about the ratings from the two IMEs. Dr. Post stated that neither one of the two IMEs referred to any specific chapters of the AMA Guidelines. They filled out the forms the way they normally fill out forms, but they did not refer to any specific chapters.

Secretary Leon Guerrero asked whether the applicant would be considered totally disabled and unable to work if he/she does not get a liver transplant. Could the applicant work with his/her condition? Dr. Post replied, "Yes, the applicant could work with his/her condition." The reason the applicant can't work at this time is because the applicant is currently residing in Washington waiting for a donor. Dr. Post stated that she thinks that if the doctors were willing to commit and say that the situation has stabilized and may have given up on finding a liver donor, then she may at that point change her opinion and say that the applicant is totally disabled and can't work. Director Blas stated that the applicant's diagnosis in Washington last year indicated that another tumor was located. Dr. Post stated that if the cancer progresses, there may be a toxin build up. Treasurer Cruz asked how long the applicant has if there is no liver transplant. Dr. Post stated that it depends on how fast the tumor is growing, the stage it's at and how the applicant has responded to the treatments. Dr. Post stated that if the applicant was here on Guam, we would say his/her condition is permanent and if it is permanent, the applicant would be having other symptoms. Secretary Leon Guerrero stated that the question is whether the applicant is totally disabled. Dr. Post stated that it has to be stable for 12 months. It's when the applicant's condition becomes permanent is when the clock starts ticking. Dr. Post stated that the applicant has no problem with his/her vision, movement, pain, or thinking, Dr. Post stated that the IMEs should go back and fill out the forms accurately based on the AMA Guidelines citing the chapters used for justification.

Secretary Antolina Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to table a decision on Disability Case No. 15-005 until additional information is provided from the two Independent Medical Examiners (IMEs) and to ask the two IMEs to fill out the forms based on the AMA Guidelines citing the chapters used for justification. Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, Treasurer Gerard Cruz, and Chairman Joe San Agustin. With four (4) "Yes" votes, the motion passed. Vice Chairman Wilfred Leon Guerrero, Trustee Anthony Blaz and Trustee Katherine Taitano were absent.

DISABILITY CASE NO. 15-008

Secretary Leon Guerrero stated that the applicant is a 52 year old Crane Leader with the Port Authority of Guam with 24 years of service. The applicant applied for disability on April 30, 2015. The application was submitted to the Retirement Fund on May 1, 2015. The applicant was examined by Dr. Patrick Santos on November 11, 2015, and Dr. Vincent Duenas on December 11, 2015. Dr. Santos gave a rating of 60% whole-person impairment and indicated that the impairment is permanent and it does preclude the applicant from gainful work; and Dr. Duenas gave a rating of 46% whole-person impairment and indicated that the impairment is not permanent, but it does preclude the applicant from gainful work. Dr. Post finds that the applicant is impaired by both acute and chronic general medical diagnoses, with multiple associated symptoms, all of which are being treated. Based on review of the applicant's records and pursuant to the reports from the two (2) Independent Medical Examiners (IMEs) in the context of criteria based upon the American Medical Association's Sixth Edition of Guides to the Evaluation of Permanent Impairment (2008), and with contemporaneous reference to this writer's FEWPIR of 23%, the average of the two IMEs FEWPIRs being 53%, a disability pension is not appropriate for 15-008 at this time.

Dr. Post stated that the applicant is very sick with multiple organ problems, but even the treating physician does not believe that it meets the disability threshold. Dr. Post stated that the rating is very close. The applicant is carrying around an oxygen tank and it is an issue working around cranes. The applicant has no problem with his/her vision, movement, or thinking. Chairman San Agustin stated that the applicant can't perform his/her current duties. Secretary Leon Guerrero stated that the applicant could be assigned to light duties. Dr. Post stated that this is someone that should reapply as soon as the limit allows.

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 that a disability pension is not appropriate at this time and to deny disability pension for Disability Case No. 15-008. Votes as follows: Yes Votes – Secretary Antolina Leon Guerrero, Trustee David O'Brien, and Treasurer Gerard Cruz. Chairman Joe San Agustin abstained. With three (3) "Yes" votes, and one (1) Abstained, the motion failed. Vice Chairman Wilfred Leon Guerrero, Trustee Anthony Blaz, and Trustee Katherine Taitano were absent.

IX. OLD BUSINESS

1. Request for Proposal (RFP) - Professional Services Related to Retirement Fund Policy and Strategy Consulting for the Board of Trustees - Trustee O'Brien reminded that Board that he would like to discuss this item in the February 2016 Board Meeting.

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 Treasurer Gerard Cruz, seconded by Secretary Antolina Leon Guerrero, and without objection, the meeting was adjourned at 2:35 p.m. Motion passed.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of January 29, 2016 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on February 26, 2016.



ANTOLINA S. LEON GUERRERO, Board Secretary

RECORDING SECRETARY:



Jackie Blas