

BOARD OF TRUSTEES

Regular Meeting

Friday, April 13, 2007, 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, April 13, 2007, 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
Gerard A. Cruz, Treasurer
James J. Taylor, Secretary (*12:27 p.m.*)
George A. Santos, Trustee
Katherine T.E. Taitano, Trustee

Staff Present:

Paula Blas, Director
Rosalia Bordallo, General Accounting Supervisor
Jackie Blas, Recording Secretary
Mike Perez, Great West Retirement Services

Public Present:

Mark Heath, Metropolitan West Capital Management
Michelle Diego, Administrative Services Corporation (ASC)

Chairman San Agustin mentioned that there is still a vacant position on the Board of Trustees. Director Paula Blas stated that the statute reads that the Board of Trustees shall consist of seven members: two elected retirees, two elected active members and three appointed residents, two of whom are not employed by the Government of Guam and one of whom shall be a government employee in the classified service.

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. March 9, 2007 Regular Meeting

Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to defer approval of the Minutes of March 9, 2007 Regular Meeting. Without objection, the motion passed.

III. CORRESPONDENCE

A. March 11, 2007 Letter from Gregorio S.N. Mesa Regarding Reduction of Current Semi-Monthly Annuity

Chairman San Agustin stated that the March 11, 2007 letter from Gregorio S.N. Mesa regarding the reduction of his current semi-monthly annuity is being referred to the Members and Benefits Committee.

Rosalia Bordallo, General Accounting Supervisor, stated that Mr. Mesa retired in 1985. An overpayment of supplemental benefits began in 2001. Mrs. Bordallo stated that the supplemental benefit of \$176.57 was included in the semi-monthly gross annuity when the annuity was adjusted due to the inclusion of non-base pay in the average annual salary calculation. Vice-Chairman Wilfred Leon Guerrero asked whether Management is asking to revoke an action taken by the Board. Director Blas stated that Mr. Mesa's annuity was approved by the Board. This is regarding an overpayment of supplemental benefits, not an overpayment of annuity. Vice-Chairman Leon Guerrero asked whether this matter should be brought back to the Board. Mrs. Bordallo stated that the approved annuity does not include the supplemental benefits. Vice-Chairman Leon Guerrero asked whether this would be violating any Board action previously taken. Director Blas replied, "No." Treasurer Gerard Cruz asked whether this is to match the Board approved annuity. Mrs. Bordallo replied, "Yes." Mrs. Bordallo stated that there was a double payment on the supplemental benefits.

Mrs. Bordallo mentioned another case in which an adjustment was not made. Mrs. Bordallo stated that the retiree agreed with the Fund to go ahead and make the adjustment. It was a \$60.00 overpayment from what was approved by the Board.

B. March 19, 2007 Letter from the Office of the Attorney General Regarding Termination of Legal Services

Chairman San Agustin stated that the termination letter dated November 13, 2006 from the Attorney General is without force or effect. Attorney David Dooley is still the counsel of record for the COLA case. Chairman San Agustin stated that the Retirement Fund has requested that the files be returned to the Fund.

IV. INFORMATIONAL ITEMS

A. ERISA 404(c) Information Guide

Director Blas stated that the ERISA 404(c) Information Guide was referred to the Fund's Legal Counsel. Director Blas stated that Legal Counsel believes that there is a possibility that a wrong interpretation of the citation may have taken place. Chairman San Agustin asked why this matter was brought up. Director Blas stated that Carl Peterson brought this matter up with regards to the way it reads on the Estate Tax Laws for citizens under the Organic Act. Treasurer Cruz stated that this applies to citizens of Guam who have U.S. assets of \$60,000. Director Blas stated that another issue that was brought up was the location of the Trust. Director Blas stated that ERISA 404(c) is not relevant to the Retirement Fund. Director Blas stated that Legal Counsel will provide a written opinion.

B. Two Reasons to Upgrade Our Investment Manager Due Diligence: Differentiation (the Carrot) and Duty (the Stick)

Chairman San Agustin stated that the article on "Two Reasons to Upgrade Our Investment Manager Due Diligence" is for informational purposes only.

C. April 4, 2007 Marianas Variety Article by Dave Davis – "The COLA Windfall – Only Part of the Story"

Chairman San Agustin stated that Director Blas is preparing a response to Dave Davis' April 4, 2007 Marianas Variety article.

D. April 5, 2007 Pacific Daily News Article Regarding "Retirement Fund's Denial of Benefits to Retirees' Survivors is Unconscionable"

Vice-Chairman Leon Guerrero stated that the action of the Fund should be referred to Legal Counsel. Vice-Chairman Leon Guerrero stated that he is concerned that the Fund may be in violation. Chairman San Agustin stated that if a retiree dies, his or her survivor is entitled to fifty percent of his or her annuity. Chairman San Agustin stated that the question is why the Fund is denying benefits to survivors. Chairman San Agustin stated that the reason is because the contributions are not being paid. Vice-Chairman Leon Guerrero stated that there is no condition established when an individual retires stating that if contribution is not made, the retiree or survivor will be penalized.

Mrs. Bordallo stated that the court has determined that if agencies are delinquent, then the Board should take the stand not to accept applications for retirement, survivor and disability benefits. The Board should apply the court order. Mrs. Bordallo stated that only the retiree paid for his or her benefits, not their survivor. The unfunded contribution is required to continue paying the survivors. Vice-Chairman Leon Guerrero stated that the survivor is entitled to receive fifty percent of the deceased member's annuity. Director Blas stated that it is with the understanding that all the contributions have been remitted. Director Blas stated that the court was explicit on survivor benefits. Director Blas stated that it was under the advice of the Fund's Legal Counsel to follow the court order. Director Blas stated that survivor benefits go before the Board for approval.

Secretary James Taylor stated that it is not clear to him from the language that the Fund would automatically turn down an application because of a current funding. Mrs. Bordallo stated that the Fund is not denying the benefits; it's just that the Fund can't pay the benefits. The government has to pay the correct rate. The only reason why the Fund is stopping the benefits is because the government refuses to pay the actuarially required rate.

Vice-Chairman Leon Guerrero asked whether the Fund's Legal Counsel's opinion is based on the court order. Director Blas replied, "Yes." Secretary Taylor stated that he would like to see the actual language and the legal opinion. Trustee George Santos stated that Section 8134 requires the survivors to apply for the benefits. Chairman San Agustin requested that Legal Counsel go to court to get a declaratory judgment. Secretary Taylor asked whether there will be a response to the editorial. Director Blas replied, "Yes." Legal Counsel is preparing a letter. Director Blas stated that the Fund has applied and has implemented the court order consistently in accordance with Legal Counsel's advice.

V. DIRECTOR'S REPORT - EXECUTIVE SUMMARY

1. *William Don Parkinson vs. Government of Guam, Guam Memorial Hospital Authority (GMHA) and Guam Public School System (GPSS)* – Director Blas stated that this case is still moving forward. The Governor's Office is preparing their response which is due on May 15, 2007.

2. *Candelaria Rios et al. vs. Joseph Ada et al. (Special Proceeding Case No. SP206-98)* – Director Blas stated that the Petitioners filed an Opposition to Motion for Intervention. They are opposed to having several taxpayers intervene the COLA payment.

3. *Joseph A. Guthrie vs. Government of Guam Retirement Fund (Superior Court Case No. CV-0183-07)* – Director Blas stated that a court hearing may be scheduled for the end of April or early May. The Fund's Legal Counsel is working on drafting a Declaratory Ruling requesting an interpretation of Public Law 28-150:V:3 Retirement Contribution Rate.

4. *Government of Guam Retirement Fund Board Resolution No. 2007-001* – Director Blas stated that Board Resolution No. 2007-001 was tabled at the February 9, 2007 Board meeting. Management is waiting on Board action. Resolution No. 2007-001 is about the 22.94% statutory contribution rate.

5. *Organic Act / Trust Agreement* – Director Blas stated that Secretary Taylor is still reviewing the revisions to the Trust Agreement. Director Blas stated that Secretary Taylor will be making his comments and recommendations to the Board.

6. *Request for Proposal (RFP): Custodial Bank Services* – Director Blas stated that the evaluations are ongoing. Five (5) firms submitted a proposal.

7. *Request for Proposal (RFP): Real Estate Investment Trusts (REITS)* – Director Blas stated that the RFP is still pending Mercer's preliminary analysis and review.

8. **Request for Proposal (RFP): U.S. Domestic Small Capitalization Core Equity** – Director Blas stated that the RFP is still pending Mercer’s analysis and review.

9. **Request for Proposal (RFP): Transition Management Services** – Director Blas stated that the RFP is still pending Mercer’s analysis and review. Chairman San Agustin stated that Mercer is a related company.

10. **Request for Proposal (RFP): Study Related to Alternative Options for Investment in Real Estate in Guam** – Director Blas stated that the evaluations are ongoing.

11. **Request for Proposal (RFP): Medical Consultant Services** – Director Blas stated that the draft RFP for professional services is still with the Members and Benefits (M&B) Committee for their review and comments. Chairman San Agustin stated that there is an issue with the RFP for professional services. Secretary Taylor asked how much it would cost to get AMA-Certified. Trustee Santos stated that it is somewhere around \$3,000.00 to \$4,000.00 for a three-day examination in the Philippines. Secretary Taylor suggested getting an RFP out for anyone interested in being AMA-Certified. Trustee Santos stated that he will take that option into consideration. Director Blas stated that there are some options that the M&B Committee are going to look at with regard to revamping the disability program. Trustee Santos asked what is the Fund going to do with the physician who is already AMA-Certified on island.

12. **Request for Proposal (RFP): Legal Services** – Director Blas stated that the RFP for Legal Services will close on May 1, 2007.

13. **Public Law 28-38** – Director Blas stated that the General Fund continues to make interest payments on time for the Guam Public School System (GPSS) and Guam Memorial Hospital Authority (GMHA). The Fund is currently accepting GMHA eligible applicants for retirement as they are current with their contributions. GPSS is behind on their interest and penalty payments. Director Blas stated that GPSS has already been invoiced.

14. **Bernstein, Litowitz, Berger and Grossmann (BLB&G) Portfolio Monitoring 2006: Fourth Quarter 2006** - Director Blas stated that a copy of the BLB&G fourth quarter 2006 report was provided to the Board at the February 9, 2007 Board meeting. Director Blas stated that Blair Nicholas, BLB&G Attorney, is asking to meet with the Board on the June 8, 2007 Board meeting to review the fourth quarter 2006 and first quarter 2007 reports with the Board.

Gil Shinohara’s Case - Secretary Taylor asked about the status of Gil Shinohara’s case. Director Blas stated that the Fund is not a defendant in this case. Director Blas stated that she will check with Legal Counsel on this. Director Blas stated that she will include the status of the case in her Executive Summary. Vice-Chairman Leon Guerrero asked whether the case with former Governor Carl Gutierrez been settled. Director Blas stated that Governor Gutierrez’s annuity was reduced and he has not come back to the Fund. Mrs. Bordallo stated that he only had thirty days to make payment. Vice-Chairman Leon Guerrero stated that the Board needs to make a decision on the case. Trustee Katherine Taitano stated that Governor Gutierrez appealed the amount and the Board’s decision.

Financial Report

1. Contributions – Director Blas stated that all agencies are current with their fiscal year 2007 employee and employer contributions except for the General Fund and the Guam Public School System (GPSS).

2. Financial Statements – Director Blas stated that the books for the month ending March 2007 were closed on April 11, 2007.

3. Actuarial Valuation as of September 30, 2006 – Director Blas stated that the draft of the 2006 actuarial valuation is provided, at this meeting, for the Board’s review. Chairman San Agustin stated that the average age of retirees is increasing. The average benefit has not changed for the last four years. Secretary Taylor stated that there have been no salary increases in the Government of Guam which makes it consistent.

4. Fiscal Year 2007 Retirees’ Supplemental Benefits – Director Blas stated that the supplemental benefits for retirees and survivors for the month of March 2007 were paid. Director Blas stated that the payments continue to be received on time.

5. Medicare Reimbursements – Director Blas stated that the Fund is still waiting for receipt of the Fiscal Year 2006 appropriation for Medicare. The Medicare reimbursements for April 2007 are not in yet.

VI. LEGAL COUNSEL’S REPORT

None

VII. TREASURER’S REPORT OF FINANCIAL STATUS

Treasurer Cruz reported that there is approximately \$1.5 Billion in investments. Chairman San Agustin asked whether the equity allocation is still on 50%. Treasurer Cruz replied, “Yes.” Chairman San Agustin stated that it has been consistent in the last three years.

Chairman San Agustin stated that the total investments at the end of Fiscal Year 2006 was \$1,260,314,859 (Page 6 of the Actuarial Report). The Mutual funds as of September 30, 2005 is zero. Chairman San Agustin stated that the Common Stocks and Mutual Funds for Fiscal Year 2005 was at 52.3% (Page 7 of the Actuarial Report). Chairman San Agustin asked about the forfeiture of about \$1 Million. Director Blas stated that the Fund received the \$1.5 Million. Treasurer Cruz stated that the start-up cost has been fully reimbursed by the Defined Contribution (DC) Plan. Treasurer Cruz stated that the Fund needs to decide what to do with the balance of the forfeitures. Director Blas stated that the forfeiture money gets reimbursed to the agencies. Director Blas stated that, based on the way the law reads, once the DC Plan expenses have been taken out, the forfeiture money would be reimbursed back to the agencies. Chairman San Agustin asked whether the Board wants to reimburse the agencies. Treasurer Cruz replied, “No.”

Chairman San Agustin inquired about the withdrawal schedule. Treasurer Cruz stated that the drawdown will be less for the month of April.

VIII. STANDING COMMITTEE REPORTS

A. Members and Benefits Committee

Trustee Santos reported to the Board of Trustees on his Committee's March 2007 end of the month report.

Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 10, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of March 21, 2007 and subsequent meetings thereafter. Without objection, the motion passed.

B. Investment Committee

1. Due Diligence Transcripts – Observations

Vice-Chairman Leon Guerrero stated that Chairman San Agustin submitted, at this meeting, some comments regarding the fourth quarter 2006 Mercer report as well as some comments on the March 2007 Due Diligence Meeting. Chairman San Agustin commended Ms. Stephanie Herrera for transcribing the tapes of the Due Diligence meetings. Chairman San Agustin stated that it is good to have documentation for the due diligence meetings.

2. Board Action

Vice-Chairman Leon Guerrero reported that the Investment Committee meeting was held on March 30, 2007. The following items were discussed and approved by the Investment Committee for Board action:

a. Investment Manager Petition Letters - Vice-Chairman Leon Guerrero stated that a petition letter was received from Oppenheimer Capital requesting that they be allowed to invest up to 25% in stocks of companies that do not meet the requirements of Section 8157. Vice-Chairman Leon Guerrero stated that the Investment Committee recommends that the Board grant Oppenheimer Capital's request to invest up to 25% in non-dividend paying stocks.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve to allow Oppenheimer Capital to invest up to 25% in non-dividend paying stocks. Without objection, the motion passed.

b. Request for Proposals (RFP) - Vice-Chairman Leon Guerrero stated that the Investment Committee reviewed the Request for Proposal and recommend that the Board approve the release of the following Request for Proposals, with the changes, for new Investment Managers:

1. U.S. Domestic Large Cap Growth Equity
2. U.S. Domestic Large Cap Value Equity
3. U.S. Domestic Core Fixed Income

Vice-Chairman Wilfred Leon Guerrero, seconded by Trustee George Santos, moved to approve that the Request for Proposals for new Investment Managers for U.S. Domestic Large Cap Growth Equity, U.S. Domestic Large Cap Value Equity and the U.S. Domestic Core Fixed Income, be issued with changes. Without objection, the motion passed.

c. Manager Notification for Handling of Capital Gain Distributions - Vice-Chairman Leon Guerrero stated that Capital International Inc. distributed \$10.7 Million in Capital Gains, which were automatically reinvested in accordance with the terms of Section 7 of the contract with the Retirement Fund. However, if Retirement Fund Management was notified of the distribution prior to reinvestment by Capital International Inc., a portion of the \$10.7 Million could have been retained to meet current cash-flow requirements. Vice-Chairman Leon Guerrero stated that the Investment Committee recommends that the Board authorize the Retirement Fund Director to notify Capital International Inc. and the other Mutual Fund Investment Managers of the following:

“The Investment Manager shall notify the Retirement Fund Director in advance when a Capital Gain Distribution is to be made. Upon receipt of such notification, the Director shall assess the Retirement Fund’s cash-flow requirements and determine whether all or a portion of the distribution should be retained. The Director shall then notify the Investment Manager of the amount of the distribution, which should be reinvested and the amount of the distribution, which should be disbursed to the Retirement Fund to meet daily cash-flow requirements.”

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve to authorize the Retirement Fund Director to notify Capital International Inc. and the other Mutual Fund Investment Managers of the following: “The Investment Manager shall notify the Retirement Fund Director in advance when a Capital Gain Distribution is to be made. Upon receipt of such notification, the Director shall assess the Retirement Fund’s cash-flow requirements and determine whether all or a portion of the distribution should be retained. The Director shall then notify the Investment Manager of the amount of the distribution, which should be reinvested and the amount of the distribution, which should be disbursed to the Retirement Fund to meet daily cash-flow requirements.” Without objection, the motion passed.

3. Other Information

a. Investment Committee Minutes - Vice-Chairman Leon Guerrero stated that the Investment Committee reviewed and approved the minutes of February 23, 2007. Vice-Chairman Leon Guerrero stated that the purpose of this is to incorporate the Investment Committee Minutes.

b. Receivables Update – Vice-Chairman Leon Guerrero stated that the Investment Committee reviewed the February 28, 2007 Receivables Listing.

C. Audit Committee

1. Management Letter Highlights

Treasurer Cruz stated that a copy of the audit report has been provided, at this meeting, to the Board. Treasurer Cruz stated that it was a good audit. Treasurer Cruz stated that he would like to commend the staff for helping keep the books over the past few years. Chairman San Agustin stated that the audit report is clean and timely. Chairman San Agustin stated that he takes issue on the comment made on Page 2 of the Office of the Public Auditor's (OPA's) highlights: "Management is concerned because payment by the Government of Guam of the \$123.6 Million COLA will further reduce the Government of Guam's ability to fund at the actuarially determined contribution rate." The COLA has nothing to do with the government's contribution rate. Director Blas stated that in the Management Discussion and Analysis (MD&A), it was elaborated or detailed more than this. Director Blas stated that this is the OPA's highlight. Chairman San Agustin stated that the OPA does not like the COLA. She testified against it.

D. Governmental Liaison

Director Blas stated that the Legislature will be going into session to look at the fees and the Gross Receipt Tax. Chairman San Agustin stated that there is a ten percent (10%) surcharge on income tax owed to the government (tax liability).

IX. OLD BUSINESS

None

X. NEW BUSINESS

None

XI. EXECUTIVE SESSION

A. Richard T. Saville vs. Government of Guam Retirement Fund Board of Trustees (Special Proceedings Case No. SP0146-06)

Chairman San Agustin stated that the Executive Session will be deferred until April 17, 2007 at 2:00 p.m.

XII. OPEN DISCUSSION / GENERAL PUBLIC INPUT

None

XIII. ANNOUNCEMENTS

Chairman San Agustin informed the Board of Trustees that the May 11, 2007 Regular Board Meeting is being rescheduled to May 4, 2007.

XIV. RECESS

The Board of Trustees meeting for the Defined Benefits Plan recessed at 2:20 p.m. and will reconvene at 2:00 p.m. on Tuesday, April 17, 2007.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of April 13, 2007 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on June 8, 2007.

James J. Taylor, Board Secretary

RECORDING SECRETARY:

Jackie Blas