

BOARD OF TRUSTEES
Emergency Meeting
Thursday, July 3, 2003, 3:00 p.m.
Retirement Fund Conference Room

MINUTES

DEFINED BENEFITS

I. CALL TO ORDER

After determining a quorum, the Retirement Fund Board of Trustees Emergency Meeting was called to order at 3:15 p.m. Thursday, July 3, 2003, in the Retirement Fund Conference Room. Chairman Francisco B. Salas officiated.

Board of Trustees Present:

Francisco B. Salas, Chairman
Gerard A. Cruz, Vice Chairman
Rolenda L. Faasumalie, Trustee
Stephen J. Guerrero, Trustee

Board of Trustees Absent:

Katherine T.E. Taitano, Trustee (Off-Island)

Staff Present:

Wilfred G. Aflague, Director
Paula M. Bamba, Administrative Services Officer
Pete Tajalle, Controller
Peter Duenas, Acting Benefits Program Administrator
Vince Camacho, BenefitsCorp
Jackie Blas, Board Secretary

Public Present:

Odilia Bautista
Former Senator Ted Nelson
Mindy Fothergill, KUAM

II. REVIEW AND APPROVAL OF MINUTES

A. June 25, 2003 Regular Meeting

On motion of Mrs. Rolenda Faasumalie, seconded by Mr. Stephen Guerrero, and unanimously agreed upon, the Minutes of June 25, 2003 Regular Meeting, were approved subject to corrections. Motion carried.

III. EXECUTIVE SUMMARY

A. July 1, 2003 Letter from Bank of Guam Regarding Delay of the June 30th Direct Deposits for Retirees

Director Wilfred Aflague stated that he received a letter from Bank of Guam regarding the delay of the June 30th Direct Deposits for our retirees. Director Aflague stated that we met Bank of Guam's deadlines in ample time. However, Bank of Guam missed the Federal Reserve Bank deadline. Bank of Guam did apologize for their error. Director Aflague stated that the Government of Guam Employees Federal Credit Union was affected by the delay and that they offered to accommodate their members to access their funds prior to the deposit being posted. Bank of Guam is willing to reimburse retirees for charges incurred on their accounts due to the delay in the direct deposit. Director Aflague stated that he received eight (8) phone calls regarding the EFT. All phone calls were returned and they were informed that they were able to access their accounts.

Chairman Salas asked if there was any loss to the Retirement Fund. Director Aflague stated that no funds were lost. Chairman Salas asked if this incident happened before. Director Aflague replied no.

B. Receivables and Collections (June & July 2003)

Pete Tajalle, Controller, reported to the Board of Trustees on collections and on the three major delinquent accounts which are the General Fund, DOE and GMH. Mr. Tajalle stated that GMH has not made any payments on outstanding balances owed. DOE has made a total payment of \$1,765,009.49 against outstanding balances owed. The General Fund has paid a total amount of \$1.2 Million against outstanding balances. GPA and Port Authority has made some payments. Vice Chairman Gerard Cruz asked if there's a timeline for non-payment. Director Aflague stated that we don't have any in terms of timeline. The Director stated that there is a briefing letter from Legal Counsel explaining the Board of Trustees' options. Director Aflague further stated that the previous Board of Trustees was given this option but they decided not to pursue this route.

IV. OLD BUSINESS

A. Court's Decision and Order on Motion for Clarification Dated July 2, 2003

Director Aflague stated that the Court denied our Motion for Clarification. Director Aflague stated that the Presiding Judge found that no clarification is needed. The Judge's Order of February 18, 2003 still stands.

Chairman Salas reiterated the mandate from the Court: (1) refuse to pay new benefits if unfunded or underfunded pursuant to actuarial standards; (2) challenge legislation amending the DB Plan that would increase benefits levels, expand minimum eligibility requirements, reduce or delay funding of contributions, otherwise impair the ability of the government to provide retirement, disability, and survivor benefits to members and beneficiaries; (3) determine, in its discretion, the priority for payment of benefits among the various classes of beneficiaries under circumstances of unfunded or underfunded employer contributions; and (4) decline to process retirement, disability, or survivor benefit applications related to employment at agencies, which have not made employer contributions the statutory contribution rate (this includes unfunded, underfunded, and late contributions).

Mrs. Rolenda Faasuamalie stated that it would be wise to reiterate the Court's decision to all agency heads and the Chairperson of the Committee on Retirement. Chairman Salas stated that all agency heads should be provided with a copy of the Court's latest ruling and supplement the previous Summary Judgment dated February 18, 2003.

B. Draft Legislation Relative to the Appointment and Election of the Board of Trustees

Chairman Salas stated that the floor is open for any comments on the draft legislation. Vice Chairman Cruz stated that the draft looks good except for a few minor grammatical errors. Vice Chairman Cruz pointed out an error on Page 4, Section 4, Subsection (d) "...th of office following such election or appointment." The sentence should read "The Trustees shall serve without compensation but they shall be reimbursed for all necessary expenses and for any loss of salary or wages they may suffer through serving on the Board of Trustees."

Chairman Salas pointed out an error on Page 1, Section 1, 2nd Paragraph. The sentence should read "I Liheslaturan Guahan further finds that to achieve a broader and more diverse base of representation, and to ensure continuity and expertise on the Board of Trustees, the offices of the Board of Trustees should **be** identified by class and each office should be filed only by members eligible for each particular class."

On motion of Mr. Gerard Cruz, seconded by Mrs. Rolenda Faasuamalie, and unanimously agreed upon, the Board of Trustees voted to approve the Draft Legislation Relative to the Appointment and Election of the Board of Trustees, subject to corrections as discussed. Motion carried.

Chairman Salas stated that the draft legislation should be submitted to the Legislature after the corrections are made.

C. Financial Report

1. Accounts Receivable as of July 2, 2003

The Controller stated that he is in the process of closing out the month of June. This information will be available at the next Board meeting.

2. Financial Impact of Potential Retirement Applications of GovGuam Employees

Director Aflague stated that he has a breakdown of the General Fund agencies' total outstanding balance as of June 11, 2003. Director Aflague stated that at a meeting with the BBMR Acting Director, he reiterated the Court's Order of February 18, 2003. Director Aflague stated that, in two meetings, DOA and BBMR both agreed with the breakdown of the line agencies. The Director stated that he provided this breakdown to DOA. DOA is current with their payments up to the last pay period. On July 1, 2003, we received a check from DOA in the amount of \$1,239,812.22. We could now entertain applications for retirement from the six line agencies that were in arrears. The Director stated that a second stipulation was given to the Director of DOA that they must keep current on their payments. Chairman Salas asked how many potential retirees are we looking at. The Director stated that he doesn't have that information.

Director Aflague stated that he had a briefing meeting with Governor Camacho and that the Governor was pleased with the results.

Chairman Salas inquired about the six agencies. Have the agency heads from these six agencies been contacted so that their potential retirees could start submitting applications. The Director stated that the DOA Director requested that she be given the opportunity to inform the agency heads.

Mr. Stephen Guerrero inquired about the total outstanding balance of \$4,355,428.19. Are these accumulative outstanding amounts? Mr. Guerrero stated that DOA's letter dated July 1 only indicates amounts owed for Fiscal Years 2000 and 2001. Does this mean that the agencies are up to date with 2002 and 2003? Director Aflague stated that they are current in their contributions. The Controller stated that they are caught up with prior amounts. The Controller stated that if these agencies don't stay current on their contributions, the Court Order will then take effect.

D. Salary Adjustment for Director

Chairman Salas stated that this item was tabled from a previous Board meeting. Director Aflague stated that he was confirmed by the Legislature on June 25, 2003. The Director stated that he would like to ask the Board of Trustees their consideration and decision for a salary adjustment. The Director stated that he is now at entry level Step 5 and is requesting for Step 10. Anything after Step 10 would require Civil Service Commission approval.

Chairman Salas requested for Director Aflague to express his position. Director Aflague stated that his duties and responsibilities to the Retirement Fund is to reduce the unfunded liability of the General Fund. Accompanying duties and responsibilities include in-house reexamination, reevaluation and modification of in-house policies and procedures. Collection of overpayments are being identified and payroll deducted. Another accompanying duties is the long term reform of the DB Plan which is an ongoing process. On the DC Plan, Director Aflague stated that he's concerned that members are not looking at retirement until they are ready to retire. Retirement is a great social concern. A good number of members of the DC Plan need to look at this as a long term savings account. Director Aflague concluded by stating that the DC Plan payments are all up to date by all agencies including GMH. Vince Camacho, BenefitsCorp, stated that there is a need in educating GovGuam employees. Mr. Camacho stated that under the Social Security system, no one is allowed to withdraw when they stop working. In the Government of Guam retirement system, separation of service allows an individual to cash out. Some employees quit work on Friday just to withdraw their money, then come back to work on Monday. This practice has been going on for so many years. DC members could access their money for hardship purposes.

Chairman Salas asked the Director where does he position himself in terms of your step given the challenges ahead and the expectations of the Board and the expectations of this administration and as the Chief Executive Officer for the operations of the Retirement Fund. What do you feel you most merit on. Director Aflague stated that he is presently at Step 5 and he is asking the Board to consider Step 10. This is the step the Board could grant his salary without the Civil Service Commission's approval. Chairman Salas reiterated that the Director's salary now is at Step 5 and you asking Step 10, the maximum step without going to the Civil Service Commission.

Chairman Salas asked the Board of Trustees for their comments on this issue. Vice Chairman Cruz stated that he can't dispute Mr. Aflague's qualification or the number of years he has in service. Vice Chairman Cruz stated that he does agree that if Mr. Aflague is able to save the Retirement Fund from the current situation he is a hero. Vice Chairman Cruz further stated that his issue has nothing to do with the salary amount as much as it has to do with the timing of the request. Vice Chairman Cruz inquired about Mr. Aflague's short term goals. Vice Chairman Cruz asked how much has been done since Mr. Aflague's been here. Director Aflague stated that the Fund was able to collect \$3.2 Million on past due payments. Director Aflague also stated that his short term goals will be listed on his six-month evaluation. Vice Chairman Cruz stated that Mr. Aflague had earlier presented very ambitious goals.

Mrs. Rolenda Faasuamalie mentioned that the Board of Trustees, at a previous Board meeting, had agreed to hold off on this issue pending Mr. Aflague's confirmation. Mrs. Faasuamalie stated that her observance is very positive and that there is a difference from the prior management. Mrs. Faasuamalie asked if the former director was at Step 10. Director Aflague replied no, he was at Step 8. Mrs. Faasuamalie asked if there will be an impact on the budget. The Controller stated that we kept the 2002 budget. In the 2002 budget, the former director's salary was already budgeted at Step 8. The Controller stated that the impact will be very minimal. Director Aflague stated that his salary at the time of his appointment did not matter and that it will not matter in terms of accomplishing what he's set out to accomplish.

EXECUTIVE SESSION

At this time the Chairman convened into Executive Session.

RECESS: 4:03 P.M.

RECONVENED: 4:11 P.M.

Mr. Stephen Guerrero stated that he finds it inappropriate to bring up this issue at the Emergency Board of Trustees Meeting. Emergency meetings are usually to address and discuss specific or critical issues only. Mr. Guerrero stated that he would like to hold off on this issue until the next Board meeting. Mr. Guerrero further stated that we could always retro the salary adjustment.

Chairman Salas stated that he reiterates some of the comments made by Mr. Cruz and Mrs. Faasuamalie. In support of what was done, the good job your doing is recognized.

On motion of Mr. Stephen Guerrero, seconded by Mrs. Rolenda Faasuamalie, and unanimously agreed upon, the Board of Trustees voted to table Item 4D (Salary Adjustment for Director) until the next Board meeting. Motion carried.

V. NEW BUSINESS

None

VI. OPEN DISCUSSION

Mrs. Rolenda Faasuamalie inquired about a rumor of tapping into the Retirement Fund if the bond is not pursued to make the GovGuam Retirement Fund an investment option. The Controller stated that there is a statute already identified on the type of investment you can invest on. Chairman Salas stated that he will take this matter under advisement.

Former Senator Ted Nelson thanked the Board of Trustees for the opportunity to appear before the Board. Senator Nelson stated that he was asked to get involved with the Retirement Fund. Senator Nelson spoke on three issues:

- 1) Senator Nelson stated that he is in support of Mr. Aflague's salary adjustment of Step 10.
- 2) Senator Nelson stated that with respect to the EFT, he is concerned with the handicapped and elderly retirees and that the retirees should be given an option on the EFT. There are advantages and disadvantages of the EFT, but please give the retirees that option.
- 3) Senator Nelson stated that we should come up with an idea via resolution on payment of the Retirement Fund. Once an employee retires, they should freeze the lapses. The remainder of the budget should be earmarked for payment towards their retirement. This will help reduce the shortfall. It will help the General Fund.

Vice Chairman Cruz asked if we are presently operating under the old appointment system. Ms. Paula Bamba replied yes. Vice Chairman Cruz asked if we should then be operating under the new law. Ms. Bamba replied no, we can't remove the composition of the new law. There is a provision in the new law that we can appoint for unexpired terms. Ms. Bamba stated that we are sort of operating under both the old and new law.

VII. ANNOUNCEMENTS

Director Aflague reported to the Board of Trustees that he is still unable to secure the August 8, 2003 date for the Open Forum. Ms. Bamba stated that August 6 and 7 is also being scheduled to hold the Fund Managers Review. Chairman Salas asked if we have communicated with the Speaker, Vice Speaker and the Chairperson of the Committee on Retirement. Ms. Bamba stated that we are still trying to secure the August 8 date first with the Speaker. Director Aflague stated that both the Governor and Lieutenant Governor will be on island on August 8.

Director Aflague also reported to the Board of Trustees that he has contacted Mr. Rufo Taitano with regards to sending flowers to Mrs. Cecil Taitano (Katherine Taitano's mother). The Director stated that Mr. Taitano informed him that Mrs. Taitano is in ICU and that in lieu of flowers he would greatly appreciate prayers for her. Chairman Salas stated that we will say some prayers for Mrs. Taitano.

VIII. ADJOURNMENT

There being no further business before the Board, on motion of Mr. Stephen Guerrero, seconded by Mrs. Rolenda Faasuamalie, and unanimously agreed upon, the meeting was adjourned at 4:30 p.m. Motion carried.

Respectfully submitted,

Jackie Blas
Board Secretary