

**BOARD OF TRUSTEES**  
**Regular Meeting**  
Friday, August 13, 2004, 12:00 p.m.  
Retirement Fund Conference Room

**MINUTES**

<b>DEFINED BENEFITS</b>
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**I. ATTENDANCE, QUORUM, AND CALL TO ORDER**

After determining a quorum, the Retirement Fund Board of Trustees Regular Meeting for the Defined Benefits Plan was called to order at 12:05 p.m. Friday, August 13, 2004, 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  
James J. Taylor, Secretary  
Katherine T.E. Taitano, Treasurer  
Anthony C. Blaz, Trustee  
Gerard A. Cruz, Trustee  
George A. Santos, Trustee

**Staff Present:**

Wilfred G. Aflague, Director  
Paula M. Bamba, Administrative Services Officer  
Pete Tajalle, Controller  
Peter Duenas, Acting Benefits Program Administrator  
Vince Camacho, Great West Retirement Services  
Jackie Blas, Recording Secretary  
Rosalia Bordallo, Investment Specialist

**Public Present:**

Ken Wetmore, KUAM  
Odi Bautista  
Attorney Phil Torres  
Former Senator George Bamba, Special Assistant to the Governor

**On motion of Trustee Anthony Blaz, seconded by Trustee George Santos, and unanimously agreed upon, the Board of Trustees voted to accept the August 13, 2004 Agenda. Motion carried.**

## **II. REVIEW AND APPROVAL OF BOARD MINUTES**

### **A. June 24, 2004 Regular Meeting**

**On motion of Treasurer Katherine Taitano, seconded by Trustee George Santos, and unanimously agreed upon, the Minutes of June 24, 2004 Regular Meetings were approved, subject to corrections. Motion carried.**

### **B. July 16, 2004 Regular Meeting**

**On motion of Trustee George Santos, seconded by Trustee Anthony Blaz, and unanimously agreed upon, the Minutes of July 16, 2004 Regular Meeting were approved, subject to corrections. Motion carried.**

## **III. CORRESPONDENCE**

Chairman Joe T. San Agustin stated that he has provided a list of correspondence that should be referred to the Director and to the Standing Committees. Chairman San Agustin stated that some of the correspondences are for information purposes only. Trustee Katherine Taitano stated that if the correspondences are not addressed to the Board of Trustees, it should be for the Director only. Trustee Anthony Blaz suggested that we entertain correspondences addressed to the Board of Trustees.

1. November 24, 1999 letter from Joseph Duenas, Director of Revenue and Taxation, addressed to John Rios, Director of Retirement Fund, regarding ***Letter Ruling For informational purposes.***

*Chairman Joe T. San Agustin stated that this document is a Revenue & Taxation, Revenue Ruling regarding direct contributions on the Early Retirement Incentive Program ("ERIP") on loans. According to the Chairman, this was a time when people had to retire and at the same time borrowed money and was able to pay it back. Just to clarify the legality, I think that there were some questions in the past whether the loans should be treated as an income. On the Letter of Ruling it is just a matter of clarifying because there is some misunderstanding on how the loans should be issued out because of the promissory note on the ERIP.*

2. March 6, 2003 letter from Douglas Moylan, Attorney General, addressed to Wilfred Aflague, Director of Retirement Fund, regarding ***Members Seeking to Retire For informational purposes.***

*Wilfred Aflague, Director of the Retirement Fund stated that he requested to meet with the Attorney General and though they did not meet, the AG sent him a memo. The memo was centered around discussions on past due contributions. If you remember at that time he took*

*the Department of Administration to court to pay some contributions that were late and he was successful in getting the funds paid to the Fund of about three million dollars at the time and we thank him for his work in helping us to recovery those past due contributions.*

3. July 16, 2004 letter from John A.B. Pangelinan addressed to Mr. Ray Lizama, Personnel Management Analyst III, Civil Service Commission, regarding ***Personnel Rules and Regulations of the Government of Guam Retirement Fund***  
**Referred to Director Wilfred Aflague for action.**
4. July 17, 2004 email from Chairman Joe T. San Agustin addressed to Douglas Moylan, Attorney General, regarding ***Legal Counsel for the Retirement Fund***  
**Referred to staff.**

*The Chairman stated that the law specifically gave the Board the right to employ an attorney in civil matters. Any other matters are to be referred to the Attorney General's office. Ms. Paula Blas clarifies that all legal opinions rendered by the Fund's legal counsel goes via the Attorney General's office before being accepted by the Fund.*

5. July 19, 2004 email from Chairman Joe T. San Agustin addressed to Wilfred Aflague, Director of Retirement Fund, regarding ***Recruitment and Personnel Staff – Temporary Halt***.

**Chairman Joe T. San Agustin lifted the temporary halt on recruitment and personnel staff.**

6. July 23, 2004 email from Chairman Joe T. San Agustin addressed to the Board of Trustees regarding ***Actuary Consultant – Organizational Placement***  
**Referred to Investment Committee.**

*The Chairman states that previously there were only two standing committees, the Members' & Benefits Committee and the Investment Committee. There are some functions that were overlapping. The Members' committee concentrated on the members and retirees and the investment committee became the "catch-all" committee. The Chairman is asking the Actuary Consultant be placed on an organizational placement and have the negotiations done at the Board level Trustees move to have this issue referred to the Investments committee.*

7. July 23, 2004 memorandum from Maria A. Juarez, Accounting Technician III, and an employee of the Retirement Fund addressed to Personnel Officer, Administrative Services Division, regarding ***Personnel Rules and Regulations***  
**Referred to Director Wilfred Aflague for action.**
8. July 24, 2004 email from Chairman Joe T. San Agustin addressed to the Board of Trustees regarding ***Briefing on the Financial Affairs and Budget Status of the Fund***  
**For informational purposes.**
9. July 26, 2004 memorandum from Maria A. Juarez, Accounting Technician III, addressed to Personnel Officer, Administrative Services Division, regarding ***Government of Guam Retirement Fund Personnel Rules and Regulations***

**Referred to Director Wilfred Aflague for action.**

10. July 29, 2004 letter from Julie M. Lujan-Torres addressed to Chairman Joe T. San Agustin regarding ***Reinstatement of Retirement Benefits***  
**Referred to Members and Benefits Committee.**
11. July 30, 2004 letter from Rosario U. Perez addressed to Wilfred Aflague, Director of Retirement Fund, regarding ***Overpayment of a Minor Child Stipend***  
**Referred to Members and Benefits Committee.**
12. August 2, 2004 letter from Robin P. Roberson addressed to Wilfred Aflague, Director of Retirement Fund, regarding ***Prorated Interest Payment***  
**Referred to Members and Benefits Committee.**
13. August 2, 2004 memorandum from Maria A. Juarez, Accounting Technician III, addressed to Personnel Officer, Administrative Services Division, regarding ***Government of Guam Retirement Fund Personnel Rules and Regulations***  
**Referred to Director Wilfred Aflague for action.**
14. August 5, 2004 letter from John A.B. Pangelinan addressed to Chairman Joe T. San Agustin regarding ***Request for Documents***  
**Referred to Director Wilfred Aflague for action.**

#### **IV. DIRECTOR'S REPORT - EXECUTIVE SUMMARY**

Mr. Aflague states that the Board has been provided graphs, data, and figures on the front page of the summary. Included are the past due contributions from the Department of Education and Guam Memorial Hospital. The Investment Manager search has been updated by the Investment Committee. The Actuarial contract has already been discussed, a copy of which has been provided to the Board members. A copy of the supporting documents as well as the background on the Request for Proposal (RFP) will be provided to Board members. Five proposals for the Defined Contribution Third Party Plan Administrator have been submitted. They have not been opened and management requests Board's recommendation as to when they are to be opened and the criteria in which it is to be reviewed. Members of the Board state that this item will be referred to the Investments committee. On the financial report, contributions as of this date are all current from all agencies for Fiscal Year 2004. The Director and the Controller are quick to send out reminder notices to agencies when they are even one week behind. The July Financial report has been presented to the Treasurer.

On the issue of supplemental payments due to retirees – the General Fund has remitted amounts to pay the full supplemental due for the periods December 30, 2002 and January 15, 2003. The only amounts now due are for the period January 31, 2003 and the entire month of February, 2003. The supplemental for Fiscal Year 2004 for all agencies with the exception of the Guam Water Works Authority are current. Guam Water Works Authority has not remitted any money to the Fund to pay out supplemental for their retirees.

The Chairman states that in conversation with members of the Legislature this morning, on the subject of the supplemental, the Legislature is anticipating putting in money on the budgets. They are also looking to modify the supplemental disbursement. The legislature is discussing that for those retirees that make forty thousand dollars (\$40,000.) or less a year, they will be entitled to the full four thousand two hundred and thirty eight dollars (\$4,238.) a month. The sliding scale will not apply to them. Any retiree making more than forty thousand (\$40,000), who retired prior to October 1, 1985 will receive a supplemental on a sliding scale basis.

Mr. George Bamba, a special assistant to the Governor, was asked if he had any comments regarding the supplemental. He states that he is scheduled to attend a meeting at which time they will be discussing the Fiscal Year 2005 budget. He offers his congratulations to the Board and reports that the Governor is very clear that the Board has his full support on whatever action they take with respect to the Retirement Fund. He has sent the Chairman an email concerning the Governor's position on certain issues and it is up to the Chairman to decide if he will share that with other members of the Board. Nevertheless, the Governor stands ready to work with the Fund to be able to resolve a lot of the outstanding issues, either inherited or coming down the horizon.

Mr. Bamba further states that at the next meeting with Governor, he will ensure that one of the agenda items will be regarding the Retirement Fund contributions and where the General Fund is at. He advises the Board that the General Fund has been taking a lot of extraordinary hits; however, they do recognize the need to do something with the Retirement Fund positively to reduce the outstanding liability. The administration is glad that they are current in submitting contributions this fiscal year and they plan to continue to stay current.

The Chairman states that Dr. Leon Guerrero suggests that the General Fund at least be encouraged to pay at least the interest that is due to the fund. Mr. Bamba states that in this current budget the subsidies have been doubled. He further states that although the administration has a host of other problems, the issue of paying the Retirement Fund is important as it affects the employees who want to retire.

Dr. Taylor states that he has some questions regarding the DOE and the GMH list. He asks if this list only contains names of employees who want to retire but can not. Mr. Aflague states the list consists of those employees wishing to retire or resign and withdraw their contributions. He states it does not reflect the full amount the agencies owe to the Fund. Mr. Aflague answers that that is correct. Dr. Taylor then asks if it was the position of the Fund at one time if the whole amount was not paid, no one from that agency could retire or resign. Mr. Aflague states that it was a court order effective February 2003 that restricted the Fund from allowing the employee to retire or refund their contributions unless the agency they were employed by paid the Fund in full. The legislature put a provision in the FY 2004 budget act that stipulates if an employee of an agency who has past due contributions wants to retire, the agency must pay that employee's contributions, the employer's share, plus the Funds rate of return for the previous year which in this case was 9.9% plus 1% penalty to make whole these employee and eligible for retirement. Dr. Taylor then asks if the Fund is doing this based on the budget law which was passed. Mr. Aflague agrees. He further states that the second provision of this law states that no agency shall misconstrue this piece of legislation to mean that they are not required to get current with their contributions to the Fund. The Fund then sent a memo out to these

agencies head to advise them that if they are two pay periods behind in contributions to the Fund, the Fund will not entertain any of their employees who wish to retire or withdraw their contributions.

The financial audit for 2003 is ongoing. The audit findings draft will be completed by August 15, with the finalization being completed by the August 31.

## **V. TREASURER'S REPORT OF FINANCIAL STATUS**

The Treasurer and the Controller passed out copies of the approved 2004 budget as well as the income statements and the balance sheets information. She apologizes however this is all new to her as well as to the Board. All matters dealings with financials including expenses incurred by the Fund will be reviewed by the Treasurer.

She states that the Board will notice that on page 2 under budgeted amount there are certain items that are not part of the budget. These items are part of the investment expenses. They are part of the gross income of the Fund.

Dr. Leon Guerrero asks if the budget expense include both the DB and the DC plan or are there two separate budgets. Ms. Rosie Bordallo states that the only reason is for General Ledger purposes. She ensures that there are separate accounts for the two plans using different account numbers. No DB money is allocated to DC and vice versa.

Mr. Tajalle states that for the next presentation to the Treasurer, what staff will do is subtract out those items which are not operational related now that we have confirmation that the assessment manager fees are not operational related, these expenses will be subtracted out and the Fund will have a clearer picture of the financial status of the Fund. The Chairman also asks that staff identify the source of funding because there is a percentage (1.7% of the contribution rate is earmarked for administrative expenses on the DB plan).

The Trustees make a review of the balance sheet, particularly the receivables portion. Dr. Taylor states he appreciates the money that the Fund has in receivables however he thought that the amount was only about thirty million; the receivables indicate there is about one hundred forty-six million. Ms. Paula Bamba states this is because of the supplemental and the Early Retirement Incentive Program.

Mr. Tajalle states that unfortunately during the fiscal year 2001 audit, when he first began with the Fund there was never a receivable recorded for the money issued out as a result of the Early Retirement Incentive Program. These are monies that should have been paid in to the Fund by the employer as contribution for the retiring employee. This amounted to approximately 12.1 million dollars remains outstanding. He further states that there was a period between 1999 and 2002 where the Fund was tasked with paying out supplemental and cola to the retirees and that amounted to one hundred million dollars. The Chairman asks if this amount is the amortization for twenty years. Mr. Tajalle continues by stating that from a presentation perspective, this was never recognized as a receivable so there was no way to track its decline all the way out to the amortization period. The Chairman then asks if the Fund had been receiving the percentage required up until recently. Mr. Tajalle states yes however the fund did not have a mechanism

by which to reduce it to show its progress. Mr. Tajalle states that as a result of the 2001 audit, it was recognized as a receivable amount.

Ms. Taitano states that the staff is currently preparing the 2005 budget. Ms. Taitano will have something to present to the Board by sometime next week.

## **VI. STANDING COMMITTEE REPORTS**

### **A. Members and Benefits Committee**

#### **1) August 20, 2004 Meeting**

Mr. Santos states that he is pleased to announce that Ms. Kathy Taitano and Mr. Gerry Cruz have accepted membership in the Members' & Benefits Committee. He further states that in the first committee meeting is scheduled for Friday, August 20<sup>th</sup>, 2004 at 12:00 PM. Included in the Board's packet is a draft agenda that the committee Chairman has set up.

The Chairman states that one of the recommendations he sent to Mr. Santos was the adoption of the American Medical Association Guidelines. He states that the Board has not actually adopted these guidelines as a basis for disability retirement. Mr. Santos remembers that in the first briefing regarding the Members' and Benefits Committee, this issue was brought up and that is why there is a summary page of resolutions, which the committee will be recommending to the Board. This is one of the resolutions the committee will be drafting up.

### **B. Investment Committee**

#### **1) August 6, 2004 Meeting**

##### **DEFINED BENEFIT:**

##### **A. Affirmation of International Manager Search**

Dr. Wilfred Leon Guerrero chairs this committee. He states that they are just starting to organize. The vice Chairman is Dr. Taylor, with Mr. Gerry Cruz as a member. The committee will hold their meetings on the first Friday of the month. Dr. Leon Guerrero advises that the committee has yet to develop duties and responsibilities of the committee.

The committee did have a meeting on August 06, 2004 and the committee does have a few recommendations that they would like the Board's approval on. One of them is the Affirmation of the International Manager's Search. Work was done on this and it went all the way to the Board however because of the Chairman's memo that was discussed earlier, the staff held back on recruiting these International Money Managers. The committee has reviewed the work prepared by the staff and sees no reason why they can not proceed with the recruitment of two Money Managers to replace those that the Fund already has.

***A motion was made to accept the work prepared by the staff to proceed with the recruitment of two International Money Managers to replace those that the Fund already has. The motion was seconded by Mr. Gerry Cruz. It was unanimously agreed upon, the motion carried.***

B. Custodial Bank Request for Proposal Issuance

Dr. Leon Guerrero states that the second action item to be presented to the Board is the issuance of a custodial bank Request for Proposal. The Fund has utilized the services of the current custodian for an extended period. The Investment Committee feels it prudent to reassess what services may be available. Chairman San Agustin noted in a report that there was a JP Morgan sub-custodian and questioned how that came to be. Ms. Leon clarified that they are not a sub-custodian but rather provide securities lending services to the Fund. They are a sub-custodian to First Hawaiian Bank. FHB is providing securities lending services through JP Morgan. The current contract with First Hawaiian reflects the split the Fund will receive from securities lending, but FHB does not have the capacity to provide the service so they've secured it from JP Morgan. Chairman San Agustin noted that the issue should be clarified in the RFP to avoid a potential conflict of interest.

***A motion was made to issue a request for proposal for custodial bank services, seconded by Mr. Gerry Cruz. It was unanimously agreed upon, the motion carried.***

II. INFORMATIONAL ITEMS

A. Status of 2004 Employee and Employer Contributions

Dr. Leon Guerrero states that the Fund has a negative cash flow of One hundred seventy-six million for FY 2004. Out of this amount, One hundred sixty-eight million is for annuities and operation expenses. Another Eight million is for refunds. He is not sure if this is good news or not but it seems like more employees are transferring out of the Defined Benefits Plan. We are three-fourth of the way into FY-2004 at the end of June 30<sup>th</sup> we have received sixty-five million from the General Fund. He states that for this fiscal year, the Fund is in good shape. Dr. Leon Guerrero states that it could improve if the accounts receivable was improved as this would provide more cash for the Fund to work with.

The Chairman asks if the Fund, based on the figures being provided, the Fund is able to meet its annuities payment obligations for the remaining part of the year. Mr. Aflague states yes the Fund should be able to meet the annuity payments. Mr. Tajalle states that the Fund will be able to meet its annuity payment; however, the Fund will have to dig into its capital.

B. Proposed Investment Policy Statement Amendments

Dr. Leon Guerrero states that the committee is still working on this item

C. Investment Consultant Contract Review

Dr. Leon Guerrero states that he would like to advise the Board that the committee has already reviewed the contract. He does not feel that the committee is ready to move on this item.

D. Outstanding Receivables

These have already been discussed.

E. Portfolio Review

Dr. Leon Guerrero advises that the Portfolio for the second quarter of this calendar year is a negative .8 but for the but for the Fiscal Year which is the third quarter it is 8.3

**DEFINED CONTRIBUTION:**

1. ACTION ITEMS

A. Pioneer Emerging Markets Application -

A recommendation was made to open another account to accommodate more of the 401 retirement plan. The committee rejected this recommendation as according to the latest audit, there are too many accounts.

*A motion was made for the Board to affirm the action taken by the Investment committee to reject the Pioneer Emerging Markets Application. The motion was seconded by Dr. Taylor. The motion was unanimously agreed upon. Motion carried.*

B. Defined Contribution Plan Administrator Contract Review

The committee has looked into this and is presently continuing its review.

**C. Audit and Operations Committee**

Committee Chairman Anthony Blaz states that the committee has not yet met, however he states that the committee will be having a briefing with the Public Auditor, Doris Flores Brooks on Friday, August 20<sup>th</sup>. The Members' and Benefits Committee has a meeting on this date set for 12:00 PM so the audit briefing is scheduled for Friday, August 20, 2004, at 10:30 AM. He further states that this is a very important briefing as the Public Auditor will advise the results of the audit she has completed as well as the ongoing audits and other concerns which they may have. As to the formation of the internal audit staff, the committee is currently working on this. The Board Chairman advises Mr. Blaz that the committee needs to develop a staff of their own with the independence in itself. Mr. Blaz advises that the committee will work with the Treasurer to identify the funding for this staff. The Board Chairman states that the

Federal Government is very strict. The Board Chairman advises the committee Chairman that he may consider whether he would like to outsource the staff or hire his own staff. Mr. Blaz advises that Ms. Brooks will be assisting the committee.

## **VII. OLD BUSINESS**

The Chairman states there are no old businesses to discuss.

## **VIII. NEW BUSINESS**

### **A. Training Schedule**

The Chairman advises the committee that as they are new to Fund, he suggests that each trustee look into attending upcoming conferences or trainings related to the Fund. He then advises the Trustees to see what is available and express their interest to Director Aflague.

Mr. Aflague states that he has provided the secretary with various brochures and information that has been received by the Fund. He states that the earliest one coming up is the 50<sup>th</sup> Annual Employee Benefits Conference. This is to be held from September 19<sup>th</sup> through September 22<sup>nd</sup> in New Orleans.

The Chairman asks what the travel policies are now as he is not familiar with all the changes that have occurred. Ms. Paula Blas states that the practice has been that the Fund prepares the Travel Authorization; it would go to BBMR for approval. He then asks what BBMR does; she states they ensure that the travel is in compliance. He further asks whether the traveler is still provided a per diem. Ms. Blas states that the Fund still follows the travel laws. The traveler does get a per diem dependent upon the number of days the training is scheduled for. Any expenses out of that is the responsibility of the traveler. The flight is booked on economy class.

*A motion was made to allow any Board member who wishes to travel to any conference or training may do so provided the travel request is approved by all concerned. The Board member is to make his desire to attend a conference or training known to the Director of the Fund so that corresponding documents and arrangements may be prepared. The motion was seconded, and agreed upon unanimously. Motion carried.*

### **B. Status of Actuarial Study for Current Year**

The Chairman states there is no actuarial study being conducted. The law requires that a study be conducted once a year. The contract will be reviewed by the Investments Committee. The Chairman asks if this review will be ready for Board action by the next Board meeting.

Mr. Aflague advises the Chairman that just for the Board member's information back in June, the Fund realized that they would not have the valuation report by the new actuary to submit to the Legislature so the previous Board Chairman submitted a letter to the vice speaker of the legislature recommending to adopt the 25.92 contribution rate but no less than the 20.81.

The Chairman asks if the Fund knew what the legislature adopted; both Mr. Aflague and Ms. Blas state that the fund is not aware. Ms. Blas states that they were leaning more toward the 20.81 contribution rate.

**C. Status of GovGuam Matching for BFY 2005**

Ms. Blas states that these are the contribution rates stated above.

**D. Review of Meeting with Governor**

Dr. Taylor states that his immediate reaction was a mention of the Attorney General and that he had a problem with the Attorney General. That followed with the discussion of the bond issues. It seems to become apparent that the bond issue he was discussing does not include as it currently exist any money for the Retirement Fund at all. The Governor was hesitant to talk about the bond issue.

The Chairman then goes on to say that the Governor was also concerned that the size of the Fund in looking at the portfolio has not made significance to the portfolio that has actually been invested in Guam, be it in SBA participation or FHA loan mortgages.

Dr. Taylor asks if the above was in the discussion with the Governor, the Chairman states this was in a side conversation with George Bamba. He goes on to say that he was talking with a republican senator and the senator mentioned that it was time for the Retirement Fund to pay its dues and that resulted in the early retirement.

**E. Status of Possible Bond Issue**

The Chairman states this was discussed above.

**F. Review of Director's and Officer's Coverage**

The Chairman asks what happened with this issue. Mr. Aflague states we are covered however Ms. Blas states that they will be going out again as the coverage expires on September 30<sup>th</sup>, 2004. The staff will be looking out to see the cost for premium. The Fund currently has a policy that insures the trustees and its officers or management for a million dollars per occurrence.

Dr. Taylor states that the consultant currently being used has indicated that given the nature of the portfolio they may need to increase certain amounts. Ms. Blas states she thinks the Fund is using the same consultant and one of the things we did look into was by doing that the cost associated with it because if the Fund was to insure the Board based on the portfolio is at this time with what the assets are it should be anywhere between a six or ten million coverage per occurrence. Ms. Blas states that actually the Fund is insuring for the 1.2 billion dollar asset, so the premium is actually going to cost between nine hundred thousand to a million dollars.

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

Attorney Phil Torres aired his concern as to why the Retirement Fund is paying the Supplemental Benefits. Wilfred Aflague, Director of the Retirement Fund informed Attorney Torres that these funds are appropriated by the Department of Administration for the General Fund and the autonomous agencies pay for their retirees in check. The Department of Administration has asked the Fund to facilitate this because of the fact that .....Mr. Tajalle, Controller of the Fund intervenes and states that because the Department of Administration does not have the capabilities to prepare the data base and run the checks at their office. They requested assistance from the Fund. Attorney Torres states that the Fund is violating the court order in issuing the checks for the Department of Administration and it is not in compliance with the court order.

Attorney Phil Torres states that the Retirement Fund is also allowing individuals to retire from agencies that are behind in contributions. The Chairman states that the Fund is not doing that. The Chairman states that the law allows that if an individual's contribution is paid up, he is allowed to retire. Attorney Torres states that this is contradictory to the court order. The court order itself states that any law that is contrary to the best interest of this fund is to be challenged.

Mr. Blaz advises Attorney Torres that this is his interpretation, Attorney Torres agrees with this. Mr. Blaz goes on to say that what the Board is not engaged in anything illegal. The fund is following the court order.

The Chairman then requests that the Defined Benefits portion of this meeting be suspended. He would like to go to the Defined Contributions portion.

The Defined Benefits portion of the meeting is back from being recessed.

## **X. PERSONNEL**

The Chairman states that this issue is basically an old business item and suggests that this go into an executive session. The trustees feel they do not need to go into executive session and the Chairman continues. He states that there are two items basically one being the need for a Personnel Rules and Regulations which seems to be challenged right now. There are several correspondences by several people challenging the issue. There is doubt that the agency has adopted a rules and regulations. In past practice, they have accepted the Department of Administration's rules and regulation as the Fund was a part of this Department. When the Fund was slowly separating itself from the Department of Administration, they did not formally adopt their own rules and regulations. By practice, both Civil Service and the Department of Administration recognized the Fund using their rules and regulations.

The second issue relates to the reorganization. If the Fund is to reorganize, it has to go through the entire reorganization process which includes public hearing, staffing, etc. The Fund has to go through the same process as that of the Guam Memorial Hospital.

The third issue is having more than one principal assistant within the Director's office. This brings out the issue of the unclassified. The Agency has a Director, a Deputy Director and a Private Secretary. However the budget law now states that the agency has to make a choice of

either having a Deputy Director or a Private Secretary. The Fund is in a dilemma as the fund needs to reorganize to be able to restructure. There is a lot of research to be conducted. The Chairman states whether the fund wants to use the merit system and use the staff or does the fund want a deputy director.

The Chairman then brings up the position of Board Secretary which Jackie is occupying. She is however an unclassified employee. Ms. Blas states that Jackie's actual hiring took place prior to the enactment of the budget act, so when 27-29 which is the FY-04 came in to effect, that is when the provision took effect. The Chairman asks if this precludes the Fund from having a Deputy Director. Ms. Blas states that according to Civil Service, so long as she is performing her duties, and they will validate her duties, as long as it is validated, they will issue a formal ruling on the allowance of hiring a deputy director. The Chairman then states that the Fund should wait for the ruling before deciding whether there will be a deputy director.

The last item involves the Director. The normal process is that when a new administration comes in which is the new Board, the Director submits a courtesy resignation, the new administration will then nominate an individual which is the law and then go to the Governor who appoints that individual then it goes to the legislature for confirmation. The fund has a director which has already gone through this process. There are four stages in which the Board can choose from. They can reaffirm, stay status quo, go through the process, or re-nominate him.

## **XI. ANNOUNCEMENTS**

None

## **XII. ADJOURNMENT**

**There being no further business before the Board for the Defined Benefits Plan, on motion of Trustee George Santos, seconded by Trustee Gerard Cruz, and unanimously agreed upon, the meeting was adjourned at 2:45 p.m. Motion carried.**

**I hereby certify that the foregoing is a full, true and correct copy of the Minutes of August 13, 2004 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on September 10, 2004.**

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**James J. Taylor, Board Secretary**

## **TRANSCRIBED BY:**

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**Rose Cruz, Word Processing Secretary**

Board of Trustees Regular Meeting  
August 13, 2004  
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## **DEFINED CONTRIBUTIONS**

### **I. ATTENDANCE, QUORUM, AND CALL TO ORDER**

After determining a quorum, the Retirement Fund Board of Trustees Regular Meeting for the Defined Contributions Plan was called to order at 2:46 p.m. Wednesday, July 14, 2004, 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  
James J. Taylor, Secretary  
Katherine T.E. Taitano, Treasurer  
Anthony C. Blaz, Trustee  
Gerard A. Cruz, Trustee  
George A. Santos, Trustee

#### **Staff Present:**

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

#### **Public Present:**

### **II. REVIEW AND APPROVAL OF BOARD MINUTES**

**A. June 24, 2004 Regular Meeting**

**B. July 16, 2004 Regular Meeting**

**On motion of Trustee George Santos, seconded by Trustee Gerard Cruz, and unanimously agreed upon, the Minutes of June 24, 2004 and July 16, 2004 Regular Meetings were approved, subject to corrections. Motion carried.**

### **III. OLD BUSINESS**

**A. 2004 2nd Quarter Performance Report**

### **IV. NEW BUSINESS**

None

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

None

**VI. ANNOUNCEMENTS**

None

**VII. ADJOURNMENT**

**There being no further business before the Board for the Defined Contributions Plan, on motion of Trustee George Santos, seconded by Trustee Gerard Cruz, and unanimously agreed upon, the meeting was adjourned at 3:05 p.m. Motion carried.**

**I hereby certify that the foregoing is a full, true and correct copy of the Minutes of August 13, 2004 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on September 10, 2004.**

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**James J. Taylor, Board Secretary**

**TRANSCRIBED BY:**

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**Rose Cruz, Word Processing Secretary**

**We, the undersigned Trustees of the Government of Guam Retirement Fund Board, certify that we have read the Minutes of August 13, 2004 Regular Meeting, including all exhibits attached hereto and approve the same.**

\_\_\_\_\_  
**Joe T. San Agustin, Chairman**

\_\_\_\_\_  
**Wilfred P. Leon Guerrero, Vice-Chairman**

\_\_\_\_\_  
**Katherine T.E. Taitano, Treasurer**

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**Anthony C. Blaz, Trustee**

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**Gerard A. Cruz, Trustee**

\_\_\_\_\_  
**George A. Santos, Trustee**