

BOARD OF TRUSTEES

Regular Meeting

Friday, August 11, 2006, 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 August 11, 2006, 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
Anthony C. Blaz, Trustee
George A. Santos, Trustee
Katherine T.E. Taitano, Trustee

Board of Trustees Absent:

James J. Taylor, Secretary
(Off-Island, Excused)

Staff Present:

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

Public Present:

David Dooley, Attorney of Record, Case No. SP206-93
Terry Dennison and Ashish Shrestha, Mercer Consulting, Inc.
Sonya Artero, KUAM

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. April 21, 2006 Regular Meeting

On motion of Vice-Chairman Wilfred Leon Guerrero, seconded by Trustee Katherine Taitano, and without objection, the Minutes of April 21, 2006 Regular Meeting were approved, subject to corrections. Motion passed.

B. May 12, 2006, June 9, 2006 and July 14, 2006 Regular Meetings (Pending)

Vice-Chairman Wilfred Leon Guerrero, seconded by Trustee George Santos, moved to defer approval of the Minutes of May 12, 2006, June 9, 2006 and July 14, 2006 Regular Meetings. Without objection, the motion passed.

III. CORRESPONDENCE

A. July 14, 2006 Letter from Governor Felix Camacho Regarding Bill No. 332 (LS) / July 20, 2006 Testimony on Bill No. 332 (LS)

Chairman San Agustin stated that he testified in reference to Bill 332. Chairman San Agustin stated that he extended the Board's gratitude and appreciation to the Governor and the Members of the Legislature for their continued support, confidence, and trust extended to the Board and Management Staff.

B. August 8, 2006 Letter from Carlsmith Ball LLP Regarding Government of Guam Retirement Fund vs. Guam Memorial Hospital, et al. – Superior Court of Guam Special Proceedings Case No. SP0231-02

Acting Director Paula Blas stated that the Fund's Legal Counsel, in a letter dated August 14, 2006, provided a summary of the status of the above case. The letter stated the following: "In 2002, the Fund filed a writ of mandamus against Guam Memorial Hospital Authority (GMHA), naming the GMHA and the Board members as Respondents. The writ asked for payment of \$15.35 Million owed the Fund for retirement contributions. On November 21, 2002, the Court issued a decision and order in the case. Based on this decision, a judgment was entered. Thereafter, an abstract of judgment was recorded at the Department of Land Management. This created a \$15.35 Million judgment lien against property owned by the individual members of the GMHA Board. However, this was in error, because a writ of mandate does not create a judgment for money damages against those individuals who are required to carry out the mandate. Hence, the GMHA Board members are not required to pay the \$15.35 Million from their own assets."

Treasurer Gerard Cruz asked whether this is a risk of being a fiduciary. Chairman San Agustin replied, "yes." Treasurer Cruz asked whether this is being done as an accommodation or a practice. Treasurer Cruz stated that this matter extends to personal assets. Chairman San Agustin stated that the Attorney General (AG) is taking individuals GMHA to court for failure to remit contributions and then he is now asking that the GMHA Board be relieved of their fiduciary responsibilities. Chairman San Agustin asked whether the Board would agree on having the Fund's Legal Counsel go to court to object to the AG's motion. Vice-Chairman Wilfred Leon Guerrero stated that a judgment was issued in favor of the Retirement Fund. Acting Director Blas stated that the AG's motion is to dismiss the individual names.

Treasurer Cruz asked whether the Board's limit of liability stops here or does it go into personal assets. Chairman San Agustin stated that the law is very specific; the Board stands in a fiduciary liability.

Chairman San Agustin stated that the Board should agree on a substitution of attorney and that the Board should file an objection on the motion to dismiss. Chairman San Agustin stated that the Board should go on record that the Board does not agree with the AG's motion to relieve the GMHA Board from their liability. Treasurer Cruz recommended getting an opinion from the Fund's Legal Counsel on the implications as a Trustee and what the implications are to the status of writ if we let this go.

Trustee George Santos, seconded by Trustee Katherine Taitano, moved to approve the substitution of attorney. Without objection, the motion passed.

Vice-Chairman Wilfred Leon Guerrero, seconded by Trustee George Santos, moved to approve to direct the Retirement Fund's Legal Counsel to file an objection to the Attorney General's motion to dismiss. Trustee Anthony Blaz voted no, Trustee Katherine Taitano voted no, and Treasurer Gerard Cruz voted no; Trustee George Santos and Vice-Chairman Wilfred Leon Guerrero voted yes. With three "no" votes and two "yes" votes, the motion failed.

Trustee Katherine Taitano stated that it looks like the Fund's Legal Counsel agrees with the Attorney General. Trustee Taitano requested for a clarification on why Legal Counsel looks like she agrees with the Attorney General.

Trustee Katherine Taitano, seconded by Treasurer Gerard Cruz, moved to approve to direct Management to ask Legal Counsel to explain her position and the status of the motion. Vice-Chairman Wilfred Leon Guerrero and Chairman Joe San Agustin objected. Without further objections, the motion passed.

C. August 9, 2006 Letter from Attorney Randall Cunliffe Regarding Retirement Application of Richard T. Saville

Chairman San Agustin stated that the August 9, 2006 letter from Attorney Randall Cunliffe regarding retirement application of Richard T. Saville is being referred to the Members and Benefits Committee.

IV. DIRECTOR'S REPORT - EXECUTIVE SUMMARY

1. *William Don Parkinson vs. Government of Guam, Guam Memorial Hospital Authority and Guam Public School System* – Acting Director Blas stated that this remains status quo.

2. *Candelaria Rios, et al. vs. Joseph Ada, et al. (Special Proceeding Case No. SP206-98)* – Acting Director Blas stated that the attorneys for the Governor's Office and retirees are currently working out the agreed language for the stipulation and order that will be issued by Judge Arthur Barcinas. The order will provide clarification in how the COLA amounts will be calculated. Acting Director Blas stated that Attorney David Dooley has provided the details under Legal Counsel's Report.

3. **Organic Act / Trust Agreement** – Acting Director Blas stated that the recommended changes received by Secretary James Taylor were incorporated into the draft Trust Agreement. A second draft of the proposed Trust Agreement was provided in the July 14, 2006 Board meeting packets for full review by the Board. Acting Director Blas stated that Management is requesting for Board action to be taken at this meeting.

4. **Request for Proposal (RFP): Custodial Bank Services** – Acting Director Blas stated that a second draft of the RFP was forwarded to Secretary Taylor and Vice-Chairman Leon Guerrero for their review. Acting Director Blas stated that this item will be reported out of the Investment Committee Report.

5. **Request for Proposal (RFP): Medical Consultant Services** – Acting Director Blas stated that the Members and Benefits Committee is deferring this matter until the September 2006 Board meeting.

6. **Request for Proposal (RFP): Legal Services – Securities Litigation and Portfolio Monitoring Services** – Acting Director Blas stated that evaluations have been completed. Acting Director Blas stated that the Selection Panel is recommending that the Board select Bernstein, Litowitz, Berger & Grossman, LLP (BLB&G) to serve as the Fund’s legal institutional representatives in securities litigation(s). Chairman San Agustin stated that the firm of BLB&G has a working relationship with a local firm. Chairman San Agustin stated that, upon approval by the Board of the Selection Panel’s recommendation, the Director is directed to complete the necessary administrative requirements to complete the RFP process.

Trustee Anthony Blaz, seconded by Trustee George Santos, moved to approve the Selection Panel’s recommendation of Bernstein, Litowitz, Berger & Grossman, LLP (BLB&G) to serve as the Fund’s legal institutional representatives in securities litigation(s). Without objection, the motion passed.

7. **Public Law 28-38** – Acting Director Blas stated that the Fund is continuing to process applications for retirement for Guam Memorial Hospital Authority (GMHA) and Guam Public School System (GPSS) eligible employees. Acting Director Blas stated that monthly interest payments for GMHA and GPSS are current.

8. **Public Law 28-66** – Acting Director Blas stated that \$300,000 from the outstanding retirement contributions were received by the Fund on May 4, 2006. There is still a balance of \$500,000.

9. **Century 21, Realty Management Company, Inc. – Parking Lot Use Agreement** – Acting Director Blas stated that this is still pending. Treasurer Cruz recommended sending a letter to First Hawaiian Bank under the Chairman’s signature. Acting Director Blas stated that she would prepare a letter to First Hawaiian Bank for the Chairman’s signature.

10. **Health Insurance Open Enrollment** – Acting Director Blas stated that the open enrollment for the Government of Guam Health Insurance program is scheduled to commence on August 28, 2006 and close on September 21, 2006. Chairman San Agustin asked what the impact would be on the retirees. Acting Director Blas stated that the Staywell Bronze 500 plan will no longer be available. Select Care 1500 also will no longer be available.

Acting Director Blas stated that rates have increased. Acting Director Blas stated that the dates and times of scheduled active employees and retirees/survivors' orientation will be disseminated on August 17, 2006. Acting Director Blas stated that the Fund will assist the Department of Administration (DOA) in the orientation for retirees and survivors.

11. Recourse Insurance – Acting Director Blas stated that Vice-Chairman Leon Guerrero had requested for Management to obtain additional information regarding the recourse insurance. Acting Director Blas stated that, according to IRIS Ltd., the Fund's insurance advisor, the insurance Underwriters have responded affirmatively that they are willing to waive their rights of Recourse (Subrogation) against the Fund's Trustees for an annual premium of \$25.00 per Trustee. Vice-Chairman Leon Guerrero stated that the premiums cannot be paid by the Fund. Vice-Chairman Leon Guerrero stated that the Trustees could be sued personally.

Financial Report

1. Contributions – Acting Director Blas stated that all agencies are current with their Fiscal Year 2006 employee and employer contributions.

2. Financial Statements – Acting Director Blas stated that the books for the month of July 2006 will be closed today.

3. FY2006 Retirees' Supplemental Benefits – Acting Director Blas stated that the supplemental benefits for retirees and survivors for the month of July 2006 were paid. These benefits are funded by the General Fund.

4. Medicare Reimbursement – Acting Director Blas stated that there is a shortage in the Fiscal Year 2005 and Fiscal Year 2006 General Fund appropriation for Medicare Reimbursements. Acting Director Blas stated that she has communicated the numbers to the Legislature. Rosalia Bordallo, General Accounting Supervisor, stated that the General Fund has paid double up through September 2006.

V. LEGAL COUNSEL'S REPORT

A. COLA Case Update

Attorney Dooley stated that Judge Arthur Barcinas would like to review the pending motions. Attorney Dooley stated that Attorney Mike Phillips tried to negotiate. Attorney Dooley stated that it is the General Fund, not the Retirement Fund that must pay this judgment. Attorney Dooley stated that the court ordered the Fund to provide it with the basis by which the Fund will calculate the benefits which are due under the COLA statute. The basis for the calculations must be filed with the court on or before August 23, 2006. Attorney Dooley stated that he worked with Acting Director Blas and Joe Bradley on the calculation which is \$150 Million. Attorney Dooley stated that the numbers will be provided to the Board for consideration. Attorney Dooley stated that he thinks that the Judge Barcinas has exceeded his jurisdiction when he ordered the Fund to make this calculation at this time. Treasurer Cruz asked whether the Judge will include the calculations in the judgment. Chairman San Agustin asked what the Board's role is. Attorney Dooley stated that the Retirement Fund is to implement the statute.

Chairman San Agustin asked why the numbers can't be submitted. Attorney Dooley stated that it is difficult to calculate numbers if the Governor is fighting it. Attorney Dooley stated that his recommendation is to submit the numbers to Judge Barcinas. Attorney Dooley stated that the Judge may disagree with the numbers. Acting Director Blas stated that she will provide the Board with the different methodology used. Chairman San Agustin stated that Attorney Dooley should recommend the methodology.

Vice-Chairman Leon Guerrero asked who is paying Mr. Bradley. Attorney Dooley stated that he could pay Mr. Bradley as his costs which the Fund will pay costs. Attorney Dooley stated he, along with Mr. Bradley, will present numbers to the Board at the August 18, 2006 meeting.

Attorney Dooley pointed out to the Board that Attorney Phillips communicated with the Board which is ethically prohibited. Attorney Dooley stated that it is his belief that he is obligated to report Attorney Phillips to the Ethics Committee. Attorney Dooley stated that he would like to discuss this matter in detail with the Board before he files an ethics complaint against Attorney Phillips.

Treasurer Gerard Cruz, seconded by Trustee Katherine Taitano, moved to approve to retain the expert and to come up the numbers. Without objection, the motion passed.

VI. TREASURER'S REPORT OF FINANCIAL STATUS

Treasurer Cruz requested to defer his report.

VII. STANDING COMMITTEE REPORTS

A. Members and Benefits Committee

Trustee George Santos reported to the Board of Trustees on his Committee's July 2006 end of the month report.

Trustee George Santos, seconded by Trustee Katherine Taitano, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 8, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of July 19, 2006 and subsequent meetings thereafter. Without objection, the motion passed.

Trustee Santos stated that there was an inconsistency with the notification process on the case of Mr. Benigno Camacho. Trustee Santos stated that the Members and Benefits Committee is recommending that the Board revisit this matter and send notification to Mr. Camacho and to direct Management to give the thirty-day notice.

Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to approve that the Board of Trustees revisit this matter and send notification to Mr. Benigno Camacho and to direct Management to give Mr. Camacho the thirty-day notice. Trustee Anthony Blaz abstained. Without further objection, the motion passed.

B. Investment Committee

Vice-Chairman Leon Guerrero stated that the Investment Committee held its regular meeting on August 4, 2006. Vice-Chairman Leon Guerrero stated that the following items were discussed:

1. Request for Proposal (RFP): Global Custody Search - Vice-Chairman Leon Guerrero stated that the RFP for Global Custody Search has been reviewed by the Investment Committee and is recommended for Board approval. Chairman San Agustin suggested using a wide circulation of the RFP. Chairman San Agustin reiterated that the RFP is for Global Custody only. Chairman San Agustin stated that a Selection Panel should be in place when the RFP closes. Chairman San Agustin stated that Vice-Chairman Leon Guerrero will chair the Selection Panel along with Trustee Santos, Trustee Taitano, Acting Director Blas and Controller Bernardo.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve the issuance of the Request for Proposal for Global Custody Search. Without objection, the motion passed.

2. Informational Items

a. Investment Committee Minutes – Vice-Chairman Leon Guerrero stated that the Investment Committee reviewed and approved the June 2, 2006 and July 7, 2006 Investment Committee Minutes.

b. Funding of Managers – Vice-Chairman Leon Guerrero stated that, as approved during the July 14, 2006 Board Meeting, Investment Managers were funded as follows:

- Fisher Investments – an additional \$39 Million for Foreign Equity Large Cap Segregated
- Dimensional Fund Advisors, Inc. – an additional \$17 Million for the Small Cap Mutual Fund
- Capital International Inc. \$36.5 Million for the Emerging Markets Equity
- AXA Rosenberg Investment Management LLC - \$36.5 Million for the Foreign Equity Large Cap Mutual Fund

c. Watch List Policy – Vice-Chairman Leon Guerrero stated that a revised draft Watch List Policy was provided to the Investment Committee members for their review and discussion at the next Committee meeting. A final draft copy will be provided for the Board's review.

d. Transition Manager – Vice-Chairman Leon Guerrero stated that the Investment Committee is considering the need for a Transition Manager. The Committee is awaiting Legal Counsel's opinion regarding whether the Fund could utilize one of its existing Investment Managers or whether the Fund would need an RFP.

e. Mercer's Quarterly Meetings – Vice-Chairman Leon Guerrero stated that the Investment Committee met with Terry Dennison this week to discuss investment manager performances, implications of Bill Nos. 295 and 296, recommendations for current managers, and new asset classes for consideration by the Investment Committee and the Board.

Vice-Chairman Leon Guerrero stated that there is a major change with the asset allocation. Vice-Chairman Leon Guerrero suggested accepting Mercer's recommendation of the asset allocation, subject to the Board's approval.

Terry Dennison, Mercer Consulting, Inc., stated that with the passage of the amendments to Section 8157 and Section 8158 he now has an opportunity to make some valuable adjustments to the asset allocation. Chairman San Agustin stated that the amount is less than 4.5% of the increase on returns. Chairman San Agustin stated that the Fund should get more than 4.5%. Mr. Dennison stated that it increases the basis points. Treasurer Cruz asked Mr. Dennison to explain. Mr. Dennison stated that in order to take higher returns, the Fund will need to take a risk. Vice-Chairman Leon Guerrero asked what the expected yield is. Acting Director Bernardo stated that Mercer made an oral presentation on the projected yield. Acting Director Bernardo stated that the projected yield will be provided in writing.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve Mercer's recommendation of the asset allocation, subject to the Board of Trustees' approval. Without objection, the motion passed.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve to authorize Management to effectuate the Investment Policy Statement, subject to the Board of Trustees' approval. Without objection, the motion passed.

Mr. Dennison stated that Section 8157 is to impose limit on no less than 75% of common stock. Minimums of 75% of investments in common stock. Permit move of 100% to 75%. Mr. Dennison stated that the managers will petition the Board.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve to amend the Investment Policy Statement and to authorize Chairman Joe San Agustin to advise the managers of the change in the Investment Policy Statement to commit a minimum of up to 75%. Without objection, the motion passed.

Vice-Chairman Leon Guerrero stated that the Investment Committee is recommending accepting Mercer's recommendation and that Management has concurred to terminate Invesco and to consolidate with Atalanta.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to accept Mercer's recommendation and that Management has concurred to terminate Invesco and to consolidate with Atalanta. Without objection, the motion passed.

Vice-Chairman Leon Guerrero stated that the Investment Committee is recommending directing Management to issue five Request for Proposals (RFPs). Mr. Dennison stated that he recommends the five independent RFPs as listed. Mr. Dennison stated that Management will develop the schedule.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve to direct Management to issue five independent Request for Proposals. Without objection, the motion passed.

Vice-Chairman Leon Guerrero stated that the Investment Committee is recommending that Management be authorized to utilize Brokers. Chairman San Agustin asked whether this will be done without an RFP.

Vice-Chairman Wilfred Leon Guerrero, seconded by Treasurer Gerard Cruz, moved to approve that Management be authorized to utilize Brokers. Without objection, the motion passed.

Vice-Chairman Leon Guerrero stated that he, along with Chairman San Agustin, are both concerned that the Board are kept out of the loop. Vice-Chairman Leon Guerrero stated that he would like to be informed of what is going on. The Board should be kept informed. Mrs. Rosalia Bordallo, General Accounting Supervisor, stated that she will provide the Board the information.

C. Audit Committee

Trustee Blaz stated that he will make his report at the next regularly scheduled Board meeting.

D. Governmental Liaison

1. Proposed Amendment to §8130, Article 1 – Defined Benefits Plan

Acting Director Blas stated that Item VII D is being tabled.

VIII. OLD BUSINESS

A. Reaffirm Restatement and Adoption of Defined Contribution Retirement System Plan Document

Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to approve to reaffirm the Restatement and Adoption of the Defined Contribution Retirement System Plan Document. Without objection, the motion passed.

B. Status of Director /CEO Position

Vice-Chairman San Agustin stated that Item VIII B is being deferred.

C. July 10, 2006 Letter from Shannon Taitano, Governor's Legal Counsel, Regarding Pay Adjustments

Acting Director Blas stated that Item VIII C is being deferred to the August 18, 2006 Board meeting.

D. Adjustment of Estimated Annuity for Carl T.C. Gutierrez

Chairman San Agustin stated that there is a protocol issue. Chairman San Agustin stated that this matter has gone before the Members and Benefits Committee, then to the Fund's Legal Counsel and then the matter did not go back to the Members and Benefits Committee.

Chairman San Agustin stated that his conclusion is that this matter should go back to the Members and Benefits Committee. Chairman San Agustin stated that his recommendation is for the Fund to inform Mr. Gutierrez that the Fund is going to cut enhancement. Chairman San Agustin stated that there needs to be thorough discussion with the Members and Benefits Committee. Mrs. Bordallo stated that the Fund removed enhanced benefits on the August 15, 2006 pay period.

Trustee George Santos, seconded by Trustee Anthony Blaz, moved to refer Item VIII D back to the Members and Benefits Committee. Without objection, the motion passed.

IX. RECESS

Trustee George Santos, seconded by Trustee Anthony Blaz, moved to recess, and without objection, the meeting recessed at 2:50 p.m. August 11, 2006 and will reconvene on Friday, August 18, 2006 at 12:00 Noon in the Retirement Fund Conference Room.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of August 11, 2006 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on December 15, 2006.

James J. Taylor, Board Secretary

RECORDING SECRETARY:

Jackie Blas