

**BOARD OF TRUSTEES**  
**Reconvened Regular Meeting**  
Friday, August 18, 2006, 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 was present, the Retirement Fund Board of Trustees Reconvened Regular Meeting for the Defined Benefits Plan was called to order at 12:11p.m. Friday August 18, 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  
James J. Taylor, Secretary  
Anthony C. Blaz, Trustee  
George A. Santos, Trustee  
Katherine T.E. Taitano, Trustee

**Staff Present:**

Paula Blas, Acting Director  
Mike Perez, Great West Retirement Services  
Jackie Blas, Recording Secretary

**Public Present:**

David Dooley, Attorney of Record, Case No. SP206-93  
Joe Bradley, Vice-President, Trust & Economic Market Statistics, Bank of Guam

Chairman San Agustin introduced Mr. Joe Bradley, former Chief Economist for the Department of Commerce. Chairman San Agustin stated that Mr. Bradley is presently with Bank of Guam. Chairman San Agustin stated that Mr. Bradley will be making a presentation regarding the COLA issue.

Mr. Bradley stated that the first problem is that the 1978 Index data collection structure was used for eighteen years. During 1996, a new market index was used. The 1995 was never published. Mr. Bradley stated that the solution - the prices during the first quarter 1995 is the same as for the fourth quarter 1995. Mr. Bradley stated that the numbers are not perfect. Mr. Bradley provided a graphic of the 1978 base through 1996 base. Secretary James Taylor asked whether Mr. Bradley developed his own market basket. Mr. Bradley replied, "yes." Mr. Bradley stated that new market basket was in 1996. Attorney David Dooley stated that 1988 was when the statute was implemented. Mr. Bradley stated that there is a need to try to tag the 1996 to 450.0. Mr. Bradley stated that the two price indexes should be adjusted into one.

Mr. Bradley stated that the second problem is that there is no Cost of Living Index. Mr. Bradley stated that the scale shifter adjusted the scale on the 1988 base. Mr. Bradley stated that these are the only figures that we have. Treasurer Gerard Cruz stated that we are over simplifying the process. Mr. Bradley stated that it is whether we use the price index or not. Attorney Dooley stated that the statute requires the use of the price index. Secretary Taylor asked whether this will increase or decrease the rate. Mr. Bradley stated that that, to increase the base market will cost more.

Mr. Bradley stated that the third problem is the rates of inflation. Divide by two – divide the beginning of the year to the end of the year. Secretary Taylor asked whether the base is on the rates of inflation. Secretary Taylor stated that this changes the nature of the COLA. Chairman San Agustin asked how to apply the U.S. related observation. Chairman San Agustin stated that there should be no COLA payment for 1989. Chairman San Agustin stated that if there is no rate, there will be zero calculation. Chairman San Agustin stated that the actual payment should be 1990. Attorney Dooley stated that a couple of years were lost due to the statute of limitation. Mr. Bradley stated that the 1992 retirees' rates will be a different percentage. Mr. Bradley stated that the COLA is based on previous years. Treasurer Cruz asked how the Retirement Fund has handled this matter. Acting Director Paula Blas stated that the Fund was following the fiscal year flat fee. Treasurer Cruz stated that the Fund needs to give the Judge the procedures. Chairman San Agustin stated that each individual is entitled to a different calculation.

Attorney Dooley stated that the COLA provision is under 4GCA§8137.1. Mr. Bradley provided a year by year rate of COLA payout: 1989 – 0, 1990 – 13.30, 1991 – 24.02 etc. Mr. Bradley stated that the rates were applied. Attorney Dooley stated that the estimated COLA payout is \$96,204,089.42. Attorney Dooley stated that the report will be submitted to the Judge. Treasurer Cruz asked whether Management is comfortable with the figures. Acting Director Blas replied, "yes."

Chairman San Agustin asked Attorney Dooley what action is required by the Board of Trustees. Attorney Dooley stated that the Board would need to adopt the findings or methodology.

Chairman San Agustin asked whether there are any other options. Attorney Dooley stated that this is based on the best interpretation of the statute.

**Vice-Chairman Wilfred Leon Guerrero, seconded by Trustee George Santos, moved to adopt the methodology. Without objection, the motion unanimously passed.**

## **II. OLD BUSINESS**

### **A. Status of Director /CEO Position**

Treasurer Cruz recommended that the Board approve the employment contract.

**Treasurer Gerard Cruz, seconded by Trustee Anthony Blaz, moved to approve the employment contract for Paula M. Blas for the position of Director/Chief Executive Officer. Without objection, the motion unanimously passed.**

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

Trustee Katherine Taitano stated that she does not see that action needs to be taken other than to direct Management to redraw the GG1 to be in compliance with Civil Service Commission. Chairman San Agustin stated that the Board exercised due diligence. Trustee Taitano stated that this matter was delayed as it was taken to the Legislature. Acting Director Blas stated that, per the Director of the Civil Service Commission, all salary increases go before the Legislature. Chairman San Agustin stated that the Governor had approved the salary increase for the Director of Administration and the Director of the Department of Revenue and Taxation. Chairman San Agustin stated that the salary increase for the Director of the Retirement Fund was sent to the Legislature. Chairman San Agustin stated that the Governor is now retracting. Treasurer Cruz asked what the impact is. Acting Director Blas stated \$10,000.00 for the period January 2003 through June 2005. Chairman San Agustin stated that this requires administrative action. Trustee Taitano stated to get the appropriate signatures.

**Trustee Katherine Taitano, seconded by Trustee Anthony Blaz, moved to carry out the process of redrawing the GG1 to be in compliance with the Civil Service Commission. Without objection, the motion passed.**

### **C. Trust Agreement**

Chairman San Agustin stated that the Retirement Fund's stipend and current budget are included in the budget provision. Personnel staff, Attorney General, exempt from Procurement Law and the Trust Agreement will be submitted to Speaker Mark Forbes to include in the budget act. Chairman San Agustin suggested directing Management to prepare a list to be included in the budget act.

**Trustee Anthony Blaz, seconded by Trustee George Santos, moved to direct Management to prepare a list to be provided to Speaker Mark Forbes to be included in the budget act. Without objection, the motion passed.**

**D. New Trustees Institute Conference Recommendations**

**1. Legal Counsel Be Present At All Board Meetings**

Treasurer Cruz asked what the hourly rate is for Legal Counsel. Acting Director Blas stated \$240.00 per hour for Legal Counsel Pat Mason. Vice-Chairman Leon Guerrero stated that the Fund needs to have Legal Counsel present during all meetings of the Board of Trustees.

Chairman San Agustin stated that the Fund needs a Request for Proposal (RFP) for Legal Counsel. Acting Director Blas stated that she will ask Elise MacDonald.

**2. Trustees Obtain Recourse Insurance**

Chairman San Agustin stated that there is a \$25.00 insurance premium for each Board member to obtain recourse insurance. Chairman San Agustin asked the Board to inform Controller Diana Bernardo whether they are interested in obtaining the recourse insurance.

**E. Letter Dated August 14, 2006 from Guam Memorial Hospital Authority (GMHA)**

Chairman San Agustin asked whether the Board should support the Attorney General's motion in relieving liability. Trustee Taitano stated that this was an action of former Board members. Chairman San Agustin stated that this was incurred during their term. Vice-Chairman Wilfred Leon Guerrero stated that it is strange that the Retirement Fund has a judgment and that the Retirement Fund is being asked to release judgment. Secretary Taylor asked why Legal Counsel is asking the Fund to release judgment. Chairman San Agustin asked what the status of the motion is. Acting Director Blas stated that she will check on the status of the motion.

**III. NEW BUSINESS**

**A. Proposed Amendment to Section 8130**

Acting Director Blas that the U.S. Congress amended Section 401(a) (31) (B) of the Internal Revenue Code as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 to require that mandatory distributions of more than \$1,000.00 from a tax-qualified retirement plan be paid to an individual retirement account if the distributee does not make an affirmative election to have the amount paid in a direct rollover or to receive the distribution directly. Acting Director Blas stated that the statute is being amended to have an option. "Any member who severs employment prior to completing at least five (5) years total services shall have the option of leave his or her contributions in the Fund until age sixty-five (65). Any such member shall not be eligible for a service retirement annuity, but such member's contributions shall be credited with regular interest until withdrawn by the member or distributed at age sixty-five (65)". Acting Director Blas stated that approximately 240 members have five years or less not vested. Chairman San Agustin stated that the Fund needs to comply with the Federal Law. Secretary Taylor asked who drafted the proposed amendment. Acting Director Blas replied, "Legal Counsel Joanne Grimes." Acting Director Blas stated that Legal Counsel Grimes is conforming with the Federal Law. Secretary Taylor asked whether the new law has an impact in funding the Retirement Fund.

**Treasurer Gerard Cruz, seconded by Trustee George Santos, moved to implement the United States Congress' amendment to Section 401(a) (31) (B) of the Internal Revenue Code as part of the Economic Growth and Tax Relief Reconciliation Act of 2001. Without objection, the motion passed.**

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

Chairman San Agustin asked whether the Request for Proposal (RFP) on the money manager has been completed. Acting Director Blas stated that the RFP has not been completed. Vice-Chairman Leon Guerrero stated that the Investment Committee would like to review the RFP before the next Board meeting.

**V. ANNOUNCEMENTS**

None

**VI. ADJOURNMENT**

**There being no further business before the Board for the Defined Benefits Plan, on motion of Trustee George Santos, seconded by Trustee Anthony Blaz, and without objection, the meeting was adjourned at 1:45 p.m. Motion passed.**

**I hereby certify that the foregoing is a full, true and correct copy of the Minutes of August 18, 2006 Reconvened Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on December 15, 2006.**

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**James J. Taylor, Board Secretary**

**RECORDING SECRETARY:**

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**Jackie Blas**