

BOARD OF TRUSTEES
Reconvened Regular Meeting
Friday, September 17, 2004, 11:10 a.m.
Retirement Fund Conference Room

MINUTES

DEFINED BENEFITS

I. CALL TO ORDER

After determining a quorum, the Retirement Fund Board of Trustees Regular Meeting for the Defined Benefits Plan reconvened at 11:10 a.m. Friday, September 17, 2004, in the Retirement Fund Conference Room. Chairman Joe T. San Agustin officiated.

Board of Trustees Present:

James J. Taylor, Secretary
Katherine T.E. Taitano, Treasurer
Anthony C. Blaz, Trustee
George A. Santos, Trustee

Staff Present:

Wilfred G. Aflague, Director
Paula M. Bamba, Administrative Service Officer
Pete Tajalle, Controller
Kenneth L. Dunstan, Acting Benefits Program Administrator
Meredith Sayre, Legal Counsel

II. FISCAL YEAR 2005 BUDGET

Trustee Taitano presented highlights of the Fund's fiscal year 2005 Budget as noted in the executive summary.

There is a request to increase the FTE level from fifty-seven to sixty-two employees with an emphasis in the Accounting and Members and Benefits Division. In anticipation of a lift on the freeze of salary increments for all agencies, the budget includes the cost of increments for those employees who are eligible for

increments and will place them at their deserved step. The largest item in the operational budget relates to ongoing building repairs and renovations. It is necessary to replace the first floor front windows and doors to prevent flooding in the building during inclement weather. CIP plans are being considered to provide a permanent awning in the front and along sides of the building. Contract expenditures have decreased by approximately five percent. In an effort to properly budget expenses for the Investment Consultant Services, the Fund budgeted for this service under Contractual Services beginning in Fiscal Year 2004 and will continue to budget for these services. Investment Consulting fees were previously netted out of investment income.

The travel budget has been significantly increased in anticipation of additional training for the new Trustees and the need for staff training. Less than one percent of the total budget is allocated for training.

An increase in postage was necessary to accommodate the costs associated with the Electronic Funds Transfer (EFT) statement mailers. The Fund continues to promote the EFT program, emphasizing security, timeliness of deposits, and accessibility. When asked by Trustee Taylor if EFT can be mandatory, management advised the Board that it was attempted but met with opposition from some retirees. Chairman San Agustin noted that the bank industry recognizes that the bulk of Guam's population is not bank depositors.

To assist the Fund in improving efficiency and services, the Fund proposed to transfer internet and email connections via the Government of Guam Wide Area Network (GGWAN). In the event the GGWAN does not respond, an alternative route is currently being addressed.

Increase in Directors and Officers liability insurance is associated with the greater number of Trustees, increased insurance premiums, and taxes associated with such coverage. A budget for Trustee compensation will be maintained in the event the March 2003 moratorium is lifted. In line with the government of Guam's Drug Free Workplace program, the Fund is maintaining a budget for drug rehabilitation. Provisions in the budget are included to allow for the necessary office equipment for video conferencing and multi-media capabilities. An appropriation for AS400 software and hardware upgrades will provide the requirements for software augmentation.

The International Fund Manager search in FY 2004 that resulted in the selection of five managers. Milliman USA was selected as the new actuarial consultant. The executive summary addresses the under funding issue and how it adversely affects the Fund's security ratio. FY 2005 does not indicate an improvement in the situation.

Asset allocation workshops for the Defined Contribution and 457 Plans will continue. The Department of Administration will assist in expanding the current workshops by including the sessions in their quarterly training calendar.

In addition to the expansion of access to the Internet, the Fund is also considering an interactive element of the web site to allow greater access and a larger volume of information to be available to the members. Security issues hinder accessibility to individual accounts. The Fund initially experimented with an interactive feature during the Trustee election. Members were able to download a request for absentee ballot. That went well and the Fund is now expanding to allow download capabilities for RFPs.

Chairman San Agustin referenced the need for in house staff that would be able to perform functional reviews and research, so the Fund will be in a better position to take a proactive approach to legislation. Trustee Taitano noted when the Board reaches a determination on the exact function of this position; they can explore existing positions within the Civil Service Commission line that would fulfill that need. The creation of a new position would require Board action only if FTE's are exceeded.

In relation to the Directors and Officers liability insurance, Trustee Taylor inquired as to the level of coverage. It is currently at one million dollars collectively. The Fund is going out to bid for much larger coverage. It was suggested in previous communications with the Board and legal counsel that coverage should be a certain percentage of the Fund's assets but the premium for that type of coverage was exorbitant. The current policy does not cover any prior cases or law suits stemming off from old law suits. Trustee Taylor suggested the issue be placed as an agenda item henceforth.

It was recognized that procurement laws are antiquated and lack the institution of best value. With regard to the procurement of windows, a warranty factor can be included.

Mr. Aflague noted that although a salary increase for the Director was approved by the Board, the Civil Service Commission halted its effectuation until such time as they have done an evaluation of all Directors. Chairman San Agustin suggested further exploration into the Civil Service Commission's level of authority over such matters.

Trustee Blaz called for a reassessment of all contractual relationships. One of the issues before the Board is clarification on the Fund's relationship with the Attorney General, an issue they have attempted to clarify in meeting with the Attorney General.

On motion by Trustee Taitano to approve the Funds Fiscal Year 2005 Budget, seconded by Trustee Santos, with no objections, motion carried.

III. OPEN DISCUSSION

A. TRUST AGREEMENT

It was suggested the Retirement Fund be established as a US Trust entity under the Organic Act. As it stands currently, the Fund was locally established. Trustee Taylor added that there be a formal trust agreement. The Organic Act will take the Fund out of the realm of the local jurisdiction and place it under the jurisdiction of a contract, a

contract that can not be changed. The Board will pass a resolution recommending such action to Congresswoman Madeline Bordallo.

B. ADOPTION OF AMA GUIDELINES

Trustee Santos reported that the Members & Benefits Committee is working on the adoption of the AMA guidelines but the process is proving to be a protracted issue. An issue noted during the meeting with the Attorney General is the lack of administrative rules and regulations. The current process is based on past practice which is being challenged on almost a case by case basis. As a result of the lack of guidelines, the benefit process is not carried out in a coherent fashion. Trustee Santos questioned the sufficiency of simply adopting the AMA guidelines through a resolution. The development of administrative rules to govern how decisions are made is anticipated to take approximately one year.

In relation to the aforementioned concerns, Legal counsel was asked to address the Board's preclusion from discussing medical conditions as they relate to disability applications as a result of HIPPA and other statutory restrictions. The question was posed if the Board resorts to executive session to discuss medical conditions.

C. IN-HOUSE ATTORNEY

The hiring of an in-house attorney falls under the direct purview of the Board of Trustees. Trustee Santos requested a meeting to discuss the matter given that concerns were raised as a result of their meeting with the Attorney General.

D. MEETING WITH THE ATTORNEY GENERAL

Attorney Sayre reported it was evident that the Attorney General was still establishing the duties of his office as the first elected Attorney General. His office's limited knowledge of the Fund proved to be frustrating. She nevertheless received the appointment for Special Attorney General to proceed with the Ralph Gutierrez case. She also received an email from an Assistant Attorney General requesting her synopsis and theory of the case. The designation appoints the Fund's legal counsel as Special Attorney General to conduct the litigation with the provision they report and provide copies of all documents to the Attorney General. The appointment is specific to the Ralph Gutierrez case.

Attorney Sayre was tasked to present to the Board the theory of the case, likelihood of success, and prospective cost/budget.

IV. ANNOUNCEMENT

APPOINTMENT OF DEPUTY DIRECTOR

The Board unanimously agreed to recommend the Director appoint a deputy director. The appointment is to take effect October 1, 2004.

IV. ADJOURNMENT

There being no other business before the Board, meeting was adjourned at 12:00 p.m.

I hereby certify that the foregoing is a full, true, and correct copy of the Minutes of September 17, 2004 Reconvened Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on October 08, 2004.

James J. Taylor, Board Secretary

RECORDING SECRETARY:

Vivian D. Mantanona