

BOARD OF TRUSTEES
Special Board Meeting
Wednesday, September 28, 2005, 12:00 Noon
Retirement Fund Conference Room

MINUTES

I. ATTENDANCE, QUORUM, AND CALL TO ORDER

After determining a quorum was present, the Retirement Fund Board of Trustees Special Meeting was called to order at 12:15 p.m. Wednesday, September 28, 2005, 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 [via phone conference: (415) 440-2587 – S.F.]
James J. Taylor, Secretary
Katherine T.E. Taitano, Treasurer
Anthony C. Blaz, Trustee
Gerard A. Cruz, Trustee
George A. Santos, Trustee

Staff Present:

Paula M. Blas, Acting Director
Jackie Blas, Recording Secretary

Legal Counsel Present:

Joanne Grimes, Carlsmith Ball
Brandon Carbullido, Carlsmith Ball

Public Present:

George Castro, Certified Court Reporter
Clint Ridgell, KUAM

Chairman San Agustin stated that the purpose of the Special Board Meeting is to address, in Executive Session, potential litigation.

Legal Counsel Joanne Grimes stated that she has a written recommendation and stated that she would like to recommend that the Board of Trustees vote to approve going into an Executive Session to discuss the Board's position in the Amicus matter, currently on appeal, in the People vs. John Rios and Carl Gutierrez case.

Trustee George Santos, seconded by Trustee Anthony Blaz, moved that the Board of Trustees go into Executive Session. Without objection, the motion passed.

EXECUTIVE SESSION: 12:18 P.M.

RECONVENED: 1:34 P.M.

II. CORRESPONDENCE

None

III. EXECUTIVE SESSION

A. Address Potential Litigation

Legal Counsel Joanne Grimes stated that she will tender her declaration to the Board of Trustees today. Legal Counsel Grimes stated that, as the attorney for the Board, she had recommended, in writing, to the Board of Trustees to conduct an Executive Session to discuss the issues related to litigation involving the Retirement Fund's participation in Amicus Curiae in People vs. John Rios and Carl Gutierrez case on appeal to the Guam Supreme Court. Legal Counsel Grimes stated that she attended the duly noticed Special Board Meeting in which the majority of the Board of Trustees approved calling an Executive Session being held on September 28, 2005 and she certifies in accordance with 5GCA §8111(c)(5) that the only matters discussed during the Executive Session is related to the Retirement Fund's participation in the People vs. John Rios and Carl Gutierrez case.

Trustee Gerard Cruz, seconded by Trustee George Santos, moved to accept and approve the recommendation of the Retirement Fund's Legal Counsel Joanne Grimes as presented during the Executive Session held on September 28, 2005. Without objection, the motion passed.

Introduction of Amicus Curiae Brief as follows: Amicus Curiae Joe T. San Agustin, Anthony C. Blaz, Gerard A. Cruz, Wilfred P. Leon Guerrero, George A. Santos, Katherine T.E. Taitano, and James J. Taylor, in their fiduciary capacities as Trustees of the Government of Guam Retirement Fund (the "Fund"), by and through their undersigned counsel, submit this Amicus Curiae brief pursuant to Guam Rule of Appellate Procedure 14 and this Court's September 9, 2005 Order herein. Amicus Curiae takes no position on the guilt or innocence of Appellees John A. Rios or Carl T.C. Gutierrez. Rather, Amicus Curiae files this brief to assist this Court in understanding the potential impact of this case on the Fund and on administrative law and practice. Amicus Curiae contends that the Fund's administrative process should be allowed to proceed to completion without outside interference or interruption, and that its decisions as the agency tasked with interpreting Fund statutes should be accorded requisite deference in subsequent judicial proceedings. The Fund offers its interpretation of Fund statutes and regulations, as well as its long-standing standard practices. Amicus Curiae attempts herein to distill the background facts submitted by Appellant and Appellees into a form that will better assist this Court in understanding the administrative law issues addressed and overlooked by the parties and the Superior Court.

IV. OPEN DISCUSSION / GENERAL PUBLIC INPUT

None

V. ANNOUNCEMENTS

None

VI. ADJOURNMENT

There being no further business before the Board of Trustees, on motion of Trustee Gerard Cruz, seconded by Treasurer Katherine Taitano, and without objection, the Special Board Meeting was adjourned at 1:35 p.m. Motion passed.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of September 28, 2005 Special Board Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on October 14, 2005.

James J. Taylor, Board Secretary

RECORDING SECRETARY:

Jackie Blas