



JUDICIAL COUNCIL OF GUAM

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**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, APRIL 21, 2022
Justice Monessa G. Lujan Appellate Courtroom
Guam Judicial Center
And via Videoconference**

Hon. F. Philip Carbullido
Chairman

Hon. Katherine A. Maraman
Member

Hon. Robert J. Torres
Member

Hon. Alberto C. Lamorena, III.
Member

Hon. Arthur R. Barcinas
Member

Advisory Committee Members:

Hon. Vernon G. Perez

Hon. Maria T. Cenzon

Hon. Elyze M. Iriarte

Hon. Dana A. Gutierrez

Hon. Alberto E. Tolentino

Atty. Jacqueline T. Terlaje

Atty. Frederick J. Horecky

Administrator of the Courts:
Kristina L. Baird

Judicial Council Secretary:
Petrina Ula

Judicial Council Asst. Secretary:
Shelterihna T. Alokoa

MINUTES

I. CALL TO ORDER

The Regular Meeting of the Judicial Council was called to order by the Chairman, Chief Justice F. Philip Carbullido, at the hour of 12:03 p.m.

ROLL CALL*:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)
Justice Robert J. Torres (calling in from off-island)
Justice Katherine A. Maraman (calling in from Sinajana)
Presiding Judge Alberto C. Lamorena III (calling in from the Judiciary)
Judge Arthur R. Barcinas (calling in from off-island)

Advisory Committee Members:
Judge Maria T. Cenzon
Judge Dana A. Gutierrez
Judge Alberto C. Tolentino
Attorney Frederick J. Horecky

Also, Present:

Ms. Kristina L. Baird, Administrator of the Courts (AOC)
Mr. Andrew Sergio Quenga, Deputy Administrator of the Courts
Mr. Daniel F. Mensching, Staff Attorney
Ms. Dawn R. S. Blas, Judicial Educator
Ms. Danielle T. Rosete, Clerk of Court, Superior Court
Ms. Valerie Tenorio, Deputy Clerk of Court, Sup
Ms. Maria Erica R. Eschbach, Staff Attorney, Supreme Court
Ms. Barbara Jean T. Perez, Human Resources Administrator
Mr. Troy M. Pangelinan, Marshal of the Court
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer
Ms. Trisha T. Suzuki, Deputy Chief Probation Officer
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl Dominguez, Procurement & Facilities Management Administrator
Ms. Virginia W. Yasuhiro, Client Services and Family Counseling Division Administrator
Ms. Geraldine A. Cepeda, Compiler of Laws/Law Library Executive Director
Mr. Robert John S. Rabago, Management Information Systems Administrator
Mr. Michael M. Kilayko, Special Projects Coordinator (PIO)
Ms. Sophia Santos Diaz, Director of Policy, Planning, and Community Relations (DPPCR)
Ms. Marcelene C. Santos, Public Guardian
Ms. M. Grace Lapid Rosadino, Acting Court Programs Administrator
Ms. Jessica Perez-Jackson, Administrative Service Officer
Ms. Shelterihna T. Alokoa, Judicial Assistant, Judicial Council Assistant Secretary
Ms. Petrina M. Ula, Judicial Assistant, Judicial Council Executive Secretary
Public Access in the Atrium

*Note: All individuals listed above participated via video conference as per social distancing directives.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day Notices of Meeting of the Judicial Council, as required under the Open Government Law, were published in the Pacific Daily News. Acknowledgments are on file.

III. DETERMINATION OF QUORUM

Chief Justice Carbullido began the roll call. Chief Justice F. Philip Carbullido, Associate Justice Robert J. Torres, Presiding Judge Alberto C. Lamorena III, and Judge Arthur R. Barcinas identified themselves and their location. This meeting determined a quorum with four (4) Judicial Council members present. Associate Justice Katherine A. Maraman later joined the meeting at 12:09 p.m.**

IV. READING AND DISPOSAL OF MINUTES: March 17, 2022 Regular Meeting

Presiding Judge Lamorena moved to approve the March 17, 2022 Regular Meeting minutes, subject to correction. Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. With no discussion, the four (4) Judicial Council members voted in favor; the minutes were approved, subject to correction.

V. OLD BUSINESS

A. Judiciary FY21 Remittances under PL 36-54

Ms. Dianne Gudmalin, the Financial Management Division (FMD) Administrator, reported that the Judiciary's scheduled bi-weekly allotment of \$1,257,204 for FY22 have been consistent and timely. She stated that from the \$32,687,000 appropriated to the Judiciary under PL 36-54, 57.69% or \$18,858,000 has been received. Ms. Gudmalin added that the last allotment was received on April 20, 2022; the next allotment is scheduled for May 3, 2022.

B. Update on the Judiciary's Response to COVID-19

The Administrator of the Courts (AOC), Ms. Kristina Baird, reported that as of Tuesday, April 19, 2022, pursuant to ADM22-002, the Judiciary rescinded the 6-foot physical distancing requirements and mask-wearing outside the Judiciary's facilities. She added that the Judiciary still requires masks inside all facilities. Ms. Baird stated the Judiciary continues to clean and sanitize throughout the week. She noted that the high-capacity courtrooms at Route 4, San Ramon Building, and the Supreme Courtroom are available for use and encouraged the continued use of virtual platforms.

Ms. Baird stated some Judiciary employees are testing positive for COVID-19 and that the contact tracing teams are available to trace and monitor the employees.

C. Update on Capital Improvement Projects

Ms. Baird (AOC) reported on two (3) ongoing Capital Improvement Projects (CIP): the 8th judge's courtroom and the Guam Historic Courthouse Building.

Ms. Baird reported that the construction work on the 8th judge's courtroom continues; the targeted completion date is now May 17, 2022.

Ms. Baird reported that the contracted architect completed the layout of the Guam Historic Courthouse Building; he is now working on the electrical and plumbing designs. She added that the project would be put out for bid once those components were complete. Ms. Baird stated preparation of other facilities to temporarily house the Probation Division and the Office of the Public Guardian.

****Chief Justice Carbullido recognized the presence of Justice Maraman in the virtual meeting room.**

D. Common Areas Recording Policy (tabled to the May 19, 2022 Judicial Council meeting)

Mr. Daniel Mensching, Staff Attorney, reported that the Common Areas Recording Policy (the Policy) was sent to the Guam Bar Association for comment. He stated one response was received and that it was positive. He noted the Policy was sent to the media, and no response was received as of the Council meeting date.

Ms. Sophia Santos Diaz, Director of Policy, Planning, and Community Relations (DPPCR), requested the matter be tabled to the next Council meeting. Chief Justice Carbullido agreed.

VI. NEW BUSINESS

A. JC Resolution Relative to Establishing a Salary for Referees and Hearing Officers

Ms. Baird (AOC) reported that the Judiciary does not currently have a structured compensation plan in place for full-time Referees or Hearing Officers. She stated the Resolution sets a uniform and consistent scheduled pay schedule. Ms. Baird noted the Resolution is forward-moving and that there will be no decrease in pay for the Referees and Hearing Officers currently employed by the Judiciary. She said the compensation plan ties the forward-moving salaries to the Judiciary's Magistrate Salaries.

Chief Justice Carbullido stated that previously the salaries of the Referees and Hearing Officers had been set at the discretion of the Chief Justice. He added the Judiciary wants to avoid a situation where the salaries of the Referees and Hearing Officers, with adjustments and increments, exceed the salary of a Superior Court Judicial Officer.

Justice Torres made the motion to adopt the Resolution for discussion purposes; Presiding Judge Lamorena seconded the motion.

Justice Torre asked if the Resolution only affects the full-time Referees and Hearing Officers. Chief Justice Carbullido confirmed that is does.

Judge Barcinas asked how the proposed salaries were decided. Chief Justice Carbullido stated they are tied to the salary of the Magistrate Judges.

Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution Relative to Establishing a Salary for Referees and Hearing Officers. The Resolution was unanimously adopted.

B. JC Resolution Relative to Approving Pay Increases for Non-Law Enforcement Employees Subject to Legislative Appropriation

Ms. Baird (AOC) stated the Resolution concerns the proposed pay increase for all non-law enforcement employees of the Judiciary, excluding the Judicial Officers, and is subject to Legislative Appropriation. She noted that at the last Council meeting, the Judiciary Administration was instructed to research how the non-law enforcement proposed pay increase would occur and whether the Council has the legal authority to implement such a pay increase. Ms. Baird stated the Staff Attorney has opined on this matter and has concluded that the Council has the authority pursuant to 7 GCA 5102, which allows the Council to adopt pay schedules consistent with the Competitive Wage Act (CWA) and subject to Legislative Appropriation. She added that the proposed pay adjustment is also consistent with the requirement that the Council ensures that the pay scales have internal equity and external competitiveness. Ms. Baird said that based on the Staff Attorney's opinion, the Judiciary Management proposes that, upon Legislative appropriation in the FY2023 Budget, the 6% pay increase be implemented through the loading of the pay scales of non-law enforcement employees, excluding Judicial Officers.

Chief Justice Carbullido added that he had been informed of law enforcement employees' dissatisfaction with the 7% instead of the 18% increase implemented in the Executive Branch. He described the Judiciary's methodology to arrive at the percentages of proposed pay increases. Chief Justice Carbullido stated he and the Judiciary Administration met with the Oversight Chair of the Committee on Appropriations (the Committee), Senator San Agustin, regarding the Judiciary's FY2023 Budget, for guidance. He said Senator San Agustin stated there is no change: he will assist the Judiciary in obtaining an allocation of 5% of the General Fund Revenues Available for Appropriation, or \$37,000,000. Chief Justice Carbullido added that the Senator stated he would work with the Committee members to report that amount of out Committee and support the FY2023 budget request if the Judiciary stays within that limit; he would reserve any support for a higher budget request.

With those limitations in mind, the Judiciary's Administration determined that non-law enforcement employees' pay should also be adjusted to allow for parity and equity, said Chief Justice Carbullido.

Justice Torres moved to adopt the Resolution for discussion purposes; Judge Barcinas seconded the motion.

Justice Maraman asked how the pay increase would be implemented. Chief Justice Carbullido stated a 6% across-the-board adjustment to the pay plan, like the proposed 7% adjustment to the law-enforcement employees. Justice Maraman asked how new employees would be slotted. Ms. Barbara Jean Perez, Human Resources Administration, stated the four (4) pay plans would be adjusted uniformly and consistently, resolving the issue of different pay rates.

Judge Barcinas asked if the pay increase included unclassified employees. Chief Justice Carbullido confirmed they would.

Justice Torres asked if all executive-level employees would be included. Chief Justice Carbullido confirmed they would.

Presiding Judge asked if the pay increase would apply to the Superior Court Law Clerks. Chief Justice Carbullido confirmed they would be included.

Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution Relative to Approving Pay Increases for Non-Law Enforcement Employees Subject to Legislative Appropriation. The Resolution was unanimously adopted.

C. JC Resolution Relative to Approving the Judiciary of Guam Budget for FY2023

Ms. Gudmalin (FMD) presented a PowerPoint slideshow that summarized the FY2023 Budget Request to be submitted to Legislature by May 2, 2022. She showed a chart outlining the five (5) year history of the Judiciary's budget requests vs. the actual appropriation received, which reflects a cut of \$3,000,000 compared to the FY2017 budget request. Ms. Gudmalin explained that the Judiciary intends to request \$37,088,548 for FY2023. She stated that the amount includes two below-the-line requests: \$652,728 to support the Electronic Monitoring program (EM) and \$1,655,864 to fund the Resolutions proposing the increase in non-law enforcement pay scale by 6% and the law enforcement pay scale by 7%. Ms. Gudmalin explained that the FY2023 budget request is \$386,231 or 1% less than the FY2022 request and that the amount requested for the EM program is \$74,000 higher in FY2023 than in FY2022. She described the budget determination process, including meetings with Ms. Baird and Judiciary managers to discuss division needs, operational priorities and strategies, mandates, and succession plans. Ms. Gudmalin added a budget for each division was devised using the data collected. She described the information presented on the slides, including personnel services, operational costs, the cost of utilities, and the EM program and special budget requests.

Chief Justice Carbullido requested to have the Resolution with the attached summary chart presented on screen and opened the floor for discussion.

Justice Torres moved to adopt the Resolution for discussion purposes; Judge Barcinas seconded the motion.

Justice Torres asked for an explanation of the reduction of operational costs when comparing the FY2022 and FY2023 budget requests and stated he thinks pay adjustments should be built into the below-the-line request and not listed as a separate line item. Ms. Gudmalin and Chief Justice Carbullido provided answers to his queries. Justice Torres also asked about the Judicial Building Fund (JBF) revenues and collections on the Client Services Fund. Ms. Gudmalin stated revenue collections were contemplated when the Budget was formulated. She added the JBF fund generated an average of \$1,300,000 in FY2021 when the Judiciary was still in pandemic mode. Ms. Gudmalin stated the Client Service Fund generated \$1,600,000 in FY2021 and is slowly increasing now that the pandemic wanes. Justice Torres asked if additional Indigent Defense Funds were included in the budget request to which the Chief Justice said no.

Presiding Judge thanked Ms. Gudmalin and the Judiciary staff for their excellent presentation.

Judge Barcinas asked if four (4) additional Probation Officers will be hired to support the EM program and why they need to be senior Probation Officers, as represented in the increased budget request. Ms. Gudmalin confirmed that is the plan. Judge Barcinas expressed reservations about the plan to hire additional senior Probation Officers to support the EM program. Chief Probation Officer Rossanna Villagomez-Aguon described the current EM program staffing pattern and the workload placed on the employees. Judge Barcinas expressed concerns about clients qualifying for the EM program and described ways the Judiciary could run the program more efficiently to reduce the costs. Presiding Judge Lamorena provided a detailed description of how clients qualify for the EM program. He commended Probation for how they run the program. Chief Justice Carbullido commented on how the EM program came to be and stated that while he agrees with Judge Barcinas's concerns, he supports Chief Probation Officer Villagomez-Aguon's request for additional staffing. He noted the Judiciary management was very rigid in considering other staffing requests.

Chief Justice Carbullido called for an oral vote. All five (5) Council members voted to adopt the Resolution Relative to Approving the Judiciary of Guam Budget for FY2023. The Resolution was unanimously adopted.

Justice Maraman requested an electronic copy of the budget request once transmitted to the Legislature.

D. JC Resolution Relative to Review of Jurisdictional Limit for Small Claims Court

Ms. Danielle Rosete, Clerk of Court, Superior Court, requested that the Jurisdictional Limit for Small Claims Court remain status quo at \$10,000. Ms. Rosete stated that a review of the 2021 case data showed that of the approximately 800 Small Claims Court cases, only eleven (11) of those cases had an amount in controversy of \$10,000. She stated she also reviewed small claims jurisdictional limits for other courts and found that they have limits of \$10,000.

Judge Barcinas moved to adopt the Resolution Relative to Review of Jurisdictional Limit for Small Claims Court for discussion purposes; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.

E. JC Resolution Relative to the Declaration of Law Month

Justice Torres shared the 2022 Law Month theme as set by the American Bar Association, “*Towards a More Perfect Union: The Constitution in Times of Change*”, and the Resolution to declare the month of May as Law Month.

Judge Barcinas moved to adopt the Resolution Relative to the Declaration of Law Month; and Justice Torres seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.

F. JC Resolution Relative to Proclaiming the Month of April 2022 as Second Chance Month

Presiding Judge Lamorena stated Second Chance Month is the theme for Adult Re-entry Court. He provided a description of the program and the success of the graduates.

Presiding Judge Lamorena moved to adopt the Resolution Relative to Proclaiming the Month of April 2022 as Second Chance Month; and Judge Barcinas seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.

G. JC Resolution Relative to Proclaiming the Month of May as Drug Court Month

Presiding Judge Lamorena provided a description of the history of the Adult Drug Court and the success of the program. He stated the program is sustained by grants from the Department of Justice.

Presiding Judge Lamorena moved to adopt the Resolution Relative to Proclaiming the Month of May as Drug Court Month. Judge Barcinas asked to have the Resolution amended to include Juvenile Drug Court. Justice Carbullido called for an oral vote on the Resolution as amended. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.

H. Memo re Reporting of Departures from the Mandatory Minimum Sentences Required by 9 GCA § 80.39.3 (Safety Valve Act)

Chief Justice Carbullido asked the Judicial Officers who have not yet provided the required data as stipulated in the Safety Valve Act to please do so by the May 2, 2022 due date. He added the data must be published on the Judiciary’s website by May 7, 2022.

I. Notice of Next Meeting (May 19, 2022)

Chief Justice Carbullido announced the next Judicial Council regular meeting will be Thursday, May 19, 2022.

VII. COMMUNICATIONS

A. State of the Judiciary Address (April 29, 2022)

Chief Justice Carbullido stated that now that the social distancing requirements have been lifted, the number of seats on the Legislature's floor will be restored to pre-pandemic numbers.

VIII. PUBLIC COMMENT

A. Guam Bar Association Board (GBA) – President's Report

No one from the Guam Bar Association was present to provide a report.

X. ADJOURNMENT

Presiding Judge moved to adjourn, and the meeting was adjourned at 1:37 p.m.

Respectfully submitted this 16th day of June 2022.

SHELTERIHNA T. ALOKOA
Assistant Secretary,
Judicial Council of Guam

PETRINA M. ULA.
Executive Secretary,
Judicial Council of Guam

The Minutes of the April 21, 2022 Regular Meeting, as set out above, were approved by the Judicial Council at the June 16, 2022 Regular meeting.

F. PHILIP CARBULLIDO
Chairman

Dated: 06/16/2022