



JUDICIAL COUNCIL OF GUAM

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**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, MAY 20, 2021
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

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 12:00 p.m.

ROLL CALL*:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)
Justice Robert J. Torres (calling in from Santa Rita)
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 the Judiciary)

Advisory Committee Members:

Judge Elyze M. Iriarte
Magistrate Judge Benjamin C. Sison, Jr.
Attorney Frederick J. Horecky

Also, Present:

Ms. Kristina L. Baird, Administrator of the Courts (AOC.)
Mr. Robert S. Cruz, Deputy Chief Administrator
Ms. Alicia A.G. Limtiaco, DPPCR
Mr. Andrew Sergio Quenga, Staff Attorney, Judiciary of Guam
Mr. Daniel Mensching, Staff Attorney, Judiciary of Guam
Ms. Dawn R. Blas, Judicial Educator
Ms. Hannah G. Arroyo, Clerk of Court, Supreme Court
Ms. Danielle T. Rosete, Clerk of Court, Superior Court
Ms. M. Erica R. Eschbach, Staff Attorney, Supreme Court
Ms. Barbara Jean T. Perez, Human Resources Administrator
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl V. 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. Alberto E. Tolentino, Ethics Prosecutor
Ms. Marcelene C. Santos, Public Guardian
Mr. Robert John S. Rabago, Management Information Systems Administrator
Ms. Marissa C. Antonio, Deputy Procurement & Facilities Management Administrator
Ms. Carmelita G. Tenorio, Court Reporters Unit, C&M Division
Ms. Thelma Perez, Court Reporters Unit, C&M Division, retired
Ms. Manuel G. Tungol, F.M.D., retired
Ms. Jessica Perez-Jackson, Administrative Service Officer
Ms. Shelterihna T. Alokoa, Judicial Assistant, Assistant Secretary
Ms. Petrina M. Ula, Judicial Assistant, 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 Guam Daily Post. 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, Associate Justice Katherine A. Maraman, and Presiding Judge Alberto C. Lamorena III identified themselves and their location over videoconference. With four (4) Judicial Council members present, a quorum was determined for this meeting. Judge Arthur R. Barcinas joined the meeting at 12:06 p.m.

IV. READING AND DISPOSAL OF MINUTES: April 15, 2021 Regular Meeting

Presiding Judge Lamorena moved to approve the April 15, 2021 Regular Meeting minutes, subject to correction. Justice Maraman 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.

V. OLD BUSINESS

A. Judiciary FY21 Remittances under PL 35-099

Ms. Dianne Gudmalin, Finance Administrator (F.M.D.), reported that the Judiciary's scheduled bi-weekly allotment of \$1,132,491 for FY21 have been disbursed in full and on time. She stated that from the \$29,444,760 appropriated to the Judiciary, 65% or \$19,252,347 had been received. Ms. Gudmalin added that the last allotment was received on May 19, 2021; the next distribution is scheduled for June 1, 2021.

i. Judiciary FY22 Pending Budget Proposal

Ms. Dianne Gudmalin reported the Judiciary of Guam's General Fund final budget request for FY 2022 was transmitted to the 36th Guam Legislature's Office of Finance and Budget on May 3, 2021. She explained the Judiciary requested \$35,745,330 for FY 2022. In addition, she noted, the Judiciary asked for a below-the-line request of \$579,204 to replenish the Electronic Monitoring (EM) program funds. Ms. Gudmalin stated a notice outlining the Judiciary's budget hearing date has not yet been received from the Legislature. She assured Council she would follow up with Senator Joe S. San Agustin, chairman of the Office of Finance and Budget, as to the date of the hearing.

B. Revised Code of Conduct

Ms. Barbara Jean Perez, Human Resources Administrator (H.R.), introduced two documents: the Revised Code of Conduct and the Table of Comments and Questions outlining the feedback received from Judiciary employees. Ms. Perez explained that following the March 18, 2021 Judicial Council meeting, as the Council recommended, the Revised Code of Conduct and feedback forms were disseminated to employees for review and feedback. Additionally, she reported, employees met with HR through a series of Question-and-Answer sessions to express concerns and provide feedback. Ms. Perez explained the Revised Code of Conduct was then updated to incorporate the legal team and HR changes to reflect the feedback received from employees, as recommended at the March 18, 2021 Judicial Council meeting. She added the Canons of Judicial Conduct for judicial staff under the direct supervision of Judicial Officers were included in the Revised Code of Conduct, as recommended by Justice Torres. Ms. Perez explained the Revised Code of Conduct would be the foundation for the development of Ethics training for Judiciary employees planned for the near future.

Chief Justice Carbullido added the latest revisions to the Code of Conduct, and the feedback chart was provided to the Council to demonstrate the progress HR and the legal team have made. He asked the Council to review the changes and be prepared to vote at the next Council meeting (June 20, 2021).

Staff Attorney Andrew Serge Quenga thanked Justice Torres for the suggestion to include the Canons of Judicial Conduct for judicial staff under the direct supervision of Judicial Officers. He described the new language included in the Revised Code of Conduct.

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

Chief Justice Carbullido described the results of the memo requesting a Report of Departures from the Mandatory Minimum Sentences as Required by 9 GCA § 80.39.3 (Safety Valve Act). He stated the report would be posted on the Judiciary's website and transmitted to the Speaker, as requested. Justice Torres noted that for six (6) years, there were only five (5) cases where there was a Departure from the Mandatory Minimum Sentences; the trial court judges, including retired Judges Sukola and Bordallo, use it sparingly.

D. Update on Capital Improvement Projects

Ms. Kristina Baird, Administrator of the Courts (AOC), reported on three (3) ongoing Capital Improvement Projects (CIP): the Route 4 building, the San Ramon building, and the architect and engineering selection for the design and renovation of the 8th judge's courtroom and the Guam Historic Courthouse Building.

Ms. Baird reported the conversion of the Route 4 building into a temporary high-capacity courtroom is complete, with just a few minor items to be addressed. She added that jury selections, jury trials, deliberations, and the memorial service for the late Chief Justice Siguenza had been held in the building.

Ms. Baird declared the painting of the San Ramon building, from purple to cream and green, is 99% complete, with just a few touch-ups needed.

Ms. Baird stated that selecting an architect and engineering firm to design and renovate the 8th judge's courtroom and the Guam Historic Courthouse Building is almost complete.

In response to Justice Maraman's request at the May 20, 2021 Judicial Council meeting, Ms. Baird provided an update on the balance of the Bank of Guam commercial loan funds used to finance CIP. Ms. Baird explained two drawdowns have occurred: the first on January 22, 2021, for \$4,962,003, which covered the refinancing of the former Judicial Building Fund loan, and the second on June 2, 2020, in the amount of \$1,805,665, for costs associated with the purchase of the San Ramon building. She explained the third drawdown request for approximately \$845,000 is being prepared. Ms. Baird stated the total amount drawn from the Bank of Guam commercial loan funds is \$7,612,770.

Presiding Judge Lamorena thanked Ms. Baird and PF&MD for addressing the audio issues at the Route 4 Building and requested the building be set aside for jury selection since it can accommodate up to eighty (80) jurors per selection.

VI. NEW BUSINESS

A. Certificates of Commendation: Thelma Perez and Manuel Tungol

Chief Justice Carbullido introduced the agenda item commending Ms. Thelma Perez and Mr. Manuel Tungol for their years of service to the Judiciary of Guam. The two retirees were brought forward individually, and their respective division head and each Council member shared thanks and accolades. Each retiree, in turn, thanked the Council members and the Kotte family for their support throughout their years of employment.

B. JC Resolution Relative to Ratifying the Judicial Council's Award of the 2021 Hustisia Award to Retired Magistrate Judge Joaquin V. E. Manibusan, Jr.

Chief Justice Carbullido described the presentation of the 2021 Hustisia Award to retired Magistrate Judge Joaquin V. E. Manibusan, Jr., which took place at the Guam Bar Association annual meeting at the Guam Hyatt on Friday, April 30, 2021. Chief Justice Carbullido, Justice Torres, and Justice Maraman presented the award that night.

Presiding Judge Lamorena moved to ratify the earlier grant of the 2021 Hustisia Award and adopt the Resolution; Judge Barcinas seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution to Ratifying the Judicial Council's Award of the 2021 Hustisia Award to Retired Magistrate Judge Joaquin V. E. Manibusan, Jr.

C. Update on Judiciary's Response to COVID-19

Ms. Baird reported the Judiciary's ongoing response to COVID-19 includes sanitization of facilities, use of virtual platforms, and compliance with the Department of Public Health and Social Services and CDC guidelines for social distancing through the use of high-capacity courtrooms. She explained that the Judiciary resumed using a contracted janitorial vendor to steam clean and sanitize all facilities three times per week because of the increase in jury trials. The Facilities Division staff augments the vendor's efforts to sanitize with daily cleaning of all facilities, Ms. Baird added.

Ms. Baird described the Judiciary's initial request for funding under the American Rescue Plan (ARP) sent to Governor Leon Guerrero in March 2021, asking for ARP funds to augment Judiciary operations and other pandemic affected areas. In addition, she pointed out that the Speaker sent a letter to the Governor on May 6, 2021, requesting \$10,000,000 from the ARP funds on behalf of the Judiciary. Finally, Ms. Baird stated the Judiciary's legal team and FMD are looking into the guidelines regulating the usage of the ARP funds, recently released by the US Treasury. She said the Judiciary intends to submit a supplemental request for ARP funds to the Governor following what is allowed under the US Treasury guidelines.

D. Discussion re Proposed Rescindment of JC20-028

Chief Justice Carbullido shared a resolution Relative to Rescinding Judicial Council Resolution No. JC20-028 and Amending the Increment Schedule for the Attorney Pay Plan (APP). He stated the resolution he is proposing seeks to take a compromised position on the rescindment of JC20-028 and try to end the continuing discussion regarding the circumstance where unclassified attorneys with increments exceed the salaries of magistrate judges, the Judiciary's lowest-paid judicial officers. Chief Justice Carbullido explained the proposed resolution sets the cap for adjustments to increments of attorneys under the APP not to exceed the salary of a Superior Court judge. At the same time, he added, the proposed resolution will adjust the percentage of the increments at higher levels of the APP from 5.77% every eighteen (18) months to 3.1% every twenty-four (24) months, in parity with the judicial officer and other court managers' increments. The increment adjustment is also in line with the Hay Group study, he noted. Chief Justice Carbullido pointed out that Ms. Gudmalin provided the financial impact of lifting the freeze on increments and implementing the proposed resolution to the Council as part of the meeting packet.

Justice Torres moved to adopt the proposed resolution for discussion purposes; Justice Maraman seconded the motion.

Justice Torres stated Resolution JC20-028 intended to keep the salaries of unclassified employees on the APP from exceeding the compensation of the magistrate judges. He added that the resolution before Council today proposes modifying the APP, which is concerning since the Hay Group study recommended the APP. Justice Torres proposed, instead, to amend Resolution JC20-028 to state "not to exceed the salary of a Superior Court Judge" and not changing the APP increment percentage amounts. Justice Torres said he is concerned, as well, about maintaining parity with APP across the Government sector. Therefore, he recommended amending the fourth 'whereas' clause to 'Superior Court Judge' and list the current salary amount of \$139,777; then, in the 'resolve' clauses delete 'Judicial Officer' and insert 'Superior Court Judge.'

Ms. Gudmalin, FMD, described the financial impact of the proposed resolution with the amendment to the increment percentages, affecting the salaries of the six (6) employees, which would be \$59,885 for FY20-22. She added, the financial impact of the amending JC20-028, as proposed by Justice Torres, would be \$79,970.

Chief Justice Carbullido pointed out fund allocation has not been identified to cover the financial impact of the proposed resolution.

Ms. Perez noted, for the record that built into the Department of Administration Competitive Wage Act of 2014, attorneys on the APP receive an increment of 3.1% every two years once they reach step 10, consistent with the Hay Group study recommendations. On steps 8, 9, and 10, she added, the attorney receives an increment of 5.77% every 18 months. Justice Torres stated attorneys employed at the Attorney General's Office (OAG) receive increments on the same schedule Ms. Perez described. Chief Justice Carbullido noted the Judiciary's attorneys are unclassified employees and receive a higher starting salary than the attorneys at the OAG. Ms. Perez added, for the record, that if the goal is parity, as she understands the intent of the Chief Justice to be, the other court managers receive an increment of 3.1% every twenty-four (24) months.

Judge Barcinas asked if the proposed resolution is part of a broader plan relative to the freezing of the judicial officers' increments, as presented in a second resolution included in the meeting packet. Chief Justice Carbullido confirmed that the second resolution is a separate issue but relates to finances. Judge Barcinas stated it is becoming apparent that the Council needs to have a deeper discussion regarding managers' pay plans and adjusting who qualifies under the APP. Presiding Judge Lamorena agreed with Judge Barcinas on this point. Judge Barcinas added that most attorneys at the OAG do not act as managers; therefore, they qualify for the APP. Judge Barcinas said he appreciates the effort to manage Judiciary finances. He stated that if called to vote today, he would abstain to study the information provided.

Chief Justice Carbullido recommended tabling the matter for thirty (30) days to give the Council time to consider the matter. There was no objection.

E. Judicial Officers Pay Adjustment Freeze

Relative to the discussion of Agenda Item D., Chief Justice Carbullido tabled the discussion of the proposed freeze of Judicial Officers Pay Adjustments for thirty (30) days to give Council time to consider the financial impact and information presented in the proposed resolution. Chief Justice Carbullido stated he brought the proposed resolution forward to address any liability the Judiciary has to its employees, including the judicial officers.

Judges Barcinas asked if the matter could be discussed with the Superior Court judges; Chief Justice Carbullido had no objection and welcomed their input. Justice Maraman stated she did not understand the financial impact calculation and asked to meet with Ms. Gudmalin to understand her calculations.

F. Notice of Next Meeting (June 17, 2021)

Chief Justice Carbullido announced that the next Judicial Council regular meeting would be on Thursday, June 17, 2021.

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

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

Chief Justice Carbullido was notified that all four (4) officers of the Guam Bar Association Board of Governors could not attend the Council meeting due to schedule conflicts.

****At 1:21 p.m. Chief Justice Carbullido called for a recess to begin Executive Session to discuss two ongoing litigation matters as requested in a memo to the Judicial Council from Staff Attorney Andrew Serge Quenga. The Executive Session was to be held in a Zoom breakout room. Presiding Judge Lamorena motioned to move to Executive Session; Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor.**

IX. EXECUTIVE SESSION

Chief Justice Carbullido, Justice Torres, Justice Maraman, Presiding Judge Lamorena, Judge Barcinas, A.O.C. Kristina L. Baird, Staff Attorney Andrew Serge Quenga, DPPCR Alicia Limtiaco, Staff Attorney Daniel Mensching, Court Reporter Carmelita Tenorio, and Council Executive Secretary Petrina Ula were present during the Executive Session.

****At 1:39 p.m., Chief Justice Carbullido moved to rise to regular session. The public meeting of the Judicial Council resumed. Chief Justice Carbullido stated no decision needs to be made in regular session due to convening in Executive Session.**

X. ADJOURNMENT

The meeting was adjourned at 1:40 p.m.

Respectfully submitted this 17th day of June 2021.



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

The Minutes of the May 20, 2021 Regular Meeting as set out above were approved by the Judicial Council at the June 17, 2021 Regular meeting.



F. PHILIP CARBULLIDO
Chairman

Dated: 6/24/2021