

PUBLIC DEFENDER SERVICE CORPORATION
Board of Trustees Regular Meeting
Wednesday, August 27, 2014
Conference Room,
Public Defender Service Corporation
4:00 p.m.

A G E N D A

- I. Call to Order**
- II. Roll Call**
- III. Proof of Due Notice of Meeting:**
 - 5 Working Days Notice: Marianas Variety, Monday, August 18, 2014
 - 48 Hours Notice: Marianas Variety, Monday, August 25, 2014
- IV. Determination of Quorum**
- V. Approval of Minutes: (Regular Meeting of July 29, 2014)**
- VI. Old/Unfinished Business:**
 - A. Financial Status Update (PDSC and APD Allotment Releases)
 - B. Domestic Violence Program Update
 - C. Alternate Public Defender Update
 - D. PDSC Director's Performance Review
 - E. Implementation of Competitive Wage Act of 2014 (CWA):
Update
- VII. New Business:**
 - A. Introduction of New Attorneys (PDSC and APD)
- VIII. Public Discussion**
- I X. Adjournment and Next Meeting Date**

Port fined \$500 for smoking violation

By Jasmine Stole
jasmine@mvguam.com
Variety News Staff

DESPITE the Port Authority of Guam's recent ban on cigarette smoking in the container yard, the U.S. Coast Guard found evidence of employees smoking in restricted areas, prompting them to issue the port a \$500 fine last month.

Port General Manager Joanne Brown informed the port board of the incident at its board meeting earlier this month. Brown said Coast Guard officials were inspecting the yard when they found evidence of cigarettes in one of the buildings, in a trash can. Brown banned smoking in the container yard in April in an effort to deter employees from smoking in restricted areas, thus shielding the port from incurring any more fines

from the Coast Guard for noncompliance.

Brown told board members at the Aug. 8 meeting that if the Coast Guard found evidence of further violations, the amount the port would be fined could increase six-fold. Continued violation could cost the port up to \$3,000 in fines.

The Coast Guard noted deficiencies in the port's operations, including smoking in nonsmoking areas in 2011.

In April, Brown also announced that the port paid off a two-year-old fine for the same violation. That payment totaled \$9,400. The Coast Guard noted deficiencies in the port's operations, including smoking in nonsmoking areas in 2011. The citation was not resolved until 2013 when management paid the \$8,000 fine and \$1,400 interest.

While there are designated areas to smoke on port property, employees do not always comply, Brown said.

Lack of rules hinders land compensation

By Mar-Vic Cagurangan
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Variety News Staff

THE Guam Ancestral Lands Commission has yet to start processing the compensation for Guam families who will not benefit from returned ancestral property, pending implementation of land bank rules and regulations, according to the Office of Public Accountability.

"There is over \$2 million awaiting distribution upon the effectuation or approval of the regulations," OPA said in an audit report released Friday. "Subsequent to fiscal 2012, draft Land Bank Rules and Regulations have been prepared but cannot be implemented due to conflicting laws and pending cases at the Superior Court and

Supreme Court."

OPA also found that beneficiaries who were able to receive their ancestral properties have not been able to do anything with their lands because "there is no access and zoning, which prevents them from making improvements on the properties."

OPA attributed such challenges to the lack of funding.

"Land Endowment Recordation of \$6.7 million. With the completion of the land inventory, \$406.6 million in investment in land and other real estate was recorded at the government-wide level, of which \$6.7 million was for GALC commercial leases."

OPA said approximately \$400 million was attributed to

Chamorro Land Trust Commission, which has over 11,700 acres of property in its inventory to lease out.

"As of Sept. 30, 2012, GALC had six commercial leases. GALC should coordinate with the Department of Revenue and Taxation regarding real property tax assessments for these leased properties," OPA said.

Despite the challenges, the commission has received a "clean" opinion from independent auditors Deloitte and Touche LLP.

"In order to receive the clean opinion, seven and six audit adjustments were made in 2011 and 2012 that cumulatively increased GALC's fund balance by \$593,000 in 2011 and \$733,000 in 2012," OPA said.



Thousands of public school students will make their way back to the classroom today. Variety file photo

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NOTICE OF PUBLIC MEETING

The Public Defender Service Corporation Board of Trustees will conduct a regular meeting on **Wednesday, August 27, 2014 at 4:00pm** in the Conference Room of the Public Defender Service Corporation, located at the MVP Sinajana Commercial Building, Unit B, 779 Route 4, Sinajana, Guam 96910.

Copies of the agenda will be available prior to the meeting at the Public Defender Service Corporation (address above).

Individuals requiring special accommodations are asked to contact Mrs. Bernadette S.N. Chargualaf at 475-3100.

/s/ **CHIEF JUSTICE ROBERT J. TORRES, JR.**
Chairman

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GDOE...

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of employees to ensure that they were handling the problem."

Cleaners removed most of the mold by yesterday afternoon, but the school had one more hurdle before they were entirely in the clear. Benavente teachers and Guam Cleaning Masters cleaners spent part of the afternoon without water while Guam Waterworks Authorities repaired a valve on Consolation Street, west of the campus. Water had been restored by 6 p.m. yesterday.

Sahagon and other clerical staff were making copies or rearranging the main office, which was relocated to the annex section of the school, the only area that had power after the storm.

Eager

"The kids have been on break long and they're eager to come back," Sahagon said. "We're excited to get this school year started. It's going to be a good

year for us."

Sahagon said all of the positions at the school had been filled, some with new teachers who recently graduated from the University of Guam.

First-time teacher Christian Camacho was making sure his room was outfitted with posters and supplies yesterday. Before the first day of school, Camacho made sure to clean and arrange the classroom desks.

"This is a new experience for me. I am just looking forward to getting in there and figuring out how my students work and how I work and, hopefully, the way we work best together," he said.

Camacho graduated from the University of Guam in May and will be teaching freshman English at Southern High School, which is also his alma mater.

Jennifer Mendiola, a veteran math teacher at George Washington High School, said she is looking forward to meeting the students and catching up with former students. Mendiola has been teaching for 16 years.

While she set up her classroom last Friday, she said there is still more to be done to prepare for another school year of geometry and pre-calculus.

Mendiola said she has supplies from previous years that she will be reusing. "But I know I will still end up buying more pencils, paper and other supplies throughout the year," she said. Nonetheless, she is looking forward to another year at GW and hoping her students leave her classroom with a better appreciation for math.

Direction

Sahagon, who has been an educator for 17 years, said she feels there is a better sense of direction under the guidance of GDOE Superintendent Jon Fernandez and Deputy Superintendent Rob Malay.

She said during her time as a teacher in the local education system, she sometimes felt like she was working in isolation, but it seems like Fernandez and Malay have made it so they are approachable and there is mutual support in the department.

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Fed in 'real debate' on rate hike in early to mid-2015

WASHINGTON (Reuters)

The U.S. Federal Reserve is focused on an initial interest rate hike between the first quarter and the middle of next year, with possible changes in its main policy statement as soon as next month, Atlanta Fed President Dennis Lockhart said on Saturday.

"It is reasonable with the improving data to begin to anticipate a change in the basic interest rate policy and, therefore, it is quite a reasonable debate as to whether that ought to be early 2015 or mid-2015 or even later," Lockhart told Reuters in an interview here. "The debate is real."

Lockhart said he continues to forecast a rate increase in mid-2015, with economic growth hovering around 3 percent, and that he feels it is "still early" to change the central bank's main policy statement.

That statement says a rate increase won't be appropriate until a "considerable time" after the central bank's bond purchases end this fall, and that there is still "significant underutilization" of labor.

"Even with good data, and we have had a run of very good data on balance, you still can only draw tentative conclu-

sions," said Lockhart, who does not presently have a vote on the Fed's main policy committee.

Headed that he did not expect progress towards the Fed's dual goals of 2 percent inflation and maximum employment to be "electrically fast."

"It is going to be gradual," he said, speaking on the sidelines of the Fed's annual central banking conference.

Still, with economic growth continuing, "some shift of language is on the table, should be on the table in the coming meetings," said Lockhart, who is viewed as a centrist on monetary policy.

His comments add an important voice to a debate within the Fed that has congealed around two poles — those who feel the fast drop in the unemployment rate means the economy is tightening and that rates should rise soon, and those, including Fed Chair Janet Yellen, who say a broader set of statistics show that labor markets remain weak.

Lockhart said he regards himself as a "U-6er" — meaning he watches the broader definition of unemployment, labeled U6 by the Bureau of Labor Statistics, that includes things like people working part-time for economic reasons.

Gov't warns US retailers about hacking software

WASHINGTON (AP) — More than 1,000 U.S. retailers could be infected with malicious software lurking in their cash register computers, allowing hackers to steal customer financial data, the Homeland Security Department said Friday.

The government urged businesses of all sizes to scan their point-of-sale systems for software known as "Backoff," discovered last October. It previously explained in detail how the software operates and how retailers could find and remove it.

Earlier this month, United Parcel Service said it found infected computers in 51 stores. UPS said it was not aware of any fraud that resulted from the infection but said hackers may have taken customers' names, addresses, email addresses and payment card information.

The company apologized to customers and offered free identity protection and credit monitoring services to those who had shopped in those 51 stores.

Backoff was discovered in October, but according to the Homeland Security Department the software wasn't flagged by

antivirus programs until this month.

Jerome Segura, a senior security researcher at cybersecurity software firm Malware Bytes, said that the way that Backoff works is not unique. The program gains access to companies' computers by finding insufficiently protected remote access points and duping computer users to download malware, tricks that have long been in use and are often automated.

What has changed, Segura said, is that the hackers deploying it have become increasingly sophisticated about identifying high-value computer systems after they've broken into them. "Once the bad guys realized they were able to penetrate larger networks, they saw the opportunity to develop malware that's specifically for credit cards and can evade antivirus programs," he said.

By using Backoff selectively, rather than distributing it widely on the Internet, the hackers likely managed to escape detection for longer. Following Homeland Security's warnings in July, however, companies are much better able to probe their

own computers for Backoff.

The battle between retailers and hackers is an ongoing one. Retail giant Target, based in Minneapolis, was targeted by hackers last year and disclosed in December that a data breach compromised 40 million credit and debit card accounts between Nov. 27 and Dec. 15. On Jan. 10, it said hackers stole personal information — including names, phone numbers and email and mailing addresses — from as many as 70 million customers.

Target, the third-largest retailer, has been overhauling its security department and systems in the wake of the pre-Christmas data breach, which hurt profits, sales and its reputation among shoppers worried about the security of their personal data. Target is now accelerating its \$100 million plan to roll out chip-based credit card technology in all of its nearly 1,800 stores.

So-called chip and pin technology would allow for more secure transactions than the magnetic strip cards that most Americans use now. The technology has already been adopted in Europe and elsewhere.

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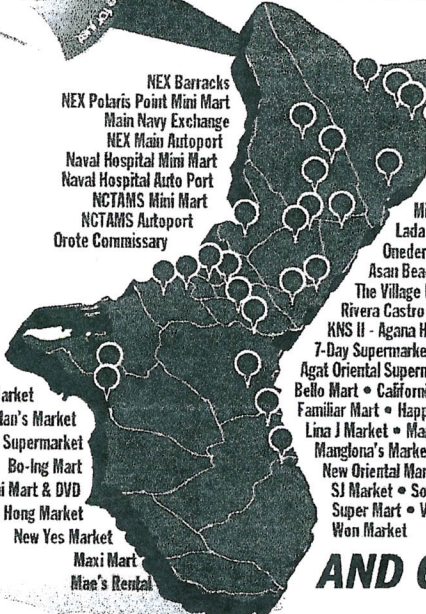
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/s/ CHIEF JUSTICE ROBERT J. TORRES, JR.
Chairman

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**PUBLIC DEFENDER SERVICE CORPORATION
BOARD OF TRUSTEES
Regular Meeting
of
Tuesday, July 29, 2014
12:56 p.m.
PDSC Conference Room**

MINUTES

I. CALL TO ORDER:

This meeting was called to order by the Chairman, Chief Justice Robert J. Torres at 12:56 p.m.

II. ROLL CALL:

Present: Chief Justice Robert J. Torres, Jr., Chairman
Presiding Judge Alberto C. Lamorena III, Vice Chairman
Attorney Cynthia Ecube, Guam Bar Association President
Attorney Donna M. Cruz, Member
Mrs. Annette J. U. Ada, Member

Others Present: Attorney Eric D. Miller, PDSC Executive Director
Attorney John P. Morrison, Alternate Public Defender
Bernadette S.N. Chargualaf, PDSC Administrative Director
Michael S. Moreno, Chief Fiscal Officer
Bernadette L.P. Lizama, Personnel Specialist IV
Robbie T. Call, Chief Investigator
Kenneth A. Lim, Computer Systems Analyst
Cecelia M. Fernandez, Administrative Assistant
Karla Ann S. Cepeda, Legal Clerk I

III. PROOF OF DUE NOTICE OF MEETING:

"Notice of Public Meeting" was published in Marianas Variety on Tuesday, July 22, 2014 and Friday, July 25, 2014.

IV. DETERMINATION OF QUORUM:

With the presence of all five (5) board members, a quorum was determined for this meeting.

V. APPROVAL OF MINUTES: Minutes of the regular board meeting held on Tuesday, June 24, 2014 were adopted and approved, subject to corrections.

VI. OLD BUSINESS:

- A. Financial Status Update (PDSC and APD Allotment Releases):** Chief Fiscal Officer Michael S. Moreno reported that PDSC has received allotments through the first half of July 2014 (95%); 4th quarter allotments for the Alternate Public Defender (APD) have yet to be received. Contact with Mr. Budasi (Controller) has been made; funds will hopefully be received by the end of this week.

- B. **Domestic Violence Program Update:** Funding is in place to support the program through April 2015 according to CFO Mike Moreno.
- C. **Alternate Public Defender Update:** Attorney John Morrison represented the APD and informed those present that the recruitment of an Attorney IV (replacement of Attorney Jeffrey Warfield) is in progress.
- D. **PDSC Director's Performance Review:** Attorney Donna Cruz inquired as to whether other members received her email on this subject. Subsequently, the Performance Review on Executive Director Eric Miller was approved and adopted. Furthermore, a press release for this purpose was also approved.

VII. NEW BUSINESS:

- A. **Implementation of Competitive Wage Act of 2014 (CWA):** Presented for informational purposes, Administrative Director Chargualaf mentioned that August 10, 2014 is the target date for implementation for PDSC/APD employees. However, Chief Justice Torres asked whether PDSC ever received the requested legal opinion from the office of the Attorney General. As of this date, there has been "no movement" on PDSC's request.

Chief Justice Torres noted his concerns regarding the lack of any statute containing language giving PDSC specific authority for the implementation, thereby protecting the Certifying Officers who will be signing off on certain documents. He recommended any of three approaches to this problem: 1) An in-house "Memo to File" regarding the legal authority used for the implementation; or 2) A "Declaratory Judgment" issued by the courts authorizing this specific action; or 3) Following up with the Attorney General for a legal opinion.

Noting the Executive Director's departure for an off-island conference the following day, Chief Justice Torres requested that the Acting Director (Attorney Pablo Aglubat) be made aware of this matter.

- B. **Results of Grant-Writing Research:** Mr. Kenneth A. Lim provided information relative to this item, noting that research is in progress, and Points of Contact have been established. Chief Justice Torres then offered to ask Jackie Zahnen Cruz to assist us with this, and requested email addresses for Kenneth Lim and Karla Cepeda, which will be provided to Ms. Cruz.
- C. **Diversity Training for PDSC Employees:** According to Executive Director Miller, plans are in the works to provide training on this subject to all PDSC employees, who will be grouped into three (3) sessions. Certificates will be awarded and copies will be filed in the employees' personnel jackets as confirmation of their attendance/participation.
- D. **Grievances Filed by Two (2) PDSC Employees:** This item was added to this agenda, although it wasn't included previously. (It was originally thought that this was a discussion reserved for an Executive Session.)

Grievances filed by Rachel Mesubed (Legal Secretary I), and Ali Nusbaum (Attorney II) relative to pay issues were reported to the board. Board members agreed not to entertain this subject, only because the internal process for grievances, as delineated in the PDSC's Personnel Rules and Regulations, should be followed. As such, it is up to Executive

Director Miller as to whether he will accept the grievance. If either of the employees disagreed with his decision, they may take it to the Judicial Council, which is the appellate body for PDSC employees.

VIII. PUBLIC DISCUSSION: None.

XII. ADJOURNMENT AND NEXT MEETING DATE: The next meeting will take place on Wednesday, August 27, 2014 at 4:00 p.m.

There being no further business up for discussion, this meeting was adjourned at 1:30 p.m.

Respectfully submitted,


BERNADETTE S.N. CHARGUALAF
Secretary