



Special Board Meeting
CCU Conference Room, Gloria B. Nelson Public Service Building
4:00 p.m., May 10, 2019

MINUTES

1. CALL TO ORDER

The Chairman called the CCU Special Meeting of May 10, 2019 to order at 4:19 p.m. He said four (4) Commissioners were present and that there was a quorum; Comm. Santos was off-island and excused. Others in attendance include:

Commissioners:

Joseph T. Duenas	CCU Chairman
Michael T. Limtiaco	CCU Secretary
Judith P. Guthertz	CCU Treasurer
Simon A. Sanchez	Commissioner

Executive Mgmt.:

John Benavente	GM / GPA
Miguel Bordallo	GM / GWA
John Cruz	AGMET / GPA
Chris Budasi	AGMA / GWA
John Kim	CFO / GPA
Kelly Clark	Staff Attorney / GWA

Management & Staff:

Heidi Ballendorf	Communications Manager / GWA
Paul Kemp	AGM Compliance & Safety / GWA
Vangie Lujan	Compliance & Safety / GWA
Patti Diego	Communications / GPA
Zina Charfauros	Personnel Admin. / GWA HR
Lou Sablan	Board Secretary / CCU

Guest:

Mark Miller	Commissioner / PUC
Ken Leon Guerrero	Guam Citizens for Public Accountability
Kenneth Kerrigan	Editor / The Guam Post
Joyciynn Atalig	Reporter / PNC News
Nestor Licanto	Reporter / KUAM News
Steve Limtiaco	Reporter / PDN

2. COMMUNICATIONS

2.1 Public Comments

Mr. Ken Guerrero, representative for Citizens for Public Accountability, addressed the Commission. Chairman Duenas welcomed him saying that he is allowed 2 minutes. Mr. Guerrero said he comes with 1000 signatures from citizen ratepayers and thinks this allows him more than 2 minutes. The Chairman said Mr. Guerrero can have 5-minutes because the Commission needs to get on with its business. Mr. Guerrero started by saying that the actions of the Board has sparked such an outrage. There is a perception in the public that this body is very arrogant that this body perceives itself above the people that elected them to represent them. The public sees the action of this body to be more in line to be self-serving than representing the public. He said this utility is owned by the ratepayers and the CCU needs to do a better job listening to what the public has to say and take those things into consideration. If the CCU gives bonuses that are equal to or larger than the average salary on Guam it is a gross injustice and we consider that a big problem. The average income on Guam is \$26,400 according GovGuam Dept. of Labor. Guam has a very small utility system but GPA/GWA is paying salaries that are comparable to utility systems with more than a million customers. The public are having a hard time understanding why the salaries, bonus and raises are as high as they are with very little improvement in the system or the service. There's lot of pain in the public and there is no sympathy and support from CCU that supposedly represent the ratepayers. He said the perception is that ratepayers work for you and that your job is to get as much money from ratepayers as you can. The CCU has Legal Counsels that got you into this mess and you need to rethink their value – use the AG's office and safe nearly \$400k per year for ratepayers. He said he and 1000 other ratepayers expect that the CCU does not move forward with salaries and bonuses until it can be justified to the ratepayers, not the CCU, the ratepayers.

Comm. Sanchez questioned the absence of both Legal Counsels and the Chairman said because of the conflict they thought it best that outside counsel handle the meeting. Comm. Sanchez said, for the record, that he thinks it is appropriate that senior management be present to witness the discussion in open session. They are part of senior management and played a critical role on what happened and it is prudent for them to listen to the discussion with outside counsel as well. Being conflicted doesn't mean that they cannot be here. The Chairman said they are not physically here. Comm. Guthertz said that she also would also like to speak with the staff attorneys.

3. GPA

3.1 **New Business**

3.1.1 **To Address Letter Received by the CCU From the Guam Attorney General Regarding the November 27, 2018 CCU Meeting and Other Related Matters**

Outside Counsel Vince Leon Guerrero said he was asked to appear to render an opinion as to the validity of the letter from the Attorney General to the Commission wherein the AG advised the Commission that pay raises and bonuses were improper because they were discussed and approved during the Executive Session of the CCU meeting of November 27, 2018. Counsel said

his research agrees with the opinion of the AG. The law is specific if salary is to be discussed it has to be done in the open – in public; if evaluation is to be done – that it can be done in private. He said the bottom line is he concurs with the AG's opinion and the CCU action must be void, the increases must be rescinded and any increase and bonuses paid out must be paid back.

Relative to repayment Counsel Leon Guerrero said there is no statute guiding how repayment is to be made however a similar issue happened not too long ago with the Governor's Office and employees there were allowed to affect the payback over term.

Counsel Leon Guerrero then reiterated that the CCU is charged with evaluating and setting the salaries for the (2) General Managers, the (2) CFO's, the (2) Legal Counsels and the Board Secretary. Asst. GM of Operation's salary is brought before the CCU on the recommendation of the GM and the CCU vote to approve or not approve the salary.

The Chairman then opened the floor to questions.

Comm. Sanchez said he wants to make clear he understands that the CCU enabling act authorizes by law to evaluate and approve performances – particularly for (6) people - to hire, fire, discipline, raise or cut pay for who he called the CCU 7 - the (2) GM's, CFO's, Counsel's and Bd. Secretary. The issue is what must be done in open session and what can / is allowed to be done in executive session. Comm. Sanchez then read that section of the AG's letter relative to the specific open government law that the AG cited specifically [reads the open govt. law verbatim] and ended by reconfirming with counsel that evaluations are ok in private but once salary is discussed it must be in the open / in public. Counsel Leon Guerrero concurred.

Comm. Sanchez then referenced the Counsel's opinion about the Asst. GM of Operations. He asked Counsel if the CCU sets the AGMO's pay because he thought the CCU does not have power to set AGMO's pay - Counsel responded - yes. Counsel said that the GM of GPA sets the salary subject to board approval. The GM evaluates the AGMO and the CCU approves. Comm. Sanchez said so in fact there are 8 people that CCU can set pay for but any discussion relative to pay must be in public and any evaluations can be done in private. Counsel concurred.

Comm. Sanchez then asked about the other (4) Asst. GM's – Administration – one for power and other for water, Engineering & Technical Services for power, Compliance & Safety for water does CCU have power to set their pay; Counsel said he did not see that in the law and Comm. Sanchez said he didn't either. Comm. Sanchez said there are 800 employees at GPA and GWA – the GMs set their pay and CCU has no power over pay; Counsel said yes. Comm. Sanchez then said if the CCU has no power over the (4) Asst. GM's salary then just like they have no power over the 800 line employees of GPA and GWA why should the Asst. GM's salary increases be rescinded. At this point the Chairman injected and reminded Comm. Sanchez that the AG's letter was specific – that money was talked about in executive session and because of that the action was void – that is the point. Comm. Sanchez said yes but money was talked about in executive session for people the Commission has no power over? He said he would like an opinion. Counsel Leon Guerrero said he would look into this matter and render an opinion.

Comm. Sanchez said for the record that he listened to the audio and will listen to it again. He said he does not remember any discussion on pay for these (4) Asst. General Managers and would like guidance for these particular managers. Comm. Michael injected to get opinion directly of the AG as well on the (4) AGM's because the AG may not know any of the fine details just discussed. Comm. Sanchez said there may be other matters that may emerge that we would like the AG's opinion as well. He added a lawyer's opinion is all it is - an opinion and it's only the courts that matters but it is opinions that guide us. In the same spirit of Comm. Limtiaco there may be other things that we may ask the AG to opine and would like to add on if needed.

Comm. Limtiaco said that he was not present at the November 27th Executive Session because he was not a Commission member at the time, having been inducted in January 2019. His question is 1) does he as a CCU member now, have access to these executive session minutes and 2) does the AG have access to the executive session minutes. He said Counsel cited the section of law that speaks about personnel matters so does the AG have access? Comm. Limtiaco said he does not think that he does but wants Counsel's opinion.

Comm. Guthertz said she is happy that this meeting is going on and wants to make correction where needed. The Commissioner cited section 5GCA, the Sunshine Reform Act, Limitation of Right of Inspection Chapter 10, of law about privacy issues. The law specifically states in section 10108 except as provided in 10109 of this chapter that Personnel medical or similar files the disclosure of which will constitute an unwarranted invasion of personnel privacy. All information about salary, names etc. shall remain of record. The Commissioner said her interpretation of this is the CCU is prohibited from disclosing personnel files. Obviously, there is great interest about the evaluation of our employees. If we were requested of this information would we be in violation if we release it. Counsel confirmed yes. Comm. Guthertz mentioned that the CCU Board Secretary was asked and she declined because of the provision of this law which was the correct action on her part as it would be the correct action on our part. Counsel concurred. She said the remedy should someone want to challenge this would be to take this matter to court; Counsel concurred. Comm. Guthertz said that she wanted this on the record because she has dealt with personnel matters before and it has always been her experience that these matters cannot be disclosed. She stated that it was not the intent of anyone on this Commission to do anything in contravention and she is looking forward to correcting the issue immediately. She is saddened by this episode and is committed to do the right thing at all times and hopes that the Commission will have the understanding of the employees who were affected that it was never the intent.

Comm. Limtiaco had a question on - Section 8111 Executive Session of the Open Govt. Law as it related to Section 8113 relative to the Minutes. Section 8111, Section 7 talks about the 6-month seal of transcripts – the question is this just in relation to subsection c – for legal matters only. For these personnel matters do they ever become public record – Counsel said no. For those section that discusses salaries these can be made public and Counsel said yes. Comm. Limtiaco said there may be sections of the discussion where salaries and evaluations may be intertwined. I would like to make a motion to release those portions of the meeting minutes

that discuss salaries and if needed redact those portions that are protected under the personnel sections and he wants to discuss this motion.

Chairman Duenas asked about the liability about inadvertently releasing something. Counsel said if employees' rights are infringed this is the big concern. There was discussion on releasing this type of information – if someone wants the Minutes they can go to court. Chairman Duenas said if a court orders the release it is different because it is coming from the court. The Chairman said he would not vote on a motion to release Minutes and then be liable. If a court releases the CCU will not be liable. Comm. Limtiaco said he understands and is sensitive to this and the potential liability. If there is any way that some portions can be redacted and release the information on salaries he would like to do so. Comm. Limtiaco said perhaps Counsel can give his legal opinion.

Comm. Sanchez said once again evaluations, personnel records are protected. If we were to redact would Counsel be willing to redact it for the Commission. There is the public's right to know and the employees right to privacy. He asked if Counsel would review and recommend to the Commission what he would redact.

Comm. Guthertz also wanted Counsel to research and opine that if the affected employees would agree to discuss their evaluations in public despite the provisions in the sunshine law that it would be their decision and the Commission would not be liable.

Comm. Sanchez said in review the Counsel will look at specific issue of the (4) Asst. GM's that were impacted but not under the responsibility of the CCU are their pay raises valid. Comm. Sanchez asked Counsel to review the list of requested opinions / deliverables to the Commission.

Counsel listed the following – 1) Comm. Limtiaco's question if the AG has access to Ex. Session Minutes 2) Whether Limtiaco has access to Minutes 3) Matter of the (4) Asst. GM's that CCU has no responsibility over 4) Redaction of the Minutes 4) Waiver of Employees rights

Comm. Limtiaco said after all this discussion there are many items that are still pending opinions but for those where the law is clear he motioned that the pay raises be rescinded and returned; second by Comm. Guthertz.

In discussion Comm. Sanchez asked how the monies are to be repaid – Counsel said there is no statute that he could find. Counsel said he could ask the AG's office for an opinion. There was discussion that at the Gov's Office incident employees were allowed the payback in terms. At this point there was no decision as to the time frame for payback.

Comm. Guthertz motioned to amend main motion to revert the salaries of the GM's of GPA and GWA, the CFO of GPA, the Legal Counsels of GPA and GWA and the CCU Board Secretary to levels of pay of 11/27/18; second by Comm. Limtiaco.

In discussion on payback there was no mention of timeframe for payment and will wait for Counsel Opinion.

On the amended motion the vote was (4) ayes, (1) absent

For clarity Comm. Sanchez asked for the motion to be restated one more time to be ensure everyone is on the same page.

Comm. Limtiaco said the motion is to return the pay raises that were received by the GM for GPA & GWA, the CFO of GPA the Legal Counsel of GPA and GWA and the CCU Board Secretary and to restore salaries back to the Nov. 27, 2018 salary level,

The Vote was (4); absent (1) – the motion carried.

There was discussion about the questions that the Commission has asked outside counsel to opine on and the draft letter to the AG to opine on these same questions. There was discussion if a motion is required. Counsel said he does not think a motion is necessary but Comm. Guthertz would like it for the record. The Chairman recommended to ask Counsel to draft the letter to the AG relative to his opinion and for the Commission to review the AG's letter beforehand. All agreed.

There was discussion on how long it would take to draft the letter and for Counsel to formulate his own opinion. Chairman Duenas said he would like to give outside counsel time to draft the letter. It was decided to recess this meeting and Counsel can present his opinion and the AG draft letter at the continuation meeting.

Comm. Limtiaco asked Counsel to opine on bonuses and Counsel said there is a prohibition on bonuses.

Comm. Limtiaco motioned that bonuses that were approved on Nov. 27, 2018 be repaid; second by Comm. Guthertz.

Comm. Guthertz stated that since bonuses are not allowed the only way to recognize someone is through a continuing salary adjustment. There was discussion on classified and contract employees and it was clarified that the employees in question are classified not contract employees.

Comm. Guthertz motioned to recess the meeting until Tues., May 14 at 4 p.m.; second by Comm. Sanchez

Special Board Meeting of 5/10/19
CCU Conference Room, Gloria B. Nelson Public Service Building
Continuation at 4:00 p.m., May 14, 2019

CALL TO ORDER

The Chairman called the Continuation Meeting of the CCU Special Meeting of May 10, 2019 to order at 4:20 p.m. He said this is a continuation of a meeting that started on May 10th and that four (4) Commissioners were present – for the record Comm. Guthertz, Limtiaco and Sanchez and that there was a quorum; Comm. Santos was off-island still and excused. Others in attendance include:

Commissioners:

Joseph T. Duenas	CCU Chairman
Michael T. Limtiaco	CCU Secretary
Judith P. Guthertz	CCU Treasurer
Simon A. Sanchez	Commissioner

Executive Mgmt.:

John Benavente	GM / GPA
Miguel Bordallo	GM / GWA
Kelly Clark	Staff Attorney / GWA

Management & Staff:

Heidi Ballendorf	Communications Manager / GWA
Vangie Lujan	Compliance & Safety / GWA
Patti Diego	Communications / GPA
Ron Topasna	Operations / GWA
Zina Charfauros	Personnel Admin. / GWA HR
Lou Sablan	Board Secretary / CCU

Guest:

Ken Leon Guerrero	Guam Citizens for Public Accountability
Joyciynn Atalig	Reporter / PNC News
Allan Balbin	Reporter / PNC News
John O'Connor	Reporter / The Guam Post

The Chairman said that where we left off at last meeting, outside legal counsel was to prepare a draft letter to the Attorney General which he forwarded to the Commission in advance. The Chairman also reported that since the last meeting (3) additional FOIA requests have been received for a total of (4) to include one sent by Mr. Ken Leon Guerrero. The others were from Mr. Kevin Kerrigan, Mr. Steve Limtiaco and Mr. Robert Klitzkie.

Comm. Sanchez said the CCU has not been able to collectively respond to any of the FOIA's and today is a good opportunity for comment.

Counsel Leon Guerrero said he sent the Commission the proposed draft and he received some comments from the Commissioners. There were (4) questions to ask the AG's opinion, if the Commission agrees.

Counsel said the first is relative to the Asst. General Managers. Comm. Sanchez raised the issue as to whether the Asst. GM's pay raises are supposed to be done by the General Manager with no input from the CCU and would the raises to the Asst. GM's be valid. Counsel said his initial opinion is that the pay raises should be rescinded and repaid. His concern is that the related GG1's for at least (2) of the Asst. GM's were signed by a Commissioner and there is notation at the bottom of the GG1 that says "per CCU Executive Session of Nov. 27, 2018". It was clarified that the (2) GG1's in question were for the Asst. GM of Administration and the Asst. GM of the Engineering & Technical Service. The Asst. GM of Operations was discussed at the last meeting and it was brought forward that the CCU is responsible to approve the pay of the AGMO along with the GM's the CFO's the Legal Counsels and the CCU Board Secretary.

Comm. Sanchez said he viewed that the fact that a Commissioner signed the GG1 is a ministerial issue. It could be that the General Manager was not on island – he speculates that in the absence of the GM a Commissioner, in this case the Vice Chairman, signed on his behalf. It was noted that the Commissioner Duenas was also off-island. Comm. Sanchez added, if the CCU is not empowered by law to view, change or evaluate the AGM's what difference does it make that they were discussed in executive session. There was discussion on what the CCU Enabling Act states and it was clarified that advise and consent of the CCU is required for the hiring of the Asst. GM of Operations. Relative to pay it is the responsibility of the GM to determine the pay with the approval of the Board.

Comm Duenas said that at the first meeting of May 10, there was a motion made to rescind the pay of the original seven (7) employees whose pay is determined by the CCU but in light of this clarification, it is now apparent that the AGMO's pay is also approved by the CCU and that any related pay increase be also rescinded.

Comm. Sanchez motioned to return the salary of the Asst. GM of Operations of GPA back to the level of pay of 11/27/18; second by Comm. Guthertz. There was no further discussion or objection and the motion passed unanimously.

On question on the Asst GM of Technology, Asst GM of Administration Counsel Leon Guerrero said that his concern is the GGI was signed by the CCU and notation on GGI mentioned action was taken during ex-session. It is his opinion is that these (2) raises were not valid because of his concerns.

It was clarified by the GM Bordallo that the Asst. GM of Compliance & Safety was evaluated via the usual pay for performance process and his salary information was provided for information purposes only and not for discussion or approval.

Comm. Duenas said that In reading the AG's letter the discussion in Executive Session about salary at that meeting makes them void; his opinion is that CCU rescind all of them but that we need to point out that (2) AGM's were included in the discussion but these 2 positions should not have been included and ask the AG to opine if the salaried for these 2 positions stand.

Comm. Limtiaco said he agrees and would like to rescind all of the salaries

A motion was made by Comm. Guthertz to rescind all the salaries for GM's GPA CFO, Legal Counsels, the AGMO, AGMA and the AGMET; Comm. Limtiaco seconded.

Comm. Sanchez commended Comm. Limtiaco for his participation in the discussion and action stating that technically he is conflicted in this matter. Comm. Limtiaco said the discussion / decision is based upon the actions of the CCU as opposed to specific employees per se. He disclosed for the record that his wife Beatrice Limtiaco is the AGMA for GPA. Comm. Limtiaco seconded the motion to rescind the salary increases which includes the AGMA. Comm. Guthertz said this action conforms with the AG's guidance.

On the motion there was no further discussion or objection and the motion passed unanimously

Comm. Sanchez said it is important to note in the letter to the AG that at the 5/10 meeting the CCU rescinded the action and to be specific and list the salaries that were rescinded. He also said he is concerned about signing a letter that he did not see in final form.

Chairman Duenas said it is best if the CCU recesses this meeting again and entertain the final draft letter to the AG at a continuation meeting.

There was discussion returned to the body of the letter and the questions that Counsel has drafted to date. to notate the action of the Commission to date, to specifically list the names / positions of all whose pay were rescinded and the question about the (2) Asst. GM and who can sign GG1's.

It was mentioned to get the counsels opinion to all the questions in addition to the AG's opinion

Discussion continued forward to other questions on the AG's draft letter listed here

1. Guidance on the salary adjustments of GPAs other assistant managers who do not require CCU approval. At issue is the GG1's that were signed by a CCU Commissioner on behalf of the GM and the remarks section that referenced the salary was discussed in executive session?

Comm. Guthertz said signing of GG1's is managements responsibility and it might be unnecessary to ask this question. Comm. Duenas said it is a good question to ask. Comm. Sanchez said this matter is good to ask for all other Boards / Commissions on Guam. Does Guam Law allow the signing of the GG1 by a board member to be valid

2. To requests whether or not current CCU Commissioners have access to executive session minutes from prior CCU Commissions that the Commissioners were not part of?
3. Whether evaluations are personnel matters and should not be open to the public in compliance with 10GCA Section 10108 © and if they are protected by statute can these portions of the executive session minutes be redacted and the remaining minutes released?
4. In repaying of the improper salary adjustment can the affected employees pay back the money through a promissory note as was done during the last administration?

5. Can an employee named in the Executive Session waive his/her privacy interest and allow information concerning that particular employee be made public?

Relative to the FOIA's received to date, Counsel said he can review it and respond in a day. There was discussion on who responds to FOIA's if it is addressed to a board. Counsel said it is the Chairman who should respond if a FOIA is directed to a board. At the end of the discussion it was confirmed that the FOIA's would be responded to by Thursday.

Comm. Limtiaco asked about the Executive Session Minutes and if non personnel matters contained in the discussion can be released. Chairman Duenas said he would rather have a judge release the information. Comm. Guthertz said it would be better to go directly to the court to ask them for their judgement because they would give more clarity and response would be more definitive. Counsel said that the CCU can file a declaratory judgement with the Court. Comm. Guthertz said it would be good for the Commission to inform the AG of what the CCU is doing or planning to do. The value is that the court action would be good for other boards as well.

Chairman Duenas said for clarity, the CCU has rescinded all the pay increases and bonuses and established that the increases/bonuses must be repaid. The priority is to get counsel's opinions to the questions, to respond to the FOIA's and then based on counsel's opinion to move to court action where matters can be considered further. The Chairman said he wants to make a point that he was never advised by anybody about the salary discussion in executive session. What's important is that CCU is seeking best action / outcome within the law.

Comm. Guthertz motioned to recess the meeting until 4 p.m. on Tuesday, May 21; second by Comm. Limtiaco. There was no further discussion objection and the meeting was recessed. It was 5:45 p.m.

Special Board Meeting of 5/10/19
CCU Conference Room, Gloria B. Nelson Public Service Building
Continuation at 4:00 p.m., May 21, 2019

CALL TO ORDER

The Chairman called the Continuation Meeting of the CCU Special Meeting of May 10, 2019 to order at 4:00 p.m. He said this is a continuation of a meeting that started on May 10th, continued on May 14th and recessed for further continuation today, May 21. He said all five (5) Commissioners were present. Others in attendance include:

Commissioners:

Joseph T. Duenas	CCU Chairman
Francis E. Santos	CCU Vice Chairman
Michael T. Limtiaco	CCU Secretary
Judith P. Guthertz	CCU Treasurer
Simon A. Sanchez	Commissioner

Executive Mgmt.:

John Benavente	GM / GPA
Miguel Bordallo	GM / GWA
Kelly Clark	Staff Attorney / GWA
Gilda Mafnas	CFO [A] / GWA

Management & Staff:

Heidi Ballendorf	Communications Manager / GWA
Vangie Lujan	Compliance & Safety / GWA
Patti Diego	Communications / GPA
Ron Topasna	Operations / GWA
Paul Kemp	AGM Compliance & Safety / GWA
Dave Fletcher	Operations / GWA
Lisa San Agustin	Utility Services Admin. GWA
Zina Charfauros	Personnel Admin. / GWA HR
Lou Sablan	Board Secretary / CCU

Guest:

Ken Leon Guerrero	Guam Citizens for Public Accountability
Joyciynn Atalig	Reporter / PNC News

At last meeting outside counsel was tasked to prepare a letter to the AG but since the meeting the CCU was served a suit and CCU needs to respond in 10 days, or by May 31. Many of the things included in the summons would have been included in the letter to the AG. Since there is a litigation going on now perhaps the Commission should consider going into executive session to discuss this further.

The Chairman said there is no Executive Session schedule for today's meeting so the Commission cannot go into executive session today. There is an executive session scheduled for next Tuesday, 5/28 and the Commission could bring this matter to the table at that meeting. This pending litigation could be discussed then. Counsel said that he is waiting for SAG designation by the AG.

To recap the Chairman said the Board took action to rescind all the pay raises and bonuses and to require that the money be paid back. This was to apply to the GM's CFO, Legal Counsels and the Board Secretary. Also rescinded were the pay for the AGMO, AGMA and AGMET. While these positions do not fall under the responsibility of the Commission what happened was the respective GG1's noted that the salary increase was discussed in executive session of 11/27/18 so all related pay was also rescinded as per the AG's initial opinion. There was a request for some questions that Counsel was to ask the AG's opinion and that of Counsel. Counsel Leon Guerrero concurred that there were questions but that these should be addressed during Executive Session.

Comm. Limitaco said that he feels that the legal opinions openly discussed at the past 2 meetings and requested Counsel to opine on should be discussed openly at this meeting since we have already openly discussed them in the past. Counsel said that some of the questions would be ok to discuss openly but there are others that he feels infringe on the lawsuit and should not be discussed. Comm. Limitaco said the lawsuit was relative to releasing the executive session minutes in its totality and some of the other questions are more specific and have already been discussed in past meetings so he

does not understand why the discussion cannot happen now rather than at an executive session. All the questions that CCU asked Counsel to opine on he recommends to discuss at this meeting.

Counsel said what was agreed upon was the issue of salary adjustment is public knowledge via GG1 anyway but when you listen to the tape and you take out the salary adjustment portion the rest has to do with evaluation and if it is not releasable they must be redacted. He said he does not know if evaluations can be extracted from pay adjustment if these are taken out there is not much left. If CCU takes this to court, for the protection of the employees privacy, the court will decide what is releasable and what is not.

Chairman Duenas asked the fact that a litigation is filed, does this now change the dynamics off the meeting we are having and Counsel said it could. He recommended talking to the AG and how to go about handling the lawsuit that's why he recommends not discussing this matter further.

Comm. Sanchez asked what the suit filed by Mr. Leon Guerrero is asking. Counsel explained that he is suing to disclose the full discussion at the executive session – all minutes, notes, recordings etc. so that is everything.

Comm. Sanchez asked if Counsel had a chance to listen to the recording of the meeting and asked if there was discussion on salary and salary adjustment and Counsel said yes. If the Minutes were released what would be the penalties in law for releasing the discussion. Counsel said the employee could sue the CCU for discussing their evaluations in public, good or bad. The Commissioner said that the discussion in executive session was all positive – everyone got an increase. The risk the CCU runs is that the managers that got a raise could sue the Commission. The risk of not releasing it due to FOIA request could be a \$1000 fine.

Comm. Guthertz shared that evaluations are a very sensitive area and the Commission should exercise caution relative to releasing executive session Minutes containing personnel information citing some examples of her experience while at GPD.

Comm. Michael said he was not at the executive session and wanted the opportunity to listen and to get input from other Commissioners. He said he understands Comm. Guthertz's concern but this is a little different and said I motion to release the Minutes; second by Comm. Simon Sanchez

Vote was recorded via Roll Call accordingly:

Sanchez – vote yes to release

Lintiaco – vote yes to release

Duenas – vote no to release

Guthertz – vote no to release

Santos – vote yes to release

There were a couple of other motions that were brought to the floor for voting, in particular:

Comm. Guthertz motion to ask the Court via declaratory judgement for definitive interpretation of 5 GCA Chapter 10 regarding personnel matters specifically if it includes employment, evaluations and discipline; second by Comm. Santos. There was no objection and the vote was unanimous.

4. ANNOUNCEMENTS

4.1 Next CCU Meetings

The Chairman said the next meeting would be a work session for GWA on May 21, a GPA work session on May 23 and the regular monthly CCU meeting on May 28.

5. ADJOURNMENT

There was no further business to bring before the Commission.

Comm. Santos motioned to adjourn the meeting; Comm. Limtiaco seconded.

It was 5:26 p.m.

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Bls

Attested:



JOSEPH T. DUENAS, Chairman



MICHAEL T. LIMTIACO Secretary