Chair Allan Landon called the meeting to order at 1:05 p.m. on Wednesday, January 14, 2009, at the Kapolei Golf Course Restaurant, “Tee Room,” 91-701 Farrington Highway, Kapolei, Hawai‘i 96707.

Regents in attendance: Chair Allan R. Landon; Vice Chair Howard Karr; Artemio Baxa; Carl A. Carlson; Ramon de la Peña, Ph.D.; Mark Fukunaga; Chuck Gee; James Haynes II; Dennis Hirota, Ph.D.; Eric Martinson; Teena Rasmussen; Harvey Tajiri; and Grant Teichman. Excused: Ronald K. Migita.

Others in attendance: President David McClain, Ph.D.; Vice President for Academic Planning & Policy Linda Johnsrud, Ph.D.; Vice President for Budget & Finance/Chief Financial Officer Howard Todo; Vice President for Community Colleges John Morton, Ph.D.; Vice President for Legal Affairs & University General Counsel Darolyn Lendio, Esq.; Associate Vice President for Capital Improvements Brian Minaai; Associate Vice President for External Affairs/University Relations Carolyn Tanaka; UH Mānoa Chancellor Virginia Hinshaw; UH Hilo Chancellor Rose Tseng; Professor Klaus Keil, UH Mānoa Faculty Senate Chair; Walter Niemczura, APT; Interim Executive Administrator and Secretary of the Board Presley Pang, Esq; and others as noted.

II. INTRODUCTION OF NEW REGENTS

Chair Landon acknowledged and welcomed Regents who were recently appointed to the Board by the Governor, subject to subsequent confirmation by the Senate: Chuck Gee, Mark Fukunaga, Grant Teichman, Eric Martinson, and Ramon de la Peña. In response to an inquiry by Regent Gee, Chair Landon stated his view that these recent appointees are qualified and are fully functioning members of the Board, with voting privileges and fiduciary responsibilities. If confirmed the tenure of their term is firmly established.

III. APPROVAL OF MINUTES

Vice Chair Karr submitted to Secretary Pang typographical corrections to the minutes of October 23, 2008.

Chair Landon noted that the October minutes as drafted accurately reflected the Board proceedings conducted at that time. Among the Regents participating were several whose holdover status beyond June 30, 2008 was subsequently invalidated by the Hawai‘i Supreme Court. Following the order and December 15, 2008 opinion by the
Supreme Court, the Regents whose status were not challenged met on December 18, 2008 to review and ratify decisions which were possibly at risk.

Upon motion by Regent Haynes and second by Regent Baxa, the minutes of October 23, 2008, with corrections, were unanimously approved.

III. PUBLIC COMMENT PERIOD

There were no oral testimonies.

IV. REPORT OF THE PRESIDENT

President McClain welcomed the new Regents and offered the assistance of the Administration.

The President reported on the following:

• Spring 2009 enrollment, as of the third day of instruction, increased by 6 percent systemwide, so it appears that the enrollment increase seen last Fall to an all time record level in the University’s 101-year history has been sustained.

• A new pocket-sized publication was distributed giving a “dashboard” display on the University’s performance in achieving the strategic outcomes approved by the Board of Regents in the spring of 2008.

• The Council of Revenues projects a weaker revenue base. The University initially presented a $13.5 million general fund reduction scenario. A likely scenario is a $30.5 million reduction. The UH plans to use the flexibility allowed by non-general funds, such as tuition or RTRF to address the reductions.

• In response to Regent Fukunaga’s question of a decrease in the value of the University’s portfolio investments, the President said that an endowment of $200 million generates a payout of approximately $10 million to fund various programs. In context of the overall $1.5 billion scope of University operations, a reduction in the Foundation payout can be accommodated, but often such gifts provide the margin of excellence for receiving programs. The CIP budget of $350 million will help Hawai’i’s economy by providing jobs.

The Governor has indicated that owing to Hawai’i’s economic challenges the State’s $12 million match for the Regional Biosafety Lab (RBL) must be funded via G.O. bonds debt rather than previously appropriated general operating funds. The President said that the University’s preference is to have the State match for the RBL included on top of the existing CIP request, and not displace the request for other prioritized projects.
• The Legislature scheduled hearings on January 16, 2009 on the CIP budget, Act 188 on formula funding, and the status of the presidential selection. On January 15, UH appears before the House Finance and Senate Ways and Means Committees to discuss our budget.

With respect to the “Dashboard” report, Chair Landon noted that the annual, written publication could be supplemented by quarterly updates by Vice President Johnsrud on actions being taken to achieve the outcomes.

V. ITEMS FOR BOARD ACTION

Approval of CIP and R&M Project Contracts for FY 2008-2009

Associate Vice President (AVP) for Capital Improvements Brian Minaai requested approval for 6 design services contracts totaling $4.8 million, and 10 construction contracts totaling $20.9 million at 6 campuses, for a total of $25.7 million.

For the benefit of the new Regents, Regent Hirota requested AVP Minaai to explain how the soft costs are developed, because the “soft costs” range between 4 to 18 percent for these particular projects.

AVP Minaai said that design costs normally fall in a range of 9-11 percent of the total construction costs. The University’s design costs are higher than average because the University’s services include commissioning, monitoring for LEED, and third-party review during the permitting process. As an example, the design service contract for Johnson Hall is about 14 percent of the construction costs because Johnson Hall is a very old building and needs substantial advanced design services. The University usually uses a range of 5-13 percent; today’s request is in the range of 3-14 percent.

AVP Minaai said that because the University budget is public information, the University is at a disadvantage when negotiating the final contract because contractors know how much the University is willing to fund the contracts.

Due to the economic downturn, the University is receiving lower bids than expected; however, the U.S. President is initiating a Federal Economic Stimulus package of various governmental construction projects and may result in higher construction bids if all of these projects were infused into the local economy at once. The University projects requested to be included in this Stimulus package will have to compete with these federal stimulus projects.

Vice Chair Karr commented that the contracts should be tightly controlled to avoid future add-ons.

In response to Regent Gee, AVP Minaai said that the soft costs will increase because any increase in repair and maintenance workload will be handled by contracting third party project/construction managers rather than hiring in-house staff. Unfortunately in times of budget restrictions, repair and maintenance expenditures are often cut first.
In discussing outsourcing project management, AVP Minaai explained that 11 additional staff positions were requested for project management to handle the increase in annual capital renewal requirements, but all positions were not included in the Board of Regents Biennium Budget for FB 2009-11 because of budget restrictions.

Chair Landon observed that because of the economic downturn, it should be relatively less expensive to fill permanent project management positions, but because of the statewide hiring freeze, the University cannot take advantage of the market conditions now in its favor, and must obtain project management services through the generally more costly method of outsourcing contracts. Chair Landon encouraged the Administration to move quickly and “buy more with less” when the economics are favorable.

Regent Fukunaga asked whether the University could take advantage of economies of scale by aggregating smaller contracts into a large multi-project contract and increase the University’s bargaining position. In response, AVP Minaai said that campuses were assessing aggregating contracts, but small subcontractors cannot bond the larger projects, and would be excluded from competing for the larger combined projects. Regent Hirota encouraged smaller firms to partner with each other and bid for larger projects.

In response to President McClain’s observation that the University System office does not have tuition revenues to fund project management positions, Vice Chair Karr asked if the campus Chancellors would give up campus tuition funds to fund project management positions for their campus projects. Vice President Todo responded that the System assesses campuses $2 million for risk management, for Banner, the systemwide student information system, and $2 million for UH Foundation fundraising services. The UH System provides an additional $1 million to the UH Foundation, for a total of $3 million.

President McClain raised for discussion the proposal that campuses, rather than the System, hire their own project management staff to handle their facilities. AVP Minaai reported that currently, UH Mānoa has 27 staff positions; UH Hilo has 2; UH West O‘ahu has 1, and the Community Colleges have 4. Vice President Todo said that during the biennium budget development process, $800,000 for 11 new positions were included. However, given the Governor’s instructions to reduce our operating budget, these were not included in the BOR-approved budget.

AVP Minaai said that project management positions could be budgeted into the project costs as part of overhead expenses, commonly referred to as “project funded” positions. Chair Landon reiterated his general aversion to using debt financing to fund operational costs. He also described his general experience with outsourcing where outsourcing starts out as a promised solution to avoid expenses and increase quality but generally ends up costing twice as much.

Regent Fukunaga observed that outsourcing tends to be more expensive in “one-off” situations because the contract must recover up-front costs with little prospects of continued commitment. Chair Landon noted in response that the problem with making
long-term government contract commitments is the perception of “sweetheart” deals and avoidance of competition.

Regent Hirota noted that federal military contracts have “indefinite” delivery requirements which can last for a number of years. He also noted that the military contracts with a pre-qualified pool of bidders.

President McClain and AVP Minaai noted that the Procurement Code currently prohibits these methods of contracting. Thus, the University seeks to restore its prior exemption from the Procurement Code to take advantage of the flexibility in contracting.

Chair Landon summarized the discussion by noting that the University has the opportunity to contribute to the State’s economy and further campus development. The Board is supportive of the Administration’s effort and will assist in addressing structural impediments to efficiency.

Upon motion by Regent Hirota and second by Regent de la Peña, the proposed design services and construction contracts were unanimously approved.

Report on the Status of the Presidential Selection

Ms. Donna Tanoue, chair of the UH Advisory Presidential Selection Committee, updated the Board on the Committee’s progress.

The Committee is fully engaged in the process and has met five times since November, all in public, open meetings. They hope to bring two to four presidential candidates to the Board for interviews by May or June 2009, but this timeframe depends on the quality of the candidate pool.

The Committee is currently holding “listening meetings” at all Community Colleges to solicit input from faculty, staff, students, and the community, on institutional challenges and the qualities and characteristics desired in the next president. The Committee will also conduct private interviews with select business and community leaders.

The consulting firm of Storbeck/Pimentel and Associates was selected to assist in the search process. They will continue to be involved in all of the meetings with the various constituency groups and the campus visits.

An advertisement for the position will be placed in local newspapers, the Chronicle of Higher Education, and on-line higher education search sites. Recruitment will continue until the position has been filled. Review of applications will commence on February 20, 2009.

A website is being developed, which will include the Committee meeting schedule, the meeting minutes, the advertisement, feedback from the listening meetings, and links to various University publications.

It is expected that the candidate pool will initially be pared down to 7-10 well-qualified candidates. Two to four finalists will be presented to the Board.
Vice Chair Karr expressed his concern over the schedule, indicating that the candidates should be announced while students are on campus. The spring semester ends on May 15th. Ms. Tanoue said that the schedule will be determined by the quality of the candidate pool.

In answer to various questions by the Regents, Ms. Tanoue indicated that the full Board as well as various groups will be able to interview the finalists. Chair Landon commented that the Board will establish its own process to evaluate the candidates.

Ms. Tanoue said that the search will focus on national, rather than international candidates. The Committee is open to considering non-traditional candidates.

Regent Fukunaga asked whether the Committee will seek input from the accreditation bodies. Chair Landon indicated that the Board, not the Committee, will coordinate the liaison with accreditation bodies regarding search and selection issues.

Regent Teichman noted that the Draft Statement of Desired Qualifications includes fundraising experience. He noted that experience with legislative bodies who provide public support is also critical. Chair Landon concurred.

Regent Baxa asked whether a candidate who lacked superior academic credentials would still be considered. Regent Carlson, who serves on the Committee, said that non-traditional candidates from fields other than academia will be considered.

Chair Landon summarized the discussion and proposed a resolution stating the sense of the Board. The Board is pleased with the progress and considers the Draft Statement of Presidential Selection Criteria (dated December 12, 2008) sufficient to continue to move forward. The Draft is a work in progress which can be modified as the search process continues. Chair Landon and Vice Chair Karr may amend or clarify the Draft, or seek input from the full Board, if necessary.

Regent Rasmussen moved to approve the foregoing resolution; Regent de la Peña seconded. The Board unanimously concurred.

VI. APPROVAL OF APPOINTMENTS, CHANGES IN APPOINTMENTS, LEAVES OF ABSENCE, PROMOTION, TENURE, WAIVER OF MINIMUM QUALIFICATIONS, EMERITUS TITLES, SHORTENING OF PROBATIONARY PERIOD, SALARY ADJUSTMENTS, POSITION ACTIONS, CLASSIFICATIONS, PRICING [ATTACHMENTS A1 AND A2]

President McClain requested approval of personnel actions specified on Attachment A1, namely the promotion to full professor of Dr. Kelley Withy and the promotion to associate professor of Dr. Steven Brown. He also directed the Board’s attention to Attachment A2, which does not require Board approval but is disclosed for purposes of public comment as required by law.

Upon motion by Regent Gee and second by Regent Haynes, the personnel actions were unanimously approved.
VII. EXECUTIVE SESSION

Upon motion by Regent Haynes and second by Vice Chair Karr and unanimous approval, the Board convened in executive session to discuss authority of persons conducting labor negotiations and conducting negotiations, pursuant to HRS §92-5(a)(3), at 2:55 p.m. Executive session ended at 3:34 p.m., and the Board reconvened in public.

VIII. ADJOURNMENT

The meeting was adjourned at 3:35 p.m. upon unanimous approval.

Respectfully Submitted,

Presley W. Pang, Esq.
Interim Executive Administrator
and Secretary of the Board