



**UNIVERSITY OF GUAM
UNIBETSEDÁT GUÅHAN**

Board of Regents

UOG Station, Mangilao, Guam 96923
Telephone: (671) 735-2995 Fax: (671) 734-2296

**Regular Meeting Minutes
February 22, 2024**

1.0 CALL TO ORDER

The Regular Meeting of the Board of Regents (BOR) was called to order by BOR Chairperson Sandra H. McKeever on February 22, 2024 at 5:30 p.m., RFK Library, Silent Room, and via Zoom. Notice of such meeting have been duly and regularly provided by the BOR.

QUORUM:

**Sandra McKeever
Lesley-Anne Leon Guerrero
Mike W. Naholowaa
Janice Maililay
Joanna Chun
Christopher L.C. Duenas**

**Chairperson
Vice Chairperson
Treasurer
Member
Member
Member**

ALSO PRESENT:

**Anita Borja Enriquez
Anthony Camacho
Christine Mabayag
Kalyne Roberto**

**President/Executive Secretary
General Counsel
Recording Secretary
Support Staff**

2.0 MEETING MINUTES

2.1 Regular Meeting Minutes of December 6, 2023

Chairperson McKeever asked if there were any corrections or discussion regarding the regular meeting minutes as presented. Regent Naholowaa moved to approve, which was duly seconded by Regent Leon Guerrero. The motion carried.

3.0 CHAIRPERSON'S REMARKS

Chairperson McKeever welcomed everyone to the February Regular Meeting. She stated that we continue to progress daily with all the building projects going on campus and thanked everyone for their patience and understanding and that it will come together with great results. She also stated that we are making strides on so many fronts, like student success and academic programs, financial stability of our university, and so many more goals that President Enriquez is pushing forward.

Board of Regents Regular Meeting Minutes of February 22, 2024

She stated that they are looking forward to the WSCUC Accreditation visit scheduled for next week February 28th to March 1st. She thanked the Administrators, Staff, Students, and all involved, for all the support and hard work being done to prepare for the visit.

She added that they are also looking forward to Charter Day and the return of Blue Night on March 7th, with many visitors, alumni, and future Tritons coming to campus and attending our activities and extending our appreciation to the community for their continued interest in UOG, as many have already confirmed their attendance to partake in this event. She stated that the UOG Student Government Association, in coordination with the Charter Day Committee, is working hard to make this year's Charter Day celebration one to remember.

She introduced Mr. Chris Duenas as the newly confirmed Member of the Board of Regents who currently serves as the CFO of Triple J Enterprises and is also a proud UOG alumnus. She then invited Regent Duenas to say a few words.

Regent Duenas stated that he is very happy to be coming back to UOG and remembers what it felt like to be a student. He added that now he is in a different role and will do what he can with the same goals and to make the island a better place.

In closing, she announced that there is a new Faculty Union President and called on Dr. Bob Barber, the former Faculty Union President for introductions.

Dr. Barber stated he came into the position and said a Union president term should not go between 2 to 3 one-year terms and no more, and if you haven't accomplished the goals then it is time to move on and let someone else.

He stated his goals, for the most part, have been met, noting that they wanted to get the faculty salary back on track with the Administration's support, the Union member support, and the Board's support on the 4-year plan, and he thinks it is excellent, and appreciates it.

He stated that he will now serve as the Interim Associate Director of the Cooperative Extension Service for approximately one year or less and see where it goes.

He stated that he wanted to get through this next contract negotiations and that as of the end of December or beginning of January, it is still negotiated and that at least they finished the first round.

He further stated that Dr. Arun Swamy is the President and has been active as the Vice President for 2 years prior to the negotiations, and to all the different policies they worked on being intimately engaged. He stated he does not doubt that Dr. Swamy is more than ready to step into the capacity as Faculty Union President and to see what he can do over the next 2 to 3 years.

He then stated that he hopes all will give Dr. Swamy the same support that was given to him which has been incredible, and that he appreciates it both from the administration and the Board.

Dr. Arun Swamy then addressed the Board and stated he is a political scientist and spent most of his life in academics and trying to understand how democracy can thrive in poor countries without undermining their hope for economic growth.

Board of Regents Regular Meeting Minutes of February 22, 2024

He stated that he believes passionately in the idea of the academy and the place where ideas can fill a stream of the quest for truth and make it useful. He believes in democracy, in the sense that people need to have a voice in the way that is governed, in the sense that effective leaders should solicit, hear, heed, and incorporate the concerns of their constituents in their decisions, and in the sense that institutions are stronger than leaders. He is also mindful of the constraints under which decision-makers operate, whether they're presidents of countries or presidents of universities. Poor countries have to balance investment with each other against urgent current needs, so too does the president of a cash strapped university have to be mindful of this long-term fiscal liability they understand and all they ask is they are consulted and heard, and their concerns be incorporated into the final decisions.

He added that the Charter of the University contains the following sentence.... While the authority of the Board to establish overall policy guiding the university, shall not be diminished, the implementation of the expressed policy of the Board shall be vested in both the Administrative Officers and the Faculty through the collegial instrumentalities traditional in the University affairs.

He further stated that some might think those collegial instrumentalities are relevant to the Faculty Senate, while the union is outside the parameters of shared governance. concerns only the wages or work conditions, but in practice, that is an unrivaled solution. The two-body senate and union have different roles, but they represent the same constituents, often contain the same people, and are often called upon to comment on policies. This is why the union has always played an essential role in shaping the policy.

He added during his time on the board, he has worked on numerous issues, including revising the CFES at the request of the Senate, and the policy on granting the final community voting on their behalf later today.

He stated the Faculty Union would like to work with the administration and partnering, and that it must be a two-way street, and trusts that it will.

Chairperson McKeever thanked Dr. Barber and Dr. Swamy and is looking forward to working with them.

4.0 PRESIDENT'S REPORT

President Enriquez welcomed new regents, Regent Chun and Regent Duenas and thanked them for their time and commitment. She also thanked Dr. Barber for his role in leading the Faculty Union, and Dr. Swamy as the new President of the Faculty Union Board.

President Enriquez then proceeded with her report, a copy of which is attached.

5.0 REPORTS FROM STANDING COMMITTEES

5.1 Student Affairs, Scholarship, Alumni Relations and Honorary Degree (SASARHD) Committee

5.1.1 Committee Update

Board of Regents Regular Meeting Minutes of February 22, 2024

Regent Malilay reported that the SASARHD Committee met on February 14th at 1:18 p.m. with a quorum present and presented and reviewed the proposed resolution for the Board's approval.

She stated there will be a new career priority listing for the PROTECH award, and currently, the health-related fields have priority and that surveys will be sent next month to stakeholders, including the Chamber of Commerce and other professional organizations. She added the committee will hold a public hearing and the members of the community will be able to testify and that the listing will be sent to the full board for approval before the fall semester.

5.1.2 Resolution No. 24-01, Relative to Approving the Student Financial Assistance Program FY2025 Program

Regent Malilay introduced Resolution No. 24-01 and moved to approve, which was duly seconded by Regent Leon Guerrero. She summarized the resolution explaining the purpose. The motion carried.

5.2 Academic, Personnel and Tenure Committee (AP&T) Committee

5.2.1 Committee Update

Regent Malilay reported that the AP&T Committee met on February 14th at 2:31 p.m. with a quorum present and presented and reviewed the proposed resolution for the Board's approval.

5.2.2 Resolution No. 24-02, Relative to Approving the Update to the University of Guam Policies on Compensation Guidelines for Academic Employees for Overloads, Buyouts, Close-Outs, Indirect Distribution, and Indirect Rates

Regent Malilay introduced Resolution No. 24-02 and moved to approve, which was duly seconded by Regent Naholowaa. She summarized the resolution explaining the purpose. The motion carried.

Chairperson McKeever called on Dr. Swamy to provide input on the resolution.

Dr. Swamy stated he would like to draw attention to the phrase in the third paragraph from the bottom..." the update to this policy has gone through the shared governance review process where internal stakeholders were able to provide input into this policy document"

He was happy to see it added to the original resolution when it went through the AP&T Committee because a major aspect of this shared governance review process was the Union's input in which he had a part.

He stated the Union was concerned that the initial revision to the policy that was proposed in the Admin Council did not pay enough attention to the need to give faculty an incentive to participate in grants and that there was concern primarily with getting revenue from it, but not with encouraging faculty to go out and get grants.

Board of Regents Regular Meeting Minutes of February 22, 2024

He is gratified at how well the Union's input was received and incorporated into the final resolution, although after a spirit of discussion and negotiation, and also that the Union's input is recognized by the Board as part of the shared governance process.

5.2.3 Resolution No. 24-03, Relative to Expressing Appreciation to Liza J. Provido for her Service as a Member, Vice Chairperson, and Chairperson of the Board of Regents

Regent Malilay introduced Resolution No. 24-03 and moved to approve, which was duly seconded by Regent Naholowaa. Regent Leon Guerrero expressed her appreciation on behalf of the BOR to Regent Provido for all her work and insights on the Physical Facilities Committee, which led to some of the groundbreaking that are being celebrated this year, and hopes she will be able to attend the ribbon cutting ceremony in the coming years. The motion carried.

5.2.4 Resolution No. 24-04, Relative to Expressing Appreciation to Dr. Lee S. Yudin for his Dedication and Exemplary Service in Multiple Key Roles and as the Dean of the College Natural and Applied Sciences with the University of Guam for 35 Years

Regent Malilay introduced Resolution No. 24-04 and moved to approve, which was duly seconded by Regent Leon Guerrero. Chairperson McKeever expressed her gratitude to Dr. Yudin noting he has been a pillar to the university, and that he is willing to help where he can. The motion carried.

5.2.5 Resolution No. 24-05, Relative to Awarding Emeritus Professor of Entomology Status to Dr. Aubrey Moore

Regent Malilay introduced Resolution No. 24-05 and moved to approve, which was duly seconded by Regent Naholowaa. She summarized the resolution explaining the purpose and highlighting his service and accomplishments. The motion carried.

5.2.6 Resolution No. 24-06, Relative to Amending the Negotiated Agreement by and Between the Board of Regents of the University of Guam and the UOG Faculty Union, American Federation of Teachers, Local 6282 December 1, 2018 – February 29, 2024

Regent Malilay introduced Resolution No. 24-06 and moved to approve, which was duly seconded by Regent Naholowaa.

Dr. Arun Swamy stated that he wants the BOR to draw attention to 2 key phrases, 1st, paragraph 4, "the UOG Administration and the Faculty Union have appointed their respective negotiating committees to negotiate a new agreement, but these negotiations have become protracted". He stated the statement is not accurate, noting the negotiating committees concluded their negotiations on December 28th and sent a negotiated agreement to the senior administration and the Union Board.

He stated the Union Board concluded its review and submitted comments and the recommended changes to the Administration negotiating team in January, however, they still don't have any set of recommendations from the senior Administration which has been promised to them. They do have a legal analysis from UOG's General Counsel, which their attorney has

Board of Regents Regular Meeting Minutes of February 22, 2024

largely refuted a report he is happy to share with the board if it wishes. but they still have no proposed changes to respond much less negotiate over, which is the only reason for this delay.

The 2nd phrase occurs in the next paragraph “despite a good faith effort to complete the new agreement before the February 29, 2024 deadline”. He added that he met with their attorney, and on his advice would like to express his reservation against this phrase. This statement may not be accurate.

He further stated the Union wishes to place on record that they believe there may be grounds. there may be prima facie grounds to charge the administration with negotiating in bad faith. This charge would be especially strong if the Administration introduces new legal claims against longstanding provisions of previous agreements or demands changes it did not seek during negotiations. He is hopeful it will not come to that but wishes to place on record on the advice of their attorney that they reserve the right to file an unfair labor practice charge based on the administration's negotiating impact.

General Counsel Camacho stated he disagreed with many of the statements that Dr. Swamy, made, and he stated that the amendments to the the agreement the Union was seeking violate the Public Employee Management Relations Act. He added that their attorney can have a different opinion, but would have to prove them in a labor proceeding, and that in such proceeding, General Counsel Camacho expressed his confidence that UOG would prevail.

He also stated that the majority of the amendments to the agreement are fine and it's only several of them that have these issues, and that the Board has the right to deny proposed amendments that violate the Public Employee Management Relations Act, and that should the agreement expire without a resolution of those issues, the agreement requires proceedings with the amendments that UOG and the Union agree on, and submitting the amendments there is disagreement on to binding arbitration.

He further stated that if the revised agreement is approved at this meeting, it would amend. Article 12.E of the existing agreement by extending the agreement's term to May 1, 2024, or until the new agreement is approved by the Board of Regents at it's April, 2024 meeting.

Regent Malilay responded by stating that we still need to have some negotiations and that this is not the time for disagreements. She requested that they proceed with the resolution, which is just extending the agreement to May 1, 2024, and calls for a vote.

Dr. Swamy stated he did sign the document that amends the agreement and that he did read very carefully the resolution before the BOR that it is in the resolution where he found phrases and that he would not have signed had his signature been required. He added the document that he did sign did not contain the phrases.

Chairperson McKeever called for the vote. All voted in favor. The motion carried.

5.3 Physical Facilities Committee

5.3.1 Committee Update

Board of Regents Regular Meeting Minutes of February 22, 2024

Regent Naholowaa reported that the Physical Facilities Committee met on February 14th at 4 p.m. in the President's Conference Room with a quorum present. However, there were no resolutions for action.

He reported on the USEDAs projects stating that the Water and the Environmental Research Institute (WERI) and the School of Health (SOH) Annex grading permit was received and that the grading will begin end of this month. The building permit for WERI is 60% completed and SOH is 30%, and both buildings are to be constructed by the same contractor with the target completion scheduled for February 2025.

He stated that Siemens project is coming to an end and that operational cost savings have surpassed Siemens's guarantee, and additional data will be provided to the committee at the next meeting.

He added that the School of Business and Public Administration (SBPA) & School of Education building controls are complete. The newly installed building controls will allow building managers to manage room temperatures and cut lights in areas with no occupants, thus making the SBPA building a "SMART Building".

He then provided a brief update on the Typhoon Mawar repairs and insurance claims, Safety and Security, IT Infrastructure, and other ongoing projects.

5.4 Investment Committee

5.4.1 Committee Update

Regent Leon Guerrero reported that the Investment Committee met on February 15th at 1:30 p.m. via zoom and in the President's Conference Room with a quorum present.

She reported that Vanisha Sharma was introduced as the new President of the Triton Investment Club and made opening comments about how thankful they are to have the opportunity to get real life experience in managing investments. She discussed categories of investments they would like to explore in the coming year such as construction, automobiles, and financial institutions.

She reported that Daniel Ramos from the Triton Investment Club provided an update on the funds managed. The fund balance has increased from a low of \$34,000 to over \$49,000, and as of February 15th, the fund has grown to \$51,000 surpassing the original balance of \$50,000.

She reported that Jason Miyashita of Raymond James and Associates gave an overall update on the markets, noting the markets have been doing great for the last few months. Raymond James is forecasting the S&P 500 to be at 4850 by the end of the year, and that they are still expecting a mild recession and are expecting the 10-year interest rate to get down to 3.5%. They are anticipating two rate cuts and those are anticipated closer to the summer months of June or July, and the dollar is also expected to weaken throughout the year.

She reported that Amanda Gima of Raymond James and Associates gave the portfolio update stating all investments did very well for the period ending December 31, 2023, and that we ended the year at \$27M with a 14% overall return. For the first quarter, the portfolio is up to \$27.3M, performing better than the benchmarks. For private equity, Blackstone - made their last capital call and are beginning the distribution phase. They have already returned 11% for four

Board of Regents Regular Meeting Minutes of February 22, 2024

years annualized and we are expecting those returns to continue to grow. Amanda Gima also went on to review the Conservatively Managed Portfolio. From an initial investment of \$4.28M beginning April 28, 2023, the fund has grown to \$4.5M for a return of just under 5%. Although performance shows less than the benchmark, RJA is confident given the fact that this is a less risky portfolio.

In closing, she added that also discussed was the expiration of the RJA contract and that the Committee voted unanimously to act on the first of two, one-year extensions. She also noted that there will be changes to committee assignments and that this would be her last meeting as the Investment Committee Chair and to make way for newly confirmed Regent Duenas.

5.5 Budget, Finance, and Audit (BFA) Committee

Regent Naholowaa reported that the BFA Committee met on February 15th at 3 p.m. and a quorum was present and presented and reviewed the proposed resolution for the Board's approval.

5.5.1 Financial Update

He reported that the Department of Administration has been continuing to provide allotments on a timely basis.

He reported Comptroller Martin explained that the cause of the shortfalls was the fact that we were able to utilize some Higher Education Emergency Relief Funds (HEERF) to offset budget reductions from the government. However, for Fiscal Year 2024, the HEERF funds have been used up and the University didn't receive additional funding from the government to offset the loss of the funds.

He reported that the change in net position for the quarter ending 12/31/23 is a gain of \$6.6M and that Comptroller Martin cautioned that the first quarter of the year is hard to gauge since there is a lag in getting October expenses started and December expenses are not accrued so the first quarter always looks better than it is. He added that Comptroller Martin explained the differences in the balance sheet are due mostly to reclassifications made by the auditors and the fact that the HEERF money has now been spent.

He stated that a question arose as to what the University is doing to increase revenues and that Acting President Santos-Bamba explained that there are some initiatives in place to increase tuition revenues this year and are trying to identify non-traditional cohorts and bring them back to the University. He added that she stated the University is also working to try and get a share of the Manpower Development Fund which houses application fees for H-2 workers.

He reported VPAF Wiegand advised that the audit is nearing completion and that an issue has arisen that the UOG Endowment Foundation has not yet secured an auditor.

He stated that ABAPO Cubacub reviewed the budget to actual report and concluded that the University is close to being on target with its budget projections.

5.5.2 Collections Report

He reported that Associate Comptroller/Bursar Flores stated that we are slightly under the collections target and that we have a lot of years left to catch up

5.5.3 Procurement Transactions and Contracts Report

He reported VPAF Wiegand stated that most of the contracts are pass-through transactions and the items were to replace the doors of the Field House which were damaged by the typhoon, the annual security contract with G4S, and a project to improve cabling at the HSS and EC buildings which will enable the University to achieve savings through a VOIP communication system.

He added that VPAF Wiegand stated that the Siemen's project is about 98% done and is targeting completion by the end of March.

5.5.4 Resolution No. 24-07, Relative to Approving the FY2025 General Operations Budget and Special Appropriations Budgets

Regent Naholowaa introduced Resolution No. 24-07 and moved to approve, which was duly seconded by Regent Chun. He summarized the resolution explaining the purpose. The motion carried.

5.6 Executive Committee

5.6.1 Resolution No. 24-08, Relative to Approving the University of Guam Board of Regents' Third Amendment Bylaws

Regent Naholowaa introduced Resolution No. 24-08 and moved to approve, which was duly seconded by Regent Chun.

General Counsel Camacho stated that in June, 2023, the Board of Regents amended its bylaws to have indemnification for the Regents and UOG's Officers who are charged with crimes under certain circumstances, and that this amendment was authorized by 18 G.C.A. §28822(a), which states that a corporation shall have the power to indemnify any person who was, or who is, a party, or is threatened to be made a party to any threatened pending or completed action suit for proceeding, whether civil, criminal, and administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that the person is or was a director, officer, employee, or agent of the corporation, against expenses, including attorneys' fees, judgements, fines, and amounts paid in settlement actually, and reasonably incurred by the person in connection with such action, suit, or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful.

He added that the language of the bylaw amendment closely mirrored the language of that statute. He also stated, that the Guam Supreme Court, in *In Re Camacho*, 2006 Guam 5, ¶41, clearly stated that in the exercise of the business powers of a public corporation, the public corporation may lawfully exercise these powers in the same way and will be governed by the same rules which control a private individual or a business corporation under like circumstances.

He stated the Attorney General claimed that there was no statute to justify the criminal indemnification in the amended bylaws, and at the last meeting despite the very clear statutory language authorizing the amendment to the bylaws, we had agreed to cooperate with them,

Board of Regents Regular Meeting Minutes of February 22, 2024

and we agreed to remove those portions of the amendment that we copied from 18 GCA. §28822(a), and that the current amended bylaws does not contain that language. The motion carried.

6.0 AD HOC REPORT: ENDOWMENT FOUNDATION UPDATE

Katrina Perez, Executive Director, provided the BOR with an update on the UOGEF projects and events. A copy of the update is attached.

7.0 OPEN PRESENTATION (3 Minute Limit per Person)

Chairperson McKeever opened the floor for open presentations. There were no presentations.

8.0 EXECUTIVE SESSION

Regent Naholowaa motioned to move to Executive Session, which was duly seconded by Regent Duenas. The motion carried. The Executive Session commenced at 6:41 p.m.

8.1 Recommendation for Tenure for Dr. Yong Sang Kim, Associate Professor of Water Engineering, Water & Environmental Research Institute of the Western Pacific

The Executive Session ended at 6:59 p.m.

9.0 VOTING FILE

9.1 Recommendation for Tenure for Dr. Yong Sang Kim, Associate Professor of Water Engineering, Water & Environmental Research Institute of the Western Pacific

Regent Naholowaa moved to approve the recommendation for Tenure for Dr. Yong Sang Kim, which was duly seconded by Regent Malilay. The motion carried.

10.0 ADJOURNMENT

Regent Chun moved that the meeting be adjourned, which was duly seconded by Regent Duenas. The motion carried. Chairperson McKeever adjourned the meeting at 7:00 p.m., CHamoru Standard Time.



Sandra H. McKeever, Chairperson

ATTESTED:



Anita Borja Enriquez, D.B.A., Executive Secretary