Chair Lee Putnam called the meeting to order at 9:30 a.m. on Thursday, October 18, 2018, at University of Hawai‘i at Mānoa, Information Technology Building, 1st Floor Conference Room 105A/B, 2520 Correa Road, Honolulu, Hawai‘i 96822.

Quorum (13): Chair Lee Putnam; Vice Chair Jeffrey Portnoy; Vice Chair Wayne Higaki; Regent Simeon Acoba; Regent Brandon Marc Higa; Regent Ben Kudo; Regent Michael McEnerney; Regent Randy Moore; Regent Douglas Shinsato; Regent Jan Sullivan; Regent Michelle Tagorda; Regent Ernest Wilson Jr.; and Regent Stanford Yuen.

Excused (1): Regent Eugene Bal.

Others in attendance: President/Interim UH-Mānoa (UHM) Chancellor David Lassner; Vice President for Administration Jan Gouveia; Vice President for Community Colleges John Morton; Vice President for Legal Affairs/University General Counsel Carrie Okinaga; Vice President for Academic Planning and Policy Donald Straney; Vice President for Research and Innovation Vassilis Syrmos; Vice President for Information Technology/Chief Information Officer Garret Yoshimi; Vice President for Budget and Finance/Chief Financial Officer Kalbert Young; Interim UH-Hilo (UHH) Chancellor Marcia Sakai; UH-West O‘ahu (UHWO) Chancellor Maenette Benham; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

II. PUBLIC COMMENT PERIOD

Board Secretary Oishi announced that the Board Office received written testimony from John Char, Creighton Litton, Steven Hobbs, Richard Zeebe, Elizabeth Simon, Dustin Kawamura, and Richard Batad offering comments related to proposed UHM parking rates; written testimony in opposition to the proposed UHM parking rates from Airi Morita, Nicole Clare Hortizuela, Kacie Manabe, Daniel Manzano, Megan Bunda, Takuya Wise, Richard Choi, Madison Casey, Kaitlyn Nomura, Evan Iwanaga, Arenson Kaizawa, Elaine Nakahashi, Malani Kane Kuahiwinui, Sheena Carmela Juliano, William Ardourel, Chinwendu Amadi, Kylie Gentle, Eileen Roco, Michelle Luu, Aileen Ballesteros, Alexandra Meek, David Enriquez, President of the Associated Students of the University of Hawai‘i (ASUH) Jannah Lyn Dela Cruz, and Andrew Kalani Simeona; and late written testimony in opposition to the proposed UHM parking rates from
Nicholas Reyes, Catharine Creadick, Sylvia Nguyen, Kira Beltran, Cody Dunham, and Glaidel Calamayan. Written testimony in support of the proposed UHM parking rates was received from Brianne Tengan. Written testimony was received from Luella Nohea Crutcher and late written testimony was received from Kamana’opono Crabbe on behalf of the Office of Hawaiian Affairs (OHA) offering comments related to the proposed administrative rules pertaining to Maunakea. The Ka Lahui Hawai‘i Political Action Committee submitted written testimony in opposition of the proposed administrative rules pertaining to Maunakea.

The following provided oral testimony:

1. Oral testimony was provided by Jacob Wruck, UHM student; Carolyn Stephenson, UHM faculty; Andrew Kalani Simeona, ASUH Vice President and UH Student Caucus Secretary; and Jonathan Valdez, President of the UH Graduate Student Organization (GSO), in opposition to the proposed UHM parking rates.

2. Oral testimony was provided by Cheryl Burghardt; Andrew Kalani Simeona; Melinda Healani Sonoda-Pale on behalf of Ka Lāhui Hawai‘i Political Action Committee; Candace Fujikane, UHM English Professor; Bianca Isaki from KAHEA: The Hawaiian-Environmental Alliance; Shelley Muneoka; and Hannah Liebreich, Advocacy Chair of GSO in opposition to the proposed Hawai‘i Administrative Rules (HARs) pertaining to Maunakea.

III. REPORT OF THE PRESIDENT

President Lassner provided a report highlighting the following:

- UHWO received a $638,100 grant from the Office of Naval Research to create the Veterans Empowered through a science, technology, engineering, and mathematics (STEM) program called VETS. The grant will directly support student veterans and promote the transition of veterans into STEM-related career fields. This program is similar to the UHM Veterans to Energy Careers (VTEC) program that guides veterans into careers in the sustainable energy industry.

- UH participated in the Gallup-Purdue Index, which surveyed approximately 90,000 UH graduates from across the System on measures of well-being such as employment, sense of purpose, social relationships, financial security, and relationship to community, with results benchmarked against other higher education institutions. UH scored at or higher than the national average on all measures except for financial security, which could be attributable to the high cost of living in Hawai‘i and depressed salaries. The survey also looks at what is happening on college campuses that contribute to these measures such as mentors, and whether professors care about students and excite them about learning. The theory of this survey is that the college students attend is not as important as their experiences. The results, which vary by campus, were very thought-provoking and will be shared with all the chancellors.

21st Century Facilities (21CF)
Neither of the two photovoltaic (PV) developers under consideration for the Hawaiian Electric Company (HECO) request for proposals to develop up to a 180 megawatt PV farm on UHWO lands was selected by HECO. HECO is expected to commence a second solicitation in six to eight months, and one developer has expressed interest in using the UHWO mauka lands. Administration has plans to utilize the mauka lands to advance sustainability for the state and for the university and the goal is to seek Public Utilities Commission approval for a green tariff by the end of the year. This initiative would allow UH to generate PV power on UHWO lands and feed that power into HECO’s grid. HECO would deliver the same amount of PV energy produced to UH campuses on O’ahu at a reduced rate.

**High Performance Mission-Driven System (HPMS)**

The Listening Observatory for Hawaiian Ecosystems at UHH was awarded a grant from the Disney Conservation Fund to support efforts to restore the endangered ‘alalā into the native environment. This is an example of the university’s work on sustainability and indigenous studies coming together.

**Report of the Host Campus**

Interim UHM Chancellor Lassner provided a report on UHM and its role within the UH System and the state as one of only several universities in the country that are a land-grant, sea-grant, space-grant, and sun-grant university; and shared the results of the system performance funding metrics and efforts and strategies to address underperforming areas. He noted that this was a good year for enrollment, with the largest first-year class in campus history, and shared enrollment highlights, retention rates, and graduation rates. Recruitment and retention plans include the expansion of the Hanai Mentor Program; mentorship is one of the items of note from the Gallup Survey mentioned in the President’s report. External assistance will be used to help with recruitment efforts. Research awards and highlights; financial stabilization efforts and results; the commitment to unique missions; a UHM solar PV update; progress toward becoming a Native Hawaiian Place of Learning; newly created virtual institutes; examples of strategic faculty recruitments; organizational changes under consideration; and the UHM Campus Framework for the Future Plan were also reviewed. With regard to the proposed reorganization of the UHM campus, it was noted that the fundamental structure is still intact and that external consultants will help with areas of focus.

UHM Faculty Senate (UHMFS) Chair Brian Powell noted that UHM is the Hawai‘i engine for innovation and highlighted some of the research and work by faculty and students on issues and events of statewide impact such as the Kīlauea eruption, recent hurricanes, and human impacts on Hawai‘i’s reefs. He also highlighted the efforts undertaken by the Hawai‘i Graduation Initiative (HGI) and the impact it has had over the past several years. Although HGI has caused enrollment numbers to decline, it outweighs students spending more time in school than necessary and accumulating student debt. The number of faculty during this time period has dropped by 10%.
Dr. Powell indicated there was a lot of interest in the administrative reorganization over the past 15 months, with faculty being involved in discussions this past year. The current position of the UHMFS has not changed from February 2018, when the UHMFS approved a resolution supporting the recombination of the System President and UHM Chancellor positions. The UHMFS remains open to recombining these positions, but will not have an official position until they have time to review the details of the proposal.

Dr. Powell noted that the reorganization contains some good ideas, but there is concern that it may not address the issues with middle management (e.g., deans, directors), which the UHMFS considers to be one of the larger problems at UHM. He noted that there are too many deans and directors and that the reduction in student semester hours and other budgetary constraints have exacerbated the silo mentality of UHM. There have been reports of deans discouraging faculty from participating in various initiatives because of a zero-sum calculus mentality regarding the budgets. This affects faculty retention because there is a disincentive to be innovative since it can be perceived as a threat by others.

IV. COMMITTEE REPORTS

A. Report from the Committee on Independent Audit

Committee Chair McEnerney summarized the committee report. He noted concern regarding the process for having students sign the release form that allows the university to contact parents or guardians regarding outstanding student accounts receivables. The committee was informed that the forms were part of the registration and financial aid process, but he had personally found out later that was not the case. There is a disconnect between what the university is saying it is doing and what is actually being done, and this situation needs to be further reviewed.

B. Report from the Committee on Intercollegiate Athletics

Committee Chair Portnoy summarized the committee report.

Regent Yuen shared his experience accompanying the UH men’s basketball team during their Australian tour in August. Aside from doing well on the court, he was impressed with the players’ behavior off the court. They are responsible young men that are focused on life and how they can contribute to the community. This is a quality team that we can all be proud of.

C. Report from the Committee on Planning and Facilities

Committee Chair Yuen summarized the committee report.

Regent Sullivan stated for the record that she made the motion to defer approval of the proposed UHM parking rates during the October 3, 2018, Planning and Facilities (P&F) Committee meeting because she wanted clarification on the procedure for graduate student parking rates, the disproportionate parking rates for motorcycles and mopeds, and the current financials on the parking revolving fund and the anticipated pro forma financials associated with the proposed rate.
increase and debt service. She also expressed that there should be a holistic transportation commuter study that expands beyond the issue of parking.

Regent Sullivan also clarified for the record that she and Regent Wilson voted no on the UHH adult student housing (ASH) lease amendment.

P&F Committee Vice Chair Acoba noted that the committee requested the information on the proposed parking rates and the UHH ASH lease extension items from VP Gouveia during the committee meeting. The committee did not make a recommendation to the board regarding approval of the proposed parking rates. Consultants reported on safety and health concerns of the parking facility, for which the board is responsible. The only way to legally finance improvements and repairs to the parking facility would be through the special fund, under which parking is required to be self-sufficient. Rather than addressing the approximate $100 million of repairs recommended in the consultant’s report, the proposal was to float $35 million in revenue bonds to address the most pressing needs. The committee could not reach a decision and deferred to the board chair to determine whether the issue should stay with the committee or move to the board agenda.

P&F Committee Vice Chair Acoba noted that administration indicated that UHH ASH is the only facility on the UHH campus that provides student family housing and that the university does not have the expertise to manage this type of housing. Administration requested to extend the existing lease for an additional 5 years to provide UHH the opportunity to determine other options. Similar issues were raised in the past and there may have been opportunities to explore alternative uses for that property.

Chair Putnam indicated that she had discussions with VP Gouveia and the UHM commuter services team that developed the parking proposals, who assured her that the proposal would be revised based on feedback from the committee.

On a point of order, Regent Sullivan indicated she was only trying to add to the record since minutes of the meeting are not available, and was not trying to get into the merits of the proposal.

Chair Putnam indicated that she cast the deciding vote during the P&F committee on the UHH ASH agenda item because the vote was divided, so she felt the issue should come to the full Board for action, rather than dying in committee.

D. Report from the Committee on Research & Innovation

   Committee Chair Sullivan summarized the committee report. No additional comments or questions from the board were raised.

E. Affiliate Reports
UH Student Caucus (UHSC): Regent Higa reported that the UHSC elections for 2018-2019 executive board were held and the new officers are as follows: Christielove Espinosa, chair; Kevianna Adams, vice chair; Andrew Kalani Simeona, secretary; and Danny Arase, treasurer. The next meeting is scheduled for November 3, 2018, at WinCC.

Research Corporation of the University of Hawai‘i (RCUH): Regent Moore reported that Dr. Sylvia Yuen, Executive Director of RCUH, was nominated for the American Savings Bank Business Leader of the Year award. The winner will be announced at the Pacific Business News’ Leadership Hawai‘i Dinner on November 1, 2018. He noted that Jay Shidler, a major philanthropist and supporter of the University of Hawai‘i, will be the Career Achievement honoree at the same event.

UH Foundation (UHF): Chair Putnam reported that she attended a UHF board meeting on September 26, 2018, and that Dr. Makena Coffman, Director of the Institute for Sustainability and Resilience at UHM, gave a presentation on the university’s efforts relating to sustainability.

Regent Sullivan reported that she was invited to give a presentation at the American Council of Trustees and Alumni (ACTA) ATHENA Roundtable Conference last week in Washington, D.C. The event focuses on discussing “first principles in higher education leadership,” and safeguarding values and accessibility to higher education was one of this year’s themes. Mitch Daniels, the former Governor of Indiana and current President of Purdue received the annual leadership award, and in April 2018 President Daniels announced an unprecedented 7th straight year of tuition freezes at Purdue, a public institution in Indiana.

Regent Sullivan noted that the national stage has been following UH’s experiences with tuition, including the cuts triggered during the great recession, the rapid year-upon-year increases in tuition, and the action to hold tuition flat in 2017. Achieving financial stability was difficult for the campuses, and it is easier to increase tuition than to restrict spending, exercise discipline in controlling position counts, and work to improve graduation rates and articulation. UH is considered to be a good example of a board and institution that has controlled tuition and exercised fiscal prudence. It is her hope that we will continue to be a good example and continue to keep tuition costs stable as the university is doing a much better job than many other public institutions in the nation. UH needs to stay focused on providing affordable education, which is an important challenge facing universities nationwide.

Vice Chair Portnoy reported that he recently attended the Hawai‘i Executive Conference in Kona, which brings together CEOs of the major corporations and businesses in Hawai‘i, and academic and non-profit leaders. There were two panel discussions on education and various opportunities for individual discussions with community leaders. UH’s importance to the state is universally recognized. He was impressed by comments made from leaders regarding their
commitment to UH. There was a session on UH athletics and discussion on continuing funding athletics in the future. Business leaders understood that there needs to be a tremendous effort by the philanthropic business community in order to maintain necessary competitive programs.

V. ITEMS FOR DISCUSSION AND/OR APPROVAL

A. For Action Consent Agenda

1. Approval of the Minutes of the September 20, 2018 Meeting
2. Approval to Indemnify Geiseinger Clinic for a Data Use Agreement with the University of Hawai‘i

Regent Wilson moved to approve the consent agenda, seconded by Regent Moore, and the motion carried unanimously.

The board went into recess at 11:20 a.m., and the meeting resumed at 11:28 a.m.

B. For Action

1. Approval of the University of Hawai‘i at Hilo Adult Student Housing Lease Amendment

VP Gouveia provided an overview of the proposed UHH ASH 5-year lease extension that included information on the various housing available at UHH; background information on ASH and the agreement; estimated repairs needed for the Hale Kawili (HK) apartments to keep it operational for the next five years; UHH’s goal of maintaining their student housing inventory without additional cost to UHH and options considered for the property once the lease expires June 30, 2019; application of the six criteria in Regents Policy (RP) 10.201, Interests in Real Property, to administration’s recommendation to extend the lease with ASH for 5 years; and long-term considerations for the property. She noted that administration is requesting a five-year extension to an existing ground lease that has been in effect since the early 1970s. This is one of the few university facilities that is open to families of students.

Regent Kudo arrived at 11:39 a.m.

Chair Putnam clarified that the administration is requesting: (1) Authorization for the University to enter into the Fifth Amendment, consistent with the terms described in the action memo, which would extend the ASH lease for an additional five-year period (from July 1, 2019, through June 30, 2024) during which time ASH Hawaii will be obligated to complete the improvements and repairs listed herein; and (2) Authorization for the VP of Administration, in consultation with the UHH Interim Chancellor, to negotiate, finalize, and execute the Fifth Amendment to the ASH lease, consistent with the terms described in the action memo, and finalize and execute such other documents, and take such other actions, as the VP for Administration, in consultation with the UHH Interim Chancellor, may deem necessary or appropriate in connection with the Fifth Amendment.
Regent Wilson moved to approve the UHH ASH lease amendment, seconded by Regent Moore.

Questions were raised regarding why so many repairs were needed if the developer maintaining the property in good condition; whether the list of repairs completed by ASH was reviewed; and whether Chancellor Sakai was confident that the developer had maintained the property in good condition. VP Gouveia explained that the $4 million in repairs is UHH’s estimated cost of doing the repairs to meet code requirements; it is not clear how much it would cost ASH to make those repairs utilizing its own staff. Chancellor Sakai indicated that the only items on the list of proposed minimum repairs that are required are replacing smoke detectors and outlets, and that the other items were to be done on an “as needed” basis. UHH requires routine reporting on the property and has not received any complaints from tenants, so they are confident that ASH has maintained the property in good condition.

A question was raised regarding the ongoing repair costs, if any, after the $4 million in initial necessary repairs, and how administration would ensure that ASH will keep up with the maintenance of the property. VP Gouveia explained that 92% of tenants responded to a recent survey and there was no indication of issues requiring immediate attention. There is no information available on ASH’s actual return on investment for the HK apartments or whether the property is being subsidized by other properties that ASH owns on the mainland.

Regent Sullivan thanked administration for their efforts on this proposal. She explained why she voted against the proposal at the P&F Committee meeting. She explained that in 1972, a 41-year lease was entered into with ASH to build the development, and in exchange, ASH kept the revenue stream. An 18-month extension of the lease was approved by the board in 2012 in order for administration to determine what to do with the property. A 5-year extension was approved by the board in 2014 in order for administration to determine what to do with the property. There was a similar list of $2 million in improvements that were supposed to be made, and she is not sure if ASH was contractually held to the expenses. Administration is now requesting another 5-year extension, which is equivalent to a 52-year lease, for the same reasons previously stated. When the lease expires, UHH will own the buildings, and the nature of the relationship has changed to a management agreement.

Regent Sullivan indicated that the Board of Land and Natural Resources (BLNR) did something similar for many years, which was eventually identified as being a poor management practice for public lands. She expressed concerns about whether the process by which the university is proposing to extend the lease is consistent with the State procurement process. She does not think another five years is necessary for administration to determine how to proceed and does not believe that the only other option is to shut down the HK apartments and leave the tenants without housing.

Regent Wilson indicated that he voted against the lease extension as well because he believes the investors have already capitalized on their investment and other options need to be explored. He questioned whether ASH would be required to make the necessary repairs. VP Gouveia responded that ASH would be required to make the
repairs. She did not know how many other property managers would be willing to take
over the facility and make the necessary repairs given that the housing rates are below
Housing and Urban Development rates. The tenants in these apartments are lower-
income and could not afford to pay higher rates.

Vice Chair Portnoy commented that bringing forth the proposal without any
alternatives was not fair to the regents as the issue has been known for years and has
come up repeatedly, yet has not been addressed. He also expressed concerns
regarding risk management issues, and indicated his preference for a lease with
specific requirements and timetable for repairs, as well as a complete inventory of all
health, safety, and livability repairs.

Questions were raised regarding whether the rents were frozen for five years and
whether there was a unit-by-unit inventory of repairs and timeline for completion. VP
Gouveia explained the proposed rate structure includes annual increases. There is a
unit-by-unit list of needed repairs, but no specific date by which the repairs must be
made. The proposal was brought forward early, so there is still time to wind down
operations. UHH has no intent or desire to take over the property and this arrangement
was the desired business model for managing this facility at the time of the initial
agreement.

Regent Moore concurred with Regent Sullivan and Regent Portnoy, but indicated
that he would vote to approve this action. He indicated that the motion is to allow the
administration to enter into negotiations and an agreement, although he noted that
administration is not required to make a deal and he hoped they would not make a deal.
He pointed out that all the repairs listed were something a landlord would typically take
care of on an as-needed basis or when the apartment is turned over to a new tenant;
the repairs would not be done all at once within the first six months. He did not
understand why UHH could not take over the HK apartments when it currently operates
other student housing units. VP Gouveia explained that the other housing units have a
different pricing structure, are not apartment-style, and tenants do not stay year-round.
Chancellor Sakai indicated that if UHH were to take over the units, the personnel costs
would be significantly higher because the positions in housing are funded through
special funds instead of general funds and that it would also be difficult to fund repairs.

Regent Yuen agreed that it is unfair to put regents in this situation, but indicated he
would recommend approval and urged the administration to ensure this type of situation
does not occur in the future.

Regent Acoba noted that the consequences of turning down the proposal would add
to the housing problems in Hilo by displacing students and their families. Administration
would be compelled to either unload the property or hire additional staff to support the
property. He did not think UHH was unreasonable because they had updated the board
regarding the situation. He questioned the economic conditions in Hilo, because there
was insufficient interest to the 2014 request for proposals. The 2011 study and updated
2018 market study also reaffirmed poor market conditions. He indicated that the board
should support the students and the Hilo community, and trust the judgment of UHH.
Regent Kudo asked whether ASH fronted the money to build the development. He indicated that P3 projects are normally turned over to the lessor to operate and maintain at the end of the lease unless agreed to otherwise, and that it is problematic if ASH is not properly maintaining the property. He recommended that administration revisit options and recommendations for the board. VP Gouveia explained that the developer financed the project and obtained a lease to recover some of their costs. This project is similar to the military housing model, where non-core missions such as housing are outsourced to a third party. She indicated that if the university is going to pursue P3 projects, it would be helpful to know what the board’s intent and position is regarding the disposition of a project after the P3 relationship has ended.

There having been a motion that was moved and seconded, the motion was put to a vote and carried with Regent Kudo, Regent McEnerney, Vice Chair Portnoy, Regent Sullivan, and Regent Wilson voting no.

Vice Chair Higaki clarified that administration is being authorized to enter into negotiations that may or may not be successful. President Lassner responded that the expectation is that administration would not come back to the board.

2. Approval of the University of Hawai‘i at Mānoa Parking Rates

VP Gouveia provided an overview of the proposed UHM monthly parking rates and intended use of the revenues; information on Commuter Services and its programs; parking revenues and expenditures; UHM parking inventory; short-term challenges and proposed solutions; rate methodology; comparable monthly parking rates; historical background; and long-term challenges. She noted that the board approved public hearings for parking rate increases twice in the last seven years, but public hearings did not commence and rate increases did not occur.

President Lassner indicated this was an extraordinarily difficult process and he appreciated input from the community and testifiers, and the resolution from the UHMFS. The parking issue needs to be resolved before there is a health and safety crisis. The board previously approved an increase and the Governor at that time declined to allow UH to hold a public hearing. The process for parking rate increases is now under the purview of the Board of Regents. He noted that there are about 5,000 parking users and everyone has an interpretation under which they should pay less and others should pay more. He committed to setting up a task force of stakeholders to review the proposed rate structure and propose recommendations. He requested the board approve the proposed parking rates as presented, and if the task force can find a way to restructure the rates then a revised proposal would be presented to the board.

A question was raised regarding whether the proposal underestimated the cost of improvements.

Regent Higa acknowledged the testimony from students expressing concern about costs and the overall effect a parking rate increase will have on the cost of attendance. He noted that students might be willing to pay more if they see value, and asked if it was possible for administration to provide assurances that students would not be
charged to ride the Rainbow Shuttle and alternative sources of transportation if the board proceeds with approving the proposed parking rate increases.

There was agreement that the task force was a good idea. Several regents expressed opinions that the board should not be involved in parking rate increases and that administration and the campus should determine parking rates.

Regent Acoba expressed concerns that the proposal does not address the lack of parking spaces and it does not appear that enough options were explored on how to reduce the burden on individuals who require the use of parking facilities. He suggested the possibility of dividing improvements into two parts: one to lessen the initial burden on parking users, and another to extend interest payments on the revenue bond into the future.

Regent Tagorda raised the issue of equity with regard to the determination of parking rates and supports the President’s idea of a task force.

Regent Sullivan noted that the formation of a task force should have occurred before the proposal was brought to the board. She disagreed with the belief that the board should not be involved in this matter because the proposed rate schedule is connected to a $35 million bond issuance. She expressed concerns regarding Commuter Services financials and the rationale for raising $2.78 million per year for debt service when Commuter Services netted $1.13 million in fiscal year 2018. The biggest issue is the lack of a modern transportation commuter plan that incentivizes individuals who use alternative forms of transportation and considers transportation initiatives for the entire campus. She requested that administration consider having the Institute for Sustainability and Resilience review the plan holistically. Regent Sullivan made a motion to defer the UHM parking permit fee increase and Regent Tagorda seconded the motion.

Regent Moore indicated he would vote against the motion to defer because there was no opposition in testimony with regard to making improvements to facilities for health and safety reasons. Rate increases will not impact current students because they will be gone before full implementation and future students will know the rates before they come to UHM.

There having been a motion to defer action that was moved and seconded, the motion was put to a vote with Vice Chair Higaki, Regent McEnerney, Regent Moore, Regent Wilson, and Regent Yuen voting against the motion to defer, and Regent Kudo and Vice Chair Portnoy abstaining. The motion failed to carry.

Chair Putnam restated the recommendation for the board to approve an amendment to RP 10.207, Parking and Operation of Motor Vehicles, Attachment 1, to implement a six-year increase to the parking permit fee schedule for the University of Hawai‘i at Mānoa campus.

Regent Kudo made a motion to approve the proposed UHM parking rates with the requirement that president form a task group and initiate a holistic transportation
management plan, Regent Wilson seconded, and the motion carried with Regent Acoba abstaining based on concerns stated earlier.

The board went into recess at 1:15 p.m., and the meeting resumed at 1:26 p.m.

3. Approval of Administration’s recommendation, based on testimony received during the public hearings process, to draft revisions to specific provisions in the proposed chapter 20-26, Hawai‘i Administrative Rules, entitled “Public and Commercial Activities on Mauna Kea Lands”, and to return to the Board of Regents for approval of the new draft prior to a second round of public hearings

Interim Chancellor Sakai, on behalf of the Office of Maunakea Management (OMKM), requested that the board approve administration’s recommendation to amend specific provisions in the proposed Chapter 20-26, Hawai‘i Administrative Rules (HAR), taking into consideration the public testimony received as part of the rulemaking process under Chapter 91, Hawai‘i Revised Statutes (HRS), and to consult with appropriate stakeholders on any amended or revised rules pursuant to Act 132, Session Laws of Hawai‘i 2009, and make changes as appropriate. Any substantial proposed revisions to Chapter 20-26, HAR, will be presented to the board for approval prior to a second round of public hearings.

Interim Chancellor Sakai provided background information on the development of the rules and the rule-making process; scope and application of the proposed rules; an overview of the public hearings and focus of the testimony, including preliminary contemplated revisions; and next steps related to further proposed amendments, including the consultation process. She noted that written testimonies and transcripts of oral testimony were attached to the memo and made available on the board’s website. The action memo identifies the areas of focus from the public testimony for potential further revision, including traditional and customary practices; the preservation of scientific and educational resources; vehicles and transportation; audio devices and noise; permits for public assemblies and meetings; violations, penalties, costs, administrative fines, sanctions, and collection; and delegation framework. Other sections of the rules may be affected by amendments to these sections.

Interim Chancellor Sakai noted that prior to developing the first draft of the proposed rules, there were a series of consultations dating back to before 2014, primarily through open houses and numerous public outreach sessions held by OMKM. Separate consultations were held with OHA, Department of Land and Natural Resources (DLNR), Kahu Kū Mauna, and the Maunakea Management Board.

Interim Chancellor Sakai indicated that the scope of the rules were limited to UH-managed lands on Maunakea and seek to manage public and commercial activities on those lands. Consistent with the administrative rules of the DLNR Forest Reserve System and Natural Area Reserves System, these rules would regulate activities such as littering, hunting, camping, and commercial activities focused on transportation. She added that the rules regulate activities and not land use.
Chair Putnam recognized Regent Acoba, Regent Moore, and Vice Chair Portnoy for serving as hearings officers, and the individuals involved in preparing the draft rules.

Regent Wilson moved to approve the university administration’s recommendation, based on testimony received during the public hearings process, to draft revisions to specific provisions in the proposed Chapter 20-26, HAR, entitled “Public and Commercial Activities on Mauna Kea Lands”, and to return to the Board for approval of the new draft prior to a second round of public hearings, Vice Chair Higaki seconded.

Regent Moore commented that some of the speakers had specific concerns and valid points that have been reflected in the report including freedom of assembly, freedom of religion, concerns regarding who makes the determination whether specific behavior is in violation, and that some of the proposed rules do not appear to be relevant to the protection of the mountain.

Regent Moore indicated that it appeared that the proposed rules were written from the perspective of prohibiting undesirable behaviors rather than undesirable outcomes. With the exception of addressing specific interference with operations of the telescopes, he questioned why the regulations for Maunakea should be any different from Mauna Loa or Haleakala. It will be impossible to determine who is a cultural practitioner, or refute the claim of someone who asserts they are one. Even those with the strongest beliefs of the right to access for cultural practice would agree that unrestrained public access to fragile cultural sites would be detrimental and needs to be regulated. He suggested that recognized cultural practitioners should determine appropriate or inappropriate behavior for cultural practitioners. He is encouraged that the university is willing to revisit the rules and suggested that individuals make specific recommendations for language changes, rather than general statements that they do not like the language.

Regent Kudo suggested that the “traditional and customary practices” of Native Hawaiian sections of the proposed rules be removed because it is not the purview or expertise of the board to determine what is or is not a legitimate “traditional and customary” practice. He also suggested that the university should not be involved with issuing permits other than for commercial activities on Maunakea. For other activities, the university should consider having visitors sign in or register for emergency purposes and execute liability waivers rather than having UH issue permits. He expressed that the rules should be developed in stages, with the initial phase addressing minimal and basic protections and needs, followed later by more specific rules as needed.

Regent Acoba commented that the proposed rules should prohibit acts that would be harmful to people or natural resources, and should not be about regulating items such as cell phones, flashlights, and camping equipment. He noted questions worthy of consideration that were raised at the public hearings regarding the president’s “designee” and proposals to appoint neutral parties that are not affiliated with the university. Regent Acoba indicated that he recused himself from the Maunakea case, but the court said that each agency has a duty to enforce any affirmative obligations of the State under the Constitution. The Constitution protects the exercise of traditional
customs and practices, so the university should view the rules from the perspective of protecting the exercise of these customs and practices instead of trying to regulate them.

Regent Sullivan suggested that the university consider bifurcating the rules to address commercial tour activities as a priority because there is universal agreement that is necessary to properly protect the mountain. She was impressed by the depth of thought shared in some of the testimony. The university should find a more collaborative approach to discuss customary and traditional access because the public hearing process is not conducive for those discussions.

There having been a motion that was moved and seconded, the motion was put to a vote and carried unanimously.

C. For Information and/or Discussion

1. Update on University of Hawai‘i at Mānoa Campus Framework for the Future

President Lassner introduced Nate Goore of MKThink who performed the UHM space inventory and is also helping administration to re-envision the physical UHM campus.

Mr. Goore provided an update on the UHM campus framework for the future that included an overview of the planning process, key inputs, guiding principles, planning objectives, and next steps.

A question was raised whether the methodology included timelines for latency implementation to medium utilization and high utilization. Mr. Goore responded that the forecasting has theoretical targets, with stages identified along the way to recognize what is possible at certain points in time and take into consideration things that cannot be changed.

Chair Putnam indicated that the board looked forward to future updates from MKThink.

VI. EXECUTIVE SESSION

Upon motion by Regent Tagorda, seconded by Regent Yuen, the board unanimously approved convening in executive session to consider the hire, evaluation, dismissal, or discipline of an officer or employee, where consideration of matters affecting privacy will be involved, pursuant to Section 92-5(a)(2), HRS; and to consult with the board’s attorneys on questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities, pursuant to Section 92-5(a)(4), HRS.

The meeting recessed at 2:20 p.m. and reconvened at 2:46 p.m.

VII. ITEMS FOR DISCUSSION AND/OR APPROVAL

A. Items for Approval (continued)
Chair Putnam noted that the board went into executive session to discuss personnel matters as indicated on the agenda.

Vice Chair Portnoy requested clarification that the $395,000 salary was to compensate David Lassner for his role as president only. Chair Putnam responded that the $395,000 did not include additional compensation for David Lassner’s role as interim UHM chancellor as he indicated that he was not seeking additional compensation for serving in that role.

Regent Moore moved to approve the personnel actions on Attachment A-1, seconded by Regent Wilson, and the motion carried with Regent Kudo and Regent Sullivan abstaining.

IX. ANNOUNCEMENTS

Chair Putnam announced the next board meeting is on November 15, 2018, at Honolulu Community College.

X. ADJOURNMENT

There being no further business, Regent Moore moved to adjourn, and Regent Higaki seconded, and with unanimous approval, the meeting was adjourned at 2:48 p.m.

Respectfully Submitted,

Kendra Oishi
Executive Administrator and Secretary
of the Board of Regents