

MINUTES

SPECIAL BOARD OF REGENTS MEETING

FEBRUARY 22, 2018

I. CALL TO ORDER

Chair Jan Sullivan called the meeting to order at 11:14 a.m. on Thursday, February 22, 2018, at the University of Hawai'i at Hilo, 'Imiloa Astronomy Center of Hawai'i, Moanahoku Hall, 600 'Imiloa Place, Hilo, HI 96720

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

Excused (2): Regent Eugene Bal; Regent Norma Doctor Sparks

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

Chair Sullivan thanked the 'Imiloa Astronomy Center ('Imiloa) staff for accommodating the special board meeting today as it is a very fitting place to have a discussion regarding Maunakea. She explained that word 'Imiloa means the pursuit of new knowledge and one who explores, and is about venturing into the unknown, bringing back new knowledge, and sharing discoveries, which is the mission to which Ka'iu Kimura, Executive Director of 'Imiloa, has dedicated her life's work. She provided some history and background on the creation of 'Imiloa, which was meant to be an effort to bring a conflicted community together on issues of science and culture, and address how and whether the world's premier telescopes could co-exist with indigenous cultural practices on a site considered sacred. As an early and passionate proponent of this vision, the late Senator Daniel K. Inouye facilitated a \$28 million grant to build a center that would bridge economy and culture in a way that was meant to inspire Hawai'i's children, ground them in their culture, and seek out careers in science.

'Imiloa opened in 2006, and Ms. Kimura was hired and eventually promoted to Executive Director in 2010. In her capacity as Executive Director, Ms. Kimura has led

the center in building collaborations to build research, while promoting the application of indigenous world views to science teaching & learning. Chair Sullivan introduced and yielded the floor to Ms. Kimura.

Ms. Kimura, on behalf of the center staff and volunteers, welcomed everyone to the center. She explained that Hawaiians have always been scientists, eager to explore the natural world around them, and is innate to who they are, and noted that in Hawaiian, the word 'Imiloa defines this value of exploration. The center was explicitly designed to integrate indigenous Hawaiian perspective and modern science through education delivered to the local and global communities. Much of the center's vision is owed to the founding supporters of the late Senator Inouye and the community at large. Senator Inouye implicitly understood the need to work together through open communication, and, where necessary, compromise, to allow for continued scientific exploration and discovery, in a way that inspires and engages Hawai'i's youth. Ms. Kimura described the evolution of the relationship between the cultural and scientific communities of Hawai'i Island, shifting from a struggle to superficial collaboration to integration and even co-creation. Tangible evidence of this was the invention of 200 new Hawaiian words to explain modern, astronomical discoveries. Even as recent as a few short months ago, the center worked together with Ka Haka 'Ula O Ke'elikōlani to name a major discovery of both Haleakala and Maunakea, an object that entered our solar system from deep space which is now recognized internationally as 'oumuamua, which means "a messenger or scout from the distant past." 'Imiloa has served over one million people in its 12 years of existence through interactive exhibits, planetarium productions, engaging educational programs, and local and international partnerships. Having grown up on the slopes of Maunakea, Ms. Kimura has always understood the significance of Maunakea – Ka Piko Kaulana O Ka 'Āina – the piko, the culture, and the history of Hawai'i. Maunakea is regarded as the umbilicus for the people of Wakea, the main progenitor of our islands, the core and the lifeline connecting us to who we are as Hawai'i and as a community. 'Imiloa was intentionally placed at the piko or the center of this campus to serve as a connector between UHH and the community. 'Imiloa considers itself one of the university's finest examples of public and private partnership, and even as it works tirelessly to grow the public funding which it is privileged to receive from the community, the hope is that 'Imiloa can continue to count on the university to leverage this investment with the critical core support that will allow 'Imiloa to amplify what it started, and to continue to serve the community through these challenging times.

II. REMARKS BY HAWAI'I ISLAND MAYOR HARRY KIM

Chair Sullivan introduced and gave some background on Hawai'i Island Mayor Kim. She noted that she personally has found Mayor Kim to be a very thoughtful, passionate, sincere, and ardent supporter for the people of his island and for the future of Hawai'i. She thanked Mayor Kim for taking the time to sit patiently today, attend the board meeting, and share what she knows are his very heart-felt views on Maunakea with the board. Chair Sullivan then yielded the floor to Mayor Kim.

Mayor Harry Kim thanked the board for the opportunity to share his mission for Hawai'i and vision for Maunakea.

His mission for Hawai'i was the protection and preservation of the historical and cultural specialness of this land, the most precious and beautiful place on God's earth. Regarding his vision for Maunakea, Mayor Kim believes a central theme should be of the Native Hawaiians' exploration of the ocean to the discoveries of the universe. Hawaiians understood how the world was connected from the mountain to the sea, and explored the ocean and learned about the heavens to guide them. They believed that this majestic mountain is the earth's connecting point to the rest of the universe. This is about the mountain being part of their soul. Mayor Kim further expressed his vision:

- Maunakea to be a symbol of nations working together for the pursuit of peace and harmony, a beacon of hope and discovery for the world. This is not just about science, it is about combining culture and science. It is about respect and caring. This is about the mountain bringing people together.
- Maunakea to be a quest for knowledge to make us a better people and better stewards of this world. Maunakea to be a symbol of Native Hawaiian heritage and the inseparability of nature and culture. Maunakea to be recognized as one of the world's natural and cultural treasures.
- Maunakea to be a recognition of a harmony that grew out of a painful history of intrusions upon the First Nation of Hawai'i that today finds a diverse, respectful community remarkable to the world, and the Cosmopolitan people of the world.
- Maunakea to be a model of science and of culture, (past and present) going forward. Maunakea to be an opportunity for Hawai'i to be the center of discovery of the universe. Maunakea to be a model of how the people of the world can live together in harmony.

In order to make this happen, Mayor Kim talked about convening a core group representing different interests and expertise to provide direction and guidance on the following initiatives:

- Review and organize the management authority to implement the vision.
- Establish Maunakea as a national and international monument of global significance.
- Create educational programs that feature the special characteristics of Maunakea – in astronomy, geology, and biology. These programs would combine science and culture for na keiki and na kupuna for learning, and also for the sheer joy and excitement of discovery.
- Create a major cultural center and gathering place that will acknowledge the history and contributions of Native Hawaiians.
- Participate in national and international efforts to integrate culture and nature in heritage protection and interpretation, with Hawai'i taking the lead in this movement.

Mayor Kim indicated that he had held discussions with the Office of Hawaiian Affairs, Kamehameha Schools, community groups, and other individuals and hoped to talk to many others as he believed we were on a threshold of changes that began 10 to 15

years ago.

III. PUBLIC COMMENT PERIOD

Executive Administrator and Secretary to the Board Kendra Oishi announced that the Board Office received written testimony from Noelani Paresa offering comments related to Maunakea; MeleLani Llanes offering comments related to Maunakea; Hannah Liebreich offering comments related to the reappointment of leadership to the Maunakea Management Board, the financial management audit of Maunakea activities, and a Graduate Student Organization (GSO) resolution relating to Mauna a Wakea; and Cory Harden offering comments related to the resolution for financial management audit of Maunakea activities.

The following provided oral testimony:

1. Cory Harden, provided oral testimony summarizing late written testimony expressing concern over the past mismanagement of Maunakea and requesting a forensic financial audit by the State Office of the Auditor, and listing the entities and issues that should be covered.
2. Richard Ha provided oral testimony regarding the inadequate accommodation of the Hawaiian culture on Maunakea, the need for a cultural center located above the clouds, the good work done by the Office of Maunakea Management over the years, and supporting an audit to provide a common frame of reference of understanding. Mr. Ha submitted written testimony following the meeting.
3. Kepa provided oral testimony regarding the need for a forensic audit to be performed by an external entity; the bulldozing of an ahu located on Maunakea, Maunakea being a Hawai'i national monument and the pu'uhonua, not a park; the need for aloha, respect and equal dialog with Hawai'i Nationals; the \$1 per year rent being inadequate; and Public Law 103-150 and the need for reconciliation to be on the table.
4. N.O. Kapaole provided oral testimony regarding how none of the installations on Maunakea belonged to the Native Hawaiian people; the need to recognize Hawai'i Nationals; and the need to protect sacred places.
5. Hannah Liebreich, Vice President of UHM GSO, provided oral testimony summarizing late written testimony with the attachment of a resolution approved by GSO on August 24, 2017, in support of formalizing student input in UH's decision-making regarding Mauna a Wākea.
6. Kimo Keli'i Ka'aha'aina Pihana, the first retired ranger of Maunakea, provided oral testimony regarding his role in creating the stewardship program on Maunakea; concerns over the proposed development of Maunakea he discussed with the Office of Maunakea Management in 2008; his involvement with programs and issues concerning Maunakea over the years; the sacredness of Maunakea; and the need for better stewardship and awareness of the culture.

7. Doug Simons, Executive Director of the Canada-France-Hawai'i Telescope, provided oral testimony in full support of Mayor Kim's vision for Maunakea.

Chair Sullivan thanked Ms. Kimura, Mayor Kim, and everyone who came to testify for the very respectful sharing of different viewpoints.

IV. MAUNAKEA

At the request of Chair Sullivan, Greg Chun, Chair of the Maunakea Management Board (MKMB) introduced the following MKMB members who were seated in the audience: Herring Kalua and Doug Simons, and ex-officio members Regents Higaki and Kudo. He expressed his appreciation for the time and effort these volunteers had put in on behalf of Maunakea first, and UH second.

A. Review & Approval

1. Reappointment of Gregory Chun, Herring Kalua, and Gregory R. Mooers to the Maunakea Management Board

Interim UHH Chancellor Sakai requested the approval of the reappointment of Gregory Chun, Herring Kalua, and Gregory R. Mooes to the MKMB, and explained that this was a housekeeping request to bring current members up-to-date. She added that a future request will come before the board no later than June 2018 to appoint new members to become effective July 1, 2018.

Regent Wilson moved to approve the reappointment of Gregory Chun, Herring Kalua, and Gregory R. Mooers to the MKMB, seconded by Regent Higaki, and the motion carried unanimously. Chair Sullivan thanked the MKMB members for their service.

2. Resolution Requesting Financial Management Audit of Maunakea Activities

Vice Chair Kudo introduced the draft resolution and explained that this resolution is requesting, in conjunction with administration, that the Office of Internal Audit conduct a financial management audit of Maunakea activities. The time is appropriate for the board to proactively review this in light of the public concerns and controversy surrounding Maunakea. In order to not duplicate the efforts of the legislation requesting the Office of the State Auditor perform a forensic audit of Maunakea activities, the board is requesting a financial management audit. Hopefully the audit will yield recommendations, issues, problems, and weaknesses that can be improved upon in better serving the mountain and its constituents.

Regent McEnerney, chair of the Committee on Independent Audit, explained that a forensic audit is the purview of a certified fraud auditor, and the proposed financial management audit is not designed to uncover fraud, but any fraud that is uncovered will be noted. Lost opportunity costs are not the purview of an auditor, but are the purview of a fraud auditor and an economic analysis by an economist.

Discussions held regarding concerns about having the Office of Internal Audit perform the audit as opposed to an independent, outside entity so results cannot be challenged on the basis of bias. Vice Chair Kudo explained that the Office of Internal Audit could contract with an external auditor due to the specialized skillset required for this audit. The Committee on Independent Audit would oversee the progress of this work and ensure stakeholders that the work being done is purely for improvement purposes and any issues that arise can be acted upon to improve management of Maunakea.

Additional discussion ensued regarding adding clarifying language about utilizing an independent, external auditor to the resolution. A concern was raised about the additional specific language reading like a requirement, which would result in request for proposals and delay the start of the audit process. It was noted that the Committee on Independent Audit has authority without further board approval to engage with an external auditor and other experts where appropriate, so it was not necessary to add language to the resolution. President Lassner indicated that the Internal Auditor has the capability to help administration understand the complex finances surrounding the entities involved in the management of Maunakea.

It was clarified that this was a board-introduced resolution, and not an administrative resolution.

An additional concern was raised regarding this resolution mentioning objectively studying concerns raised by the public and properly addressing those concerns, and how having either the internal auditor or an external auditor paid for by the university conduct the audit could convey the impression of internal influence, so it might be best that an external entity not connected with the university, such as the State Auditor or an external auditor appointed, hired, and supervised by the Legislature, conduct the audit.

Regent McEnerney clarified that the internal auditor reports directly to the Committee on Independent Audit, and the committee advises and directs the internal auditor regarding what work is to be done. Regardless of whether the resolution is approved, the committee is going to ask the internal auditor to make a presentation of an audit program for Maunakea to the board and amend the internal audit work plan accordingly to include this work. The resolution provides additional incentive to get the work done.

Vice Chair Kudo clarified that the Committee on Independent Audit was established by the Legislature to be as independent as possible. The chair of the Committee on Independent Audit is elected by the members of the committee as opposed to being appointed by the board chair. With all the bills at the Legislature dealing with Maunakea, this resolution is timely and appropriate way for the board to take the initiative to address the issue and get a better understanding of the university's Maunakea-related activities.

Discussion ensued regarding whether the scope of the audit was intended for an external or internal audience and if the Office of Internal Audit was the appropriate entity

to look at something that seemed to be more externally-focused. It was noted that universities around the country are outsourcing these sorts of investigations, and perhaps outsourcing would be better in this instance because the findings would not be challenged as biased. An additional comment was made that if the purpose of the audit was internal evaluation, introspection, and guidance, then a resolution was not necessary. With the national coverage on Maunakea, the number of hearings in Hilo, and the international aspects of this issue, it would be hard to treat this resolution as purely internal given the effect it has beyond the Committee on Independent Audit, so perhaps the State Auditor is the best to perform the audit given its history and experience with Maunakea.

Chair Sullivan clarified that the board was trying to address this issue in a timely manner. The State Auditor is capable of performing a thorough audit, but the timeliness of what they are able to do is a function of how they operate. The timetable in the resolution was intentionally aggressive in order to get something done sooner rather than later. This is also a measure requesting transparency in understanding how the funds flow among the entities managing Maunakea for the benefit of the board, administration, and the public.

Vice Chair Moore moved to approve the resolution requesting financial management audit of Maunakea activities, seconded by Regent Wilson, and the motion carried with Regent Acoba and Regent Portnoy abstaining.

B. For Information & Discussion

1. Background & Current Activity on Maunakea-related issues

Greg Chun, Chair of the Maunakea Management Board (MKMB), indicated he had been engaging with Mayor Kim since October 2017 on the evolution of his vision and the work he is trying to pursue, and can vouch that Mayor Kim is a man of honor with good intentions, and what was shared today reflected something that he feels very strongly about. He commended Mayor Kim for the work he is trying to pursue. Mr. Chun explained that the information being provided today is the effort of many individuals including the Office of Maunakea Management (OMKM) staff, MKMB, Kahu Kū Mauna, the Institute for Astronomy, Office of General Counsel, and UH Spokesperson Dan Meisenzahl and his team. The progress made on these initiatives would not have been possible without everybody's input. An update was provided on the following: proposed Conservation District Use Application (CDUA) infrastructure improvements at the Visitor Information Station (VIS) and timeline; the new land authorization Environmental Impact Statement Preparation Notice (EISPN) study (i.e., previously referred to as the master lease), three alternatives they want to explore, options they are asking the Board of Land and Natural Resources (BLNR) to consider; and process the EIPSN has undergone to date.

Mr. Chun provided some background and status on the Maunakea Comprehensive Management Plan Administrative Rules and indicated that the Administrative Rules are one of the major items that has been noted as outstanding in the state audit of UH's

management of Maunakea, and something MKMB takes seriously and is moving forward with. Even without Administrative Rules in place, through collaboration with the Department of Land and Natural Resources (DLNR), OMKM has been able to address some of the more major concerns the rules are intended to address. At a January 26, 2018, BLNR meeting, two unpermitted operators were issued fines for their activities, an effort which came about through close collaboration between rangers, Maunakea Support Services staff, and the Division of Conservation and Resources (DOCARE) and DLNR personnel. OMKM is actively engaged in agency consultation, particularly the Office of Hawaiian Affairs, on update draft rules.

He also provided an update on the decommissioning efforts at Caltech Submillimeter Observatory and Hōkukea.

VP Young provided a presentation on measures related to Maunakea that UH is tracking at the Legislature and status of the legislation to date. He also provided explanations of the legislative deadlines.

A question was raised regarding the significance of Senate Bill No. 3090, S.D. 1, excluding Maunakea lands from the definition of “public lands.” VP Young explained that the perspective was to try and create some jurisdictional authority for the proposed new authority that is separate from the current statutes that the BLNR utilizes to govern state lands.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

There being no further business, Vice Chair Moore moved to adjourn, and Regent Higa seconded, and with unanimous approval, the meeting was adjourned at 1:17 p.m.

Respectfully Submitted,

/S/

Kendra Oishi
Executive Administrator and Secretary
to the Board of Regents