

**MINUTES**  
**BOARD OF REGENTS MEETING**  
**JUNE 7, 2018**

**I. CALL TO ORDER**

Chair Jan Sullivan called the meeting to order at 9:30 a.m. on Thursday, June 7, 2018, at Sullivan Conference Center, University of Hawai'i Cancer Center, 701 Ilalo Street, Honolulu, Hawai'i 96813.

Quorum (14): Chair Jan Sullivan; Vice Chair Ben Kudo; Vice Chair Randy Moore; Regent Simeon Acoba; Regent Eugene Bal; 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.

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; UH-Maui College (UHMC) Chancellor Lui Hokoana; UHM Vice Chancellor for Research/Interim Vice Chancellor for Academic Affairs Michael Bruno; Leeward Community College (LeeCC) Chancellor Manual Cabral; Kaua'i Community College (KauCC) Chancellor Helen Cox; Windward Community College (WinCC) Chancellor Douglas Dykstra; Honolulu Community College (HonCC) Chancellor Erika Lacro; Kapi'olani Community College (KapCC) Chancellor Louise Pagotto; Executive Administrator and Secretary of the Board of Regents Kendra Oishi; and others as noted.

**II. PUBLIC COMMENT PERIOD**

Executive Administrator and Secretary of the Board Kendra Oishi announced that the Board Office received written testimony as follows:

- The 2017 - 2018 and 2018 - 2019 Associated Students of KapCC-Student Congress (ASKCC), KapCC Board of Student Publications, and KapCC Board of Student Activities submitted testimony in support of implementing a student fee to provide all KapCC students with a U-Pass for TheBus.
- The Department of Land and Natural Resources (DLNR), Mike Miyahira, Roberta Chu, Gordon Takaki, Thayne Currie, Mary Begier, and Sylvia Dahlby submitted testimony in support of requesting the Governor's approval to allow the University to hold public hearings regarding Chapter 20-26, Hawai'i Administrative Rules

(HAR), related to “Public and Commercial Activities on Maunakea Lands” (“Proposed HARs”).

- Candace Fujikane, Shelley Muneoka, Deborah Ward, Katherine Achacoso, and Shannon Rudolph submitted testimony in opposition to authorizing the request for the Governor’s approval to hold public hearings regarding the proposed HARs.
- The Office of Hawaiian Affairs and Clarence Ching offered comments regarding the proposed HARs.
- Christine Sorensen Irvine, Chair of UHM Faculty Senate Executive Committee (UHMFSEC) submitted testimony providing an update on UHM initiatives that may result in reorganization proposals, reexamination of the General Education curriculum in the coming year, shared governance and the role of the System in curricular matters, and new UHMFSEC members.

The following provided oral testimony:

1. Wayne Tanaka, Office of Hawaiian Affairs (OHA), provided oral testimony summarizing the written testimony from OHA regarding concerns over the proposed HARs related to Maunakea and urging the board to provide further opportunities for input and to incorporate or otherwise address OHA’s concerns, prior to initiating the formal rulemaking process.
2. Current ASKCC-Student Congress members Ismael Salameh, Raiyan Rafid, Kezzo Jet Pacanuayan, and incoming ASKCC-Student Congress members Allyson Villanueva, Russia Famorca, and Griffin Jiroudek provided oral testimony summarizing their written testimony in support of the \$40 U-Pass fee for KapCC students.
3. Candace Fujikane, UHM English Professor, provided oral testimony summarizing her written testimony regarding concerns related to the proposed HARs and requesting the board not authorize the request for the Governor’s approval to allow the university to hold public hearings.
4. Additional oral testimony was provided regarding concerns related to the proposed HARs and opposing the request for Governor’s approval to allow the university to hold public hearings from Bianca Isaki from KAHEA: The Hawaiian-Environmental Alliance; Laulani Teale, Coordinator for the Ho’opae Pono Peace Project; and Natalie Santiago.

Chair Sullivan and President Lassner thanked everyone who provided testimony to the board.

### **III. REPORT OF THE PRESIDENT**

President Lassner started by thanking UHCC for hosting the board meeting and then provided a report highlighting the following:

- An update on Kīlauea activities and eruption impact; the role of UHH and UHM scientists in assisting with eruption response and vog modeling; utilization of UHH facilities to assist Hawai'i Volcanoes National Park; and the integral role UHH faculty and students have in civil defense activities. The biggest issue is the impact on faculty, students, staff, and the community, with UHH and HawCC campuses reaching out to offer eruption assistance that included establishing a fund to help students with housing, gas, and food.

Chair Sullivan noted that she had requested Board Secretary Oishi reach out to regents regarding donations to the fund and encouraged all regents to participate. Regent Wilson shared his personal experience with Hurricane Katrina and the outpouring of support he and his wife received, and why he feels so strongly about providing support to those suffering as a result of the eruption.

- An update on the DLNR Mānoa stream project to mitigate flooding which had caused concern among residents in faculty housing and the surrounding community. It was noted that the sediment beds would be relocated to a parking lot across from Mānoa Library. President Lassner recognized VP Young and VP Gouveia for their efforts in working with DLNR, faculty housing residents, and the contractor on a workable solution.
- Japan's Prince Akishino and Princess Kiko are visiting the UHM campus as part of the 150<sup>th</sup> anniversary of the arrival of the first Japanese immigrants to Hawai'i and will be attending an event at the Queen Lili'uokalani Center and touring Lyon Arboretum and the Ka Papa Lo'i 'o Kānewai.

#### Hawai'i Graduation Initiative (HGI)

- This was the first year a significant number of high school students graduated with associate degrees from community colleges before receiving their high school diplomas. LeeCC Chancellor Cabral was recognized for his work with Waipahu High School, which set the bar for early college success. In addition to Waipahu High School, there were also students from Waianae High School and Waiakea High School who received associate degrees.
- To date, enrollment at UH System and all four major units is up over last year, with UHWO having the greatest percentage increase, followed by UHH.

#### Hawai'i Innovation Initiative (HII)

- To date, extramural dollars are up over last year, with UHM being up 5% over the last fiscal year.
- The partnership between the University of Hawai'i's Pacific Disaster Center (PDC) and Kaazing to commercialize DisasterAWARE Enterprise, a new software system developed by PDC that extends life-saving technology to businesses worldwide. UH will receive a portion of the revenue and this is an example of how the university is working to commercialize its intellectual property (IP), and hopefully getting

broader usage of the software system to help prevent the impact of disasters and save lives.

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

- An update on the UH Hilo chancellor search. The Search Advisory Committee was unable to reach contract terms with the initial search firm, and is in the process of working with a second search firm that has previously accepted UH contract terms. The committee will be working over the summer, with the goal of having campus visits in the fall, and a new chancellor by spring. He thanked Interim Chancellor Sakai for agreeing to continue serving until a new chancellor is hired.
- An update on the UH Mānoa reorganization. A design team worked this past spring on restructuring the offices of the vice chancellors and some of the offices that report to the vice chancellors, with the focus being the administrative structure. Two public forums were held during the last academic year regarding the proposed reorganization and input and concerns were received. The committee will continue working over the summer and expect to consult with collective bargaining units over a formal reorganization proposal in the fall.

A design team is also looking at the structure of the College of Languages, Linguistics and Literature; College of Arts and Humanities; and the School of Pacific and Asian Studies to create a dynamic that will infuse Asia-Pacific influence into the arts and humanities across the campus, with the goal of bringing forth a formal proposal for robust consultation in the fall. Another design team is looking at merging the School of Travel Industry Management (TIM) and Shidler College of Business, which is an opportunity to strengthen the TIM programs and restore the school to one of the top TIM schools in the nation.

- A recent trip to Beijing and Taipei included attending the 120<sup>th</sup> anniversary celebration of Peking University. A hula group made up of UH students and advisors from WinCC and UHWO was the only international group invited to perform at the function. The trip also included participating in a seminar and signing several agreements with partners at the Beijing Foreign Studies University; meeting with sponsors of the UH Confucius Institute, which is among the most successful in the country; and an alumni reception held in Beijing with over 70 attendees.

President Lassner noted that the tenure and promotion (T&P) actions were included in the materials for transparency and information purposes only. No action is requested because T&P actions were delegated to the president last year. The board previously requested a report on the costs of T&P, and VP Gouveia, VP Straney, and their teams worked hard on this report. The T&P cost is about \$1.5 million across the system, the retirements and separations that occurred during the last academic year total approximately \$40 million, and the replacement hires during the last academic year total approximately \$30 million. The amounts will vary by year, but in a typical year, the total cost for promotions is more than covered by the differential between the retirements and separations that occur and the projected replacement hires.

President Lassner ended by sharing recent leadership appointments including a new Dean of Hawai'iuniākea, a UHWO Associate Vice Chancellor for Academic Affairs, a HonCC Vice Chancellor for Academic Affairs, a new KapCC Chancellor, a new System Director of Research Compliance, and an interim LeeCC Chancellor.

#### **IV. COMMITTEE & AFFILIATE REPORTS**

- A. Report from the Committee on Academic and Student Affairs**
- B. Report from the Committee on Budget and Finance**
- C. Report from the Committee on Independent Audit**
- D. Report from the Committee on Intercollegiate Athletics**
- E. Report from the Committee on Personnel Affairs & Board Governance**
- F. Report from the Committee on Planning and Facilities**
- G. Report from the Committee on Research and Innovation**

Chair Sullivan requested committee chairs forego reading the committee reports and instead accept the summaries in the materials for the committee meetings that took place. Vice Chair Moore thanked Board Secretary Oishi and staff for preparing pithy, clear, concise, and easy to understand reports.

#### **H. Affiliate Reports**

Mauna Kea Management Board (MKMB): Vice Chair Kudo gave a verbal report on the recent MKMB meeting at which four cultural resource policies were passed that addressed building ahu or stacking of rock, scattering of ashes, and other religious and traditional customary practices of Native Hawaiians on Maunakea. These policies were developed by Kahu Kū Mauna, a volunteer community-based council from the Native Hawaiian community that advises the MKMB, the Office of Maunakea Management (OMKM), and the UHH Chancellor on Hawaiian cultural matters affecting the Maunakea Science Reserve.

#### **V. ITEMS FOR DISCUSSION AND/OR APPROVAL**

##### **A. For Action Consent Agenda**

- 1. Minutes of the April 19, 2018 Meeting**
- 2. Implement a Mandatory Student Fee to Provide All Kapi'olani Community College Students With a U-Pass for TheBus**
- 3. Acceptance of Community College Institutional Self-Evaluation Reports**
- 4. Program Approvals:**
  - a. Degree Change: Re-designate the established Associate in Arts in Teaching (A.A.T.) Degree as an established Associate in Science in Teaching (A.S.T.) Degree at Leeward Community College**
  - b. Degree Change: Re-designate the established Bachelor of Arts (B.A.) in Chemistry Degree as an established Bachelor of Science (B.S.) Degree in Chemistry at the University of Hawai'i at Hilo**
- 5. Approval of Extension of Fossil Fuel-Free mandate Deadline to June 30, 2019**
- 6. Approval of Resolution Supporting Moratorium on Square Footage Growth**
- 7. Approval of Intercollegiate Athletics Committee Goals**

8. **Policy Approvals:**
  - a. **Regents Policy 9.202, Classification Plans and Compensation Schedules**
  - b. **Regents Policy 9.218, Delegation of Personnel Actions**
  - c. **New Regents Policy 2.207, Policy on Political Activity**
  - d. **Revisions to Regents Policy 2.204, Policy on Board Self-Evaluation**
9. **Approval to Indemnify University of Texas Medical Branch at Galveston (UTMB Health) for a Material Transfer Agreement (MTA) with the University of Hawai'i at Mānoa, John A. Burns School of Medicine**
10. **Approval to Indemnify Children's Hospital of Philadelphia (CHOP) and Children's Oncology Group (COG) for a Material Transfer Agreement (MTA) with the University of Hawai'i at Hilo, College of Pharmacy**

Vice Chair Moore moved to approve the consent agenda, seconded by Regent Wilson. There was a request to separate out Item V.A.6. and there were no objections. Vice Chair Moore amended the motion to approve the consent agenda except for Item V.A.6., Regent Wilson seconded, and the amended motion carried unanimously.

**6. Approval of Resolution Supporting Moratorium on Square Footage Growth**

Questions were raised regarding whether the term “square footage” in the resolution referred to new construction on an existing building, or the total square footage for the campus. It was clarified that it is in reference to a net increase in building square footage on a campus.

Additional discussion was held regarding the redundancy of the first BE IT FURTHER RESOLVED paragraph, which includes language that requires new construction proposals to be accompanied by a proposal to remove an equal or greater amount of space to achieve net-zero square footage growth, which appears redundant to the previous paragraph.

Regent Acoba moved to adopt the resolution with the following amendments: (1) by replacing the words “building or buildings” with “total campus” square footage in the NOW, THEREFORE, BE IT RESOLVED paragraph; and (2) delete the first BE IT FURTHER RESOLVED paragraph; Vice Chair Kudo seconded the motion and the motion carried unanimously.

**B. For Information and/or Discussion**

Chair Sullivan noted that President Lassner will be giving the update on Maunakea stewardship and the item will be moved to coincide with Item V.C.4. regarding the proposed HARs related to Maunakea.

1. **Report of the Permitted Interaction Group “PIG” for Board Participation in the Community Colleges Accreditation Institutional Self-Evaluation Report “ISER” (information only)**

Vice Chair Moore explained that this PIG was formed by the board on February 23, 2017. Standard IV.C. of the accreditation standards contains 13 specific standard areas that are directly related to the governing board, one of which requires the board to be

involved in discussions regarding the board's compliance in meeting the accreditation standards. The PIG was formed to fulfill the board participation requirement. The PIG has five members: Vice Chair Moore serves as chair, and Academic & Student Affairs Vice Chair Putnam, Hawai'i County Regent Higaki, Maui County Regent Wilson, and Honolulu County Regent Acoba serve as members.

The PIG held two meetings, engaged in online review of draft accreditation materials, and held discussions with the six college ISER review teams. PIG members provided counsel and recommendations to administration regarding all aspect of the self-evaluation for Standard IV.C. and all feedback and recommendations were incorporated into or were addressed in the final ISER reports compiled by the campuses. It was determined that the board met all of the thirteen standards within Section IV.C. The ISER reports were presented to the Committee on Academic and Student Affairs on May 18, 2018. The final report will be presented for approval at the next board meeting, at which time the PIG will be dissolved.

## **2. Annual Report of the Independent Audit Committee**

Committee Chair McEnerney explained this annual report was a statutory requirement. The draft of this plan was reviewed during the May committee meeting and is being formally transmitted to the board today. The report includes the committee's charter, role, and membership, items discussed at each committee meeting, and a report on audit results from the Office of Internal Audit.

## **3. Appointment of Board Members as Liaisons**

Chair Sullivan noted that regents currently serve on the following affiliates: Association of Community College Trustees, the Career and Technical Education Advisory Council, Maunakea Management Board, P-20 Council, Research Corporation of the University of Hawai'i, University Health Partners of Hawai'i, and UH Foundation. Discussions were held regarding adding two additional appointments: (1) to participate in the All Campus Council of Faculty Senate Chairs (ACCFSC) by attending meetings and allowing for more interaction and updates from faculty on a regular basis; and (2) a request from Dean Hedges of the John A. Burns School of Medicine (JABSOM) to participate in the Dean's Council to keep updated on JABSOM issues and current events, and provide a better connection with the board.

Questions and comments were raised regarding the student regent's role with UH Student Caucus. There was agreement on formalizing the student regent's role as a liaison to the UH Student Caucus, and appointing a regent or regent(s) as a liaison with the ACCFSC because such an appointment was in alignment with the principles of shared governance.

Concerns were raised regarding the proposal to appoint a liaison to the JABSOM Dean's Council; specifically regarding appointing a regent to serve on one dean's council over others. Some regents were in favor of increasing participation because it provides the opportunity to delve into the substance of issues outside of policymaking, and other regents felt it could be perceived as circumventing the organizational structure that is currently in place and interfering with management. Consensus was

not reached regarding the appointment of a regent to the JABSOM Dean's Council, but the request seems to indicate some concern about communication or consultation that the board needs to take into consideration.

The new board chair will decide on the formal appointment of the student regent's role with UH Student Caucus and the liaison with the ACCFSC.

**C. For Action**

- 2. Approval to Request the Governor's Final Approval of Repeal of Hawai'i Administrative Rules, Title 20:**
  - a. Chapter 2, "Statement on Rights and Responsibilities of the University of Hawai'i Community"**
  - b. Chapter 5, "Tuition Schedules"**
  - c. Chapter 6, "Tuition Waivers"**
  - d. Chapter 15, "Fees of the University of Hawai'i"**
  - e. Chapter 18, "Student Housing"**
  - f. Chapter 21, "Fees of the University of Hawai'i System Libraries"**
  - g. Chapter 22, "Waikiki Aquarium Fees"**
  - h. Chapter 23, "UH Special Events Arena Admission Fees and Charges"**

VP Okinaga explained that this was a continuation of the review of the Hawai'i Administrative Rules (HARs) to repeal rules that are not statutorily required or have been superseded by regents and executive policies. Eight chapters were brought before the board on September 21, 2017, and the board voted to start the repeal process. No public comment was received and this is the final step for the board before requesting the Governor's final approval.

Vice Chair Moore moved to approve requesting the Governor's final approval to repeal Hawai'i Administrative Rules, Title 20, Chapter 2, "Statement on Rights and Responsibilities of the University of Hawai'i Community"; Chapter 5, "Tuition Schedules"; Chapter 6, "Tuition Waivers"; Chapter 15, Fees of the University of Hawai'i"; Chapter 18, "Student Housing"; Chapter 21, "Fees of the University of Hawai'i System Libraries"; Chapter 22, "Waikiki Aquarium Fees"; and Chapter 23, "UH Special Events Arena Admission Fees and Charges"; seconded by Regent Higaki, and the motion carried unanimously.

- 3. Program Approvals:**
  - a. Change from Provisional to Established Status: Certificate of Achievement in Medical Assisting at Kauai Community College**
  - b. Change from Provisional to Established Status: Bachelor of Applied Science Degree in Engineering Technology at University of Hawai'i Maui College**
  - c. Change from Provisional to Established Status: Doctor of Nursing Practice Degrees at the University of Hawai'i at Hilo and the University of Hawai'i at Manoa**
  - d. Change from Provisional to Established Status: Leeward Community College, Associate in Science in Health Information Technology**

There being no objection to taking up all four program approvals at the same time, VP Straney provided a brief review of the agenda item, which was previously discussed during the May 18, 2018, Committee on Academic and Student Affairs meeting. VP Straney explained the following:

- There are two types of program approvals: (1) new programs (none of the programs being considered on this agenda are new); and (2) provisional to established (which is what is being considered).
- In response to the committee discussion, administration has begun the process of reviewing the approval structure. Provisional to established approvals need to include discussion on what was proposed initially and what has been achieved.
- Of the 5 proposals, there are 10 instructional positions, only one of which is a newly hired faculty member which was funded by the Legislature. The other 9 positions were reassigned by the chancellor.
- Each of these programs fits the expectations of Integrated Academic and Facilities Plan (IAFP), are high priority areas of health care and technology, and all graduate students in these programs are employed.

Extensive discussion was held by the regents. Discussion was largely around the program approval process and the way in which administration communicates the justification of the programs to the board, as well as the board's role with regard to program approvals. Regents generally did not take issue with the merits of the programs. Two regents noted that they would abstain from voting; one felt that more information was needed to make a decision based on the board's fiduciary responsibilities while another noted that the board should be involved in finances but not in program content.

Questions were raised related to the consequences of deferring this agenda item. VP Straney noted that deferral would add to the backlog of provisional programs awaiting permanent establishment and that each of the programs has come close to meeting proposed enrollments, and that deferring the item would result in the programs continuing in provisional status. He also noted that cost-benefit analysis is done at the campus level, but not always summarized in the best way. Administration is working on improving the way it communicates this to the board.

There was also discussion on the board process and policy relating to program approvals and that further discussion was needed among the board on how the board should consider program approvals and what information should be provided. It was also noted that the Academic & Student Affairs committee receives an annual report from Administration that includes programs that have been terminated, a role that has been fully delegated to the President.

Vice Chair Moore made a motion to defer this item, seconded by Regent Wilson. Chair Sullivan supported the motion to defer, in part to send a message to the administration; the process is piecemeal and doesn't help with a higher level view and that there needs to be more coherency to planning over the longer term. More specifically:

- Strategic planning and prioritization. The board is presented with program information on a piecemeal basis. Evaluation should occur in a holistic manner and at a high level, using this data together in the context of strategic academic directions and understanding how program approvals fit into the bigger picture.
- CIP comparison. The board used to react to individual CIP projects every year as they came up. The board and administration moved to a 6-year CIP plan, which aided in longer-term thinking, prioritization, and systemwide vetting. Similarly, we need to do multi-year academic planning. It's possible that this is being done at a unit level, with little coherence among the campus or the system.
- IAFP. The IAFP principles require the board and administration to execute integrated academic planning. Longer term thinking and planning is required, with gradual shifting of new or existing financial and/or human resources. There is no such thing as having "no cost." Where and how to allocate resources and focusing those resources comes at the cost of doing something different.
- Budget. There should be an annual review of program/planning that is tied to the budget process instead of micromanaging individual programs with no understanding of the bigger picture. We are doing much better at CIP on this than on academic planning.

There having been a motion by Vice Chair Moore to defer the program approvals, with Regent Wilson seconding the motion, Chair Sullivan asked for a roll call vote. The vote was as follows, on the motion to defer:

Ayes (in support of deferring): Regents Higaki, Kudo, McEnerney, Moore, Shinsato, Sullivan (6)

Nays: Regents Acoba, Bal, Higa, Putnam, Tagorda, Wilson, Yuen (7)

Abstentions: Regent Portnoy (1)

The motion to defer failed. Vice Chair Moore then made a motion to approve the program approvals, and Regent Putnam seconded the motion. A roll call vote was taken and the vote was as follows:

Ayes (in support of the program approvals): Regents Acoba, Bal, Higa, Moore, Putnam, Shinsato, Tagorda, Wilson, Yuen (9)

Nays: Regents Higaki, Kudo, Sullivan (3)

Abstentions: Regents McEnerney, Portnoy (2)

The motion to approve program changes from provisional to established for the Certificate of Achievement in Medical Assisting at Kauai Community College, Bachelor of Applied Science Degree in Engineering Technology at University of Hawai'i Maui College, Doctor of Nursing Practice Degrees at the University of Hawai'i at Hilo and the University of Hawai'i at Mānoa, and Leeward Community College Associate in Science in Health Information Technology, carried with Regents McEnerney and Portnoy abstaining, and Regents Higaki, Kudo, and Sullivan voting no.

**1. Establishment of Alexander & Francis Pickens Endowed Chair in Arts Education in the College of Education**

There being no objections to taking up this agenda item before the break, Regent Wilson moved to approve the Establishment of Alexander & Francis Pickens Endowed Chair in Arts Education at the College of Education, seconded by Vice Chair Moore, and the motion carried unanimously.

Chair Sullivan called for a lunch break at 11:43 a.m. and the meeting resumed at 12:32 p.m.

**B. For Information and/or Discussion (cont.)**

**4. Update on Maunakea Stewardship**

President Lassner explained that this information item was intended to provide context for where the HARs fit into the overall stewardship and management program for Maunakea. A brochure entitled “Maunakea 2018 and Beyond” was provided to the regents that summarized changes and improvements that took place regarding Maunakea over the last 18 years. He talked about where things are at today regarding Maunakea and how the proposed rules fit into the path forward. The rules are essential and provide the opportunity for UH to implement regulations and rates for commercial tour operators instead of the current practice of operating under the inherited rules and vendors that DLNR turned over to us. The rules also provide UH a means to control excessive traffic on the mountain, which is a frequent criticism. These rules are also the single, most significant, outstanding action remaining from the 2014 audit.

Balanced stewardship is essential going forward, and UH needs to move beyond proven strengths in astronomy, protection of the environment, and physical protection of cultural resources, onto a stronger emphasis on cultural practice, history, and education as co-equals with the work done to date.

It needs to be clear to the public and the community that UH is listening and making progress on its commitment and the board’s August 2017 resolution reaffirming commitment to collaborative stewardship of Maunakea’s cultural, natural, educational, and scientific resources.

In an effort to bridge communication across the UH System, including MKMB, Dr. Greg Chun was appointed senior advisor to UH on Maunakea. Dr. Chun is also the chair of MKMB. Since then, Dr. Chun has assumed a major role advising both UHH Chancellor Sakai and President Lassner, participates in all meetings and helps set direction for moving forward with stewardship, which has helped in healing the disconnect with the university’s own community-based advisors. Dr. Chun is also assisting Mayor Harry Kim and the Mauna Kea Cultural Council that Mayor Kim established.

The Environmental Impact Statement process began earlier this year and is a step towards extending land tenure and securing a long-term future for astronomy on Maunakea and is part of the plan to obtain additional resources to support improved stewardship. The CRs developed by Kahu Kū Mauna are another significant,

outstanding item from audit comments in the 2017 update to the 2014 audit. These policies are intended to specifically protect Native Hawaiian cultural resources as outlined in the Comprehensive Management Plan (CMP).

President Lassner noted that a number of MKMB seats become vacant July 1 and traditionally those have been appointments recommended by the UHH Chancellor to the board. In the spirit of collaborative stewardship, this week he and Chancellor Sakai requested OHA, the Conservation Council for Hawai'i, Department of Hawaiian Home Lands, DLNR, the Hawai'i Island chambers of commerce, Mayor Harry Kim, and all Hawai'i Island legislators submit in writing names of suggested people to serve and represent the community on MKMB.

President Lassner indicated that decommissioning has been a high priority, and two decommissioning actions had been announced – Hokukea Observatory and the Caltech Submillimeter Observatory (CSO). When the decommissioning of Hokukea Observatory began, there was criticism about shutting down an educational telescope, and since that action was deferred, the university is close to finalizing the identification of an alternate site for an education telescope that will provide robust access and high quality viewing.

The decommissioning process must be conducted in accord with the decommissioning sub-plan of the CMP and there are strict requirements on how decommissioning takes place. The CSO decommissioning is underway, which is more complex due to the complicated structure. The decommissioning plan requires the site be restored to the extent possible. Other decommissioning plans and commitments include: the CMP which lays out telescope decommissioning to be done by the end of the current master lease in 2033; UH's set of commitments in response to the Governor's 10 point plan; and a set of requirements imposed by DLNR as part of the Conservation District Use Permit for TMT. UH is working on the additional decommissioning efforts that need to occur and the timeframes between now and the end of the current master lease to satisfy all the commitments made going back to the CMP in 2009.

President Lassner explained that while he agrees with the statement in OHA's testimony regarding the need to ensure that all future observatories sub-leases provide an appropriate, consistent, and sufficient level of financial and other support for the stewardship of Maunakea and its natural and cultural resources, he does not agree that it belongs in HARs. The sub-lease with the TMT, which is the only sub-lease that UH has entered into this century, provides for substantial and predictable resources of \$1 million of sub-lease rent dedicated to stewardship less ceded lands payments to OHA; an additional \$1 million in community benefits for the people of Hawai'i Island; and an additional workforce pipeline to help ensure that Hawai'i Island residents are qualified for the jobs created through TMT. UH has been talking to other observatories about using the TMT sub-lease as a model for all new sub-lease agreements in the extended land tenure available, and is looking at incentives the observatories might wish to migrate over before the end of the current sub-leases and begin accruing those benefits to the community and stewardship.

President Lassner indicated that UH operates a visitor information station focused on astronomy with the environment, and has begun discussions on a new culture and education center that will deliver on UH's commitment to bring all of culture, education, astronomy, and research together in a unified focus. UH is committed to identifying how to begin community-based visioning for such a center at the mid-level facilities. A Conservation District Use Application (CDUA) will be considered by the Board of Land and Natural Resource (BLNR) on June 8, 2018, which is a first step in improving the safety of the visitor experience on Maunakea. Ka'iu Kimura, Executive Director of the 'Imiloa Astronomy Center, and her team will help UH determine what a visitor information center that meets the board's expectations as laid out in the August 2017 resolution. This is an inspiring, but daunting task facing UH, and while the challenges are great, the opportunities are even greater moving forward.

A question was raised regarding the status of returning 10,000 acres of land to the DLNR. President Lassner responded UH had agreed to return the land, but DLNR and BLNR had not acted on anything yet, and it will not impact the proposed HARs that are before the board today.

**4. Authorization to Request Governor's Approval to Allow the University to Hold Public Hearings regarding Proposed Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Maunakea Lands"**

Chancellor Sakai explained that at least two public hearings will be scheduled, with at least one being considered on Hawai'i Island and one on O'ahu, and consideration is being given for up to four public hearings, including a second hearing on Hawaii Island. Comments received will be fully considered, revisions made as appropriate, with final HARs brought to the board for approval.

Administration requested that the board let them know about any significant changes to the proposed HARs, so those changes can be made prior to submission to the Governor.

Chancellor Sakai noted that in 2009, UH received statutory authority to adopt rules to regulate public and commercial activities. Stephanie Nagata, Director of the OMKM, provided background on the proposed HARs; a map showing UH management areas; authority and purpose given UH under Act 132, Session Laws of Hawai'i (SLH) 2009; the timeline and history for the development of the rules; the consultation process from 2010 to present; protection of Native Hawaiian rights; public and commercial activities definitions and issues; administration and enforcement of violations and penalties; formal and informal appeal process; and next steps.

Questions and comments were raised regarding the estimated timeframe for the rulemaking process; whether MKMB and Kahu Kū Mauna will hold their own hearings; whether revisions will require a new set of hearings; and appointment of the hearing officer and the public hearing process.

Ms. Nagata explained that if the Governor's approval for going out to public hearings

is obtained, the proposed timeline would be to begin public hearings in September, bring a draft to the board in November, and send the final rules to the Governor for approval for possible implementation in January. MKMB will be reviewing the proposed rules with Kahu Kū Mauna prior to implementation.

Extensive discussions were held regarding revisions to the rules. It was noted that any significant changes made to the rules after the public hearings would require going back out for another round of public hearings. The determination of whether revisions are significant would up to internal review by Kahu Kū Mauna and MKMB in consultation with legal counsel. It was clarified that each revision does not need to go back to the Governor to request another set of hearings. Administration was confident that the proposed set of rules met the content and procedural requirements of Act 132, SLH 2009, additional comments will be obtained through the public hearing process, and additional public hearings can be held if necessary.

Discussions were also held regarding the selection of the hearings officer and the public hearings process. It is possible that a regent could serve as the hearings officer for the public hearings, and may be something the board might want to consider if there were regents willing to do so. It was noted that the board will have the opportunity to review any significant changes made to the rules as a result of the public hearings before the revised rules go through another round of public hearings. Administration clarified that since the public hearing process has not commenced, changes can still be made prior to submitting the proposed rules to the Governor for permission to hold public hearings.

It was clarified that the vote today is only to submit the proposed rules to the Governor requesting approval to hold public hearings and not a final vote on the content of the rules. The proposed rules are administration's best efforts to address the requirements of Act 132, SLH 2009, after years of consultation.

Regent Acoba raised a question regarding language about obtaining special permits for practitioners and whether the use of the word "encouraged" instead of "required" was intentional. Administration clarified that section 20-26-21 of the proposed HARs, "Traditional and customary rights" resulted from consultation with OHA staff, which had indicated verbal approval of the provision. He expressed concerns that "encourage" is not legally binding, whereas "require" would be. If traditional practices were being excluded from special permits by saying "encouraged" instead of "required" then it may not be enforceable in court, but hopefully in light of the members favoring referral that question can be answered during the public hearings process. He noted that while the Board was not adopting the rules, by referring them to the Governor, it approved the content of the rules as proposed rules.

Regent Wilson moved to approve requesting the Governor's approval to allow the university to hold public hearings regarding proposed Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands", Vice Chair Moore seconded, and the motion carried unanimously.

**VI. ANNOUNCEMENTS**

Chair Sullivan announced the next board meeting is July 19, 2018 at the University of Hawai'i West O'ahu.

**VII. ADJOURNMENT**

There being no further business, Regent Wilson moved to adjourn, and Regent Yuen seconded, and with unanimous approval, the meeting was adjourned at 1:45 p.m.

Respectfully Submitted,

/S/

Kendra Oishi  
Executive Administrator and Secretary  
of the Board of Regents