

**MINUTES**  
**BOARD OF REGENTS MEETING**  
**JUNE 18, 2020**

**Note:** On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern, subsequently declaring it a pandemic on March 11, 2020. On March 16, 2020, Governor David Y. Ige issued a supplementary proclamation that temporarily suspended Chapter 92, Hawaii Revised Statutes, relating to public meetings and records, “to the extent necessary to enable boards to conduct business in person or through remote technology without holding meetings open to the public.”

**I. CALL TO ORDER**

Chair Ben Kudo called the meeting to order at 9:06 a.m. on Thursday, June 18, 2020. The meeting was conducted with regents participating from various locations.

Quorum (12): Chair Ben Kudo; Vice-Chair Jan Sullivan; Vice-Chair Wayne Higaki; Regent Simeon Acoba; Regent Kelli Acopan; Regent Eugene Bal; Regent Michael McEnerney; Regent Randy Moore; Regent Alapaki Nahale-a; Regent Michelle Tagorda; Regent Robert Westerman; and Regent Ernest Wilson.

Others in attendance: President David Lassner; Vice President (VP) for Community Colleges Erika Lacro; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Academic Planning and Policy Donald Straney; VP for Research and Innovation Vassilis Syrmos; VP for Information Technology/Chief Information Officer Garret Yoshimi; VP for Budget and Finance/Chief Financial Officer Kalbert Young; UH Mānoa (UHM) Provost Michael Bruno; UH Hilo (UHH) Chancellor Bonnie Irwin; 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. APPROVAL OF THE MINUTES OF THE MAY 21, 2020 MEETING**

Vice-Chair Higaki moved to approve the minutes of the May 21, 2020, meeting, seconded by Regent Moore, and noting the excused absence of Vice-Chair Sullivan, the motion carried, with all members present voting in the affirmative.

**III. PUBLIC COMMENT PERIOD**

Board Secretary Oishi announced that the Board Office received written testimony as follows:

Written testimony in support of approving the indemnification provision in the contract between the City and County of Honolulu (City) and the university to provide COVID-19 testing was received from Michael Lieberman.

Late written testimony in support of approving the indemnification provision in the contract between the City and the university to provide COVID-19 testing was received

from Sandra Chang; Eileen Nakano; Helmut Kae; Al Katz; Rosanna Alegado; Darren Lerner; Eleanore Chuang; Cecilia Shikuma, Debra Ogata-Arakaki, and Cris Milne of the Hawai'i Center for AIDS; Saguna Verma; and Angela Sy.

Late written testimony offering comments on Board Resolution 20-01 authorizing the abrogation of Hangar 111 was received from Peter Forman.

Two individuals provided oral testimony. Ms. Rosanna Alegado testified in support of the indemnification provision in the contract between the City and the university and provided a brief history of the COVID-19 testing project. She noted that the overall purpose of the project was to increase in-state testing capacity for rapid identification of COVID-19 cases as well as to conduct research on the effect this disease has on Hawai'i's unique island population. The university worked in collaboration with the City and various other partners to initiate this project which is now poised to begin testing. The indemnification provision would mitigate risks to the City for claims related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and without this indemnification, the project will not be able to proceed.

Mr. Vivek Neruker also testified in support of the of the indemnification provision in the contract between the City and the university echoing the sentiments of Ms. Alegado. He stated that the COVID-19 project met a critical need in addressing community testing and would provide valuable information that would allow researchers to better understand this infectious disease. He added that the University Health Partners of Hawai'i is working closely with the COVID-19 project to ensure HIPAA compliance.

Board Chair Kudo acknowledged receipt of four resolutions from the Associated Students of the University of Hawai'i at Mānoa (ASUH) – Senate Resolution 05-20 in support of a Student Aloha Fund; Senate Resolution 03-20 condemning the lack of student consultation in the merger of the Shidler College of Business and School of Travel Industry Management; Senate Resolution 14-20 establishing the annual audit requirements of ASUH; and Senate Resolution 11-20 in support of increased funding for mental health services at UHM. He stated that the board will address these resolutions in future meetings.

#### **IV. REPORT OF THE PRESIDENT AND COVID-19 UPDATE**

President Lassner updated the board on the university's current situation with regard to the COVID-19 pandemic. Noting that the current fiscal year ends in 13 days, he stated that the extent of the reductions in general fund revenues the university will face is largely unknown as uncertainty persists on the severity of the pandemic's economic impact to the State. Given the grim economic forecast recently reported by the Council on Revenues, it is anticipated that the Legislature will make additional adjustments and budget reductions to the recently passed state budget when it reconvenes on June 22, 2020. Once the State's economic numbers become more refined and the budget is enacted, the university will have a better understanding of its overall fiscal situation.

Extramural awards received by the university have exceeded expectations. President Lassner reported that, with slightly less than two weeks remaining in the

current fiscal year, overall extramural funding for UH has already surpassed last year's total by approximately \$3 million. UHM has received \$325 million in extramural funding to date, which is just over \$10 million more than the same period last year, an increase of 11 percent. Year-to-date extramural funding for UH is roughly 6 percent higher than the same period last year. He noted that these figures do not include any funding received from the federal Coronavirus Aid, Relief, and Economic Security Act.

Enrollment remains a point of uncertainty for the university as students and families, both in Hawai'i and abroad, continue to weigh their options and delay their higher education decisions. Each academic unit of the university is having varying experiences with enrollment, although deposits for fall enrollment as well as applications have increased at some campuses. As is the case throughout the country, international enrollments are down and are expected to remain at lower levels given the current global situation. President Lassner stated that enrollment management teams continue working hard to increase yield by turning acceptances into enrollments. He also stated that an area of concern for the administration lies with the university's early college program which is a collaborative partnership between the various campuses of the university system and the State Department of Education (DOE) that offers courses that high school students can enroll in which satisfy requirements for both a Hawai'i high school diploma and a degree from UH. The early college program tends to be advantageous to enrollment for the university as students who are enrolled in the program and earn university credits often end up enrolling at UH. However, uncertainty exists with the near-term continuation of these programs as the DOE continues to develop its protocols for the reopening of Hawai'i high schools.

President Lassner noted that 14-day quarantine mandates currently in effect may also impact enrollment, particularly for campuses with significant numbers of non-resident students. He has been working with the President of Hawaii Pacific University and the President of Chaminade University on developing common protocols to enable arriving students who test negative for COVID-19 before boarding planes to Hawai'i to avoid the 14-day quarantine. The protocols are currently being reviewed by the State Department of Health (DOH) and other State authorities.

The university continues to forge ahead with plans to reopen campuses this fall and remains on track to publicly issue its plans by the end of June. In addition to addressing the return of out-of-state students to campus, the university continues to take actions that will ensure the health and safety of returning students, faculty, and staff. Response efforts that include the establishment of physical distancing guidelines and measures on campuses; the development of flexible instructional methods including solely online or classroom-based instruction, or a hybrid of both, that are able to nimbly adapt to changing circumstances; the reconfiguration of shared spaces such as classrooms, student housing, dining facilities, and office space; the modification of teaching and research laboratories; and operational changes to cleaning and sanitization protocols are currently being undertaken by the university. Additionally, the university is collaborating with DOH to establish daily health checks through an app or web-based interface that will also aid the university, as well as the State, with its testing and contact tracing efforts. The university has also initiated contact with hotels in both Honolulu and

Hilo to secure housing to meet any quarantining requirements for students that may arise based on test results.

The reorganization of UHM continues to move forward. The merger of the College of Language, Linguistics, and Literature; College of Arts and Humanities (AH); and School of Pacific and Asian Studies to develop a newly conceived college that brings together arts, humanities, languages, and Pacific and Asian studies to create a more unique, dynamic, and cohesive liberal arts community at UHM has been approved and will become effective on July 1, 2020. The new college has been named the College of Arts, Languages & Letters and the current Dean of AH will serve as the Dean of the new college. President Lassner noted that the collective resources of the new college will create more opportunities for students and faculty by facilitating stronger interdisciplinary collaboration while attracting more students and enabling financial stability. He stated that the administration took into consideration the concerns raised by the UHM faculty senate which were contained in a resolution that was sent to the board in opposition to this merger but ultimately decided to proceed, believing that this merger is in the best interest of UHM, particularly in this challenging time.

Formal consultation on phase II of the UHM administrative reorganization - primarily the offices that report to the UHM Provost – is ongoing but action has been deferred until the fall at the request of the UHM faculty senate. Additional opportunities to provide feedback on the design of the administrative reorganization was requested and design teams are now reviewing input received, reconciling conflicts, and finalizing new functional statements and high-level organizational charts which will be presented for formal consultation at the beginning of the fall semester.

Regent Sullivan arrived at 9:23 a.m.

Prior to commencing with the committee and affiliate reports, Chair Kudo announced that the initial reason for holding a board meeting in June was to continue discussions and consider taking action on an internal Maunakea management restructuring plan (Plan) that addressed the administrative, organizational, and internal restructuring of the various entities of the university that currently are in existence and have oversight and management responsibilities for Maunakea. However, in recent weeks, the board has been in receipt of communications from the Maunakea Management Board (MKMB) and Kahu Kū Mauna requesting additional time for consultation on the Plan. After meeting with MKMB and Kahu Kū Mauna, it was decided that an additional 60 days would be provided for increased consultation with the administration on the Plan.

## **V. COMMITTEE AND AFFILIATE REPORTS**

### **A. Report from the Committee on Budget and Finance**

Committee Chair Bal summarized the written committee report.

### **B. Report from the Committee on Independent Audit**

Committee Chair McEnerney summarized the written committee report.

**C. Report from the Committee on Intercollegiate Athletics**

Committee Chair Acoba summarized the written committee report.

**D. Report from the Committee on Planning and Facilities**

Committee Chair Moore summarized the written committee report.

**E. Affiliate Reports**

MKMB: Vice-Chair Higaki reported that MKMB has scheduled meetings to discuss the Plan on an almost weekly basis over the next 60 days. He anticipates robust discussions among MKMB members and additional communications with the board. He also thanked Chair Kudo and the administration for providing the additional 60 day consultation period.

Regent Nahale-a added that meetings being held between MKMB and Kahu Kū Mauna are long overdue but that the discussion and collaborative efforts experienced so far are a good sign.

**VI. AGENDA ITEMS**

**A. Consent Agenda**

**1. Approval to Indemnification Provision in a Contract Between the City and County of Honolulu and the University of Hawai'i to Provide COVID-19 Testing**

Although he supported approval of the indemnification provision in the contract between the university and the City with regard to COVID-19 testing as this was in the best public interest and is something that would be beneficial to both the university and the State, Regent Acoba stated that he would be recusing himself from the vote as he is the regent member of the Board of Directors of the University Health Partners of Hawai'i which will be indemnifying the university.

Chair Kudo commented that he has had discussions with the administration with regard to having individuals who are tested by this project execute waivers of liability to the university as well.

Regent Moore moved to approve the consent agenda, seconded by Regent Wilson, and noting the recusal of Regent Acoba, the motion carried with all members present voting in the affirmative.

**B. Approval of the Appointment of William Carthage Bergin to MKMB**

Chancellor Irwin spoke briefly on the recommendation to approve the appointment of Dr. William Carthage Bergin to fill a vacant position on MKMB. She provided background on Dr. Bergin noting that he was a former Regent and was instrumental in engaging the Native Hawaiian community on the Island of Hawai'i to provide them with

a larger consultative role with regard to the management of Maunakea. This effort eventually resulted in the creation of Kahu Kū Mauna.

Vice-Chair Higaki moved to approve the appointment of William Carthage Bergin to MKMB, seconded by Regent Wilson, and the motion carried, with all members present voting in the affirmative.

## **VII. EXECUTIVE SESSION (closed to the public)**

Upon motion by Vice-Chair Higaki, seconded by Vice-Chair Sullivan, the board approved convening in executive session to deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations, 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)(3) and 92-5(a)(4), Hawaii Revised Statutes.

The meeting recessed at 9:50 a.m.

The meeting reconvened at 10:56 a.m.

Chair Kudo reported that the board met in executive session to discuss legal and real estate matters as indicated on the agenda.

## **VIII. AGENDA ITEMS (continued)**

### **A. Adoption of Board of Regents Resolution 20-01 Authorizing Hangar 111 Abrogation, Kalaeloa Airport, Barbers Point, O'ahu, Hawai'i**

VP Young provided background information on the methodology by which the university acquired 4.5 acres of surplus federal property located at the former Barbers Point Naval Air Station. This parcel, referred to as Hangar 111, has access to Kalaeloa Airport's tarmac and flight-line and contains a hangar facility consisting of 105,000 square feet of space that includes office space, a small ramp area, and an adjacent parking lot. He noted that the university acquired the property in 2000 from the United States Department of Education (USDOE) through quitclaim deed for the purposes of operating a flight training program through Honolulu Community College (HonCC) that allowed students to earn an Associate of Science in Commercial Aviation degree but that this program was suspended in 2016. While the university has determined that having the flexibility to use the property for other purposes or lease the property to third-party, commercial operators would serve in its best interest, the deed, which remains in effect through 2033, contains restrictive covenants with educational requirements that limit the university's options for these potential uses. As such, the university is requesting authority from the board to abrogate the effectiveness of the restrictive covenants in accordance with terms contained in the deed, including a payment to the USDOE of \$11,173,500 using capital improvement project (CIP) funding already appropriated by the Legislature for this purpose.

Regent McEnerney requested clarification on whether the university would own the parcel outright and whether the additional restrictions contained within the deed to the parcel, aside from the restrictions pertaining to educational use, would remain in effect until 2033. VP Young responded in the affirmative stating that the university will own the parcel outright and that the majority of the additional deed restrictions will be effective until 2033. However, he stated that some of the deed restrictions will remain in effect in perpetuity.

Regent Nahale-a commented that, given the global crisis and the impact it is having on institutes of higher education, these are the types of creative solutions the university needs to develop to remain competitive. Although the specific use for this facility has not yet been determined, he was hopeful that this would become something positive for the university and was comfortable supporting the abrogation of Hangar 111 with the knowledge that the university would return to the board for approval of the actual use of the parcel.

Chair Kudo stated that he may have a potential conflict of interest in this matter and would be recusing himself from the vote to avoid any appearances of impropriety. He noted, therefore, that Board Resolution 20-01 will be executed by a Vice-Chair of the board and will contain that individual's signature.

Regent Wilson moved to adopt the resolution authorizing the abrogation of Hangar 111, seconded by Vice-Chair Sullivan, and noting the recusal of Chair Kudo, the motion carried with all members present voting in the affirmative.

**B. Approval of Resolution Honoring University of Hawai'i Regent Michael T. McEnerney**

Chair Kudo requested Board Secretary Oishi to read the resolution honoring University of Hawai'i Regent Michael T. McEnerney into the record.

Regents and President Lassner offered their thanks to Regent McEnerney for his service to the university and outstanding work as a member of the board and Chair of the Committee on Independent Audit. He was praised for his patience, leadership, professionalism, guidance, mentorship, and friendship and it was noted that his presence on the board will be missed.

Regent McEnerney thanked his wife, Irene, who served as his chief of staff, thanked his fellow Regents, the administration, and staff for all the support he received and noted that it was a tremendous honor to serve the university as a member of the board. He noted that he would be abstaining for the vote on this resolution.

Vice-Chair Higaki moved to approve the Resolution Honoring University of Hawai'i Regent Michael T. McEnerney, seconded by Regent Moore, and noting the abstention of Regent McEnerney, the motion carried with all members present voting in the affirmative.

**IX. ANNOUNCEMENTS**

Chair Kudo announced that the next board meeting was scheduled for July 16, 2020, at a location to be determined.

**X. ADJOURNMENT**

There being no further business, Regent McEnerney moved to adjourn, seconded by Regent Moore, and the motion carried, with all members present voting in the affirmative, and the meeting was adjourned at 11:19 a.m.

Respectfully Submitted,

/S/

Kendra Oishi  
Executive Administrator and Secretary  
of the Board of Regents