

MINUTES

BOARD OF REGENTS MEETING

AUGUST 24, 2017

I. CALL TO ORDER

Chair Jan Sullivan called the meeting to order at 9:06 a.m. on Thursday, August 24, 2017, at the University of Hawai'i at Mānoa, Information Technology Building, 1st Floor Conference Room 105A/B, 2420 Correa Road, Honolulu, Hawai'i 96822.

Quorum (12): 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 Ernest Wilson Jr.; and Regent Stanford Yuen.

Excused (2): Regent Norma Doctor Sparks; Regent Michelle Tagorda

Others in attendance: President/UH Mānoa (UHM) Interim 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 & 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; Leeward Community College (LeeCC) Chancellor Manual Cabral; Honolulu Community College (HonCC) Chancellor Erika Lacro; Executive Assistant to the Board of Regents Melissa Matsuura; and others as noted.

Chair Sullivan announced that the room was at maximum capacity and the doors would need to be closed. This is a fire code matter and the board is not trying to keep anyone out. As individuals leave, more people will be let in. A number of individuals signed up to testify and the board would like to hear from everyone, so she requested individuals respect the three-minute time limit on testimony.

II. PUBLIC COMMENT PERIOD

Executive Assistant to the Board of Regents Melissa Matsuura announced that the Board Office received written testimony in support of the appointment of Kainoa Ariola as the Interim UHH Associate Vice Chancellor for Student Affairs from Kurt Dela Cruz (Senior Advisory at UHH Advising & Career Center).

The Board Office also received written testimony and comment in support of the following: the resolution affirming commitment to the collaborative stewardship of

Maunakea's Cultural, Natural, Educational, and Scientific Resources, the Office of Maunakea Management (OMKM), Maunakea Management Board (MKMB), the Thirty Meter Telescope (TMT), the astronomy department, renewal of the master lease, STEM education, and deeper engagement with the community, from Veronica Ohara (Law Student); Peter Haberly; Karen Anderson; Tyler Dos Santos-Tam (Executive Director, Hawai'i Construction Alliance); Lindy Pounds; Yvonne Verburgt; Kristi Kapahua; Sandra Kirkpatrick; Howard & Jane Mayo; Gene Leslie; Thayne Currie; Henry Yang (Chair, TMT International Observatory Board, M. Yukon; Kevin & Kathy Conway; Doug Simons (Executive Director, CFHT Corporation), Michitochi Yoshida (Director, Subaru Telescope); Jessica Dempsey (Associate Director, East Asian Observatory); Sylvie Dahl; David & Lucy Staples; Amber Imai-Hong (UH alum); Katherine Roseguo; Gail Gainen; Carol Porter; Peter Grossman; Gary Kai (Executive Director, Hawai'i Business Roundtable); and Kauwila Sheldon (cofounder of the John Munn Kahikina Kelekona Foundation).

The following provided oral testimony:

Christine Sorensen Irvine, Chair of the UHM Faculty Senate Executive Committee, provided oral testimony summarizing her written testimony regarding faculty involvement in welcoming students to campus; budget challenges and implementation of the new budget model; impact of lower enrollment; maximizing resources to support academic & research missions; the research enterprise; administrative restructuring focused on student retention and enrollment management; and this year's review of general education curriculum.

The following individuals gave oral testimony in opposition to the resolution and/or providing additional comments regarding the unique responsibilities the university has to indigenous people of Hawai'i and to Hawai'i's indigenous language and culture as part of its mission and as stated in board policies: Kepo'o Keli'ipa'akaua; 'Ilima Long; Kāhala Johnson; Māhealani Ahia; Kaipu Baker; Makoa Freitas; Ty Kāwika Tengan; Katherine Achacoso; Bimo Akiona; Kamana Beamer; Kaiwipuni Lipe; Ho'oleia Kaeo; Shelly Muneoka; Eomailani Kukahiko; Kamali'i McShane Padilla; Kuulei Freed; Kat Lobendahn; Kyle Kajihiro; Healani Sonoda-Pale; Maaihe Plugge; and Imaikalani Winchester; Ka'aumoana Vaughan-Danal; and Kaiakahinaali'i Ko'opua. The testimony covered concern over an email sent by a faculty member circulated to colleagues that some testifiers considered racist and insensitive; the need for further dialog with Native Hawaiian constituent groups on and off campus; against construction of the TMT and recommending holding off on constructing TMT until the legal process is finished; and emphasizing the importance of recognizing and understanding land tenure issues, Hawaiian religion, cultural values, and the sacredness of Maunakea.

The following individuals testified in support of the resolution and the OMKM, and provided additional comments regarding PUEO, Inc. a nonprofit interested in perpetuating unique educational opportunities for keiki on the Big Island; the tremendous world class research being done on Maunakea; and the need to support

astronomy and protect Maunakea and Hawai'i Island: Richard Ha (PUEO, Inc.); Malia Martin; and Amber Imai-Hong.

The following individuals signed up to give oral testimony but did not testify: students D'Andre Hebert & Nanea Le.

Chair Sullivan noted that several pieces of last minute testimony were received and there was not adequate time to print them out, so they were included in the electronic materials packets. Chair Sullivan read aloud a late letter of support from Hawai'i County Mayor Kim, which arrived too late to include in the electronic materials packet. All of these items will be made available on the board's public website.

At 10:58 a.m., the board went into recess. The board reconvened at 11:08 a.m.

III. REPORT OF THE PRESIDENT

President Lassner started by thanking all the individuals who came to testify and then provided a report highlighting the following:

Hawai'i Graduation Initiative (HGI)

- The first classes were held this week at the recently opened permanent Leeward Community College Wai'anae Moku Center in Māili.
- Almost 1,000 students received initial Hawai'i Promise scholarships, which represents 4% of the entire student population at the community colleges. There is a commitment of institutional funding in place to support the program for the spring semester, and administration will submit another request to the Legislature this year and hopes to expand the program to the four year universities.
- The Association of Public Land-Grant Universities (APLU) named UHM UH Mānoa as one of five finalists for the APLU Project Degree Completion Award this year. The competitive selection process works to identify, recognize and reward public universities across the country deploying innovative approaches to improve retention and increase degree completion. UHM was selected for the holistic strategic planning work done around student engagement, retention and graduation known as "SERG," which has contributed to the doubling of four year graduation rates at UHM.

Hawai'i Innovation Initiative (HI2)

- A celebration with congressional representatives and others will be held this week for the National Estuarine Research Reserve (NERR) System federal-state-UH partnership. NERR is a program under the National Oceanic & Atmospheric Administration that protects a section of the estuary and provides a living laboratory to explore and understand estuaries. The State Office of Planning coordinated the site selection, and in January He'eia was designated as the 29th NERR in the national system and the first new one in six years. The Hawai'i proposal was developed with in partnership with the community, submitted by the state, and highlights the integration of traditional ahupua'a

practices with the contemporary federal NERR models to sustainably manage the estuary. UHM's Hawai'i Institute for Marine Biology will be the lead manager for the NERR.

High Performance Mission-Driven System (HPMS)

- Administration is working with UHM's College of Tropical Agriculture & Human Resources and the Mālama Honua Public Charter School toward a lease of 10 unused acres at the Waimānalo Experimental Agriculture Station to house this growing K-12 charter school. Mālama Honua provides a place-based learning environment with rigorous instruction in core content areas and authentic project-based learning experiences. CTAHR is interested in advancing their research instruction and extension mission, which by law now includes a statewide P-20 sustainable agricultural education mission, and believe this partnership will help build a stronger pipeline for place-based and culture-based learning into the university and strengthen the universities overall role as a land-grant university. The Harold K.L. Castle Foundation has indicated intent to help support the initial development of facilities. Any formal lease request would require board approval. Due diligence has begun, and this process has helped the university better understand overall state and county land use requirements for UH lands.
- A Celebration of Philanthropy event with UH Foundation was held at the new Culinary Institute of the Pacific at Diamond Head where major donors were recognized including Jay Shidler, Professor Emeritus Thomas Kosasa, and Barry & Virginia Weinman.

IV. UNIVERSITY OF HAWAI'I FOUNDATION FISCAL YEAR 2017 YEAR END AND CAMPAIGN TOTAL RESULTS

University of Hawai'i Foundation (UHF) President Donna Vuchinich provided a presentation on UHF FY2017 year end and campaign total results. Highlights included \$77.6 million was raised in FY2017, which exceeded the goal of \$75 million. Information was provided on the source of funds; how the gifts were used; a breakdown of funds raised by purpose, gift type, and expendable funds made available to UH by source for for FY2012 to FY2017; historic campaign performance for FY1985 to FY2017; investment performance from 2006 through 2017; endowment growth from FY2004 to FY2017; and fiscal and data processing volumes. There were no comments or questions.

V. INFORMATION BRIEFING: MAUNAKEA MANAGEMENT BOARD – ROLES & RESPONSIBILITIES

Chair Sullivan introduced Greg Chun, the new Chair of the Maunakea Management Board (MKMB), providing some background for the benefit of new regents, starting from the Board of Regents (BOR) adopting a Mauna Kea Science Reserve Master Plan in 2000 after 2 years of public hearings and meetings, which moved the management and stewardship of Maunakea from the Institute for Astronomy at UHM to what was then a newer UHH campus, through establishment of a the Office of Maunakea Management

(OMKM), which reported to the UHH Chancellor; the Maunakea Management Board (MKMB) composed of members from the Big Island to advise the UHH Chancellor; and the Kahu Kū Mauna (KKM) Council, a Native Hawaiian Council to advise MKMB and the UHH Chancellor on cultural matters and issues. She praised the hundreds of hours of volunteer time MKMB members have spent on obtaining community input and working on the various management plans and administrative rules. She noted the decreasing frequency of communication between MKMB and the BOR in recent years, and relayed her and Chair Chun's hope after recent discussions that the communications be improved.

Chair Chun thanked the BOR for the opportunity to speak, and introduced fellow board members Herring Kalua, Greg Mooers, and Doug Simons, and Stephanie Nagata, Executive Director of the OMKM. He clarified that he was speaking on behalf of the MKMB only and did not speak on behalf of the OMKM or KKM, though they share similar sentiments regarding what he will be discussing.

Chair Chun explained the role of MKMB as simultaneously serving as the voice of the Hawai'i Island Community into the management of Maunakea, and also advising UH administration. He expressed MKMB's disappointment with the lack of stronger institutional response to the current narrative concerning UH's "mismanagement" of the mauna, which MKMB believes is misinformed. He cited UH's leadership over the years, with a strong management foundation put in place through the Comprehensive Master Plan, the Maunakea Comprehensive Management Plan, and the Cultural and Natural Resources, Public Access, and Decommissioning sub plans, which were all developed by OMKM, MKMB, and KKM. He provided additional context and background reviewing the creation and operation of the MKMB, OMKM, KKM and key historical milestones.

Chair Chun then discussed home rule, and the challenge of the occasionally strained relationship between the MKMB, UH administration, and the BOR arising from communication failures. He cited the lack of consultation with MKMB, OMKM, or KKM regarding such policy decisions as the Governor's 10-point plan and the blocking of progress on the administrative rules. Further complicating matters is the threat of litigation from the Office of Hawaiian Affairs, whose role in the future governance of Maunakea is unclear. He relayed MKMB's concerns regarding being able to update the Comprehensive Management Plan and finalizing rules with potential litigation and unanswered questions regarding cross-jurisdictional management.

Chair Chun noted that the OMKM received three awards for its stewardship of Maunakea and for its public education programs, core pieces of OMKM's mission. They are proud of the strong progress the OMKM has made in its stewardship for Maunakea and the role the MKMB has played in guiding and supporting their efforts.

Chair Chun noted the MKMB's awareness of the challenges of differing statutory requirements, management priorities, organizational values, and strategic priorities of different agencies going forward, but emphasized that the basic architecture for ensuring coherent and comprehensive management of Maunakea is in place, and

values embedded in the structural components reflect not just best management practice, but who they are as a community. He spoke about astronomy helping to diversify the island's economy and benefiting local students, and also about Maunakea being valued in different ways by many people and the only way to acknowledge that properly, is with respect and support from the community and other government agencies. He reiterated that the MKMB is here to advise UH and help find solutions.

The board thanked Chair Chun for the candid and detailed discussion, and the MKMB board members, OMKM, and KKM for their service. Questions and comments were raised regarding the challenges and issues surrounding home rule that have come up through the years; how broader community consultation would take place; the need for MKMB to speak more directly with the BOR; need for a plan to deal with management of a multiagency governance structure; whether the current structure should be adapted to better serve current issues and times; the coordination of management if the 10,000 acres are returned; whether the relationship between MKMB and the UHH chancellor was working; and the input sought on drafting the resolution. Chair Chun acknowledged the complexity of the situation, and the cultural and political appropriateness of a broader consultation with the university community and with communities off the Big Island, encouraging more direct dialog with the BOR, provided that did not circumvent their relationship with the UHH Chancellor, which is working well, and added that it would be helpful for President Lassner to designate the key individual that MKMB should work with. The MKMB, OMKM, and KKM were not involved in drafting the board resolution and have not taken a position on the resolution, however, the return of the 10,000 acres is not new, and Chair Chun's concern is the need to have a multiagency governance structure put in place to ensure the cogent, coherent, and comprehensive management when the acreage is returned. He agreed that in the spirit of adaptive management the plans, process and structure should be subject to periodic review.

Chair Sullivan thanked MKMB for the work they do, indicated the resolution was only a first step and better communication was needed to educate everyone on the work being done, and get aligned.

VI. COMMITTEE REPORTS

A. Report from the Committee on Budget and Finance

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

B. Report from the Committee on Independent Audit

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

C. Report from the Committee on Intercollegiate Athletics

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

VII. ITEMS FOR DISCUSSION & APPROVAL

A. For Approval by Consent

- 1. Minutes of the July 20, 2017 Meeting**
- 2. University of Hawai'i System**
 - a. Operating Budget Proposal (Forecast) for Fiscal Year 2018**

University Operating Budget Forecast for Fiscal Year 2017-2018 Presentation
[Link to FY17-18 University Operating Budget Forecast Presentation](#)
Fiscal Year 2017-2018 Operating Budget Narrative
[Link to FY17-18 Operating Budget Narrative](#)
Appendix University of Hawai'i system Fiscal Year 2017-2018 Operating Budget Proposal
[Link to FY17-18 UH System Operating Budget Proposal Appendix](#)
- 3. Approval to Indemnify Technical University of Denmark ("DTU Space") from infringements of third-party rights to allow the University of Hawai'i to accept sub-subcontract from DTU Space**

There were no objections to taking action on all three consent agenda items.

A question was raised regarding whether the indemnity had gone through a committee. Administration explained that there is a statutory requirement for the board to approve indemnifications, and two years ago it was agreed that these would be put on the consent agenda because they need to be handled timely in order to accept the subcontractor grant.

Regent Acoba commended administration for adopting a comprehensive approach to financing and supporting the UH Cancer Center, which put in on a more stable basis; and also commended the Governor for releasing \$2.5 million in support for the center.

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

B. For Action

- 1. Approval of Resolution Affirming Commitment to the Collaborative Stewardship of Maunakea's Cultural, Natural, Educational, and Scientific Resources**

Chair Sullivan thanked the regents for allowing this conversation to take place at the board level, and acknowledged that while the board did not need to do anything, the subject of the resolution is important and something the regents have not had much exposure too. She clarified that the resolution is not a statement about TMT or any particular telescope, or about who is right/wrong. The resolution tries to recognize past work done in managing Maunakea and emphasize future work that needs to occur. It

does support the return of 10,000 acres to the state as proposed by the Governor, and asks the university to commence the work required to obtain a new lease for the remaining astronomy precinct. It seeks a path forward that involves working collaboratively with others to evolve the management of all of Maunakea. Most everyone can agree that the university can do better, and hopefully we can broaden and get input from a multitude of people, including students and people from the Big Island. The resolution also directs the university to make it a priority to support, especially financially, the meaningful engagement and education of Native Hawaiian students in the areas of astronomy, celestial navigation and exploration. The resolution is not meant to look backward, but look forward to provide direction for the university of where we are hoping to go as a board.

Regent Yuen moved to approve the resolution, Vice Chair Kudo seconded.

Extensive discussions took place regarding whether the board had ever voted in favor of any specific action on Maunakea, e.g., returning 10,000 acres; whether the administration rules needed revision; challenges surrounding the return of acreage; and the need for Maunakea to be managed regardless of whether TMT is built.

It was explained that the president and administration had agreed with the return of acreage as specified in the Governor's 10 point plan publicly on more than one occasion, however, the matter did not come to the board for a vote. The method of how the return would occur and what it means has yet to be determined. Administration clarified that it was done in consultation with home rule, the UHH chancellor, and the Governor, but this was the first time the board is being asked to weigh in. The decommissioning is largely aligned with the decommissioning plan approved by the board in 2010, except for the acceleration of certain decommissioning activities that needed to occur sooner than required in the plan. Preliminary operational discussions had taken place between the university and the Department of Land & Natural Resources regarding how the Comprehensive Management Plan could be embraced in a more multi-jurisdictional management approach, but those conversations were halted when the contested case hearing began due to concerns over ex parte communications. The resolution encourages administration to reengage communications once they can safely do so, and any action on a lease is subject to board approval in accordance with board policy. Any return of acreage and revisions to the administrative rules will require a collaborative effort from everyone, and may not happen soon.

Concerns were expressed over the process and being asked to vote on a resolution where other groups and individuals who deal with this on a daily basis had not been consulted with or given the opportunity to provide input. Additional comments were made regarding the need for the board to get the process started and make a public statement about the board's intention regarding Maunakea.

Vice Chair Kudo made a motion to amend the NOW, THEREFORE, BE IT RESOLVED paragraph to read "that the university intends to return the 10,000 acres to

the State of Hawai'i if possible..." Regent McEnerney made a motion that the last BE IT FURTHER RESOLVED paragraph be amended to add "education" as well as engagement.

Regent Higa commented that as the student regent, he did not view this as a binary issue between culture and science. Sometimes there is a collision between exercising what he believes is his fiduciary duty to the university as a lessor of the lands and what the students are calling for and view as the right thing to do. He was not able to find any resolutions regarding this issue from the UH student caucus, UHH or HawCC, but noted it was still early in the year and the first student caucus meeting of the year was taking place on Saturday. Regardless of how he ends up voting on the amendment, he wanted to comment that this issue has not been taken up in the past except by ASUH and could possibly be something that the board can continue a dialog with the student government groups to get their perspectives and also the Native Hawaiian student perspective. Chair Sullivan reiterated her intent to continue dialog on this issue and working with MKMB to find ways to have regular communications. Vice Chair Kudo thanked Regent Higa for his very important efforts working with the students on gathering their input.

Regent Higaki being one of the Hawai'i County regents was asked if he had any thoughts on the resolution. Regent Higaki had no issues with the resolution as it allows the board to move forward with discussions with all of the entities involved, and is not a specific commitment to any project. He also shared the concerns expressed by Mr. Chun in his individual capacity and as Chair of MKMB.

Chair Sullivan noted that regardless of the vote, she appreciated the board allowing this conversation to take place.

There being no objections to the two proposed amendments, the motion to approve the amended resolution was put to a vote and carried with Regent Portnoy and Regent McEnerney voting no.

2. **Approval to Request Governor's Final Approval of Repeal of Hawai'i Administrative Rules, Title 20, Chapter 16, "Personal Records"; Chapter 17, "Collection of Voluntary Contributions"; Chapter 20, "Protection of Educational Rights and Privacy of Students"; Chapter 24, "University-Owned Faculty Housing Units"; and Chapter 42, "Hawai'i State Postsecondary Review Program"**
3. **Approval to Post Public Notice 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 13, "Use of University-Owned Facilities"; 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"**

4. Approval to Hold Public Hearing Regarding the Simultaneous Repeal of Hawai'i Administrative Rules, Title 20, Chapter 40, "Rules of Practice and Procedure", and the Adoption of Chapter 40.1, "Rules of Practices and Procedure" for the State Post-Secondary Education Commission

Due to time constraints, this item was deferred to the next board meeting. There were no objections.

5. Appointment to the Permitted Action Group for Board Participation in the Community Colleges Accreditation Institutional Self-Evaluation Report

Chair Sullivan summarized the appointment of Kauai County Regent Norma Doctor Sparks to the Permitted Action Group for Board Participation in the Community Colleges Accreditation Institutional Self-Evaluation Report in place of former Regent David Iha. Regent Wilson moved to approve the appointment to the Permitted Action Group for Board Participation in the Community Colleges Accreditation Institutional Self Evaluation Report seconded by Regent Higaki and the motion carried unanimously.

C. For Information/Discussion

1. Board Travel Guidelines

Chair Sullivan noted the board travel guidelines were developed to clarify rules regarding university travel that currently reside in board policy, executive policy, and administrative procedure and state travel guidelines. The intent is to inform regents regarding what is covered/not covered when regents travel on board business. The board office will be following these guidelines; any questions could be directed to Chair Sullivan or Ms. Matsuura. No additional comments or questions from the board were raised.

2. Board and Committee Annual Agenda Calendar

Chair Sullivan explained that the intent of setting the annual calendar was to provide a plan for the year, and alternate committee meetings every other month with no more than three or four committees meeting on one committee day per month and one board meeting per month. This calendar and items are a draft and subject to change throughout the year. This calendar was collaboratively developed with administration and the board office and will help manage workload and focus of meetings. No additional comments or questions from the board were raised.

Chair Sullivan called for motion for executive session.

VIII. EXECUTIVE SESSION

Upon motion by Regent Higa, seconded by Vice Chair Kudo the Board unanimously approved convening in executive session, pursuant to HRS §92-5(a)(2) to discuss personnel matters. The Board convened in executive session at 1:21 p.m. Following a

motion to come out of executive session by Regent Bal, seconded by Vice Chair Kudo, and the motion carried unanimously, executive session was adjourned at 2:35 p.m.

The meeting reconvened at 2:36 p.m. Chair Sullivan stated that the board went into executive session to discuss personnel matters as indicated on the agenda.

IX. ITEMS FOR DISCUSSION AND/OR APPROVAL (continued)

A. For Discussion: Evaluation of the Performance of the President

Chair Sullivan explained that the board went into executive session to conduct its annual evaluation of the president and read the following statement on behalf of the board:

"The board unanimously agreed that the president has worked hard to execute this job with integrity and with commitment. He has demonstrated that his actions, whether popular or unpopular, have been guided by what he believes are the long term best interests of the university. He has successfully led the institution through challenging times, and the university is in a better place now than where it was three years ago.

The Board of Regents would like to take this opportunity to recognize the hard work, dedication and leadership that the president has exhibited during his tenure. Much work remains to be done, and we look forward to his continued leadership in guiding this vital institution into the future."

X. ANNOUNCEMENTS

Chair Sullivan announced that the next board meeting is September 21, 2017 at Leeward Community College.

XI. ADJOURNMENT

There being no further business, Vice Chair Moore moved to adjourn, and Regent Wilson seconded, and with unanimous approval, the meeting was adjourned at 2:38 p.m.

Respectfully Submitted,

/S/

Melissa Matsuura
Executive Assistant
to the Board of Regents