

OFFICE OF MAUNA KEA MANAGEMENT

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Mauna Kea Management Board
Regular Meeting
Tuesday, March 13, 2001
Building 393, Room #1
Hawai'i Community College
1175 Manono Street
Hilo, Hawai'i 96720

Minutes of Regular Meeting

Members Present: Arthur Hoke, Chair; Robert Pacheco, Vice Chair; Barry Taniguchi, 2nd Vice Chair/Secretary; Heather Cole; James Kennedy; and Harry Yada

Interim OMKM Staff Present Walter Heen, Stephanie Nagata, Moses Haia, and Arnold Hiura

Others Present: Ed Stevens, Kahu Ku Mauna; Bob McLaren, Institute for Astronomy; Hunter Bishop, Hawai'i Tribune Herald

I. CALL TO ORDER

Chair Hoke called the Mauna Kea Management Board (MKMB) Meeting to order on March 13, 2001 at 9:35 am.

II. APPROVAL OF MINUTES

It was moved by Jim Kennedy and seconded by Harry Yada that the minutes of the February 6, 2001 meeting of the MKMB be accepted as circulated. The motion was carried unanimously.

III. OLD BUSINESS

A. Committee Reports

Budget:—The Budget committee had nothing to report.

Kahu Ku Mauna Council: Ed Stevens, representative of Kahu Ku Mauna, informed the MKMB that, due to health reasons, Mauna Roy has vacated his seat on the Council. The Council is now looking to fill two seats and as soon as candidates are identified, the Council will provide the MKMB with its recommendations.

Astronomy Education: Member Kennedy noted that the Astronomy Education committee had not yet formally met. Members of the committee have communicated via email and have developed a list of prospective community members. The intention is to recruit and engage as many education professionals as possible. The committee will solicit participation once the list of candidates is finalized. A list of astronomy education programs has also been developed.

Environment: Member Pacheco noted that a facilitated meeting of the Environment committee was convened on February 24, 2001 at Hale Pohaku. The workshop was

productive. The group worked through many issues and agreed that there was much work to do. The group will meet again this afternoon to focus on program development.

Hawaiian Culture: Chair Hoke noted that the Hawaiian Culture committee has met twice and has scheduled a facilitated workshop for March 31, 2001 at Hale Pohaku to address issues identified by the group during its first two meetings.

Public Safety and Conduct: Member Yada noted that a meeting of the group is scheduled for March 19, 2001. As mentioned at the last meeting John Giffin has agreed to participate and will represent the Division of Forestry and Wildlife and Reynolds Kamakawiwo'ole has agreed to participate and will represent Kahu Ku Mauna. Presently, there are no additional members. The Public Safety Committee recently received the draft administrative rules and regulations and will commence its review of these rules.

B. Director's Report:

DLNR –UH Jurisdiction dilemma. Director Heen informed the MKMB that the OMKM staff met with DLNR and UH Counsel to discuss the issue of enforcement of rules and regulations within the Science Reserve. Dean Uchida, with DLNR's Land Management Division identified a couple of options. One option is for the State to transfer in fee to UH title to the Science Reserve. The other option was to treat the Science Reserve and Hale Pohaku as an extension of the UHH campus. This would give UHH authority to enforce rules and regulations on the "campus" as is done on other campuses. Associate UH Counsel Presley Pang agreed to research the matter to see whether either option is viable or whether enforcement authority may and, if so, should be transferred via legislation. It is probably too late for this legislative session. Mr. Pang recently informed the OMKM that he has not yet had an opportunity to study the matter. OMKM will continue to request progress updates from Mr. Pang. Until the office hears otherwise, OMKM will continue to go forward with the drafting of administrative rules and regulations.

Update Board of Land and Natural Resources (BLNR) on new Master Plan: To date, UH has not provided the BLNR with an informational briefing on the changes between the new master plan and the 1995 master plan. This update is necessary to apprise the BLNR of changes from the old master plan. The OMKM and DLNR's Sam Lemmo are attempting to schedule this meeting. The briefing will focus on the design review process and enforcement. Director Heen expects to meet with Sam Lemmo next week and is not sure if UH attorney Presley Pang will attend.

Office of Hawaiian Affairs: Director Heen also informed the MKMB that he, Chair Hoke and Assistant Director Nagata met with OHA representatives to brief OHA on the role and responsibilities of the OMKM and the MKMB. The NASA draft EA was also a topic of discussion and the OMKM was provided a copy of OHA's comments to NASA's draft EA.

Meeting with Observatory Directors: OMKM staff will be setting up a meeting with the directors of the observatories to touch base and discuss how the observatories may best participate in the management of the mountain. The observatories must be included in the execution of OMKM's management responsibilities, especially with respect to ranger/guides, education, and visitor relations. Director Heen noted that the OMKM contemplates the development of informational brochures for visitors. However, there is very real concern that this could develop into a serious trash problem.

Meeting with Commercial Operators: A meeting with commercial operators and applicants will be scheduled soon to obtain their perspective on commercial permitting procedures.

Director Search: The search for a permanent Director proceeds. Ads have been published and applications have been received. Chancellor Tseng has convened a selection committee comprised of Members Taniguchi, Cole, and Kennedy, Hannah Springer and Alice Kawakami. Director Heen did not know how far along the committee was in the search process.

Staff Update: Resource Specialist Moses Haia will be leaving at the end of the month. Kellie Young has already left for Honolulu.

Ranger/Guides. Assistant Director Nagata and Director Heen have discussed the immediate hiring of ranger/guides to establish an OMKM presence on the mountain. Employment will likely be on a temporary basis through RCUH. Given the unresolved issue of enforcement authority on Mauna Kea, these ranger/guides will function as educational, interpretive personnel rather than as enforcement officers. Until the issue of enforcement is resolved, it will remain with DLNR and the County Police Department as appropriate. The paramount concern at this time is the establishment of a presence on the mountain.

The possibility of deputizing the ranger/guides was suggested as a possibility since individuals are deputized for hunting and serve as volunteer enforcement officers.

A possible solution would be to amend the existing law or enact a new statute to provide enforcement power. In any event, rangers/guides who educate visitors to the mountain will probably cover most of the issues. Just having uniformed rangers/guides should have a quieting effect, that is, if told not to do something, most people would most likely comply. However, if people ignore warnings, DOCARE or the police could be notified and violators apprehended on the way down.

Chair Hoke requested OMKM provide MKMB with a timeline for ranger/guide presence on the mountain. Director Heen stated that would not be possible until the OMKM meets with directors to coordinate. Chair Hoke asked if it was possible to outsource temporary hires to secure a presence on the mountain

Member Yada asked about the status of OMKM funding. Director Heen noted that the legislature cut back UH's original request, but there are still funds available to hire temporary ranger/guides. It was noted that the sooner a presence on the mountain is established the better, regardless of whether the ranger/guides have enforcement authority or not. Their presence is critical to be the "eyes" on the mountain and to gather information that would allow OMKM to make informed decisions. Such information would be helpful in drafting rules and regulations. Ranger/guides could keep records and report on various issues that arise.

Underground Storage Tank: Director Heen provided an update on the proposal to remove the unused tank near the summit. MKSS submitted a CDUA application and MKSS received cryptic reports from its consultant indicating that DLNR required a draft environmental assessment that would take about three (3) months to complete and cost approximately \$7,500. Director Heen contacted DLNR and was informed that it would not require a draft environmental assessment and will issue a Department Permit. Director Heen and Ron Koehler were not sure of the status of the issuance of the permit.

The tank to be removed is not located in wekiu habitat and there does not appear to be Native Hawaiian community concern over this project. Ed Stevens asked if anyone knew how much

cinder would be required to fill the hole left after the tank is removed. Mr. Koehler noted that this project would use approximately 10% of the available stockpile and would not use any construction material for backfill which is clearly prohibited in the specifications. Mr. Koehler noted that this should leave ample stockpile of cinder for the wekiu project.

- C. Outreach:** Arnold Hiura reported that he represents OMKM on the Mauna Kea Observatory Outreach Committee (MKOOC), a committee composed of representatives from the observatories, (Mauna Kea Support Services MKSS), Visitor Information Station (VIS), Mauna Kea Astronomy Education Center (MKAEC), and Lee Duke of NASA. This group sponsors monthly speakers at the VIS and coordinates the publication of a monthly column on astronomy in the Hawai'i Tribune Herald. The committee's present focus is on updating astronomy exhibits at the VIS. Arnold is a member of the exhibit committee that is chaired by David Byrne, VIS manager, to update astronomy exhibits. The committee is currently working on a three-month timeline to get new exhibits in place. Other efforts will be coordinated via MKSS, the VIS, OMKM and the MKMB to update and expand the cultural and environmental displays at Hale Pohaku and the VIS.

The newsletter is at the printers, and a website is under construction.

IV. NEW BUSINESS

A. OMKM Comments to NASA Draft Environmental Assessment (EA)

Director Heen noted the tight timetable for filing comments on NASA's Draft EA did not allow OMKM time to circulate its comments to the MKMB for comment prior to filing with NASA. Director Heen met with Mr. Rick Howard of NASA to discuss OMKM's comments. OMKM advised NASA that it would be to NASA's benefit to retain someone locally to act as NASA's liaison with the community. After learning NASA's limitations and constraints in hiring someone locally to be an official spokesperson, it was suggested that NASA hire an independent contractor, one who would not necessarily speak for NASA, but who could report directly the concerns of the local community. Mr. Howard agreed that would be a good idea.

Member Pacheco wondered whether NASA expressed concern that some of the issues addressed in OMKM's comments would result in added costs. Director Heen indicated that this topic was not addressed.

Bob McLaren stated there is a distinction between the environmental assessment process and the UH permitting process. NASA had in mind the possibility of six (6) outriggers, but it is considering installing four (4) outriggers at the present time. A proper draft environmental assessment would have to disclose this fact, otherwise NASA could be criticized for not telling the whole story. At the time NASA requests permission to proceed UH can state its position regarding the requested four and additional two future outriggers. The environmental assessment process and state permitting process are two different things. The former is not a request for permitting.

Member Kennedy expressed concern that the process is a potential double-edged sword. If an agency is not up front about its ultimate desire, and comes back later and asks for more than what was initially disclosed, the agency could be perceived as having negotiated with ulterior motives and just wanted to get its foot in the door. The EA provides full disclosure at the beginning. He also agreed the approval and permitting processes are separate matters.

Member Yada noted that from the MKMB's perspective, if the time lapse between the installation of the first four (4) and the remaining two goes beyond a certain period of time, e.g., 5 to 7+ years, UH has the ability to require a reassessment, especially if new information becomes available that raises concerns. UH has the power to require another environmental assessment despite NASA's prior disclosure.

Director Heen noted that often in development plans, a developer wants prior approval for a big project, but proceeds to obtain approval for a portion of the project thereby leaving the door open to move ahead with the entire project. In this instance we should not be so accommodating.

Chair Hoke noted his concern with the attitude NASA projected at the meeting especially with respect to the Section 106 process. Even if NASA does not get consulting parties to sign the Memorandum of Agreement, as long as the State signs off, NASA can still go ahead. Director Heen noted that NASA could take that gamble but it should consider the possible repercussions of such an action.

Member Taniguchi noted that the OMKM and the MKMB do not have the authority to issue permits approving a development. It only provides recommendations. He cautioned some people might get the idea we have the authority and we need to clarify this situation. The process is that we provide a recommendation that is eventually received and reviewed by the President or the Board of Regents. The MKMB does have influence and the President or the Board of Regents will want to know what we recommend. The President or the Board of Regents must consider our recommendation.

Director Heen noted that the OMKM does not presently have a position on what it will recommend. This will only come as the MKMB and the OMKM move through the review process.

Ed Stevens expressed his concern with the Smithsonian plans for future expansion. He hopes that it will be treated as a new project and go through the approval process even though it is included in the Master Plan. Member Kennedy noted that all projects identified in the master plan must go through the review process.

Member Kennedy recognized the deadline to submit comments on NASA's draft EA was very tight, but he hopes that in the future the MKMB will have the opportunity to give its mana'o (thoughts) on what the OMKM is thinking

V. ANNOUNCEMENTS

A. Website and Letterhead

Arnold Hiura again noted that work on the website continues. The website is worldwide and a cost effective way to get the word out.

The OMKM has revisited the issue of the letterhead and requested the Board's permission to allow OMKM to finalize the letterhead and go ahead with printing.

B. New Office

Director Heen noted that the OMKM moved into its new location (four offices and a storage room) in the IfA building on February 26. The new office puts OMKM closer to the astronomy community and the mountain. Board meetings will eventually be held in the new building as soon as furniture arrives.

C. IfA Colloquium Speaker

Bob McLaren announced and invited everyone to attend or view IfA's next featured colloquium series speaker, Dr. Clives Ruggles. Dr. Ruggles, an archeoastronomer, will be presenting *Astronomy, Oral Literature and Landscape in Ancient Hawai'i*, at the IfA headquarters in Honolulu, Friday, March 16, at 3:30 p.m. There will be a video link to the IfA auditorium in Hilo.

D. Draft Administrative Rules

Ed Stevens requested a status report on the administrative rules, specifically whether Kahu Ku Mauna will have an opportunity to review the rules before they are sent on to UH and through the public hearing process. Mr. Stevens requested that rules regarding excavation procedures be treated separately because these procedures are too important to be just part of the process. Putting these procedures in the rules would bury them, while separating them provides assurances that excavation procedures are followed explicitly.

E. NASA Project - Next Step

Member Pacheco wanted to know what was the next step with the NASA project. Director Heen informed the MKMB that we must wait to hear what NASA plans to do. Further, the MKMB and the OMKM must wait for NASA's official project proposal before the master plan review process can be implemented.

VI. DATE OF NEXT MEETING

Next meeting of the MKMB has been tentatively scheduled for March 27, 2001. OMKM will notify Board members.

VII. ADJOURNMENT

Chair Hoke adjourned the meeting at 10:30 a.m.

Respectfully submitted:

Signed by Barry K. Taniguchi

Barry K. Taniguchi, Secretary, MKMB

5/16/01

Date