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## Minutes Regular Meeting

Mauna Kea Management Board  
Monday, September 11, 2006

Kukahau'ula, Room 131  
640 N. A'ohoku Place  
Hilo, Hawai'i 96720

### Attending

**MKMB:** First Vice Chair Barry Taniguchi, Herring Kalua, Antony Schinckel, Ron Terry, Harry Yada

**Kahu Kū Mauna:** Ed Stevens and Sean P. Naleimaile

**OMKM:** Stephanie Nagata, Dawn Pamarang, Ululani Sherlock, and William Stormont

**Others:** Doug Arnott, David Byrne, Robert Fox, Gary Fujihara, John Hamilton, Bill Heacox, Cory Harden, Jim Kennedy, Rocco Landi, Bob McLaren, Eldon Lindsey, Stuart Putland, Lew Schwenk, Steve Shimko, and Debbie Ward

### I. CALL TO ORDER

First Vice Chair Barry Taniguchi called the Mauna Kea Management Board (MKMB) meeting to order on September 11, 2006, at 10:00 a.m.

### II. APPROVAL OF MINUTES

It was moved by Harry Yada and seconded by Antony Schinckel that the minutes of the July 24, 2006, meeting of the MKMB be accepted. The motion was carried unanimously.

### III. DIRECTOR'S REPORT

#### A. Presentation of Gifts to Dr. Jim Kennedy

Director Stormont presented Dr. Jim Kennedy with a lei and a photo of two native plants, silversword and 'ama'u (fern), found on Mauna Kea. These images were taken by Jean-Charles Cuillandre, an astronomer at Canada-France-Hawai'i facility.

#### B. NASA/Keck Outrigger Project

Since the last meeting, Judge Hara issued a Memorandum of Decision in which he reversed the decision by the Board of Land and Natural Resources (BLNR) to grant a Conservation District Use Permit for the project. According to Judge Hara, the project's management plan did not meet conservation district rules' definition of a comprehensive management plan.

Harry Yada asked if there would be an official withdrawal of the permit application. Dr. McLaren replied IfA will work with the Office of Conservation and Coastal Lands to determine the best approach. Director Stormont stated Associate Director Nagata, Dr. Kudritzki, Dr. McLaren and himself met with officials from the DLNR to discuss what the next steps should be. There is a lack of clarity in the Conservation District regulations.

**C. Memorandum of Understanding (MOU) between DLNR and the University**

The draft MOU is not ready for distribution. It will be going out and the Board will have formal discussions at the November meeting. Mr. Taniguchi asked Director Stormont if he would be working with DLNR or if this was his document. Director Stormont replied he is working with DLNR and its various divisions to make sure the first draft is as complete as possible.

**D. Update of Board Recommended Projects**

An update on the status of projects approved by the Board in July will be provided at the next meeting.

**E. Welcome New Board Members**

Director Stormont welcomed new board members Herring Kalua and Antony Schinckel. He thanked them for their willingness to serve on the Board and look forward to their participation and mana'o.

**F. University of Hawai'i Commercial Permits Update**

Associate Director Nagata reported the request to approve changes to the terms and conditions of the commercial permits is on the Board of Regents (BOR) September agenda. When the BOR accepted the authority from DLNR, they authorized the Office to issue permits under the same terms and conditions of the DLNR permits. However, changes have been made to some of the terms and conditions, so it needs to go back to the Board of Regents for their approval.

Mr. Rocco Landi, representing Roberts Hawai'i, inquired (assuming that the BOR approves the permits) when will the permits go into effect. Associate Director Nagata replied they would probably be in effect November 1, 2006.

**IV. COMMITTEE REPORTS**

**A. Kahu Kū Mauna**

Kahu Kū Mauna Council acknowledges new Board members Herring Kalua and Anthony Schinckel and extended its welcome to both. Mr. Stevens introduced Mr. Sean Naleimaile, who was attending today's meeting. Mr. Stevens will try to bring other new members to the Board meetings.

Mr. Stevens thanked Dr. Bill Heacox for sending his project review, which was on the action agenda.

**B. Hawaiian Culture Committee**

The committee met on August 30, 2006. New members Mr. Kalua, Ms. Mapuana Waipa, and Mr. Patrick Kahawaiola'a attended the meeting. That meeting was spent sharing background information on what the committee has done in the past. They will look at developing new initiatives as well as pursuing the development of a protocol for visiting Mauna Kea. Director Stormont also mentioned it came as surprise to the new members that there are no rules in place regarding public activity. The committee expressed its desire to be fully informed of what has transpired and how to move forward.

Director Stormont asked Mr. Kalua if he had anything to add. Mr. Kalua stated he was happy to be a part of the committee and Board to make all the programs up on the mountain successful. He looks forward to working with everybody together as a team.

**C. Environment Committee**

The committee is finalizing a Request for Qualifications (RFQ) seeking a qualified consultant to develop a comprehensive natural resources management plan. Mr. Taniguchi asked if the RFQ will have an Hawaiian cultural component. Associate Director Nagata replied this RFQ is specifically for natural resources. The consultant that is currently doing the archeological survey will be developing a cultural management plan. The cultural and natural resources management plans will be merged into one comprehensive plan.

**V. OLD BUSINESS**

**A. Election of Board Officers**

Mr. Taniguchi opened the floor for nominations of Board officers.

Mr. Yada nominated Rob Pacheco as Chair, Barry Taniguchi as First Vice Chair, and Ron Terry as Second Vice Chair and Secretary. All parties have been approached and have consented to taking those positions. Mr. Kalua seconded the motion.

Mr. Yada moved to close the nominations and offer a unanimous ballot on behalf of the entire Board. Mr. Kalua seconded the motion. The motion was carried unanimously.

#### Discussion

Mr. Stevens asked if Mr. Pacheco would be okay serving as chair again given that his new role as a member of the BLNR would take up a lot of time. Mr. Taniguchi replied Mr. Pacheco is okay with that. Mr. Pacheco's term ends next June and he has agreed to finish his term. If he resigned at this point, we would have to look for an interim member for the remaining nine months. Mr. Pacheco is not eligible for reappointment.

## **VI. NEW BUSINESS**

### **A. Processing of Project Review and Recommendations**

Associate Director Nagata reviewed the draft flow chart for processing minor and major projects. It depicts the Board's roles and responsibilities.

#### Discussion

Mr. Schinckel asked if this is effectively a summary of the 2000 Master Plan. Associate Director Nagata replied it is, but where the Master Plan is silent OMKM is filling in the blanks. Mr. Yada commented that the only portion that is in the Master Plan is the design review process. Mr. Yada also stated the Master Plan is not very clear about the process within the UH structure, such as who decides what. There are the Institute for Astronomy (IfA), OMKM, and MKMB, but it is not clear on roles and responsibilities.

Associate Director Nagata stated one of the reasons for going through the university process before approaching DLNR is the university process involves the public in the review of a project. If the University does not sign off on the project, it does not make sense to go to DLNR for its permit. If DLNR were to issue a permit to the developer before MKMB and Kahu Kū Mauna Council have a chance to review the project and their review requires changes, the applicant may have to go back to DLNR to have its permit amended. The University needs to be comfortable with the project before the project goes to DLNR for a permit.

Mr. Yada felt it was logical for UH to be comfortable and approve the project before applying for a Conservation District Use Application (CDUA). He believes that the BLNR would like to know, even with respect to the Keck project, what the position of OMKM/MKMB is on the project. BLNR would consider our position and opinions in their decision making. If the BLNR is considering a permit, what process is available for them to understand our position? There should be a process by which the project comes through OMKM/MKMB for input before a CDUA is filed. At least in the proposed process there is sequencing.

Mr. Taniguchi stated one thing this draft points out is that IfA is not the approving authority. Looking at the sequence of steps, it goes from IfA as a proposer but IfA would have to go through this sequence in which case the approving mechanism clearly is OMKM/MKMB up through the Board of Regents. Mr. Yada added OMKM and MKMB are supposed to represent the balance and the route for community input for all proposed projects. It is important that we put some structure into the process and that it is clear there is opportunity for public and Kahu Kū Mauna input before submitting a permit application.

Bob McLaren agreed it makes a lot of sense, but initially the Board and the Office chose the other approach. Dr. McLaren also pointed out that there are other proposers other than IfA. Mr. Taniguchi acknowledged that and clarified that he was trying to emphasize that IfA is not the entity to go through for the approval process for the University. OMKM represents the University in this process.

Mr. Taniguchi assumed that action will be taken on this draft at the November meeting. What do we need to do beyond this? Do we need to send this to the Board of Regents? Associate Director Nagata replied this draft needs to be worked on. When the Board is comfortable with it we can submit it up the chain. She was not sure if it needs to go to the Board of Regents, but it should go to the President.

Mr. Stevens stated he always wondered whether the applicant should be the proposer? Mr. Taniguchi replied in the past, as far as DLNR goes, IfA has been the applicant for the permit. Dr. McLaren clarified the applicant is the University through the Institute. Mr. Taniguchi thought that was because the University is the lessee of the property. Dr. McLaren replied that was the principal reason. Mr. Taniguchi asked Mr. Yada whether the applicant for a CDUA could be a potential sub lessee, or does it have to be the University? Mr. Yada stated the most logical approach would have the landowner be the applicant. It does not make sense for a subtenant to be the applicant for a project without the landowner's consent. In our case it makes more sense for UH, the landowner, to apply on behalf of the project.

Mr. Stevens stated that from the comments he hears from the outside there seems to be some confusion. Why would IfA (UH) be the one to submit the proposal? Shouldn't it be the applicant, especially regarding all the required footwork? Mr. Yada clarified that UH can be the applicant, but all of the work that goes into preparing the application and the necessary studies, etc. is going to be done by the proposer of the project.

Mr. Taniguchi stated this will be tabled and brought to a future meeting for further discussions. Hopefully we will have something adopted within the next meeting or two so we can expedite this. Mr. Yada added he would like IfA to provide input.

#### **B. University of Hawai'i at Hilo 24-inch Telescope Project**

The UH Hilo Physics and Astronomy Department is proposing to renovate the UH 24-inch telescope building. The first step in the review process for minor or major projects is to recommend to the President a project classification. This particular activity involves replacing the walls and the dome of the existing facility, which is deteriorating and no longer weatherproof. It will not require any excavation nor any new concrete work. It is a renovation and not a replacement. The structural framework of the facility will remain in place and the duration of this construction is less than six months.

##### Recommendation

Based on the relatively minor scope of work and minimal impact, the Office recommends this project be classified a minor project and requests the Board concurrence.

##### Action

It was moved by Harry Yada and seconded by Ron Terry to accept OMKM's recommendation to classify this as a minor project and forward the recommendation to the UH President for his approval. The motion was carried unanimously.

##### Discussion

Mr. Arnott asked if the a small building (the one with the lua attached outside) just uphill of the 24-inch telescope was part of this project. He indicated the building's slab was being undermined by the winds and should be addressed. Director Stormont replied that is something else and not part of this project. Mr. Taniguchi asked Director Stormont to check into it.

Mr. Stevens felt there should be criteria for classifying a project. For example, construction costs. If the cost to construct is over a certain amount it would be a major project, otherwise a minor one. Mr. Taniguchi thought it would be difficult to use construction cost as a criteria because you could have a major project for less than a million dollars or you could have a minor project costing \$2 million. For example, there is a proposal to renovate an existing facility. There will be no new excavation, the interior work will cost three million dollars but it does not affect the surrounding lands or the site itself. This could still be a minor project. All the different components have

to be looked at and it is a judgment call. He does not think there can be an absolute quantitative measurement that would result in a definitive yes or no regarding classifying a project major or minor. Director Stormont believed there is a discussion in the Master Plan about the difference between a minor and a major project.

Mr. Stevens stated he agreed with the UH 24" minor project classification because there is no major impact. It is recycling the building and putting in new equipment.

Mr. Taniguchi asked if the Board will have a report at the next meeting as to the status. Director Stormont confirmed a thorough review of the proposal, with conditions, will be presented to the Board to review.

## **VII. Announcements**

### Observations of Interest from Mr. Doug Arnott

Mr. Arnott wanted the Board to be aware of some existing issues:

The Visitor Information Station (VIS). It is taking a long time to complete the renovation. The carpets are still in bad shape and there is a bank of monitors blocking the former displays of Lake Wai'au. Visitors have to walk through debris. The situation leaves a negative impression on visitors.

Commercial Operators vs. the Public. If a person from the general public rents a car and drives it to the Visitor Station, that person is welcomed and allowed to use the telescopes. If a person comes with a Roberts or Arnotts tour company van (which pays all of the permit fees), that person is not allowed after a certain hour to use the VIS, its facilities, or telescopes. This creates an enormous problem because the VIS has the only bathrooms. The commercial operators have to tell their customers who use the bathrooms they cannot use the telescopes. Are you all aware of that? It is extremely difficult to administer and it causes a great deal of bad will among our visitors. We understand it. They do not.

### Uninsured Motorists

The OMKM and the MKMB Board must be aware that uninsured motorists are on that mountain. So when someone finally has a serious accident and a death occurs, you will become aware that these people are not being stopped from going up the mountain.

### Hiking the Trails

There are two major occurrences of graffiti, which he has been told by rangers might be old enough that the graffiti is grandfathered. This is hard to believe. One of them is on the Adze Quarry and the other is on a very large boulder on the way up the trail from the 10,000-foot level to the Adze Quarry. He would volunteer to find some suitable covering for it.

Another concern is that rangers are diverting genuine hikers to hike on the road rather than use established trails. This seems to be a policy, which he did not believe was correct especially since there are trails. Hikers are being told that it would be preferable if they used the road, particularly in the area past the Adze Quarry. He thought if the Adze Quarry is not emphasized, they will keep going up past Lake Wai'au and on to the summit. Nobody knows what they are; it is just a pile of rock.

### Trash

There is a lot of low-level trash alongside the main road up the mountain, particularly at the higher levels. The rangers could occupy some of their time walking along and picking some of it up. We picked a lot of it up and put it in bins, but it is visible to visitors who are hiking.

Mr. Taniguchi asked Mr. Arnott to submit a written report and the Board will ask Director Stormont to look into those matters. He then asked Mr. Arnott if he was aware of the funding source of the VIS. Mr. Arnott replied he was told the VIS is doing extremely well. He being a businessman understands that this is a tourism facility in an area where tourism is doing extremely well. Mr. Taniguchi asked if Mr. Arnott knew who pays for the cost to operate the VIS.

Mr. Arnott gathered that the revenues they pay in do not go into the VIS, but maybe this is something that we need to discuss in the future.

Mr. Landi asked if the telescopes were taken out of the same pool of funds that the commercial operators are paying into. David Byrne, VIS manager, replied they are not. The telescopes available at the VIS are generally paid by donations from the general public, which go through the University Foundation. They are not generally taken out of operating funds.

Mr. Taniguchi added that what commercial operators have been paying up until now all goes to DLNR. Nothing goes to Mauna Kea. In the future it will. He also stated that it would behoove Mr. Arnott to do research and learn the facts before making statements. There are recommendations that can be made, but too many times statements are made as if we do not care there is a problem. Find out what the situation is first and come up with a positive suggestion on how we might correct a problem rather than just making critical statements. He added the Office and Board will get back with him on some of the comments.

#### Draft Project Flow Chart

Corey Harden noticed there is an EA and EIS process in the project flow chart and wondered if that is the point at which there is public input. At what point in that process so far is there public input? Associate Director Nagata stated the flow chart does not identify all the details that are involved in the process. It is just conceptual as to how things are going to flow. Whatever that process is, with regard to the EA or EIS there will be compliance with all of the necessary requirements of that process.

Ron Terry explained that anytime MKMB is involved public input is sought and solicited. Dr. Terry stated there are two to four opportunities in here prior to the EA and EIS. That is one of the things we wanted more public input.

Mr. Yada added the flow chart, as it is laid out, intends to give the public an opportunity for input prior to even the EIS being submitted. The venue for the public is this Board and the Office. The public will have input into what goes into the draft EIS, which takes place before the EIS is processed.

#### Management Plan

Ms. Harden had a question about Judge Hara's decision. She wondered how it might be different from how things have occurred in the past. Who will be involved in developing it? What steps might be taken? How will the management plan be developed? Where will the public be involved and who else will be involved?

Director Stormont stated the functional committees, which are part of the Office, will be involved in that. There are different avenues for public input in what is going into the management plan. We will work with DLNR and their divisions for input into the development of the management plan.

#### Recommendation for Process

Debbie Ward suggested that there be a statement on the agenda regarding documents what will be reviewed at the Board meeting and their availability at OMKM. The BLNR agenda includes such a statement. Mr. Taniguchi thanked Ms. Ward and stated the Office and Board would look into that.

### **VIII. ADJOURNMENT**

There being no further business, Mr. Taniguchi adjourned the regular meeting at 11:00 a.m.

Respectfully submitted:

Signed by Ron Terry  
Dr. Ron Terry, Secretary, MKMB

11/13/06  
Date