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Minutes Regular Meeting

Mauna Kea Management Board
Tuesday, March 23, 2004

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

Attending

- MKMB:** Chair Arthur Hoke, 1st Vice Chair Rob Pacheco, 2nd Vice Chair/Secretary Barry Taniguchi, and Harry Yada
- OMKM:** Stephanie Nagata, Dawn Pamarang, and William Stormont
- Others:** Doug Arnott, Bill Heacox, Masanori Kakiage, Ron Koehler, Ron Laub, Wendy Light, David Morihara, Tetsuo Nishimura, Russ Oda, Eric Tollestrup, Christian Veillet, and Deborah Ward

I. CALL TO ORDER

Chair Hoke called the Mauna Kea Management Board (MKMB) meeting to order on March 23, 2004 at 10:07 a.m.

II. APPROVAL OF MINUTES

It was moved by Rob Pacheco and seconded by Harry Yada that the minutes of the January 27, 2004 meeting of the MKMB be accepted. The motion was carried unanimously.

III. DIRECTOR'S REPORT

Informational Briefing to Discuss the Legislative Auditor's 1998 Report on the Management of Mauna Kea

On March 2, 2004, Associate Director Nagata on behalf of Director Stormont, participated in an informational briefing for the Senate Committees on Water, Land & Agriculture and Education, and House Committees on Water, Land Use & Hawaiian Affairs, and Higher Education. The purpose of the briefing was to provide an update on the management of Mauna Kea specifically in relation to the recommendations described in the Legislative Auditor's 1998 report, the *Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve*.

Senator Lorraine Inouye, Chair, Committee on Water Land and Agriculture, invited Marion Higa, Legislative Auditor; Rolf Kudritzki, Institute for Astronomy; Bill Stormont, OMKM; Ed Stevens, Kahu Kū Mauna; Arthur Hoke, Chair MKMB; Kealoha Pisciotta, Mauna Kea Anaina Hou; Deborah Ward, Sierra Club; and DLNR. DLNR declined to participate because it is a decision maker in an ongoing contested case hearing.

Marion Higa summarized her 1998 findings and recommendations:

- a. Major recommendation to UH was the development of a new master plan
- b. Additional recommendations included hiring rangers, opening the VIS on a more regular basis, developing rules for project development and public access, registering visitors at the VIS, removing abandoned and left over equipment and construction materials, and removal of trash.

Dr. Jim Gaines, Interim Vice President for Research spoke on behalf of University of Hawaii System. He talked about the process involved in developing the Master Plan and some of the salient aspects of the plan.

Associate Director Nagata talked about the establishment of OMKM, MKMB, and Kahu Kū Mauna Council (KKMC) and their respective roles. She stated that OMKM/MKMB/KKMC were solely dedicated to managing the mountain and protecting the cultural and natural resources of Mauna Kea. She also spoke of the progress made in addressing the concerns of the Auditor and objectives of the Master Plan.

Ed Stevens reiterated KKMC's belief that the playing field needed to be leveled. There has been a lot of development on the mountain and nothing for the Native Hawaiians. He stated there needs to be an equal trade off and recommended that the University seriously consider recycling facilities as they become obsolete. He advocated for zero net growth.

Kealoha Pisciotta and Debbie Ward presented their opposition to the University's control of the management of the mountain. Their statements included many of the concerns, problems and events that occurred **prior to** the Master Plan that were in large part the reasons that resulted in the development of a new master plan. Both cited issues relating to the contested case hearing. They, like most of the general public, appeared to be somewhat confused about the management plan that was part of the Outrigger CDUA; as well as plans past, amended, and present; and which plans were approved, could or should have been approved by the Board of Land and Natural Resources. Both felt the observatories should pay an equitable compensation to the State for the use the summit.

The last to speak was Arthur Hoke who chose to speak as an individual instead of the chair of MKMB. He stated that what would be in the best interest of Mauna Kea would be removing the management of Mauna Kea from the University of Hawaii and DLNR. He felt the Legislature held the power to come up with a new system.

Some of the major questions asked by legislators were: What are the future plans for Mauna Kea and the timeframe? Does the University have plans to remove any of the facilities? Is there a one-for-one plan and is that a workable option?

The day after the March 2 meeting, an article appeared in the *Hawaii Tribune Herald* quoting Senator Lorraine Inouye's desire to introduce a resolution calling for the Legislative Reference Bureau and the Legislative Auditor to look into establishing a separate independent management authority. Inouye envisions a management authority of 8 to 12 members appointed by the Governor, the Senate President and Speaker of the House.

IV COMMITTEE REPORTS

A. Kahu Kū Mauna

No report.

B. Administrative Rules, Astronomy Education, Environment, Hawaiian Culture, and Public Safety and Conduct Committees

No reports.

V. OLD BUSINESS

A. Daytime Tours by Commercial Operators

Director Stormont summarized the issue of additional vans for daytime tours presented by Mr. Doug Arnott at the January 27, 2004 Board meeting. Mr. Doug Arnott provided correspondence from DLNR regarding discussions with MKSS.

On August 7, 2000, DLNR granted all permitted commercial operators the option of exceeding their two-van maximum for tours to the summit. DLNR also stated that requests to exceed the two-van maximum would be limited to daytime tours only and by special permit approved by the Visitor Information Station. Special permits were to be issued on a first-come, first-served basis. On August 12, 2000, MKSS announced a procedure for handling commercial tour operators' special request for daytime tours.

VI. NEW BUSINESS

A. Project Status Designation for Subaru Telescope's Request to Install a Seeing Monitor Camera

Subaru Telescope requested permission to install a seeing monitor camera (SMC) on its telescope facility.

Project Summary

1. Purpose

- Measure astronomical seeing which is important for understanding observing conditions. The camera will provide continuous quantitative seeing data during nightly observations.

2. Proposed Activities

- Installation of a 12” aperture camera on the exterior of the Enclosure Support Building (ESB). The camera will be housed in a box (3.5’ X 2.8’ X 2.8’) with a sliding roof. The box will be supported on a platform (5’ long X 3.5’ wide) which will be placed about 39’ (12 m) above ground.

3. Construction Activity

- Construction of a platform will take place soon after approval of the project is given by the Board.
- Prepare SMC in Hilo. Preparation is expected to take 2 months.
- Install SMC on the ESB. Installation is expected to occur 2 months after approval is given to proceed and will take approximately two people two days to complete the installation.
- Equipment that will be used to install the SMC is a one-man lift and various hand tools.

4. Mitigation Measures

- Subaru will work with the contractor:
 - to keep dust to a minimum when using the one-man lift
 - to secure and store all materials and tools after work each day
 - to secure all trash and scraps to prevent them from being blown away by the wind and after work.
 - to remove and dispose all trash and scraps after work is completed.

DLNR Permit

Pursuant to Hawai‘i Administrative Rules (HAR) §13-5-22 “construction or placement of structures accessory to existing facilities as identified in the exempt classes established in §11-200-8” do not require a permit from DLNR. The “construction or placement of minor structures accessory to existing facilities” is an exempt activity under HAR §11-200-8.

OMKM Recommendations

1. Based on the following, OMKM recommends this project be classified insignificant:
 - The proposed installation will not significantly alter the exterior appearance or structure of the existing facility.
 - The impact to the immediate surroundings and summit region is negligible.
2. If this project is classified insignificant, OMKM recommends Subaru be allowed to proceed with the project with certain conditions.

Conditions

OMKM recommends Subaru:

1. Notify OMKM when it will commence summit construction activities.
2. Adhere to the mitigation measures described in its proposal.
3. Allow OMKM rangers to visit and monitor construction activities.
4. Notify OMKM upon completion of the project.

Action

It was moved by Rob Pacheco and seconded by Harry Yada to accept OMKM’s recommendation that this project be classified insignificant and allowed to proceed. It was clarified that approval of the project would include OMKM’s conditions. The motion was carried unanimously.

B. UH Hilo Department of Physics & Astronomy’s Proposal to Alter the Existing 24” Telescope Building to House a New Educational Telescope

Dr. Bill Heacox of the Department of Physics & Astronomy submitted a proposal for the UH 24” Telescope facility. The facility will require alterations to accommodate a new 1 meter telescope. His department is considering two options:

- 1) Minimal: Replace the existing dome and walls. This would not change the external appearance or the footprint of the existing site.
- 2) Optimal: In addition to replacing the existing dome and walls, add on an additional support building that will serve as a control room, and public restrooms. This option will require increasing the existing footprint.

Director Stormont explained this is not a formal proposal to the board, but was for information only.

C. Canada France Hawaii Telescope Presentation by Dr. Christian Veillet, Director

Ohana Project

Dr. Veillet gave a review and update on the Ohana Project. Phase I of the project involving check injection of light in fibers at CFHT, Keck, and Gemini has been completed and working very well. Phase II – CFHT to Gemini link is expected to be completed in spring 2005. Dr. Veillet also discussed the proposed fiber optic layout between CFHT and Gemini.

Future of CFHT

Dr. Veillet discussed the future of CFHT beyond the year 2010. They are looking at two options:

- 1) Closing of the site - What would this mean and what would it cost to remove CFHT?
- 2) Recycling of the site

D. Status of Administrative Rule Making

David Morihara, Director, Governmental Relations, UH, discussed the process of administrative rule making, internal and external powers and responsibilities, enforcement, and authority. He stated the Board and Office should develop a vision of how they want to conduct enforcement on the mountain. The UH system will work with this vision and other issues and determine what can be done internally. Matters outside of the scope of the university's authority may require legislation. These issues will be put into bill form and presented to the BOR for approval as part of its legislative package.

Mr. Morihara works with the governor's office in coordinating UH's legislative package with the governor's legislative package. He stated submitting legislation that is supported by the governor and various departments is very helpful.

Director Stormont stated what needs to be determined regarding the university's leased lands is what is enforceable through BOR policy. What is not enforceable will require rules established through the rule making process. UH will first need to secure authority to make such rules. The office is currently working with legal counsel on this.

Arthur Hoke asked for a timeline for the process. Mr. Morihara stated that as far as legislation goes we should be ready with some draft language by late summer. We can have discussions in early summer of what can be done internally. Once that is determined, whatever is left will be crafted into bill form.

Harry Yada expressed his concern about developing rules that replicate those already in place. Agencies such as DOT, DLNR, the court systems, and the county police all have enforcement authority that is a critical part of their mission. Our draft rules mainly deal with behavior on property that typically falls into trespass or vandalism rules. In his opinion, he does not know if rules are the way to go.

Arthur Hoke added he would feel more comfortable if General Counsel would give board members a presentation on vicarious liability. His understanding is that board members have a real heavy liability for everything that happens on the mountain. Director Stormont will request the presence of General Counsel at a future meeting to specifically address this issue.

VII. ANNOUNCEMENTS

None.

VIII. NEXT MEETING

Unless otherwise notified, the next meeting is scheduled for April 27, 2004, 10:00 a.m.

VII. ADJOURNMENT

Chair Hoke adjourned the meeting at 11:30 a.m.

Respectfully submitted:

Signed by Barry K. Taniguchi
Barry K. Taniguchi, Secretary, MKMB

May 4, 1004
Date