



University of Hawai'i at Hilo

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**Minutes  
Regular Meeting**

Mauna Kea Management Board  
Tuesday, November 27, 2007

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

**Attending**

**MKMB:** 1<sup>st</sup> Vice Chair Barry Taniguchi, 2<sup>nd</sup> Vice Chair Ron Terry, Patricia Bergin, John Cross, Lisa Hadway, Herring Kalua, and Christian Veillet

**Kahu Kū Mauna:** Ed Stevens

**OMKM:** Arnold Hiura, Stephanie Nagata, Dawn Pamarang, and William Stormont

**Others:** Doug Arnott, Rohendra Atapattu, Kenyan Beals, Seth Blume, David Byrne, Phil Castille, Dawn Chang, Mac Cooper, Gerald De Mello, Robert Fox, Jim Gaines, Peter Giles, Richard Ha, Steve Hardash, Cory Harden, Masa Hayashi, Saeko Hayashi, Arthur Hoke, Allan Ikawa, Scott Kirk, Ka'iu Kimura, Ron Koehler, Darolyn Lendio, Mike Maberry, Toni Mallow, Bob Masuda, Bruce Matsui, David McClain, Mark McGuffie, Masashi Nakata, Sean Naleimaile, Cindy Nomura, Russ Oda, Robert Rechtman, Hannah Kihalani Springer, Rose Tseng, and Harry Yada

**I. CALL TO ORDER**

1<sup>st</sup> Vice Chair Barry Taniguchi called the Mauna Kea Management Board (MKMB) meeting to order on November 27, 2007, at 10:05 a.m. New Board members John Cross and Lisa Hadway were introduced.

**II. APPROVAL OF MINUTES**

It was moved by Ron Terry and seconded by Herring Kalua that the minutes of the September 11, 2007, meeting of the MKMB be accepted. The motion was carried unanimously.

**III. ELECTION OF OFFICERS**

Ist Vice Chair Taniguchi opened the floor for nominations of Board officers.

Patricia Bergin nominated Barry Taniguchi as Chair, Herring Kalua seconded the nomination. Ron Terry moved to close the nominations. The motion was carried unanimously.

Ron Terry nominated Patricia Bergin as 1<sup>st</sup> Vice Chair and Herring Kalua seconded the nomination. Lisa Hadway moved to close the nominations and Herring Kalua seconded the motion. The motion was carried unanimously.

Patricia Bergin nominated Ron Terry as 2<sup>nd</sup> Vice Chair/Secretary and Herring Kalua seconded the nomination. Herring Kalua moved to close the nominations and John Cross seconded the motion. The motion was carried unanimously.

**IV. DIRECTOR'S REPORT**

**A. Mauna Kea Ranger Recruitment**

The Office of Mauna Kea Management (OMKM) is recruiting to fill a vacancy in the Mauna Kea ranger corps. The deadline to submit applications is Friday, November 30, 2007.

**B. Pan-STARRS Design Review Process (DRP) Update**

The Environmental Impact Statement (EIS) process for Pan-STARRS has been put on hold pending the development of a comprehensive management plan (CMP). Phases 1 and 2 of the DRP were completed even though Phase 2 was not authorized by the MKMB. Director Stormont will provide an update on the entire process at the January 2008 meeting and review with the Board a decision that was made in 2002 that did not allow the DRP to proceed beyond Phase 2 until a decision on a site location was made. Materials from the applicant will be distributed to the Board in advance of January's meeting.

**V. COMMITTEE REPORTS**

**A. Kahu Kū Mauna Council**

No report.

**B. Environment Committee**

Ron Terry reported the Committee continues with the development of the Natural Resources Management Plan. They met with the consultants to help define parameters of the plan and the process for moving forward.

**C. Hawaiian Culture Committee**

Herring Kalua reported Ululani Sherlock is putting together a draft of the administrative rules to bring to the Board. The committee would also like to meet with members of the Environment Committee.

**VI. OLD BUSINESS**

**A. University of Hawai'i System's Comprehensive Management Plan**

(Chair Taniguchi requested moving this to the last item on the agenda.)

Allan Ikawa, former member of the Board of Regents (BOR), was offered the floor. He gave a brief summary of the controversies and emotions that arose during the development and adoption of the Master Plan.

In 2000, Billy Bergin, Allan Ikawa, and Nainoa Thompson were appointed by the Chair of the BOR to spearhead a committee to oversee the development of the Master Plan. Mr. Ikawa's impression of the draft Master Plan was that it was not saleable, but felt in order for the plan to be accepted it was necessary to get buy in from everyone. But the University decided to go ahead with it anyway. Senator Inouye and his representative Bill Kikuchi established Aha Hui Ku Mauna comprised of Ed Stevens, Hannah Springer, Arthur Hoke, Pua Kanahale, Mauna Roy, Larry Kimura, and Ululani Sherlock. Also participating were legal counsel, Walter Kirimitsu, and BOR staff David Iha, and Carl Makino.

There were three major issues. One was the sacredness of the mountain. The second was the misconception that the observatories were making a lot of money from observing time and neither the community nor the University was getting anything. The third and the biggest issue was that Manoa was telling the Big Island what to do. In the end the Master Plan called for everything to pass through the University of Hawaii at Hilo (UHH), thus giving people on the Big Island a say about the management of the mountain.

The meeting to adopt the Master Plan was held on the Hilo campus. Ed Stevens took a lot of heat. People were cursing the regents to do the right thing. Although Nainoa Thompson wrote the resolutions supporting the Master Plan, he was unable read it, instead Alan and Billy Bergin ended up reading it.

Mr. Ikawa asked that the University respect the Big Island and the individuals such as Ed Stevens and Arthur Hoke who gave up a lot of their time and put considerable amount of effort and passion. He stated the OMKM needed to be funded correctly. When President Dobelle was spending money, one of the first places he tried to cut was the office. Mr. Ikawa told Wick Sloan if he cut OMKM all hell was going break loose.

Mr. Ikawa ended by saying let these people finish the job. They are on the right path. Mauna Kea has been here for a million years, another couple of years won't hurt. You got to do it the right way. Once you go down the wrong path, it is going to take an eternity to bring it back to where you are right now.

Chair Taniguchi thanked Mr. Ikawa and turned the floor over to President McClain. President McClain opened by thanking the Board for their service to the community and for their continuing advice to Chancellor Rose Tseng as she fulfills her role overseeing the stewardship of the mountain and serving as the connection to him and the BOR.

He appreciated Mr. Ikawa's comments and it reminded him that a link was broken in December of 2002 when Evan Dobelle reorganized the system abolishing the Senior Vice Presidents positions. At that time Rose Tseng held dual titles of Chancellor of UHH and Senior VP. The Master Plan's connection to the system was severed with the loss of Rose Tseng's role as Senior VP. The loss of the connection to System has not been addressed.

He certainly could not agree more with the importance of adequately funding the OMKM. The legislative auditor took a look at our stewardship of the mountain in 2005. In nearly every respect, – except for rule making, which is a matter for the legislature to decide - it is fair to say that the auditor found our fidelity to the Master Plan to be pretty good and the report showed OMKM's budget nearly tripled. Regarding rule making we had asked the legislature for the authority for three consecutive sessions, with no success.

Accompanying the President were Jim Gaines, Vice President for Research; Darolyn Lendio, Vice President for Legal Affairs and General Counsel; Bruce Matsui, Deputy General Counsel; Bob Masuda, special assistant on matters related to the Big Island and Dawn Chang, Principal of Ku'iwalu.

On the 28th of August, he and Ms. Lendio met with Chancellor Tseng and later with Director Stormont and Associate Director Nagata to talk about the CMP. At that time, it was noted that the next Board meeting was September 11<sup>th</sup>. He was scheduled on the 11th to be on the mainland and Ms. Lendio was scheduled to be in a meeting with a BOR Task Group on another matter. Hence, Bruce Matsui was asked to come and meet with the Board on the 11th.

Following the MKMB's discussion with Mr. Matsui there were a number of questions that needed to be answered. It was concluded, based largely on Judge Hara's decision regarding the Outrigger telescopes law suit, that there was a need to augment efforts in developing a CMP. His understanding was that Judge Hara's decision caught everyone, including UH system by surprise. System felt it should step up and address this matter. VP Gaines stated that OMKM was not given moneys specifically for this initiative, but had been given an additional \$300,000.

Darolyn Lendio introduced herself stating she joined the University in September 2006. She was aware that there was an ongoing litigation regarding to the Outriggers project and pending motions before Judge Hara. General Counsel and outside counsel were representing UH and IfA. They attempted to mediate and settle and come up with something which UH could use toward the stewardship of the mountain rather than continue fighting. UH was rebuffed twice by the Plaintiffs who said, "You appeal it, and then maybe we will talk to you about mediation and settlement." The Plaintiffs went to the Department of Land and Natural Resources (DLNR) and told them, "Look, we are willing to mediate, but only with you because we do not trust the UH."

Ms. Lendio stated it is UH's opinion that there is nothing in the law that requires DLNR to do a CMP. But looking at Judge Hara's decision, the practicality of the situation, and the desires of the community, it was decided that UH will put in the resources and assist, along with DLNR and all the stakeholders, on developing a CMP.

UH sought a consultant who had a sense of what the community wanted and who was tied to the community. Ku'iwalu, whose principals are Dawn Chang and Lani Ma'a Lapilio, was retained in September.

Ku'iwalu is a very small consulting firm. Ms. Chang was an attorney with the Attorney General's Office for about 15 years. She was assigned to the DLNR and its respective Boards and Commissions, including Burial Councils and Kaho'olawe Island Reserve Commission. Their primary focus is cultural resource management, including burials and construction projects. They also engage in community outreach.

She stated this was not an easy decision to take on the task of doing the CMP, but they had an opportunity to make a difference, to respect and to continue to be good stewards of the mountain. Their team includes the Edith Kanakaole Foundation, cultural consultants; PB America, planning consultant; Rechtman Consulting, archeological consultant; and McNeil Wilson, communications and media relations consultants. They are planning to complete the CMP by May of 2008.

They have spoken to federal, state, and local legislators and other elected officials about Mauna Kea. They have embraced the concept of the UH taking on the responsibility of doing the CMP. They have also spoken to key community stakeholders involved in the litigation, and to the plaintiffs in the Outrigger contested case hearing, who initially was very reluctant to talk to us.

They visited Mauna Kea with Ed Stevens and have come away with a feeling of tremendous reverence for the mountain and are even more committed to developing a plan that respects Mauna Kea.

Over the last several months they have been engaging in a series of small talk story sessions, very local style, non-traditional public forums, finding out from the stakeholders their concerns, management issues and management measure alternatives. They plan to eventually hold major public forums.

Based on the availability of materials on Mauna Kea they feel the May 2008 date is not unnecessarily unrealistic. They know that OMKM has done a tremendous amount of work in developing and understanding Mauna Kea and coming up with appropriate management tools. It is not their intention to be disrespectful in this process; it is to recognize the work already done and in process; and it is their hope to collaborate and support OMKM's and MKMB's efforts.

Following their community outreach they will begin drafting the CMP. The basis of the CMP, and central to Judge Hara's decision, is preservation and protection of the natural and cultural resources. Ms. Chang stated they are not being driven by a particular project, i.e. by Pan-STARRS or the Thirty Meter Telescope (TMT). The management plan will either permit new uses or it won't and will help manage the existing uses.

The CMP will be taken for approval to the Board of Land and Natural Resources (BLNR). She consulted with Laura Thielen, Chairperson of DLNR and it was agreed that it would be in everyone's best interests to do an early briefing with the Land Board. Ku'iwalu plans to brief the Land Board in January 2008 and present the table of contents of the CMP.

#### Discussion

Herring Kalua asked if they consulted with the Department of Hawaiian Home Lands (DHHL) which owns lands below UH's leased lands. Ms. Chang stated they informed DHHL about the CMP, but have not specifically discussed impacts to Hawaiian Home Lands. Mr. Kalua felt it was critical they communicate with DHHL because they have a strategic plan for their lands. He also stressed that they go to 'Imiloa because it is a great education and research center that talks about the history of this island.

Ed Stevens asked if the May 8th date was a date they established or if it was a date given to them. He thought the date of May 2008 was a bit ambitious. Ms. Chang explained that date was given to them. However, they reserve the right, based on information gathered from their community outreach, that if they cannot complete it by May 2008 they will make a recommendation to extend that date. They will know probably by February whether they can complete it by May. Mr. Stevens asked if it they could be flexible. President McClain replied using a local expression: "If can, can; and if no can, no can."

Ms. Bergin stated so much of this initiative appears to be Manoa-driven and she is trying to get a handle on what role UHH has in all of this. Ms. Chang replied they are not being given instructions, nor is the plan being driven by Manoa even though UH is their client. The drivers of the CMP are existing documents and community concerns. As far as her team is concerned, they do not see the distinction between Hilo and Manoa.

President McClain clarified that when Allan Ikawa was a regent, Manoa and the system were the same entities and Ken Mortimer was both the president of the system and the chancellor of Manoa. As of 2001 Manoa has a separate chancellor and the president is part of the System.

Ms. Bergin remarked we are very wary of people outside the Big Island community moving this project forward in what we think is a pretty rapid pace. When you talk about stakeholders you are visiting with, who might they be? How are you identifying these stakeholders? Ms. Chang replied they have looked through existing public documents, contacting members of the Native Hawaiian community, members of the environmental community, and contacting regulators, particularly DLNR and working with their staff. They are talking to people on both the Manoa and UHH campuses. They have not spoken to any of the commercial operators or the recreational operators, but intend to do so.

They have looked primarily at Native Hawaiian cultural and the scientific community's concerns. These initial small talk story consultations provide them with names of other people they should talk to in trying to gather a wide variety of interests and concerns, as well as reconfirming what they have been reading in the documents.

Ms. Bergin had a follow-up question. Did the Plaintiffs agree to talk to you? Ms. Chang spoke with one Plaintiff who share the Plaintiff's collective concerns and would discuss this with her organization. Ms. Chang's parting words to her was that it is going to happen and would prefer to have it happen with her participation.

Dr. Terry wanted to preface his remarks by saying that we can use all the help we can get with managing the mountain. He is glad there are more people coming on board. By May '08, you will have talked to a number of people and you will have identified some issues. He finds it really hard to believe that a management plan will be done by May '08. He mentioned that the Environment Committee has been working for several years scoping out some of the environmental issues and coming up with a scope of services. The initiative to enter into a contract for a consultant to develop a natural resources management plan predates Judge Hara's decision. The committee was not compelled by a plaintiff to do it. The members of the committee includes four biologists and two geologists who are volunteers with busy schedules and limited time. Now OMKM has engaged a full-time consulting team. The natural resources management measures will not be ready by May '08.

Unless a CMP is synonymous with a very general management plan, it is unlikely the CMP can be done by May '08. Is there something that is going to happen in June 2008 that this plan has to be ready for? As Mr. Ikawa stated the mountain has been there for a million years and it can wait until we are properly ready to manage it.

President McClain replied he will take the responsibility for that because he tries to manage the University by giving people ambitious deadlines. Based on discussions heard earlier at this meeting Items under Old Business, there is some frustration on the part of the Chair that those items have not moved forward.

Dr. Terry-asked what the outline of the management plan is going to address. We are developing two management plans, natural and cultural resources. In some ways, these resources should not be divorced but for reasons of efficiency, we are preparing two separate plans with the intention of merging them together. Will you be looking at these resources? Are you going to be specifying uses for the mountain? Are you going to say, this is a good place to put a telescope or this telescope should or shouldn't go here? Is it going to be a master plan? Is it going to be a management plan? How do you see those two concepts interrelating?

Ms. Chang stated they are working on a table of contents. At this point in time, she could not say what the document is going to look at. Ms. Lendio promised that the first draft of the table of contents that comes out for public review will be to this Board for their input and comment. It is a critical point when we come out with the initial draft of the table of contents to get immediate community input. You have been working very long on the mountain, and that is why we feel that OMKM is the cornerstone of this CMP.

Ms. Hadway remarked that Judge Hara's decision pushed this CMP situation forward. The audit says the OMKM should prepare a comprehensive natural and cultural resources management plan. There should be recognition of the work done by OMKM, the amount of time, effort, and money that has gone in to the management plans, all the work of the committees, Kahu Kū Mauna, and the contractors they are working with. A lot of time and effort was put into selecting those consultants; and it was done prior to all of this. Now there is another consultant in the picture that is working towards the same goal. Two sets of consultants talking to the same individuals which will confuse people. It was suggested that before developing a table of contents look at what OMKM has already done because their work involves the community.

Ms. Chang replied they have no intention of redoing the work of this Board and Office. Their hope was to collaborate with and incorporate OMKM/MKMB's management plan into the CMP. Their intention was to seek out OMKM, the source and the entity responsible for implementing the management plan. OMKM is a critical part of the ongoing process. Ms. Lendio added that the System recognized the value of the work that is being done by OMKM and hired a consultant that would bring all the documents together into a CMP.

Cory Harden stated that as a member of the community who is not totally informed on all the issues, it appears your model is to have Oahu come here and take the lead. She wondered about a model where people on this island would take the lead and then be given the resources. Why aren't you giving resources to those who know Mauna Kea to do it?

Ms. Chang described her team members which includes groups and individuals from the Big Island. They are Edith Kanakaole Foundation, the cultural consultant and Bob Rechtman, archeological consultant. For the community outreach they plan to utilize, as much as possible, existing Hilo resources.

Arthur Hoke believed this situation was giving the Big Island community additional reason to doubt the University's integrity and trustworthiness. He heard President McClain saying that Adler's (Keystone) report called for more leadership. He agrees, but one of the fundamentals of leadership is delegation. The Master Plan clearly says this is the leadership body for Mauna Kea – but it is being ignored.

Harry Yada commented he appreciated Mr. Ikawa's history of how we got here, and believes that is something we need to keep in mind and must never forget. There have been a lot of comments about needing to have things based here. The document itself is not the solution; it is how you implement it and what you do with it that is the solution. Who is expected to implement it? He did not think Oahu was going to implement the plan. Is it going to come back here? Now we have a situation where the perception is that a management plan is being created and it is going to be handed over to the Office of Mauna Kea Management or this board for implementation. That is unpalatable for him who served on the Board for seven years.

Hannah Springer asked if this plan will replace the 1995 management plan. Ms. Chang believes so based on discussions with DLNR. One option they looked at was building upon the 1995 management plan. But given the extent of development that has occurred on Mauna Kea, it would probably be a new document that the BLNR would approve to replace that 1995 plan.

Ms. Springer asked if the 1995 Plan would be archived. Kahu Kū Mauna tries to practice good citizenship and keeps informed of what goes on the mountain, but half the time she does not know which plan she should be looking at. It is Ms. Chang's hope that the CMP will consolidate all of the relevant parts of existing documents into one updated plan. Ms. Springer suggested building into this comprehensive plan a provision for periodic review, amendment, and refinement of the document, and that a timetable be established and maintained.

Ms. Bergin inquired if the role and function of this Board will be part of the plan. We are asked to do things without having the authority. She thought some definitive description of the Board's role in this whole process would be extremely helpful. Ms. Chang replied it would be.

Mark McGuffie commented that Judge Hara's ruling requires a CMP before any future development. There is no definition or clarity on what the plan should look like. There are elements that were being worked on way before the judge made a ruling from MKMB. Who and how is the University going to create the CMP, and who will decide the definition of this plan? Part of the process between now and May '08 is the need to determine what the plan should look like.

What are the resources for additional consultancy? President McClain replied that he is asking the research enterprise to do a lot more to honor the host culture. He has directed Jim Gaines to make \$2.5 million more in aid to Native Hawaiians available over the next three years. It will start at \$2.5 million and increase to \$5 million by 2010. This is not coming out of general funds, nor is it coming out of tuition; it is coming out of the return of overhead that comes back to us from our successful scientific enterprise. Similarly, resources for consultants in this area are coming out of return of overhead. By making this a priority we will have to have enough resources to do it right.

President McClain is looking into privileging OMKM and 'Imiloa's budget by establishing its own budget number in the state budget. This process could take some time, but we can begin by evaluating OMKM.

Ms. Chang stated in her courtesy visits with the various legislators, she was left with the impression that they realize that there are issues with Mauna Kea, and felt that having a CMP was one of the most critical. They realize we also have issues related to enforcement and rule making. If there is a CMP that addresses many of the sensitive cultural issues, they felt that the University could come forward and seek additional resources to implement the management plan, including rule making authority for enforcement.

Director Stormont stated our plans will give us the information we need to manage the mountain on a daily basis, day-to-day, week-to-week, month-to-month, etc. over time. What do you see is the difference between the CMP you are preparing and the plans that OMKM is developing? Ms. Chang hoped there was no difference and that OMKM's plans would be part of the CMP. Ms. Chang replied it is looking at the management of Mauna Kea comprehensively, including looking at existing and potential future development, in addition to cultural issues, access, and use issues.

Dr. Terry asked if this plan will result in a call for including the TMT as an element of the management plan. Ms. Chang indicated they are not looking at any particular future development. Dr. Terry added that contradicts what you said about future development

Ms. Chang stated that her team is looking at future uses such as potential development that could include astronomy facilities or educational facilities. Their process includes going out into the community and asking hard questions such as future development and should they be there at all.

Mr. Hoke feels the University needs to do its homework with the legislature. His position has always been that OMKM should be separate from the University so that OMKM is not associated with the mistrust of the University.

Doug Arnott, owner of Arnott's Lodge and Hiking Adventures stated the mountain is being managed comprehensively by the Hilo-based organization, OMKM. The University needs to talk to the OMKM. OMKM also needs to be funded and made the lead organization. He was here when OMKM was established and has seen it grow and it is totally capable of managing this mountain and creating a CMP.

Ms. Lendio stated that although arguments were made to Judge Hara; that OMKM is comprehensively managing the mountain, that DLNR is exercising their fiduciary duty in a fiduciary way, and that the University is being a good lessee, Judge Hara did not agree. He said there needs to be a CMP.

Associate Director Nagata commented that much of what Ms. Chang mentioned is already being done. She would like to know who will be leading the charge on this CMP. Who are you taking your directions from? Since you are on contract with the University, who do you report to? Ms. Chang replied she reports to General Counsel, but with respect to the CMP, she does not get direction from General Counsel. The University is not in any way driving the outcome of the report. She was told to do the report, but the University is not telling us what the contents should be.

Associate Director Nagata asked about Ku'iwalu's scope of services, but was told by Ms. Lendio that the scope of services is an attorney-client privileged document at this point. The scope of services will be the draft of the CMP's table of contents. OMKM will have an opportunity to comment and make changes to the table of contents because OMKM is the cornerstone of the CMP and will be implementing it. And to the extent that in the future there will be legislative authority, System is willing to advocate for financial resources at the end of this process if that is the findings of the report.

Associate Director Nagata asked when Ms. Chang comes out with her plan, will it become public before we have a chance to give input regarding what you are planning to do? Ms. Chang replied no. Ms. Chang welcomed the opportunity to engage with OMKM on a regular basis to, for example, make sure they are on the right track and that is a plan that OMKM can implement.

Ms. Hadway asked if the consultant could report directly to OMKM and MKMB. President McClain stated a complication arises because the contractor has been engaged in response to existing litigation, to which OMKM and MKMB are not parties. Chair Taniguchi asked again, the consultant cannot report to us?

Ms. Lendio replied Dawn is at your beck and call. You can call her anytime you want, and we will pay for it. If a structure is set up where Ku'iwalu reports to you, the Office of Procurement may be on you very quickly because we have procured her vis-à-vis the litigation. But there is no problem regarding access to Ku'iwalu, input, or reporting as to the status of what they are doing. It was suggested that it would add transparency to the process if it was known how much Ku'iwalu was being paid. They are being paid on a time-and-services basis.

Chair Taniguchi tried to explain the State's procurement laws that the University has to follow. General procurement processes require a request for proposals. However, in cases where litigation is involved, some of the procurement steps are bypassed. He believes that is what has happened in this case. The hiring of Ku'iwalu is under the Outrigger telescopes court case.

Ms. Lendio stated at some point, there will be a waiver of the privilege and everything related to the consultant's retention and their work will become public. The client decides when to waive its privilege. Ms. Chang's work will be public. But for now, vis-à-vis the litigation, understand there is attorney-client privilege, which at some point will be waived. Associate Director asked if it would be waived before Ms. Chang's presentation to the BLNR in January. Ms. Lendio was not certain.

Chair Taniguchi replied okay. That question will be put in the minutes so you can be reminded.

John Cross asked if Ms. Chang was planning to present to MKMB a table of contents at the January meeting. If so, will it contain a timeline for meeting the May 2008 deadline. Ms. Chang replied they are working on preparing a schedule, but a lot of it depends on the information they have. She expects to have it done by January and present it to the BLNR. She was notified the next MKMB meeting is January 29.

Director Stormont added she should include the CMP approval path. Ms. Chang replied she would. They want to make this as transparent as possible. The issue of attorney-client privilege is another matter. Their intent is to keep OMKM and MKMB informed.

Ms. Harden had a question regarding the attorney-client privilege for the scope of services. Does that mean you have to keep it confidential or you can if you wish? Ms. Lendio replied the University can if it wishes. It is the client that waives the privilege. The client is the University and the President makes the decision.

Bob Masuda welcomed emails if anyone has difficulty getting in touch with Ms. Chang. His email is rkmasuda@hawaii.edu. He and President McClain talk at least a couple times a week. We will use every possible communication vehicle.

Mr. Yada commented that as human beings, we learn from our mistakes and hopefully it is true for organizations too. We talk about the Keystone Report and the lack of trust. The Master Plan is not comparable to a management plan, but it was viewed as an answer. The Outrigger project was unfortunately the first test of the Master Plan, and in his view, a total failure because the University ignored community sentiment, did not engage the community, and did not listen to OMKM. His point is that the Master Plan was ignored. Now we are going to create a management plan; and hopefully, we do not do the same thing.

Ms. Springer asked if Ms. Chang was submitting her work product to the DLNR. Ms. Chang stated according to Judge Hara's ruling, it has to be approved by the BLNR. That is her final deliverable. Ms. Springer asked if the hiring entity needs to approve it before it goes to the DLNR. Ms. Chang replied they have not talked about the pre-approval processes, but it will need to be addressed.

Dr. Terry commented that MKMB will probably review the CMP and recommend approval or not. Ms. Chang said MKMB's decision will carry a lot of weight before the BLNR. At the January meeting we want to let them know what we are doing, and make them feel comfortable with our process.

Chair Taniguchi commented although we did a lot in this short period of time, a lesson to be learned is that this Board needs to be involved earlier on. That would have eliminated a lot of bad feelings, and a lot of misconceptions. He feels we were told too late, after the word was out that they "hired a consultant".

#### **B. Mauna Kea Observatories Support Services (MKOSS) Road Improvements Update**

Associate Director Nagata reported that back in 2001 MKOSS presented a proposal to do remedial work on the road. The Board felt this matter did not require their involvement and left it up to the Office. Ron Koehler has now come up with a proposal to fix various sections of the road totaling about a quarter mile.

The Environment Committee reviewed the proposal and they were concerned about the source of the gravel. OMKM negotiated with Pohakuloa Training Area (PTA) to obtain gravel from their quarry in exchange for MKOSS hauling water for them. Details on that are being worked out. Dr. Terry added the PTA quarry is regularly inspected for invasive species as part of the work on the Saddle Road. Reggie David has inspected it and cleared it for use by the Highways Division. It is a clean source of rock.

#### **C. Mauna Kea Observatories Support Services Transfer**

Christian Veillet reported the committee held its first meeting and there was a lot of good dialogue. Even though this is a sensitive issue for the observatories the committee feels we should continue to look into this matter. It will be a long process. Committee members include former Board members Jim Kennedy, Rob Pacheco and Harry Yada, Board member Lisa Hadway, MKOSS Manager Ron Koehler, and Associate Director Nagata.

#### **D. Proposal Processing Schedule & Project Review**

Ron Terry reported committee members met and came up with the most logical process that includes the Design Review Process, Chapter 343, and the involved UH process. Members on the committee include himself,

Associate Director Nagata, Ed Stevens, Jim Kennedy, Harry Yada, and Bob McLaren. Dr. Terry referred to the 3-page handout and asked Board members to review the draft for discussion at the next Board meeting.

Associate Director Nagata explained the reason for doing this is that the Master Plan is very vague on the process and how to go about reviewing and approving projects. There are various entities with their respective processes involved, not just the University. It was not certain as to how all of these pieces were going to fit. It is important to have a schematic on paper so that people who want to propose a project to the office would know what the sequence of steps were going to be; and also, what was involved after proposing a project to the office, what the review steps are even for minimal impact or minor projects.

Chair Taniguchi added the process as described under the Master Plan is very cumbersome and confusing. It is likely that the Master Plan will need to be updated and streamlined to make it a more workable document.

#### **E. Natural Area Reserves Memorandum of Understanding (MOU)**

Director Stormont stated there has been no recent progress on the MOU.

Ms. Hadway gave a summary of activities related to this matter. There was a meeting with Ed Stevens and DLNR staff in 2003 to discuss the idea about pulling the Natural Area Reserve (NAR) out of its current status and adding it into the Science Reserve. It was noted that there was administrative rules covering the NAR that provided more protection than the Science Reserve, which has no rules. It was recommended to Kahu Kū Mauna that it might be better to leave the area as a Natural Area Reserve and consider a partnership. For example, the Division of Forestry and Wildlife has a Watershed Partnership in which several landowners and various non-government agencies entered into a MOU to work towards common goals.

Ms. Hadway and Director Stormont developed an outline in March 2007 which entailed more than just the jurisdictional responsibilities of multiple divisions within DLNR. The next step was to have a letter from OMKM to Peter Young, Chairman at that time of DLNR. Director Stormont stated he has not yet written the letter.

Ms. Hadway agreed a lot of work has been done and that it is a matter of following up with the DLNR chair, communicating across the divisions within DLNR, and developing the document outlining the structure of the MOU. There are examples of MOU that could be used as a template.

Director Stormont was asked for a timeline for getting this done. It was noted that this matter has been ongoing for several years. Director Stormont indicated he will continue to work with Ms. Hadway. A letter will be sent by the end of December, and a draft MOU will ready for review at the January meeting of the Board.

#### **F. Administrative Rules**

Director Stormont stated there has been no recent progress.

Chair Taniguchi noted that Director Stormont distributed an outline to the Board on July 9, 2007, and that he would have something a month after that. Chair Taniguchi asked when to expect a draft of the document. Director Stormont replied by the January meeting.

Chair Taniguchi stated for the record the papers on administrative rules and NARS MOU would be ready for January's Board meeting. Director Stormont confirmed yes on both.

### **VII. NEW BUSINESS**

#### **A. Gemini Observatory's Request to Install a Camera on the Gemini Mauna Kea Support Facility Roof** (See Appendix A for a description and OMKM's review of the project.)

Gemini Observatory seeks permission to install a pedestal-mounted, remotely-operable camera atop the roof of the Gemini summit facility support building.

##### Kahu Kū Mauna Council Review

Kahu Kū Mauna has reviewed the proposed project and has no objections.

##### DLNR Permit

Pursuant to Hawaii Administrative Rules (HAR) Title 13-5-22, "construction or placement of structures accessory to existing facilities identified in the exempt classes established in HAR Title 11-200-8" does not require a permit

from DLNR. The “construction or placement of minor structures accessory to existing facilities” is an exempt activity under HAR Title 11-200-8.

Action

It was moved by Ron Terry and seconded by Herring Kalua to accept OMKM’s recommendation to classify this project Minimal Impact and approve it with conditions. The motion was carried unanimously.

**B. Addendum to Canada-France-Hawaii Telescope (CFHT) Proposal to Install a Temporary Above Ground Conduit between Gemini and CFHT**

(See Appendix B for a description and OMKM’s review of the project.)

On July 24, 2006, MKMB, with concurrence from the Kahu Ku Mauna Council (KKM), recommended conferring Minor Project status and approval of CFHT’s request to install a conduit between its observatory building and the Gemini facility. President McClain concurred with MKMB’s recommendations on August 15, 2006.

CFHT has determined the original location for the connecting point on the Gemini building would require laying the conduit on top of the concrete slab at the base of a safety stairway. This would impede egress from the stairway and create a health and safety hazard. CFHT is requesting approval to modify the method for installing a section of the above ground portion of the conduit between CFHT and Gemini facilities.

Kahu Kū Mauna Council Review

Kahu Kū Mauna Council reviewed the proposal and based on safety reasons do not object to CFHT’s Alternative 2. It was questioned why this was not considered on the first application. They would like to be assured of strict compliance to the conditions; that it is hand-dug; and that it be reviewed and monitored by the rangers. With that in mind, they have no objection.

DLNR Review

DLNR reviewed this proposal, and has no objections. The site plan approval that was issued last year still holds as well as the conditions therein.

Associate Director Nagata stated the Office feels the impact to the surrounding area is relatively minor. CFHT recognizes the significance of the summit, and they have assured us that they are limiting their activity strictly to areas that have been previously disturbed.

Discussion

Ms. Hadway asked if OMKM received a Site Plan Approval in writing from DLNR's Office of Coastal Conservation Lands. Associate Director Nagata confirmed a written memo was received.

Dr. Veillet recused himself from voting. Chair Taniguchi acknowledged his request adding for the record Dr. Veillet has a vested interest in this and did not participate in the discussion.

Action

It was moved by John Cross and seconded by Herring Kalua to amend and approve OMKM’s recommendation of Alternative 2, which calls for burying the conduit in a shallow trench. All previous conditions and mitigation measures would continue to apply. The motion was carried by a majority vote of six. Christian Veillet recused himself from voting on the motion.

**VIII. NEXT MEETING**

The next meeting of the Mauna Kea Management Board is scheduled for Tuesday, January 29, 2008.

**IX. ADJOURNMENT**

There being no further business, Chair Taniguchi adjourned the regular meeting at 12:35 p.m.

Respectfully submitted:

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

1/29/08  
Date