

Date: January 31, 2023

To: Chair John Komeiji, MSKOA

From: Noe Noe Wong-Wilson, Chair, Administrative Permitted Interaction Group

Aloha,

The members of the Administrative Permitted Interaction Group met via teleconference on December 20, January 26 and January 31 to discuss recommendations for administrative structure of the MKSOA and develop draft operating rules. Members are Douglass Adams, Eugene Bal, Kamana Beamer, Rich Matsuda and Noe Noe Wong-Wilson.

The following recommendations are provided for consideration of the Board of Directors of MKSOA.

1. It is recommended that five (5) permanent positions be requested through the Hawai'i State Legislature to provide direct support for the Mauna Kea Stewardship and Oversight Authority operations. These positions are:
 - a. Executive Director - MKSOA
 - b. Project Director - MKSOA
 - c. Finance Manager - MKSOA
 - d. Human Resource Manager - MKSOA
 - e. Secretary - MKSOA

It is generally understood that the process for establishing new positions is lengthy. These positions will be established to coordinate the transfer of services from the Center for Maunakea Stewardship to the authority and will ensure stability and continuity in the process.

2. Hire three (3) consultants to perform the following services.
 - a. Project Consultant
 - b. Community Outreach Consultant
 - c. External Legal Counsel

There is a need to begin work in key areas during the transition period and before the permanent positions are established. For this reason, it is recommended that consultants be hired to perform essential services.

The Project Consultant will provide the authority with a timeline, goals and milestones for achieving the full transition of stewardship and oversight of Mauna Kea from the Center for Maunakea Stewardship/UH to the MKSOA within the five (5) years prescribed in Act 255.

The Community Outreach Consultant will assist the authority in meeting its obligation to engage in community dialogue, outreach and consultation processes as appropriate on an annual basis or more frequently as required in Act 255.

The External Legal Consultant will be identified and engaged as needed to address legal issues which may arise in the establishment and/or operation of the Authority.

3. Draft “Rules of Procedure and Organization of the Board of Directors of the Mauna Kea Stewardship and Oversight Authority” are attached. These draft rules provide a framework of rules which will govern the operation of the board of directors of the Authority. It is the intent of the Administrative Permitted Interaction Group to continue refining the rules based on public input and need identified by the Authority. In absence of any guiding documents for the Authority, it is deemed important to support the adoption of these rules after the appropriate opportunity for public feedback and discussion.

Mahalo nui.

RULES OF PROCEDURE AND ORGANIZATION
OF THE
BOARD OF DIRECTORS OF THE MAUNA KEA
STEWARDSHIP AND OVERSIGHT AUTHORITY



_____ 2023

**RULES OF PROCEDURE AND ORGANIZATION
OF THE BOARD OF DIRECTORS OF THE
MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY**

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RULE NO. 1

INITIAL ADOPTION OF THE RULES

1. At the earliest point in time after the first meeting of the Board of Directors, the Chairperson shall bring to the floor the Board's Rules of Procedures and Organization. The Board shall then adopt the Rules of Procedure and Organization. Immediately after adoption, the Board shall elect the Vice Chairpersons of the Board.
2. The rules of procedure shall become effective upon adoption and shall remain in effect until amended or revised as provided herein.
3. Upon initial adoption of the Rules of Procedure, the Board shall vote to ratify all previous decisions taken by the Board prior to the adoption of the rules.

RULE NO. 2
MEETINGS

1. Regular Board Meetings. The Board shall meet at least ten times annually at the place and time designated by the Board. Whenever possible, the meetings will be scheduled on the 2nd Thursday of the month.
2. Special Meetings. Special meetings may be called by the Chairperson or a majority of the Board. Notice of any special meeting must be filed at least six calendar days before the meeting, and also meet all other requirements of HRS 92-7.
3. Executive Meetings.
 - (a) Allowable Purposes for an Executive Meeting. The Board may hold a meeting closed to the public:
 - (1) For one or more of the purposes set forth in HRS 92-5; or
 - (2) Where personal matters affecting the privacy of an individual are to be considered and the individual involved requests a closed meeting to consider such matter (HRS 95).
 - (b) Votes Required to Enter an Executive Meeting. The Board may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the voting membership present; provided the affirmative vote constitutes a majority of the voting membership to which the Board is entitled. The reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding a meeting closed to the public shall be recorded and entered into the minutes of the meeting.

Chart of Minimum Required Votes

Members present	2/3 of Membership	Required Votes
11	7.33	8
10	6.67	7
9	6	6
8	5.33	6

- (c) Any resultant official action that occurs during an Executive Meeting shall be acted upon in open meeting.
 - (d) An Executive Meeting shall be terminated when the purpose of the meeting has been fulfilled.
 - (e) The references for this section are HRS 92-4 and 92-5.
5. Emergency Meetings.
- (a) Imminent Peril. If the Board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in HRS 92-7, the Board may hold an emergency meeting in accordance with the provisions of HRS 92-8.
 - (b) Unanticipated Event. If an unanticipated event requires the Board to take action on a matter over which it has supervision, control, jurisdiction, or advisory power, within less time than is provided for in Section 92-7 to notice and convene a meeting of the Board, the Board may hold an emergency meeting to deliberate and decide whether and how to act in response to the unanticipated event in accordance with HRS 92-8.
6. Videoconference Meetings. The Board may hold videoconference meetings in accordance with HRS 92-3.5 or HRS 92-3.7, provided that:
- (a) If the Board is convening a remote meeting by interactive conference technology (see HRS 92-3.7), a Board member shall notify the Board Chairperson prior to the meeting that the Member will be attending the meeting from a non-public location.
7. Availability of Agenda to Board Members. Except as otherwise provided by law, the agenda and all referrals for a regular meeting of the Board shall be made available to Board Members at least six (6) calendar days prior to the meeting.
8. Attendance. If a Board Member is unable to attend a meeting, prior notice shall be given to the Board Chairperson.
10. Roll Call. A voice roll call will be taken to confirm each Board Member's attendance.
11. Recesses. Notwithstanding the need to occasionally call for short recesses or meal breaks, when there may be unusual circumstances for the Chairperson to call for a recess, the Chairperson shall announce the anticipated length of the recess and time of reconvening.
12. Scheduling.
- (a) The Board Chairperson is authorized to schedule or reschedule the location, time, date and/or subject matter of Regular, Special, or Executive meetings.

- (b) Public notice for any Regular, Special, or rescheduled meetings, or Executive meetings when anticipated in advance, shall be provided pursuant to HRS 92-7.
- (c) Any request for a presentation shall be approved in advance by the Board Chairperson. The request shall include the proposed date for the presentation, a brief description of the content of the presentation, and the person(s) or group that will be providing the presentation.

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RULE NO. 3

QUORUM

1. A majority of the voting membership of the Board shall constitute a quorum for meetings.

The term “voting membership,” as it pertains to Board voting, means the membership of eleven voting members, even if there are vacancies.

2. In the absence of a quorum, a meeting may not be convened or continued except for the purpose of either recessing the meeting to another date, time and specific location or publicly adjourning the meeting due to a lack of quorum.

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RULE NO. 4
OFFICERS AND THEIR DUTIES

1. Officers. The officers of the Board shall consist of the Chairperson, 1st Vice Chairperson, and 2nd Vice Chairperson who shall perform the duties prescribed by law and these rules. The Chairperson shall be appointed by the Governor. The 1st Vice Chairperson shall be elected by a majority vote of the voting membership of the Board and will be selected using the same criteria stated in Section 3(c) of Act 255. The 2nd Vice Chairperson shall be elected by a majority vote of the entire voting membership of the Board and will be selected from any of the voting members. Any vacancy shall be filled in like manner.
2. Presiding Officer. The Chairperson of the Board shall be the Presiding Officer of the Board and have the right to vote as other members. In the absence or disability of the Chairperson, the 1st Vice Chairperson shall serve as the Acting Presiding Officer. If the absence or disability of both the Chairperson and 1st Vice Chairperson, the Board shall elect from among its members a temporary presiding officer, using the criteria for electing a 1st Vice Chairperson.

It shall be the duty of the Presiding Officer to:

- (a) Open all meetings of the Board at the appointed hour by taking the chair and calling the Board to order.
- (b) Maintain order and proper decorum and reasonably administer the receipt of oral and written testimony in accordance with these rules.
- (c) Announce the business before the Board in the order prescribed by these rules and the results of any Board vote.
- (d) Sign all documents and authenticate all official acts of the Board as required.
- (e) Receive all reports, communications, bills, resolutions, and other items from the public, various departments of the government, and individual Board Members, and immediately make the proper referrals of these matters to the Board. All communications shall be numbered and made available to the public, except as otherwise provided by law.
- (f) Provide for the coordination of all meetings, functions, and legislative and administrative activities of the Board, and assure that they are honestly, efficiently and lawfully conducted.

- (g) Make known all rules of order when so requested and decide all questions of order and procedure, subject to appeal to the Board.
- (h) Serve as the chief spokesman and representative of the Board for matters before the public, and the State and Federal governments, in accordance with the official position of the Board.
- (i) Authorize (approve or deny) all travel requests of Board Members and staff, with exception of Chairperson's own travel requests. Any Chairperson travel request or reimbursement shall be approved by the Chair, Department of Land and Natural Resources (DLNR), or the DLNR Chair's designee.
- (j) Delegate, using the discretion of the Chairperson, authority to conduct the functions listed in these rules.
- (l) Recommend a calendar of events, to include Board meetings, agenda deadlines, recesses, special meetings, holidays, etc.

RULE NO. 5

VOTING

1. There shall be four (4) methods of voting:
 - (a) By voice
 - (b) By raising of hands
 - (c) By unanimous consent
 - (d) By roll call
2. The method of voting at Board Meetings shall be determined by the Chairperson, provided that if a vote is not unanimous, the Chairperson shall announce the names of those members voting in the minority and those who are absent. The Chairperson shall state the question prior to calling for the vote. The Executive Assistant (Board Secretary) shall record each vote in the minutes and report the result to the Chairperson who shall announce whether the motion passed or failed. The Chairperson shall use a roll call vote:
 - (a) When the result of a vote is not unanimous;
 - (b) Upon the request of any member of the Board; or
 - (c) At the discretion of the Chairperson.
3. When a voice or roll call vote is called, each member shall answer in a clear voice in the affirmative, the negative, “kanalua”, or abstention. After all the members have voted, any member who voted “kānalua” will be asked again to give a voice vote.
4. The Chairperson may excuse a member from voting if so requested by that member for a stated conflict of interest.
5. After the announcement of the result, a Board Member shall not be permitted to change a vote.
6. No official action shall be taken except at a meeting open to the public.
7. The vote of a majority of the voting membership of the Board shall be necessary for a motion to pass.

RULE NO. 6

DISCLOSURE OF INTEREST

1. Any member who has a substantial financial and/or personal interest, direct or indirect, in any action proposed or pending before the Board, shall make full disclosure in writing to the Chairperson of such interest prior to the taking of any vote thereon.
2. Any member who has a substantial financial and/or personal interest directly affected in any action proposed or pending before the Board may refrain from deliberating on said action and may be excused from voting on the matter thereon.
 - (a) “Substantial” means an interest which is sufficient in magnitude to influence one’s official action.
 - (b) “Financial interest” means an interest held by a Board Member, his or her spouse, domestic partner, children, siblings, parents, grandparents, or grandchildren, which is:
 - (1) An ownership interest in a business;
 - (2) A creditor interest in an insolvent business;
 - (3) An employment, or prospective employment, for which negotiations have begun;
 - (4) An ownership interest in real or personal property;
 - (5) A loan or other debtor interest; or
 - (6) A directorship or officership in a business, including nonprofit businesses.
3. Such written disclosure of financial or personal interest in any proposal pending before the Board, shall be recorded in the minutes of the meetings of the Board, and shall be made a matter of public record prior to the taking of any vote on such proposal. Such written disclosure shall be applicable to all subsequent actions relating to the same subject matter.
4. Prior to any vote in the Board on a proposal for which the Board Member has made a written disclosure of a financial or personal interest, the Board Member shall also orally disclose the interest to the Board after each motion and second on the proposal, but before the commencement of debate on the motion or, if there is no debate, before the calling of the question on the motion. The Chairperson may waive this requirement after initial disclosure at a meeting where said motion is being considered.

RULE NO. 7

PUBLIC STATEMENTS AND TESTIMONY

1. Written Testimony. Written testimonies shall be received for the record on any agenda item. Testimonies received after the deadline for receipt shall still be received for the record and will be presented to the Board members as soon as practicable.
2. Oral Testimony. Oral statements from any member of the public shall abide by the following:
 - (a) Pursuant to Chapter 92, Hawai'i Revised Statutes, any person wishing to present oral testimony on any agenda item may do so consistent with this rule.
 - (b) Persons wishing to present oral testimony relating to any agenda item shall register with the Board Secretary prior to the item being read into the record, indicating the item on which they wish to speak and their position, if any. Persons may provide their name, address, and organization they represent, if any.
 - (c) Persons sharing the same or similar points of view may testify as a group with one spokesperson who shall list the names of all persons in the group in attendance and may state their home community or district, and that listing of names shall not be considered as part of the time allotted for public testimony.
 - (d) Each person may speak for a specific time period, to be determined by the Chairperson prior to the commencement of public testimony.
 - (e) Each person must speak at the time of calling, unless the Chairperson determines otherwise.
 - (f) No person will be allowed to speak twice on the same subject.
 - (g) Any person wishing to speak on more than one subject shall register separately for each agenda item.
 - (h) Those speaking shall direct their remarks to the Chairperson and not to any individual Board Member or person in the audience.
 - (i) All members of the public shall extend proper courtesy and respect to one another and to all Board Members, and all persons shall be addressed by their surnames. No profanity or abusive remarks will be allowed at any time in any meeting.

- (j) Any person, not a member of the Board, who is disrespectful to the Board by any disorderly or contemptuous behavior in its presence or who disrupts the exercise of any Board Member's function, may be removed from the meeting at the discretion of the Chairperson.
- (k) Any person who does not abide by these rules may be ruled out of order by the Chairperson.
3. Nothing in this rule shall diminish the responsibility or the authority of the Chairperson to maintain order and decorum.
4. Board Members shall refrain from making comments or asking questions of testifiers during statements from the public. A Board Member may, however, request that a person presenting public testimony on an agenda item be available for questions during subsequent discussion. Such a request shall be responded to by the Chairperson at the time of the request.

RULE NO. 8
ORDER OF BUSINESS

1. The order of business is subject to the discretion of the Chairperson.

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RULE NO. 9

AMENDMENTS, REVISIONS, AND FORMAT OF THE RULES OF PROCEDURE

1. Amendments. These rules may be amended at a regular Board meeting by a resolution approved by an affirmative majority vote of the entire membership of the Board; provided that such amendment(s) are placed on the agenda of a duly noticed meeting.
2. Revisions. Whenever changes of the rules are so extensive and general that they are scattered throughout the rules such that an entirely new set of rules called a revision is necessary, then such revision shall require the adoption of a resolution by a two-thirds affirmative vote of the entire membership of the Board. The notice requirements shall be the same as those for amendments.
3. Each page of these rules shall have its page number on it at the bottom right of the page. Pages shall be numbered starting with the rule number, a hyphen, and the page number starting with "1." (Example: 17-1, 17-2, etc.)
4. If a rule is amended, the resolution number providing that amendment, including date of adoption, shall be placed at the bottom left corner of the affected page(s). (Example: Amended - Resolution No. 1-10, 4-1-11.)

RULE NO. 10
SUSPENSION OF RULES

1. When the Board proposes to do something that it cannot do without violating one or more of these rules, it can adopt a motion to Suspend the Rules interfering with the proposed action; provided, however, that neither the proposal nor the suspension shall result in a conflict with any constitutional provision, local, state, or national law or the fundamental principles of parliamentary law.
2. A motion to Suspend the Rules is:
 - (a) An incidental motion, and no subsidiary motion can be applied to it.
 - (b) Out of order when another has the floor.
 - (c) Not debatable or amendable.
3. Such a motion requires a two-thirds vote of the entire membership, unless otherwise provided, and cannot be reconsidered.

RULE NO. 11
NEWS MEDIA

1. Members of the news media covering the business of the Board may be assigned to selected areas by the Chairperson.
2. Except as provided by law, members of the news media shall be permitted to televise and sound-record the proceedings of the Board under such rules and/or conditions as the Chairperson may prescribe.

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RULE NO. 12

OPERATIONAL VALUES, PRINCIPLES AND PARLIAMENTARY AUTHORITY

1. Whenever possible, the operational values and principles of Mauna Aloha, Opu Kupuna, and Holomua Oi Kelakela defined in Act 255 shall guide the Board in its interactions and decision-making processes.
2. When these rules are silent, the rules of parliamentary procedure contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with any constitutional provision, any law, or these rules.

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RULE NO. 13

EXECUTIVE ASSISTANT (BOARD SECRETARY)

1. Executive Assistant. The Executive Assistant shall be appointed by and serve at the pleasure of the Board under the direct supervision of the Chairperson.
2. Duties. It shall be the duty of the Executive Assistant, in addition to those duties prescribed by law, to:
 - (a) Be responsible for the administration of the Board of Directors.
 - (b) Have charge of all the records of the Board, keep an accurate journal of proceedings, and make accessible to the general public, in a timely manner, all written materials of public record and be responsible for the same.
 - (c) Forward at once to the Chairperson and Board Members all official reports, communications and other matters related to the Board's business.
 - (d) Serve in all matters as Secretary of the Board and perform all clerical and office duties pertaining to such position as the Board shall from time to time direct, as well as other duties assigned by law or these rules.
 - (e) Absent extenuating circumstances, attend all Board meetings and read bills, resolutions, and other matters to the Board, as required.
 - (f) Maintain order among those members of the public present at Board meetings and, when required by the Chairperson, remove any person who violates these rules.
 - (g) Be the authorized representative for the Board on the Destruction of Records.

RULE NO. 14
SEVERABILITY

If any rule contained herein is in conflict with the provisions of the U.S. Constitution, Hawai'i State Constitution, or the Hawai'i Revised Statutes, such rule shall be deemed invalid. Such invalidity shall not affect other rules contained herein which, otherwise, can be given effect without the invalid rule, and to this end these rules are severable.

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