



MAUNAKEA STEWARDSHIP AND OVERSIGHT AUTHORITY (MKSOA)

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PUBLIC MEETING MINUTES

Thursday, July 11, 2024

10:00 am

Online via ZOOM and livestreamed via YouTube

AUTHORITY MEMBERS

PRESENT, Zoom: Chairperson John Komeiji; First Vice-Chair Noe Noe Wong-Wilson; Ben Kudo; Doug Adams; Paul Horner; Bonnie Irwin; Lanakila Mangaui; Pomai Bertelmann; Kalehua Krug; Ryan K.P. Kanaka'ole; Neil Hannahs

EXCUSED Members: Second Vice-Chair Rich Matsuda;

MKSOA SUPPORT: Jordan Ching, Deputy Attorney General (DAG); Pua'ena Ahn, Executive Assistant, Board Secretary (MKSOA); John De Fries, Executive Director (MKSOA); Lloyd Unebasami, Interim Administrative Services Officer (MKSOA); Bill Stormont, Project Director (MKSOA)

GUESTS: Greg Chun, Executive Director (CMS); Rodrigo Romo, Maunakea Shared Services General Manager (CMS)

I. CALL TO ORDER AND WELCOME PROTOCOL

Chair Komeiji called the meeting to order at 10:02 am. Opening remarks by 1st Vice-Chair Wong-Wilson. 'Oli Malana Mai, calling to all the districts of the island, penned by Queen Emma using wa'a as metaphor.

II. PUBLIC COMMENTS ON AGENDA ITEMS

None.

III. APPROVAL OF THE MINUTES OF THE JUNE 13, 2024 REGULAR BOARD MEETING

MOTION: Motion by 1st Vice-Chair Wong-Wilson to approve meeting minutes from June 13, 2024 Regular Board Meeting subject to technical amendment. Second by Member Kanaka‘ole.

ACTION: The motion was unanimously approved.

IV. CHAIR REPORT

- A. Introduction of new Board Member Neil Hannahs- Term started July 1, long history at Kamehameha Schools, has served on several boards and commissions, most recently served on Commission on Water Resource Management up until June 30.

Member Hannahs: Aloha mai kākou, introduced at a couple meetings ago, happy to join the Authority. I feel like a substitute on an olympic team, I hope to contribute.

Chair Komeiji: Member Hannahs raised this question yesterday, I’m asking 1st Vice-Chair Wong-Wilson and Member Langaul to weigh in on whether the name for the mountain is one word or two?

1st Vice-Chair Wong-Wilson: It depends where you go and who you talk to. In the community it’s used both ways. A researcher from Ka Haka ‘Ula found that it was used more times in nūpepa as one word, both are correct but also third version is Mauna A Wākea. Formally we should use it as it is used statutorily, as two words

Member Langaul: ‘A‘ole pau ka ‘ike i ka hālau ho‘okahi, there are different perspectives and different functions in how it’s used. Mauna Kea and the general translation of white mountain or pure mountain, Mauna Kea is short for Mauna A Wākea and that mo‘olelo and the idea of expansiveness. I am not a proponent of standardized usage but agree with maintaining continuity of formal usage for State purposes.

Member Bertelmann: Every family dialect and context is different even from Hāmākua to Waimea to Kohala, but I concur with preceding statements.

Chair Komeiji: This just goes to show how much [Member Hannahs] adds in just the first five minutes, mahalo for raising that question.

1st Vice-Chair Wong-Wilson: Also wanting to acknowledge and mahalo former Member Kamana Beamer for his year of service and the expertise he brought, and welcome Member Hannahs.

- B. Status of OHA lawsuit- As you know, OHA [Office of Hawaiian Affairs] filed a lawsuit alleging that MKSOA is unconstitutional. They filed Motion for Summary Judgement, seeking a determination from the court stating that MKSOA is in unconstitutional. OHA also filed a Motion to Disqualify the Attorney General, contending that the Attorney General were representing too many different parties, and that due to conflicts of interest should be disqualified from representing any of the parties. Court denied Motion to Disqualify, Attorney General’s office will continue to represent MKSOA, University of Hawai‘i (UH) and Department of Land and Natural Resources (DLNR). Court did not rule on Motion regarding

constitutionality, but found that OHA did not sufficiently follow technical Rules of Evidence in order to consider Motion for Summary Judgement. Motion has been postponed but has not set a due date, therefore Motion is essentially in limbo. No determination made. We will let you know when a due date has been set.

1st Vice-Chair Wong-Wilson: Name of Judge?

Chair Komeiji: Judge Karin Holma, elevated from District Court Circuit Court to handle caseload of Judge Jeffery Crabtree who has retired.

- C. University of Hawai'i and MKSOA Co-management meeting- Executive Director De Fries and Interim Administrative Services Officer Unebasami working with UH to draft a Memorandum of Agreement (MOA), currently in initial phases of discussion. Invited to meet with University of Hawai'i Board of Regents (UHBOR) on July 18, hoping to have a draft for MKSOA Board consideration before next this meeting.

Executive Director De Fries: Effort at joint management is to be structured so that there will be an executive management board comprised of 2 MKSOA Board members and 2 UHBOR Regents, which formalizes the working group that was created initially. In addition, there is the joint management committee- CMS Executive Director Greg Chun, CMS senior staff, myself, and MKSOA senior staff, to meet every 2 weeks. I am obligated to keep MKSOA Board informed. Prior to Chair Komeiji and myself appearing at the UHBOR meeting, we will be completing a summary that will be presented to Board members by the end of next week.

Member Kudo: Why does this new group have to be formed when the working group has the ability to do everything this new group is doing? What the rationale is for forming all these groups and sub groups? I'm trying to make this process as simple as possible during the transition, too many layers of review and approval become cumbersome due to time being of the essence. Purpose of setting up the initial working group was be as informal and flexible as possible so that the principal members could ask any staff members, planners, etc. could attend meetings so that members could get the right information and make the right recommendations to their respective Boards. Why does it have to be so formalized?

Executive Director De Fries: One of the charges I've been given by the Chair is to move work activity in the working groups into the work of staff. This joint agreement is to bring both operating teams together going forward.

Chair Komeiji: They are also formalizing the operations by creating this second group that meets every two weeks. The idea is the same as for the group you came up with, where if there is a need for policy direction to take it to the working group. Hopefully we can wrap this up quickly, there are still some open questions that have to be addressed.

Member Hannahs: Would I be correct in these two assumptions that number one, you're not creating a new group, you're taking an existing group and maybe reconstituting it a little bit, and you're capturing the fact that it exists in the MOA, and that number two, this working group executive management group doesn't dilute any of the existing statutory authority of either the UHBOR or MKSOA, this is just to facilitate communications and planning during the transition period?

Chair Komeiji: I agree with the second assumption. As Executive Director De Fries said, we as the leadership of the Board and of management want to keep our members involved and be very transparent with all of you about what's going on, My understanding is that some of the issues that we may raise to you as the MKSOA Board may not be raised by UHBOR because of their structure. We reserve as a Board the positions we can take, we aren't giving up any of those. As before, if members from MKSOA and from UHBOR cannot agree, we just take the issue back to our respective Boards. First assumption not entirely correct, we had a document that defined what the original working group was, what we and the Regents had agreed to. What this proposal does is set out an executive management group that was not included in that working group document, for management from UH [CMS] and management from MKSOA to meet every two weeks, that was not originally defined. One thing to emphasize is that as Executive Director De Fries said, in my experience as a Board member and in management of organization, that Board and management/staff have their own lanes. Because we had no staff prior, you all took on responsibilities that weren't part of your roles. What we are now doing is as we are building staff capacity, is trying to move everything back to traditionally how boards and management operate.

Executive Director De Fries: I would welcome to meeting with Member Kudo next week when I'm in Honolulu to discuss what the appropriate sequencing is. Executive management group not prepared to take on the technical expertise needed for what Transition Working Group is doing.

Member Kudo: Available to meet, more than willing to sit down and will wait to talk more.

Member Hannahs: After 8 years on CWRM, still trying to understand how to operate under Sunshine, but with two Board members only, there is no need to set up a PIG?

Chair Komeiji: Yes, and two member of that particular working group would be myself and 1st Vice-Chair Noe Noe Wong-Wilson.

- D. Board of Land and Natural Resources (BLNR) meeting of June 28, 2024- Because of one of the Conservation District Use Permits (CDUP), CMS is required to provide an annual update, CMS Executive Director Chun provided a report to BLNR. You can go back and watch all the question from the Board members as well as the Chair. Professor Kalani Flores actually submitted testimony questioning aspects of the report, provided nine suggestions. His testimony is also available on BLNR website.

V. GOVERNANCE

No Report.

VI. ADMINISTRATION – Public Testimony taken (written or oral) on any of these items

A. Report of Executive Director De Fries

- a. Introduction of Project Director Bill Stormont- Apologies for

being late due to wifi issues, welcome to Bill Stormont and Member Hannahs. Asked Lloyd Unebasami as Interim Administrative Services Officer (ASO) to look at current ASO job description to reassess and broaden and redefine scope. Applications received for both Program Specialist positions, will be looking at applicants and qualifications with Bill Stormont.

- b. Status of Request for Proposals (RFP)- Consultants- Priority on RFP for planning, obligated to create a Master Plan, but also looking at creating a Management Plan, currently exists as 2 UH Plans, but looking to consolidate into a single plan. Also looking at a Communications RFP, not ready to comment yet but there is a increased need for Communications both from community and media. Wes Machida has made himself available as a volunteer to help draft Report due to State Legislature at the end of the Legislative Session. Report will be made available to Board

Chair Komeiji: Premature to talk about location at this time, but pleased at the viewing.

Executive Director De Fries: Mahalo as well to Ka'iu Kimura of 'Imiloa for providing interim office space.

- B. Status of Transition Working Group (TWG)- Member Kudo- We were in the process of hiring an attorney to assist in analysis of UH-controlled assets and liabilities in order to create recommendations for asset transfer. Deputy Attorney General Ching has been very helpful in securing AG approval, and contract negotiations have started with selected attorney.

Deputy Attorney General Ching: Internal authorization have been granted to begin negotiations, almost ready to have contract in place once conflict waivers are complete.

Member Kudo: Working group has been constituted, has already met twice and is standing by to meet again, currently meetings have been postponed pending completion of contract.

Member Adams: Regarding hiring, in the County we would have to go through HR, rather than through our Corporation Counsel. Who owns the employment contract, is it the AG, MKSOA, DLNR?

Member Kudo: MKSOA.

Chair Komeiji: As I understand it we have to hire off an list of approved attorneys from the AG, and contact them through the Attorney General's office. It's more the approved list rather than the hiring process.

VII. FINANCE

No report.

VIII. OPERATIONAL UPDATE: CENTER FOR MAUNAKEA STEWARDSHIP

A. Report of Greg Chun, Executive Director, CMS

- a. Underground Storage Tank Replacement- The point we are at in the project is following several iterations, after figuring out the best approach and what the project would involve, both removal and replacement. Currently discussing and briefing the various advisory groups in order to incorporate input and feedback. Rodrigo Romo, Mauna Kea Shared Services General Manager is Project Manager.

General Manager Romo: Reason for underground storage tank replacement is to meet a new State Department of Health (DOH) regulation which states that by July 15, 2028 any tank that was installed prior to August 9, 2013 must either be replaced with a tank with secondary containment total wall tank, or be removed from the underground location. This is not optional, it is a hard deadline.

The view onscreen is of the utilities area at Halepōhaku (HP) of two gasoline tanks, one diesel tank, the fuel dispensing pumps, and the interconnecting lines showing what needs to be removed to meet the DOH regulations, also showing Veeder-Root Leak Detection System. Current infrastructure was installed under Conservation District Use Permit (CDUP) 1430 during the construction of the HP facilities in 1982-83. Leak detection system installed in 1998, which is tested and certified annually, no leaks since its installation. Current infrastructure includes a 12,000 diesel tank, a 4,000 gallon gasoline tank and a 2,000 gallon gasoline tank. The reason for two gasoline tanks goes back to the leaded and unleaded gasoline days. Current usage is between 250-500 gallons of diesel monthly for road grading and snow removal heavy machinery, as well as a diesel backup boiler for facility heating. Gasoline use is between 2,000-2,500 gallons per month for the CMS and observatory vehicle fleets.

Engineering Partners was contracted to do engineering design and cost estimate for fuel tank and infrastructure removal, including soil testing for leaks. Right now estimated cost for removal portion of project is \$800,000. Observatories have agreed to fund this project in three annual installments of \$400,000 plus another \$400,00 for replacement of the storage tanks. This is not a quote, it's a best guess engineering cost estimate. These drawings are what will be used to put out the Request for Proposals.

When we contracted with Engineering Partners there was a two-task project we asked them to perform, one was removal of the existing tanks, and the second was to create a or design and do the cost estimate for a new storage and dispensing facility installed on the area across the road. The cost for a split 10,000 gallon tank was too high, so we came up with a smaller footprint sized facility. The third installment of \$400,00 covers that expense. We will still have two

storage systems, one for gasoline, one for diesel which is the most critical for the heavy equipment used for road grading and snow removal. The gasoline is just more convenient to have for the rangers an observatories than to have to drive the vehicles down to be refueled.

We are now proposing two 3,000 gallon double-walled tanks designed for fuel storage and dispensing. They have the dispensing system built into the tank with all the safety and security measures required for fuel storage and dispensing. We could go with a smaller diesel tank but we're limited by the volume of diesel we can have delivered, no one will deliver less than 2,500 gallons up here. We already have a price estimate for the tanks, right now we're in the process of issuing a contract amendment with Engineering Partners so they can do the design for a smaller footprint facility with cost estimate.

We are proposing to install the two tanks at the east end of the utilities yard, on a gravel road going toward the back side of Halepōhaku, where the soil has already been disturbed. A concrete slab would house the two tanks with about an 8 inch high berm around it to provide tertiary containment for the tanks. The two tanks each are an 8 by 10 foot footprint by 9 feet tall and would be out of sight compared to the original locations that we considered installing them. There were a couple of problems with these locations, which is why we decided against them, including higher visibility from the summit access road and high probability of people objecting to them being there, as well as a much steeper grade which would require a lot more earth moving to prepare the base for the tanks to be installed.

Member Hannahs: Is the tank's size based on an established standard?

General Manager Romo: There's no standard. The selected tank size is based on the capacity of the tanker trucks.

Member Mangauil: As far as remediation and removal of the tanks, this is still in Conservation Zone 2, this will be like the telescope removal where it is a return to a natural state and there will be thorough documentation of that process?

General Manager Romo: Correct.

Chair Komeiji: As they mentioned, your [MKSOA Board] approval is not being requested at this time, they [CMS] will bring it back after they incorporate comments and suggestions from some of the other groups and seek approval later on so they can move forward

Member Mangauil: In terms of spill prevention, the 8 inch berm, this is the same type of system as Haleakalā that had a spill? What's the prevention measures for this type of above-ground tank?

General Manager Romo: The Haleakalā spill was an overfill due to a failure in the failsafe system. With these tanks there will be someone manually filling them from a tanker truck. These tanks already have a double-wall with a spill prevention capability on it. The berm we're adding around the pad is a tertiary spill control measure. We're considering every possible scenario in order to prevent a spill.

Chair Komeiji: So from a process standpoint, we've brought on Bill Stormont with a long conservation background, when they [CMS] bring it back we can run it through our staff so that they can look at it and verify that it looks ok to move forward.

Executive Director Chun: This is the kind of project we would bring before the joint management committee.

General Manager Romo: Ideally on a timeline I would like to install the above-ground tanks before removing the underground tanks or we would be left in a position of having to find a temporary solution to dispense fuel up there, understanding that there might be a difference in the approval times.

Project Director Stormont: There would be enough room for vehicles to turn around, where the new tanks are going to be put? I can't quite remember how much space there is in that area.

General Manager Romo: Yes, there is. Next time you're up there we can take a look and brainstorm. There's plenty of room for gasoline vehicles, but there is definitely enough room for the road grading equipment to go in and turn around.

Member Adams: Member Mangauil brought up the documentation for the removal of the underground tanks, but this looks like a non-permanent solution. If MKSOA didn't exist, how would the regents deal with the decisionmaking and approval around this project? Is this one of those A, B, C Projects?

Executive Director Chun: This project would not go to the Regents, as a C Project at the highest it would go to Member [UHH Chancellor] Irwin or UH President Lassner. Even the telescope decommissionings never went to the Regents for their approval per se.

IX. EXECUTIVE SESSION

The Authority, if needed, convenes in Executive Session pursuant to Section 92-5(a)(3) to consult with the Board's attorney on questions and issues pertaining to the Authority's power, duties, privileges, immunities, and liabilities.

No Executive Session.

X. ANNOUNCEMENTS

- A. NEXT AUTHORITY MEETING- AUGUST 8, 2024, 10:00AM-12:00PM, DOFAW-HILO 19 E. KAWILI ST- Also, next community talk-story likely to take place in September. Will hold one more meeting in Hilo and try to get higher attendance, and then move the talk-stories around the island in meetings beyond that.

Member Hannahs: Hau‘oli Lā Hānau to Member Krug.

XI. ADJOURNMENT

MOTION: 1st Vice-Chair Wong-Wilson moved to adjourn. Member Mangauil Second.

ACTION: The motion was approved unanimously.

Meeting adjourned at 11:08 am.

Approved _____