

## **MINUTES**

### **BOARD OF REGENTS COMMITTEE ON PLANNING AND FACILITIES MEETING**

**MARCH 8, 2018**

#### **I. CALL TO ORDER**

Committee Chair Stanford Yuen called the meeting to order at 1:44 p.m. on Thursday, March 8, 2018, at the University of Hawai'i at Mānoa, Information Technology Building, 1<sup>st</sup> Floor Conference Room 105A/B, 2420 Correa Road, Honolulu, Hawai'i 96822.

Committee members in attendance: Committee Chair Stanford Yuen; Committee Vice Chair Ben Kudo; Board Vice Chair Randy Moore; Regent Lee Putnam; Regent Douglas Shinsato; Regent Ernest Wilson, Jr.

Others in attendance: Board Chair Jan Sullivan; Regent Simeon Acoba; Regent Brandon Marc Higa; Regent Wayne Higaki; Regent Michael McEnerney; Regent Michelle Tagorda (ex officio committee members); President/Interim UH-Mānoa (UHM) Chancellor David Lassner; Vice President for Administration Jan Gouveia; Vice President for Legal Affairs/University General Counsel Carrie Okinaga; Vice President for Academic Planning & Policy Donald Straney; Vice President for Research & Innovation Vassilis Syrmos; Vice President for Information Technology/Chief Information Officer Garret Yoshimi; Vice President for Budget & Finance/Chief Financial Officer Kalbert Young; Interim UH-Hilo (UHH) Chancellor Marcia Sakai; Executive Administrator and Secretary to the Board of Regents Kendra Oishi; and others as noted.

#### **II. APPROVAL OF MINUTES OF THE FEBRUARY 7, 2018 MEETING**

Regent Wilson moved to approve the minutes of the February 7, 2018 meeting, seconded by Board Vice Chair Moore, and the motion carried unanimously.

#### **III. PUBLIC COMMENT PERIOD**

Executive Administrator and Secretary to the Board Kendra Oishi announced that the Board Office received no written testimony, and one individual had signed up to give oral testimony.

The following individual provided testimony:

1. Representative Sean Quinlan gave oral testimony in support of the transfer of the Waialeale property from UH (UH Mānoa College of Tropical Agriculture & Human Resources ("CTAHR")) to the State Agribusiness Development Corporation ("ADC") and provided a handout of a draft House Concurrent Resolution urging UH to take all necessary action to transfer the operation and lands of the Waialeale livestock experiment station to ADC.

The committee thanked Rep. Quinlan for attending and discussed whether he would have any objections if UH were to consider a longer-term lease provided ADC was amenable.

Questions and comments were raised regarding the \$6 million budget proviso; what difference the change in ownership or control of the property would make given the issues with the property are law enforcement-related. Rep. Quinlan discussed jurisdictional complications involved in trying to deal with the security issues on the property and the need to transfer the property in a more timely manner rather than negotiate a lease of the property.

Further questions were deferred until after administration's presentation.

#### **IV. AGENDA ITEMS**

##### **A. For Action**

##### **1. Conveyance of UH Mānoa College of Tropical Agriculture and Human Resources Waialeale Research Station Property to the State Agribusiness Development Corporation situated at Waialeale, Koolauloa, Oahu, City and County of Honolulu, and designated as tax map key nos. (1) 5-8-001:013, (1) 5-8-001:055, (1) 5-8-001:007, and (1) 5-8-001:006**

Committee Chair Yuen indicated that this item had come before the board at its February 22, 2018 meeting, and was subsequently referred to the Committee on Planning & Facilities for further discussion. VP Young explained that this is a proposal to transfer approximately 131 acres of agricultural land on the North Shore of O'ahu. The total property includes 4 separate tax map keys situated on both sides of Kamehameha Highway, and is currently under the stewardship of CTAHR. UH acquired the property via Governor's Executive Order No. 1848 issued on May 16, 1958, with the purpose of UH utilizing the land for an experimental farm. CTAHR has utilized the property for research and experimental agriculture, some buildings were constructed on the property that CTAHR has used, and there is utility service to certain portions of the property. CTAHR has significantly reduced its use of the property over the past 10 years, and there is currently no substantial research activity being done on or planned for the property that would require use of the 131 acres.

There has been an escalation of unauthorized, non-university persons inhabiting the property during the past 5 years, and UH and CTAHR have struggled to maintain, manage, and secure the property. UH has been made aware of increasing complaints of alleged illicit or illegal activity occurring on the property during the past year, and has received calls from community and area neighbors complaining about people occupying the property. There are issues with securing and maintaining the property, and UH is working with the Governor's office, the Department of the Attorney General, the Department of Public Safety (including the Sheriff's Office), the Honolulu Police Department, ADC, the Governor's Homeless Coordinator, and other agencies to help with a scheduled clearing action of the property. Both UH administration and ADC are mutually agreeable to the transfer of the property, and would like to coordinate the transfer to minimize the maintenance and security costs that are to be borne by CTAHR

to secure the property. UH is working with ADC to effectuate the transfer, as ADC is better situated to put the property into active agriculture use given that its statutory mandate is more aligned with agriculture development than UH or CTAHR. The transfer would allow the property to be productively used, and diminishes or removes the current risk that currently exists for UH, and could significantly benefit the local area and community.

There are kuleana parcels situated within the larger makai parcel, with at least one claimant asserting access rights to a kuleana parcel. UH does have the rightful ownership to the larger property that encompasses all of the kuleana parcels but not the kuleana parcels themselves.

UH is working with ADC so the transfer could occur without resolving the kuleana parcel claims. ADC is aware of the kuleana situation, and its executive director has made clear that work could be conducted with the current kuleana situation and/or ADC could take action regarding the kuleana claims.

There is a \$6 million capital improvement project (“CIP”) appropriation for site and infrastructure improvements to CTAHR facilities in the current biennium budget. Access to the CIP appropriation is contingent on a legislative budget proviso requiring the transfer of the Waialeale property to ADC, and the transfer of a CTAHR property on Kaua’i to the State Department of Transportation (“DOT”). Administration intends to bring an action item in the near future to the board to transfer the Kaua’i property to the DOT. Administration clarified that the transfer of Waialeale property should not be considered sale of the property.

For a number of years UH has been working with other state agencies to transfer the Waialeale and Kaua’i properties independently of each other and prior to the adoption of the budget proviso. Administration is proposing that the Committee on Planning & Facilities recommend that the board approve the transfer of the Waialeale property to ADC, and authorize the president and/or vice president for budget & finance/chief financial officer to negotiate, finalize, and execute the quitclaim deed conveying the fee simple ownership in the property to ADC, consistent with the terms contained in the major term sheet, and execute such other documents and take any further action as they deem necessary to consummate the transaction.

Committee Vice Chair Kudo noted the legal issues involved with the property, e.g., acquired via Executive Order, title, kuleana rights, impact to UH and the surrounding community, liability, and ceded lands, and indicated he would like to consult with legal counsel in executive session regarding the potential transfer of the Waialeale property. Committee Vice Chair Kudo then made a motion to convene in executive session, seconded by Regent Wilson.

On a point of order, questions were raised regarding the lack of information in the action memo regarding the potential transfer of the CTAHR property on Kaua’i to the DOT. It was noted that the board has a constitutional duty to protect the assets of UH, and there was a question regarding the appropriateness of making a decision given the lack of information. Administration explained that the property on Kaua’i was not

mentioned in the action memo because at this time, board approval was only being sought to transfer the Waialeale property.

UH acquired the approximately 2.7-acre CTAHR property located on Kaua'i near the airport prior to 1995 utilizing State funds. Federal Economic Development Administration ("EDA") grant funds were made available to construct the facility upon the Kaua'i property. After the facility was completed, CTAHR has leased the facility and the property first to a private entity and then to ADC, who currently holds the lease to the property but is not utilizing it. The DOT has desired to acquire this property for Līhu'e airport expansion. There have been ongoing discussions regarding this property for several years.

The \$6 million legislative budget proviso is the only linkage requiring the transfer of both properties and it was not intended to be compensation for the sale of the properties, but rather to motivate all agencies involved to complete the transfer of both properties. The transactions and the legislative budget proviso were all developed independently of each other, and administration has looked at these transactions from a business operations perspective and requests the board look at it from that same perspective.

Board Chair Sullivan noted that when dealing with real estate interests, board policy requires the board to consider six criteria, one of which is to ensure that real property and interests in real estate be fairly priced in the context of applicable fair market values and other relevant factors. Unless there is a good reason to make an exception, the board has to evaluate this type of transaction in the context of the criteria.

There having been a motion made and seconded to convene in executive session to consult with the board's attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes (HRS); and to deliberate concerning the authority of persons designated by the board to negotiate the acquisition of public property, or during the conduct of such negotiations, pursuant to Section 92-5(a)(3), HRS, the motion was put to vote and passed with Regent Putnam voting no. The committee convened in executive session at 2:19 p.m. Following a motion to come out of executive session by Regent Wilson, and seconded by Committee Vice Chair Kudo, and by unanimous vote the executive session was adjourned at 3:14 p.m.

The committee reconvened at 3:16 p.m. Committee Chair Yuen indicated that the committee consulted with the board's attorneys. He noted that the board has a fiduciary responsibility to do what is right for UH and the community.

Committee Vice Chair Kudo summarized the issues involved in this very complex land transaction, e.g., responsibility to the community and the immediate situation with regard to security of the property, and transfer of the property to ADC. He moved that the committee recommend that the board authorize the administration to commence discussions with ADC regarding a long-term lease for the Waialeale property so that ADC can take over the property or sublease to others, and meanwhile the university administration will work with proper law enforcement officers to handle security issues on the property. Regent Wilson seconded.

There was some discussion regarding whether the committee wanted to approve the concept of a lease and have the administration work it out as expeditiously as possible. Committee Vice Chair Kudo explained that he did not want to be presumptive regarding the lease and wanted to pursue negotiations for a long-term lease only if ADC was amenable. Any lease would need to come back to the board for approval.

There having been a motion made and seconded, the motion was put to a vote and passed with Regent Putnam voting no and Regent Shinsato excused.

**V. ADJOURNMENT**

There being no further business, Committee Vice Chair Kudo moved to adjourn, and Regent Wilson seconded, and with unanimous approval, the meeting was adjourned at 3:20 p.m.

Respectfully Submitted,

/S/

Kendra Oishi  
Executive Administrator and Secretary  
to the Board of Regents