Minutes of the Board of Agriculture

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on January 23, 2018 at 9:00 a.m. by Board of Agriculture Chairperson Scott Enright, at the Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

Members Present:
Scott Enright, Chairperson, Board of Agriculture
Suzanne Case, Chairperson, Board of Land and Natural Resources
Randy Cabral, Member-At-Large
Jerry Ornellas, Kauai Member
Glenn Hong, Member-At-Large
Vincent Mina, Maui Member
Michelle Galimba, Member-At-Large
Richard Ha, Hawaii Member
Mary Alice Evans, Deputy, Department of Business Economic Development, Ex Officio Member
Dr. Nicholas Comerford, Dean of the College of Tropical Agriculture & Human Resources University of Hawaii, Ex Officio Member

Others Present:
Sean O’Keefe, Hawaii Farm Bureau
Janet Ashman, Hawaii Farm Bureau
Linda Rosehill, Rosehill & Associates
Morris Atta, HDOA/Agricultural Resource Management Division (ARM)
Randy Teruya, HDOA/ARM
Joyce Wong, HDOA/ARM
Roy Hasegawa, HDOA/ARM
Jack Lee, Private Citizen
Gareth Mendonsa, HDOA/Agricultural Loan Division (AGL)
Yong Pak, HDOA/AGL
Dean Matsukawa, HDOA/AGL
Judith Rivera, DuPont Pioneer
Mark Takemoto, DuPont Pioneer
Kalani Watson, HDOA/Plant Quarantine Branch (PQB)
Jonathan Ho, HDOA/PQB
Jeri Kahana, HDOA/Quality Assurance Division (QAD)
Leo Obaldo, HDOA/QAD
Shelley Choy, HDOA/QAD
Janelle Saneishi, HDOA/Chair’s office (CHR)
Micah Munekata, HDOA/CHR
Bryan Yee, Attorney General’s Office (AG)
Darwin Inman, Kona Hills, LLC
II. APPROVAL OF MINUTES FROM 9/23/17 MEETING

Chairperson Enright requested a motion to approve the September 23, 2017 meeting minutes.

Motion for approval: Hong/Ornellas

Board member Mina clarified that his comment on page 10 line 5 was about a level playing field on exotic animals regarding the film industry.

Vote: Approved, 9/0 (Evans not present for vote).

III. COMMENTS FROM THE GENERAL PUBLIC ON AGENDA ITEMS (ORAL OR WRITTEN)

Chairperson Enright said that the Board will be taking public comments on agenda items as they come up during the meeting.

IV. INTRODUCTIONS

V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

A. AGRICULTURAL LOAN DIVISION

1. Request for Approval of One (1) Direct New Farmer Ownership Loan to Kaohinani Mokuhalii.

Gareth Mendonsa, HDOA/AGL, presented testimony as submitted. Staff recommends approval.

Motion to accept: Ornellas/Cabral.

Board member Galimba recused herself.
Vote: Approved, 8-0 (Evans not present and Galimba recused).

2. Request for Approval of One (1) Direct Farm Ownership Loan to Sakda and Usa Meaphol.

Yong Pak, HDOA/AGL, presented testimony as submitted. Staff recommends approval.

Motion to accept: Ornellas/Hong.

Vote: Approved, 9-0 (Evans not present).

B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

1. Request for Approval to Sublease between the Hamakua Agricultural Cooperative and Stephen Oldfather, General Lease No. S-5551, TMK: (3) 4-6-003:020 (por), Lot 2A, Honokaia Makai Tract, Hamakua, Island of Hawaii

Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Ha/Comerford.

Board member Case asked about how rents were set. Ms. Wong said that it is based on appraisals.

Vote: Approved, 9-0 (Evans not present).

2. Request for Approval to Sublease between the Hamakua Agricultural Cooperative and Stanley Cypriano, General Lease No. S-5551, TMK: (3) 4-6-003:003 (por), Lots 12A and 12 B, Honokaia Makai Tract, Hamakua, Island of Hawaii

Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Board member Evans joined the meeting.

Motion to accept: Galimba/Cabral.

Vote: Approved, 10-0.

3. Request for Approval to Sublease between the Hamakua Agricultural Cooperative and Golden Rule Ventures, LLC; General Lease No. S-5551, TMK: (3) 4-6-003:003 (por); Lot No. 25, Honokaia Makai Tract, Hamakua, Island of Hawaii
Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Mina/Galimba.

Board member Mina asked if the area in the request borders conventional farms. Ms. Wong said that they do not.

Vote: Approved, 10-0.

4. Request for Approval of to Issue Revocable Permit to Mike Olival, TMK (3) 4-7-004:009, Waialeale to Hanapai, Hamakua, Island of Hawaii

Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Ha/Galimba.

Board member Ornellas asked how this parcel will be exempted from the court ruling on revocable permits. Morris Atta, HDOA/ARM, said that he would defer to the AG’s Office. Bryan Yee, Deputy AG, said that there is a temporary delay in the application of the case due to legislation, and the specific facts of the court case are different. At some point, DOA will need to review its revocable permit process and the existing revocable permits to ensure compliance with the Supreme Court decision but it does not affect the ability to move forward with any new permits.

Chairperson Enright introduced Morris Atta as the new Land Manager at HDOA/ARM.

Vote: Approved, 10-0.


Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Comerford/Galimba.

Board member Hong asked if this was under a rental currently. Ms. Wong said that it has been submitted for appraisal and should be getting that soon.

Vote: Approved, 10-0.

Assignee; TMK (3) 7-3-049:032, Lot No. 36, Ke‘ahole Agricultural Park, Kalaloa, North Kona, Island of Hawaii

Presentation by Joyce Wong, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Ha/Galimba.

Vote: Approved, 10-0.

7. Request for Consent to Assignment of General Lease No. S-6006; Fakaloloma I. Oelvao, Assignor to Jack Lee, Assignee; TMK: (1) 5-6-006:34; Lot 6, Kahuku Agricultural Park, Koolauloa, Kahuku, Island of Oahu, Hawaii

Presentation by Roy Hasegawa, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Hong/Cabral.

Board member Mina asked about the current rent and re-evaluating the lease. Mr. Hasegawa said that the entire lease if 45 years. An appraisal will be done as the lease goes on during a long term lease.

Vote: Approved, 10-0.


Presentation by Roy Hasegawa, HDOA/ARM, as submitted. Staff recommends approval.

Motion to accept: Ornellas/Galimba.

Board member Mina asked about the size of the shade houses. Mark Takemoto, Pioneer, said that the size is 120 ft. by 156 ft. Board member Mina asked if this was in-ground research. Mr. Takemoto said that they are in pots and in a medium.

Board member Ha asked what they were growing. Mr. Takemoto said that corn is the primary plant right now.

Board member Galimba asked about the idea behind these efforts. Mr. Takemoto said that they can exclude pests in these houses and can be efficient in this space. There is a more efficient use of water and other things. Board member Galimba asked what was the approximate investment into this work. Mr. Takemoto said that over a few years the
planned investment is about $12.9 million if it progresses through all its phases. They will use this first year to make adjustments and work with staff to keep moving forward. Board member Galimba asked if they will be hiring more people for this project. Mr. Takemoto said that is the intention and the site will increase, hiring 60 people to do this project.

Board member Minas asked about the drought tolerance research. Mr. Takemoto said that there will be across the board research. A lot of Pioneer crop is drought resistant. There is a lot of things you look at. Board member Mina asked what the thought was to develop seed in this process and put into sterile medium. Mr. Takemoto said that there is a selection process that exists as some diseases are soil borne and some plants are not always that strong. You keep them in this condition so that it can grow and develop. The research is done that way. Board member Mina said that you are basing it on varietal strength rather than soil resiliency. Mr. Takemoto said that they used sterile mix to get to this stage of this process. He also said that there are field trials too.

Vote: Approved, 10-0.

9. Request to Approve Sublease from Diamond Head Seafood Wholesale, Inc. to the State of Hawaii, Agribusiness Development Corporation for a portion of property identified as Tax Map Key No. (1) 9-1-031-026 in Kalaeloa, Island of Oahu, for the purposes of developing an aquaculture livestock feed mill

Chairperson Enright said that this item will be deferred at this time.

C. QUALITY ASSURANCE DIVISION

1. Request for (1) Preliminary Approval of Proposed Chapter 4-162, Hawaii Administrative Rules, entitled “Food Safety Certification Costs Grant Program” and (2) Authorization for the Chairperson to Schedule Public Hearings and to Appoint a Hearing Officer in Connection with (1).

Jeri Kahana, HDOA/QAD, presented testimony as submitted. Staff recommends approval.

Motion: Cabral/Galimba.

Dean Comerford recused himself.

Board member Evans asked if this was a first come first served or competitive basis for award. Ms. Kahana said that it is pro rata. The total is adjusted if the need exceeds the fund.
Board member Mina asked if this was for HASEP certification or GAP. Ms. Kahana said that it is for GAP. Board member Mina said that he is running into issues with some lawyers and insurance companies are requiring various certifications. Kahana said it is to meet FSMA, where GAP is in line.

Vote: Approved, 9-0 (Comerford recused).

2. Request for (1) Repeal of Chapter 4-86, Hawaii Administrative Rules, entitled “Brake Fluids, Coolants, Petroleum Products, and After-Market Additives” and (2) Preliminary Approval of Proposed Chapter 4-186, Hawaii Administrative Rules, entitled “Petroleum Products Accounting and Inspection” and (3) Authorization for the Chairperson to Schedule Public Hearings and to Appoint a Hearing Officer in Connection with (1) and (2).

Jeri Kahana, HDOA/QAD, presented testimony as submitted. Staff recommends approval.

Motion: Evans/Galimba.

Board member Mina asked if it’s repealing chapter 4-86 so that the blend can be allowed. Ms. Kahana said that they are incorporating chapter 4-86 (the original rules) into a new chapter, including the requested change in definition to allow for up to 10% ethanol. Board member Mina asked why it is capped at 10%. Ms. Kahana brought up Melissa Pavlicek of Island Energy Services. She said the statutory mandate is at 10% ethanol, with some flexibility created last year.

Board member Evans said that Hawaii Clean Energy Initiative replaces imported fuels with indigenous fuels here. There was hope for sugar cane fields for indigenous ethanol. That has not panned out. The scale is not going to cover that. There are other biofuels that may become commercially viable, but not sugar cane. The transition away from imported to indigenous with moving away from 10% blend, then that was a good move.

Board member Case said that we have B20 and B100 biofuels and asked if the 100% ethanol is allowed under that rule. Board member Evans said that we are encouraging indigenous biofuels rather than importing them. Ms. Pavlicek said that the 10% statute was repealed and supporting flexibility. Chairperson Enright stated that this was the preliminary approval so the State can weigh in. Board member Case said that procedurally, if possible to make any blend, we should change it now. Ms. Kahana said that these rules are limited to retail motor fuels. Ms. Pavlicek said that industry asked for the change to allow for flexibility and addressing legislative intent to go up to 10%.

Bryan Yee, Deputy AG, questioned the purpose for the definition of gasoline ethanol blend, given that the term is not used in the rules and there is no requirement imposed
on industry that prohibits blending. He said that if gasoline is blended it should meet
certain ASTM standards under the rules, and asked staff if they set the standards of
how it's sold or how it's measured. Ms. Kahana said that it is how it's measured.

Board member Comerford said that if it is just related to ethanol, then there are good
reasons for 10%, but if considering other oil crops, the fuels could be higher than 10%
and be a cleaner mix.

Chairperson Enright called a 5 minutes recess at 10:00 am.

Chairperson Enright deferred the item until a later meeting.

D. PLANT INDUSTRY DIVISION

1. Request for: (1) Withdrawal of request for approval of proposed partial
amendments to Chapter 4-66, Hawaii Administrative Rules that received
board approval on November 24, 2015; (2) Preliminary Approval of
Proposed Amendments to Chapter 4-66, Hawaii Administrative Rules,
etitled "Pesticides"; (3) Authorization for the Chairperson to Schedule
Public Hearing(s); and (4) Appoint a Hearings Officer in Connection with
the Proposed Amendments to Chapter 4-66, Hawaii Administrative Rules.

Chairperson Enright said that he intends to allow the Board additional time to review
these rules.

John McHugh, HDOA/PEST, presented testimony as submitted. Staff recommends
approval.

Motion: Evans/Ornellas.

Board member Mina said that he could use the time for more review.

Board member Evans asked about the mechanism for timely restrictions on pesticides
that have negative impacts on the environment. Mr. McHugh stated that one submittal
is for the rules and one is for the State restricted use pesticides (RUP). Board member
Evans asked if staff could remove the State RUP list from the rules and post them
online. Mr. McHugh said that the State has authority to designate a state RUP based
on criteria. Leachability and toxicity are examples of this. Board member Evans asked if
the requirement is to consult with DOH for the online list. Mr. McHugh said that they will
consult with stakeholders and the Pesticide Advisory Committee.

Victoria Matsumura, HDOA/PEST, said that new products would still come before the
board for approval but just not for rule making. Chairperson Enright said that the Board
can make the decision.
Board member Galimba asked about the public outreach mechanism. Mr. McHugh said that this would come before the board and public can participate then. Board member Galimba and Board member Case confirmed that there is a 6-day notice period with the agenda.

Ms. Matsumura said that the alternative is that they would not be licensed in the State of Hawaii. It would either be restricted or prohibited as unlicensed.

Board member Mina said that he would like to discuss soil and micro flora further.

Board member Ornellas thanked staff you for their work and said that he would like to vote on the items. Board member Cabral agreed with Board member Ornellas. He asked about the Fungicide definition. Mr. McHugh said that the definition could be broader.

Board member Comerford said that the definition should consider fungal diseases on ornamentals and Rapid Ohia Death.

Board member Mina, Board member Galimba, Board member Evans, Board member Cabral, and Board member Case clarified the process.

Chairperson Enright said that he will defer this item and wait another month.

2. Request for: (1) Preliminary Approval of Proposed Amendments to the State List of Restricted Use Pesticides, currently maintained in section 4-66-32, Hawai‘i Administrative Rules; (2) Authorization for the Chairperson to Schedule Public Hearing(s); and (3) Appoint a Hearings Officer in Connection with the Proposed Amendments to Chapter 4-66, Hawai‘i Administrative Rules.

John McHugh, HDOA/PEST, presented testimony as submitted. Staff recommends approval.

Motion: Evans/Hong.

Victoria Matsumura, HDOA/PEST, said that if the rules do not pass in the previous request, we would still like to have this request go through. This is an and/or issue to move this request regardless of rules moving or not.

Board member Galimba asked if these items have already been approved. Ms. Matsumura said that 3 of these have gone to the advisory committee and 2 of them have not.
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1 Board member Cabral clarified that there are some Chlorpyrifos items on the market
2 and asked if they would be taken off the market. Ms. Matsumura said that would
3 require a restricted use permit.
4
5 Board member Case asked why those 2 have not been reviewed by the advisory
6 committee. Ms. Matsumura clarified that this is placing further restrictions on the
7 general use that is available to the public currently.
8
9 Board member Evans said that she would err on the side of public health. She said that
10 she respects the advisory committee and staff has looked at research.
11
12 Ms. Matsumura said people are using these pesticides. Board member Case said that
13 there is a process and that we are trying to shortcut that process to err on the side of
14 public health. Ms. Matsumura said yes.
15
16 Board member Comerford asked if there is more flexibility, regarding putting an agent
17 on the list and taking it off. Ms. Matsumura said that it does provide more flexibility.
18 Board member Comerford said that you can react quicker to those changes on the state
19 level. Ms. Matsumura said that high risk scenarios exist in Hawaii where certain
20 pesticides are not restricted federally but the State places restrictions on them. She
21 said that staff does all the necessary testing and review for the State Restricted Use
22 List.
23
24 Board member Hong said that he sees this as raising the bar for some general use and
25 applying restricted use restrictions.
26
27 Board member Galimba asked about the advisory committee. Mr. McHugh said that the
28 committee is fully filled with 100% participation.
29
30 Bryan Yee, AG, clarified that currently RUPs are set up by rule and that the change to
31 move from rule to list is one of the matters you deferred. Although they separated this
32 out, that will not change the RUPs until the rules get changed. You can still add this in
33 to change the rule or you can change the rule to allow the listing. Either way you will
34 need a rule change.
35
36 Board member Evans clarified that these chemicals are considered to be placed on the
37 State Restricted Use list and provides notice to the public of the Board's intent.
38
39 Vote: Approved, 10-0
40
41 VI. OLD BUSINESS
42
43 None.
44
45 VII. NEW BUSINESS
Chairperson said that he would like to amend the agenda to do an informational briefing on coffee technology.

Motion: Evans/Hong.

Vote: Approved, 10-0.

Jonathan Ho, HDOA/PQB, provided some information on Kona Hills LLC to import Coffee plants into the State for propagation. They would like to utilize a private quarantine facility and shorten the quarantine. PQB has worked with applicant on pre-entry procedures. Kona Hills would like to take 750,000 coffee seeds, taking embryo, growing in vitro, and bring those into state in sealed flasks. The Board has authority to provide exemption of 1-year quarantine. This is what will be coming before the Board. It has been run through the advisory committee and they are working with the applicant to address those issues.

Darwin Inman and Ferrell Daste provided background information on their company and what they were seeking to do.

Board member Mina asked if this was Kona typica. Mr. Daste said that it was Arabica. Board member Mina asked that Arabica needs to be blended because it is so bitter. Mr. Daste said that they will not be blending these plants. They will be kept separate. All have been identified by Starbucks research farm as high end high cupping rust resistant. Board member Mina asked about concerns from the Greenwell operation near to the Kona Hills farm. Mr. Inman said that Tom Greenwell supports the proposal and should be sending a letter of support. Board member Mina asked if the quarantine process is an on-site process. Mr. Ho said that this is a 1-year quarantine in the rules. He said that private quarantine is possible assuming it meets design standards. There is no facility, public or private, that could maintain this number of plants. These guys would be replicating the States facility.

Chairperson Enright said that the Board should be aware of this as it comes forward. This is an issue of whether the technology should be allowed.

Board member Ha asked about the big picture of this operation. Mr. Inman said that the philosophy of the farm is as a green coffee seller, not a roaster. The state varietal would be sold to industrial buyers around the world. They have a large nursery here with local seed purchased last year. They have typica seed being sprouted and are planting again next season. They will be developing full property of 1,400 acres and 500 acres. They will build a mill on site and have good support from neighbors. Board member Ha asked if this is Hawaiian coffee. Mr. Inman said that it would be Kona coffee. Mr. Daste said that it would be considered Kona rust resistant.
Board member Evans asked if the quarantine greenhouses would allow other kinds of resistant coffee varieties for testing in Kona. Mr. Daste said that they can bring in varieties but would follow the process. The Starbucks research center supports global farmers. They are trying to make better varieties to distribute to the global economy.

Board member Case clarified the request and asked if the operation is mauka of the road. Mr. Inman said that there is a 1,800-3,000-foot elevation planting area. Board member Case asked about the overstory in the area. Mr. Inman said that there are native and non-native overstory in the area. The Ohia overstory will remain and remove the non-native overstory.

Board member Mina asked if this is the largest area of coffee grown in that area as far as acreage is considered. Mr. Inman said yes. Board member Mina said asked if there is a fear for rust based on results around the globe and what it is based on. Mr. Daste said yes. Rust has knocked out 8 countries in South America. It is also in Asia, India, and Africa. Board member Mina asked if it will be a conventional grow. Mr. Inman said yes. Board member Mina asked about the research used for the operation. Mr. Inman said that they are getting as much help from agronomists around the world.

Chairperson Enright said that they are taking this up because the rules are not current to take in germplasm and new technology. The issue should come before the Board soon.

Board member Comerford said that due diligence into the companies would be appropriate. Mr. Ho clarified that the exemption is on a case by case basis. There are limited amounts listed in the rules. Should another importation come forward, it would come before the Board. Mr. Ho explained the quarantine and import process.

Board member Mina asked at what point the coffee germplasm is tested. Mr. Ho said they would do a sampling protocol and explained the testing process.

VIII. ADJOURNMENT OF REGULAR MEETING

Motion to adjourn meeting: Mina/Comerford.

Vote: Approved, 10-0.

Meeting adjourned at 11:30 AM.

Respectfully submitted,

Micah Munekata

Board Secretary