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5 **Minutes of the Board of Agriculture**  
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7 CALL TO ORDER – The meeting of the Board of Agriculture was called to order on  
8 August 23, 2016 at 9:00 a.m. by Board of Agriculture Chairperson Scott Enright, at the  
9 Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

10  
11 **Members Present:**

12 Scott Enright, Chairperson, Board of Agriculture  
13 Clark Hashimoto, Member-At-Large  
14 Michelle Galimba, Member-At-Large  
15 Jerry Ornellas, Kauai Member  
16 Glenn Hong, Member-At-Large  
17 Simon Russell, Maui Member  
18 Dr. Rachel Novotny, Interim Dean of the College of Tropical Agriculture & Human  
19 Resources University of Hawaii, Ex Officio Member  
20

21 **Members Absent:**

22 Suzanne Case, Chairperson, Board of Land and Natural Resources  
23 Richard Ha, Hawaii Member  
24 Mary Alice Evans, Deputy, Department of Business Economic Development, Ex  
25 Officio Member  
26

27 **Others Present:**

28 Teya Penniman, MISC  
29 Traci Fujita, Maui County Office of Council services  
30 Gareth Mendonsa, HDOA/State Agricultural Loan Division (SALD)  
31 Randall Chang, HDOA/SALD  
32 Kathy Kaohu, Maui County Office of Councilmember Don Guzman  
33 Linda Murai, HDOA/Agricultural Resource Management (ARM)  
34 Joyce Wong, HDOA/ARM  
35 Roy Hasegawa, HDOA/ARM  
36 Cas Vanderwoude, Hawaii Ant Lab  
37 Jeri Kahana, HDOA/Quality Assurance Division (QAD)  
38 Michael Rogers, 21 Degrees Estate Farm  
39 Dylan Butterbaugh, Manoa Chocolate  
40 Michael Matsuo, Board of Water Supply (BWS)  
41 Erwin Kawata, BWS  
42 Kevin Gooding, INTERA  
43 Isaac Maeda, HDOA/Animal Industry  
44 Kathleen Oneha, HDOA/Plant Quarantine Branch (PQB)  
45 Shelley Choy, HDOA/Office of the Chair (CHR)

- 1 Janelle Saneishi, HDOA/CHR
- 2 Micah Munekata, HDOA/CHR
- 3 Darcy Oishi, HDOA/Plant Pest Control Branch (PPC)
- 4 Phyllis Shimabukuro-Geiser, HDOA/Deputy Director
- 5 Haunani Burns, Deputy Attorney General
- 6 Andrew Goff, Deputy Attorney General
- 7 Bryan Yee, Deputy Attorney General
- 8 Mae Nakahata, HC&S
- 9 Becky Azama, HDOA/PPC
- 10 Derek Arakaki, HDOA/PPC
- 11 Emmanuel Zibakalam, HCIA
- 12 Angus Kelly, Syngenta

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14

15 II. APPROVAL OF MINUTES FROM 5/31/16 MEETING:

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Chairperson Enright requested a motion to approve the May 31, 2016 meeting minutes.

18  
19

Motion for approval: Ornellas/Hashimoto

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21

Board member Galimba mentioned a concern about her comments depicted on the JFF report. Chairperson Enright said that he would check on her concern.

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23  
24

Vote: Approved, 7/0.

25  
26

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

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29

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

30  
31

32 IV. INTRODUCTIONS

33  
34

There were no introductions or comments.

35  
36

37 V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

38  
39

A. AGRICULTURAL LOAN DIVISION

40  
41

1. Request for Approval of One (1) Direct Farm Ownership Loan to Ian and Cherie McArthur.

42  
43

Presentation by Mr. Gareth Mendonsa, HDOA/SALD, as submitted. Staff recommends approval.

44  
45

1 Motion to accept: Ornellas/Hong

2

3 Board member Simon Russell asked if the farmers are far along in years and if they  
4 should not live to the maturation of the loan how the department will get the money.

5

6 Mr. Mendonsa said that the department is well secured with the first mortgage loan on  
7 the property. If someone should pass, we have a life insurance policy which will go  
8 toward the remainder of the loan. The property also has liquidation value.

9

10 Board member Russell asked if the department can liquidate assets on property.

11

12 Mr. Mendonsa said that it is a long process to liquidate property and not easy.

13

14 Vote: Approved, 7/0.

15

#### 16 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

17

18 1. Request for Consent to Assignment of General Lease No. S-4858; George  
19 Lindsey Broderson, Assignor; George Lindsey Broderson and Adam J.  
20 Broderson, Assignee; TMK: 3rd Div/7-3-049:014, Lot No. 16, Keahole  
21 Agricultural Park, Kalaoa, North Kona, Island of Hawaii

22

23 Ms. Joyce Wong, HDOA/ARM, presented as submitted. Staff recommends approval.

24

25 Motion to accept: Galimba/Hashimoto.

26

27 Vote: Approved, 7/0.

28

29 2. Request for Consent to Sublease between the Hamakua Agricultural  
30 Cooperative and Edmon Agustin; General Lease No.  
31 S-7011; TMK: 3rd Div/4-3-005:018 (Por), Lots 12 and 13, Pohakuhaku  
32 and Kemau 1st, Hamakua, Island of Hawaii

33

34 Ms. Joyce Wong, HDOA/ARM, presented as submitted. Staff recommends approval.

35

36 Motion to accept: Russell/Hashimoto.

37

38 Board member Galimba asked if the map provided encompassed the entire map or just  
39 a portion.

40

41 Ms. Wong said that the map was of the entire park.

42

43 Vote: Approved, 7/0.

44

- 1                   3. Request to: (1) Rescind Prior Board Action Approving Sublease of  
2                   General Lease No. S-7009; Hamakua Agricultural Cooperative, Sublessor,  
3                   to Jianguo Wang, Sublessee; TMK: 3rd Div/4-3-005:014 (Por), Lot 16; and  
4                   (2) Approve Sublease between the Hamakua Agricultural Cooperative,  
5                   Sublessor, and Jianguo Wang, Sublessee; General Lease No. S-5553,  
6                   TMK: 3rd Div/4-3-003:004 (Por), Lot 17, Kaunamanu Homesteads and  
7                   Opihala & Hauola, Hamakua, Island of Hawaii  
8

9 Ms. Joyce Wong, HDOA/ARM, presented as submitted. Staff recommends approval.

10  
11 Motion to accept: Ornellas/Galimba.

12  
13 Vote: Approved, 7/0.

- 14  
15                   4. Request for Consent to Assignment of General Lease No. S-4839;  
16                   Fetulima Tamasese, Assignor, to Puna Certified Nursery, Inc., Assignee;  
17                   TMK: 3rd/Div 7-3-049:022, Lot No. 26; Keahole Agricultural Park, Kalaoa,  
18                   North Kona, Island of Hawaii  
19

20 Ms. Joyce Wong, HDOA/ARM, presented as submitted. Staff recommends approval.

21  
22 Motion to accept: Hashimoto/Galimba.

23  
24 Board member Russell asked what the \$369,000 consideration entailed.

25  
26 Ms. Wong said that the consideration covers a home on the lot.

27  
28 Board member Russell asked if the annual rent is \$2,190.

29  
30 Ms. Wong said that is correct.

31  
32 Vote: Approved, 7/0.

- 33  
34                   5. Request for Consent to Assignment of General Lease No. S-4855;  
35                   Robert J. Albert and Genevieve U. Albert (Deceased), Assignor, to  
36                   Mountain Shore Farm LLC, Assignee; TMK: 3<sup>rd</sup>div/7-3-049:030, Lot  
37                   No. 34, Keahole Agricultural Park, Kalaoa, North Kona, Island of  
38                   Hawaii  
39

40 Ms. Joyce Wong, HDOA/ARM, presented as submitted. Staff recommends approval.

41  
42 Motion to accept: Hong/Hashimoto.

43  
44 Board member Hong asked if the assignee will be maintaining the current property.  
45

1 Ms. Wong said that the assignee wants to do something with their coffee crop. The  
2 farm is beautiful and well maintained.

3  
4 Vote: Approved, 7/0.

5  
6 C. ANIMAL INDUSTRY DIVISION

- 7  
8 1. Request for Approval of Amendments to the Right-of-Entry (ROE)  
9 in favor of the Board of Water Supply to Install a Monitor Well on  
10 the Animal Quarantine Station Property, Previously Approved by  
11 the Board on April 26, 2016

12  
13 Dr. Isaac Maeda, HDOA/AI, presented as submitted. Staff recommends approval.

14  
15 Motion to accept: Ornellas/Galimba.

16  
17 Vote: Approved, 7/0.

18  
19 Chairperson Enright called for a recess 9:27am.

20  
21 Chairperson Enright called the meeting back to order at 9:32am.

22  
23 D. QUALITY ASSURANCE DIVISION

- 24  
25 1. Request for (1) Acceptance of the Minutes of the Public  
26 Hearings, (2) Adoption of Amendments to Chapter 4-138,  
27 Hawaii Administrative Rules, entitled "Hawaii Grown Cacao  
28 and Hawaiian Chocolate Products"

29  
30 Jeri Kahana, HDOA/QAD Administrator, presented as submitted. Staff recommends  
31 approval.

32  
33 Motion to accept: Galimba/Hashimoto.

34  
35 Board member Ornellas expressed his concern for counterfeiting and that the  
36 temptation is going to be to bring in cheaper chocolate. He asked what measures are  
37 built into the rules to address this.

38  
39 Ms. Kahana said that they have enforcement violations based on labeling rules and  
40 statute as well. There is a monetary penalty. With counterfeit there is a criminal charge  
41 as well.

42  
43 Board member Ornellas asked if you can distinguish between cacao in Hawaii and  
44 mainland.  
45

1 Ms. Kahana said she is not an expert and some that have attended could answer that.

2

3 Board member Russell asked Ms. Kahana about "unfair competition."

4

5 Ms. Kahana said that because there are no labeling requirements, people that state  
6 Maui chocolate or specialty chocolate can label as such because it is made on Maui  
7 even though the cacao made not be from Maui. This is just one example.

8

9 Board member Russell stated that the definition of unfair to a farmer and unfair to a  
10 processor are two different definitions.

11

12 Ms. Kahana said that they have blends incorporated. In the rule, they can only use the  
13 Hawaii blend rather than island specific designation. They wanted to keep the 100% to  
14 the actual islands.

15

16 Board member Russell asked if the State has the capacity to audit and inspect?

17

18 Ms. Kahana said that they are planning to get there through the recruitment process.

19

20 Chairperson Enright opened the testimony to the public.

21

22 Dillon Butterbaugh, Manoa Chocolate, Cacao manufacturing in Kailua on Oahu,  
23 presented testimony as submitted. In addition to making chocolate, he farms 100 cacao  
24 trees in Waimanalo. Mr. Butterbaugh said that it is very important how we label so we  
25 can protect our industry here. He said that there needs to be guidelines for what is  
26 practical.

27

28 Daniel Ordarty, owner of Cacao services, Hawaii Cacao Foundation president,  
29 presented testimony as submitted. Mr. Ordarty said that Hawaii cacao is unique.  
30 Historically there has been violations that has hurt the Hawaii name. He said that he  
31 encourages these measures in moving forward.

32

33 Michael Rodgers, cacao farmer in Kahaluu with 2 acres and 600 trees. Hawaii grown  
34 cacao is a special product that deserves a special protection. This is an up and coming  
35 industry for Hawaii.

36

37 Board member Hong said that he views this issue as a consumer rights issue and that  
38 the consumers need to understand what they are getting.

39

40 Vote: Approved, 7/0.

41

42 Chairperson Enright called for a recess at 9:43am.

43

44 Chairperson Enright called the meeting back to order at 9:47am.

45

1 VI. OLD BUSINESS

2

3 Discussion by Cas Vanderwoude of the Hawaii Ant Lab, addressing access to private  
4 property concerning the treatment of Little Fire Ant (LFA).

5

6 Board member Russell was asked by Chairperson Enright to open the topic of  
7 discussion. Mr. Russell asked Cas Vanderwoude, Hawaii Ant Lab, and Teya  
8 Penniman, MISC, to come forward.

9

10 Board member Russell stated the concern with LFA spread on Maui. He said that he  
11 wants to work with Ant Lab and MISC and that out of this discussion today we can have  
12 a better grasp of who addresses what. Mr. Russel stated that there was a news article  
13 published on the topic and an email conversation he had with the owner of the property  
14 being denied access. Mr. Russell read from the article submitted to the Board. Mr.  
15 Russell also read from the conversation with the owner of the property, Jen Wickfield,  
16 also submitted to the Board.

17

18 Cas Vanderwoude, Hawaii Ant Lab, provided testimony briefly describing that the  
19 people doing treatment on Maui are part of his team.

20

21 Board member Russell asked what is the perception for who is responsible for  
22 eradicating fire ants on Maui.

23

24 Mr. Vanderwoude said that he feels personally responsible. That's what my team does.  
25 We are committed with HDOA and ISCs on each island to slow the spread of this  
26 particular species or if there is a possibility we do the best we can to eradicate them.

27

28 Board member Russel asked if there was anything HDOA can do to better to help the  
29 Hawaii Ant Lab's efforts.

30

31 Mr. Vanderwoude said that HDOA helps fund a large part of the work. He said that he  
32 doesn't normally have people object to taking action for ants that sting you. This is one  
33 of the only instances we have run into where a person is not happy about being on their  
34 property to do that. This particular gentleman cooperated for most of the beginning  
35 however he has since changed his mind on cooperating. He said that there are legal  
36 avenues in HAR 194 but that he is unsure how enforcing the action would look like.

37

38 Board member Hashimoto asked where else on Maui has LFA been discovered and  
39 whether it is suppressed.

40

41 Mr. Vanderwoude said that there is LFA on 3 sites. One is on a property in Waihee,  
42 leftover colony from earlier eradication. He said that there is a site in Nahiku which is  
43 larger and a challenging site because of the terrain. He said that there is a third site in  
44 Huelo, the one being discussed at the moment, about 6 acres in size and been treated  
45 for 18 months.

1  
2 Board member Russell confirmed with Mr. Vanderwoude that this was what was being  
3 covered in the newspaper article.

4  
5 Board member Galimba asked how many acres the Nahiku site is.

6  
7 Mr. Vanderwoude said that they guesstimate the site to be about 20 or so acres. He said  
8 that they would have to treat that site via aerial means because it is simply not possible  
9 to put people on the ground.

10  
11 Board member Russell called Teya Penniman to the front.

12  
13 Teya Penniman, MISC, clarified that the Nahiku site has multiple properties from Hana  
14 Highway to the ocean, beside a stream which the ants have moved along. She said that  
15 this was another instance where there were problems with the tenant of the land. The  
16 ants have continued to move down the stream through various properties. This issue  
17 took over a year to get permission there. Tenants were concerned about chemicals.  
18 The Hawaii Ant Lab know how to do this work. She said that they perform community  
19 outreach and the issue the news article raises is property rights vs. control. She said  
20 that the problem with HAR 194 is the definition of "invasive species" is not defined. She  
21 said that the Board could push to define "invasive species," using top pests like LFA,  
22 Coconut Rhinoceros Beetle, and Coqui Frogs. She said that no one has wanted to be  
23 that person to force entry. Ms. Penniman stated that Councilmember Guzman from  
24 Maui County and Council Services could look at some sort of cooperative agreement  
25 with HDOA to address control responsibility. She said that there are examples of how  
26 the current system is not working and it is frustrating for the ground workers.

27  
28 Brian Yee, Deputy Attorney general, stated that there are multiple state agencies that  
29 can get a court order to do this work. He said that HDOA has this ability. HDOA does  
30 have a contract with UH who subcontracts with the Hawaii Ant Lab. To the extent that  
31 the Hawaii Ant Lab acts as the subcontractor, they could start the court order process.  
32 It is doable. We would need to work with the University of Hawaii and the Hawaii Ant  
33 Lab. If you are not seeing progress, that is an option. The HISC has certain rights as  
34 well as DLNR. Advised by a different deputy than this office. He stated that legal  
35 options are there.

36  
37 Chairperson Enright asked Mr. Yee if he thought there is latitude for the office of the  
38 chair to define "invasive species."

39  
40 Mr. Yee said that it may be a rule, but that you should talk to the attorney assigned to  
41 you to qualify for emergency interim rules. He mentioned a smaller set of rules may be  
42 more appropriate and that the director could not do this on their own.

43  
44 Chairperson Enright asked MISC would prefer the HDOA to take the lead and Ms.  
45 Penniman replied "yes."



1  
2 Chairperson Enright asked if HDOA could authorize the Hawaii Ant Lab to step in to do  
3 this.

4  
5 Mr. Yee said that HDOA could do this to the extent that the Hawaii Ant Lab is a  
6 subcontractor.

7  
8 Mr. Vanderwoude said that he wouldn't want to send his team some place they are not  
9 wanted. He said that they actually have to spend much more time telling people we  
10 cannot go in to do this because they do not have the resources. He said that he would  
11 want to make sure his team is covered as they have had to cover their own legal costs.  
12 He said that he wouldn't want to see this happen again. He said that they place a high  
13 priority on using the safest protocols.

14  
15 Chairperson Enright called Becky Azama, HDOA/PPC, to the front.

16  
17 Chairperson Enright said that it looks like we are positioning the Chemical/Mechanical  
18 at the forefront.

19  
20 Ms. Azama said that it has also been HDOA's stance to work with land owners and land  
21 managers. She said that the last time they went for a court order was for Banana  
22 Bunchy Top Virus in the early 90's. She said that this was very stressful for the  
23 department and for land owners. They should do it cooperatively instead. She said that  
24 they could do it if need be as it has been successful in Mililani and Waimanalo with the  
25 staff.

26  
27 Chairperson Enright said that HDOA will continue to work with the landowners. He said  
28 that the HDOA is running into isolated incidents where there are those not cooperating.

29  
30 Board member Russell concluded with a quote from a report to legislature from DLNR.  
31 He read from the report that any LFA infestation poses a threat at an economic cost to  
32 exceed \$140 million in the next 10 years and mitigation over \$1 billion. He continued to  
33 read from the HISC report to the Legislature for 2016. He read Act 141-3, talking about  
34 the HDOA ability to control pests. He stated that he hoped for support from the  
35 legislature to support HDOA programs.

36  
37 Kathy Kaohu, Maui County Office of Councilmember Don Guzman, said that the tenant  
38 issue has been brought to the forefront. She said that they want to make sure the  
39 county investment is not put on the wayside through things like fire ants. She stated  
40 that there is a concern with control vs eradication. Huelo is tough terrain with deep  
41 valleys and gulches. There is a lot of coconut harvesting in that area and there is a  
42 potential to spread via this mechanism. She also provided personal testimony for  
43 concern to her private land.

44

1 Chairperson Enright thanked Board member Russell for the agenda item. He also  
2 thanked Teya and said that it is the department's role to play the heavy if needed and  
3 that they can step up. He told Mr. Vanderwoude that they will try to make sure the  
4 department can provide cover if needed.

5  
6 Chairperson Enright called a recess at 10:27am.

7  
8 Chairperson called the meeting back to order at 10:32am.

9  
10 VII. NEW BUSINESS

11  
12 Discussion by Shelley Choy, of the Chairperson's Office, regarding the department's  
13 effort to the start-up of a hemp program.

14  
15 Shelley Choy, Office of the Chair, presented testimony that suitable seed for Hemp is  
16 needed. She provided background on how the Department will be pursuing a contract to  
17 develop a seed, timeline with a month to 2 months from now. The seed development  
18 would require at least one year. The source is still being determined as to where the  
19 importation will come from. She has been working with other states to help troubleshoot  
20 the rule making process. She said that she will be going to conference to look at what  
21 other departments of Agriculture are doing

22  
23 Chairperson Enright said that there was legislation for a hemp program for positions and a  
24 program. The amount of time is probably 2 years to stand up the program. There was a  
25 loud ask to stand up the program quicker. He hired Shelley to help with this to work with  
26 the AG's office. The chair stated that he would try to grow out seed to provide when rules  
27 for the program are in place. The RFP is close to being finished. In the meantime, rules  
28 will be developed and go before the board.

29  
30 Board member Russell asked if he needed to recuse himself because he has interest in  
31 this hemp program.

32  
33 Mr. Yee stated that the ethics issue is if you would be using a state position for personal  
34 profit and that if engaging in this program, you should recuse yourself.

35  
36 Board member Galimba asked about the issues surrounding the rule making process.

37  
38 Mr. Yee stated the State must come up with its own rules and work with other states that  
39 have an existing program. He said that technically individuals cannot grow hemp, but the  
40 Department can. The Department can designate on its behalf to grow. Creating a  
41 program in which the Department chooses to allow individuals to grow hemp on its behalf  
42 is tough along with ensuring THC levels, security, etc. Mr. Yee asked how do you ensure  
43 that the Federal DEA does not get involved. He stated that as long as the State is  
44 supervising, that will not happen. He stated that the danger being faced is not to cut  
45 corners. He said that one of the issues for example is going to be testing.

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Board member Ornellas asked if there was a source for seed right now.

Ms. Choy clarified that the current seed source to be imported is various. She stated that the idea is to bring in seed and acclimate it to Hawaii's environment.

Board member Ornellas asked if there would be breeding and a research project behind this effort.

Ms. Choy stated that the development would require some research. She said that varietal trials are not the primary purposes.

Chairperson Enright said that there was a survey done on who is interested and why they would crop the hemp. He said that you could crop hemp for various reasons. He said that there was an interest in all reasons for hemp and that this would look to do this. Chairperson Enright stated that the UH seed brought in from Australia to work with UH and HDOA, but that there were other seed companies that may be tough to work with as intellectual property rights become an issue as Hawaii looks to breed seed specifically for the State.

Board member Ornellas stated that it could take years and that expertise is not necessarily here in Hawaii. He said the return in Canada is 250 dollars per acre, and that is fully mechanized.

Chairperson Enright said that we are doing what we were instructed to do via the Legislature. He said that it could take 2 years for the program. He said that the initial work of genetics is the work being pursued for now.

Board member Ornellas asked if this would be the purvey of CTAHR.

Chairperson Enright said that he hoped CTAHR would help instruct.

Board member Hashimoto asked if any work has been done by CTAHR.

Chairperson Enright said that the work is not on genetics. He described the research project legislation. He said that it was only for remediation. The seed brought in was from Australia and that all genetics and products belong to the seed company called EcoFibre. This will be tough to benefit the State and those that want to benefit.

Board member Galimba asked if CBD oil has been distributed elsewhere.

Chairperson Enright said that Representative Thielen had a meeting last week attended by himself and staff. He said that in the meeting the figure from a certain individual farmer in Colorado ranged about \$200,000 per acre in CBD oil.

1 Ms. Choy stated that the figure was closer to \$1,000,000 per acre.

2  
3 Micah Munekata, Office of the Chair, said that there was a group that has done seemingly  
4 well with her hemp operation.

5  
6 Board member Hashimoto said that the seeds is mostly growing on the colder states and  
7 that Hawaii climate is very different

8  
9 Chairperson Enright mentioned Asian countries as a possible source.

10  
11 Board member Russell said that Thailand is an example.

12  
13 Board member Ornellas stated that he was just curious on the genetics.

14  
15 Chairperson Enright said that this is not the work of the department.

16  
17 Board member Hashimoto asked why the growing end was given to HDOA and not to  
18 CTAHR.

19  
20 Chairperson Enright said that it was the guidance from the legislature.

21  
22 Board member Ornellas asked about the UH project.

23  
24 Chairperson Enright said it was a different project.

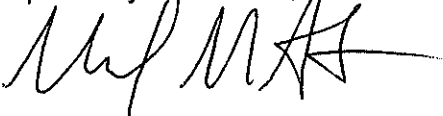
25  
26 Chairperson Enright asked Mr. Yee if he agreed that this was the only course of action  
27 for the department at this time. Mr. Yee agreed.

28  
29 VIII. ADJOURNMENT OF REGULAR MEETING

30  
31 Motion to adjourn meeting: Galimba/Russell.

32  
33 Meeting adjourned at 11:00 AM.

34  
35 Respectfully submitted,

36  
37 

38  
39 Micah Munekata  
40 Board Secretary