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5 **Minutes of the Board of Agriculture**
6

7 CALL TO ORDER – The meeting of the Board of Agriculture was called to order on
8 December 3, 2019 at 9:00 a.m. by Board of Agriculture Chairperson Phyllis
9 Shimabukuro-Geiser, at the at the Plant Quarantine Conference Room, 1849 Auiki
10 Street, Honolulu, Hawaii 96819.

11
12 **Members Present:**

13 Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
14 Bob Masuda, Deputy Chairperson, Board of Land and Natural Resources, Ex
15 Officio Member
16 Mary Alice Evans, Office of Planning, Department of Business Economic
17 Development, Ex Officio Member
18 Dr. Nicholas Comerford, Dean of the College of Tropical Agriculture & Human
19 Resources University of Hawaii, Ex Officio Member
20 Vincent Mina, Maui Member
21 Diane Ley, Hawaii Member
22 Randy Cabral, Member-At-Large
23 Fred Cowell, Kauai Member
24 Glenn Hong, Member-At-Large
25 Joe Tanaka, Member-At-Large
26

27 **Others Present:**

28 Ted Yamamura, ACM Consultants, Inc.
29 Roy Hasegawa, HDOA/ HDOA/Agricultural Resource Management Division
30 (ARM)
31 Linda Murai, HDOA/ARM
32 Joyce Wong, HDOA/ARM
33 Morris Atta, HDOA/Chairperson's Office (CHR)
34 Randall DeAguiar, HDOA/Quality Assurance Division (QAD)
35 Leo Obaldo, HDOA/QAD
36 Tom Greenwell, Greenwell Farms
37 Rainoldo Cancino, Cancino Family Farm
38 Shelby Ching, HDOA/Plant Quarantine Branch (PQB)
39 Brain Kau, HDOA/ARM
40 Raymond Suifer, Kona Coffee Purveyors
41 Kirk Saiki, HDOA/ARM
42 Roger Kaiwi, Kona Coffee Council
43 Jacen Ham, Holua Kona Coffee Co.
44 Misty McElyea, HDOA/PQB
45 Robert Beck, Hawaiian Queen Coffee

1 Rich Wicklander, Aloha Hills Kona Coffee
2 Noni Putnam, HDOA/PQB
3 Micah Munekata, HDOA/CHR
4 Janelle Saneishi, HDOA/CHR
5 Bryan Yee, Attorney General's Office
6 Trenton Yasui, HDOA/PQB
7 Jonathan Ho, HDOA/PQB
8 Rhiannon Chandler-lao, Waterkeepers Hawaiian Islands
9

10 II. APPROVAL OF MINUTES FROM 9/24/19 AND 10/22/19 MEETINGS

11
12 Motion on 9/24/19 Minutes: Mina/Tanaka.

13
14 Vote: Approved, 10-0.

15
16 Motion on 10/22/19 Minutes: Mina/Tanaka.

17
18 Vote: Approved, 10-0.

19
20 III. INTRODUCTIONS

21
22 Chairperson Shimabukuro-Geiser introduced Bob Masuda, Deputy Chairperson at
23 DLNR, representing Chairperson Case.

24
25 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

26
27 A. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

28
29 1. Request for Approval of Extension of General Lease No. S-3993; Ronald
30 Matsumura and Shane Matsumura, Lessee; TMK: 4th Div/4-6-005:009,
31 Lot 37, Kapaa Homesteads; Kapaa, Kawaihau (Puna), Island of Kauai,
32 Hawaii
33

34 Roy Hasegawa, HDOA/ARM, presented testimony as submitted. Staff recommends
35 approval.

36
37 Motion: Cabral/Ley.

38
39 Vote: Approved, 10-0.

40
41 2. Request for Conversion of General Lease No. S-4340 and Waiver of
42 Performance Bond; Akea Farms Inc., Lessee; 2nd Div/5-2-001:009,
43 Hoolehua, Island of Molokai, Hawaii
44

1 Linda Murai, HDOA/ARM, presented testimony as submitted. Staff recommends
2 approval.

3
4 Motion: Evans/Comerford.

5
6 Board member Evans asked about the conversion premium. Ms. Murai said the
7 purpose of the premium is for the opportunity to convert into a new lease without going
8 to public auction. It is charged for a 4-year period and is 25% of the annual lease rent.
9 Board member Evans asked if that is the lessees request. Ms. Murai said it is part of
10 the administrative rules for the lessee to get a new lease.

11
12 Board member Tanaka asked about the max lease term being 35 years. Ms. Murai said
13 that the max cumulative term is 65 years for a non-ag park lease. Board member
14 Tanaka asked about the operation on Molokai. Ms. Murai said that they have a great
15 operation there and have a good business model.

16
17 Board member Hong asked if the premium can be adjusted based on language in the
18 request before the Board. Ms. Murai confirmed that the lease language stands.

19
20 Vote: Approved, 10-0.

21
22 3. Request to Approve Rental Offset, General Lease No. S-3132; Joshua
23 Stamm, Lessee; Lot 14, TMK: 1st Div/4-1-010:046, Koolaupoko,
24 Waimanalo, Island of Oahu, Hawaii

25
26 Linda Murai, HDOA/ARM, presented testimony as submitted. Staff recommends
27 approval.

28
29 Motion: Evans/Ley.

30
31 Board member Comerford asked about the significance of the \$100,000. Ms. Murai
32 said it is to let the Board be apprised of what it takes to take a vacant lot. It is for
33 information purposes.

34
35 Board member Mina asked about the rental pricing per acre. Ms. Murai explained the
36 process of how that amount is determined.

37
38 Board member Hong asked for clarification on division policy regarding rental offset.
39 Ms. Murai said that this is part of the administrative rules. Board member Hong asked
40 about the conditions in recommending rental offset. Ms. Murai said that it is based on a
41 lessee paying lease rents. Board member Hong asked if staff is confident with lessee
42 business plan that will ensure lease payments for remainder of lease. Ms. Murai said
43 yes.

44

1 Board member Mina asked about the operation. Ms. Murai said he is doing orchard,
2 truck, and nursery crops on property. Board member Mina was surprised that the
3 lessee did not ask for more time. Ms. Murai said the administrative rules allows for 2
4 years.

5
6 Vote: Approved, 10-0.

- 7
8 4. Request for Approval for the Transfer of Public Lands on the Island of
9 Oahu from the Department of Land and Natural Resources to the
10 Department of Agriculture Pursuant to Act 90, SLH 2003, Codified as
11 Chapter 166E, Hawaii Revised Statutes

12
13 Linda Murai, HDOA/ARM, presented testimony as submitted. Staff recommends
14 approval.

15
16 Motion: Evans/Comerford.

17
18 Board member Evans asked if they are in Waimanalo and if they are currently farmed.
19 Ms. Murai said yes.

20
21 Vote: Approved, 10-0.

- 22
23 5. Request for Approval to Sublease Between the Hamakua Agricultural
24 Cooperative, Lessee/Sublessor, and Devin and Ramona Herlihy,
25 Sublessee; General Lease No. S-5551; TMK: 3rd Div/4-6-003:003(por),
26 Lot 26, Honokaia Makai Tract, Hamakua, Island of Hawaii, Hawaii

27
28 Joyce Wong, HDOA/ARM, presented testimony as submitted. Staff recommends
29 approval.

30
31 Motion: Cowell/Comerford.

32
33 Board member Evans asked about the market for sugarcane. Ms. Wong said that the
34 lessee is trying to get it going. Board member Cabral said that there may be a niche
35 market for the crop.

36
37 Board member Mina asked about the access roads and the conditions. Ms. Wong said
38 it depends on which section. She said that certain areas can be rough.

39
40 Chairperson Shimabukuro-Geiser asked if approval would be retroactive to September
41 1, 2019. Ms. Wong said yes.

42
43 Vote: Approved, 10-0.

- 1
2 6. Request for Approval to Sublease Between the Hamakua Agricultural
3 Cooperative, Lessee/Sublessor, and Prawit Kaepan, Sublessee; General
4 Lease No. S-7010; TMK: 3rd Div/4-3-005:017(por), Lot 5, Hamakua
5 Pohakuhaku and Kemau 1st, Hamakua, Island of Hawaii, Hawaii
6

7 Joyce Wong, HDOA/ARM, presented testimony as submitted. Staff recommends
8 approval.
9

10 Motion: Ley/Tanaka.

11
12 Board member Mina asked how accurate the map of exhibit A was. Ms. Wong said that
13 the map is accurate, but the names may need to be updated.
14

15 Vote: Approved, 10-0.
16

- 17 7. Request for Consent to Assignment of General Lease No. S-5538,
18 Mountain Meadows, Inc., Lessee/Assignor, to SL Kuwahara Partners,
19 LLC, Assignee; TMK: 3rd Div/2-2-056:020, Lot 19, Panaewa Subdivision
20 Farm Lots, 2nd Series; Waiakea, South Hilo, Island of Hawaii, Hawaii
21

22 Joyce Wong, HDOA/ARM, presented testimony as submitted. Staff recommends
23 approval.
24

25 Motion: Evans/Ley.
26

27 Board member Mina asked for an explanation of the additional rent. Ms. Wong said that
28 if the gross proceeds go over the annual lease rent then they will owe 1.5%. Board
29 member Mina asked if the people before had some hardships with that issue. Ms.
30 Wong said it was his age that was an issue. Board member Mina confirmed that the
31 new entity was his daughter. Ms. Wong said that the daughter is well situated.
32

33 Board member Cabral asked how that is determined percent wise. Brian Kau,
34 HDOA/ARM, came forward and said that if in doubt with reports that are submitted, staff
35 can ask for tax returns. If you go over minimum rents, you would take 1.5% of the gross
36 after that.
37

38 Vote: Approved, 10-0.
39

- 40 8. Resubmittal – Request for Preliminary Approval to: 1) Revise Chapter
41 4-157-21(Rate, fee, and charge schedule), Hawaii Administrative Rules
42 ("HAR"); and 2) Authorize the Chairperson to Schedule Public Hearings
43 and to Appoint a Hearings Officer
44

45 Kirk Saiki, HDOA/ARM, presented testimony as submitted. Staff recommends approval.

1
2 Motion: Comerford/Tanaka.

3
4 Board member Cabral confirmed with Mr. Saiki that they used small farms in the
5 assessment.

6
7 Board member Evans said that she is concerned with the increase from 50 cents to 2
8 dollars. She understands the statutory requirement for self-sufficiency but that ag is
9 unique and has challenges. She is reluctant to see this go to public hearing with that
10 rate increase as the default.

11
12 Board member Comerford confirmed that there is a statutory requirement with Mr. Saiki.
13 He asked if there is a price point that makes the fund self-sufficient. Mr. Saiki said it is 2
14 dollars. He said that they analyzed alternatives. Board member Comerford asked if
15 that would be okay moving forward. Mr. Saiki said that they would evaluate and take a
16 look at it over time to adjust any rates.

17
18 Board member Cabral asked about the food safety requirements and the upgrades
19 made for open ditch water and if that was used in the analysis. Mr. Saiki said that they
20 have used the business plans for application to the property. Board member Cabral
21 said that he would be surprised if that was taken into consideration. He said that is
22 something to keep in mind.

23
24 Board member Ley asked about consideration of longer phase in period as this will all
25 fall to the producers. Mr. Saiki said that extending it longer would skew projections
26 going forward. Typically, you can take a look at projections at 5 years.

27
28 Board member Mina expressed concerns for the farmer. He asked if there is anything
29 in the statute to address conservation practices to help with the water rate. Brian Kau,
30 HDOA/ARM, said that there are costs covered through bond payments to cover the
31 water getting to the meter. Beyond the meter to the farm, the farmer can go to the
32 Federal Government to find support. Board member Mina confirmed that the general
33 costs are up to the meter point. He asked about the statute that may need to be
34 addressed to support the sufficiency of funds. Mr. Kau said that there is a provision at
35 the division that if there is an over collection any given year, then rate credits may be
36 given back to the farmer. There is no intent to over collect from farmers. They are
37 trying to stretch it out as long as they can.

38
39 Board member Evans asked about the capital improvement bonds before the meter and
40 if they are general obligation bonds. Mr. Kau said yes. Board member Evans
41 expressed concern with the sufficiency standard.

42
43 Board member Ley asked about the general fund subsidy toward the irrigation or water
44 rates. Mr. Kau said that the program is supplemented by additional special funds, for
45 staff costs and operation and maintenance. These funds continue to drop and the plan

1 needs to change in order to address this issue moving forward. Board member Ley
2 asked if there is a number that quantifies what is being supported. Mr. Kau said that it
3 may roughly be around one million dollars.

4
5 Board member Hong asked about the recommendation. Mr. Kau said that the Board is
6 being asked to approve moving this forward to determine a request based on the four
7 scenarios for increase. Board member Hong asked about the self-sufficiency of the
8 fund at the beginning. Mr. Kau said that it has been an issue over time. Board member
9 Hong mentioned a few points to bring to the public to influence the need for quality
10 irrigation systems. He asked why a farmer on Oahu or Maui would purchase water from
11 the Department and not the county if the rate is cheaper at the county. Mr. Saiki said
12 that on Oahu and Maui may be cheaper but that there are additional costs. Board
13 member Hong said that the rate is still higher than the County. Mr. Kau said that the
14 numbers are based on a self-sufficiency standard. Mr. Saiki said that the county system
15 requires purchasing a meter at a high cost. Board member Hong asked if there is a
16 statute that identifies additional labor or maintenance costs. Mr. Kau said they would
17 look into that. Board member Hong said that according to the rule change in 2011, the
18 Department incremental increase would be for 2 cents per 1000 gallons. He asked if
19 this will be looked into for change. Mr. Kau said that the implementation schedule
20 would be amended. The rule or base rate would be changed based on the Board's
21 decision.

22
23 Board member Evans asked if DOA has requested a special fund with the listed types
24 of funds that can be deposited into the special fund so that they can get some general
25 funds from the Legislature. This would allow the flexibility for the DOA in order to step
26 away from the revolving fund standards in statute. Mr. Kau said that this has been
27 pursued in the past.

28
29 Chairperson Shimabukuro-Geiser mentioned some of the division initiatives to move
30 some costs to the general fund. She asked what will be presented at the public hearing.
31 Mr. Kau said that he will offer up options and allow the public to offer suggestions.
32 Bryan Yee, Deputy Attorney General, said that they will need to make a proposed rule
33 to the public. They can provide information on all 4 scenarios. The recommendation is
34 scenario 3 from staff. That is the request to the Board.

35
36 Board member Cabral asked if the Board voted no on this if it will stay at the current
37 rate. Chairperson Shimabukuro-Geiser said yes.

38
39 Board member Mina said that all current expenses will be covered by revenues. Mr.
40 Saiki said it is a phased approach.

41
42 Board member Ley asked if the division has a plan to gain efficiencies and asked how
43 far along the staff is with that. Mr. Kau said that a lot of planning is done through
44 Capital Improvement Project funds. Operation and maintenance costs continue to rise.

1 Mr. Kau said that they are coming before the Board to ask for assistance based on the
2 statute.

3
4 Mr. Yee explained the process for voting on this request.

5
6 Vote: Not passed, 5-5 (No – Cabral, Evans, Mina, Ley, and Cowell).

7
8 Board member Cabral and Mina expressed concerns with this scenario that has come
9 before the Board as it may affect the farmers negatively. Board member Hong said that
10 he believes that you will need to attempt to become compliant. Board member
11 Comerford said it is important to go for public comment and then we can decide down
12 the line. Board member Mina said that voting yes seems to support the rate increases.
13 He does recognize that the public comment is important.

14
15 Board member Comerford made a motion to move forward with scenario 2 phased in
16 over 5 years and to go for public comment. Board member Cowell second.

17
18 Board member Ley asked about additional labor costs. Mr. Saiki said that it is based on
19 how labor is spread out across various funding mechanisms. Board member Ley
20 confirmed what the projection was on additional labor not including new positions.

21
22 Vote: Approved, 6-4 (No – Cabral, Evans, Mina, and Ley).

23
24 B. PLANT INDUSTRY DIVISION
25 Plant Quarantine Branch

- 26
27 1. Request to: (1) Allow the Transfer of Pacific Oyster, *Crassostrea gigas* and
28 Eastern Oyster, *Crassostrea virginica*, Animals on the List of Conditionally
29 Approved Animals, by Permit, for Water Quality Remediation, to O'ahu
30 Waterkeeper; and (2) Establish Possession Permit Conditions for the
31 Transfer of Pacific Oyster, *Crassostrea gigas* and Eastern Oyster,
32 *Crassostrea virginica*, Animals on the List of Conditionally Approved
33 Animals, by Permit, for Water Quality Remediation, to O'ahu Waterkeeper.

34
35 Trenton Yasui, HDOA/PQB, presented testimony as submitted. Staff recommends
36 approval.

37
38 Motion: Mina/Evans.

39
40 Rhiannon Chandler-lao, Waterkeepers Hawaiian Islands came forward and thanked the
41 Board and staff. Board member Mina asked about the decline and if it was based on
42 plankton. Ms. Chandler said it is based on sediment covering the rock bed. Board
43 member Comerford asked about the triploid species. Ms. Chandler said that they are
44 sterile at 99.9%. the warmer waters of Hawaii affect reproduction. Board member
45 Evans asked about the triploids at Heeia. Ms. Chandler said that she was not part of

1 that project, but she thinks that they were there. She said that they have found more
2 native oysters in our waters. The pacific oysters are much bigger and good for water
3 quality filtration. Board member Ley asked if Oahu Waterkeepers is a nonprofit. Ms.
4 Chandler said yes. Board member Ley asked about the sustainability of the project.
5 Ms. Chandler said that the native species are part of a pilot project and looking to
6 upscale those to repopulate in the wild. There are too few native oysters. They are
7 aggregating native oysters near each other to reproduce. Board member Ley asked
8 about the funding mechanism. Ms. Chandler said they are applying for a number of
9 grants.

10
11 Vote: Approved, 10-0.

12
13 C. QUALITY ASSURANCE DIVISION

- 14
15 1. Request for Direction from the Board of Agriculture on Whether to Amend
16 Hawaii Administrative Rules, Sections 4-143-6(e) and (i), Standards for
17 grades of green coffee, Section 4-143-11(a), Standards for grades of
18 natural coffee, and Section 4-143-12(a), Standards for grades of mixed
19 natural coffee, to Extend the Sunset Date of a Higher Defect Tolerance for
20 Grade Standards for Coffee.

21
22 (Summary of the relevant rule sections attached)

23
24 Leo Obaldo, HDOA/QAD, presented testimony as submitted.

25
26 Chairperson Shimabukuro-Geiser opened the meeting to public testimony.

27
28 Roger Kaiwi, Kona Coffee Council, presented testimony as submitted in opposition to a
29 sunset date.

30
31 Tommy Greenwell, Greenwell Farms, presented testimony as submitted in support of
32 the sunset date.

33
34 Rainoldo Cancino, Cancino Family Farm, presented testimony in opposition to the
35 sunset date.

36
37 Rich Wicklander, Aloha Hills Kona Coffee, presented testimony in opposition to the
38 sunset date.

39
40 Jacen Ham, Holua Kona Coffee Co., presented testimony in opposition to the sunset
41 date.

42
43 Fred Cowell, Kauai Coffee, presented testimony in support of the sunset date.
44

1 Board member Evans asked about defects in sours as opposed to pin holes and the
2 reasoning. Randall DeAguiar, HDOA/QAD, provided some background information on
3 defects of sours or pinholes. Board member Evans asked why the two conditions were
4 combined. Mr. DeAguiar said that the 5% was allotted for the CBB damage. The 2
5 pinholes and under (1/10) instead of 1/5 as the normal. The pinholes were to support
6 the higher-grade coffees to pass the testing.

7
8 Board member Cabral asked about the defective coffee and the use. Roger Kaiwi came
9 forward and explained the price point of the different grades of coffee.

10
11 Board member Evans confirmed that defect applies to all.

12
13 Board member Comerford said that the integrated pest management program is
14 working. Mr. Kaiwi said that still seeing it as an issue.

15
16 Board member Masuda confirmed how the inspection process works for the coffee
17 millers.

18
19 Board member Comerford asked if there are international standards. Mr. Kaiwi said
20 that it is a specialty market standard. Mr. DeAguiar said that the program is different.
21 Board member Comerford asked how the international market is comparing to Hawaii
22 when it comes to defect. Mr. Kaiwi said that the basic defects are the same. Board
23 member Cowell said that world standards are much higher than ours but based on the
24 amount of coffee, they are able to get rid of that volume and be okay.

25
26 Chairperson Shimabukuro-Geiser asked about percent under 15%. Mr. DeAguiar said it
27 was between 84-86%. She asked if there was significant improvement. Mr. DeAguiar
28 said that it is hard to tell, but the CBB subsidy program utilizes roughly 400 farmers.
29 The program may want to reach more.

30
31 Board member Comerford asked about the difference between 15-20% defect. Tommy
32 Greenwell came forward and explained some of the reasons around defects.

33
34 Board member Masuda confirmed with Mr. Kaiwi on the difference in the percent.

35
36 Board member Mina asked about how many farmers are organic. Jacen Ham, Holua
37 Kona Coffee Co., said that he provides services to roughly 80 farmers.

38
39 Chairperson Shimabukuro-Geiser asked about how many farmers are in the Hawaii
40 Coffee Association. Mr. DeAguiar said about 100 farmers. Mr. Ham provided an
41 explanation of the percent with grading. There is a 20% difference.

42
43 Board member Hong asked about the defects and what causes a bean to become sour.
44 Mr. Kaiwi said that it is a natural occurrence through fermentation. Board member Hong

1 asked if it can be screened out. Mr. Kaiwi said that it can be. Board member Hong
2 asked about the taste of a cup that is 15% compared to 20%.

3
4 Board member Ley made a motion to allow for the sunset and move staff to work with
5 industry to revisit the standards and work towards an agreement to come back to this
6 Board. Board member Mina seconded the motion.

7
8 Vote; Approved, 9-0 (1 abstention, Cowell)

9
10 V. OLD BUSINESS

11
12 None.

13
14 VI. NEW BUSINESS

15
16 Staff introduced the ACM Consultants contact Ted.

17
18 Board member Mina asked to place an agenda item on the next meeting to discuss use
19 of Tango for Little Fire Ant treatments on organic coffee farms.

20
21 VII. ADJOURNMENT OF REGULAR MEETING

22
23 Motion to adjourn meeting: Cabral/Comerford.

24
25 Vote: Approved, 10-0.

26
27 Meeting adjourned at 12:10 PM.

28
29 Respectfully submitted,

30
31
32
33 Micah Munekata
34 Board Secretary

