Minutes of the Board of Agriculture

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on August 12, 2020 at 9:01 a.m. by Board of Agriculture Chairperson, Phyllis Shimabukuro-Geiser. The meeting was conducted virtually via Zoom due to the current risk of exposure to COVID-19.

Chair announced that item C-1 would be removed from the agenda. HB 1819, was passed by the legislature and if signed by the Governor, would authorize the department to develop interim rules on hemp. As Governor Ige has not signed the bill, the Board currently does not have the authority to approve item C-1.

Members Virtually Present:
- Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
- Robert Masuda, Deputy to the Chairperson, Board of Land and Natural Resources, representing Chair Suzanne Case, Ex Officio Member
- Dr. Nicholas Comerford, Dean of the College of Tropical Agriculture & Human Resources University of Hawaii, Ex Officio Member
- Mary Alice Evans, Ex Officio Member
- Vincent Mina, Maui Member
- Diane Ley, Hawaii Member
- Fred Cowell, Kauai Member
- Randy Cabral, Member-at-Large
- En Young, Member-at-Large

Others Virtually Present:¹
- Dean Matsukawa, HDOA/ALD
- Jillian Scheibe, HDOA/ALD
- Wayne Takamine, HDOA/ALD
- Brian Kau, HDOA/ARMD
- Roy Hasegawa, HDOA/ ARMD
- Linda Murai, HDOA/ARMD
- Joyce Wong, HDOA/ARMD
- Brandi Ah Yo, HDOA/ARMD
- Morris Atta, HDOA/CHR
- Janelle Saneishi, HDOA/CHR
- Heath Williams, HDOA/CHR
- Bryan Yee, Attorney General’s Office
- Duston Barton, Hawaii Land & Livestock, LLC
- Robert Butlar, Mongoose Mountain Farm
- Scott E. Enright, Hawaii Land & Livestock, LLC
- Bobby Farias, Hawaii Land & Livestock, LLC
- Cathy Goeggel
- Gordon Inouye, Puna Flower Power
- Cindy Sousa

¹ The identification of the public members is based on their sign-in name, but are not verified.
II. APPROVAL OF MINUTES FROM 6/23/20 and 6/30/20 MEETINGS

Motion on 6/23/20 and 6/30/20 Minutes: Evans/Cowell

Vote: Approved, 7-2 (Abstained: Young, Cabral)

III. INTRODUCTIONS

Chair introduced new Board Member, Mr. En Young.

IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

A. AGRICULTURAL LOAN DIVISION


Jillian Scheibe, HDOA/ALD, presented testimony as submitted. Staff recommends approval.

Public Testimony: None

Motion to approve: Mina/Cowell

Discussion:
Board Member Cabral questioned if once a loan was approved, the borrower would be able to obtain additional loans without the department’s approval. Mr. Matsukawa replied that the Term Loan Agreement requires written approval for any additional borrowing.

Board Member Cowell complimented the Butlars’ innovative ways of offering coffee and their hard work over the years.

Vote: Approved, 9-0

2. Request for Approval of One (1) Emergency Loan to Puna Flower Power.

Dean Matsukawa, HDOA/ALD presented testimony as submitted. Staff recommends approval.

Public testimony:
Gordon Inouye, President of Puna Flower Power, testified that the cooperative has been working for two years since the eruption. In addition to the loan, they have also submitted grant requests but have not received any response to their applications yet.

Motion to approve: Masuda/Comerford
Discussion:
Board Member Masuda said that DLNR worked closely with the group to provide planting material, etc. He confirmed that they are very knowledgeable about what they are doing. On behalf of DLNR, he urged approval of loan and to support East Hawaii redevelopment.

Board Member Mina was in support of the loan. He noted that the floriculture industry took a hit due to COVID and questioned how much the co-op was relying on tourism and their strategy for marketing. Mr. Inouye replied that timing played heavily in their hands. As potted orchids are a 2-year crop, it would give the co-op members enough grow out time to reestablish contacts and develop rapport. By consolidating, the members would have a common marketing effort which he feels is effective to meet needs of market of landscapers, garden centers, mass marketers.

Board Member Ley said that she has been following the co-op since their initial meetings. She commended the members for their resiliency, determination and skill. She added that the group was hit hard but they are bouncing forward with tenacity.

Vote: Approved, 9-0

3. Request for Approval of One Direct Farm Ownership Loan to Kula Country Farms, LLC, Chauncy Hiroshi Monden, and Teena Marie Monden, co-borrowers.

Wayne Takamine, HDOA/ALD presented testimony as submitted. Staff recommends approval.

Public Testimony: None

Motion: Evans/Mina

Board Member Evans questioned the elevation of the farm. Board Member Mina answered 3000+ feet. He added that the Mondens represent a wonderful mark for agriculture on Maui and their expansion speaks volumes to a generational farm and gives agriculture a good name in Hawaii.

Board Member Young commented that he would like to learn more about Ag Loan’s due diligence process. Chair asked Mr. Matsukawa to provide Board Member Young with an orientation on the Ag Loan Program.

Chair questioned and Board Member Mina confirmed that the farm supplied strawberries to Costco on Maui. Board Member Mina added that the Mondens also do a lot of community outreach.

Mr. Takamine added that the purchase of the 18-acre parcel will give the farm long-term security as the would not have to rely on leasehold parcels.
Vote: Approved, 9-0

B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

1. Request for Approval for Conversion of Revocable Permit No. S-7496; Lot 33, to a New General Lease for Ponoholo Ranch, Limited; TMK: 3rd Div/5-8-002:002; Kala Mauka Government Remainder, North Kohala, Island of Hawaii, Hawaii

Brandi Ah Yo, HDOA/ARMD restated conditions of the EO: 1) The State of Hawaii, through its Board of Land and Natural Resources, reserves all rights to prehistoric and historic remains found on the Premises and 2) The continuation of the Kahua/Ponoholo Cooperative Hunting Area agreement and other future agreements with future lessees, to be maintained as a public hunting area for game birds, pursuant to Hawaii Administrative Rules, Section 13-122-11. She noted that the conditions would be included under special conditions of the new general lease.

Testimony that followed was as submitted. Staff recommends approval.

Written testimony was received from the Department of Land and Natural Resources.

Motion to Approve: Ley/Cowell

Referencing the attached map, Board Member Mina questioned the ranch’s acreage. Ms. Ah Yo explained that the ranch currently has a revocable permit and this request is to convert the permit to a long-term lease. The adjoining property is personal property.

Board Member Masuda reiterated that all the conditions for forest access and game management should be contained in DOA’s legal documents.

Vote: Approved, 9-0

2. Request for Approval to Install Fencing, Livestock Pipelines, and Watering Facilities; General Lease No. S-5599; Ponoholo Ranch, Limited; TMKs: 3rd Div/5-9-001:004, 5-9-003:002 & 004, and 5-9-004:001 & 008; Kalala Mauka Government Remainder, North Kohala, Island of Hawaii, Hawaii

Brandi Ah Yo, HDOA/ARMD restated conditions of the EO: 1) The State of Hawaii, through its Board of Land and Natural Resources, reserves all rights to prehistoric and historic remains found on the Premises and 2) The continuation of the Kahua/Ponoholo Cooperative Hunting Area agreement and other future agreements with future lessees, to be maintained as a public hunting area for game birds, pursuant to Hawaii Administrative Rules, Section 13-122-11. She noted that the conditions would be included under special conditions of the new general lease.
Rules, Section 13-122-11. She noted that the conditions 1 and 2 of the EO are included in extensions of GL S-5599 and GL-5655 as items #3 and #4.

Public Testimony: None

Motion to Approve: Masuda/Ley

Board Member Evans said that she supported the motion but would like to add that a motion be made to delegate approval of matters relating to fencing and water to the Chairperson. She questioned whether there was a statute or rule requiring board approval. Mr. Yee said that it is the board’s authority to delegate approval to the Chair. However, in the absence of delegation the matter would go to the board. Mr. Yee stated that the item is not on the agenda and would be better addressed at another meeting. He added that staff would have time to craft a comprehensive motion. Chair asked staff to work on the language for the next meeting. Board Member Masuda also indicated that he supports Board Member Evans’ suggestion of delegation to the Chair to approve.

Vote: Approved, 9-0


Brandi Ah Yo presented testimony as submitted. Staff recommends approval.

Public testimony: None

Motion to approve: Mina/Evans

Board Member Young voiced enthusiastic support of the Kona Producers Co-op. (KPC). He noted that KPC had explored PV in the past. When the Ulu Producers came in, it reenergized the farming community. The PV system will support the Ulu Producers and others in the area including avocados and honey. Board Member Mina also supported the resurgence of ulu.

Vote: Approved, 9-0

2. Request for Approval to Sublease Between the Hamakua Agricultural Cooperative, Lessee/Sublessor, and Kamuela Kids Farm & Garden, LLC, Sublessee; General Lease No. S-5554, TMK: 3rd Div/4-6-001:007, 008, 018(por), Lot Nos. 3 & 5, Lauka-Kulihai, Hamakua, Island of Hawaii
Joyce Wong, HDOA/ARMD, presented testimony as submitted. Staff recommends approval.

Public testimony: None

Motion to approve: Ley/Evans

Discussion: None

Vote: Approved, 9-0

3. Request for Approval for Farm Dwelling; General Lease No. S-9001; Jane Lavoie, Lessee: TMK: 2nd Div/5-2-001:001. Lot No. 2, Molokai Agricultural Park, Hoolehua-Apana, Island of Molokai, County of Maui, Hawaii

Linda Murai,HDOA/ARMD, presented testimony as submitted.

Public testimony: None

Motion to approve: Evans/Cabral

Discussion:
Board Member Comerford questioned how the dwelling was built in 2012 without the permission of DOA on DOA land. Ms. Murai said she was not sure. She noted that all permits are in file as well as correspondence from the Property Manager to the lessee and with the Department of Planning and Permitting on Maui. She said that everything was done but there was no board approval. Now that the new lessee wants to use the dwelling, approval is required. Board Member Comerford also asked if there was communication between the department and the county. Ms. Murai stated that usually the county will ask for the lessor’s approval but she was not sure what happened in this case. Chair asked if Brian Kau had anything to add. Mr. Kau said that he did not have any specific information and it was an oversight. Generally, building departments do require permission from the landlord and he was not sure where the breakdown happened.

Board Member Masuda commented that the dwelling was built during the previous lessees control. Subsequently, the BOA assigned the lease. Documentation, communication and permitting are in file. Now, the current lessee would like permission to use the dwelling. He stated since all of permitting and planning was already done, and part of the record, it seems like it deserves an ok. Board Member Young added that on the Big Island there are a lot of requests for approvals for “as-builts”, but not in this case. He also wanted to make sure that the lines of communication are open between departments.
Board Member Ley questioned whether the addition of the house would impact the assessed value for the base rental price. Ms. Murai answered that appraisals are based on vacant land value and does not affect the lease rent.

Vote: Approved, 9-0


Linda Murai, HDOA/ARMD presented testimony as submitted.

Public testimony:
Mr. Scott Enright said that he along with Bob Farias and Duston Barton of Hawaii Land & Livestock were present at the meeting and could answer any questions.

Ms. Cathy Goeggel opposed the extension of lease at $6,000/year.

Email testimony was received from Michiyo Sato-Young opposing the extension.

Motion to approve: Evans/Cowell

Discussion:
Board Member Mina commented on Ms. Goeggel’s testimony regarding the lease payment being inadequate. He asked for an explanation of how lease rents are determined. Ms. Murai answered that the lease rents are determined by an independent appraisal of the raw land and added that $6,000 for the acreage is consistent with other lease rents in Waimanalo on Oahu. Board Member Mina said he was happy that they want to put in infrastructure and provide services.

Board Member Young commented that FSMA upgrades and HACCP are expensive because every time you switch animals there is a different process. He questioned whether there was a policy regarding reopener clauses. Ms. Murai replied that there would be a reopening on June 30, 2022 and June 30, 2032.

Board Member Young also added that improvements are expensive, and questioned whether 15 years is enough time for the business to recover on the investment being made in the middle of the lease term? Are there policies to help the business?

Ms. Murai commented that the slaughterhouse pays lease rent and also must pay county property taxes including improvements.

Board Member Evans said that the facility is critical for food security for Oahu and Neighbor Island ranchers and she was strongly in favor.
Board Member Comerford added that ag is incentivized through the tax system. He said having a tax system is peanuts but it's still an incentive. He was in favor of DOA in looking at baseline and noted that was not the only taxes they take.

Chair stated that struggles were related to previous management and current management is investing private funds into a state facility.

Ms. Murai added that Hawaii Land & Livestock also leases an adjacent feed lot (100 acres) with lease rent in excess of $19,000/year, must also pay real property taxes $30,000+, and Campbell has been charging fees slaughterhouse/Ewa feed lot $50,000+/year.

Vote: Approved, 9-0

C. QUALITY ASSURANCE DIVISION

1. Request for Approval of Proposed Chapter 4-161, Hawaii Administrative Rules, entitled "Commercial Hemp Production Interim Rules." The proposed new chapter 4-161 includes: §4-161-A Definitions; §4-161-B Transportation (regulating the inter-state transportation and exportation of hemp); §4-161-C Nuisance (addressing nuisance issues related to the production of hemp); and §4-161-D Violations.

Chair repeated that the item was be withdrawn and would not be decided for discussion.

Public Testimony: None

V. OLD BUSINESS

None

VI. NEW BUSINESS

None

VII. ADJOURNMENT OF REGULAR MEETING

Meeting adjourned at 10:50 a.m.

Respectfully submitted,

Jan Ferrer
Board Secretary