



Minutes of the Board of Agriculture
January 26, 2021

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on January 26, 2021 at 9:03 a.m. 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.

Members Virtually Present:

Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
Suzanne Case, Chairperson, Board of Land and Natural Resources, 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
Diane Ley, Hawaii Member
Vincent Mina, Maui Member
Fred Cowell, Kauai Member
Randy Cabral, Member-at-Large
Joe Tanaka, Member-at-Large
En Young, Member-at-Large

Others Virtually Present:¹

1-808-292-2387
Adrian Kamali'i
Andrew Goff, DAG
Becky Azama, HDOA/PI
Brandi Ah Yo, HDOA/ARMD
Bryan Yee, DAG
Chris Manfredi
Darwin Inman, Kona Hills, LLC
Dub Hay
Elisabeth Bluml
EvanOue
Ferrell Daste
James Nakatani, HDOA/ADC
Janelle Saneishi, HDOA/Chair's Office
Janet
Jodi Kimura Yi, DAG
Jonathan Ho, HDOA/PI
Joyce Wong, HDOA/ARMD
Jutta Mueller
Leo Obaldo, HDOA/QAD
Linda Murai, HDOA/ARMD

¹ The identification of the public members is based on their sign-in name, but are not verified.

1 Lyle Roe
2 Michael Iosua
3 Momi Akana
4 Morris Atta, HDOA/Chair's Office
5 Parm
6 Peter Fay
7 Roy Hasegawa, HDOA/ARMD
8 Sean Lester
9 Shawn.haruno
10 Shelley Choy, HDOA/QAD
11 Thomas
12 Thomas Walsh

13
14
15 II. APPROVAL OF MINUTES FROM 10/27/20 MEETING

16
17 Motion to Approve 12/15/20 Minutes: Comerford/Cabral

18
19 Board Members Case was not in attendance at the 12/15/20 meeting and abstained from
20 voting.

21
22 Public comments: None

23
24 Vote: Approved 9-0

25
26 III. INTRODUCTIONS

27
28 None.

29
30 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

31
32 A. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

- 33
34 1. Request for Consent to Waive Performance Bond Requirement for General
35 Lease No. S-4636; Green Point Nurseries, Inc., Lot No. 8, TMK: 3rd Div/2-4-049:022;
36 Waiakea, South Hilo, Island of Hawaii

37
38 Joyce Wong, HDOA/ARMD, presented testimony as submitted.

39 Staff Recommendation: Approval, subject to the provision that the Lessor reserves the right to
40 reinstate the waived requirements at any time throughout the term of the lease.

41
42 Motion to Approve: Ley/Evans

43
44 Public Testimony: None

45
46

1 Discussion:

2 Board Member Young asked for clarification on the impetus of the request. Ms. Wong said the
3 lessee is seeking the waiver because they already have two other leases with bonds.

4
5 Board Member Mina asked about the lots on the map attached as Exhibit A. Ms. Wong identified it
6 as the Panaewa Farm Lot Subdivision. She added that the lots were 9-10 acres in size. Board
7 Member Cowell questioned if there was a precedent set where a lessee has multiple leases. Ms.
8 Wong answered that after 4-5 years, the lessee could request for a waiver of the performance
9 bond; however, ARMD has the right to reinstate the requirement at any time.

10
11 Vote: Approved; 10-0

12
13 B. PLANT INDUSTRY DIVISION

14
15 Plant Quarantine Branch

- 16
17 1. Request to Review the Petition from Darwin Inman, Kona Hills LLC, to
18 Shorten and Exempt the Duration of Quarantine for Tissue Cultured
19 Coffee Rust Resistant Coffee Plants, *Coffea* spp. subject to alternative
20 propagation or import procedures.

21
22 Jonathan Ho, HDOA/PI, presented testimony as submitted.

23 Staff Recommendation: That the Board approve the 2nd shipment exemption and a 3-month
24 quarantine for 3rd shipment

25
26 Motion to Approve: Cowell/Cabral

27
28 Public Testimony:
29 Mr. Darwin Inman, Kona Hills, LLC, testified that he had no problem with staff's
30 recommendation of 3-months. He explained that all the seeds/plants are part of the same
31 batch. The plants were grown out at Micro Paradox under strict conditions and the importation
32 of plants have been successful. They have a good working relationship with the Plant
33 Quarantine Branch.

34
35 Board Member Ley asked Mr. Ho if there was enough staff to inspect the fields periodically over
36 the quarantine period. Mr. Ho answered that the Kona staff can check the plants on a quarterly
37 or monthly basis to assure that the plants are free of disease.

38
39 Board Member Case asked if the request would normally go through the science advisory
40 committee and what was known about potential pests that come with the rust-resistant variety.
41 Mr. Ho said in normal circumstances, the request would be reviewed but this is a unique
42 situation as all the plants are from a single lot grown in the same place. Essentially, all the
43 plants are in quarantine in California and are undergoing the same procedures. There have not
44 been any diseases or infestations and they are confident that there is little or no risk. The
45 Branch is comfortable with the recommendation to reduce quarantine.

46

1 Board Member Cowell thanked everyone. He stated that in this case, it makes sense to shorten
2 the quarantine, based on pre-quarantine. He added that CLR is a great threat and the coffee
3 industry would benefit if the process to bring in rust-resistant varieties safely was shortened. He
4 asked the basis of the one-year quarantine. Mr. Ho answered that it was based on Rules. Most
5 high-risk crops—banana, sugarcane, coffee, are 1-year and orchids are 3-months, which he
6 noted was short compared to the federal quarantine. Board Member Cowell agreed and said
7 that a 3-month quarantine period was worthwhile.

8
9 Board Member Tanaka asked why Kona Hills would want the period shortened as the disease
10 could destroy the industry. Mr. Inman replied that the plants have essentially been in quarantine
11 for 2 years. They all have the same rootstock, same seed, same plant, and being from the
12 same lot, have gone through the same processes/procedures since the original lot in 2019. He
13 said that the sooner the plants could get to the field, the sooner they could grow out. They
14 would still be looking at 2 years for seed from the trees. He added that they were not trying to
15 take a shortcut but are trying to move along to complete the process.

16
17 Board Member Cowell added the ability to bring in starters from seed or tissue culture and the
18 ability for the industry to begin propagation quickly is paramount. They are looking at the ability
19 to tissue culture in quarantine. CLR's full impact on industry not known yet.

20
21 Board Member Mina recalled when Kona Hills came before the Board under Chair Enright, a
22 facility was being proposed on the property. Mr. Inman said that 3 years ago, they wanted to
23 bring coffee seed embryo into the islands, and they had proposed to build a facility on island to
24 propagate the seeds. He said the original request was aggressive and received pushback so
25 they took a step back and went with the standard importation route and now that CLR has hit, it
26 is important to move forward to bring safe rootstock into the islands.

27
28 Board Member Mina asked about the acreage planned and culture practices. Mr. Inman replied
29 1200 acres are planned. Mr. Inman said that once the rust takes hold it would be difficult to fight
30 and there was no systemic fungus approved to be used in Hawaii. They have been working
31 with the State and Federal Governments for crisis exceptions for systemic exemption to fight the
32 CLR. Board Member Mina suggested that they look at the work of Paul Stamets.

33
34 Board Member Young asked if the acceleration process was different between a farmer
35 applicant vs. a research permit. Mr. Ho replied that the rules are not necessarily different. The
36 quarantine is the same, but the process is on a case-by-case basis. The industry needs to get
37 more plants and propagation during quarantine is not the best practice. He said this method
38 would allow more plants to come in with little or no risk. Board Member Cowell added that there
39 are already resistant varieties in quarantine and that the industry is doing the right thing, but
40 time is of the essence.

41
42 Scotty, Friends of Waimanalo asked what could be used to counter the rust. Mr. Ho answered
43 that there were no confirmed detections in Waimanalo, but the department was constantly
44 surveying. He advised using best management practices available to ensure that it did not get
45 into his field.

46
47 Vote: Approved, 10-0

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

V. OLD BUSINESS

1. Update on South Maui Gardens hemp and neighboring community since December 15, 2020 board meeting.

No action required. Shelley Choy, HDOA/QAD presented update as submitted.

Board Member Ley acknowledged staff for reaching out and starting the process of mediation

Elisabeth Bluml, neighbor of South Maui Gardens (SMG) testified that nothing improved, and she and daughter have been renting a room in Makawao to get away from low frequency vibrations. She has been farming the land for over 20 years and questioned the rules and regulations to protect them from an unhealthy environment. She asked for help from the Board.

Chair commented that Ms. Bluml's testimony was relating to the next item on the agenda, the hemp interim rule. The current agenda item was to update on the mediation.

Sean Lester testified that the mediator was asking that a ruling by the Board be delayed until a mediation meeting was held.

Jutta Mueller, neighbor to SMG, Plumeria Plantation Ag Enterprise LLC testified that fans from SMG disrupt their sleep and emphasized health issues resulting from noise. She said mediation was initially refused by SMG and asked for help from the Board.

Board Member Mina questioned, and Ms. Choy confirmed that it is a single mediator who is assigned to the case.

2. Hemp Interim Rule: Recommendations regarding September 22, 2020, request.

Shelley Choy, HDOA/QAD presented testimony as submitted.

Staff recommendation: Continued retention of the interim rules as accepted in 9/2020 BOA Meeting.

Motion to Approve: Cabral/Evans

Public Testimony:

Sean Lester testified that the people trusted the Board and asked the Board to have compassion and not follow staff's recommendation.

Board Member Cabral said the he understood how the people felt but questioned the Department of Agriculture's (DOA) responsibility, as health issues fall under the Department of Health's (DOH) jurisdiction. Ms. Choy stated that DOH already had regulations to deal with the complex, scientific health issues and no new regulations were required. Board Member Cabral

1 stressed to the Ohana that DOA is not responsible to do what they are requesting. He urged
2 them to deal with DOH regarding their regulation.

3
4 Board Member Comerford said that everyone felt involved, but the land is zoned Agriculture.
5 He did not believe the Board's role was to decide on something so specific and that rules
6 should be made that apply to agriculture and the idea that the BOA is the ultimate source of
7 addressing the issue is wrong.

8
9 Board Member Mina felt the rules still needed to be worked on. He said the people in the
10 community need to clearly understand the process that needs to be taken and hemp farmers
11 should be allowed to grow and stay in business. He did not want to vote on anything that
12 would make the rules permanent.

13
14 Board Member Ley stated that it is a lesson learned for the board and department. Utilizing
15 teamwork, issues could be managed better if barriers across departments could be resolved.

16
17 Board Member Young said that balance was important, and the Department's recommendation
18 would have far reaching effects. Regulating certain aspects of hemp would have
19 consequences for everyone doing greenhouse agriculture. He said he would like greenhouse
20 agriculture to have the opportunity to thrive in Hawaii.

21
22 Chair asked if the mediator was recommending that the Board defer until the mediation
23 process was concluded? Ms. Choy replied, no, mediation is occurring, is confidential and has
24 no bearing on the rules. If the rules are accepted, the parties would use mediation to resolve
25 the issues.

26
27 Board Member Ley wanted to know the process if the interim rules were approved. DAG Yee
28 replied that the interim rules are in effect until July 2022 unless replaced by permanent rules.
29 Staff should prepare permanent rules to be submitted to the Board in summer 2021 after which
30 the rules would go to the Governor, be published, go to public hearing and presented to the
31 Board again with a recommendation to adopt the final proposed rules. The rules then would go
32 back to the Governor to be signed by July 2022. He said that the interim rules may be
33 amended, and the issue was whether to amend the interim rules.

34
35 Chair asked Ms. Choy if there was any communication from the mediator. Ms. Choy replied in
36 the negative.

37
38 There was discussion on whether to defer acceptance of the rules until after mediation. Board
39 Member Mina moved to defer accepting the interim rules. Chair asked if anyone wanted to
40 amend the motion. Board Member Cabral stated that the motion did not need amending as the
41 interim rules were already accepted.

42
43 Board Member Tanaka agreed with Board Member Cabral but questioned the legislature's
44 intent in giving the task to DOA. Ms. Choy replied that she could not accurately present picture
45 of intent of legislators.

46

1 Ms. Choy stated that one of the things proposed in the submittal was that neighbors should
2 attempt to change the DOH rules in existence rather than changing the agricultural interim rule.

3
4 Chair asked if Board Member Ley wanted a report at the conclusion of the mediation. Board
5 Member Ley replied that she would like to see neighbors resolving their differences and she
6 did not need to see the report as the Department is not involved in the mediation.

7
8 Vote: Approved: 8-2 (Tanaka, Mina)

9
10 Board Member Cabral wanted to know how long mediation would take. Ms. Choy said there
11 was no timeframe given. Board Member Mina requested to know the results of the report.

12
13
14 New Business was discussed prior to the Board going into Executive Session on Old Business
15 Item No. 3.

16
17
18 VI. NEW BUSINESS

19
20 1. Summary of the department's budget requests for FY22-23.

21
22 Chair summarized and explained the department's budget testimony before the committee
23 hearings of WAM/AEN, FIN, as posted.

24
25 Board Member Young asked if the Board could get metrics to see if the goals set forth in the
26 strategic plan were being met. Chair said that part of the Department's testimony contained
27 the metrics and challenges, achievements and lessons learned were identified by each
28 division. Board Member Young asked that the Board be informed on a regular basis rather
29 than retroactively.

30
31
32 The Board entered executive session at 11:05 a.m. to consult with legal counsel. Numbering
33 in the original agenda has been preserved for reference.

34
35 V. OLD BUSINESS

36
37 3. Consult with legal counsel in Executive Session about HRS interpretation and guidance
38 on delegated authority of the chairperson.

39
40 Public Comment: None

41
42 Motion to go into Executive Session to consult with legal counsel: Mina/Evans

43
44 Vote: Approved, 10-0

45
46
47

1 VII. ADJOURNEMNT OF MEETING

2

3 The meeting was reconvened and officially adjourned at 12:00 p.m. (Evans/Ley)

4

5 Respectfully submitted,

6

7

8



9

Jan Ferrer

10

Board Secretary