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**Minutes of the Board of Agriculture
August 22, 2023**

A video recording of this meeting can be found online by visiting this website:
<https://hdoa.hawaii.gov/meetings-reports/>

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on August 22, 2023, at 9:08 am by Board of Agriculture Chairperson, Sharon Hurd. The meeting was conducted virtually via Zoom and in-person from:

*State of Hawaii, Department of Agriculture
Plant Quarantine Branch
1849 Auiki Street*

Members Present In-Person:

Sharon Hurd, Chairperson, Board of Agriculture

Members Virtually Present: Roll call/alone

Russell Tsuji, Chairperson, Board of Land and Natural Resources, Ex Officio Member

Diane Ley, Hawaii Member

Vincent Mina, Maui Member

Randy Cabral, Member-at-Large

James Gomes, Member-at-Large

Dr. Ania Wieczorek, Interim Dean CTAHR, Ex Officio Member

Excused:

Mary Alice Evans, Ex-Officio Member

En Young, Member-at-Large

Fred Cowell, Kauai Member

Deputy Attorney General Present In-Person:

DAG Bryan Yee

DAG Jodi Yi

Others Present In-Person:

Stephen Dalton, HDOA, IT

Frankie Empeno Jr., HDOA – Chair’s Office

Jodi Yi, Attorney General Office

1 Marci Clingan, HDOA, Chair's Office
2 Wayne Takamine, HDOA, Ag Loan
3 Dean Matsukawa, HDOA – Ag Loan
4 Noni Putnam, HDOA – Plant Quarantine
5 Jonathan Ho, HDOA – Plant Quarantine
6 Janelle Saneishi, HDOA – Chair's Office
7 Bryan Yee, Attorney General Office
8 Dexter Kishida, HDOA – Plant Industry
9

10 Others Virtually Present:¹

11 Brandi Ah Yo, HDOA/ARMD
12 Janet
13 Cathy Goeggel
14 UlepA
15 18085578644
16 AGR-Maeda#Isaac, HDOA/ARMD
17 Jan Ferrer, HDOA/ARMD
18 Tiffany Nerveza-Clark
19 Nicole Galase, HCC
20 KoikeK, HDOA/ARMD
21 Inga Gibson
22 Inga Gibson#Pono Advocacy
23 Kelcie Nagata#Esq.
24 AGR – Kau#Brian
25 Brian Miyamoto, HFBF
26 Jason Moniz
27 Roy Hasegawa, HDOA/ARMD
28 Lani
29 AGR – Murai# Linda
30 Rae Gee, HDOA/CHAIR
31
32
33

34
35 II. APPROVAL OF MINUTES FROM 7/25/23 MEETING

36
37 Motion to Approve: Gomes/Wieczorek
38

39 Vote: Approved; 6-1 (Abstained – Cabral)
40

41 III. INTRODUCTIONS

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

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IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

A. AGRICULTURAL LOAN DIVISION

1. Request for Approval to Activate and Set Parameters for DOA's Emergency Loan Program to Provide Relief Relating to Wildfires in the Counties of Maui and Hawai'i

Dean Matsukawa, Ag Loan Administrator, presented testimony as submitted.

Motion to Approve: Gomes/Cabral

Discussion:

Board Member Ley asked what the total available amount of funds is if the board goes forward with this emergency loan program.

Mr. Matsukawa said he thinks they have about \$750,000 in the emergency loan fund but there is no budget ceiling so that fund is frozen right now. There is about \$9,000,000 in the regular fund and the budget ceiling is \$5,000,000 that is available this year.

Board Member Ley asked how many people of the public have called to express interest or start an application?

Mr. Matsukawa said he hasn't any actual reports of damage while some experience wind damage in the Kula area. He said they want to be proactive and have the program ready to go and if the terms need to be modified, they can come back to modify it again.

Board Member Mina asked if there is any latitude toward the interest? He asked if there is any way that we can waive the interest?

Mr. Matsukawa replied that unfortunately, the lowest they can charge is 3% by statute. During the upcoming legislative session, there will be a bill that requests to lower the rates down to 2%, but there is a floor of how low they can charge by law.

Board Member Mina asked if there is anything that we can do as a board to send a message to the Governor as a catastrophic emergency as opposed to the Molokai Axis Deer loan.

Chairperson Hurd responded that the board is welcome to create a recommendation to the Governor, but the statute has precedence over that. She also added that counsel will go back to look through the statute to see if there is any way to accommodate a waiver and we will get back to him.

1
2 AG Yee added that he can research if there is any emergency power that can be
3 invoked, but it is limited.
4
5 Board Member Cabral asked if the credit denial is by statute, or can that requirement be
6 deleted?
7
8 Mr. Matsukawa said if the board wants to change that parameter, they can take out that
9 requirement for emergency loans.
10
11 Board Member Cabral said he would propose to drop that credit denial.
12
13 Board Member Gomes said he'd like to make an amendment to the motion and Board
14 Member Cabral agreed.
15
16 The motion is amended to delete the need for credit on an emergency loan base for
17 emergency loan applicants.
18
19 Board Member Wieczorek asked if we have an estimate of total financial loss of
20 agriculture on Maui and Big Island based on the fires.
21
22 Chairperson Hurd said that because of the need to prevent overlap and duplication of
23 data, we are deciding which agency will be working on collecting the data.
24
25 Mr. Matsukawa agreed and said this is too preliminary for this data.
26
27 Board Member Wieczorek asked if we have enough money in the emergency loan to
28 cover the cost or should we look for additional funds.
29
30 Mr. Matsukawa responded that there is a budget ceiling of \$5,000,000 available.
31
32 Board Member Gomes added that we need to take into consideration the ranchers
33 including fence lines, water lines and livestock that have been lost.
34
35 Motion amended with consent to remove the requirement for credit on the emergency
36 loan.
37
38 Vote: Approved; 7-0

- 39
40
41 2. Request that One (1) Loan to Hikari Nursery & Landscaping, Inc. be
42 Referred to the Attorney General for Disposition and/or Collection
43

1 Dean Matsukawa, Ag Loan Administrator, presented testimony as submitted.

2

3 Motion to Approve: Ley/Gomes

4

5 Discussion:

6 Board Member Cabral asked if it's possible to get something to tell us what our default
7 rate has been on loans and for the last 5 years of all the effort given by the Attorney
8 General's office as far as collection and what is the percentage that we've been
9 successful on collecting.

10

11 Mr. Matsukawa said he doesn't know how much we've collected but there are about 18
12 accounts at the Attorney General's office right now. There's about \$869,000 and about
13 3.8% of our total portfolio that is over at the Attorney General's office right now. Within
14 the last 5 years, nothing has been written off. Chairperson Hurd said we will get this
15 information to Board Member Cabral.

16

17 Board Member Mina said he is wondering if there is any latitude for disposition so these
18 people can enjoy the rest of their life instead of having to pay the \$50,000.

19

20 Mr. Matsukawa replied that the Department of the Attorney General has the authority to
21 settle so the board can only make recommendations. The \$50,000 comes back into the
22 Ag Loan revolving fund which would help future farmers. Mr. Matsukawa also added
23 that the division can send over recommendations if the board feels otherwise.

24

25 Board Member Mina added that he would like to make a motion to waive any monies to
26 go back to DOA in this case. He said that he would like to amend the motion to collect
27 \$1.00.

28

29 Chair Hurd asked Board Member Ley if she would like to amend the motion with a
30 motion to accept \$1.00.

31

32 Board Member Ley said she would like discussion but yes, she can accept that motion.

33

34 Board Member Gomes said he would like to stand by the \$50,000 because we've had
35 other cases prior, and we have basically said we would agree with what they threw out
36 there. He asked what about the others that came before us with a similar situation. He
37 added that he doesn't feel it is fair for the others.

38

39 Motion to amend the original motion to take the amount of \$50,000 settlement to \$1:
40 Mina/Wieczorek

41

42 Discussion:

1 Board Member Cabral said that we are setting a dangerous precedence by doing this.
2 He also added that it's not fair to others in the past where we've agreed to a settlement
3 or collection. He said he is not in favor of this motion.

4
5 Vote: Roll call vote was taken, and the motion to amend was not approved; 6-1 (Mina)

6
7 No objections to the original motion.
8 Original motion: Approved; 6-1 (Mina)

9
10
11 3. Request that One (1) Loan to Kulahaven Farms, LLC/John Dobovan be
12 Referred to the Attorney General for Disposition and/or Collection

13
14 Wayne Takamine, Business Loan Officer, presented testimony as submitted.

15
16 Motion to Approve: Gomes/Cabral

17
18 Discussion:

19 Board Member Mina said there is a lack of infrastructure support for agriculture in our
20 system. He said he would like to see what farmers do best and that the community
21 would support them infrastructurally.

22
23 Mr. Takamine said that the Ag. Loan Division supports farmers that have innovation. He
24 added that in this case, this was a high-risk loan as a start-up venture. He added that
25 Ag Loan helped the farmer as much as they could and, in the end, the farmer was
26 unable to meet his obligations and they had to close because their lease had lapsed.

27
28 Board Member Mina added that the department is doing the best that they can do but
29 he is speaking to the system as a whole in Hawaii.

30
31 Vote: Approved; 7-0

32
33
34 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

- 35
36 1. Request for Approval for the Transfer of Public Lands from the
37 Department of Land and Natural Resources to the Department of
38 Agriculture, Pursuant to Act 90, SLH 2003, Codified as Chapter 166E,
39 Hawaii Revised Statutes; TMK Nos.: (3) 9-8-001:003, 006 and 013; (3) 9-
40 6-011:002; (3) 9-8-001:011 and 012; (3) 9-8-001:009 and 010; (3) 4-4-
41 014:002, 003 and 011; Island of Hawaii

42
43 Brandi Ah Yo, Property Manager, presented testimony as submitted.

1
2 Motion to Approve: Cabral/Gomes

3
4

5 Discussion:

6 Brian Miyamoto, Executive Director of the Hawaii Farm Bureau, said that this has been
7 a 20-year struggle and the Hawaii Farm Bureau urges strong support of the transfer of
8 these lands.

9

10 Nicole Galase, Managing Director of the Hawaii Cattlemen's Council, said they are in
11 strong support of DOA accepting these leases from DLNR. She added that DOA is
12 clearly the appropriate managing department for these leases. She thanked Chair Hurd
13 and Chair Chang for making moves on Act 90.

14

15 The testimony from Jason Moniz was unintelligible due to choppy audio.

16

17 Chair Hurd summarized Mr. Moniz's testimony and said that it is understood that Mr.
18 Moniz said he had concerns about some invasives and that he will need some time to
19 take care of it on his parcels.

20

21 Mr. Moniz added that the parcel was set aside and back in 2010 it was added back to
22 the lease. He added that there is a section where it has invaded the lease and forest
23 reserve. They are controlling it on the ranch, but they need additional funds to control it
24 further. He added that if it's going to delay things, then they can forget it.

25

26 Chair Hurd asked Mr. Moniz if he said that if the 15 acres is an issue to delay the lease,
27 he would move forward with the lease being a part of the transfer.

28

29 Mr. Moniz said yes, that is correct.

30

31 Chair Hurd asked Board Member Tsuji for comment.

32

33 Board Member Tsuji said that the withdrawal of those acres set aside to DLNR for
34 forestry purposes is a condition of approval. It would affect the approval. He added that
35 it hasn't been withdrawn, and it needs to be withdrawn and is a condition of the transfer.

36

37 Board Member Tsuji said he isn't sure if subdivision is going to be required. He asked if
38 the issue was that a certain amount is needed to be withdrawn for DOFAW and Mr.
39 Moniz didn't want it to delay the transfer. He added that if we transfer the whole thing,
40 then DLNR's incentive which was to get a portion of the lease premises for its forestry
41 operation would be defeated.

42

1 Mr. Moniz replied that he doesn't think so. He added that the way the submittal is
2 written, says that it transfers 3 TMKs. His point is that he believes 1-TMK003 no longer
3 exists on the lease and was withdrawn in 2010.

4
5 Mr. Moniz's comments were unintelligible due to choppy audio.

6
7 Board Member Tsuji said he had a difficult time understanding Mr. Moniz's comments
8 but added that if it's not part of the current lease, it'll be flushed out in the actual
9 documents. He added that for the second point, it sounds like the Forestry Division has
10 requested it be taken out of the lease which would then transfer over to DOA.

11
12 AG Yee said if the board approves the motion today, and later DLNR approves a
13 smaller portion, then it is the smaller portion that will move to HDOA.

14
15 Board Member Tsuji said the question is whether the smaller portion approval is valid
16 enough to transfer at least the smaller portion, or if it invalids both approvals. Act 90 did
17 require approval of both boards.

18
19 AG Yee said if there is no agreement on the 15-acre parcel, then that 15-acre parcel
20 does not transfer over. Also, the HDOA approval does not affect the remainder of the
21 parcel.

22
23 Board Member Mina asked if this is all pastureland that is being transferred and if there
24 is any water access on any of these lands.

25
26 Ms. Ah Yo answered yes to both of Mr. Mina's questions.

27
28 Board Member Tsuji said on Mr. Moniz's lease there might have been an approval to
29 use a certain portion of his land that is leased which was for pasture. But instead of
30 limiting the use to pasture, the BLNR authorized a different use as diversified agriculture
31 which is normally charged at a higher rate but kept at a pasture rent rate. He believes
32 this was in connection with the area that needed to be withdrawn in connection with the
33 Daniel K. Inouye Highway.

34
35 Mr. Moniz responded that he went to the legislature with Senator David Matsuura with a
36 request for an automatic lease extension in place of the withdrawal that they were being
37 subjected to. Senator Matsuura added that 10% of the lease could be used for alternate
38 agriculture and no increase in rental. The legislature did not pass the automatic lease
39 withdraw but the 10% passed. Mr. Moniz said he hasn't utilized that because they don't
40 feel that the lands are conducive for agriculture except possibly growing trees. He
41 added that none of the other lessees that were affected have made use of that
42 provision.

43

1 Board Member Tsuji added that he believes the lease document was reflected to allow
2 the diversified ag on so many acres.

3
4 Chair Hurd apologized and said there is one person from the public that would like to
5 testify.

6
7 Lani said she provided written testimony and said she is available for questions and
8 thanked the board for the consideration of accepting her leases and revokable permits
9 for transfer.

10
11 Board Member Ley said she would like to see this transfer move forward. She asked if
12 we could separate the one TMK that's of concern and vote separately on that. She also
13 asked if Board Member Tsuji could make similar suggestions before the land board, so
14 it doesn't hold up everything if there is a problem.

15
16 AG Yee said for land to be transferred, it needs to be approved by both BLNR and BOA.
17 The board could approve the motion as currently stated, or it could not approve the
18 motion and wait for the 15 acres to be separately subdivided and withdrawn. The
19 problem with the 15 acres is that it is not a separate TMK, and cannot be identified in
20 the EO until it is surveyed and subdivided. AG Yee said that he believes that another
21 BOA approval would not be needed If BOA approves and DLNR approves a smaller
22 portion, because the remainder of the land that was approved by both BLNR and BOA
23 would be then valid and can move forward. He added that the 15 acres that BOA might
24 have approved but BLNR did not, would not transfer over.

25
26 Board Member Cabral said he is in favor of the transfer. He said he wants to be sure
27 that if we take out the 15 acres, it doesn't hang up the transfer issue. He asked if it
28 needs to be surveyed out, will the transfer be held up until the survey is done by DLNR?
29 Or does it transfer and then DOA does the survey to get it out?

30
31 AG Yee said there is nothing legal about who does the survey and that the survey
32 needs to be done by someone. He added that he thinks before BLNR approves, they'd
33 want the survey to be done.

34
35 Board Member Tsuji said the survey needs to be done to do the executive order for the
36 set aside and have at least maps. It becomes problematic if the land later needs to be
37 encumbered with a mortgage and you don't have it subdivided out.

38
39 Board Member Cabral asked Mr. Moniz if he is ok with moving ahead with transferring
40 the whole thing or if he wants to take out the 15 acres.

41
42 Mr. Moniz replied that he is ok with transferring the whole thing.

43

1 Board Member Gomes said that he agrees with Mr. Moniz that we need to move this
2 forward and we can work the other 15 acres down the road later. He said let's make the
3 call in favor of this.

4
5 Board Member Wieczorek said she agrees, and she is in strong support.

6
7 Chair Hurd said that we are voting on the staff recommendation as presented.

8
9 Vote: Approved; 7-0
10

11
12 C. PLANT INDUSTRY DIVISION

13
14 Plant Quarantine Branch

- 15
16 1. Subject: Subject: (1) Request for Review of the Petition from Tiffany
17 Leilani Nerveza-Clark to Initiate Administrative Rule Making and Rule
18 Amendment to Chapter 4-71, Hawaii Administrative Rules (HAR), to
19 Change the List Placement of the hybrid Savannah cat, crosses of the
20 Serval, *Felis (Leptailurus) serval* with the domestic cat, *Felis catus*, From
21 the List of Prohibited Animals to the List of Conditionally Approved
22 Animals to enable individual possession
23

24 Jonathan Ho, Acting Plant Quarantine Branch Manager, presented testimony as
25 submitted.

26
27 Motion to Approve: Gomes/Cabral

28
29 Discussion:

30 Cathy Goeggel, President of Animal Rights Hawaii, said she felt it was important to
31 speak about this in-person because Hawaii has let in many animals that have proved to
32 be destructive. She added that for the benefit of the island, she asks that this proposal
33 be denied and that we do not change the rules.
34

35 Leilani Nerveza-Clark is asked to come forth and discuss the item. No comments made
36 by Ms. Nerveza-Clark.
37

38 Board Member Gomes said he is in support of the board recommendation as well as the
39 other groups and state agencies that are in opposition.
40

41 Board Member Mina said he is also in support.
42

43 Vote: Approved; 7-0

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V. OLD BUSINESS

None

VI. NEW BUSINESS

A. Third Party Request to Reduce DOA Irrigation Water Rate Increase

Chair Hurd announced that there is a request to reduce the Department of Agriculture’s irrigation water rate increase. She added that this is to advise the board and public that there is a public hearing tonight. She said we will be bringing this matter to the board at a future meeting, and we also will be submitting a bill later this session. She added that this bill would ask the legislation to uncouple staff salaries that are tied to the water fees.

Motion to adjourn: Gomes/Mina

The meeting was adjourned at 10:30 am

Respectfully submitted,

Marci Clingan