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**Minutes of the Board of Agriculture
February 27, 2024**

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 February 27, 2024, at 9:06 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

Ryan Kanaka'ole, Deputy Director, Board of Land and Natural Resources, Ex Officio Member

Dane Wicker, Deputy Director, DBEDT, Ex-Officio Member (Joined at 9:08 AM)

Diane Ley, Hawaii Member

Vincent Mina, Maui Member

Fred Cowell, Kauai Member

Randy Cabral, Member-at-Large

En Young, Member-at-Large

James Gomes, Member-at-Large

Excused:

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

Deputy Attorney General Present In-Person: DAG Bryan Yee

Others Present In-Person:

Janelle Saneishi, HDOA/Chair

Linda Murai, HDOA/ARMD

Roy Hasegawa, HDOA/ARMD

Jason Azus-Richardson, HDOA/IT

Marci Clingan, HDOA/Chair

Wayne Takamine, HDOA/Ag Loan

1 Kimeona Kane, Waimanalo Neighborhood Board
2 Mariko Whitenack
3 Pomai Stone, Community Member
4 Wailana Medeiros, Community Member
5 Amanda Millin, Community Member
6 Ethan Chang, Community Member
7 Alicia Noni Reyes, Community Member
8 Niya Denise Mcadoo, Community Member
9
10 Others Virtually Present:¹
11
12 Ambyr Miyake
13 KoriK
14 Frankie E.
15 Dexter Kishida, Hawaii Department of Agriculture
16 Dexter
17 AGR-Saiki, Kirk
18 Thomas Heaton
19 OISC
20 Darcy Oishi
21 Ellie Montgomery
22 Kaonohi Peleiholani
23 Janet
24 Keith Weiser
25 Mark Ladao
26 J Ferrer, HDOA
27 HDOA
28 Christy Martin-CGAPS
29 Chelsea Arnott
30 Tiffani Keanini, KISC
31 Sierra Club of Hawai'i
32 Dane Wicker, DBEDT
33 Rae Gee
34 yamamotoej
35 Stephanie Easley
36 Franny Brewer, BIISC
37 matsukawadm
38 YLD Hawaii
39 Matt Fornoff
40 Mikala Minn
41 adam_asquith@yahoo.com
42 Michael Melzer

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

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II. APPROVAL OF MINUTES FROM 1/23/2024 MEETING

Motion to Approve: Gomes/Ley

Vote: Approved - 7; Abstained – 2 (Young/Cowell)

III. INTRODUCTIONS

IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

A. AGRICULTURAL LOAN DIVISION

1. Request that Two (2) Loans to Ed Aphy be Referred to the Attorney General's Office for Disposition and/or Collection

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

Motion to Approve: Gomes/Wicker

Discussion: None.

Vote: Approved; 9-0

2. Request that One (1) Loan to Lay Vongkhamchanh be Referred to the Attorney General's Office For Disposition and/or Collection

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

Motion to Approve: Gomes/Ley

Discussion:

Member Cabral asked if there are any policy changes to ensure the machines don't disappear and that we do have something to back up the loans.

Mr. Takamine replied that we do have the equipment register with the bureau of conveyances so if FSA would come in and want to do a loan, they would see that the UCC is still under the State Department of Agriculture. Trying to track down the

1 borrowers is very difficult because there are confidential information that we cannot
2 share with others.

3

4 Member Gomes asked if we know who bought the Dole Foods parcel and if it will be
5 retained in ag?

6

7 Mr. Takamine said he hasn't talked to Dole about it so he is unsure. He added that
8 some of these parcels are big and the lease is just on a portion of the parcel. When they
9 sell it, they must divide it and give them a real TMK.

10

11 Member Gomes asked if there is any other way that we can attach collateral so we can
12 get a return besides equipment and assets?

13

14 Mr. Takamine responded that we are limited to what we can do as Loan Officers but
15 perhaps the Attorney General has a better chance at investigating. He added that as
16 far as policy wise, these are immigrant farmers and they have limited assets. He added
17 that Mr. Vongkhamchanh had a two-year lease and they'd extend and when they were
18 selling the land, he was on a month-to-month but was still making payments until he
19 was forced to move off. If we were to write the loan now, we'd look at a stronger lease
20 because those lands are being sold for big money.

21

22 Member Mina asked AG Yee if there is any way to add GPS on equipment or do
23 something that could protect our investment?

24

25 AG Yee responded that he would go back to check with the Attorney who is advising
26 loans to look more broadly at what other things can be done to better secure the loan.
27 We will also have discussions as to standard practices in the banking industry to see if
28 there is anything else that can be done.

29

30 Member Mina wanted clarification as to why we wouldn't be able to access these lands.
31 Mr. Takamine said that these are private lands.

32

33 Member Young said some of these loans are a couple thousand dollars. He asked what
34 is the asset disposition process if we were to take control of a tractor? Do the staff go
35 out to recover? What is the burden on the department?

36

37 Mr. Takamine said DOA does not do the collection. He added that their preferred
38 method is to work with the farmer to see if we can monitor and keep them going. Some
39 of these equipments are old, but they still run. There is not much value with it but we will
40 take serial numbers off the equipment and we can include that in the UCC and have
41 them in our records. Recovering farm equipment might be hard unless it's brand new.
42 He added that sometimes we make the loan for them so they can buy a tractor and we'll

1 have a UCC specific collateral. In this case, other vendors cannot take that collateral
2 because we have a specific on it.

3

4 Member Young added that we need to think if it is reasonable to collateralize a tractor
5 that may have a useful life of 5 years over a 30–35-year loan.

6

7 Member Mina asked if there is a loan that's specific in getting equipment, does the
8 department hold the title?

9

10 Mr. Takamine replied that we would require that we get a specific collateral. We'll do
11 this for larger loans also and we'd do a tractor or a backhoe. PV system would also be
12 taken as a specific collateral and put it in our records as part of the UCC.

13

14 Dean Matsukawa, Acting Agricultural Loan Administrator, said that normally with the
15 collateral, if the farmer is there, we work with them to sell the equipment to recover the
16 cost. But in these cases where we have the equipment as collateral, we normally try to
17 limit the loan amount. \$20,000 – \$25,000 would be the max because we understand
18 that there's a risk with just having the equipment as collateral. He added as far as going
19 forward, we would hope to work with the borrower as long as possible to locate them.
20 For all our cases, we would like to see some kind of judgement filed.

21

22 Vote: Approved; 9-0

23

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B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

27

28

1. Request for Approval to Award a Lease to Awardee; TMK No. (4) 4-3-004:009 Kapaa, Kawaihau, Island of Kauai, Hawaii

29

30

31

Linda Murai, Property Manager, presented testimony as submitted.

32

33

Motion to Approve: Gomes/Kanaka'ole

34

35

Discussion:

36

Member Cabral asked if this is the first time DOA put it out to bid since it was received
37 from DLNR.

38

39

Ms. Murai responded that DOA put it out in 2015, but we did not have any applicants or
40 any interest .

41

42

Member Cabral asked if the dollar amount is a misprint.

43

1 Ms. Murai said that it is correct and that the parcel itself is a stream and whoever is
2 awarded and gets the general lease, they will be required to maintain this stream and
3 everything related to that parcel which could be a great expense. So, DOA felt an
4 attractive lease rent would be \$1 a year because there is quite a lot of responsibility
5 connected to maintaining this lot.

6
7 Member Cabral said he is assuming there is a rent reopener at which time DOA would
8 renegotiate a lease.

9
10 Ms. Murai said the lease rent would be looked at that time.

11
12 Member Cabral asked if there is any minimum bid and if anyone can bid whatever they
13 want with the winning bid getting it?

14
15 Ms. Murai replied that there is a minimum bid for the parcel that we put out for public
16 notice. The minimum bid is determined by an independent appraiser but in this case, we
17 felt that \$1 per year would be appropriate.

18
19 Member Ley asked what is their intended crops if this is primarily within a stream bed
20 and did the department decide not to include a portion of the crop proceeds in the
21 rental?

22
23 Ms. Murai said that the crop would be all taro which is very appropriate for this particular
24 parcel. She added that it was decided that we would not include percentage rent at this
25 time. When we reopen the rent, it is possible to include that at that time.

26
27 Member Kanaka'ole asked Ms. Murai if she would know if this is part of the Public Land
28 Trust inventory.

29
30 Ms. Murai replied that usually they are but she would need to check on this.

31
32 Member Kanaka'ole asked if this is part of a statute under 166E that the upset price
33 has to be based on appraised evaluation of the property value. What is the value?

34
35 Ms. Murai said there was no appraisal done and it is not required by law or statute.

36
37 Member Kanaka'ole asked if this was a land disposition.

38
39 Ms. Murai said this is a unique parcel so the decision was made to offer a very attractive
40 lease rent.

41
42 AG Yee said he will need to look at this and get back to Member Kanaka'ole.

43

1 Member Kanaka'ole said he is concerned that the due diligence wasn't done as
2 required by statute.

3
4 Ms. Murai confirmed that there were no bidders during the first time it went out and
5 during this second time, there were two applicants but only one of them was qualified.

6
7 Member Cowell added that on the Kauai County website, the market value is \$384,500
8 with an assess value of \$19,200 in 2024. He added that it has been sitting idle on the
9 county website before that.

10
11 Chair Hurd called Adam forward to comment. No comment was made by Adam.

12
13 Member Kanaka'ole asked if this matter can be deferred. He added that he has strong
14 reservations on making a decision today because this parcel is likely public land trust
15 and there is likely a fiduciary duty here that goes beyond just the purview of the 166E-8.

16
17 Motion to defer: Wicker/Kanaka'ole

18
19 Vote: Deferred 6-3 (Aye - Kanaka'ole, Wicker, Ley, Cowell, Cabral, Gomes; Nay - Hurd,
20 Mina, Young)

21
22
23 2. Request to Approve Rental Offset, General Lease No. S-3149; Hala Toa
24 Mui Farms LLC, Lessee; TMK: (1) 4-1-027:020 & 024, Waimanalo,
25 Koolaupoko, Island of Oahu, Hawaii

26
27 Roy Hasegawa, Property Manager, presented testimony as submitted.

28
29 Motion to Approve: Gomes/Ley

30
31 Discussion:

32 Kimeona Kane from the public testified.

33 Kimeona Kane spoke on behalf of the Waimanalo neighborhood board and also in his
34 individual capacity as a Waimanalo resident. Mr. Kane said that the Waimanalo
35 Neighborhood Board is here to clarify that our position on agriculture focuses on food
36 production, and while Waimanalo's agriculture has certainly diversified in its use over the
37 years, we support the use of this property in this particular parcel for the production of food
38 and so we "mahalo" this entity for stepping into this space and for those that are familiar
39 with this particular parcel. There's a lot of history here in this parcel. We really want to
40 ensure that this particular parcel is given the due diligence that it deserves, and that the
41 community receives its fair share of how to best maintain this parcel. In addition to that,
42 there are some cultural properties within that parcel and to the adjacent parcel that's
43 nearby. We're concerned that there hasn't been enough from the department to protect this
44 particular heiau and so we we're here to advocate for the heiau and the rights and access to

1 the heiau. It's not directly accessed from this parcel, however, we do want to bring
2 awareness to any kind of clearing that takes place near and around it. We want to make
3 sure that that part of the parcel is cared for, and so, if that can be answered today, great, if
4 not, we'll come back to see clarity on that as a community member. He added that as a
5 community member involved in the restoration of cultural sites, as a practitioner, as a
6 lifelong member of that community, he is very concerned about the way in which the land
7 clearing has taken place as demonstrated here today. The request is to offset because
8 they've done such a great job clearing the land in the last year. The photo that was
9 illustrated in the handouts do not have any clear, visible representation of any BMPs that
10 are stopping any kind of solidified movement of dirt or debris down into the gully that feeds
11 our stream system. He added that he is concerned that there hasn't been due diligence in
12 that regard to protect the conservation of our water systems. This particular parcel lands
13 right up against our mountains and there has been a failed network of irrigation because of
14 the way that this system has evolved through the years. There is no way for the water that
15 runs off that mountain to be adequately taken care of before it runs through this particular
16 parcel, which means it's carrying heavy amounts of sediment down to the lower system.
17 We're not ready and we're not prepared. We have a significant issue and impact with
18 regards to flooding and mitigations that take place within the watershed. We want the
19 community here at the board to take those things into consideration acknowledging these
20 land awards. It's important that they have those types of protocols in place, and if they are,
21 we would love to see them and welcome them into public conversation, but just based on
22 the photographs that was provided in the material. We don't see any BMPs for that and we
23 are concerned about that care and maintenance.

24
25 Member Wicker left the meeting at 9:55 am.

26
27 Member Mina added that with all that land being cleared and all the rain in Waimanalo, it's a
28 formula for a lot of damage to the soil. He asked if there are any plans for ground covers
29 going in and mitigating all the weathering that will take place.

30
31 Ms. Murai replied that the lessee is required to do a conservation plan in conjunction with
32 the NRCS. It is a requirement with the lease to work with the NRCS to make sure that these
33 types of occurrences are covered.

34
35 Member Mina stated that he doesn't see how they're going to be able to get their return on
36 investment unless they have money to buffer that.

37
38 Member Mina asked if the testifier saw this land after this land has been cleared? Has there
39 been any erosion taking place?

40
41 Mr. Kane replied that he has visibly seen impacts of erosion taking place but not specifically
42 on the parcel itself because there is no access for them to get to the parcel. He added that
43 they've seen it along the roadway.

44
45 Member Mina asked Ms. Murai if the conservation plan is a step plan?

1
2 Ms. Murai said as far as she understands, it includes that, but it also includes mitigation
3 efforts with regard to flooding and surrounding properties. She added that she has been out
4 there to look at the lot and she hasn't seen a lot of the erosion on the property.
5

6 Member Young asked if we have a provision that says they must do a SHPD provision plan
7 in addition?
8

9 Ms. Murai said she is unsure but the heiau is a separate parcel so it's not a part of the
10 lessee's parcel so they need to be careful of encroaching.
11

12 Member Cabral asked for clarification if they are working on a conservation plan or if they
13 have a conservation plan.
14

15 Mr. Hasegawa said they are in touch with the NRCS so NRCS is putting everything
16 together.
17

18 Member Cabral asked how did they get the authority to clear unless that had a grading and
19 grubbing permit from the city?
20

21 Mr. Hasegawa said he will follow-up.
22

23 Member Cabral said you cannot do any grading and grubbing unless you have a permit and
24 you need a conservation plan to avoid that grading/grubbing permit. He added that when
25 they do a conservation plan, a part of that plan is to look at cultural resources. He said that
26 it bothers him if they never had a proper permit to do so.
27

28 Member Kanaka'ole asked Mr. Kane how the heiau is accessed now?
29

30 Mr. Kane said he doesn't have any understanding of how access is provided. DLNR and
31 DOA have gone back and forth on how to transfer land. Waimanalo is one of the areas
32 where there is no defined pathway for us to access space. He added that we are looking at
33 solutions to think about how we might be able to partner but it is unclear who has the
34 kuleana to that land and if it's DLNR or DOA. Mr. Kane added that Act 90 doesn't provide a
35 clear picture to the community at this point.
36

37 Member Kanaka'ole asked if that vacant lot is under DOA ownership?
38

39 Ms. Murai said that the lot is not vacant and is under DOA's jurisdiction but the heiau has its
40 own separate jurisdiction.
41

42 Member Kanaka'ole asked if it's possible for the community members to obtain an
43 easement through HDOA?
44

1 Ms. Murai said the lot above the HTM lot is under DLNR or DHHL but it is not under DOA
2 management.

3
4 Member Kanaka'ole said he assumes that the terms and conditions of the lease require
5 compliance with laws and ordinances in place. He asked if these terms and conditions in
6 the lease itself regarding compliance with law and ordinance?

7
8 Ms. Murai said absolutely, yes.

9
10 Member Ley asked staff if the majority of the expenses on the invoices submitted were
11 related to fencing and clearing related to fencing?

12
13 Mr. Hasegawa said yes, the receipts submitted were primarily related to fencing.

14
15 Member Ley asked if DOA has been on the property to see how much clearing has been
16 done for future planting.

17
18 Mr. Hasegawa said the cutting of the trees is substantial but not so much of the clearing.

19
20 Deputy AG Yee asked if the conservation plan is not required before these expenses to put
21 up fencing or cutting trees?

22
23 Ms. Murai said no.

24
25 Member Gomes said until we know if we have a permit or conservation plan that has been
26 done, we should defer this.

27
28 Member Kanaka'ole said he thinks the compliance with the lease with regard to the
29 permitting question is relevant to the board's decision in terms of allowing an offset of
30 \$62,000.

31
32 Motion to defer: Kanakaole/Gomes

33
34 Vote: Deferred 4-4 (Aye – Kanaka'ole, Mina, Cowell, Gomes; Nay – Hurd, Ley, Cabral,
35 Young

36
37 Motion to defer failed.

38
39 Motion to Approve:

40
41 Vote: Approved; 8-0 (Reservations – Kanaka'ole, Mina, Gomes)

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- 1 3. Request for Approval to Enter into a Common Use Lease in the Hamakua
2 Agricultural Park, Hawaii Beef Lease, LLC, Lessee; TMK: (3) 4-3-
3 005:016, Lot 8, Hamakua Agricultural Park, Pohakuhaku and Kemau 1st,
4 Hamakua District, Island of Hawaii, Hawaii
5

6 Linda Murai, Property Manager, presented testimony as submitted.
7

8 Motion to Approve: Gomes/Ley
9

10 Discussion:

11 Matthew Fornoff from the public said he is available for questions.
12

13 Member Mina asked if there is any well testing required with this lease as far as finding
14 anything detrimental to slaughterhouse use.
15

16 Mr. Fornoff said there will be when they get to that point. The plan is to remain on
17 county water until they can resurrect the well. Before they can get to that point, they
18 need to install new holding tanks because they leak. Mr. Fornoff said the well collapsed
19 5 or 6 years ago and has been non-functioning ever since. The other lessees of the ag
20 park had to move to other sources of water and they moved to county water. If and
21 when they resurrect the well, there will be continuing cost and monitoring of the water.
22

23 Member Gomes asked if their water rates will be affected?
24

25 Mr. Fornoff said yes it should benefit them. He said if the other lessees needed access
26 to water, they would have two separate 24,000-gallon tanks so if it's ever needed, they
27 can run off of two tanks separately.
28

29 Vote: Approved; 8-0
30
31

- 32 4. Request for Consent to Assign General Lease No. S-4803; Robert G.
33 D'Anna and James C. Downing, Lessee/Assignor; Robert G. D'Anna and
34 Deborah J. D'Anna Co-Trustees of the D'Anna Family Joint Revocable
35 Trust, Dated June 21, 1994, Assignee; TMK: 3rd DIV/1-5-116:039, Lot
36 12, Pahoia Agricultural Park, Puna District, Island of Hawaii, Hawaii
37

38 This item was previously submitted and heard in the January 27th meeting but due to a
39 posting issue, it is being heard at this meeting again. Staff presentation is not needed.
40

41 Motion to Approve: Gomes/Ley
42

43 No discussion.

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Vote: Approved; 8-0

- 5. Request to approve Sublease Between the Hamakua Agricultural Cooperative, Lessee/Sublessor, and William Beach, Sublessee; General Lease S-5551, TMK: 3rd DIV/4-6-003:020, Lot No's 2B and 2D, Honokaia, Hamakua, Island of Hawaii, Hawaii

This item was previously submitted and heard in the January 27th meeting but due to a posting issue, it is being heard at this meeting again. Staff presentation is not needed.

Motion to Approve: Ley/Mina

Discussion:

Member Mina asked who owns the lot below lot 1 if it is not subleased to Mr. Beach. Ms. Murai said we will get back to him with that information.

Vote: Approved; 8-0 (Reservations – Mina)

V. OLD BUSINESS

- A. Approval of October 24, 2023 Meeting Minutes

Motion to Approve: Ley/Mina

Discussion:

Member Cowell said the minutes being circulated currently state “2024” but should be “2023”.

Vote: Deferred; 5-3 (Abstained – Young, Cabral, Cowell)

VI. NEW BUSINESS

- A. Presentation on Department Procedures and Policies Regarding Coconut Rhinoceros Beetle (PI Division)

Darcy Oishi, Plant Pest Control Branch Manager, presented new business item.

Discussion:

Mr. Oishi said the Coconut Rhinoceros Beetle was first detected in 2013 at Joint Base Pearl Harbor Hickam. The Navy created an ideal habitat for CRB at its golf course, and

1 golf courses seem to be an attractive site for CRB. Our activities have been funded
2 largely through USDA to control and eradicate on Oahu for a number of years, but that
3 effort has failed. That USDA funding was focused on Oahu. A variable amount was \$1.4
4 million and has increased to about just shy of \$2.8 million and amounts and work plans
5 vary from year to year. That funding had begun in about 2021 and stepped up in 2022
6 and 2023 as reflecting the increasing populations on Oahu and has been shifting toward
7 a containment protocol. As there have been detection in Maui and Hawaii Island, the
8 containment effort had some sort of gap that resulted in detections of beetles in multiple
9 locations. We have a rigorous program at the port of entry to treat trees at our ports of
10 exit, and to work with individuals and groups that ship high-risk material off-island as
11 part of a containment program. That's done by the Response Task Force. The
12 department inspects compost material leaving and are requiring treatment of all the
13 compost leaving the island, either heat, treatment, or chemical treatment. We have
14 detection programs that are setup on the other islands which is a mix of HDOA and UH
15 activities and ports of entry program that is funded and supported by HISC and
16 congressionally directed spending account. Right now, one of the things that is being
17 worked on is developing an eradication and response program and we're running into
18 sorted issues primarily because all our treatments that were developed were focused on
19 eradication as opposed to control and management.

20 Some of these products are difficult for people to obtain and are for restricted use
21 pesticides only. Another product called Demon Max is available to use on other islands
22 except Oahu. We have applied for a special label that is still being reviewed. We are
23 currently operating on a crisis exemption and we are hoping to obtain an emergency
24 exemption that will allow us to utilize the product more broadly. He said they have been
25 encountering difficulties with procuring Demon Max because it is primarily used as a
26 structural pesticide. Evergreen is another product difficult to obtain. The use of drones in
27 collaboration with the UH has been extremely successful but it is limited to where and
28 when we can fly. Drones can complete 50-75 treatments in a day. Dr. Melzer and his
29 team have been working on alternative delivery systems but they are also dependent on
30 products that DOA can apply.

31
32 Chair Hurd added that the Demon Max protocol that is being used is primarily for golf
33 courses and outdoor landscaping because it is not approved for agriculture use. It
34 cannot be applied to anything that has any fruits or flowers because it impacts bees.
35 She added that we have not yet found an effective method to treat CRB on agriculture
36 so that's the challenge that we currently face. The protocol for agriculture was the green
37 fungus that was so effective, but now our CRB evolved from CRB-P to CRB-G and the
38 CRB-G is immune to the green fungus.

39
40 Mr. Oishi added that there is evidence that shows that the strains are resistant to a
41 virus. There is also a locally developed strain that UH worked and developed which has
42 some efficacy but both the virus and the fungus are not near being silver bullets. It will

1 need to be part of an integrated management plan – green waste management and
2 integrated plans for management.

3
4 Chair Hurd said in May, the DOA is bringing together a CRB forum of researchers for 3
5 days to discuss the issue. CRB has never been controlled on any Pacific Island to date.
6 She added that biocontrol seems to be the direction to go but this is what we will be
7 talking about at the forum. She added that Talstar is a very effective treatment for most
8 pests but when it's applied to CRB, they flip over and twitch and stop moving. 48 hours
9 later, the CRB flips back over and walks away. She added that they are very resilient.

10
11 Member Mina asked what is DOA's protocol when there are reports in areas that there
12 are visible infestations and if there are any animals that prey on these beetles.

13
14 Mr. Oishi said if we get reports of damage, the easiest thing is for us to see pictures of
15 the crown to evaluate because there are various mimics like rat damage or tree
16 trimmers. He added that they've had a number of reports in the Hana area that have not
17 proven to be CRB but they have not found the initial breeding site that led to the Kihei
18 detection on Maui or Waikoloa on Hawaii Island. He added that there are probably
19 larger populations existing on these islands. He said there are a number of things that
20 will eat the beetle – chickens, mongoose, and pigs but the issue is that the grubs exist
21 very deep within the green waste. If grubs can be brought to the surface, a number of
22 things can go after them.

23
24 Chair Hurd added that this past administration and in the legislation last year, they had
25 appropriated \$1 million for a green waste program. We have reached out to the counties
26 with \$200,000 each and the remaining \$200,000 will be used for community outreach.

27
28 Dr. Michael Melzer was called forward.

29
30 Dr. Melzer said that they have been traveling interisland and have looked at some of the
31 trees and they are reasonably confident that these trees do not have CRB damage in
32 Maui. He added that they will be looking at the Island of Hawaii in March. He added that
33 the images are getting to them from partner agencies or sometimes from the community
34 that they've met along the way.

35
36 Member Mina asked if they have done anything on social media to educate the
37 community of what the beetle and the damage looks like.

38
39 Dr. Melzer said they do have a website CRBHawaii.org and it's tied with UH and not
40 necessarily the department. He added that they've developed a few short videos in
41 Hawaiian language with Kamehameha Schools.

42
43 Mikala Minn was called forward.

1
2 Mr. Minn said he was present in the meeting at the Kahanu Garden. He said that he
3 runs a community farm next to the gardens and he was impressed with the amount of
4 information that the CRB task force gathered over the years. He said he wants to
5 support garnering more funding for this project. He added that he wants to testify in
6 support of a more widespread, long-term, larger moratorium on anything moving inter-
7 island that could harbor CRB. He said the state needs to funnel more funding to this
8 project and that more 18–24-year-olds need to be hired for good pay to dig through the
9 compost. Mr. Minn also mentioned that humans are the cause, the problem, but we
10 need to be the solution.

11
12
13 B. Presentation on Department Procedures and Policies Regarding Act 90
14 Transfers (ARM Division)

15
16 Linda Murai, Property Manager, presented new business item.

17
18 Discussion:

19 Ms. Murai said that DLNR provides lists of encumbered and unencumbered parcels
20 which DLNR has determined eligible for transfer to HDOA. Then, HDOA staff completes
21 the due diligence process to determine if a lease or revocable permit for an encumbered
22 parcel is qualified and eligible for transfer. The due diligence process includes the review of
23 DLNR files and a site visit to the property. The following are conditions and criteria for
24 transfer of public land, for agricultural use to HDOA. First, there must be a mutual
25 agreement and approval by the Board of Agriculture and the Board of Land and Natural
26 Resources. Next, the primary qualifying conditions for encumbered nonagricultural
27 parklands include, but are not limited to the following:

- 28 1. The lessee, or permittee, shall perform in compliance with the existing lease or
29 revocable permit
- 30 2. The lessee shall not be in arrears, and the payment of taxes, rents, or other
31 obligations owed to the state and any county or any county.
- 32 3. The lessees, or permittees agricultural operations shall be economically viable
33 according to the lease, since the majority of income is to be from farming activity on
34 the land, then the land area should be at least 1 to 2 acres and larger of farmable
35 area depending on the plan, crops to be produced.
- 36 4. The character of use shall be consistent with HDOA allowable uses according to
37 program rules and policy.

38 Ms. Murai said those are the qualifying conditions that we look at when we review the files
39 and go to the property. She added that agricultural lands for transfer shall be liable for
40 farming. For example, topography and soil shall be conducive and viable for farming.
41 Conditions that are likely to be deemed not acceptable include lands which are
42 predominantly without limitation on steep cliffs or severe slopes within streams,
43 riverbeds, beaches, or oceans on lava flows on easements, remnant lands, landfills,
44 ditches, roadways etc. She added that generally, landlocked parcels with no legal access

1 are unacceptable for transfer. However, they may be considered if the lessee or permittee is
2 the fee landowner of an adjacent lock that has legal access.

3
4 Land use zoning must include farming as an allowable use. Preservation zone lands
5 prohibits farming, therefore, we are not able to accept preservation zone lands for transfer.
6 Lastly, availability of basic infrastructure such as water and electrical power must be
7 available. After considering all of these issues, staff recommends approval to the Board of
8 Agriculture to transfer qualified leases and revocable permits, as well as encumbered
9 vacant land.

10
11 Once's both boards approve lessees, RPs and unencumbered vacant lands for transfer,
12 both DOA and DLNR must approve. Next, an executive report is issued by DLNR staff for
13 the Governor's signature. She added that the parcels that are going to be included in the
14 EO must have a survey, survey map, and meets and bounds prior to the issuance of the
15 Governor's EO. Finally, the EO formally transfers DLNR leases, RPs and unencumbered
16 lands to HDOA. Once the lease or RP is under DOA management, the terms and conditions
17 of the lease or RP that is issued by DLNR continue to apply to the lessee. Thereafter, any
18 change or amendment to the lease shall be agreed upon in writing by the lessor which is
19 now HDOA and the lessee.

20
21 Member Cabral asked if the one to two acre criteria is a policy within DOA?

22
23 Ms. Murai responded yes, it is a policy and according to HRS and HAR.

24
25 Member Cabral added that agriculture has changed over the years since that went into
26 place so we should look at that as far as criteria before we reject. He also asked if it is
27 policy or statute that the administration decides whether to reject or not.

28
29 Ms. Murai said she believes it is policy. She added that in regard to the size of the parcel,
30 DOA looks at what is being produced on the parcel but it depends on what is being farmed.

31
32 Member Cabral said he wants to know if the board has authority to request all items on the
33 list to come before the board even when they are approved or rejected. He added that there
34 could be circumstances that caused it to be in that situation and maybe the board can help
35 resolve it.

36
37 Chairperson Hurd said Act 90 states the reasons that we would not accept parcels and
38 asked if this is what the board wants.

39
40 Member Cabral said he will leave it to the board and that ends his questions. He added that
41 he understands that the board has authority to make changes to policy.

42
43 Member Ley asked for clarification on the criteria and lava flows and that water and power
44 must be available. She added that Hawaii Island has a lot of lava flows.

45

1 Ms. Murai said generally, if the parcel is on a lava flow and possibly with the tubes
2 underneath, we would not accept those types of parcels.

3
4 Member Ley said she is unclear how the area would be assessed if there are tubes in the
5 area without extensive survey. She asked for a bit more information on the criteria for that.

6
7 Ms. Murai said generally, if there is no water or power to the parcel itself, DOA will not take
8 it, but it depends on the character of use and other criteria. She added that that is why they
9 do a site visit and they'll look at what's going on especially if the lot is being leased.

10
11 Chairperson Hurd asked Ms. Murai if it is possible to make a list of the parcels that were not
12 accepted and state the reason why it wasn't accepted.

13
14 Ms. Murai said it is not confidential and they do have notations on each parcel on why they
15 did not accept it.

16
17 Member Gomes said he would appreciate having that list.

18
19 Chairperson Hurd said there were phase 1, 2, and 3. She said phase 2 was the one that
20 was just approved by the board in August, and will be taken up by DLNR in a future
21 meeting. This was about 100 parcels. Phase 3 is those lands that have been identified to
22 have potential for ag. that DLNR wishes to retain. These are the ones that are in discussion
23 now and DOA is working really well with DLNR. She added that there is a lot of potential for
24 future transfers.

25
26 Member Cabral wants to encourage staff to relook at policies and guidelines that they've
27 been using to accept or reject because so much has changed in agriculture.

28
29
30 VII. DIRECTOR'S REPORT

31
32 A. Update On Interim Rule and Standard Rule Change to HRS 4-72

33
34 Discussion:

35 Chairperson Hurd said this is something we need to manage expectations on for this
36 interim rule. In around October, we asked for P&A to get together and look at an interim
37 rule to allow stop movement but they did not have quorum for November, December, or
38 January. In March, they'll meet and take up the idea of the interim rule and if they
39 accept, the Chairperson has the authority to accept it. We should know by the end of
40 March. Regarding the standard rule change, the public testimony/hearing was done in
41 January. We are still tallying the 300+ comments and we're putting them in aggregate
42 form to present to the board. She added that it usually takes 6-12 months or more to
43 present it to the board. In the meantime, the interim rule, should it be decided by the
44 P&A, will go into effect and it has the same effect as the rule changes would have which

1 would be to stop movement quarantine. If the interim rule goes forward in March, it'll be
2 in effect for a year.

3

4 Christy Martin, Coordinating Group on Alien Pest Species, asked Chair Hurd to clarify
5 the stop movement statement. She said they are still seeing the sale of commodities
6 that are infested with Little Fire Ants.

7

8 Chairperson Hurd responded that we don't use the term "stop sale" in the law and that
9 we prefer to use the word "quarantine" and quarantine indicates stop sale.

10

11 Ms. Martin added that the 150A statute says "movement".

12

13 Chairperson Hurd said she believes this is under discussion with the interim rule but she
14 will check on it.

15

16 Deputy Yee said the interim rules will be the same as the standard rules that went out to
17 public hearing.

18

19 Motion to adjourn: Mina/Kanaka'ole

20

21 The meeting was adjourned at 11:30 am

22

23 Respectfully submitted,

24

25

26

27 Marci Clingan

28