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**Minutes of the Board of Agriculture
May 28, 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 May 28, 2024, at 9:07 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
Vincent Mina, Maui Member
Randy Cabral, Member-at-Large
Fred Cowell, Kauai Member
James Gomes, Member-at-Large

Members Virtually Present: Roll call/alone

Ryan Kanaka'ole, Board of Land and Natural Resources, Ex-Officio Member
Mark Takemoto, DBEDT, Ex-Officio Member
Diane Ley, Hawaii Member

Excused:

En Young, Member-at-Large
Parwinder Grewal, Dean CTAHR, Ex-Officio Member

Deputy Attorney General Present In-Person: DAG Bryan Yee

Others Present In-Person:

Brian Kau, HDOA
Linda Murai, HDOA
Roy Hasegawa, HDOA
Marci Clingan, HDOA
Stephen Dalton, HDOA
Souane Oulayrac, Farmer
Kelcie Nagata, AG

1 Jarrett Keohokalole, Senator

2
3
4 Others Virtually Present:¹

5 Francis Duran

6 Ipad3Bud Gibson

7 Ipad3

8 Crystal

9 HDOA-Fujimoto, Janice

10 Jules Peleiholani

11 Dexter Kishida

12 Bryson Kawasaki

13 ChunkB

14 18088857159

15 Nicole Galase - Cattlemen's Council

16 Jennifer Waihee-Polk

17 Jillian Scheibe

18 sandra

19 Nathaniel Oswald

20 J Ferrer, HDOA

21 Kori K

22 Brandi Ah Yo

23 Beryl.TL.Manliguis

24 Annie

25 PIO

26 Janet

27 adam_asquith@yahoo.com

28 Ted Yamamura

29 Toy Lim

30 Jarrett Keohokalole

31 kyle.cutwright

32 Glenn Okamoto

33 Linda

34
35
36 II. APPROVAL OF MINUTES FROM 4/23/24 MEETING

37
38 Motion to Approve: Gomes/Cabral

39
40 Member Takemoto recused himself stating that he did not attend the April 23, 2024
41 meeting.

42

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

1 Vote: Approved; 7-1 (Recused - Takemoto)
2

3 III. INTRODUCTIONS
4

5 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION
6

7 A. AGRICULTURAL LOAN DIVISION
8

- 9 1. Request for Approval of One (1) Class A Loan for Bamboo Farm &
10 Sanctuary Partnership; Jeffrey T. Allen Revocable Trust and Katharine A.
11 Clark Revocable Trust.
12

13 Jillian Schiebe, Agricultural Loan Division, presented testimony as submitted.
14

15 Motion to Approve: Ley/Gomes
16

17 Discussion:

18 Member Mina asked if they are producing biochar on the property and if they are using
19 kiln for that.
20

21 Ms. Schiebe replied yes, they are and that he created his own kiln and shed that he
22 works out of.
23

24 Member Cabral asked how the percentage is determined.
25

26 Ms. Schiebe said she would have to refer back to the statutes but according to one of
27 them, it can be up to 7 1/2% or 1% below prime and unfortunately, prime is greater than
28 so we are set at 7 1/2%.
29

30 Member Cabral added that 7 1/2% is steep and hopefully we can pursue it again next
31 session.
32

33 Member Mina asked what the total cost of the loan will be after 20 years?
34

35 Ms. Schiebe said the total cost will be \$239,744.00 and some change which is why a 20
36 year term was made versus 30 years.
37

38 Vote: Approved; Unanimously
39
40

41 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION
42

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

3
4 Linda Murai, Property Manager, Agricultural Resource Management Division, presented
5 testimony as submitted.

6
7 Motion to Approve: Gomes/Mina

8
9 Discussion:

10
11 Member Mina said he is in support of this and if Adam is ok with the \$300 per annual,
12 he'd be ok with that although Mr. Mina feels it should be \$1 per year. He added that one
13 of the biggest failings in Hawaii agriculture is not valuing the host cultures crop and taro.

14
15 Mr. Adam Asquith was called forward.

16
17 Member Mina asked Mr. Asquith if he could explain the infrastructure that he's putting in
18 to make this land work.

19
20 Mr. Asquith replied that it takes unusual land situations and infrastructures to grow kalo.
21 Most of them don't use the plantation irrigation system and that is why the taro
22 production area has shrunk down to two commercial areas in the state. He said this
23 would be unusual in the fact that they would be bringing back a small regional
24 production center. He added that that system is being fed right now from Kapaa stream.
25 Without that, it will be limited taro production. There is nothing remaining from the
26 traditional original taro patches so it's going to be a 20-year construction project. There
27 is a plantable area, but roads, culverts, and banks need to be put in which will take
28 another year.

29
30 Member Mina asked how do we keep this in perpetuity?

31
32 Ms. Murai replied that this lease would be in the non-agricultural park lands program so
33 the lease can be extended for a maximum of 65 years if the lessee is in compliance with
34 the lease.

35
36 Member Mina asked Mr. Asquith how he manages the banks.

37
38 Mr. Asquith said they began running goats but now they've moved to sheep, and they
39 do a phenomenal job.

40
41 Member Mina asked if he processes his taro.

42

1 Mr. Asquith said yes, bulk production goes to smaller processors around the state. He
2 said they also make their own poi with volunteers.

3
4 Member Gomes asked if we could give him 65 years max.

5
6 Mr. Asquith said yes, he would be interested in 65 years than 35 years.

7
8 Member Gomes said he moves to amend the original motion from 35 years to 65 years.

9
10 Member Mina seconded the motion.

11
12 Member Cabral asked if Ms. Murai could explain the prerequisite requirements that he
13 needs to meet before he can get the lease.

14
15 Ms. Murai said he would need to make sure he has his insurance in place and that he's
16 applied as a cooperator for his conservation plan.

17
18 Vote to amend the original motion to extend the lease from 35 years to 65 years:
19 Approved; Unanimously

20

21

22 2. Request for Acceptance of Annual Lease Rent Amounts as Determined
23 by Independent Appraisal for Rent Reopenings and Vacant Land for
24 Various Lots Located Statewide; TMK Nos.: (1) 4-1-008:076, (1) 4-1-
25 010:026, (1) 4-1-010:042, (1) 4-1-010:048, (1) 4-1-025:022,023, (1) 4-1-
26 025:057, (1) 4-1-026:017, (1) 4-1-027:002, (1) 4-1-027:009, (1) 4-1-
27 027:028, (1) 5-6-006:029, (1) 5-6-006:031, (1) 5-6-006:033, (1) 5-6-
28 006:035, (1) 5-6-006:037, (1) 5-6-006:038, (1) 5-6-006:039, (1) 5-6-
29 006:040, (1) 5-6-006:041, (1) 5-6-006:042, (1) 5-6-006:043, (1) 5-6-
30 006:044, (1) 5-6-006:045, (1) 5-6-006:046, (1) 5-6-006:047, (1) 5-6-
31 006:048, (1) 5-6-006:049, (1) 5-6-006:050, (1) 5-6-006:051, (1) 5-6-
32 006:052, (2) 5-2-001:010, (2) 5-2-001:013, (2) 5-2-001:015, (2) 5-2-
33 001:016, (2) 5-2-001:021, (2) 5-2-001:022, (2) 5-2-001:024, (2) 5-2-
34 001:025, (2) 5-2-001:026, (2) 5-2-004:016, (2) 5-2-004:119, (3) 1-5-
35 116:026, (3) 1-5-116:045, (3) 7-3-049:001, (3) 7-3-049:006, (3) 7-3-
36 049:014, (3) 7-3-049:030, (4) 4-4-004:043, (4) 4-4-004-044

37

38 Roy Hasegawa, Property Manager, Agricultural Resource Management Division,
39 presented testimony as submitted.

40

41 Motion to Approve: Gomes/Cowell

42

43 Discussion:

1 Member Cabral asked if Mr. Hasegawa can explain why there is a huge range of
2 changes.

3
4 Mr. Hasegawa said he believes the appraiser is online and asked the appraiser to come
5 forward to explain the range of changes.

6
7 Ted Yamamura from ACM Consultants, Inc. said that ground rents on reopenings are
8 based on land values at the time of reopening. On Molokai, land values decreased
9 which resulted in decrease ground rents for the reopenings. For Waimanalo, land
10 values have skyrocketed over the past few years. Due to this increase, ground rents
11 have increased substantially.

12
13 Member Mina said in these agricultural areas that are productive and the land becomes
14 more valuable, it is squeezing out the agriculture. How do we address that in a way so
15 that we don't squeeze agriculture out of these prime agricultural lands.

16
17 Mr. Yamamura said it starts with the leases and the verbiage within the leases which
18 calls for determination of fair market rents. Typically, the appraisal methodology to
19 determine that would be a percentage rate of return on the fee simple value of the land.
20 So, there's a direct nexus between land value and ground rent. Until the language and
21 the leases are changed or revised, the appraiser must follow generally accepted
22 appraisal principles which determines ground rent.

23
24 Member Mina asked where does that get addressed?

25
26 Deputy AG said he believes the fair market value is a part of the statutory provisions.
27 He added

28
29 Member Cabral said that there should be a cap on the increase every year so that you
30 have an idea of what your increase will be.

31
32 Brian Kau, Administrator of Agricultural Resource Management came forward to add a
33 comment. He said rental increases do not happen every year. On a lease, typically,
34 rental reopening increases happen either every 15 or 10 years. During the span of the
35 tenants lease, there is 0% increase on the lease which is why you're seeing a large
36 percentage increases because there is 0%. From the time of the original lease through
37 the subsequent reopening, every year that it goes on, it's discounted for whatever
38 increase in value that that property has for that year. So that leads to a substantial
39 increase when it does reopen. The impact is sometimes drastic and it's not a surprise to
40 the tenant. The reopening terms are clearly laid out on their leases. He added that there
41 is a benefit to the way the leases are currently rented, and it is heavily biased for the
42 tenant because there is a 0 rent increase between the adjustments of their rent. He
43 added that the other issue is that the rents themselves are categorized by the lowest

1 value that they could place on a parcel. So even if there is an improvement, they are not
2 addressing the impact of that business on rental reopening. Every appraisal is based on
3 the absolute least amount that they can come up with. It's not addressing the
4 percentage. He said the way the program operates is a special fund and it must show
5 that it maintains the cash flow to pay for itself. He said they don't generate a surplus, so
6 if the increases are limited to 50% or 25% and the cumulative rate of inflation has gone
7 up beyond that in 10 or 15 years, then every time segment thereafter means the
8 program is falling further and further behind.

9
10 Member Cabral said if the expenses came out of general funds and not dependent on
11 lease rents or water rates, the increases wouldn't matter too much. The department
12 should consider the general funds for paying for everything so that the farmer does
13 have some incentive to stay in business.

14
15 Member Mina asked Deputy AG Yee how you could build your business around not
16 knowing what the percentage rates will be.

17
18 Deputy AG Yee the legislative issue would involve whatever the post fix would be then
19 you need to look at the issue of funding and how do you then get the general funds to
20 pay for a portion of the program that's intended to help the agricultural industry.

21
22 Senator Jarrett Keohokalole said he would be happy to entertain questions.

23
24 Chair Hurd said the question was how would a bill go over to cap the lease rent rate for
25 agricultural land.

26
27 Member Cabral asked if the department can be funded out of general funds instead of
28 the department relying on lease rents or water rates to be able to pay for them.

29
30 Senator Keohokalole replied that it's possible and it's a challenge to advocate
31 successfully for more appropriations of general funds monies for the DOA. He added
32 that when it comes to DLNR leases, there are specific processes that were put in place
33 in the law to ensure that the public's interest is accounted for when it comes to the
34 leasing of state lands. It's fair compensation for the utilization of those lands, and it
35 would probably warrant time and attention on how things like graduated lease increases
36 after a renewal might serve the public's interest in food security or the development or
37 resilience of agriculture as an industry. He added that those issues would need to be
38 balanced appropriately because that's often where the tenants come up for renewal,
39 and they want their rents to be maintained the same way they were when they got the
40 lease 30 years ago.

41 That's when the advocates on the other side say that taxpayers are not getting their fair
42 share and rent.

1 Discussion between Senator Keohokalole and Board Members on non-agenda item.

2
3 Vote: Approved; Unanimously

- 4
5
6 3. Request for Approval for the Transfer of Public Lands from the Department of
7 Land and Natural Resources to the Department of Agriculture Pursuant to Act
8 90, SLH 2003, Codified as Chapter 166E, Hawaii Revised Statutes; TMK Nos:
9 (1) 4-1-008:054 and 059, Waimanalo, Koolaupoko, Island of Oahu, Hawaii

10
11 Roy Hasegawa, Property Manager, Agricultural Resource Management Division,
12 presented testimony as submitted.

13
14 Motion to Approve: Gomes/Cabral

15
16 Discussion:

17 Nicole Galase on behalf of the Hawaii Cattlemen's Council said she is testifying in
18 support of the approval for the transfer to DOA. She added it is not only in agricultural
19 production, but also a benefit to the public as keeping this as a space to hold community
20 events. She said the Hawaii Cattlemen's Council has prioritized the transfer of these
21 lands because Act 90 was intended to keep ag lands in ag production. These parcels
22 should be under DOA for the activities they lead.

23
24 Member Gomes asked if we had the appraisal done on the property.

25
26 Mr. Hasegawa said yes.

27
28 Member Gomes asked when we could have a copy of that.

29
30 Mr. Hasegawa said that the agenda item is to discuss the transfer so a copy could be
31 requested any time after that.

32
33 Member Gomes asked when this can be brought back to the board.

34
35 Mr. Hasegawa said that hasn't been determined yet.

36
37 AG Yee said the issue is that there are negotiations that are currently going on. The
38 appraisal hasn't been presented to Mr. Gibson yet, and there is an opportunity for Mr.
39 Gibson to say no. There may be further discussions after that and if Mr. Gibson says no,
40 it may take a while longer.

41
42 Member Cabral said the proposal was already submitted to the department so it's a
43 matter of them negotiating the new lease so if they have all the documentation and
44 everything is on the table, it shouldn't take long to complete.

1
2 Deputy AG Yee suggested that the board may want to ask for a status report update,
3 regardless of the outcome.

4
5 Chairperson Hurd asked Mr. Hasegawa to provide a one-month status report moving
6 forward.

7
8 Vote: Approved; Unanimously
9

- 10
11 4. Request for Approval to Consent to Assignment of General Lease No. S-4459;
12 Paul Jerome Balberde and Cerila Balberde, Lessee/Assignor; SL Kuwahara
13 Partners, LLC., Assignee; TMK: 3RD DIV/2-2-056:18, Lot 21, Panaewa House
14 Lots, 2ND Series, Waiakea, South Hilo, Hawaii
15

16 Brandi Ah Yo, Property Manager, Agricultural Resource Management Division,
17 presented testimony as submitted.
18

19 Motion to Approve: Cowell/Gomes
20

21 Discussion:

22 Board Member Mina asked how the \$100,000 consideration is paid?
23

24 Ms. Ah Yo said it depends, some farmers will take out a loan and some will finance it on
25 their own.
26

27 Ms. Sandra Kuwahara, owner of SL Kuwahara Partners, LLC said they have an
28 agreement with Mr. Balberde and they are going to make monthly incremental
29 payments to him upon closing through September 2023. There will be a final balloon
30 payment to payoff. She confirmed that they are financing on their own.
31

32 Member Mina asks where falls onto if it defaults?
33

34 Member Gomes said there are only those two individuals and it would not fall on the
35 department.
36

37 Member Cabral asked if the Kawahara's can come back for an extension after the 55
38 year lease ends in 2030.
39

40 Ms. Ah Yo said yes, because this is a non-ag park lease, the conversion clause is an
41 option. She added that in order for us to convert to a new long-term lease, we can only
42 do it within 10 years and 5 years of the lease expiration.
43

1 Member Cowell asked what does it mean when it does not include a participation
2 clause.

3

4 Ms. Ah Yo said some of the leases include a participation clause where if there is a
5 consideration on the lease, there is a worksheet that is used to determine if the state is
6 owed any money.

7

8 Vote: Approved; Unanimously

9

10

11 5. Request for Approval to Sublease Between the Hamakua Agricultural
12 Cooperative, Lessee/Sublessor; and Robert Rostau and Lynn Rostau,
13 Sublessee; General Lease No. S-7012, TMK: 3RD DIV/4-3-005:019 (POR), Lot
14 No. 8A, Hamakua Agricultural Park, Phase II, Pohakuhaku and Kemau 1st,
15 Hamakua District, Island of Hawaii

16

17 Brandi Ah Yo, Property Manager, Agricultural Resource Management Division,
18 presented testimony as submitted.

19

20 Motion to Approve: Gomes/Cowell

21

22 Discussion:

23 Member Mina asked if the other lease holder had any success in growing peppers.

24

25 Ms. Ah Yo said yes she thinks its been working because they want to take over this
26 sublease. She added that this particular area is kind of dry.

27

28 Vote: Approved; Unanimously

29

30

31 6. Certification of Acreage Assessments for the Honokaa-Paauilo, Kahuku,
32 Molokai, Waimanalo, and Waimea Irrigation Systems, 2025 Fiscal

33

34 Brian Kau, Division Administrator, Agricultural Resource Management, presented
35 testimony as submitted.

36

37 Motion to Approve: Mina/Gomes

38

39 Discussion:

40 Member Cabral asked how the acres and acre assessment relates.

41

42 Mr. Kau said the acreage assessment determination is divided by the accessed acreage
43 and it will come out to the per acre value. The larger systems will be smaller per acre

1 and the smaller systems will be higher. He added that it is an annual thing that they
2 need to do.

3

4 Vote: Approved; Unanimously

5

6

7 V. OLD BUSINESS

8 1. Approval of October 24, 2023 Meeting Minutes

9

10 Discussion:

11 This item will be removed from the calendar due to inadequate amount of members
12 present.

13 No public testimony.

14

15

16 VI. NEW BUSINESS

17

18 Senator Keohokalole presented his testimony and requested that this item regarding
19 invasive species be placed on the agenda as a regular item in a form and a manner that
20 the board feels appropriate. He said there were multiple pieces of legislation that were
21 considered and passed in the legislature this year, consolidating the authority and
22 jurisdiction of invasive species management under the Department of Agriculture. This
23 included the potential of phasing out of partner agencies that are undergoing active
24 invasive species mitigation and eradication in his district, which includes the
25 communities of Kailua and Kaneohe on the windward side of this island. He added that
26 it is frustratingly unclear what level of coordination and organization there is
27 as it relates to these partner agencies and within divisions of the Department of
28 Agriculture. He added that he knows this because of personal experience over the last
29 10 months, dealing with little fire and infestations in his community, but also with the
30 prevalence and spread of coconut rhinoceros beetle on Oahu. He added that CRB is
31 his most significant concern for the state of Hawaii, especially for the neighboring
32 islands which are not as impacted as Oahu is right now. A significant allocation of
33 resources was appropriated to the Department of Agriculture this year for that specific
34 purpose which includes invasive species and eradication control and he feels that the
35 expenditure of those funds and implementation of those programs needs ongoing
36 monitoring. He said this would be most effectively done by this body. There are several
37 memorandums of agreements, interim rules, permanent rules and species-specific
38 action plans and work plans that are in different stages of development by the
39 department. He said it has been very frustrating to get accurate, timely information on
40 the status of those different items, and his community is directly impacted by the
41 Department's ability to act against invasives in a timely manner. The Department has
42 come to multiple hearings before the legislature this year unprepared and that is
43 especially troubling when the Department serves as both advocate, regulator, and

1 subject matter expert. Personnel in multiple agendized briefings before the Senate have
2 given conflicting testimony on matters of fact and have contradicted each other on
3 records of events, on the Department's position on issues, and on what actions the
4 Department did and did not actually take in response to specific questions. He said
5 there was a meeting that was held between legislators and community members last
6 year regarding the status of Chapter 4-72 permanent rules. In February of last year, he
7 was told that the rules were being set aside because it was determined that a legal
8 review was necessary by DOA's Deputy AG because of legal issues. He said the claim
9 was proven false when they met with the Deputy AG that oversaw the rules process,
10 and she attested in that meeting that there were no legal issues and everything was
11 good to proceed as it had been voted on by the board four months prior. He said it was
12 embarrassing to have to go back to the community and explain to them that they've
13 been given the wrong information and that they have been misled when the department
14 should have known what it was talking about. He continued that in the beginning of
15 May, there were questions about the Punahou Carnival little fire ant investigation. A
16 statement was made at the table that there was no evidence present that there was a
17 little fire ant infestation at the Carnival. That statement was rebutted by department
18 personnel 5 minutes later in that same briefing. There was a positive test for little fire
19 ants in products that were donated to the carnival and the investigation thereafter was
20 incomplete which triggered some of the items that have been controversial in the press
21 over the last several weeks. He also added that the question came up about the role of
22 this department as both an advocate and a regulator. He said it has been quite
23 frustrating. The discussion has already begun about whether the department should
24 continue to maintain this dual role when there's so much confusion as to whether one
25 aim is prevailing over the other. He continues with asking the board for their attention on
26 these issues at board meetings so they can continue to monitor and be consistently
27 apprised of these matters and so the public can view them as well.

28
29 Deputy AG Yee said there cannot be discussion on this between the board members
30 today because of the Sunshine Law since it is not on the agenda. He added that you
31 can send an email to one other board member but not any additional members. He said
32 you can ask questions to a DOA staff member since they are not board members.

33
34 Motion to adjourn: Mina/Cowell

35
36 The meeting was adjourned at 10:39 am

37
38 Respectfully submitted,

39
40
41
42 Marci Clingan