



Minutes of the Board of Agriculture

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on October 23, 2018 at 9:03 a.m. by Board of Agriculture Chairperson Scott Enright, at the Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

Members Present:

Scott Enright, Chairperson, Board of Agriculture
Randy Cabral, Member-At-Large
Fred Cowell, Kauai Member
Diane Ley, Hawaii Member
Joe Tanaka, Member-At-Large
Dr. Nicholas Comerford, Dean of the College of Tropical Agriculture & Human Resources University of Hawaii, Ex Officio Member
Suzanne Case, Chairperson, Board of Land and Natural Resources

Members Absent:

Vincent Mina, Maui Member
Glenn Hong, Member-At-Large
Mary Alice Evans, Deputy, Department of Business Economic Development, Ex Officio Member

Others Present:

Morris Atta, HDOA/Agricultural Resource Management Division (ARM)
Randy Teruya, HDOA/ARM
Linda Murai, HDOA/ARM
Roy Hasegawa, HDOA/ARM
Yong Pak, HDOA/Agricultural Loan Division (AGL)
Gareth Mendonsa, HDOA/AGL
Jeri Kahana, HDOA/QAD
Daniel Anthony, Hui Aloha Aina Momona
Al Chee, Island Energy
Mike Fairall, Private Citizen
Deborah Lizotte, Private Citizen
Leslie Campaniano, Hartung Brothers
Haunani Burns, Attorney General's Office
Janelle Saneishi, HDOA/Chairperson's Office (CHR)
Phyllis Shimabukuro-Geiser, HDOA/CHR
Stephen Teves, HPPA, LLC

1 II. APPROVAL OF MINUTES FROM 7/24/18 MEETING

2
3 Motion to accept: Ley/Cabral

4
5 Vote: Approved, 7-0.

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7 III. INTRODUCTIONS

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9 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

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11 A. AGRICULTURAL LOAN DIVISION

- 12
13 1. Request for Approval of One (1) Direct Emergency Loan to Justin
14 A.P. Manuel.

15
16 Gareth Mendonsa, HDOA/AGL, presented testimony as submitted. Staff recommends
17 approval.

18
19 Motion to accept: Ley/Cabral.

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21 Board Member Ley said Mr. Manuel is a good farmer and he learned from the best, that
22 being his father.

23
24 Vote: Approved, 7-0.

- 25
26 2. Request for Approval of (1) Direct Farm Ownership Loan and One (1)
27 Direct Operating Loan to Big Kid LLC and John S. McKinney,
28 Co-Borrowers

29
30 Gareth Mendonsa, HDOA/AGL, presented testimony as submitted. Staff recommends
31 approval.

32
33 Motion to accept: Cabral/Ley.

34
35 Vote: Approved, 7-0.

- 36
37 3. Request for Approval of One (1) Direct Farm Ownership Loan to
38 Maka'ala Hawaii, Inc., Jeanette M. Baysa, and Katherine A. Patton, Co-
39 Borrowers.

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41 Gareth Mendonsa, HDOA/AGL, presented testimony as submitted. Staff recommends
42 approval.

43
44 Motion to accept: Cowell/Tanaka.

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2
3 Vote: Approved, 7-0.
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5 4. Request for Approval of One (1) Direct Farm Ownership Loan to Michael
6 P. Fairall.
7

8 Yong Pak, HDOA/AGL, presented testimony as submitted. Staff recommends approval.
9

10 Motion to accept: Ley/Comerford.
11

12 Board member Cowell stated that he is confused about the donated products that
13 provide for farmer income.
14

15 Mr. Fairall stated that he is a B corporation, recognized in the State of Hawaii. His
16 friend is a landscaper and has unutilized land, which he spent a year in cleaning the
17 land to grow ulu and taro. They work with Aloha Aina Momona and they have
18 supported with labor and harvesting. At this point, as a B corporation the requirement is
19 that they prefer you provide goods rather than monies to various organizations. They
20 provide food to the communities and that has been the structure so far. Lately, his
21 friend has been saying that he wants the land back.
22

23 Mr. Pak stated that the 2016 IRS tax law allows B corporations to take full deductions
24 and it increases your profits.
25

26 Vote: Approved, 7-0.
27

28 5. Request that One (1) Loan to Dawn Wasson be Referred to the Attorney
29 General for Disposition and/or Collection.
30

31 Yong Pak, HDOA/AGL, presented testimony as submitted. Staff recommends approval.
32

33 Motion to accept: Cowell/Ley.
34

35 Vote: Approved, 7-0
36

37 Chair Enright called for a break at 9:20 am. Meeting resumed at 9:25 am.
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40 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION
41

42 1. RESUBMIT - Request for Approval to Award Waianae Agricultural Park
43 Lands Leases to Various Awardees and Back-Up Positions as set forth in
44 attachment; TMK: 1st Div/8-5-034:002, 013, 016 And 017; Waianae

Agricultural Park, Waianae, Island of Oahu, Hawaii

Roy Hasegawa, HDOA/ARM, presented testimony as submitted. Staff recommends approval.

Motion to accept: Ley/Tanaka.

Board member Ley asked because there is a growing demand for ag lands does the department have a limit to the number of leases they can bid on. Mr. Morris Atta, HDOA/ARM, said there is no specific limit to the number of leases they can bid on because they are being evaluated on the specific requests. There are some policy considerations that go into the decision making.

Board member Ley asked if there is any particular analysis done in relation to the bidders. Mr. Atta stated that the Waianae Ag Park is a unique situation, the ag park lands are not suitable for certain kinds of agricultural, so that is taken into consideration to see what kind of agriculture we can attract. The bidders the department received were not food crop type of farmers and this is unique to the Waianae Ag Park and the evaluation process. Board member Ley said you look at the suitability of the crops to the land or the environmental conditions? Mr. Atta said they look at the highest of qualifying bidders. Board member Comerford stated commercial ag is a matter of scale and if you have the same company winning out on the four different ones and provides them with the land with the poor soil conditions, this is a positive.

Vote: Approved, 7-0.

2. Request for Consent to Assignment of General Lease No. S-3119;
Glenn Joseph Robert Griffin and Kelly Lei Griffin, Lessee/Assignor, to
Michael Patrick Fairall, Assignee; Lot No. 10, TMK: 1st Div/4-1-010:041;
Koolaupoko, Waimanalo, Island of Oahu, Hawaii

Linda Murai, HDOA/ARM, presented testimony as submitted. Staff recommends approval.

Motion to accept: Cowell/Ley.

Mr. Michael Fairall come forward and stated that structures need to be removed but he does have friends to do some landscaping and he will take out the shade houses; the lower land has a culvert and will grow taro; the center area will be planted with ulu and jackfruit; one shade tarp has California grass and will need to be grubbed; lychee trees needs some attention; the irrigation is there and there are some cows and sheep to clear the land. Hopefully, within 18 months everything will get going.

Vote: Approved, 7-0.

3. Request for Approval to Withdraw All Twenty Land Parcels from Governor's Executive Order No. 3633 and Five Parcels from Governor's Executive Order No. 4259 in Order to Set Aside Said Parcels to the Agribusiness Development Corporation, Kekaha, Waimea, Island of Kauai

Randy Teruya, HDOA/ARM, presented testimony as submitted. Staff recommends approval.

Motion to accept: Ley/Cowell.

Board member Ley asked if the BOA moves forward with this motion then the recommendation will go to the Governor?

Mr. Teruya stated the sequence is: BOA approves this request then it'll go to ADC, where ADC will present to its board for acceptance; it'll then go to DLNR to request a withdrawal and request a joint DOA/ADC order. The Kekaha Ag Park reset aside can be done for ag purposes.

Board member Case will abstain from voting on this item.

Chair Enright said the electricity has always been wielded because it was part of the sugar plantation and the hydro plant when KAA was formed for ADC and they moved water & electricity across the street. KIUC will go in and do a series of projects. The attorneys for KIUC still sees this as wielding so wanted this cleaned up before they move forward.

Vote: Approved, 6-0, (Case abstained).

C. QUALITY ASSURANCE DIVISION

1. Request for (1) Acceptance of the Minutes of the Public Hearings on the Repeal of Chapter 4-86, Hawaii Administrative Rules, entitled "Brake Fluids, Coolants, Petroleum Products, and After-Market Additives" and (2) Adoption of the Proposed Chapter 4-186, Hawaii Administrative Rules, entitled "Petroleum Products Accounting and Inspection".

(See Attached Amendments)

Jeri Kahana, HDOA/QAD, presented testimony as submitted. Staff recommends approval.

1
2 Motion to accept: Ley/Comerford.

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4 Board member Cowell asked how do other states incorporate their standards. Ms.
5 Kahana answered that they cite their most current standards and each state allows
6 them to do that, so they update their standards as each year goes by. The standards
7 don't change dramatically each year. Deputy Attorney General Burns cited that there is
8 one exception, the DOH's drug formula; there is a particular arrangement whereby with
9 federal approval you can incorporate if it's really specific, in general you're submitting
10 yourself to another authority because they can make changes. Ms. Kahana said there
11 is not much significant changes between the 2017 and 2018 standards, and this was
12 discussed with the lobbyist of the petroleum company and she was okay with it.
13 Because it would be substantive changes, it would have to come back to the board for
14 preliminary approval and conduct public hearings and it would again become a new
15 cycle.

16
17 Board member Comerford asked if there was a standard time frame to revise these
18 rules. Ms. Kahana stated that this was started and never finished, and the petroleum
19 industry and Island Energy approached her to do this.

20
21 Albert Chee, Vice-President of Island Energy came forward and stated that this process
22 was started awhile back and in 1981 rules were adopted to allow for letting alcohol into
23 fuel. Since then, the State adopted a mandate to blend 10% ethanol and the legislature
24 repealed that mandate. Now, there is no requirement or mandate for distributors to
25 blend ethanol into the fuel although it is still common practice. We asked them to look
26 at rules because several things have happened locally and nationally as well as the
27 ASTM standards. This was really housekeeping measures to make sure the rules are
28 consistent to the statutes, which has changed several times.

29
30 Board member Comerford asked what do you see the future in 10 years. Mr. Chee said
31 currently blending is not required. Ethanol is an oxygenate added to the fuel to help
32 cleaner burning fuels. It is important on the mainland during winter. Oxygenates are
33 not really needed in Hawaii. During the Lingle administration, they thought mandating
34 ethanol would bring rise to the ethanol industry but that didn't happen. The Legislature
35 said because no ethanol facilities were built, they decided to remove the mandate, but
36 companies had already made the investments to accommodate the blending. Blending
37 is done in Hawaii, we import ethanol into the State. There is a federal requirement to
38 blend the biofuel standard, if you choose not to blend you have to pay a tariff and you
39 pay a fee to the federal government for not blending.

40
41 Board member Case stated there is a state policy to get off of fossil fuels with a goal of
42 100% renewable energy by 2025. Ethanol is a renewable energy and the statute
43 requiring ethanol blending was repealed. Mr. Chee said this governs the specifications
44 of fuels, but the 1981 rule is inconsistent with ASTM standards that cover the
45 formulation of fuels. Right now you can blend nothing or 10%, Hawaii allows no

1 flexibility it's 0 or 10%. Because of the Hawaii law, we are seeking flexibility for the
2 best of our company. Board member Case stated overall you have to get off of fossil
3 fuel as quickly as possible because it is driven by State policy which needs to find ways
4 to motivate the market and ultimately we need to go to biofuels and alternative energy.

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6 Vote: Approved, 7-0
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9 V. OLD BUSINESS
10 None
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13 VI. NEW BUSINESS
14 None
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17 VIII. ADJOURNMENT OF REGULAR MEETING
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19 Motion to adjourn meeting: Ley/Cowell.
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21 Vote: Approved, 7-0.
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23 Meeting adjourned at 10:10 AM.
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26 Respectfully submitted,
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30 Gayle Nakamura
31 Board Secretary