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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

PUBLIC FIRST LAW CENTER,

Plaintiff,

vs.

DEFENDER COUNCIL; JON N.
IKENAGA; and AGRIBUSINESS
DEVELOPMENT CORPORATION
BOARD OF DIRECTORS,

Defendants.

CIVIL NO. 1CCV-24-0000050
(Other Civil Action)

DECLARATION OF COUNSEL;
EXHIBITS "1" - "21"

DECLARATION OF COUNSEL

1. I, Benjamin M. Creps, am an attorney for Movant Public First Law Center (Public First) and submit this declaration based on personal knowledge, except as otherwise provided.

2. Attached as **Exhibit 1** is a true and correct copy of the Agribusiness Development Corporation's (ADC) 2021 performance audit, Audit 21-01, that I obtained online from the Office of the State Auditor at <https://files.hawaii.gov/auditor/Reports/2021/21-01.pdf>.

3. Attached as **Exhibit 2** is a true and correct compilation of the following news articles referenced in the motion:



- a. Thomas Heaton, *Hawai`i's Ag Corp. is Putting Up Remainder of its Land For Lease*, Honolulu Civil Beat, dated October 6, 2023, available at <https://www.civilbeat.org/2023/10/hawaiis-ag-corp-is-putting-up-remainder-of-its-land-for-lease/>;
- b. Stewart Yerton, *Auditor: State Agriculture Agency Is Failing To Fulfill Mission*, Honolulu Civil Beat, dated January 14, 2021, available at <https://www.civilbeat.org/2021/01/auditor-state-agriculture-agency-is-failing-to-fulfill-mission/>;
- c. Teresa Dawson, *Agribusiness Agency Explains Reasons Behind Slow Progress in Utilizing Lands*, Environment Hawai`i, dated March 2021, available at <https://www.environment-hawaii.org/?p=13332>;
- d. T.J. Cuaresma, *Small Farmers Deserve Better Support than the ADC Has Provided*, Honolulu Civil Beat, dated May 12, 2021, available at <https://www.civilbeat.org/2021/05/small-farmers-deserve-better-support-than-the-adc-has-provided/>;
- e. Blaze Lovell, *Agribusiness Agency Pleads for More Time to Deal with Longstanding Issues*, Honolulu Civil Beat, dated September 21, 2021, available at <https://www.civilbeat.org/2021/09/agribusiness-agency-pleads-for-more-time-to-deal-with-longstanding-issues/>;
- f. Honolulu Civil Beat Editorial Board, *Hawai`i's Agriculture Development Agency Needs to be a Priority for Lawmakers*, Honolulu Civil Beat, dated April 16, 2021, available at <https://www.civilbeat.org/2021/04/hawaiis-agriculture-development-agency-needs-to-be-a-priority-for-lawmakers/>;
and
- g. Jolanie Martinez, *Following critical audit, lawmakers to begin investigation of agribusiness agency*, Hawaii News Now, dated July 13, 2021, available at: <https://www.hawaiinewsnow.com/2021/07/14/state-lawmakers-begin-investigation-agribusiness-development-corporation/>.

4. Attached as **Exhibit 3** is a true and correct copy of the regular session minutes of Defendant ADC Board of Directors' (ADC Board) January 26, 2022 meeting that I obtained from the ADC Board's website.

5. Attached as **Exhibit 4** is a true and correct copy of the regular session minutes of the ADC Board's June 15, 2022 meeting that I obtained from the ADC Board's website.

6. Attached as **Exhibit 5** is a true and correct copy of the regular session minutes of the ADC Board's August 17, 2022 meeting that I obtained from the ADC Board's website.

7. Attached as **Exhibit 6** is a true and correct copy of the regular session minutes of the ADC Board's September 21, 2022 meeting that I obtained from the ADC Board's website.

8. Attached as **Exhibit 7** is a true and correct copy of the regular session minutes of the ADC Board's June 15, 2022 meeting that I obtained from the ADC Board's website.

9. Attached as **Exhibit 8** is a true and correct copy of the regular session minutes of the ADC Board's January 25, 2023 meeting that I obtained from the ADC Board's website.

10. Attached as **Exhibit 9** is a true and correct copy of the regular session minutes of the ADC Board's March 16, 2023 meeting that I obtained from the ADC Board's website.

11. Attached as **Exhibit 10** is a true and correct copy of the executive session minutes of the ADC Board's March 16, 2023 meeting that I obtained via public records request.

12. Attached as **Exhibit 11** is a true and correct copy of the regular session minutes of the ADC Board's April 20, 2023 meeting that I obtained from the ADC Board's website.

13. Attached as **Exhibit 12** is a true and correct copy of the regular session minutes of the ADC Board's May 30, 2023 meeting that I obtained from the ADC Board's website.

14. Attached as **Exhibit 13** is a true and correct copy of the regular session minutes of the ADC Board's June 15, 2023 meeting that I obtained from the ADC Board's website.

15. Attached as **Exhibit 14** is a true and correct copy of the regular session minutes of the ADC Board's July 20, 2023 meeting that I obtained from the ADC Board's website.

16. Attached as **Exhibit 15** is a true and correct copy of the executive session minutes of the ADC Board's July 20, 2023 meeting that I obtained via public records request.

17. Attached as **Exhibit 16** is a true and correct copy of the regular session minutes of the ADC Board's August 8, 2023 meeting that I obtained from the ADC Board's website.

18. Attached as **Exhibit 17** is a true and correct copy of the executive session minutes of the ADC Board's August 8, 2023 meeting that I obtained via public records request.

19. Attached as **Exhibit 18** is a true and correct copy of the regular session minutes of the ADC Board's August 17, 2023 meeting that I obtained from the ADC Board's website.

20. Attached as **Exhibit 19** is a true and correct copy of the job posting for the ADC executive director that I obtained online at:
<https://www.governmentjobs.com/careers/hawaii/jobs/4067933/agribusiness-development-corporation-executive-director>.

21. Attached as **Exhibit 20** is a true and correct copy of testimony before the Hawai'i Senate Committee on Ways and Means on February 22, 2022 on Senate Bill No. 2473 S.D. 1 that I obtained from the Legislature's website.

Continued on next page

22. Attached as **Exhibit 21** is a true and correct copy of the Office of Information Practices' (OIP) Opinion Letter No. F24-03 that I obtained from OIP's website.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai`i, October 23, 2024

/s/ Benjamin M. Creps
BENJAMIN M. CREPS

Exhibit "1"

Audit of the Agribusiness Development Corporation

A Report to the Legislature
of the State of Hawai'i

Report No. 21-01
January 2021



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management, and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
<http://auditor.hawaii.gov>

Foreword

Our audit was conducted pursuant to Act 28, Session Laws of Hawai'i 2019 (House Bill No. 1561, HD1, SD2), which mandated a performance audit of the Agribusiness Development Corporation (ADC).

We express our sincere appreciation to the corporation's staff, members of ADC's Board of Directors, members of the Board of Agriculture, and other individuals whom we contacted during the course of our audit, for their cooperation and assistance.

Leslie H. Kondo
State Auditor

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PHOTO: OFFICE OF THE AUDITOR

Practices Without a Purpose: More than 25 Years Since Its Creation, the Agribusiness Development Corporation Has Done Little to Support the Development of Diversified Agriculture and Fill the Economic Void Created by the Demise of Sugar and Pineapple

Introduction

THE HAWAI'I STATE LEGISLATURE created the Agribusiness Development Corporation (ADC or the corporation) amidst a series of sugar and pineapple plantation closures that signaled the end of an agricultural era dominated by industrial-scale dual-crop exports. Projecting that shuttered plantations would free up 75,000 acres of agricultural land and 50 million gallons of irrigation water daily over the next decade, the Legislature in 1994 established the public corporation to take the lead role in converting those assets for use in commercial diversified agricultural enterprises to fill the economic void created by the departure of the sugar and pineapple industries.

Chapter 163D, Hawai'i Revised Statutes (HRS),¹ ADC's enabling statute, envisioned the corporation developing an "aggressive and dynamic" agribusiness development program to facilitate the

More than 25 years after its creation, we found an agency that is generally unaware of its unique powers and exemptions, and has done little – if anything – toward achieving its statutory purpose.

¹ For clarity, we omit "Hawai'i Revised Statutes" in subsequent references to Chapter 163D, as well as its sections, and subsections.

“The corporation shall coordinate and administer programs to assist agricultural enterprises to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, to carry on the marketing analysis to direct agricultural industry evolution, and to provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises.”

– Section 163D-1

agricultural industry’s evolution and provide data-driven analysis to support the development, promotion, and marketing of export crops. ADC was granted powers and exemptions unique in Hawai‘i state government that afford the corporation unrivaled flexibility to bring former plantation infrastructure back into production “in a timely manner.” Among other things, ADC is statutorily authorized to acquire, own, and sell land; lease or sell its lands to agricultural enterprises and farmers without having to go through a public auction process; invest in enterprises engaged in agricultural crop development, development of new value-added crops, and enhancement of existing agricultural commodities; issue revenue bonds to finance acquisitions; create subsidiaries; and even reorganize itself as a non-profit organization.

More than 25 years after its creation, we found an agency that is generally unaware of its unique powers and exemptions, and has done little – if anything – toward achieving its statutory purpose. From 1994 to 2012, the corporation managed two former plantation water systems on Kaua‘i and one on O‘ahu, supplying water to farmers but doing little else to develop new international, national, and local markets for Hawai‘i-grown products, to promote diversified agriculture across the state, or to develop an agriculture industry to replace the economic loss caused by the closure of the plantations.

Amendments to Chapter 163D have expanded ADC’s responsibilities. Act 234, Session Laws of Hawai‘i 2008, directed ADC to purchase 1,227 acres of former pineapple plantation lands on O‘ahu owned by the George Galbraith Estate (the Galbraith Lands). That purchase was completed in 2012. And the Legislature has since directed ADC to acquire thousands of acres of land in Central O‘ahu from Wahiawā to Waialua. Today, most of ADC’s activities center around managing its lands, much of it unused and some known to have harbored criminal activity for years. We found the corporation ill-equipped and struggling to effectively manage these lands, allowing preferred tenants to occupy its lands without approved leases or any other agreements, turning a blind eye to criminal activities on its lands, and ignoring state procurement requirements (see “Doing Business by Handshake” on page 20).

ADC’s statutory purpose has remained consistent and unchanged since the corporation was created in 1994. Yet, ADC has not taken critical steps toward achieving its overarching goals, such as preparing a Hawai‘i agribusiness plan to guide the State’s agribusiness development strategy, which is a legal requirement. In fact, ADC has no agricultural development plans for any of its projects. Those plans, which Chapter 163D also explicitly requires ADC to develop, are supposed to outline the corporation’s development and implementation of specific agricultural projects involving large tracts of former plantation lands and, among other things, include marketing information and strategies to exploit potential local, national, and international markets.

Audit Objectives

1. Describe ADC's process for acquiring former plantation lands and facilitating their transition to other agricultural uses;
2. Describe the effectiveness of ADC's land disposition and marketing strategies, including the proportion of former plantation lands in its asset portfolio that have been leased for other agricultural enterprises;
3. Describe ADC's policies and guidelines for managing its lands and evaluate its enforcement of tenants' lease terms and conditions; and
4. Make recommendations as appropriate.

Audit Scope and Methodology

We conducted this audit pursuant to Act 28, Session Laws of Hawai'i 2019 (House Bill No. 1561, HD1, SD2) (Act 28), which mandated a performance audit of ADC and a report submitted to the Legislature no later than 20 days prior to the 2021 regular session. In addition, the Legislature appropriated \$100,000 to conduct a financial audit of ADC, with which we retained the certified public accounting firm Accuity LLP (Accuity) to audit ADC's financial records for Fiscal Year 2019.

Act 28 also amended the corporation's annual reporting requirements pursuant to Section 163D-19. The amendment requires ADC to include specific information in its annual report to the Legislature, including the number of lots that are leased with protocols supporting specialty farm products; the number of vacant parcels and unoccupied parcels in the leasing process and the date the parcel was last occupied by a tenant; a description of leases approved by the corporation; and the type of farm products produced on the leased lands – all the information must be posted on its website, as well.

This is our first audit of ADC. Our audit was performed from June 2019 to March 2020 in accordance with generally accepted government auditing standards.² Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained fulfills that requirement.

² On March 5, 2020, with COVID-19 cases rising, the Governor issued the first of many emergency proclamations. With exceptions for emergency and essential personnel, state employees were directed to work remotely, limiting our ability to access information. We also re-directed our resources to contribute towards helping the State address the anticipated budget shortfall caused by the pandemic as well as reporting on the State's approach to address some of the challenges created by COVID-19.

Summary of Findings

1. More than 25 years ago, the Agribusiness Development Corporation was created to develop an “aggressive and dynamic” agribusiness development program to fill the economic void created by the closure of the sugar and pineapple plantations; the agency has done little to fill the void.
2. ADC’s land management struggles – inconsistent, incomplete, and, in many cases, non-existent record keeping; prospective tenants occupying lands without signed written agreements; and persistent criminal activity on its properties – expose the State to unnecessary risk.
3. ADC’s Board of Directors provides minimal guidance and oversight to the corporation.

ADC’s Financial Records Were Not Auditable

ADC’s inability to provide us with complete and accurate records on a timely basis greatly affected not only our audit schedule but also which aspects of agency operations we were eventually able to audit. As we discuss in this report, ADC’s recordkeeping was inconsistent, incomplete, and, in many cases, non-existent. For instance, when we requested documents essential to the day-to-day operations of a land management agency – such things as land management policies,³ land acquisition guidelines, inventories of landholdings, tenant listings, or even tenant files – we were informed that they did not exist.

ADC’s problematic recordkeeping also impacted its ability to complete its financial audit, the agency’s first. In accordance with Act 28, we contracted with Accuity, a public accounting firm, to audit ADC’s financial records, which was supposed to be completed by mid-December 2019. However, ADC has not kept financial records since its establishment and many schedules requested by the firm did not exist. As a result, Accuity suspended its work.

³ ADC provided us with a 4-page document entitled “Land Management Policies and Guidelines” that its staff did not know about before our request. That document, which was last revised in 2009, contains only general guidance, not the type of policies and procedures we would expect are reasonably necessary to direct ADC’s management of its lands. However, ADC did not update the general guidance to more specifically address the new responsibilities that were associated with being a landowner after completing its first land acquisition in 2012. In fact, the Executive Director, who describes himself as “not a details person,” readily conceded that the document “should be revisited.”

ADC did not have staff with the capability to get its financial information into an auditable condition and was required to hire another public accounting firm to prepare its financial records, many of which had to be recreated years after-the-fact. Accuity restarted its work this fall and expects to publish its report on the financial audit of ADC in January 2021, a delay of more than a year. Accuity anticipates audit findings that will include material weaknesses in the corporation's internal controls, which means material misstatements of ADC's financial condition may not be prevented, detected, or corrected by ADC in a timely manner.

Background

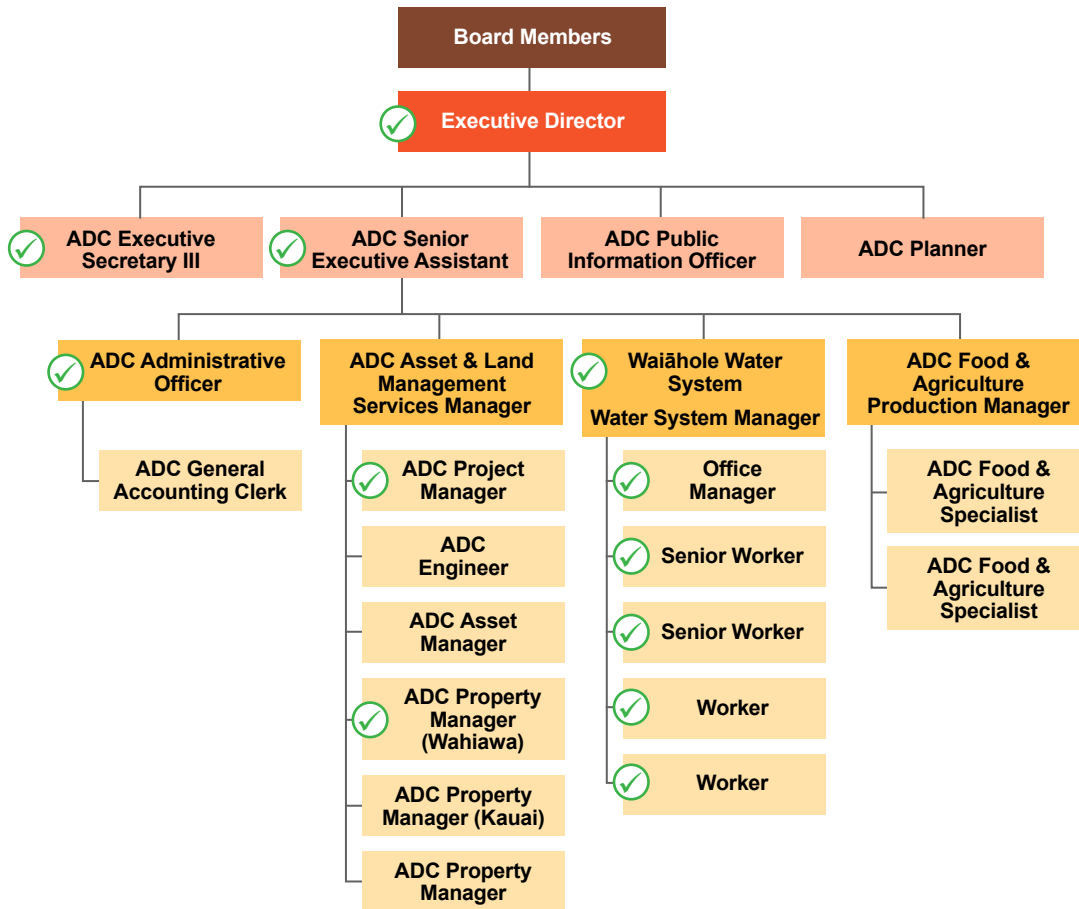
ADC's Organizational Structure

Attached to the Hawai'i Department of Agriculture for administrative purposes, ADC is headed by an 11-member Board of Directors (Board). The Chairperson of the Board of Agriculture, the Director of the Department of Business, Economic Development and Tourism, and the Chairperson of the Board of Land and Natural Resources, or their designated representatives, serve as ex-officio voting members. The other eight members are appointed by the Governor for staggered, four-year terms and selected based on their knowledge, experience, and proven expertise within the agricultural industry, agricultural economics, banking, real estate, finance, promotion, marketing, and management.

According to ADC's bylaws, the Board has established three standing committees for Administration, Technical Assistance, and Marketing/Communications. These committees are responsible for reviewing and making recommendations to the Board on matters related to personnel, finances, proposed projects, marketing-related projects, and any other matter referred by the Board Chairperson. Currently, there is no active Technical Assistance or Marketing/Communications committees according to the Board Chairperson, who expects to reactivate the Marketing/Communications Committee in the future.

The Board appoints an Executive Director to serve as ADC's chief executive officer. The Executive Director is responsible for the corporation's daily operations, including execution of the policies of the Board, the administration of the corporation's programs and projects, and supervision of the corporation's staff. The Executive Director is responsible for providing the Board with information and recommendations necessary to effect the purposes of the corporation and for proper administration of its affairs.

Exhibit 1 The Agribusiness Development Corporation Organizational Chart



✓ = Position filled

Source: Agribusiness Development Corporation

In addition to the Executive Director, at the time of our audit, ADC had 11 full-time staff. Six staff were dedicated to managing the Waiāhole Water System, while the remaining staff were responsible for all other corporation duties. From 2016 to 2018, the Legislature approved three additional positions, then added another nine positions in 2019 to be filled by 2020, including a public information officer, property manager, asset manager, and accounting clerk. The Executive Director originally requested only three new positions in 2019, believing they would be enough to carry out the work of ADC. In late 2019, ADC hired a property manager to fill one of the 12 positions; the remaining positions have not been filled.

From water system manager to land manager

In 1999, five years after it was established, ADC acquired the Waiāhole Water System, a 26-mile-long irrigation system that the O‘ahu Sugar Company had used to deliver water from Windward O‘ahu to 5,600 acres of sugar cane in Central O‘ahu. Two years later, when Kekaha Sugar Company on Kaua‘i shuttered, ADC became involved in the management of 12,500 acres of state agricultural land and related infrastructure, including the former Kekaha and Koke‘e plantation irrigation systems. After making a number of improvements and formally assuming management of the state land in 2003, ADC entered into an agreement with the Kekaha Agriculture Association, an agricultural cooperative, to operate and maintain common infrastructure. ADC also issued long-term land leases to several tenants.

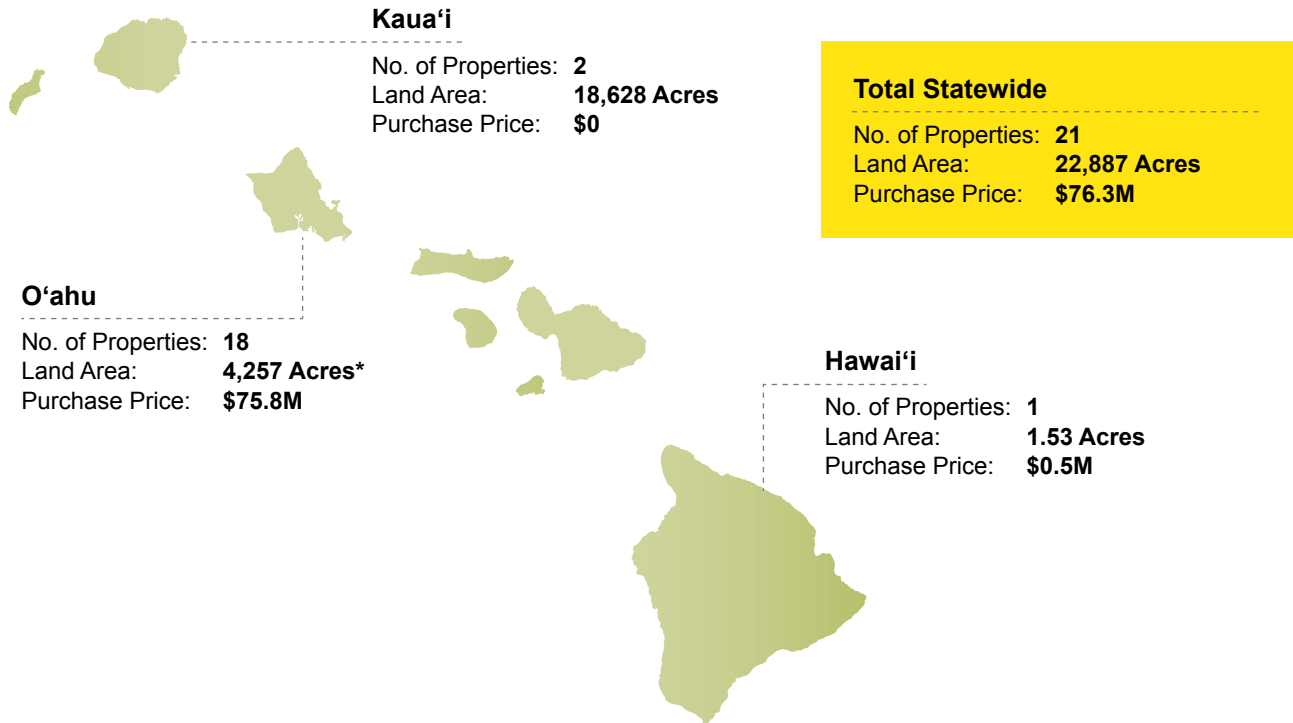
In 2012, nearly 20 years after it was created, ADC completed its first land acquisition – 1,227 acres of Galbraith Lands, stretching from Wahiawā to the boundary of Waialua. Over the next three years, the corporation purchased three properties – two in the Whitmore Village area and one in Wahiawā, a total of more than 280 acres for which it paid \$13.2 million. From 2016 to 2019, the corporation purchased another nine properties (five in 2017 alone), spending \$49.6 million for more than 2,000 acres, also in the area surrounding Whitmore Village and Wahiawā. All of these purchases were directed and funded by the Legislature.

It took ADC more than four years to sign its first license agreement for a portion of its Galbraith Lands. The corporation signed its second license agreement five months later for a parcel of about 36 acres. ADC signed up only one tenant in 2018 for a 62-acre parcel and four more tenants through December 2019 for a total of a little more than 353 acres. Overall, as of December 2019, ADC has licensed 534 of Galbraith Lands’ 1,227 acres. Eight years after acquiring the Galbraith Lands, more than half of those agricultural lands remain unlicensed.

Finding new tenants for its other former plantation lands purchased from 2013 to 2019 has been similarly difficult. Those properties collectively have a 75 percent vacancy rate, with seven of the 12 properties completely vacant. That leaves more than 1,700 acres of ADC’s Central O‘ahu land sitting idle.

The Agribusiness Development Corporation Lands

ADC's portfolio of properties includes nearly 23,000 acres of land and infrastructure. The lands around O'ahu's Waiāhole Water System and Kaua'i's Kekaha and Koke'e irrigation systems comprise the vast majority of the acreage. Except for a 1.5-acre parcel outside of Hilo on Hawai'i Island acquired in 2015, all of ADC's acquisitions since 2012 have centered around Central O'ahu, specifically Wahiawā. ADC has not acquired any property on Maui.



*ADC's land area on O'ahu includes 4,009 acres purchased by the corporation and 248 acres set aside to ADC through executive orders by the Governor.

Source: Office of the Auditor

More than 25 years ago, the Agribusiness Development Corporation was created to develop an “aggressive and dynamic” agribusiness development program to fill the economic void created by the closure of sugar and pineapple plantations; the agency has done little to fill the void

The Legislature recognized that the downsizing of sugar and pineapple production would idle “a valuable inventory of supporting infrastructure, including irrigation systems, roads, drainage systems, processing facilities, workshops, and warehouses.” Calling the closure of Hawai‘i’s sugar and pineapple plantations an “unprecedented opportunity for the conversion of agriculture into a dynamic growth industry,” the Legislature declared “[t]he challenge to government and business is to conserve and convert the arable lands and their associated production infrastructure in a timely manner into new productive uses that are based upon strategies developed from detailed marketing analysis and monitoring of local, national, and international opportunities.”

The Legislature saw a need to coordinate the transition of the former plantation lands, stating “[c]onstantly evolving economies require an aggressive and dynamic leadership for the promotion and development of agricultural enterprises,⁴ and centralized leadership to coordinate industry development, provide industry-wide services, provide marketing assistance, and facilitate investments and coventures in viable enterprises.” To provide that leadership, the Legislature created ADC, envisioning the corporation would facilitate the development of large-scale agricultural enterprises – private entities as well as ones in which ADC was involved – to export diversified agricultural products on the same scale that Hawai‘i once exported sugar and pineapple.

Instead of a catalyst to develop an “aggressive and dynamic” agribusiness program, we found an organization primarily managing 4,257 acres of land and the Waiāhole Water System on O‘ahu.⁵ After almost 30 years, we found that ADC has done little – if anything – to facilitate the development of agricultural enterprises. Moreover, we

⁴ As defined in Section 163D-2, “‘Enterprise’ means a business with its principal place of business in Hawai‘i, which is, or proposes to be, engaged in agricultural crop development, development of new value-added products, enhancement of existing agricultural commodities, and the application of existing agricultural appurtenant facilities to productive uses; provided that the majority of whatever the corporation produces shall be produced for *export*.” Emphasis added.

⁵ ADC also owns two water systems and associated lands on Kaua‘i, a total of 18,628 acres, which are operated and maintained by the Kekaha Agricultural Association, pursuant to an agreement.

found ADC has not developed an agribusiness plan – a plan required by statute – to define and establish the corporation’s goals, objectives, and priorities. We found that, notwithstanding the unique powers and exemptions conferred by the Legislature, ADC is using few of them – and none to develop agricultural enterprises to fill the economic void created by the plantation closures. Instead, we found an organization unaware of its statutory purpose, unable to locate documented policies, procedures, or controls – if they, in fact, exist – and operating with little direction from or involvement by its Board of Directors.

ADC continues to misunderstand its purpose

ADC’s purpose has remained constant through several amendments to its enabling statute. Nevertheless, ADC’s Board and administration do not seem to recognize the breadth of the corporation’s mandate. Acquiring land and other agricultural assets may be in keeping with ADC’s purpose, but acquisitions are not the sum of the corporation’s responsibilities. According to Chapter 163D, ADC is expected “to create a vehicle and process to make optimal use of agricultural assets for the economic, environmental, and social benefit of the people of Hawai‘i.” But instead of optimizing its assets to develop a diversified agriculture industry that bolsters the state economy, the corporation has been spending state funds to purchase agricultural land and associated infrastructure, maintain thousands of unoccupied acres of agricultural land, and secure vacant parcels that have harbored criminal activity.

Overall, we found that ADC has made little progress toward achieving its statutory purpose, in large part because its board members and Executive Director do not understand what that purpose is, a condition that has persisted since the corporation’s establishment. Failure to develop a thorough, documented agribusiness development strategy, which would ensure consistency through changes in board composition, has left current board members without a clear sense of the corporation’s purpose and direction. As it stands, new board members do not even receive orientation or training at the start of their terms. The Board Chairperson told us that she learned about ADC through her own research and by attending meetings.

Consequently, board members misconstrue ADC’s purpose and the corporation’s special powers to achieve it. For instance, instead of expediting the conversion of arable lands for commercial agricultural enterprises with economic value for Hawai‘i, the Board Chairperson told us ADC’s mission is to purchase agricultural lands as they become available to prevent them from being rezoned for other uses – even if there are no immediate or long-term plans for them. “We need to have those lands even if we don’t have enough farmers right now,” she explained. The Board Vice-Chairperson concurred, stating that this

practice of acquiring and holding vacant land, which he referred to as “land banking,” is the corporation’s “most important thing.” “Whether you use it now or 10 years after, ADC’s strategy is to perpetuate land in agriculture, and land bank if they cannot use the lands immediately,” he told us.

However, purchasing and holding lands with no development plans in the near or distant future is not a strategy consistent with ADC’s statutory mandate, which envisioned a corporation that would provide “aggressive and dynamic leadership” to assist agricultural enterprises in transforming the dual crop industry into other diverse agricultural enterprises. But even if ADC had the correct strategy in place, it does not have the staff to do the work of an industry leader. For example, previous to ADC, the Project Manager worked as a legislative aide at the State Capitol, and before that, as a manager at a local entertainment company. Most of his agricultural experience has occurred on the job, learning from ADC’s farmers, not the other way around.

“No one here has a deep agricultural background,” the Executive Director told us.

“Considerably more limited”

The Legislature recognized the importance of replacing the economic loss caused by the closure of the plantations and conferred broad, unique powers and exemptions on ADC – powers significantly different from those given to other state agencies – to give ADC the necessary tools and flexibility to facilitate the transformation of former plantation lands to other export crops and agricultural enterprises. As we have noted, those powers allow ADC to operate more like a business than a state agency (see “A Public Agency on Steroids” on page 12) and give the corporation the ability to, among other things, partner with private organizations, provide options to purchase its lands, directly invest in organizations that are developing new agricultural commodities for export, create subsidiaries, and even re-form itself into a non-profit organization. The Legislature also empowered ADC to assist Hawai‘i-based agricultural enterprises with marketing studies and developing marketing strategies, as well as to carry out programs designed to develop new markets for Hawai‘i agricultural crops.

In 1997, the Legislature asked the Legislative Reference Bureau (LRB) to study ADC’s operations and make recommendations to improve its effectiveness. According to the LRB report issued later that year, the Legislature was concerned about the “perceived failure of the corporation to live up to people’s expectations.” The LRB report also pointed out that, just three years after ADC’s creation, its board members “[a]re not in total agreement with one another as

“No one here has a deep agricultural background.”

– ADC Executive Director

A Public Agency on Steroids

ADC WAS CREATED as a “public body corporate and politic” and granted powers and exemptions unique in Hawai'i state government, resulting in what the Legislative Reference Bureau called a “public agency on steroids.” Collectively,

Among ADC's unique powers are the ability to sue and be sued; to acquire, sell and exchange real property interests, infrastructure, and water facilities; and to grant options to purchase. It also has the power to form subsidiaries – with all the powers of ADC – and organize co-operatives.

these powers and exemptions give the corporation the flexibility and ability to transform a declining dual-crop plantation-based agricultural industry into a diversified dynamic growth industry impacting the local, national, and international scene.

Other state entities that are public body corporate and politic organizations include

the Aloha Tower Development Corporation, which was created to redevelop Honolulu's waterfront; the Hawai'i Health Systems Corporation, which provides health care services to address the healthcare needs of Hawai'i; and the Hawai'i Technology Development Corporation, which focuses on developing the technology sector for Hawai'i. These public body corporate and politic organizations, including ADC, are conferred powers to operate more like businesses with a public purpose, and not just as agencies of the State.¹

Among ADC's unique powers are the ability to sue and be sued; to acquire, sell and exchange real property interests, infrastructure, and water facilities; and to grant options to purchase. It also has the power to form subsidiaries – with all the powers of ADC – and organize

co-operatives. ADC can issue and sell bonds for acquiring agricultural lands and for constructing, acquiring, remodeling, furnishing, and equipping any project facility.

In addition to these unique powers, ADC is exempt from public land trust regulations. This allows ADC to directly negotiate long-term leases with select agricultural enterprises and farmers, rather than conduct public auctions for property dispositions. ADC is also exempt from Public Utilities Commission regulations and civil service laws, and it may coordinate federal, state and private resources to maximize agribusiness opportunities.

However, when we asked the Board Chairperson why ADC was created as a public body corporate and not another state agency, she replied that being a corporation creates less paperwork for farmers and enables ADC's tenants “to move forward with whatever they want to grow.” When asked how this differs with how the Department of Agriculture operates with its tenant farmers, she replied that she wasn't aware of what the department does.

In addition, when we asked the Board Chairperson why the corporation had not entered into any public-private partnerships or co-ventures, she explained that ADC is short-staffed and would be able to do more if the corporation had more staff.

For his part, ADC's Executive Director believes ADC's unique powers are exaggerated, and its exemptions are burdensome: “... too many exemptions leaves a target on your back,” he said.

¹ In the case of *Maricopa County Municipal Water Conservation Dist. No. 1 v. La Prade, Atty. Gen.*, 40 P.2d 94, 45 Ariz. 61 (Ariz. 1935), the Arizona Supreme Court stated, “irrigation districts and similar public corporations, while in some senses subdivisions of the state, are in a very different class. Their function is purely business and economic, and not political and governmental... Probably the best definition we can give then is to say that they are corporations having a public purpose.”

to their understanding of the corporation’s mission” or “as to their understanding of the corporation’s objectives.” According to former ADC staff, the single, most important reason for the corporation’s lack of progress was “the lack of board consensus.”

In 2006, the Legislature asked LRB to review the corporation once again. In its second review, LRB found that the vast majority of ADC’s time, energy, and resources were being spent on managing the irrigation systems (and the adjoining farmlands). Since these functions were “considerably more limited” than what the Legislature had originally envisioned for the corporation, LRB asked the Legislature to consider refocusing the range and scope of ADC’s functions to a less expansive level, possibly to encompass just the projects and programs it was engaged in at the time. However, the Legislature neither altered its vision of ADC as an all-expansive entity to lead the State’s development of a new agricultural industry nor downsized the corporation’s expected functions. Now, over 12 years later, ADC has shifted its focus to managing lands it has acquired, much of which remain vacant, still not recognizing that its statutory purpose is to facilitate the development of a new agricultural industry.

ADC has yet to create a meaningful Hawai‘i agribusiness plan, which would help ensure that its work is achieving the corporation’s statutory purpose and mission

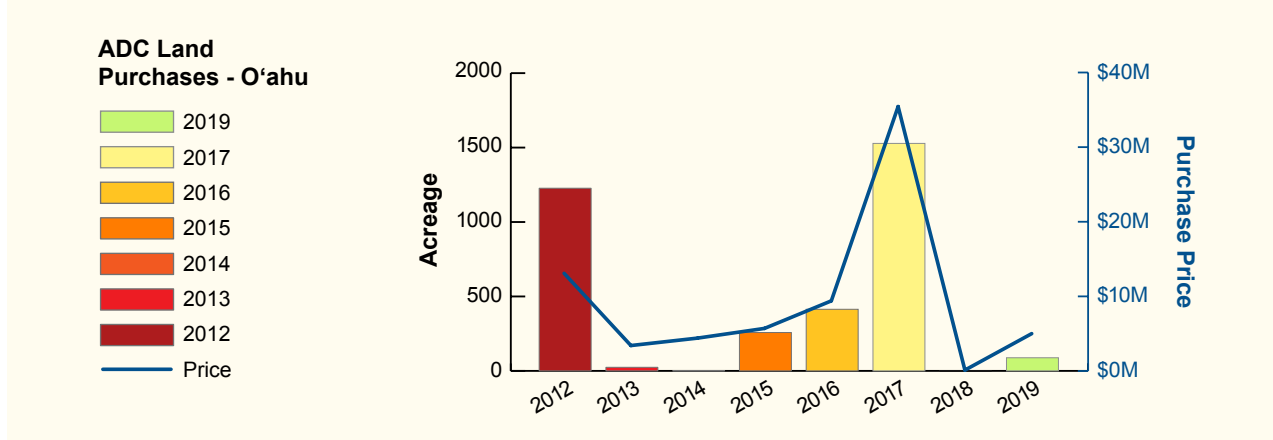
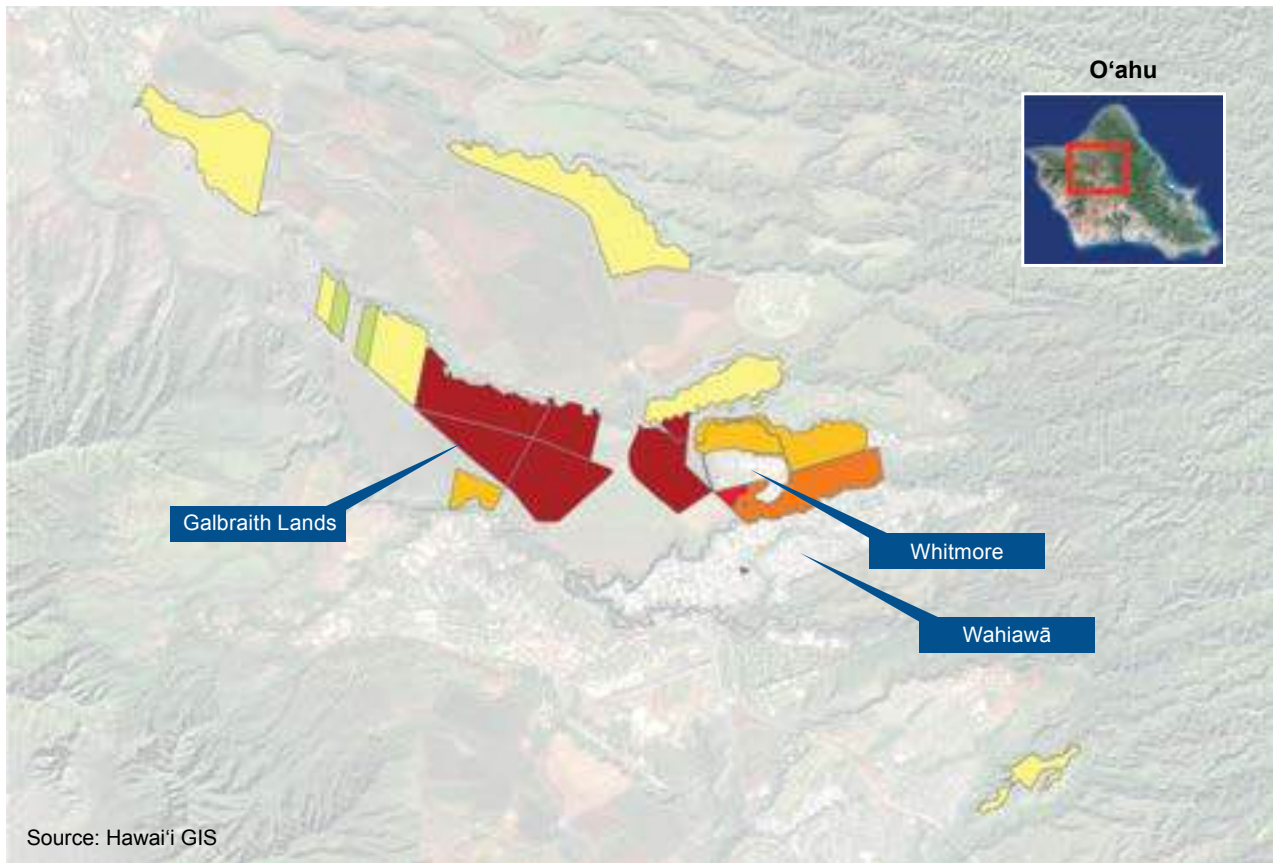
Beginning with its acquisition of the Galbraith Lands in 2012, ADC has spent more than \$76 million to purchase 3,542 acres of land statewide. With the exception of 1.5 acres outside of Hilo, all of the agency’s purchases have been properties adjoining or in close proximity to its Galbraith Lands. They have all been made without an agribusiness plan to guide the corporation’s acquisitions.

Required by statute, an agribusiness plan would establish goals, objectives, policies, and priorities for a development strategy to achieve the corporation’s statutory purpose and mission. Components of the plan, which ADC must incorporate into its annual reports to the Governor and Legislature, include inventories of land and infrastructure, analyses for increasing local production of agricultural products, marketing strategies, programs to facilitate the absorption of displaced agricultural workers, and strategies for federal and state legislative actions to promote the development of Hawai‘i agricultural industries.

Among other things, the establishment of a comprehensive plan would clarify for ADC its leadership role in the effort to revive and reimagine Hawai‘i’s agriculture industry. Instead, ADC appears to be content with being a water system manager and a landlord of a disparate and growing portfolio of former plantation lands in Wahiawā, one which

Central O’ahu: The Center of ADC’s Operations

For nearly a decade, ADC’s activities have largely centered on acquiring properties surrounding its Galbraith Lands. From 2013 to 2019, the corporation spent nearly \$63 million to acquire more than 2,300 acres of farmland in and around the Central O’ahu communities of Wahiawā and Whitmore Village. Collectively, these properties have a 75 percent vacancy rate, with seven of the 12 parcels completely vacant. That leaves more than 1,700 acres of ADC’s Central O’ahu land sitting idle.



it is struggling to manage. Its properties have been acquired through executive order by the Governor or legislative directive, lands inherited from another department or paid for with general fund moneys. Unaware or uninterested in using its other considerable powers, ADC is more of a government tool than an industry leader.

ADC does not conduct market research, a statutory requirement

According to Chapter 163D, the corporation is to “carry out marketing analysis to direct agricultural industry evolution as well as provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises.” ADC is also empowered to carry out specialized programs designed to develop new markets for Hawai‘i agricultural products.

However, in 2007, LRB found that ADC had not carried out or contracted for surveys or research for marketing agricultural products; analyzed imported agricultural products to determine whether local production could replace imports; or collected data on market demands and trends to be used to plan future harvests and production. Thirteen years later, we found that ADC still does not engage in these activities nor has it adopted a leadership role in shaping Hawai‘i’s diversified agriculture landscape.

For instance, according to the Executive Director, what crops ADC’s tenant farmers grow should be driven by the demands of the current market, not by the corporation. As far as providing farmers with information on what those products may be and where they could be sold, he said that he does not have the staff to do market studies and product analyses, which he believes is the Department of Agriculture’s responsibility anyway. He pointed out that the department has an entire staff dedicated to market research; however, he admitted that he has never tried to tap those resources.

We did not obtain information about the market research performed by the Department of Agriculture; however, we do know that ADC was to lead “an aggressive and dynamic agribusiness development program” by coordinating and administering programs to assist agricultural enterprises in transitioning the former plantation infrastructure into other agricultural uses. And, the Legislature unambiguously directed ADC “to carry on the marketing analysis to direct agricultural industry evolution.” The Legislature intended ADC – not the Department of Agriculture – to help new agricultural enterprises identify marketing strategies “to better exploit local, national, and international markets” and “to develop new markets for Hawai‘i agricultural products.” Instead, ADC takes a hands-off approach when it comes to providing

Sweet and Slow

The pineapple and sugar industries' decades-long exit from the islands and ADC's "response"



Five sugar plantations closed within three years of the ADC's establishment in 1994, including three on Hawai'i Island; however, ADC did not buy any of those Hawai'i Island agricultural lands or take any action to facilitate the conversion of those lands to grow other export crops.

● **1992**

Pineapple production ceases on Lāna'i (October).

Dole Food Co. shuts Iwilei Cannery (December).

● **1994**

Hilo Coast Processing Co. closes, which included Hilo Sugar Co., Onomea Sugar Co., Pepe'ekeo Sugar Co., Honomu Sugar Co., and Hakalau Sugar Plantation (September).

Hāmākua Sugar Co. closes, which included Laupāhoehoe Sugar Co., Kaiwiki Sugar Co., Kukaiaiu

Plantation Co., Hāmākua Mill Co., Pa'auhau Sugar Plantation Co., Honoka'a Sugar Co., and Pacific Sugar Mill Co. (October).

Act 264, Session Laws of Hawai'i, 1994, creates ADC to "facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, to carry on the marketing analysis to direct agricultural evolution, and to provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises."

● **1995**

O'ahu Sugar Co. closes (April).

● **1996**

Ka'u Sugar Co. closes (March).
Waialua Sugar Co. closes (October).

● **1999**

Last sugar harvested by Hawaiian Commercial & Sugar Co. in Lahaina, Maui.

● **2000**

Kekaha Sugar Co. ceases operation.



● **2003**

ADC formally assumes management responsibility of the former Kekaha Sugar Co. lands with the execution of Executive Order No. 4007.

● **2008**

Del Monte Co. harvests its last pineapple crop.

● **2009**

Maui Land and Pineapple Co. closes its pineapple operations.



● **2012**

ADC makes its first land acquisition with the \$13 million purchase of 1,227 acres of former pineapple plantation lands in Wahiawā owned by the George Galbraith Estate.

● **2016**

Hawaiian Commercial & Sugar Co. closes down on Maui.

● **2017**

ADC issues its first license for its Galbraith Lands, an 83-acre un-subdivided lot for a little over \$15,000 per year.

marketing assistance to not only large-scale agricultural enterprises but to its own tenant farmers.

“Our farmers are struggling with rudimentary farming protocols like good agricultural practices and good handling practices and are nowhere near meeting the requirement of the Food Safety Modernization Act. We suspect they market their produce solely in Chinatown and at farmers’ markets,” wrote the ADC Senior Executive Assistant in a March 2020 email.

ADC’s land management struggles – inconsistent, incomplete, and, in many cases, non-existent record keeping; prospective tenants occupying lands without signed written agreements; and persistent criminal activity on its properties – expose the State to unnecessary risk

Since 2012, ADC’s activities have largely centered on acquiring properties surrounding its Galbraith Lands, in particular more than 2,300 acres of former Castle & Cooke Hawai‘i and Dole Food Company pineapple plantation land in Central O‘ahu. We found ADC’s staff struggles to manage these lands, challenged by the myriad duties required for effective land management. For instance, when we requested documents we believed would be essential to the day-to-day operations of a corporation that manages land and properties – such things as land management policies, land acquisition guidelines, inventories of land holdings, and tenant listings – we were informed that the requested materials did not exist and would need to be assembled. In addition, we found that ADC’s recordkeeping is inconsistent, incomplete, and, in many cases, non-existent. This inability to collect and maintain adequate documentation of its business transactions, coupled with the absence of widely used land management practices and tools, makes us question whether “management” is the proper term to describe ADC’s administration of its lands.

The Senior Executive Assistant admitted that ADC is not good at land management. “Development is what we do. It’s not our role to oversee the day-to-day activities of farmers,” she said, adding that ADC is considering turning over its land management duties to the Department of Agriculture; however, we note that, since 2008, ADC has had the ability to contract for lease management services “to promote fiscal accountability with regard to agricultural land lease agreements between the State and lessees.” Instead, it has retained that responsibility, which has not promoted fiscal accountability.

ADC records in disarray

According to staff, ADC does not have a centralized filing system and many documents were kept in boxes under the recently retired secretary's desk. And, while some documents were housed in filing cabinets, they were not necessarily organized by tenant or subject matter; rather, they were randomly stacked on cabinet shelves "wherever there was an empty space." According to the Senior Executive Assistant, the recent retirement of ADC's secretary has left office files in "disarray."

When we requested tenant files for 7 of ADC's 83 tenants, which we randomly selected for review, staff informed us the corporation did not maintain tenant files. The staff offered to create the requested files for us and asked what should be included in them.

As a result, obtaining documents and other information from ADC was a constant struggle throughout our audit. When we requested written policies and procedures, inventories of land holdings, tenant listings, tenant files, or project status reports, we were repeatedly informed that staff would need to pull the information together from various sources. When we requested tenant files for 7 of ADC's 83 tenants, which we randomly selected for review, staff informed us the corporation did not maintain tenant files. The staff offered to create the requested files for us and asked what should be included in them.

We provided staff with a list of items commonly used in property management that we expected ADC would maintain, such as a copy of the tenant's initial application, the corporation's ranking and selection of the tenant, board approval to issue a tenant contract, the tenant contract, determination of annual rents, insurance certificates, site inspection reports, tenant ledgers, notices of default, general correspondence, and any other significant documentation relevant to the management of the specific lease, license, or permit. The following week, ADC created the requested seven files for us. Upon subsequent review, we found that none were complete.

We then felt it necessary to review all 83 tenant files; however, the staff could only assemble the files for 71 of the remaining 76 tenants, which were haphazardly thrown together and difficult to navigate. For instance, license agreements and their exhibits were disorganized and unstapled, making it difficult to discern the order of the pages and exhibits. And it was not uncommon for the files to be missing copies of the legal document creating the lease, license, revocable permit, or right of entry reportedly issued to the tenant.

We also found significant deficiencies: 16 tenant files were missing contracts, 21 did not contain the board approvals to issue tenant contracts, and more than half of the files contained no evidence the tenant had complied with insurance requirements. In one file, the tenant's certificate of insurance had been revoked due to non-payment of the premium; however, nothing in the file indicated what – if any – action ADC took to enforce tenant compliance with the contract's

insurance requirements. Creating files after-the-fact, as we requested them, was a time-intensive and tedious exercise that offered no assurance that ADC had complete and accurate records of tenant transactions in its possession.

In addition, certain submittals to the Board requiring its action, while represented by staff as having been “approved,” did not contain any notation to reflect the action taken by the Board; some minutes, which were missing the Board Secretary’s signature, were in fact silent as to whether a vote was indeed taken and, more importantly, the Board’s action. We note that the Sunshine Law, Part I of Chapter 92, specifically, Section 92-9, requires the Board to maintain minutes of its meetings that “shall give a true reflection of the matters discussed at the meeting and the view of the participants,” including, among other things, “[t]he substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken.”

We were told that ADC does not have documented policies and procedures, generally, and none specific to the process through which matters are brought before the Board, including how Board decisions are memorialized. The Executive Director believes that documented guidance would be “good to have” but he does not want to “get stuck with something in writing.” However, as a state entity, ADC is accountable for its use of public funds, and documented procedures are necessary to ensure that work is being performed as management intended. And, in this case it would help to ensure that ADC complies with its statutory responsibility to maintain complete and accurate minutes. Moreover, the absence of documentation may affect the efficiency of corporation operations, because personnel may need information that is not available in the files. Conducting government business without adequate documentation increases the possibility that, in time, all relevant facts may be unavailable or interpretations may be distorted. It also poses a risk that information that has not been documented will be lost to the corporation when staff members leave. In addition, poor documentation could render the corporation unresponsive, unable to account for its actions, or both, and increase the risk of fraud, waste, and abuse going undetected.

Doing Business by Handshake

Since 2013, an anchor tenant has cleared land and built roads for ADC, as well as constructed its own reservoir. That work, however, was not procured in accordance with the Hawai'i Public Procurement Code. Moreover, ADC did not agree upon a fee or document, monitor and track the services, labor, and materials for the work, and it has not received an invoice yet.

IN MAY 2016, ADC led a fieldtrip on its Galbraith Lands where its first tenant, Kelena Farms, Inc. (Kelena), had harvested its inaugural watermelon crop on converted pineapple lands in Kunia. At the following month's ADC Board meeting, the "Chair stated that it is very important to have these anchor tenants that do well to show incentive for the smaller farmers."

Kelena continues to be ADC's most productive and prominent tenant. In 2019, the Department of Agriculture heralded Kelena's bumper crop of cabbage in a website post "Whitmore Project Produces Record Harvest." The Governor elaborated in his own website post, pointing out that Kelena's owner was the first "to successfully grow watermelons and bell peppers on lands that had lain fallow when Del Monte stopped pineapple production. This year Kelena produced more than a million pounds of head cabbage, which is one-and-a-half times larger than the average yield in California, according to [the Department of Agriculture]."¹ According to Kelena's owner, the farm falls under the Sugarland Growers, Inc., which includes agricultural operations on O'ahu and Moloka'i.

Kelena's harvests demonstrate the potential for farmers to run profitable diversified agricultural enterprises on the Galbraith Lands. But, it is unclear whether Kelena's commercial success has translated into revenue for ADC or the State. During our site visit on October 11, 2019, we witnessed evidence of farming activities at the Kelena site, including soil preparation, water fixtures, wooden pallet storage, and stockpiling of road material. At the time of that site visit,

Kelena did not have a license, lease, or other documented agreement to occupy the land from ADC. A license was signed roughly two weeks later *with terms retroactive to 2016*, which means Kelena's activities exposed the State to unnecessary risk and liability for three years.

ADC did not have written agreements to document the services Kelena's owner provided ADC, including building reservoirs and paving roads for other Galbraith Lands parcels, or the monetary value of those services. Kelena's owner has not submitted an invoice as of February 2020. "The agreement was loose, no cash was exchanged," we were told. These informalities are especially concerning since ADC agreed to compensate Kelena's owner for the work through rent credits. "He was helping us out," the Executive Director stated, noting ADC "got a good deal on materials alone." But the Executive Director acknowledged that ADC has not documented, monitored, or tracked the services, labor, or materials Kelena provided, opting instead to take the owner's "word" on the services provided, the costs incurred, and the material used. These services were not procured in accordance with the Hawai'i Public Procurement Code. ADC, along with certain other state agencies, lost its exemption from the Hawai'i Public Procurement Code in 2004.

The Senior Executive Assistant acknowledged it "looks bad" that ADC did not have a written agreement with Kelena's owner and had not documented, tracked, or monitored the work. She stated any future agreements with Kelena will be documented.

¹ "Growing Ag: Farming for the Future in Central O'ahu," September 12, 2019, <https://governor.hawaii.gov/featured/growing-ag-farming-for-the-future-in-central-oahu/>

ADC does not keep an inventory of its land portfolio nor a complete list of its projects, which hampers its ability to effectively manage its diverse holdings

The Executive Director could not estimate the number of “leases”⁶ issued and managed by ADC. He said that he would like an inventory of lands managed by ADC so that he would know how many leases ADC manages, the lease terms, and the lease expiration dates. He said that, currently, he becomes aware of an expired lease condition about six months or more *after the fact*.

We asked ADC for a list of the corporation’s acquisitions and dispositions of its agricultural lands, an inventory of those lands, and a list and status of its projects. Since the information is not held in a centralized location, ADC could only compile various documents that included a list of 85 “projects.” Those projects represent an eclectic collection of items, which range from large-scale land acquisitions to everyday tasks such as lawn mowing. Identified as a “project matrix,” the listing includes two columns, “Description,” which identifies the various projects, both large and small, and “Status,” which includes brief descriptions of either the project or work that is in-progress or completed; we note that several have already lapsed. With few details, the project matrix resembles a to-do list rather than a functional and useful project management tool. Nevertheless, the Executive Director considers the project matrix to be ADC’s “bible,” even though staff track the status of projects individually and ADC has no system to collect this information from various staff and update the document.

We note that, because ADC does not have an inventory of its land holdings, we were unable to assess the corporation’s overall management of the land and infrastructure it oversees. In the absence of this and other important management tools as well as written policies and procedures, we question whether “management” is the proper term to describe ADC’s administration of its lands.

⁶ For the lands it has acquired since 2012, ADC has issued only licenses, not leases. For more information on this issue see “Ownership Interest or Right to Use” on page 22.

Ownership Interest or Right to Use

By issuing licenses instead of leases, ADC restricts prospective tenants' ability to obtain financing.

CHAPTER 163D requires ADC “to provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises,” among other responsibilities. However, ADC’s practice of issuing short-term licenses rather than long-term leases may hinder its tenants’ efforts to obtain financing for their farming operations. The corporation’s preference for licenses was a factor in a 2019 lawsuit filed against ADC by one of the first applicants for a Galbraith Lands lease.

A lease is a contract in which the rights to use and occupy land are transferred by the lessor to a lessee for a specified period of time in return for a specified rent. A license is a personal, unassignable, and typically revocable privilege or permit from the licensor to a licensee to perform an activity on the land without obtaining an interest in the property. The license merely conveys the right to use the property. A lease creates an ownership interest (i.e., a leasehold interest) in the property, and for the duration of the lease term, the ownership rights in the property may be assignable to another. A license is not considered an interest in real property and the licensee’s right to use the property may not be assignable.

A lessee’s leasehold interest can serve as a valuable piece of collateral that allows a lessee to, among other things, mortgage that leasehold interest to obtain a loan or other financing. To be qualified for financing, generally, the length of the lease term must extend well-beyond the maturity date of the loan to ensure that there is enough time for the tenant to amortize the loan or for the lender to sell the ground lease in the case of a foreclosure.

Notwithstanding ADC’s ability to issue leases, the Executive Director maintains that the corporation does not do so because its properties are not subdivided. According to the Executive Director, ADC does not subdivide its properties because “it is costly” and “if you want a subdivision ... that is on your dime.” He said that, in lieu of a lease, ADC issues 35-year licenses “just because of subdivision.” ADC’s former Executive Director said he was not aware of farmers’ concerns regarding

their ability to secure loans for lands that were not subdivided, but he felt that ADC could offer long-term leases that farmers could use as collateral to borrow money to support their operations. Under the current Executive Director, at least one farming operation – ‘Ohana Best Farms (‘Ohana) – has expressed interest in a lease over a license for financing purposes (see “A Best (and Worst) Case Scenario” on page 24).

ADC included correspondence from the attorney representing ‘Ohana among the documents provided for this audit. In a 2018 letter to ADC, ‘Ohana’s attorney alleged, among other things, that ADC’s refusal to issue a lease impacts his client’s ability to obtain financing. According to the attorney, the State can apply the same contract terms and regulations to either a license or a lease without legal consequence. He contends, however, that “[f]or years, [ADC] simply interchanged the words lease and license relating to [‘Ohana] land” despite a critical difference between the two types of contracts for ADC’s tenants. He explained, “A long-term lease is the only way [‘Ohana] can attempt to secure financing for a possible well and other funds needed for [‘Ohana’s] farming operations. The ability to [obtain] monies towards developing [‘Ohana’s] agribusiness project is vital. One would think that [ADC] would be knowledgeable about the difference between a leasehold interest and a licensing agreement.”

However, the attorney’s letter to ADC alleged, “As of today, per [ADC] there will never be a lease executed by the State to farm [‘Ohana] land. How ADC can justify such a position, which severely constrains any new potential farmer from making long-term investments for capital improvements critical for new farmers to operate their farms in a productive and efficient manner [sic]. This ADC policy is contrary to State policy especially since ADC is hard [pressed] to identify what additional risk it assumes when granting a farmer a lease instead of a license. Had [ADC] steadfastly told [‘Ohana] that the State would never agree to lease any Galbraith land to [‘Ohana], [the owner] would have walked away without expending over one million dollars in time, infrastructure, and equipment.”

License terms and conditions are inconsistent with board approvals

During our review of ADC's licenses, we found contracts the Executive Director entered into with tenants for the use of ADC lands were inconsistent with what the Board had approved:

- In 2013, the Board approved a five-year right of entry and license at an annual base rent of \$200 per acre plus royalty fees. The executed contract excludes an annual base rent provision and a contract termination date.
- In 2014, the Board approved a 35-year license for a lot at an annual rent of \$100 per acre for the first three years. The executed contract is for a different lot at an annual rent of \$200 per acre.

If the ADC Board discussed and approved amendments to the two licenses cited above, records of those decisions were not included in the tenant files. Because of the poor condition of ADC's records, we could not determine if these discrepancies were the result of clerical errors or if documents accounting for the differences were misfiled or never created in the first place. Either way, we note the absence of anything resembling adequate recordkeeping.

We also found that prospective tenants are occupying and farming lands without signed written agreements, exposing the State to unnecessary risk, liability, and loss of revenue. For instance, since 2014, 'Ohana Best Farms has had access to 160 acres of state lands without a license agreement, which, among other conditions, would relieve ADC of the responsibility to secure the property and indemnify the State against claims of liability.

Vacant properties home to criminal activity

In December 2016, three months before the corporation would issue its first license, ADC launched a year-long buying spree that increased its land holdings by more than 1,500 acres. ADC's unoccupied lands included a 226-acre parcel near Whitmore Village and Poamoho that was part of the 2012 Galbraith Lands purchase. Although criminal activity was already present on the parcel when ADC acquired it, ADC did not take measures to secure the area until February 2020 – after media reports about a “massive chop shop” and a fatal shooting on the property. An individual who recovered his stolen vehicle from the area described what he saw to KHON News in December 2019: “They have tents, they have workstations, there's generators, they operate at night. It's a 24-hour run chop shop.” A month later, in January 2020, a

A Best (and Worst) Case Scenario

By allowing unauthorized use of state lands, ADC exposes the surrounding community and the State to unnecessary risk.

SINCE ITS GALBRAITH LANDS PURCHASE, ADC has been plagued by unauthorized use of its lands, from trespassing and other criminal activity on vacant lands to approved applicants deviating from Board-approved terms and conditions. A 226-acre parcel near Whitmore Village and Poamoho (Parcel 5) has been particularly troublesome. Disputes with a farming operation that has occupied a 160-acre portion of Parcel 5 since 2014 escalated to legal action against ADC in 2019. The remaining 66 acres of the parcel have long been vacant and in February 2020 ADC characterized the section as a “hotbed of criminal activity.”

Files ADC provided us included a letter to the agency from the attorney representing ‘Ohana Best Farms (‘Ohana) who said his client applied for a lease on ADC’s Galbraith Lands in September 2012, citing more than 25 years of experience, strong financial capitalization, and an extensive inventory of farm equipment. When the application reached the ADC Board two years later, ‘Ohana was approved for a 35-year license rather than the requested lease. The approved license, which had a provision to give ‘Ohana rent credits in exchange for preparing the raw land on its own, was never issued. Nevertheless, in June 2014, ‘Ohana moved forward with planning and constructing infrastructure improvements in anticipation of a license.

ADC’s Executive Director said ‘Ohana did not consult the corporation about the improvements. Yet correspondence from 2014 suggest that he was aware of ‘Ohana’s initial efforts to bring water and electricity to its property. In fact, he urged city and state agencies to facilitate the necessary approvals. “ADC has no objections to ‘Ohana Best Farms’ efforts in trying to bring water in from a closer source,” he wrote to the Department of Transportation’s Right-of-Way Branch.

But ADC’s approval of ‘Ohana’s land preparation was not unconditional, and with land license terms unresolved, the two parties disagreed on what could be done on the property. ‘Ohana requested approval for several improvements, including a 3-million gallon reservoir, a well, photovoltaic array systems, and base yard improvements. ‘Ohana

also asked that ADC issue its Board-approved license for the 160-acre site and approve a long-term commercial lease for additional lands that would allow the farming operation to construct a new product distribution and processing facility.

The Executive Director’s concerns, documented in an ADC board submittal, stated ‘Ohana had only been authorized to construct a base yard. “Specifically, the ADC has concerns that the Licensee’s proposed development on the [Galbraith Lands] goes against what the lands were intended for, which is agricultural production,” he wrote. ‘Ohana countered that those activities were noted in its soil conservation plan filed with the West O’ahu Soil and Water Conservation District in February 2014.

We note that, while the Executive Director refers to ‘Ohana as a “licensee,” ADC never issued the approved license or any other documented agreement that would have granted ‘Ohana access to the land and indemnified the State against damages, such as when ADC received a Hazardous Waste and Used Oil Complaint from the Hawai’i State Department of Health. The department had received photos showing that “several totes of used oil and other potentially unknown petroleum products were dumped/abandoned on a vacant agricultural property” owned by ADC, which could result in penalties up to \$25,000 a day for each violation. ADC informed ‘Ohana in writing that the farm was responsible for corrective action, but it is unclear how ADC could enforce that order without a signed license with ‘Ohana.

‘Ohana had concerns of its own related to criminal trespassing and theft. The farm reported a dump truck and 13 large rolls of shade cloth had been removed from its property and a trespasser had moved a backhoe to an unauthorized location on ‘Ohana’s parcel. The trespasser and his brother were “squatters,” hidden from street view by a screened gate, roadside fronting barriers, and tall grass, ‘Ohana’s attorney alleged, adding that the brothers had removed a dirt berm for covert access from the farm’s interior roads to Kamehameha Highway.

woman was fatally shot on the parcel. The recently appointed Board of Agriculture Chairperson said a state representative told her that was the third fatal shooting in the area.

On February 27, 2020, law enforcement “swept” the parcel, arresting three men and issuing nearly a dozen trespass warnings. ADC’s Project Manager told KHON News about “multiple criminal activities” on that 230-acre parcel, “anywhere from stolen vehicles and illegal dumping. This looks like a chop shop. I mean I don’t know exactly what was going on because it was too dangerous for staff to come in here alone.” In the same news report, the Project Manager said that local law enforcement would police the area around the clock and that securing the area for six months will cost \$600,000, potentially delaying irrigation and farm development projects. Despite that assertion, three days later, Honolulu police and firefighters were called to the area that had just been swept because several abandoned cars were allegedly set on fire, according to the *Honolulu Star-Advertiser*.

Criminal activity is one of the consequences of ADC’s struggle to develop and manage its land, and it highlights the corporation’s shortcomings when it comes to property management. The Executive Director, who considers ADC’s proper role to be a developer and not a landlord, would like to turn property management duties over to the Department of Agriculture. The Project Manager handles site inspections on O‘ahu, which he admits he conducts as much as he can, but probably not as much as he should. Although he takes photographs of the properties, the Project Manager has no criteria or standardized form to conduct or document site inspections.⁷

ADC’s statutory mandate includes owning, holding, improving, and rehabilitating property, granting options to purchase, and leasing, all activities requiring oversight. And, like it or not, ADC is directly responsible for the conservation as well as the conversion of arable lands to new, productive uses and, as a landlord, cannot be absentee. Yet, ADC was never intended to manage a portfolio of vacant lands; its purpose is to develop a new agricultural export industry. While the corporation has the power to acquire lands, its mandate is to get them back into production in a timely manner – either by developing the lands or by leasing or selling lands to agricultural enterprises to achieve that purpose. Those large-scale farming operations presumably would be responsible for securing the property and have insurance coverage to protect the State from liability arising on the property. But ADC has been unwilling to subdivide or enter into agreements necessary

⁷ According to the Project Manager, ADC procures the services of a former land agent on Kaua‘i to conduct site inspections for ADC’s Kaua‘i properties. These site inspection reports, prepared by the former land agent, consist of narrative descriptions and photographs of the property.

for tenant financing, making it difficult to attract large enterprises and forcing the corporation to manage vacant lands on its own, a function it is ill-equipped to perform. Management struggles, such as poor recordkeeping and recurring criminal incidents on state-owned land, belie an agency inefficiently and inadequately managing state lands and exposing the State to unnecessary risk and liability. As a land manager, ADC is not making optimal use of its valuable agricultural assets.

ADC's Board of Directors provides minimal guidance and oversight to the corporation

ADC's powers are vested in its 11-member Board, 8 of whom are appointed by the Governor based on their knowledge, experience, and proven expertise in small and large businesses within the agricultural industry, agricultural economics, banking, real estate, finance, promotion, marketing, and management. According to ADC's enabling statute, the Board exercises its authority over the corporation through the appointment of an Executive Director, who the Board holds accountable for day-to-day operations and developing and administering corporation activities, including the execution of board policies. According to best practices, this board-executive system splits corporation governance by providing the Board with policy-making and oversight roles while leaving day-to-day operations and administrative duties to the Executive Director.

We found that such a board-executive system does not exist at ADC, where "big-picture" priorities are not defined, determined, or even addressed by the Board. According to the Vice-Chairperson, the Board does not necessarily sit down and talk about long-term planning, although he thinks they should. Rather than taking an active role in charting the corporation's direction, the Chairperson and Vice-Chairperson believe that the Board's responsibility is to address whatever business is brought before it by the Executive Director. We note that the Executive Director must furnish the Board with information and make recommendations necessary to effect the purposes of the corporation and for the proper administration of its affairs; however, without an actively engaged Board, the issues that are addressed and how they are addressed by the Board are left to the discretion of the Executive Director. That business largely entails review, approval or disapproval of tenant licenses and revocable permits.

According to the Vice-Chairperson, the Board should not micromanage the corporation's daily activities, therefore, ADC staff should set the corporation's priorities; however, for larger issues, such as acquisitions, leasing, and marketing, the Board should be involved in those initiatives. "The Board is ultimately responsible for the direction of the

agency and should be approving those priorities. That is not being done currently,” he said.

Board of Agriculture and ADC Board are unclear on policies behind their delegations of authority

ADC is statutorily required to obtain Board of Agriculture (BOA) approval prior to the implementation of all agricultural projects, agricultural development plans, and project facility programs.⁸

However, we found that there is general confusion among the Executive Director and his staff, the ADC Board, and BOA of not only the nature but also the existence of this requirement. For instance, the Executive Director initially told us that BOA approval is required for all projects. He later qualified his statement, saying BOA approval is required for larger projects, but not smaller projects located within larger ones. The ADC Board Chairperson told us that she was neither aware of this requirement for BOA approval of ADC projects, plans and programs, nor any ADC policy involving the corporation’s involvement with BOA. BOA also appears to be unaware of this requirement.

As stated above, the statute is clear: ADC must obtain BOA approval for *all* agricultural projects, agricultural development plans, and project facility programs. However, the Executive Director claimed that going to BOA is a poor use of time and a duplication of effort. He says that his predecessor had an agreement with the then-BOA Chairperson on what would be taken to BOA for its approval, but he was not certain if this understanding was ever documented. The current Executive Director has not drafted policies and procedures regarding BOA approvals and told us that while he is able to, he was not sure how they would be received. He said ADC has requested BOA approval only three times.

According to the Senior Executive Assistant, BOA delegated the authority to approve ADC projects to the BOA Chairperson in February 2008 – almost 13 years ago. She told us that she was unaware of any documentation of BOA’s delegation, but subsequently discovered minutes from the February 2008 BOA meeting, which note that the basis for the delegation was that the BOA Chairperson is an ex-officio member of ADC’s Board who works closely with the ADC Executive Director. However, since 2008 the composition of BOA has changed and it is unclear whether current BOA members have delegated the authority to approve ADC projects to the BOA Chairperson. The current BOA Chairperson told us that she was aware of a delegation of authority to her

⁸ As defined in Section 163D-2, “‘Project’ means a specific undertaking, improvement, or system consisting of work or improvement, including personal property or any interest therein, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the corporation.”

predecessor but had yet to read the document. She also indicated that, as an ex-officio member of the ADC Board, she will sometimes skip ADC Board meetings if she knows quorum will still be met, leaving ADC's Board to operate without BOA oversight. When asked for her current position on ADC's obligation to obtain BOA approval for its projects, she said that it would be premature to make decisions and instead will wait to see the outcome of this audit's findings and recommendations before reviewing the matter with legal counsel.

Whether the multiple BOA Chairpersons from 2008 to present were aware of and exercised their delegated authority to approve ADC projects, ADC did not provide us with any documentation of BOA's approval of any ADC project, including approval by the BOA Chairperson under the authority delegated by BOA. Without such documentation, we have no basis to determine whether ADC is complying with its statutory requirement that BOA approve ADC projects. While ADC Board minutes may reflect a BOA Chairperson's participation in and approval of ADC projects *as an ex-officio member of the ADC Board*, we do not believe that constitutes action on behalf of BOA. Those actions by the Chairperson are as a member of the ADC Board, not BOA.

The ADC Board has also delegated some of its responsibilities to its Executive Director. For example, while the Board approves licenses, it gives the Executive Director the power to approve rights of entry "necessary to implement ordinary operations." The Executive Director told us that rights of entry are generally issued to grant short-term access for activities such as clearing land for future tenants. However, in some instances, we found that he has used rights of entry to give farmers access to grow crops (and profit) from ADC lands. He did so without seeking board approval or collecting a fee for the privilege of using the land or securing other protections to the State that are included in the licenses issued by ADC.

The Senior Executive Assistant's understanding is that the Board delegated perfunctory approvals to the Executive Director, but "extraordinary" issues still need board approval. According to the Executive Director, determining which issues are extraordinary is a judgment call. We note that, in practice, it is his judgment and his call. By limiting itself to addressing only the issues that the Executive Director and his staff choose to bring before it, the Board is tacitly surrendering its oversight duties, allowing the Executive Director to operate with little or no accountability.

Board members are doing staff-level work

Further blurring the line between corporation governance and day-to-day operations is the fact that some board members also perform staff-level work themselves. In December 2017, in an effort to improve ADC's placement of tenant farmers, the Chairperson appointed board members to serve on the Board's Land Committee. According to the Senior Executive Assistant, the committee sets minimum qualifications for farmers to use state lands and works with the Project Manager to determine the types of tenants ADC wants for specific geographic areas. The committee also decides how a particular area of land is going to be leased or licensed. The Executive Director added that the committee reviews and visits farms to "actually see if the farmers know what they are doing." All these duties are operational in nature and should be performed by staff. As discussed earlier, the Board is responsible for establishing policies, setting strategic priorities, and providing oversight to ensure the corporation is making progress toward achieving its purpose. Instead of engaging in daily operations, the Board should carry out its own duties and hold the Executive Director accountable for staff-level activities.

ADC Board's participation in land acquisitions is "more of a formality"

According to the Executive Director, the Board rarely "chimes in" during the land acquisition process, and board approval to proceed with the purchase is "more of a formality." Our review of board meeting minutes confirmed this lack of engagement. Land acquisition requests receive little inquiry and discussion and are not subject to debate. For example, while discussing a potential acquisition during a June 2016 ADC Board meeting, a board member asked ADC staff why the property they wanted to purchase was considered desirable. It had been previously disclosed that the property had no access to water. The staff member explained that the "Legislature gave funds to purchase parcels." The explanation appears to have sufficed since there is no other mention of the issue in the minutes and the request was approved. In 2017, ADC purchased the 91-acre parcel, without water, from Castle & Cooke for \$2.3 million. According to ADC, this parcel was still vacant as of January 21, 2020.

To date, the Board has approved every land acquisition request brought before it.

According to the Chairperson, ADC's strategy and purpose is to "maintain and keep all of our State's ag lands in agriculture and get farmers on the land so it doesn't lay fallow." However, this singular and limited purpose combined with the lack of a long-range vision and

an agribusiness plan has allowed acquisitions to be driven by legislative directives and corresponding appropriations, not ADC strategy. As a result, the corporation has acquired land far faster than it can find tenants. As of January 21, 2020, almost 74 percent of ADC's O'ahu lands were vacant and its statewide vacancy rate was over 51 percent.

ADC Board's lack of oversight allows the Executive Director to operate with little to no accountability

As previously noted, ADC lacks a board-executive system, which splits corporation governance with the Board providing policy-making and oversight while leaving day-to-day operations and administrative duties to the Executive Director. Although board members we interviewed understand that it is their duty to hold the Executive Director accountable for his actions, the Board has not established any goals or performance measures for the Executive Director to fulfill. In addition, the Board does not have any reporting requirements for the Executive Director and his staff. While the Executive Director provides a status update on the corporation's various projects during board meetings, what projects and what he reports about them are at his discretion. The Executive Director has submitted just three annual reports (2012, 2018, and 2019) to the Governor and Legislature since 2012. He admitted that it is "on him" that the annual reports were not consistently prepared; however, he feels that the annual report "is a waste of time." "Who reads these reports? I would rather spend the time working on projects instead of the annual report," he said. We note that Section 163D-19, requires ADC to submit a report to the Legislature no later than 20 days prior to each legislative session.

According to ADC Board meeting minutes, the Board evaluated the Executive Director's performance in executive session in October 2017, extending his employment and possibly giving him a raise. As previously noted, the Board has not established goals or performance measures for the Executive Director to fulfill, so it is unclear what the evaluation was based on. As for his own staff, the Executive Director does not conduct performance evaluations because he says that the office is too small. Instead, his only requirement is "do what I tell you to do" and "get the job done." ADC's Project Manager confirmed that he is in charge of projects and does all the work from start to finish, from acquiring funds to construction, once the Executive Director has told him what to develop. He told us that he focuses on the priorities set by the Executive Director, following his routine and deadlines.

No One Formula?

ADC's process for acquiring land is unclear; however, what is clear is that every acquisition since 2012 has been directed by the Legislature, not the corporation's Board.

WHEN WE INQUIRED about ADC's acquisition process, staff responded that ADC does not have a documented process, but offered to write down the 10-step process that the corporation follows. Unable to assess ADC's adherence to the newly documented policies and procedures, we instead attempted to chronicle and describe them.

ADC compiled a list of priority properties for possible purchase. It was not used.

Based on our review of the 10 steps that ADC was eventually able to document, we identified four general categories: Land Selection and Secure Funding, Secure Board Approval, Due Diligence and Negotiations, and Closing. According to the Executive Director, the Legislature takes the first step in the process by appropriating funds for specific parcels ("Usually the Legislature identifies the land and then we buy.") But he added: "Sometimes Castle [& Cooke Hawai'i] and Dole want to sell land and will present a portfolio." However, in our review of the available documents, it is unclear how the land acquisition process is initiated or how the Legislature determines and assesses what properties to purchase.

In our effort to collect information on ADC's acquisition process, we found that in 2016 ADC submitted *Report to the Twenty-Eighth Legislature: Assessment of Lands Owned by Dole Food Company, Inc.* The report was the result of a legislative request to appraise and investigate the possibility of acquiring the agricultural lands owned by Dole Food Company (Dole). ADC had been instructed to establish an internal investigative team to conduct an analysis of the lands in Dole's portfolio that were suitable for long-term diversified agricultural production for the State.

ADC ranked the individual and bulk parcels according to a criteria of farmable lands,

water accessibility, and proximity to its Galbraith Lands. The properties were assigned three different designations – "Highest," "High," and "Priority," but the report did not include any information on how these designations were determined or how they would be applied to impending purchases. Although ADC's report to the Legislature generally states criteria that parcels have access to an underground well and/or irrigation system and may include agricultural improvements to be deemed high priority, it does not discuss specific criteria to differentiate between the three priority categories.

As with other aspects of its land acquisition process, ADC staff did not have any information on the priority list, the membership of the internal investigative team that compiled the list, or the criteria that it used to prioritize the properties. But what is clear is that decisionmakers did not follow the priority properties list. Since the publication of the report, ADC has purchased numerous Dole properties in Central O'ahu, spending nearly \$50 million for approximately 2,000 acres of farmland. When we compared these purchases to the 2016 report's rankings, we found that three properties had been ranked as "Highest Priority" and one was ranked a "High Priority." None of the purchases were considered a "Priority" and five did not receive any priority designation at all.

According to the Executive Director, there is no "one formula" for how ADC acquires former plantation lands; however, we found that every one of its land acquisitions since 2012 was directed by the Legislature and not the Board. While it is not unusual in state government for legislative appropriation to initiate action by the corporation, the lack of Board participation in the process is noteworthy.

Board is aware that ADC is not fulfilling its statutory requirements, but it does not hold its Executive Director accountable for these shortcomings

The Chairperson was aware that ADC has not recently submitted an annual report to the Legislature and the Governor, and she intended to speak with the Executive Director about the shortcoming. She acknowledged that it was her responsibility to enforce this statutory requirement.

In addition, as previously noted, the Executive Director has neglected to prepare an agribusiness plan, also a statutory requirement. While he told us that he was concerned that ADC was not achieving its mandate, and that an agribusiness plan would be helpful, he stated that given the choice between working on projects or sitting down and writing a plan, he chooses projects. “I have everything up here,” pointing to his head. “I don’t write anything down.” He did say that he had a couple of staff members working on a draft for his review.

The Board Chairperson explained in a subsequent interview that the Executive Director had recently submitted a draft agribusiness plan, which the Board would discuss at its next meeting. She did not fault the Executive Director or his staff for not preparing one earlier because she realizes that it is a big job, it is not a priority, and the corporation is short staffed. She said that it is “probably” the Board’s responsibility to ensure that the Executive Director prepares the plan.

When we asked the Vice-Chairperson about the Hawai‘i agribusiness plan, he told us he had been under the impression that the plan had not only been completed but had also been updated. According to the Vice-Chairperson, the Board is responsible for holding the Executive Director accountable for ADC’s compliance with statutes, but because the Board is only aware of the matters that the Executive Director or the Deputy Attorney General chooses to bring before them, the Board is not doing that job.

“A lot of times you’re not going to know unless it’s brought up to you,” he said.

Foundational documents, such as a Hawai‘i agribusiness plan and other written plans, would have included ADC’s goals and objectives and helped guide the corporation in carrying out its statutory purpose and mission. LRB pointed out in its 1997 report that the absence of the agribusiness plan hindered the Board’s ability to evaluate ADC’s efforts. The lack of documented plans – either long-term or short-term – as well as policy documents also ensured little or no project and program continuity. Had ADC begun preparing the agribusiness plan

soon after it was established in 1994, perhaps the corporation could have anticipated which plantation lands and supporting infrastructure would become available for diversified agriculture and had a strategy in place to transform the State’s agricultural industry as plantation after plantation harvested its final crop.

Regardless of how ADC’s Chairperson and Vice-Chairperson came to the belief that the Board’s primary responsibility is to address whatever business is brought before it by the Executive Director, this misunderstanding illustrates a fundamental weakness in the corporation’s governance. The Board is responsible for ADC’s performance; the Board is responsible for establishing policies and setting strategic priorities to achieve the corporation’s statutory purpose, and therefore, the failings of ADC as an agency to actively pursue a mission of conversion and dynamic growth, as well as its stewardship of land already owned, is borne by the Board, which, in our opinion, has been hampered by management.

Conclusion

ADC was created in 1994 to “facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises.” It was intended to provide the leadership and market analysis necessary for what the Legislature expected would be an agricultural evolution that would follow the demise of the Islands’ pineapple and sugar industries. The Legislature granted ADC extraordinary powers that afford the corporation unrivaled flexibility to bring former plantation infrastructure back into production “in a timely manner.” However, more than 25 years after its creation, we found a corporation that is generally unaware of its unique powers and exemptions and has done little – if anything – toward achieving its statutory purpose.

For its first two decades of existence, ADC was content with being a manager of water systems on O’ahu and Kaua‘i. Then, in 2012, ADC completed its first land acquisition – 1,227 acres of Galbraith Lands. Subsequently, it has gone on a buying spree of sorts, spending more than \$60 million for about 2,300 additional acres, nearly all of it in the areas in and around Wahiawā and Whitmore Village. According to ADC’s Board Chairperson, this pivot to becoming a major Central O’ahu landowner fulfills the corporation’s mission, which she defines as purchasing agricultural lands as they become available to prevent them from being rezoned for other uses – even if there are no immediate or long-term plans for them.

The Executive Director for his part believes that ADC's proper role is that of a developer – not a landlord – and he hopes to one day turn over the corporation's property management duties to the Department of Agriculture. However, if, as the Executive Director claims, ADC is or should solely be a developer, it is not clear exactly what ADC is currently developing. Because not only has the corporation failed to create a meaningful Hawai'i agribusiness plan for the state agriculture industry as a whole – a statutory requirement – it has no plans, either long- or short-term, for its own land acquisitions.

Today, most of ADC's activity centers around managing its lands, much of which sit unused with some parcels harboring criminal activity for years. And “managing” is a generous characterization of how ADC administers its portfolio of properties. For instance, corporation staff could not provide us with even the baseline metrics of its land holdings and its management of those resources because they do not collect, track, and document such data. The few records that staff were able to gather were in disarray – incomplete, nearly inaccessible, and not auditable. Simply put, ADC is incapable of carrying out its basic, day-to-day land management responsibilities.

For decades, the State has talked about diversifying the economy, with agriculture once again joining tourism and the military as one of Hawai'i's core industries. The COVID-19 pandemic has highlighted the necessity for a strong and diversified agriculture sector, one that could provide for much of the State's food needs while producing crops for export. Unfortunately, thanks in part to ADC's past inaction and its continued lack of direction, focus, and competence, this dream remains as elusive as it was nearly 30 years ago.

Recommendations

ADC should:

1. Update and revise its mission statement to reflect the corporation's purpose more completely as intended by the Legislature to address, among other things, facilitating the development of Hawai'i-based agricultural enterprises and strategies to promote, market, and distribute Hawai'i-grown agricultural crops and value-added products in local, national, and international markets.
2. Develop goals, objectives, policies, and priority guidelines that articulate and outline an agribusiness development strategy.
3. Develop an inventory of agricultural lands with adequate water resources that are or will become available due to the downsizing of the sugar and pineapple industries or for any other reason that can be used to meet present and future agricultural production needs.
4. Develop an inventory of agricultural infrastructure that was or will be abandoned by the sugar and pineapple industries or by any other organization involved in the production of agricultural products such as irrigation systems, drainage systems, processing facilities, and other accessory facilities.
5. Prepare an analysis of imported agricultural products and the potential for increasing local production to replace imported products in a manner that complements existing local producers and increases Hawai'i's agricultural self-sufficiency.
6. Develop financial and other programs (such as advisory, consultative, training, and educational) to promote and facilitate the development of diversified agriculture and agricultural enterprises.
7. Develop feasible strategies for the promotion, marketing, and distribution of Hawai'i agricultural crops and value-added products in local, national, and international markets.
8. Develop strategies to ensure the provision of adequate air and surface transportation services and associated facilities to support the agricultural industry in meeting local, national, and international market needs.

9. Develop proposals to improve data collection and the timely presentation of information on market demands and trends that can be used to plan future harvests and production.
10. Develop strategies for federal and state legislative actions that will promote the development and enhancement of Hawai'i's agricultural industries.
11. Prepare, and revise as required, the Hawai'i Agribusiness Plan.
12. Prepare short- and long-range strategic plans to facilitate development of Hawai'i-based agricultural enterprises to grow and export agricultural crops and value-added products.
13. For each project, prepare or coordinate the preparation of business and agricultural development plans, as required by Section 163D-7, HRS.
14. Evaluate retaining consultants and other outside technical assistance to develop a current Hawai'i Agribusiness Plan, short- and long-term strategic plans, business and agricultural development plans, and other tasks necessary to carry out the purposes of Chapter 163D, HRS.
15. Obtain and document approval by the Board of Agriculture for agricultural projects, agricultural development plans, and project facility programs, before implementation, as required by Section 163D-8.5, HRS.
16. Obtain from the Board of Agriculture its policies and procedures for approval of ADC's projects under Section 163D-8.5, HRS, including any delegations of authority.
17. Twenty days before each legislative session, submit a report of the corporation's plans and activities to the Legislature and Governor, as required by Section 163D-19, HRS.
18. Develop written policies and procedures relating but not limited to:
 - a. ADC Board oversight. The policies and procedures should address, among other things, the matters or types of matters that must be presented to the Board for information, consideration, and/or action; criteria establishing the actions which the Executive Director may authorize without the Board's approval, including powers delegated by the Board to the Executive

Director, if any, as well as the process to periodically review the delegated authority; and the recordation of actions taken by the Board, which may include, among other things, confirmation of the Board's approvals, approvals with amendments, rejections, and/or deferrals;

- b. Land and other ADC-owned property disposition application processes. The policies and procedures should address, among other things, the internal processes for evaluating applications for use of ADC-owned property (license, permit, right of entry, etc.), including criteria upon which applications are evaluated; and checklists to document completion of each step of the process, receipt of required information, and timely communication with the applicant.
 - c. Property management. The policies and procedures should address, among other things, the process to confirm the receipt of all required documentation and other information, such as certificates or other evidence of compliance with federal and state requirements, performance bonds or other security, certificates or other evidence of insurance; for inspection of ADC properties, including the information or types of information that should be documented and the frequency of inspections; for enforcement of license/permit/right-of-entry terms and conditions, including, issuance of notices of default; to evaluate the need for and type of security measures for a specific parcel; and to document completion of required processes or activities.
 - d. File and document management. The policies and procedures should address, among other things, the types of documents retained by ADC and organization of those documents; staff responsibility for performing each file and document management task; document retention; and reporting of any release of personal information.
19. Create an electronic database that includes, among other things, an inventory of the corporation's lands, improvements, and other assets. The database should include all information reasonably necessary to manage those assets, such as the material terms of licenses, permits, rights of entry, and other agreements to use or occupy ADC assets; and should allow ADC to generate reports necessary for management of its

assets, such as current tenant lists, vacancy rates, rent rolls, rent reopening dates, and license, permit, or right of entry termination dates.

20. Create a filing system (or electronic document management system) that maintains documents in an organized manner and allows for the efficient retrieval of documents and/or files.
21. Evaluate the retention of a private property management company to manage some or all of ADC's properties.
22. Promulgate administrative rules to address, among other things, the application process for the use of ADC lands and other assets, including ADC's process for evaluating applications; ADC's administration and enforcement of the terms and conditions of licenses, permits, rights of entry, and other conveyance instruments, including those relating to inspections, notices of default, termination, eviction, and appeal rights; criteria and other procedures to create subsidiaries; criteria and other procedures to coventure, i.e., to invest in qualified securities of an agricultural enterprise, and to make direct investment in an agricultural enterprise; criteria and other procedures to apply and qualify for allowances and grants; criteria and other procedures to exercise ADC's right of withdrawal from licenses, permits, and rights of entry; and criteria and other procedures to apply and qualify for rent credits.
23. Evaluate the need to procure insurance against loss in connection with ADC-owned properties.
24. Obtain an opinion from the State Procurement Office as to whether the corporation's practice of offering negotiated rent credits to tenants and prospective tenants in exchange for services in common areas, unoccupied properties, or properties occupied by other tenants, such as road and reservoir construction, and/or materials is permitted under the Hawai'i Procurement Code.
25. Attend training on the Hawai'i Procurement Code, Chapter 103D, HRS.
26. Fill vacant staff positions with qualified persons in a timely manner.
27. Develop and document annual performance goals and measures for each staff.

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28. Evaluate each staff's performance annually and document that evaluation.

The recommendations below are addressed to the Board of Directors, specifically, and relate to issues that are the exclusive responsibility of the Board of Directors. The recommendations addressed to ADC, above, are also directed to the Board of Directors, as the head of the corporation, and should be addressed by the Board of Directors in conjunction with the ADC staff. Actions to implement the recommendations should be approved by the Board of Directors, as needed, to provide the appropriate oversight and direction of the corporation. We will request documentation of that approval by the Board of Directors as part of our "active" review of ADC's implementation of the audit recommendations.

We will ask ADC to provide us with the status of its implementation of the audit recommendations as part of our annual Status of Implementation of Audit Recommendations report that compiles all the recommendations from audits issued during the past five years. Two or three years from today, we will conduct a more rigorous review of ADC's implementation of the recommendations, which we refer to as an "active" review, that includes interviews of select agency personnel as well as examining the relevant policies, procedures, records, and documents to assess the agency's actions to address the recommendations.

The Board of Directors should:

29. Develop and document annual goals and performance measures for the Executive Director that allow the Board to evaluate the Executive Director's work, annually, to ensure compliance by the corporation with statutory requirements and achievement of its statutory purposes, among other things.
30. Evaluate the Executive Director's performance annually based on the annual goals, performance measures, and other relevant criteria; document that evaluation.
31. Document the specific authority delegated to the Executive Director, including, but not limited to, the types of access and use of ADC property for which the Executive Director can

approve without notice to or approval by the Board; and the rent credits and other amendments to Board-approved contract terms for which the Executive Director can approve without notice to or approval by the Board.

32. Attend training on the State's open meetings law (the Sunshine Law), Part I of Chapter 92, HRS.
33. Ensure that the Board's minutes sufficiently document "[t]he substance of all matters proposed, discussed, or decided," among other things, as required by Section 92-9(a)(3), HRS.

Office of the Auditor's Comments on the Agribusiness Development Corporation's Response to the Audit Findings

WE PROVIDED A DRAFT OF THIS REPORT to the Agribusiness Development Corporation (ADC) and met via video-conference with the Executive Director and the Senior Executive Assistant to discuss our findings. The Board of Directors did not participate in the exit conference. ADC subsequently provided a written response to the draft report, which is included in its entirety as Attachment 1.

In its response, ADC does not materially dispute any of the audit findings. ADC's response does not address our assessment that the corporation has done little to facilitate the development of an agricultural industry to replace the economic void created by the closure of Hawai'i's sugar and pineapple plantations, which is, and has been from its inception, its primary statutory purpose.

Lawsuit concerns

ADC requests that the text boxes on pages 22 and 24 of the report, discussing an ongoing lawsuit with one of its tenants, 'Ohana Best Farms, be removed because, according to ADC, the information undermines its ability to defend itself. We disagree. The letter from which the reported information is from was provided by ADC, and the information we report is not privileged or otherwise confidential.

We included the information to illustrate an issue related to ADC's policy to not issue long-term leases, specifically how that decision may reduce – perhaps significantly – the number of potential agricultural enterprises and other farmers who can farm on lands owned by ADC because it may restrict their ability to obtain financing to support their farming operations. To be clear, we are not offering any opinion on the merits of 'Ohana Best Farms' claims against ADC.

It is astonishing that ADC cites “anecdotal evidence” that its Board “has approved mortgage liens as conditions of financing on other lands where the collateral to be encumbered are licenses” to, apparently, address our concern that its policy to not issue long-term leases may limit tenants' ability to obtain financing. That anecdotal evidence offers

no information about which financial institution may have offered the financing, how (or whether) the financial institution may have secured its interest, or when that may have occurred. Moreover, if the Board did approve a tenant's request to encumber its license, that request and the Board's approval should be reflected by ADC's records, for instance, in communication with the tenant and the tenant's lender as well as in the Board's minutes. It also seems very likely the lender would have required ADC to execute other formal documentation. However, we did not find information related to any approvals of mortgage liens by the Board in the documents provided by ADC in the course of the audit.

The evolution of ADC

ADC attempts to temper the audit findings by describing the corporation's "evolution," separating its history since its inception almost 30 years ago into three arbitrary "phases." The corporation claims that such a retelling of its history "will help the reader better understand what ADC's deficiencies are, and hopefully assist with the development of a cogent plan for improvement."

First, we are unclear why ADC expects readers to "assist with the development of a cogent plan for improvement." It is ADC alone that must account for its use of public resources, perform its statutory responsibilities, and develop policies and procedures to do so. And we would expect its Board of Directors, which heads the corporation, to provide the necessary leadership and direction to do so.

Second, this brief and incomplete history does not explain ADC's lack of progress towards its statutory purpose – to facilitate the development of an agricultural industry to replace the economic loss caused by the closure of the sugar and pineapple plantations. Instead, ADC's retelling reflects an organization that has yet to understand fully its primary mission and to comply with statutory requirements to begin the agricultural transformation that the Legislature envisioned almost 30 years ago. For example, as we repeatedly note in the report, ADC has disregarded its statutory mandate to prepare an agribusiness plan, which must include an inventory of agricultural lands and infrastructure that can be converted to other agricultural activities, analysis of imported agricultural products and the potential for increasing local production to replace those imported products, and feasibility studies to promote, market, and distribute Hawai'i-grown agricultural products in local, mainland, and international markets, among other things. That agribusiness plan and other statutory requirements could have – and should have – been addressed as soon as the corporation was created in 1994; in fact, ADC does not indicate when – or even if – it will begin directing resources toward fulfilling the corporation's primary purpose even in its self-described current phase of evolution.

Acquiring land without a plan

As we note in the report, Section 163D-5, HRS, requires the corporation to prepare an agribusiness plan that “shall define and establish goals, objectives, policies, and priority guidelines for its agribusiness development strategy,” which ADC acknowledges it had not done at the time of our audit. Nevertheless, ADC argues that its land acquisitions should not be criticized because “it would be cavalier to believe that a seller will wait for the development and approval of a plan before it sells its lands.”

ADC’s response is misleading and reinforces the finding that the Board of Directors is failing to adequately oversee and direct the corporation’s activities. The requirement that ADC prepare an agribusiness plan is not new; it is required by statute; it was not intended to be optional. Moreover, ADC did not make its first land acquisition until 2012, almost 20 years after it was created. Since then, it has acquired 12 more properties totaling over 2,280 acres in the Wahiawā area of O‘ahu, all of which were identified and directed by the Legislature. It is disingenuous for ADC to suggest by its response that, for the almost 30 years of its existence, it has been unable to develop “goals, objectives, policies, and priority guidelines for its agribusiness development strategy.”

It is equally disingenuous for ADC to suggest that it is the interest of private landowners wanting to sell their properties, and not the State’s interest, that is driving the acquisitions. As a publicly funded organization, ADC should have business concerns of its own and purchasing land without a clear strategy or proper vetting is neither good business nor good governing. Without an agribusiness development strategy, it is unclear how or even whether the lands ADC has acquired fit into the State’s goal of agricultural self-sufficiency and developing agricultural exports to replace sugar and pineapple. We note that, at the time of our audit, 7 of the 12 properties are vacant, leaving more than 1,700 acres of ADC’s lands sitting idle.

Criminal activities on ADC lands

In our discussion of ADC’s struggle to manage its lands, we report that the corporation’s vacant lands have harbored various criminal activities. However, in its response, ADC claims to have been “extremely successful” in addressing the illegal activities on its lands. That statement, however, is directly contradicted by what ADC staff said during the audit. The Project Manager told us, not only was he aware of illegal cockfights, prostitution, abandoned vehicles, squatters, fights, theft, and dumping of trash, but that those problems had been going on for years, some even before ADC acquired the property in 2012. Later, he told KHON News that there were “multiple criminal

activities” on one of ADC’s properties, stating “I don’t know exactly what was going on because it was too dangerous for staff to come in here alone.” The corporation did not take measures to secure the area until February 2020, after multiple media reports about a “massive chop shop” and a murder on vacant ADC property. In February 2020, ADC requested approval of an emergency procurement for security guard services, stating as justification for its request that the areas that will be patrolled “have historically been used as access points by trespassers and criminals.” The State Procurement Office’s website indicates that, in March 2020, ADC awarded a contract in an amount of \$462,210 to provide 24/7 emergency security services at 5 of its properties, including “the Galbraith Reservoir Construction Site” to guard “the job site, heavy equipment, and supplies.” This contract will end on February 6, 2021.

We disagree with ADC’s assessment that it has been extremely successful in securing its properties.

The Board’s proper role

Our report points out that new board members begin their terms without orientation or training to familiarize them with ADC’s purpose and mission, as well as their role in achieving it. While it may be appropriate for board members to “constantly provide insight and guidance to ADC staff” as ADC claims, boards typically provide such guidance by setting policy and providing direction and oversight, not by performing the work themselves. ADC’s assertion that “truly dedicated board members can and do participate in the activities and business of the corporate entity” goes against the best practices described in this report. Simply put, day-to-day operations and administrative duties should fall to the Executive Director; the Board’s role is to provide governance and hold its executive accountable for fulfilling his responsibilities. We recognize that ADC is short-staffed, but the solution is to fill the positions created by the Legislature, not involve board members in daily activities.

We also question ADC’s insistence that the Board of Agriculture’s delegation to its Chairperson to approve ADC projects continues to be appropriate and valid. Most significantly, the current ADC Chairperson was unaware of the requirement that ADC obtain Board of Agriculture approval of its projects, which strongly suggests she was equally unaware of the Board of Agriculture’s delegation. Moreover, the Board of Agriculture approved that delegation in February 2008, almost 13 years ago. Since that time, there have been many new members appointed to the Board of Agriculture as well as many different chairpersons. We question whether the current Board of Agriculture members agree with the delegation or are even aware that they have delegated certain of their statutory responsibilities to the Chairperson.

In fact, as we report, the current Chairperson expressed uncertainty about her authority to approve ADC projects on behalf of the Board of Agriculture and said that she is waiting to read the audit findings and recommendations before deciding her position on the delegated authority. We emphasize the statutory requirement to obtain Board of Agriculture approval of “[a]ll agricultural projects, agricultural development plans, and project facility programs” and strongly suggest that the approval be clear, not based on a delegation that the current members of the Board of Agriculture have not approved and about which they may not be even aware.¹

Similarly, we do not understand ADC’s disagreement with our concern that, even assuming the Chairperson is empowered to approve ADC projects on behalf of the Board of Agriculture, there is no documentation or other evidence of that approval. ADC insists that the Chairperson’s approval *as a member of the ADC Board* is somehow sufficient and satisfies the statutory requirement. We disagree. Any action in that capacity clearly is not on behalf of and as the Chairperson of the Board of Agriculture, and the minutes of the ADC Board meetings do not reflect actions of the Board of Agriculture. Similarly, we suspect there is no documentation of the Chairperson’s approvals of ADC projects in the Board of Agriculture’s records.

Board members agree in part and disagree in part with the findings

In the first paragraph of the response, ADC states that the corporation, “*along with our board members,*” agree in part and disagree in part with the report’s findings. We note that, at the beginning of the audit, we had offered to meet with the Board for an entrance conference to, among other things, explain the purpose of the audit, the process, and our expectations. However, the Board declined our offer. We provided the draft audit report to the board members at the same time it was provided to the Executive Director. While we received communication from one member, we were not informed that the Board was interested in participating in the exit conference or to otherwise discuss the audit. We would welcome the opportunity to discuss the audit findings with the Board and will make ourselves available if the Board is interested in doing so.

¹ It is misleading for ADC to cite the Legislative Reference Bureau’s 2007 report as support for its practice of construing action by the Board of Agriculture Chairperson as an ADC board member to be approved by the Board of Agriculture. While the Legislative Reference Bureau may have found that the Board of Agriculture’s approval was “a redundant time-consuming process,” the Legislature did not remove or otherwise amend the requirement. Under Section 163D-8.5, HRS, ADC is statutorily required to obtain Board of Agriculture approval prior to the implementation of all projects which has not changed since the corporation was created in 1994. Moreover, the Legislative Reference Bureau made many, more significant findings, such as ADC not fulfilling its intended purpose, that ADC has not apparently followed.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

January 7, 2021

Leslie H. Kondo
State Auditor
State of Hawaii
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Mr. Kondo:

Re: Audit of the Agribusiness Development Corporation
Act 28 (SLH 2019)

Thank you for the draft of the Audit of the Agribusiness Development Corporation ("ADC"). We, along with our board members, have read the draft audit report ("report") and agree in part and disagree in part with the findings presented. We offer our comments below.

Inclusion of a party litigant's comments in a public audit is not appropriate. ADC requests that the discussion of the ongoing lawsuit be removed from this report. Report at pages 21 and 23. While the "fact" that Plaintiff's attorney's writings are documented, we reiterate that the statements asserted by Plaintiff's counsel are mere allegations, and including such allegations in a public audit report while a lawsuit is pending undermines the State's ability to fairly defend itself. For instance, our legal counsel reminds us that Plaintiff's assertion that it tried to obtain financing but was denied because of the lack of a lease instrument is unsubstantiated and will be rigorously litigated in Court.

Additionally, ADC asserts that the allegations of the lawsuit as anecdotal evidence that ADC's practice impairs its tenants is not justified given the potential damage such action may cause to the State. In its own anecdotal defense, note that the ADC board has approved mortgage liens as conditions of financing on other lands where the collateral to be encumbered are licenses.

While the substance of the report is exclusively limited to ADC's deficiencies, ADC believes a performance audit should analyze the entire operation of the audited agency. The agribusiness plan ("ag plan") has been submitted to the Legislature and is attached to ADC's 2020 Annual Report. That ag plan, along with ADC's Annual Reports for FY 18, 19, and 20 contain numerous instances of ADC's efforts and successes. Among these successes are the land banking efforts, made possible by the support and funding of the Legislature and the agricultural community that submitted written and oral testimony in support of the funding, the improvements made to 100 year old irrigation systems, including the installation of Supervisory Control and Data Acquisition ("SCADA") systems to allow real-time operations and manipulation

of gates and weirs within the system, construction of water storage reservoirs of varying capacities to meet the needs of incoming farmers, soil amendment actions (which are agronomically critical when converting acidic pineapple lands to more diversified crops), and constructing internal farm roads and implementing farm practices to reduce mud and agricultural chemicals from being transported to adjacent public roadways.

ADC also has projects intended to address agricultural concerns in the future such as the ongoing project in conjunction with the City and County of Honolulu, Department of Environmental Services to use recycled water for agricultural uses, thereby forever removing wastewater from future discharges into Lake Wilson, and the construction of more water storage reservoirs and a backup well for times of drought or other emergencies. ADC continues to communicate with local farmers about the potential for a Whitmore Community Food Hub which, once operational, will provide the State with the opportunity for a whole new level of food safety, food distribution, food processing and marketing, even addressing farm worker shortages. Reviewing the plan, the annual reports, and the report together gives the reader a more accurate, realistic view of the current status of ADC.

BACKGROUND.

The report attempts to examine the efficiency of ADC's operations and management, lumping together 25 years of activities into one audit. These 25 years span five (5) gubernatorial administrations and at least three (3) different executive directors. This is a massive undertaking. Understanding the evolution of ADC will help the reader better understand what ADC's deficiencies are, and hopefully assist with the development of a cogent plan for improvement.

The report recognizes that ADC has evolved over the past 25 years from a nascent government office to its current operation. ADC's evolution can be summed up in three (3) phases. Phase I began at inception in 1994 with its acquisition of the Waiahole Water System ("WWS") and its subsequent conversion from a private operation to a governmental operation. Citing the Legislative Reference Bureau's 1997 study of ADC, the report notes that during the first three years of its existence, the single, most important reason for the corporation's lack of progress at that time was the lack of board consensus. Report at page 12. Notwithstanding any lack of consensus, ADC was able to establish an office in the Department of Agriculture's ("Department") Halawa facility and exempt government positions for its six (6) WWS business and ditch employees.

Phase II began during the early 2000's when ADC began receiving set asides of state lands through the governor's executive orders from the Department of Land and Natural Resources. The largest of these set asides were 12,000 acres in Kekaha, Kauai, and 6,000 acres in Kalepa, Kauai, all of which were formerly planted with sugar by the Kekaha Sugar Company and the Lihue Sugar Company. Prior to receiving the set asides, ADC did not establish land management processes and procedures for lease administration or income and expenses, nor did it seek or receive employee positions to manage the state lands.

Phase III, the current phase, has focused on land-banking, improving and incorporating high tech capabilities into the existing agricultural infrastructure improvements, finding the proper "fit" of agricultural tenants who can contribute to the doubling of diversified and other forms of food production, and exploring new methods of farming through cooperation with existing or potential

Leslie H. Kondo
January 7, 2021
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tenants such as climate controlled production, crop-to-crop rotation, crop-to-livestock rotation, and zero waste technologies.

Recognizing these phases and understanding ADC's activities during these phases provide a better picture of the current status of ADC, how it got here, and what it needs to do to ensure the continuation of a smoothly operating, properly funded government organization.

The report evidences a rudimentary understanding of what it takes to establish a strong commercial agricultural sector in the "real world". Where appropriate, we have attempted to provide sufficient information to help the reader put the findings, assumptions and conclusions contained in the report into proper perspective. The report also provides helpful comments on the requirements of sustainable office management, documents management, and operating procedures. We look forward to receiving the resulting recommendations therefrom.

ADC DISAGREES.

ADC takes issue with the assertion that ADC primarily managed 4,257 acres of land and WWS on Oahu, and that central Oahu is the "Center of ADC's Operations." Report at pages 7, 9 and 13. In fact, ADC actively manages the 12,000 acres in Kekaha, Kauai, and the 6,000 acres in Kalepa. The agricultural cooperative comprised of ADC Kekaha tenants in Kekaha provides a great deal of the capital for the agricultural infrastructure, such as the roads, drainage canals and ravines, irrigation systems, and electrical systems, as well as valuable expertise on potential agricultural activities and agronomically viable crops for the area. However, the day-to-day operational decisions continue to be managed by ADC.

The agricultural cooperative comprised of ADC Kalepa tenants in Kalepa are responsible for the upkeep, maintenance and security of the agricultural roads and security gate system within the 6,000 acres. This cooperative is less organized, and struggles more with its obligations. ADC assists the coop with these duties while it conducts its own day-to-day operational decisions and management activities of the 6,000 acres.

Every large landowner contends with criminal activity, especially on lands that have access to surface water and overgrowth. ADC strongly disagrees that it turned a blind eye to criminal activities. Report at page 2. With the financial support of the Legislature and the Department, and the assistance of and guidance from the Honolulu Police Department, ADC has been extremely successful at removing homeless encampments, both big and small, abandoned and stripped vehicles and "chop shops", chicken fight events, and drug-related activities. As of this writing, ADC is now in the position to address trespassing and property damage incidents as they occur. Of course, funding for more fencing and security services will continue to determine the level of success that ADC is able to achieve.

The report notes that the delegated authority from the Department Board of Agriculture ("BOA") to the Chairperson of the BOA issued almost 13 years ago and by a different membership makeup of the BOA to approve ADC project pursuant to HRS 163D-8.5, implying therefore that the delegation is suspect. Report at page 26. This point contradicts the guidance provided to ADC by the Legislative Reference Bureau's 2007 study ("LRB study"). The LRB study recommended that the Department of Agriculture and Board of Agriculture oversight should be removed from the ADC statute to minimize bureaucracy; the BOA delegated its oversight responsibility a year later in 2008. ADC and the Department heard the concerns of the LRB and

took appropriate action to address those concerns. ADC is now criticized for following that guidance.

ADC disagrees with the report's conclusion that the actions taken by the BOA chair at ADC meetings, participating in deliberations and approving ADC projects, does not constitute actions by the BOA. ADC finds no requirement that BOA approval of ADC projects be done as a separate action, or on a document separate and apart from an ADC board meeting. Indeed, the current handling of the requirements of 163D-8.5 by both the Department and ADC eliminate separate, additional requests to the BOA and serves to streamline its processes, a key component of ADC's flexibility.

ADC AGREES.

ADC agrees that as of the time of this audit, ADC had not submitted an agribusiness plan pursuant to HRS 163D-5. ADC takes issue, however, with the implication that land acquisitions without an agribusiness plan should be subject to criticism. In the world of acquisition, timing is key, both for buyers and for sellers. One of the primary purposes of Phase III is to collaborate with larger agricultural landowners. Like the State, these large land owners value food production and want to see their lands continue in agriculture rather than be subdivided and sold in small, one to five acre parcels, only to be used as a "gentlemen farm." But these landowners also have business concerns; they will not wait for the State to develop a plan for its acquisitions. If funding is available now, ADC suggests that it would be cavalier to believe that a seller will wait for the development and approval of a plan before it sells its lands.

ADC agrees that it has struggled with land management and document management, and that as its land inventory continues to expand, better management will be crucial. This should have been done at the beginning of Phase II in the early 2000's. As noted in the report, ADC has created, found the necessary office space for, and filled the position of the property manager in January, 2020. The property manager has done a superb job, learning much of the nuances of agricultural land management and visiting the ADC lands on Oahu and on Kauai through safe travels, as well as establishing procedures and databases, all of which either did not exist at the time, or needed improvement.

ADC agrees that the last performance evaluation of the executive director was conducted in 2017 but was never completed. Some of the points discussed in the report are the subject of the evaluation. As of this writing, a performance evaluation was conducted in 2020, and has been discussed by the board in executive session but continued for further action. The evaluation is scheduled to resume at the next regularly scheduled meeting of the ADC board in February, 2021. In light of potential privacy concerns, we withhold any further discussion of the ongoing personnel matter in this response.

OTHER COMMENTS.

Transitioning former pineapple and sugar lands into diversified uses is not simply a matter of digging up pineapple plants and planting lettuce in its place. Existing soil conditions, different irrigation needs, specific climate conditions and more all determine what type of crops can flourish or whether a particular crop is likely to succeed at all. ADC believes that it is better to take the time to prepare the land, develop a proper irrigation system, and select the most promising farmer than it is to simply plunk available farmers on land and stand back to see if that farmer will succeed. As noted in the report, many of the small farmers on the Galbraith

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lands may never achieve the practices and scale needed to sell their produce in larger supermarkets without the assistance of agricultural experts. The University of Hawaii, Hawaii Farm Bureau, and numerous local farmers have donated countless hours and efforts to work with ADC and its small farmers, encouraging them to grow, teaching them good agricultural practices and good handling practices. Adopting these practices are costly and require time and patience.

The report notes that the BOA chair “sometimes skips” board meetings if she knows quorum will be met without her presence. ADC is proud to have historically nearly 100% attendance by its board members, a feat rarely matched by the volunteers who serve on the state’s boards and commissions. ADC stresses that the department heads who often hold ex officio positions on these boards and commissions often delegate that responsibility to others within their departments, in large part because of the stringent demands placed upon cabinet-level positions. In the case of the ADC, however, the BOA chair has always prioritized ADC meetings and is only absent when other matters require priority, and when quorum requirements will be met. She has always made her department personnel available to assist ADC with its governmental and fiscal needs and has been a stellar supporter of ADC activities.


Contrary to the comments in the report, ADC commends and appreciates its volunteer board members who, with the exception of the executive director, have far greater expertise in agricultural matters than ADC staff, and who volunteer their time and services to visit ADC lands, assess appropriate types of crops that would likely succeed in a particular area, vet land applicants who present a likelihood of success, and who constantly provide insight and guidance to ADC staff. Report at page 28. ADC suggests that regardless of whether a corporate board operates in the government or private sector, truly dedicated board members can and do participate in the activities and business of the corporate entity, and that such involvement improves productivity, dedication, and morale to the corporate structure.

CLOSING.

The LRB study recommended that the Legislature revisit whether ADC should be as expansive as it was originally established to be or whether its focus should be honed to what it was then actively involved in -- the repair and improvement of agricultural infrastructure. ADC suggests that the tension that existed in 2007 between what ADC was capable of doing, what it has accomplished, and what it has yet to do, is the same tension presented today.

We note that the report does not include the auditor’s recommendations for improvements. We look forward to seeing the recommendations and will strive to incorporate as many actions as we reasonably can to ensure that ADC continues to promote and grow agriculture for the people of Hawaii.

Sincerely,



James J. Nakatani
Executive Director

c: ADC board members

Exhibit "2"



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Agriculture

Hawaii's Ag Corp. Is Putting Up Remainder Of Its Land For Lease

The corporation said the move signaled a new era of transparency for the agency.

By Thomas Heaton / October 6, 2023
🕒 Reading time: 4 minutes.

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Just over 3,000 acres of unused land owned by the Agribusiness Development Corp. will soon be up for lease, as it opens up the remainder of its land portfolio.

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State Thinks Its Multimillion-Dollar Food Hub Is Finally Happening

The new [ADC land leases](#) would be for 2,950 acres on Kauai in Kekaha, 160 acres in Kalepa, Kauai, and 65 acres in Central Oahu.

The process will include the ADC assessing expressions of interest from farmers and food producers to help inform the corporation's strategic plan in coming years. It's the agency's first major move with a new board of directors and new executive director, [Wendy Gady](#).



ADC owns thousands of acres across Kauai and Oahu, including former sugarcane lands in Kekaha. (Anita



Maui Voters To Decide If County Board Of Ethics Can Hire A Full-Time Staff



It's Time To Vote! Bring Along Our Candidate Q&As



Danny De Gracia: Ballot Questions Are The Test We Haven't Studied For



John Pritchett: Hold The Phone



The Weekly News Quiz: Oct. 21

Hofschneider/Civil Beat/2015)

Tenancing the remainder of ADC's land portfolio is in keeping with its 2023 strategic objective to lease out all of its agriculturally viable holdings — just over 16,000 acres of its 22,000-acre portfolio in the state.

It was part of the board's suite of "aggressive goals" to increase food production for local consumption, board chair Warren Watanabe said in a [press release](#).

The announcement also showed a "new level of transparency" from the board, Watanabe said.

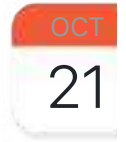


The bulk of land up for lease is on Kauai, though 65 acres are yet to be tenanted in Whitmore. (Courtesy: ADC)

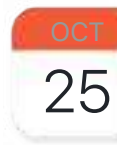
The decision comes some six months after the unexpected death of longtime leader



OCTOBER



MON



FRI

James Nakatani and the departure of former chair Frederick Lau, soon after.

The ADC has faced scrutiny for the entirety of its 30-year lifespan but in 2021 was [lambasted by the Hawaii State Auditor for working in obscurity and not fulfilling its mandate](#), under the previous leadership.

The audit criticized its land management practices, among other things, for being “in disarray.”

The agency was also criticized for unmanaged lands that were [hosting homeless encampments, becoming overrun with invasive grasses and becoming dumping grounds for trash](#).



‘Hawaii Grown’ Special Series

This ongoing series delves deep into what it would take for Hawaii to decrease its dependence on imported food and be better positioned to grow its own.

[READ THE SERIES](#)

How Much For Leases?

Opening the lands for lease is a promising move by the corporation, says Hunter Heavilin, government relations representative for Hawaii Farmers Union

C


Other :

United.

“I think the opportunity for affordable leases is an important mechanism, one where our government provides a sort of subsidy to agriculture,” Heavilin said.

Questions over lease rates, the size of parcels and other lease conditions are yet to be answered, though Heavilin says he hopes the process will give a better understanding of how much farmers should be paying for agricultural leases in Hawaii.

The ADC is doing so by asking for broader expressions of interest, according to Gady.



ADC Executive Director Wendy Gady
(Courtesy: ADC)

Depending on individual farmer and producer needs, the ADC will work to help provide the right environment for their agricultural businesses, she said.

“It’s a strong call to the entire ag community,

to invite them all to tell us: Where should we work with you? Where do you want help?" Gady said in an interview.

The leases signal an intent to build a more collaborative approach between the ADC and food producers in increasing the state's food production, she said. "We're rewriting agriculture in Hawaii and it takes a lot of people to do that."

She said the call is an "invitation to diverse farmers, to diverse ways of farming."

The call for expressions of interest does not have a deadline and all farmers and food producers are invited to submit as the ADC board of directors revisits its strategic plan for the coming year.

"It's the beginning of a very long conversation and good conversations never end," Gady said.

"Hawaii Grown" is funded in part by grants from Ulupono Fund at the Hawaii Community Foundation and the Frost Family Foundation.

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Thomas Heaton ✉

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Hawaii

Auditor: State Agriculture Agency Is Failing To Fulfill Mission

After 25 years, the Agribusiness Development Corp. hasn't helped Hawaii re-fashion former sugar and pineapple plantations into viable economic engines, audit says.

By Stewart Yerton / January 14, 2021

Reading time: 4 minutes.

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Top Stories



Insurance Prices Threaten An Affordable Housing Oasis In Hawaii



State Thinks Its Multimillion-Dollar Food Hub Is Finally Happening

The state agency set up to help convert Hawaii's agriculture lands from plantations producing mainly pineapple and sugar for export to more economically viable farms growing a variety of crops has failed in its mission, an audit released Thursday found.

The assessment of the Hawaii Agribusiness Development Corp. comes at what some see as a critical time for the state's tourism- and military-dependent economy as the COVID-19 pandemic has underscored the need to diversify.



Jimmy Nakatani, executive director of the Agribusiness Development Corp., reportedly told auditors that a plan required by law is not necessary because he has everything in his head.

The corporation was set up more than 25 years ago to help do that by reinvigorating Hawaii's agriculture industry, which had once been a pillar for jobs and income.

However, the Hawaii State Auditor said that has not been happening.



Maui Voters To Decide If County Board Of Ethics Can Hire A Full-Time Staff



It's Time To Vote! Bring Along Our Candidate Q&As



Danny De Gracia: Ballot Questions Are The Test We Haven't Studied For



John Pritchett: Hold The Phone



The Weekly News Quiz: Oct. 21

In a characteristically scathing assessment, the auditor found that neither the corporation nor its board even know what the state agency's duties are. Even basic duties, like creating a plan required by law, have been ignored, according to the audit.

“ADC has not become the entity the Legislature envisioned – one that would develop an agriculture industry to stand as a pillar of the state economy, alongside tourism and the military,” the audit said. “After nearly 30 years, the economic void created when plantations ceased production remains mostly unfilled.”

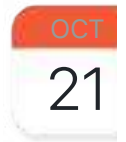
Along with its ambitious mission, the corporation has broad powers, including the ability to buy and hold land and water resources, and to conduct market research.

In recent years, the Legislature has appropriated more than a quarter of \$1 billion to the ADC, including about \$23.4 million for operations and \$238 million for capital investments. But it has been difficult at times for lawmakers to determine where that money had gone and how well the corporation had been fulfilling its duties.

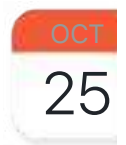
As Civil Beat reported in April 2018, some lawmakers were upset that the ADC at that time had not even been submitting [annual reports](#) to the Legislature as required by its [enabling statute](#).



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When lawmakers at the time called for an audit, the agency's executive director, Jimmy Nakatani, told lawmakers [he was too busy for such scrutiny](#). Scott Enright, the then-state Department of Agriculture chair, also resisted the audit on grounds that ADC personnel were too busy.

But, the audit found, whatever else Nakatani was doing to make an audit too onerous, it did not appear he was running a tight ship.

Records Are In Disarray Or Do Not Exist

"We had difficulty pinpointing exactly why ADC struggles with managing the lands it has acquired since 2012, in part because the corporation's record keeping and filing system are in disarray," the audit reported.

"Documents were piled under desks and kept wherever space allowed. Staff hastily assembled tenant files after we requested them, but the files they provided were disorganized and often missing important documents, such as board approvals, license agreements, and proof of insurance," it added.

Documents essential to day-to-day operations of a corporation that manages land and properties, like inventories of land holdings and tenant listings, didn't exist, the



Other :

auditor found.

The auditor also found the agency has not produced a legally required plan “that would define and establish the goals, objectives, policies, and priority guidelines for the corporation’s agribusiness development strategy.”

The reason, according to the auditor: “The executive director thinks such a plan is unnecessary: ‘I have everything up here,’ he said, pointing to his head.”

In the corporation’s response, published as part of the audit, Nakatani defended the agency, saying that some purported problems were irrelevant. While Nakatani admitted the agency doesn’t have the plan required by law, he said that doesn’t prevent the corporation from making good deals when buying land.

He also said it is an enormously difficult task to transform Hawaii’s agriculture sector.

“Transitioning former pineapple and sugar lands into diversified uses is not simply a matter of digging up pineapple plants and putting lettuce in its place,” he wrote.

[The full audit report can be found here.](#)



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Stewart Yerton is the senior business writer for Honolulu Civil Beat. You can reach him at syerton@civilbeat.org.

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Agribusiness Agency Explains Reasons Behind Slow Progress in Utilizing Lands

4
MAR 2021

In This Issue

posted in: March 2021 | 0

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Kelena Farms on ADC lands in Central O'ahu. Credit: Hawai'i Department of Agriculture

“My thing is, you never turn away what the Legislature gives you.”

That’s what state Agribusiness Development Corporation (ADC) executive director James Nakatani told then-Department of Agriculture director Scott Enright five years ago, when Enright asked why, out of all of Castle & Cooke’s inventory, the ADC board was being asked to authorize the purchase of a seemingly less-than-ideal 91-acre lot for \$2.3 million in funds provided by the Legislature.

But what if the Legislature gives you way more than your handful of staffers can handle?

Over the past several years, the ADC has spent \$81,737,925 in legislatively appropriated funds to acquire 3,752 acres in Central O’ahu, to help meet Sen. Donovan Dela Cruz’s dream of turning Whitmore Village into an agricultural hub.

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With that money, the ADC protected a huge swath of land from urban development. But it also became responsible for fixing a host of problems: poor soil quality, limited or no access to irrigation water and some of the parcels themselves, overgrowth, squatters, and abandoned vehicles and trash, to name a few.

It was only a matter of time before the largesse, coupled with the slow progress toward making the lands productive, drew criticism over whether that was money well spent. And after failed attempts in 2017 and 2018, the Legislature finally passed Act 28 in 2019, which mandated a performance audit of the agency.

The Office of the Auditor's January report on the ADC revealed some shocking mismanagement. It also determined that the agency has fallen far short of the mission it was supposed to fulfill after the Legislature created it in 1994.

The ADC has jurisdiction over tens of thousands of acres of former sugarcane and pineapple plantation lands, mainly on Kaua'i and O'ahu. The agency was intended by the 1994 Legislature to spearhead programs facilitating the transition of agricultural infrastructure from plantation use to other agricultural uses, to conduct marketing analyses to direct how the state's agricultural industry should evolve, and to "provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises."

The ADC has been able to keep its Kekaha, Kaua'i lands productive largely with the aid of its tenants, organized as the Kekaha Agriculture Association. The association manages day-to-day operations and maintenance of the vast former sugarcane plantation irrigation system.

While the ADC has been criticized by environmental groups and others for management at Kekaha (it's even been sued), those lands were already owned by the state.

In Central O'ahu, on the other hand, the ADC started purchasing thousands of acres of land in 2012 during a kind of fire sale by former pineapple plantation land owners, mainly the Galbraith Estate, Dole Foods, and Castle & Cooke.

"[A]s of December 2019, ADC has licensed 534 of Galbraith Lands' 1,227 acres. Eight years after acquiring the Galbraith Lands, more than half of those agricultural lands remain unlicensed," the audit states.

"Finding new tenants for its other former plantation lands purchased from 2013 to 2019 has been similarly difficult," it continues, noting that more than 1,700 acres of ADC's Central O'ahu lands are vacant.

Office Mismanagement

The audit notes that the ADC's senior executive assistant, former state deputy attorney general Myra Kaichi, admitted that the retirement of its longtime secretary Cindy Doi left its file management lacking.

"[W]hile some documents were housed in filing cabinets, they were not necessarily organized by tenant or subject matter; rather, they were randomly stacked on cabinet shelves 'wherever there was an empty space,'" the audit states.

ADC staff also informed the auditor that documentation of its land management policies, land acquisition guidelines, inventories of landholdings, tenant listings, and complete tenant files were nonexistent.

Of the 83 tenant files that were prepared in response to the auditor's questions, "Sixteen tenant files were missing contracts, 21 did not contain the board approvals to issue tenant contracts, and more than half of the files contained no evidence the tenant had complied with insurance requirements," the auditor found.

What's more, the auditor found contracts that executive director Nakatani entered into with tenants for the use of ADC lands were inconsistent with what the ADC's board of directors had approved. For example, in 2014, the ADC board approved a 35-year license for a lot at an annual rent of \$100 per acre for the first three years. The executed contract is for a different lot at an annual rent of \$200 per acre," the report stated.

“Because of the poor condition of ADC’s records, we could not determine if these discrepancies were the result of clerical errors or if documents accounting for the differences were misfiled or never created in the first place,” the report stated.

“Poor documentation could render the corporation unresponsive, unable to account for its actions, or both, and increase the risk of fraud, waste, and abuse going undetected,” it added.

Minimalist Developer

During the audit, Kaichi also admitted that the agency was bad at land management, and said, “Development is what we do. It’s not our role to oversee the day-to-day activities of farmers.”

But a glance at the listing of land in Central O’ahu the ADC is about to offer up to prospective licensees suggests that development isn’t something the agency does either, at least not yet.

The ADC board last month authorized the solicitation of bids for five sites. They range in size from 91 acres to more than 500, totaling 1,482 acres. The staff reports identify only 547 of the acres as farmable.

All five areas need to be cleared of overgrowth. Three of the five areas are littered with abandoned vehicles and other junk. Most of the lands lack an on-site water source managed by the ADC and would require farmers to procure water from Dole or the Honolulu Board of Water Supply, or somehow develop a new source and infrastructure on their own.

Gates securing the 91-acre, former Castle & Cooke parcel at Mililani Mauka have deterred illegal dumpers and will stop most thieves, but the steep and narrow access road to the property makes it difficult for large trucks and equipment to get through, a staff report states.

For this parcel, as well as a 230-acre lot purchased from the Galbraith Estate, the ADC staff has not even determined the farmable area. Even so, rent would start at \$100-200 per acre per year, although rent credits for land improvements may be applied.

It’s anyone’s guess when the state will see a penny in rent, given that costs of clearing the land, securing water, and establishing adequate access are just the start for any successful bidders. At last month’s legislative briefing, Nakatani explained that preparing former pineapple land, which these lands are, is much harder than preparing former sugarcane land. There’s no irrigation and it takes a lot to de-acidify the soil, he said.

On one of its more problematic Whitmore parcels, the ADC has towed off more than 150 abandoned vehicles, but it’s taken awhile to even start clearing the area. The ADC’s Ken Nakamoto told legislators that criminal activity there was out of control. “It wasn’t because of a lack of effort. We were literally outgunned,” he said, noting that squatters had enough firearms and heavy equipment that law enforcement officers didn’t want to enter.

Another distraction from preparing the lands for farming: meeting the needs of the surrounding community.

“Security is an unfunded mandate. A very expensive one. The residents reached out to ADC for help. Kupuna were being harassed by thieves and stray dogs,” Nakamoto said. “We took action. It’s these kinds of unfunded mandates that take a lot of time and effort away from staff. For a staff of four it really takes a toll.”

He said that the ADC plans to solicit potential farmers for its Central O’ahu lands this spring. Whether the lands will be in much better shape than they are now remains to be seen.

Whether it will even be around to manage those lands is also up in the air. A bill seeking to transfer its land and staff — except Nakatani — to the DOA was still alive at press time.

Rep. Amy Perruso, who introduced the bill, asked Kaichi and Nakatani about finding ways to get more small farmers onto the ADC’s lands. Kaichi said that the ADC has been talking with the DOA for years about how to do that, but one problem has been, if they are organic farmers, “how do we buffer them so they don’t get contaminated” she said. She added that she’s not sure if the DOA would be able to manage that.

“Would we get 100 percent success on the small farms? I’m not sure about that, but if anybody knows how to accomplish that, that would be great,” she said.

In any case, managing more small farms will be expensive, she warned. “When we are addressing the needs of 100 farmers on 10 acres each, the cost goes up ... compared to one farmer on 1,000 acres,” she said.

“If we had the funding , we could probably do more,” she said. She suggested that perhaps ADC can give a license to a group of farmers and allow it to figure out how to set up their irrigation infrastructure so that they can do more with less, and keep things affordable.

“We can get 10 farmers together and have them make it work with five meters,” she said, adding that’s something the DOA may not have the flexibility to do.

Perruso worried that these kinds of conversations are being contained within state agencies and haven’t included community associations, the farmers union, the farm bureaus, and the University of Hawai‘i.

“Would ADC and DOA be open to a broader discussion [that] looks at how we can move forward? I worry we tinker on the edges ... and we end up in 10 years saying that was a lost opportunity. ... There are a lot of interesting and exciting ideas coming from the community,” she said.

“That’s spot on. We’ve actually been talking to a lot of people,” Kaichi replied. She added that the ADC board recently approved a strategy to address the audit’s 28 recommendations.

— **Teresa Dawson**

For Further Reading

All are available free at environment-hawaii.org.

- [“ADC Finally Starts Charging Fees to Galbraith Tenants for Well Water,”](#) EH-XTRA, June 2020;
- [“Whitmore Village South Parcel: More Trouble Than It’s Worth?”](#) and [“ADC Improves Standards, Outreach In Effort to Secure Quality Farmers,”](#) February 2019;
- [“Non-Compliant Galbraith Farmers Frustrate State Land Managers,”](#) July 2018;
- [“Compliance Problems with Small Farms Hamper Use of Former Galbraith Lands,”](#) March 2018;
- [“Agribusiness Corporation Eyes Effluent To Irrigate Former Galbraith Estate Lands,”](#) October 2016;
- [“Bringing Water to Land ADC Acquired Near Whitmore Could Top \\$11 Million,”](#) July 2015;
- [“Water May Be Limiting Factor On Former Galbraith Ag Lands,”](#) December 2013;
- [“ADC: Tobacco License, Galbraith’s 1st Lessee, and More,”](#) June 2013;
- [“ADC Supports Intent to Buy Whitmore Village Lands,”](#) February 2013;
- [“ADC Gives Ho‘opili Farmers First Shot at Large Chunk of Former Galbraith Land,”](#) January 2013;
- [“Senator Accuses Agribusiness Board of Doing Nothing to Fulfill its Mission,”](#) August 2012;
- [“Dam Safety Trumps Effluent Concerns at Central O‘ahu’s Wahiawa Reservoir,”](#) August 2009.

♥Teresa Dawson

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Community Voice

Small Farmers Deserve Better Support Than The ADC Has Provided

Twenty-five years after the agency was created, it's past time for change.

By [T.J. Cuaresma](#)

May 12, 2021 · 5 min read



Cory Lum/Civil Beat/2021



About the Author



T.J. Cuaresma

T.J. Cuaresma co-founded The Radical Hale, which focuses on assisting homeless guests on the streets of Wahiawa and the immediate surrounding community. She grew up in Whitmore Village.



I wonder how many people visit the [website](#) of the Agribusiness Development Corp. as often as I do?



I suspect I belong to a very small community of nerds who scour it in hopes of finding pathways to success for local farmers who are interested in growing food to feed the people of Hawaii. The need is urgent.

But if we are looking to the ADC to show the way, my frequent visits to its website and my reading of the minutes of its meetings tell me that we

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A lack of transparency, know-how, and willingness to change is a thread that runs through a vast majority of Hawaii departments.

Scotty_Poppins · 3 years ago

Offering parcels of 100 acres and up is not appropriate for Hawaii's small farmers. Offering parcels with no water infrastructure

nredfeather · 3 years ago

And still waiting. Great personal article on a glaring problem of a bureaucracy that keeps stalling

need to do a much better job of providing signposts for those often obscured and difficult-to-navigate pathways to regenerative farming.

Farmers dreaming of leasing a small plot of land from the ADC have their work cut out for them if they even try to penetrate the corporation's website as I did. It was an exercise in frustration.

The ADC website recently carried a sign on its homepage announcing that the deadline for applications for available land had been extended to April 27. It sounded promising at first glance, though the extension itself tells us that the ADC likely hadn't received a large enough pool of applications.

If true, this fact is not surprising. The ordinary farmer cannot — and will not — expend the kind of time and effort I have invested in trying to make sense of the ADC's inventory of available lands.

For example, while several plots are listed on the ADC website as "available," there is little to no guidance on the condition of the land and how much of it is actually usable and can be farmed.

How can a small farmer afford to put in an application under those circumstances? Even assuming some farmers are dogged enough to try, they will quickly discover hurdles like tax map key numbers not corresponding to City and County records! If only 392 acres in a 580-acre plot listed as available can be farmed, how does a farmer who is not doing the thorough research that I did know this and reflect that knowledge in his application?

inefficiency that keeps stalling and seems more fixated on

Joseppi · 3 years ago

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The homepage of the Agribusiness Development Corporation. “Farmers dreaming of leasing a small plot of land from the ADC have their work cut out for them if they even try to penetrate the corporation’s website,” writes the author.

More importantly we should be asking: Why does the ADC not make this information visible up front in the interest of transparency and fairness to our small farmers?

After monitoring the ADC website regularly for weeks now, I noticed the minutes of a Feb. 24 board meeting were posted in early April. The delay in posting is concerning but even more concerning is the fact that the submittals, which are supposed to reflect what transpired at the meeting, do not match up with what was actually on the agenda.

While there is nothing on the agenda about more lands available for lease, the submittals for the meeting actually refer to such lands, with none of the clarity a farmer looking for suitable land would need. Also, the minutes reflect a 45-minute discussion of the recent audit that described the corporation as failing to fulfill its mission despite the special powers and significant resources allocated to it.

Those same minutes reference a motion to have a separate meeting devoted just to addressing the concerns raised in the audit. So far, there is no indication if such a meeting has taken place or when it might take place.

At a time when the ADC is facing serious questions about its **failure to live up to its mission** of diversifying our agriculture to ensure food self-sufficiency, it is deeply disappointing to note that another member has been added to the ADC board — Glenn Hong, former president of Young Brothers — who brings no experience in agriculture that can be applied to right this ship. Testimony submitted in support of his nomination to the board cited his “decades of experience in the maritime and transportation industry (that) give him unique insight into agricultural issues.”

I don't question Mr. Hong's finance and accounting background, but how does this improve how our small farmers are served?

The **Hawaii Department of Agriculture states quite clearly**: “Agribusiness Development Corporation was formed in 1994 to facilitate and provide direction for the transition of Hawaii's agriculture industry from a dominance of sugar and pineapple to one composed of a diversity of different crops.”

The farmers of Hawaii, many of whom are still waiting for access to the lands that will allow for this transition have yet to see evidence of real meaningful steps in this direction. They have seen neglect leading to the **sprouting of criminal**

enterprises that have led to loss of life that could have been prevented with better security and management of ADC-controlled lands.

Twenty-five years is a long time to wait. **It's past time for change.**

Community Voices aims to encourage broad discussion on many topics of community interest. It's kind of a cross between Letters to the Editor and op-eds. This is your space to talk about important issues or interesting people who are making a difference in our world. Column lengths should be no more than 800 words and we need a photo of the author and a bio. We welcome video commentary and other multimedia formats. Send to news@civilbeat.org. The opinions and information expressed in Community Voices are solely those of the authors and not Civil Beat.

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Neal Milner: Our Moral Compass Is Lost In The Political Wilderness

By Neal Milner · May 13, 2021 · 7 min read

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Hawaii

Agribusiness Agency Pleads For More Time To Deal With Longstanding Issues

Meanwhile, lawmakers want the agency to hasten its pace in addressing deficiencies a state audit found earlier this year.

By Blaze Lovell / September 21, 2021

Reading time: 5 minutes.

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Top Stories



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State Thinks Its Multimillion-Dollar Food Hub Is Finally Happening

A public agribusiness corporation that was the target of a [critical audit](#) earlier this year is still struggling to reinvigorate Hawaii's agricultural industry.

That audit found that the Agribusiness Development Corp. lacked a strategic plan to grow more local food as well as written policies to guide its work. The corporation's leaders told [lawmakers on Tuesday](#) that it needs more time to address some of those issues and disputed some of the recommendations.

Meanwhile, a House investigative committee charged with evaluating the ADC's progress in complying with the audit also appears torn between digging into the agency's issues and continuing to raise questions about State Auditor Les Kondo, who came under fire from House Speaker Scott Saiki's office earlier this year.

On Tuesday, Kondo pleaded with the investigative committee to focus on fixing the ADC.

"The issues that we've reported have significant repercussions," Kondo said. "The state has paid a high cost for ADC's past inactions, and we continue to pay."

Despite those concerns, ADC leaders at a hearing with lawmakers Tuesday morning spent an hour trying to highlight the



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The Weekly News Quiz: Oct. 21

progress their agency has made in the last 20 years.



ADC Executive Director Jimmy Nakatani along with staff on Tuesday defended the agency’s work in the face of criticism from state lawmakers and the state auditor.

Most of the 22,000 acres under the ADC’s control is occupied by farmers growing a variety of crops including papaya, ginger and sweet potatoes, according to an ADC presentation. Some farmers are also growing non-food crops, such as coffee beans and Christmas trees.

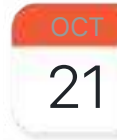
But after the presentation, ADC Executive Director Jimmy Nakatani and his staff tried to downplay the audit findings during questioning by state lawmakers and outright rejected some recommendations.

One in particular is that the agency should have written rules and policies.

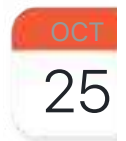
“Since inception, ADC appears to have operated under the notion that we are



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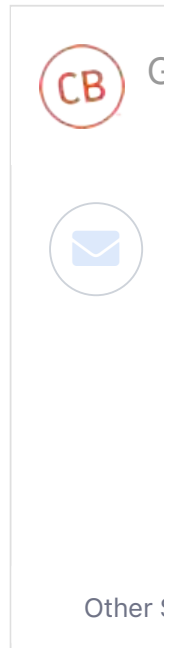
supposed to address the unique requirements, and needs for change, and we are supposed to do it quickly,” Myra Kaichi, the ADC’s senior executive assistant, said. “And rules would retard that, would slow that process.”

Rep. Mark Hashem said he did not buy that explanation and challenged the leaders to adhere to Kondo’s recommendations. He said the agency’s current rules are insufficient.

“Your organization is to the point where you need written procedures to follow in case Jimmy (Nakatani) is not there,” Hashem said.

Kaichi said that a subcommittee of the ADC’s oversight board is in the middle of revising those rules, but are running into “policy issues so huge they are asking us to get them help.”

“It’s turning out not to be as simple as we thought it would be,” Kaichi said, adding that the board may need to find a consultant to revise the rules.



Myra Kaichi, ADC's executive assistant, explained why writing new rules for the agency may take longer than expected.

A strategic plan for the agribusiness corporation will also take more time.

According to the auditor's report, Nakatani previously stalled on developing a strategic plan because he didn't see the need for one.

"The executive director thinks such a plan is unnecessary: 'I have everything up here,' he said, pointing to his head," Nakatani is quoted as saying in the auditor's report.

When Rep. David Tarnas asked what exactly he meant, Nakatani said he was quoted out of context.

In addition, Nakatani told Tarnas he did not pursue another plan because of competing priorities.

Rep. Amy Perusso, who represents part of Oahu that includes some ADC lands near Wahiawa, questioned why the agency has not put more resources into addressing the auditor's findings.

She asked the ADC who should take charge in leading change in the agency: the ADC itself or the Legislature?

Kaichi said she hopes for a broad

discussion. Nakatani told Perusso that since the audit was only published this year, the ADC would need more time to address its findings.

Kondo Fires Back At Committee

In a separate hearing Tuesday afternoon, Kondo spent about 10 minutes arguing with the committee chairwoman, House Majority Leader Della Au Belatti, over a simple factual question regarding what dates the audit began and ended.

Belatti said that he was uncooperative, but Kondo accused the committee of trying to access the auditor's work papers, which are confidential by law.

In a closing statement, Kondo again chastised the House committee for conducting what he sees as another probe of his office.

"We do not play politics," Kondo said. "The fact that you are attacking us clearly reflects some members' priorities. It apparently is not a priority, and seemingly never was a priority to understand our audit and ADC's actions to address the findings. It was never about holding ADC accountable. It was never about helping ADC to be the leader that the Legislature envisioned."

Belatti said it's not fair for Kondo to draw

conclusions about the committee's investigation or its members' intentions since it is still doing its work. The committee has plans to subpoena more records from the ADC and another state land agency, and could have more hearings in October.

It's set to have a report on its findings in time for the next legislative session in 2022.

The meetings pick up again Thursday when the committee hears from state Agriculture Director Phyllis Shimabukuro-Geiser.

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Blaze Lovell is a reporter for Civil Beat. Born and raised on Oahu, Lovell is a graduate of the University of Nevada, Las Vegas. You can reach him at blovell@civilbeat.org.

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[Civil Beat Editorial](#)

Hawaii's Agriculture Development Agency Needs To Be A Priority For Lawmakers



Claire Caulfield/Civil Beat/2021

The end of the session is looming and lawmakers have failed to deal with the ADC. They need to figure it out during the interim and return in January prepared to act.

By [Civil Beat Editorial Board](#)

April 16, 2021 · 5 min read



About the Author



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The members of Civil Beat's editorial board are Pierre Omidyar, Patti Epler, Nathan Eagle, Chad Blair, Jessica Terrell, Julia Steele, Lee

At the start of this year's legislative session, the Agribusiness Development Corp. was very much on people's minds. Two damning reports, [one by the state auditor](#) and [one by the University of Hawaii Economic Research Organization](#), had just confirmed what anyone who'd been paying attention already knew: The ADC was a **fiasco**.

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trykind · 3 years ago

Sadly, we have an inept legislature who simply follow the

Cataluna, Kim Gamel and John Hill. Opinions expressed by the editorial board reflect the group's consensus view. Chad Blair, the Politics and Opinion Editor, can be reached at cblair@civilbeat.org.



Legislators took note. House Speaker Scott Saiki and Senate President Ron Kouchi **went on record** with their dissatisfaction — Saiki called the ADC “dysfunctional” — and promised action. Legislation was introduced, hearings were held, testimony was collected.



Companion bills in the House and Senate — **House Bill 827** and **Senate Bill 335** — called for the ADC to ensure that at least 50% of its leased land went to operations whose primary business is local food production. **House Bill 1271** went further: In recognition of the ADC's abject failure, it called for the organization to be dissolved and for the Department of Agriculture to take over its operations.

So where are we with ADC reform, as this session of the Legislature nears its end? Pretty much nowhere.

HB 1271 went to the Senate and died. SB 335 went to the House and died. The only possible remaining action that could influence the ADC this session comes in the state budget, which is expected to be finalized next week. In the midst of the financial crisis that the pandemic has wrought, the Legislature could still cut or even suspend the ADC's funding.

To understand the ways in which the ADC has failed, it helps to go back to the beginning and understand just why the ADC exists in the first place. Created by the Legislature in 1994 in the wake of Big Ag's demise, the ADC was essentially

money Trail. Why is it that the house Speaker has so much

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Perhaps the Legislature should legalize the one crop we know you can make money raising in Hawaii--marijuana.

Carl_Christensen · 3 years ago

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handed planning for Hawaii's agricultural future, charged with acquiring fallow lands that had once belonged to the plantations and transforming them into lands that were economically and agriculturally viable.

The ADC was given the right to operate with a cloak-and-dagger level of secrecy and a degree of power typically reserved for comic book characters or mafia dons. Over the years the ADC has spent more than \$250 million in tax money acquiring ownership of thousands of acres of land and control of millions of gallons of water.

Its purpose was right there in its name — agribusiness development. But as the just-completed state audit found, despite all of the ADC's authority and all of its money:

“ADC has done little – if anything – to facilitate the development of agricultural enterprises. Moreover, we found ADC has not developed an agribusiness plan – a plan required by statute – to define and establish the corporation's goals, objectives, and priorities. We found that, notwithstanding the unique powers and exemptions conferred by the Legislature, ADC is using few of them – and none to develop agricultural enterprises to fill the economic void created by the plantation closures. Instead, we found an organization unaware of its statutory purpose, unable to locate documented policies, procedures, or controls – if they, in fact, exist – and operating with little direction from or involvement by its Board of Directors.”



Claire Caulfield/Civil Beat/2021

The Agribusiness Development Corporation has tremendous power over agriculture — and therefore life — in Hawaii.

The story of the ADC is not just a farce. It is a tragedy. Hawaii's people need and deserve a strong agricultural system that will support and nourish all. Over and over since the pandemic began — and as fragile realities across the state have begun to crumble — people in power have wrung their hands in consternation and talked of the need for a new paradigm.

Around them, more and more citizens of Hawaii have recognized the insanity of the status quo: That in one of the most fertile archipelagos in the world — an archipelago that is also the most isolated land mass on earth — over 80% of the food consumed by its people daily is brought in by tankers and airplanes that arrive from thousands of miles away.

People are asking for change.

The ADC could be a robust, transparent operation. It could share information openly, beginning with a well-designed, universally accessible website

The story of the ADC is not just a farce. It is a tragedy. Hawaii's people need and deserve a strong agricultural system that will support and nourish all.

with maps showing exactly who's farming what and where on ADC lands, what lands are available to farmers and on what terms. This information could be coupled with helpful, skilled staff who genuinely seek to fulfill the ADC's

mandate.

The ADC could be working with UH's Go Farm program and other farming educational programs to ensure that people who want to farm know that there is land available, that there is support and a path forward.

The ADC could be working in tandem with the Department of Education and the Department of Public Safety to ensure that food farmers on ADC lands have clients for their crops and that these agencies have access to fresh, locally grown food.

This year members of the Legislature clearly recognized that things needed to change — the real conflict appears to have been over how much: Was it best to reform the ADC or to abolish it? In the end, those views wound up cancelling each other out so that nothing happened. Next year lawmakers must find common ground and a direction that empowers local farmers and the local food system.

The Legislature created the ADC, gave it significant power over Hawaii's destiny and has now given it over a quarter of a billion dollars. Just

when exactly will it ensure that the ADC is part of a vibrant agricultural future for the islands?

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Following critical audit, lawmakers to begin investigation of agribusiness agency



An audit led state lawmakers to form a rare investigative committee. They think the agency has done little to diversify Hawaii's agriculture industry.

By [Jolanie Martinez](#)

Published: Jul. 13, 2021 at 10:49 PM HST | Updated: Jul. 14, 2021 at 10:38 AM HST



HONOLULU (HawaiiNewsNow) - State lawmakers investigating the Agribusiness Development Corporation will have their first meeting Wednesday to establish the rules of its probe.

Members hope to follow up on the auditor's report by requesting documents and even subpoenaing witnesses.

An [audit](#) found the Agribusiness Development Corporation has done little to diversify Hawaii's agriculture industry. This led the state to form a rare investigative committee.

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While there was [bill](#) to dissolve the ADC and transfer lands and staff to the Department of Agriculture, investigate committee chair state Rep. Della Au Bellati said the legislature couldn't agree with a plan to reform the organization.

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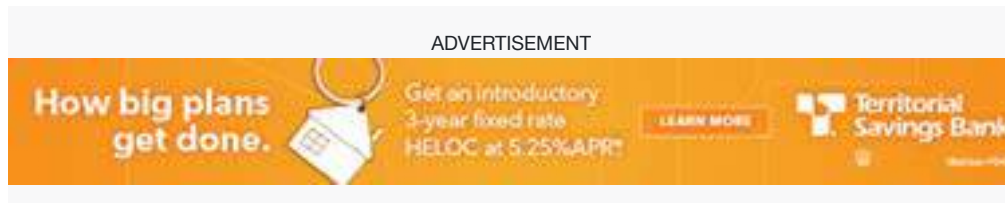


Bellati said the committee will make recommendations in next year's legislative session based on their findings.

"We want to understand how much progress they've made in inventory and identifying all their lands," said Bellati. "What they've done to manage the leases that they have on all the islands, not just the ones that they have on Oahu."

TJ Cuaresma, of Wahiawa, said the ADC is doing little with taxpayer dollars.

"We as a community, we work hard, our taxes are paying ADC, our monies are paying ADC, and yet they're so blatantly irresponsible with their record keeping and things of that nature," he said.



Cuaresma criticizes the ADC for not managing their properties properly — like the brush land surrounding Whitmore Village.

"People dying on these lands, rubbish being dumped, homeless encampments, that's poor management, so where does it stop?" asked Cuaresma. "So, I hope that this investigative committee that they're able to see all of that."


Since 1994, the agency has been working to provide leases and tax breaks to small farmers with success stories on Oahu and Kauai.


The ADC has plans for a unique farming community in Whitmore with production facilities, housing and distribution hub that were featured in an international design journal.


Lilette Subedi, president of the board of directors for the Whitmore Economic Development Group, said they see ADC as an asset.


Subedi hopes the committee will conduct a fair investigation. She said she doesn't see how folding the ADC into the Department of Agriculture would help.


"The state is really tight on funds anyway, ADC lacking funds so none of their positions are filled either, so we understand how difficult it is to make big strides," said Subedi.


- 


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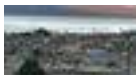
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“Everybody wants to see a lot of progress, but it’s going to take time and I’m sure it’s frustrating to many people.”

“We know that agriculture and the disposition of public lands is very important to the people of Hawaii, we also know that it’s part of advancing our economy and ensuring that we have a public land base for the future,” said Bellati. “So, we’re taking this very seriously.”

Hawaii News Now left a message with the Agribusiness Development Corporation, but not get a response.


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Exhibit "3"

Considering the evolving COVID-19 situation, protecting the health and welfare of the community is of utmost concern. As such, the meeting was held remotely with Board members, Staff and Applicants, and the Public, participating via Zoom meeting venue.

Members Present, virtually:

- Frederick Lau, City & County of Honolulu, Chairperson (Chair)
- Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)
- Glenn Hong, Member-At-Large (Mr. Hong)
- Karen Seddon, Member-At-Large (Ms. Seddon)
- Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-Geiser)
- Lyle Tabata, Kauai County Member (Mr. Tabata)
- Warren Watanabe, Member-At-Large (Mr. Watanabe)
- Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)
- Lloyd Haraguchi, Member-At-Large (Mr. Haraguchi)
- James Gomes, Maui County Member (Mr. Gomes)

Counsel Present, virtually:

- Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, virtually:

- James Nakatani, Executive Director (Mr. Nakatani)
- Myra Kaichi, Sr. Executive Assistant (Ms. Kaichi)
- Ken Nakamoto, Project Manager (Mr. Nakamoto)
- Lyle Roe, Property Manager (Mr. Roe)
- Lance Tashima, Administrative Services Officer
- Lynette Marushige, Executive Secretary
- Mr. Stephen Dalton, IT Specialist (Mr. Dalton)

Guests Present, virtually:

- Mike Faye, Kekaha Agriculture Association (Mr. Faye)
- Basil Gomez, DSc PhD, KBAY Environmental Services (Mr. Gomez)
- David Bissel, Kauai Island Utility Cooperative (KIUC), (Mr. Bissel)

A. Call to Order

Chair called the virtual meeting to order at 9:06 a.m.

B. Roll Call

Chair conducted a roll call of the Board. In accordance with the Governor’s emergency proclamation dated November 29, 2021, related to COVID-19 as extended by the emergency proclamation related to the sunshine law in-person meeting dated December 29, 2021, Chair called the name of each board member and asked them to identify their presence with a “here” or “present” and to state who if anyone was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent

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vote, the Chair would ask if there were any objections. If there were no objections the motion would be approved on the same basis as the initial roll call.

Roll call: Chair, Ms. Evans, Mr. Gomes, Mr. Haraguchi, Mr. Hong, Mr. Manuel, Ms. Seddon, Ms. Shimabukuro-Geiser, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present.

C. Approval of Minutes

November 10, 2021, minutes

Motion to approve: Ms. Evans, Second: Mr. Tabata

No staff comment.

No public comment.

Ms. Shimabukuro-Geiser said on page 9, paragraph 9, NRCA should be NRCS.

Minutes approved with amendment: 10/0

D. NEW BUSINESS

1. Presentation by Mike Faye of Kekaha Agriculture Association (KAA) Regarding a Managed Wetlands Proposal

Mr. Faye, manager of KAA, stated that KAA would like the Agribusiness Development Corporation (ADC) to consider their proposal. He shared a power point presentation.

After the presentation, Mr. Faye asked Mr. Gomez if he had anything to add, and if the board members had any questions.

Chair asked where on the map was the in-kind easement that Mr. Faye mentioned?

Mr. Faye responded that the easement was a ground hazard area that basically encompasses all the land from Polihale to Mañā. It's a large arch that goes from the Kauai test facility on PMRF and extends to the base of the Pali. It's all on ADC land; maybe a few fringe pieces that are DHHL but virtually all ADC.

Chair asked if he knew how many acres it was?

Mr. Faye said his guess was about 5,000 acres. Mr. Gomez was available to answer questions.

Mr. Gomez asked if Mr. Faye had any pictures of the ditch and the 200-acre area of the flood plain? By putting the water into the flood plain, how much reduction of silt did they think would not be going into the ocean?

Mr. Gomez responded it should filter out all the coarse silt, so everything coarser than 63 microns or 63 thousandths of a millimeter. That would make a significant difference.

Mr. Gomez said listening to the presentation, even if you get an inch of rain, you see there were some detrimental effects. By doing this, do they anticipate how many inches of rain they can handle?

Mr. Gomez stated it depends on the amount of water that drains under the influence of gravity. The proposal was aimed at creating a space where water can pond and not escape to the ocean under the influence of gravity. The flood in 2020 delivered about 13 inches of rain over a two-day period. They could reasonably expect to handle that runoff.

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Mr. Faye added it's important to note that while this was primarily intended for storm runoff on the large storms, it would also serve to trap sediment throughout their regular amount of pumping and water entering the plain. It would make the water a lot cleaner even on a day-to-day basis.

Mr. Gomes said sure, as it percolates through the ground and so forth.

Mr. Faye agreed. It traps the sediment where they can then use it. KAA had been using the sediment, as a result of the sugar operation prior to the current operations, as landfill cover and they do make a little money on it. He's hoping they're able to design this in such a way that they can actually harvest the sediment and increase the elevation of some of the lower fields and keep ahead of sea level rise. It would be better to put it on their property rather than have it flow by way of storms or regularly into the ocean. They can use the soil on their property.

Mr. Gomes asked about the silt that is going in the ocean now, was it damaging any of the reefs? If the silt kills the reefs, we have the reef fish, you know, they can't populate.

Mr. Gomez responded they were unaware of any studies that indicated storm runoff has impacted the reef.

Mr. Gomes said the water gets all brown right?

Mr. Gomez responded correct.

Mr. Manuel thanked Mr. Faye and Mr. Gomez for the presentation. He said thank you for talking about the potential use of the sediment basin and how that sediment was going to be used. He had a couple of questions. It was mentioned that the community was supportive of this, and he has had many conversations with Mr. Faye before. This area used to be like a big pond. He's curious how the community response has been to the presentation and if there's a way to basically utilize this "pond" as a way to reconnect the community to that historic use of what was a wetland before. How have those conversations occurred?

Mr. Faye said right now they're at the very early stages and they haven't gone into a formal engagement with the community on this. There is a family group that maintains some of the gravesites and cultural areas and they are part of the group they talk to. They have expressed interest in the program. If they can get ADC approval, they would definitely engage them further. They have talked to bird people, although it was not intended to be a bird sanctuary because it's near the PMRF runways. One of KAA's conditions going forward was it had to be beneficial to the agricultural uses on the plain. This was how they approached it. But they do need to engage the community groups in a formal setting.

Mr. Manuel said Mr. Faye talked about reuse of the sediment. Since they're basically holding/retaining stormwater, was there a desire to use the stormwater for irrigation or were they going to rely solely on surface water to meet irrigation demands?

Mr. Faye responded in the past sugar did recycle that water, they did pump it back up. That is a possible use of it. To be honest, they had not considered that but yes, definitely it could be used for additional irrigation.

Mr. Manuel said mahalo, in climate consideration and this crisis, stormwater retention and reuse is something that they're thinking through, throughout the state so if that can be built in that would be really awesome. Could you clarify what KAA needs from ADC, is it matching funds or is it approval of the easement? He didn't really understand what the relationship or the action was.

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Mr. Faye stated that KAA just manages the infrastructure, and ADC manages the property. They could set it up as a program but at some point, KAA needs ADC's approval to extend the easement or make a long-term commitment on that particular property. Discussions so far indicate that an easement was sufficient.

Mr. Manuel said one last thing. Talking about sea level rise, we'll see the water table rise and then there's possible saltwater intrusion in the soil. To manage flood water from mauka to makai, as the water table rises, they're going to see saltwater intrusion into the soil. Mr. Gomez, how does KAA plan to mitigate that from an agricultural standpoint, so the soils are actually protected?

Mr. Gomez responded that their calculations estimate the amount of intrusion will be minimal and the effect sea level rise will have on the ambient water table can be handled by pumping, which was one of the reasons why they need to increase the capacity of the pumps.

Chair called on Ms. Evans.

Ms. Evans said her question was for Ms. Kaichi or Mr. Faye. Who issued the easement, for what purpose, and what was the start date? Does it expire in 2029? She may have gotten that date wrong.

Mr. Faye said he believes the easement started in 2010 but he's not 100% sure who mentioned it, might have been DLNR that executed the easement.

Ms. Kaichi confirmed that ADC heard about it serendipitously. It was put on the land after ADC received the set aside and they found out about it later.

Ms. Evans asked if the land board approved the easement over lands that had already been transferred to ADC by Executive Order (EO). Was the easement to KAA or ADC?

Ms. Kaichi asked if they were talking about the easement to the USA?

Mr. Faye said it was either to PMRF or to the AEGIS program. If they use that easement that would be the easiest, but another kind of easement document could potentially be used.

Ms. Evans said she was guessing this was a non-exclusive easement since it's 5,000 acres and ADC tenants were using the land for agriculture and KAA was also within the easement boundaries maintaining the irrigation system, would that be a good guess?

Mr. Faye said it's basically an easement that allows PMRF, if they have a missile launch, to evacuate all personnel from that exclusion area.

Ms. Evans asked so it's a protective easement for particular circumstances for national security?

Mr. Faye responded that's correct.

Ms. Evans asked if it's been granted to PMRF, by DLNR's land board, was ADC named in the easement or does ADC have authority to use it or extend it?

Mr. Faye asked Ms. Kaichi if she could respond.

Ms. Kaichi said she would research it and get back to her.

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Chair asked if any other member had questions or further discussion. He thanked Mr. Faye and Mr. Gomez.

2. Presentation by David Bissel of Kauai Island Utility Cooperative Regarding the West Kauai Energy Project

Mr. Bissel introduced himself as President and CEO of Kauai Island Utility Cooperative (KIUC) and proceeded with the slide presentation on the overview of the West Kauai Energy Project. There was no action needed today and he could answer any questions.

Ms. Evans stated it was an exciting presentation and she looked forward to this project. At the previous Land Use Commission (LUC) meeting KIUC requested that the LUC defer action on an Important Agricultural Land (IAL) petition by KAA because KIUC did not have enough information about the impact of the IAL designation on KAA tenants. Has that been worked out? Are they comfortable that an IAL designation overlay for the agricultural tenants won't impact their plan?

Mr. Bissel said no, they have not been able to get together yet, but they fully expect it will get resolved.

Ms. Evans asked what kind of risks made them decided to request a deferral from the LUC on the KAA IAL petition?

Mr. Bissel responded, that's an interesting question. They only became aware of the petition the night before the hearing, so it was more just a concern of the unknown. As they've talked more on it internally and with some advisors, they hope that there isn't a significant risk, it might just be an issue on where the powerhouse would be carved out. The project footprint was about 5-acres. We're pretty optimistic we can get it done. We have to get together and chat.

Ms. Evans asked if Mike Faye was still present, she'd like to ask a follow-up question of him.

Mr. Faye rejoined the meeting.

Ms. Evans asked Mr. Faye if he heard Mr. Bissel's concern about carving out the power plant and other key infrastructure for the West Kauai Energy project from the IAL petition. Was he comfortable with pursuing that discussion?

Mr. Faye responded yes; they are. They actually had an informal discussion with one of KIUC's consultants when Mr. Roe was out visiting. As Mr. Bissel mentioned, KAA doesn't see this as a major obstacle. KAA thought there might be some benefits to them having it on IAL lands but if it's going to be an issue, they had a KAA board meeting the day before and it was informally discussed that it was no big deal, KAA can withdraw it. As mentioned, it's only about 5-acres and it's not a big deal for KAA.

Ms. Evans thanked him then addressed Mr. Bissel, stating he mentioned complying with the requirement to have agricultural activities take place in the area where the solar panel array would be. Does he see potential there for IAL tax credits for ADC farmers doing agricultural activities under, around and beneath their solar arrays?

Mr. Bissel stated he was not familiar enough with that to comment, but perhaps Mr. Faye could respond.

Mr. Faye said it was an interesting question they could discuss further with KIUC. KAA discussed with some of the people interested in farming out there about different types of agriculture that may be compatible with the solar panels. Would KIUC benefit from IAL designation of the solar panels? It gets

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into some complicated issues beyond his pay grade. KAA had actually excluded the solar panels from their IAL because they had sufficient other land in the petition.

Mr. Hong said he had a couple of questions. He thinks it's a first major pump storage project in the islands so that's going to be very exciting. Did he hear right that the output of the solar system is 24-megawatts or is the capacity of the stored water?

Mr. Bissell responded the PV system will be 35 megawatts AC the pump uphill. It will be 24-megawatts when it comes down because of the loss of energy in the conversion. So, it will be a 20-megawatt generator on the Mana Plains and a 4-megawatt generator up higher on the Puu Opae reservoir area.

Mr. Hong said that Mr. Bissell answered his other question but asked if they're looking at 250+ acres for the solar farm?

Mr. Bissell responded that was correct.

Mr. Hong said that is pretty substantial. Do you have a general timeframe for when the main phases for the project will be done? When will they be first online, when will they be at full capacity?

Mr. Bissell responded to receive the federal tax credits they need to be online by the end of 2025. That's really the drop dead point now. AES has to be comfortable that the project's moving fast enough to get those tax credits. We've got to get through the environmental and the land documents in the next year, year and a half to keep it on track and get it done. Regarding efficiency, it's a very complex project but all the pieces come together to make it work. And the incremental hydro, that 4-megawatt hydro project he talked about where they will have the actual ditch water coming through for irrigation that will repeat 4 megawatts at Puu Opae and then 4 megawatts when it comes down. And that generation from the incremental hydro used for agriculture basically covers a lot of the losses on the conversion of the solar through the pumping so that's what makes the project competitive with other technologies.

Mr. Hong stated it's great that they're able to look at the ancillary benefits, it makes the whole project really work together. So, we're talking about federal tax credits, is that the one that is still at 26 or 22%.

Mr. Bissell said that's 26 and for AES one of the things they did, they got grandfathered in at that so as long as they meet the deadline it will stay at 26. There are clients that are 10% over the coming years.

Mr. Hong asked is there any State tax credit.

Mr. Bissell said yes there are. This project is still eligible for the 30% state tax credits.

Mr. Hong thanked Mr. Bissell and wished him luck.

Chair asked if this project was going to make electricity cheaper, more expensive or status quo for the residents of Kauai?

Mr. Bissell said it's always difficult to forecast energy because you look at what oil's going to over an extended period. But they forecast it will save about \$175 million dollars in present value terms for the people of Kauai. Definitely forecast it will save money.

Chair said thank you, it's an exciting project. Chair asked if there were any other questions. Hearing none, he thanked Mr. Bissell.

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Chair called for a 10-minute recess at 10:06 a.m.

Chair called the meeting back to order at 10:18 a.m.

3. Request for Approval to Issue a License to Hanahanapuni Farm for 259 Acres, More or Less, of Unit L in Kalepa, Kauai, Tax Map Key (4) 3-9-002:001 (por)

Motion to Approve: Ms. Evans, Second: Mr. Haraguchi

Mr. Roe said he had no real presentation but wanted to note that on the pro-forma portion of the submittal, under character of use, should include orchard. Otherwise, he was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked Mr. Roe if they had been paying the rent.

Mr. Roe responded yes, last he checked they were current.

Mr. Manuel said he had a couple of questions. The submittal says that water flows through the north Waialua fork but how does the property currently access water for its agricultural production?

Mr. Roe responded he thinks they collect rainwater; he doesn't think they're collecting water from anywhere else. That speaks to the lack of agricultural production on the property right now. It's probably more suited for livestock, but they seem to think they can have some agricultural production.

Mr. Manuel said in their submittal it says they've been there for 22 years, but you didn't confirm if it's rainwater or through some other way...you don't know.

Mr. Roe responded he didn't see any other irrigation or other access from the property to their fields.

Mr. Manuel asked was the unimproved, unpermitted structure a residence and does the license allow residences or to reside on property?

Mr. Roe said the license does not allow for residences. He spoke to Ginger, who mentioned a few years back there was a fugitive on the loose and they had constructed that for overnight security, but they don't do that currently. He told her at the time it was not an allowed use.

Mr. Manuel said the compensation was somewhat confusing. The breakdown was 99 acres of tillable and 160 untiltable. How much of the tillable was diversified ag versus pastoral? What's the expected annual income from this? The submittal has a breakdown of what they plan to do, and that adds up to 87.41 acres.

Mr. Roe responded on the second page, the utilization plan under section E, notes 33.33 acres and 28 of the 33 acres was designated to Green Energy team. That's part of Green Energy's license. The 80 was more like 79.65 acres they have accounted for. There's about 19.35 acres unaccounted for. That might be the structure or the roads. For our purposes, we include the balance of that 19.35 acres as diversified agriculture since that unit was unstructured. Based on the utilization plan, between orchard, pasture, and diversified Ag, he's looking at 29.53 acres of orchard, 31.75 acres of pasture, 18.37 of diversified Ag, 19.35 unaccounted for but which he would classify as diversified ag, and then 60 acres of untiltable at roughly \$1/acre per year. We're looking at roughly, \$5,770.40 annually or \$480.86 per month.

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Mr. Manuel said thank you, that's very helpful. It would be helpful to have that total at the end.

Mr. Roe said he received the utilization plan at the last minute and he didn't have time to go through and make the calculations. In the future that's his intent.

Mr. Manuel said he had one or two more questions. The untillable lands, couldn't that be used for pasture? He's just trying to make sure that ADC is not just giving it away and if it's eventually going to become pastoral use or pasture use maybe it's worth the \$30/acre not just the \$1.

Mr. Roe responded that the untillable portions of the property were really gulch, ravine, cliffs, ravine walls, and he doesn't see it as useable.

Mr. Manuel said that's very helpful. Lastly, he thinks maybe it can be made a standard, but can ADC request annual reporting of the total pounds produced on property and how much was for local consumption versus export. This metric and tracking over time will benefit ADC. So, if that can be amended so we can track data for our licensees, that would be awesome. It's just a friendly amendment for this license.

Chair stated that's a really good suggestion.

Ms. Evans stated she'd like to suggest a different approach. Rather than amending the motion for this particular license approval, she would like to take this up as a part of the Permitted Interaction Group (PIG) on Policies and Procedures and make it a policy for all of the licenses rather than doing it on an individual basis. She asked Mr. Manuel if that would be acceptable.

Mr. Manuel responded that he's just thinking if it can be done for this request now. Unless they're going to circle back and amend all licenses at once to include this provision, he thinks they should just do it now since it's before them. It's a simple annual reporting requirement, but it's up to Ms. Evans

Ms. Evans stated that she'd like to defer it. This is a short-term license and she'd prefer to make a general policy for the Board's consideration when the PIG reports its recommendations to the full board. That's just her preference on the motion before them. And she had a question on the 5.35 acres to be cleared of albizia and hau trees, are those going to Green Energy? This question has come up before with Kalepa. Do a significant number of the DLNR holdover licensees have agreements with Green Energy to provide alien species trees like albizia for the production of biomass energy on Kauai?

As Mr. Roe hinted to earlier, when the EO came over as a transfer to ADC, part of the agreement amongst the tenants was for Green Energy to take a portion, he thinks a thousand acres over the entire property, so each tenant gave up a little bit. This tenant gave up 28 acres. We're not aware of any grower agreement that this tenant has with Green Energy team.

Ms. Evans asked if they would have the right to sell those trees to Green Energy should Green Energy be interested?

Mr. Roe responded he would think so. He said we would want to make sure that Green Energy was accessing the property under an appropriate document like a right of entry. He said he'd have to look at the terms, but he thinks it's potentially agreeable.

Ms. Evans said it's a form of agriculture and certainly it would help farmers who have those alien species trees to generate revenue for their operations.

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Chair asked if there was any further discussion. Hearing none, the Chair called for the vote. Hearing no objection, the motion was approved.

Vote: Approved, 10-0

4. Request for Approval to Issue a Land License to the University of Hawaii, College of Tropical Agriculture and Human Resources (CTAHR) for Weather Recording Purposes in Central Oahu, Tax Map Key (1) 6-4-003-016 (por)

Motion to Approve: Mr. Haraguchi, Second: Mr. Gomes

Chair asked for presentation by staff.

Mr. Roe stated he has no presentation other than what was submitted but he is available for questions.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion.

Mr. Manuel had a question for staff and maybe an amendment. When we provide these licenses for data collection, is that data and information shared with ADC?

Mr. Roe responded yes; it is.

Chair said he spoke with the Assistant Dean of CTAHR and he's willing to share all of the data. The property is on the parcel we just licensed to Cedar Grove. The data has been collected and retained by the University and they will share it with all of our tenants. Good question.

Mr. Manuel was just wondering again, maybe something for the policy group to take up that when we issue licenses for data collection that ADC be given unrestricted access to that data for its use. Data management is really important and something we should consider as an agency across the board.

Chair said he thinks this one began with Costco, so he doesn't think we had an agreement with Costco.

Mr. Roe said he doesn't think we would issue a license if the information wasn't shared; it's essentially our payment.

Chair asked if there were any further questions. Hearing none, the Chair called for the vote. Hearing no objection, the motion was approved.

Vote: Approved 10-0

5. Update Related to a "Notice of Violation" by City and County of Honolulu, Department of Planning and Permitting (DPP) for "two dwelling structures constructed on property without the required building permit" Located on Premises Licensed to William H. Wise III dba Waihii Farms and Kalama Hardwood LLC

Mr. Roe stated he received an update this morning from Mr. Nakatani that the City and County of Honolulu was rescinding the violation and the accumulation of fines were voided. Mr. Wise was going to obtain a

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permit for the structures. He had a conversation with DPP who noted that it was not uncommon for legacy structures to be unpermitted. He believes Mr. Wise has already obtained an architect to draw up the plans and he's working with DPP to obtain the structure permits.

Chair asked if they are living in the structure.

Mr. Roe responded yes, that was known when he obtained the license.

Mr. Gomes asked when ADC took over the land, why wouldn't these structures be classified as historical because of the timeframe it was built in the 40's and 50's?

Mr. Roe responded he can't answer that, and he doesn't want to say what he doesn't know.

Mr. Gomes said he's just curious because back then the codes, the building codes then and what they are today is totally different and now this guy has a violation for a home that he didn't construct, it was there.

Chair asked Mr. Roe, "so we are not paying the \$600 fine for the sewer either right?"

Mr. Roe responded that is a different citation issued by a different entity, that is actually the next item on the agenda. The rescission and avoiding of the fines apply to the DPP violation for structures.

Chair asked if we need a vote on this since it's been rescinded.

Mr. Roe responded this was just intended as an update.

Ms. Shimabukuro-Geiser stated she has a question. When ADC purchased this property, were we aware that there were unpermitted dwellings?

Mr. Roe said he wasn't here at the time so he can't say what people were aware of although he believes the appraisal indicated that it was unpermitted.

Ms. Shimabukuro-Geiser said that ADC needs to put some teeth in the policies to strengthen disclosure by the tenants about unpermitted structures. You know farmers, it's common practice that they construct things sometimes without permits and hold their breath there is no complaint from someone. She's concerned that moving forward, since we're going through these policy developments that we have something really clear.

Mr. Roe said ok.

Mr. Gomes stated that Ms. Shimabukuro-Geiser is absolutely correct. He also thinks that if there are structures, we should know what they are, when they're built and so forth and that should be part of the policy.

Mr. Manuel said just to riff off of that, this maybe again for the policy group, an acquisition policy, this should be part of normal due diligence and that prior to acquisition all unpermitted or unallowed usage should be cured by the current landowners and their tenants before we acquire because we're taking on these liabilities. He apologized stating he's wearing his prior hat working for DHHL.

Mr. Gomes commented "absolutely".

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Mr. Manuel continued that these are important acquisition policies to protect ADC from liability and future damages. That should definitely be taken more seriously in acquisition.

Ms. Evans said she has been taking notes for the Policy and Procedures Permitted Interaction Group. Based on Mr. Gomes's thoughts, things that were built prior to zoning and in the territorial period, they may be "unpermitted", but they may also be non-conforming structures that are allowed to continue until they burn down, or they have to be repaired by more than 50% or some other ordinance guided thing. It doesn't mean all unpermitted structures are a violation, it just may mean that they're covered under a different ordinance that Mr. Gomes noted.

Chair asked if there was any further discussion. We don't need to vote on this.

6. Request for Approval to Pay Fines Related to a "Field Citation" Issued by State of Hawaii, Department of Health, Wastewater Branch for "unauthorized wastewater system" Located on Premises Licensed to William H. Wise III dba Waihii Farms and Kalama Hardwood LLC

Motion to Approve: Ms. Evans, Second: Mr. Gomes

Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to testify? There was none.

Chair asked for further discussion.

Mr. Watanabe asked Mr. Roe if the current cesspools were in existence, but they chose to install the unpermitted septic tank?

Mr. Roe responded, yes.

Mr. Watanabe said he doesn't think ADC was responsible for the septic tank portion.

Mr. Roe said that maybe Ms. Prescott-Tate could speak to this, but he thought that if it's on ADC property the citation was issued by DOH to ADC.

Mr. Nakatani said he would speak on this. The property had a cesspool and Mr. Wise was trying to comply with a septic tank so actually he was trying to do good. Because the septic tank wasn't approved by the health department, it didn't pass muster. The original facility had a cesspool and that's the worse thing that could happen right? So, this person was trying to put a septic tank to resolve that but apparently, he didn't do it correctly so he's taking the proper action at this time going through the proper channels. He's working with the health department to make everything whole. The fine was just a violation, and it wasn't his fault that this cesspool was there. He was actually trying to help us and just did it wrong. Thank you.

Mr. Hong questioned, under the citation, you're assessed penalties, \$600 for the first violation, a penalty fee of \$200 was applied for each cesspool and the septic tank. He agrees with Mr. Watanabe that we have the responsibility for the cesspool but the fact that the tenant did it wrong and there's a fine for not getting permits for the septic tank, that's the tenant's responsibility.

Chair asked Mr. Roe, what was ADC paying, the \$600, or what is ADC paying for?

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Mr. Roe stated the request was to pay the \$600 since this was assessed to ADC. If Chair would refer to the recommendation, one of the conditions was, pending further investigation, staff may determine that it's appropriate to bill the licensee for the cost of the fine. Because it was assessed to ADC, it's appropriate to get this fine paid. If you refer to the letter from DOH Wastewater Branch, if ADC doesn't pay, it goes to an administrative hearing which may assess a steeper fine. In the interest of ADC's own liability, we should take care of this first and deal with any assessment of blame afterwards.

Mr. Tabata said, so, if he read this correctly, there were cesspools there that were operable, and the lessee took it upon himself to install the septic. If it was by others prior to him taking over the property, then yes, ADC should pay the fine, but the tenant did it to himself. Mr. Tabata disagreed with paying the fine.

Mr. Nakatani strongly disagreed with this assertion.

Mr. Haraguchi agreed with staff that we should pay it to alleviate future fines because staff has also given the opportunity to go back to the tenant to collect the fines. We should just move on, go with the staff's recommendation, and deal with the matter with the tenant at a later date. Thank you.

Mr. Hong agreed with that.

Chair called for the vote. Hearing no objection, the motion was approved.

Vote: Approved 10-0, Mr. Manuel with reservations

7. Request for Approval to Issue Licenses to the Tenant Review and Recommendation Committee's Recommendations for ADC Land License

Motion to Approve: Mr. Haraguchi, Second: Mr. Gomes

Mr. Nakamoto said last year ADC set out to find tenants for vacant lands and they issued 4 of the 5 licenses. The fifth parcel, located in Mililani mauka, was a 91-acre parcel. The tenant they were looking at was Malama Aina Collective. At the last board meeting he explained they're currently growing banana, cassava, and wet and dry land taro in a farm in Mililani. They also plan to do starter trees, fruit trees, avocado, citrus, and other niche crops. Staff recommendations-adopting the tenant review committee recommendation that was presented at the last board meeting. He's open for questions or discussion.

Chair asked if there was anyone from the public that wished to give testimony.

There was none.

Chair asked if there was any discussion?

Mr. Manuel asked if the license conditions were the same as what was in exhibit A or was there going to be explicit license conditions brought back to the board for approval?

Mr. Nakamoto responded yes; they would come back to the board. First, they issue a right of entry to the farmers so that they can do their due diligence as far as conservation plans. Then they will come back to the board for specific license terms and conditions.

Mr. Manuel said he wanted to make a similar request for annual reporting of what was produced as a condition of the license when it comes back.

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Ms. Shimabukuro-Geiser had a question for Mr. Roe. Do the ADC licenses include standard language that the licensee will follow all rules, State, Federal, County rules and laws? Is that standard in our license?

Mr. Roe responded yes, that's not even a negotiable point.

Ms. Shimabukuro-Geiser said to avoid any kind of misunderstanding regarding people doing unpermitted activity moving forward, when we issue the licenses, staff should meet with the new licensee to make sure they go over the requirements. She really wants to make sure they understand that boilerplate language.

Mr. Roe responded ok.

Chair asked if there was any other discussion? Hearing none, the Chair called for the vote. Hearing no objection, the motion was approved.

Vote: Approved 10-0.

8. Appointment of Members to the Standing "Administrative Committee" for the Purpose of Conducting the Annual Performance Evaluation of the Executive Director.

Chair read Article IV, Section I of the By-laws of the Agribusiness Development Corporation that established three standing committees, one of which was the Administration committee pursuant to Article IV, Section 1b. The Administration Committee shall review and make recommendations regarding all personnel matters requiring approval of the Board of Directors. Pursuant to Article IV, Section II, the Chairperson of the Board of Directors shall appoint the members of the standing committee. A standing committee shall have three members. The Chairperson of the Board of directors may serve as an ex-officio voting member of any standing committee.

Chair assigned three members to the standing committee: Mr. Hong, Mr. Haraguchi and Mr. Watanabe. Chair thanked them for volunteering. He knows it's a lot of work and he appreciates their time.

9. Request to Delegate Authority to ADC Executive Director to Negotiate and Purchase Three Deep Wells in Paalaa Uka, District of Waialua, Oahu from Dole Food Company, Inc.

Motion to Approved: Mr. Manuel, Second: Mr. Gomes

Chair asked for presentation by staff.

Ms. Kaichi rested on her submission and was available for questions. She does ask for guidance from the board. Previously when ADC did acquisitions over the last ten years, they did not verify, or they did not require sellers to cure all possible violations. It's sort of the way, DLNR purchases property. The property ADC buys were older, one hundred years old with one entity. In our case it will be Dole and Castle and Cook, whose entities have evolved over time, have changed ownership, sent out for public offering, have been repurchased in by the owner but they are virtually the same company. Dole and Castle and Cook over the last one hundred years have merged and separated, but it was really primarily these two companies. ADC does have some other parcels from other sellers, but the bulk of our lands were from these sellers. We have not required the sellers to cure these types of violations but after listening to this morning's discussion on the Waihee farm problem, she does want some guidance to help understand how much due diligence the board wants to do; how much they want cured. She personally doesn't know what the permitting requirements were for accessories to a well, like pumps, lines. From the discussion this morning, she thinks

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the board was saying that it's not willing to approve acquisition of real-estate where there were possible or existing violations of permitting requirements.

Chair asked if it was put together during the due diligence period when they find out more about these properties that ADC was looking at purchasing.

Ms. Kaichi said the question that she has and the problem that she foresees is during negotiations, this is the time that they would demand cure of known defects or known violations. She said, for a hundred-year-old property, where the seller is giving us a limited warranty and promising that everything for the most part is ok, otherwise they buy as is, they have been ok with that. But from what she heard in this morning's discussion she's beginning to think that the board is no longer ok with this, and she needs to know that if it goes into negotiations. She said if they want cure, she needs to know that. She said because it's a little different from the way they have conducted negotiations in the past. She said if the violation was so big, that it was something that was current, was present, was big that it was something they were not willing to pay for themselves to cure then of course that was part of the negotiations. But something like a fifty-year old structure, that they didn't make the demand, her fear was that the seller would probably say, that's alright, they're not going to spend their time fixing a fifty-year old permitting problem under laws that were enacted twenty-nine-years ago. She was not willing to go that route to figure out what laws apply fifty-years ago and what applies today. She said, and certainly, this is self-evident, the landowner doesn't have to keep current every year the building code changes. So, it's really whatever was in effect at the time the improvement was done and when you try to do further improvements then you get caught up in all the changes in the building permit requirements that occurred from the time you did the last improvements till today. But she thinks ADC's approach or their concerns, what are being deemed to be the priorities, the ability to handle risks are changing and what she sees is more of a requirement or a desire by this board to minimize the risk as much as possible. The ability to handle risk has gotten smaller. ADC needs to know if the board wants them to look at the permitting for each of the accessories to the wells or what they were planning to do is look at the structure of each of the wells itself and the aging of the wells and try to determine how much is needed to put into these wells to get them back up and running and then start to negotiate a fair price with them. But what she is hearing the board say today is that ADC needs to do more. ADC needs to look at how much they are willing to cure or that ADC is not willing to purchase at all unless it cures itself, any violation.

Ms. Prescott-Tate stated since that's not an item on this agenda maybe the board should be defer action on this until the next meeting.

Ms. Kaichi said, the request was to delegate authority.

Ms. Evans said she thinks that the action is to enter into negotiations which could include due diligence she's in favor of taking action today authorizing the staff to start that process. And she thinks there are unknowns that may develop but she doesn't anticipate what that might be until they have further information. She thinks the acquisition of water is critical to ADC tenants and the farmers in that area and she thinks that is such a valuable part of making agriculture in central Oahu economical that we should enter into that negotiation with all due speed. This is just her personal view.

Chair agreed.

Mr. Hong said he agreed with that. The recommendation to appropriate up to \$7 million was not based on any fact at this point until you go through the due diligence. You have to go through an appraisal of what the remaining estimated economic life of these wells are. Being fifty years old they are probably at the last 20% of their life. Another question, these were wells that were pre-existing before statehood or around

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statehood problem and so do they even have a Commission on Water Resource Management (CWRM) permit. These are the things staff must look at in terms of due diligence, what is the pumping capacity, what is the degradation of the water source over the years and what's the process of getting a CWRM permit to rehabilitate the well. He doesn't know the answer to any of that is. There's a lot of work that needs to be done and he doesn't think you can put a price on it at this point.

Mr. Haraguchi said he knows the request was for 4.7, let's say \$5 million. The total is not 8 right, this request is for 4.7 and the 3 million will be requested through the legislature for Capital Improvement Projects (CIP) during the upcoming session if he reads it correctly.

Ms. Kaichi said they're negotiating the price right now. \$4.7 is the amount the legislature has appropriated. That's the total amount we have for acquisition. That's the most ADC has. If the demand for the purchase price was higher then they can't buy all three wells. That's all the money they have, that doesn't mean that's going to be the purchase price.

Mr. Haraguchi said Mr. Hong mentioned \$8 million. He's trying to clarify this saying that \$4.7 is the max and the \$3M will be requested to the '22 legislature for CIP funds.

Ms. Kaichi said that's right. Another point of clarification, these wells are permitted, the allocations are listed on page 2 of the submittal. She not willing to spend millions of dollars for wells that were permitted if the permits don't come with the well. That too was something she would like to negotiate.

Mr. Manuel appreciated the conversation. From a water perspective and a well development perspective there's a lot more due diligence that needs to be done before a full delegation of authority, in his opinion, to the director should be made. He wouldn't recommend full delegation because there's a lot of cost factors that go into bringing in a well that's built in the 70's up to standards. There are costs related to that, permits that are required. Although the water use permits exist for the current wells, under the State water code, a change of TMK even, which he's assuming they will be used for properties beyond the current end uses will require permit approvals and modifications from the commission. Nothing is guaranteed. These permits and processes should probably happen before acquisition occurs. You would hate to purchase something and not be able to use it. That's just out of caution. These are the processes that exist within the commission of water use management that these wells would have to go through before becoming useable. In the current climate the commission is squeezed even more with well water use for agriculture irrigation because the policy for potable water is to use it for highest and best use which is usually potable consumption. With the current crisis on this island, the commission has to really scrutinize wells throughout the state. He's not sure how the commission would act on any modifications of water use permits moving forward, it's just a caveat to put out there for this group to consider.

Ms. Kaichi responded that ADC would never have the executive director approve a sale without board approval. She suggested changing the recommendation to delegate authority to negotiate, but the sale was subject to further board approval. That might address the board's concern. Give ADC the authority to negotiate and come back to the board with the terms for approval .

Mr. Hong said due diligence was going to take a while. We can do all of the background checks, due diligence, all that, and then come to the board with a recommendation on the purchase in the next couple of meetings. If the board wants to give the ability to negotiate a price subject to board approval, he'd be ok with that too.

Chair asked if there was any other discussion.

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Ms. Shimabukuro-Geiser asked Ms. Kaichi if before the negotiations, was it staff's plan to have a consultant to do due diligence? Do they know the water quality of these sources? Mr. Manuel partially answered her question on how much water was going to be available from CWRM for the implementation of the wells. If ADC was pretty confident on what the demand was going to be for use of the three wells, was there a plan to hire a consultant to do the due diligence or was it just going to be all in house due diligence?

Ms. Kaichi responded she had not considered hiring a consultant to help analyze a need for the wells. After listening to the conversation, they may need someone to help assess the accessories, the age of the accessories, and permitting of the accessories. As for the water quality, she had not thought of hiring someone for that but again that's the type of guidance she's looking for. She wasn't planning to hire a consultant, but now that Ms. Shimabukuro-Geiser has asked the question, she's going to think about it. On the amount of water that's available, this issue has been around since she can remember doing agriculture and knowing of people wanting to drill wells. There's an issue at CWRM the agriculture community needs help with, which is if they were using fresh water as back up, does that allocation count towards the full total load of an aquifer regardless of whether it's a primary use or a backup use? Are you double counting with the backup numbers even if the backup will only occur in the event of a shutdown of the primary source? That's an issue she doesn't know the answer to. These three wells will provide water to the areas identified as Z and the two areas to the north east of the map, will be primary water. The Z's and the Y's to the left of the wells, will be primarily backup. Her understanding was that the allocation will count as though it's going to be daily use even if it's only going to be used in the event of a shutdown. That's an unrealistic count that errs on the side of caution, so that we preserve, and conserve water use on the one hand. On the other hand, it does count against uses like ours in which it's going to count against us on the allocation of the total amount of that aquifer. Heads up we have been asked even before we owned the wells to reduce, to voluntarily return allocation.

Mr. Manuel replied, the basic thing to consider for ADC is redundancy is really important for agriculture, which the commission recognizes. However, the commission has an obligation to understand if there were alternatives to meet needs, the highest and best use always drives a lot of those conversations. To the extent that surface water, RI water was available, that's great and then these wells could be used as potential backups when those irrigation sources go down. The commission has not to date, allocated water for redundancy. It is an issue that needs to be addressed before the Commission on Water Use Management. Like Ms. Kaichi highlighted, if that's proposed it's part of due diligence that should be clearly laid out of about how these wells will help to support ag and what's needed as a redundancy source for agriculture to be successful. It's important to get the numbers tight, understand the productivity of these wells. Some of these wells haven't been used for over twenty years so a pump test would probably be warranted prior to applying. There are other steps for water development that should happen prior to ADC purchasing. He would hate to have ADC purchase a well that's not productive and you're stuck with a well that's now a liability. That's the context of his comments to staff on this process.

Ms. Evans stated she would like to make a friendly amendment to the motion on the table as outlined by Mr. Hong, that the board delegate ADC executive director and staff to conduct all appropriate and reasonable due diligence into the current condition of the three wells, assess the value of pumps and accessories, quality of the water and access and distribution easements but delete the portion of that sentence about purchase the same in an amount not to exceed \$4.7 million. That would be her friendly amendment to the motion.

Mr. Tabata seconded the motion

Chair called for a vote. All in favor of approving the amended proposal to delegate authority. Hearing no objection, the motion was approved.

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Vote: Approved 10-0.

Ms. Kaichi told Chair she thinks the board approved amendment of the initial proposal, but he did not get approval of the amended proposal.

Chair called for a vote on the motion as amended. Hearing no objection, the motion was approved.

Vote: Approved 10-0.

E. Old Business

1. None

F. Executive Director's Update

1. Mr. Nakatani reported on the KAA Important Agricultural Lands (IAL) petition. The Land Use Commission (LUC) hearing was on 12/23/21 and KIUC had questions on the designation. The LUC asked who owns the land, DLNR or ADC, and that's something KAA will follow-up on.
2. Kalepa – Mr. Roe can answer any questions they might have on these pictures of the derelict cars, van, and excavator on Mr. Gerald Sanchez's lot.
3. Whitmore Project update – ADC was proceeding with UH. It's still in the planning stages. There was an appropriation to the DOA for \$28 million CIP. Funds were dedicated to UH, then it came back to DOA, and it's now with DAGS. DAGS was trying to get the funds released so the project can proceed.
4. ADC put in five CIP requests to Governor. ADC was approved for three: 1) related to the wells, it's \$3 million to connect the wells to the properties ADC owns; 2) the Kekaha ditch modification, and that's Waimea River lawsuit. \$3.5 million to help resolve issue with the gates and permits; 3) \$6 million for Waiahole improvements Kunia – the reservoir and repairing the whole system. The other two that unfortunately didn't make the cut was the Wahiawa Reclaimed Water Irrigation System and that was for planning money for connecting the R1 water planning stages to the ADC lands. The last item we asked for appropriation for Waiaka, Kauai Ag park and that was \$500,000.

With regards to the audit report, as soon as we receive it, we will route it to the members.

Chair asked about item 4 of the CIP, the Wahiawa Reclaimed Water Irrigation System.

Mr. Nakatani said it's planning money to get the route for taking out R1 water to the property.

Chair asked if it still might come back to life, and we still might be able to get the funds?

Mr. Nakatani said just be aware this was not cast in concrete. The legislature may decide they want to fund all of it, or they may decide to fund none of it. This is just an FYI to the board.

Mr. Hong asked, the Wahiawa Reclaimed Water Irrigation, was that the one that takes the water from the water treatment plant in Wahiawa and tunnels under the reservoir to the irrigation water reservoir?

Mr. Nakatani said it's just the planning funds.

Mr. Hong asked if it's related to the project he mentioned?

Mr. Nakatani responded yes.

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on January 26, 2022

Via Zoom Teleconference

Mr. Gomes said he has a question regarding Kalepa, and Mr. Sanchez. If ADC removes the derelict items on the property and bills Mr. Sanchez what's the recourse if Sanchez doesn't pay?

Mr. Roe responded that Mr. Sanchez has a little bit of a rent credit right now. This particular issue should be covered by the performance bond and security deposit.

Chair asked if there was anything else.

Mr. Manuel said he had a comment. He wanted to say as volunteers on this board and himself as ex-officio, he didn't appreciate how Mr. Nakatani addressed the board as decision makers. He said they are here to support him, and they should all be able to ask questions.

Mr. Nakatani asked if he could interrupt.

Mr. Manuel asked if he could finish. They're all asking questions as decision makers who are ultimately held liable for decisions this board makes. He would appreciate respect from Mr. Nakatani when they're asking questions, just to answer the questions and not to critique on the questions that are being asked. It's fair for Mr. Nakatani to disagree with them and it's fair for the board to disagree with Mr. Nakatani, but he doesn't appreciate the disrespect and it's unfortunate that Mr. Nakatani's microphone was live, and this was being recorded. He thinks Mr. Nakatani owes the board an apology for the unprofessional disrespect that he displayed in this board meeting. And that's coming from somebody that manages another board and commission, he would never do that to any of his decision makers and volunteers. Thank you.

Mr. Gomes said he agrees with Mr. Manuel.

Mr. Nakatani said that before Mr. Manuel spoke, he was planning to apologize to all the board members for expressing his strong disagreement. He apologized, he got emotional and let the pressure get to him. It's just a frustrating time having to go through the audit, and he apologized.

Mr. Manuel said mahalo, he appreciates the apology. They're all under pressure and he himself was subpoenaed. They want to see Ag succeed and it's challenging, he understands. They just need to respect each other and the roles they play. He thanked Mr. Nakatani for the apology.

G. Adjourn

Chair asked for a motion to adjourn.

Motion made by Mr. Gomes, Second: Ms. Evans

Hearing no objection, the motion was approved. Meeting adjourned at 11:26 a.m.

Respectfully Submitted,


Lynne Marushige
Secretary

Exhibit "4"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on June 15, 2022

Via Zoom Teleconference and/or In-Person at 1428 South King Street, Honolulu, 96814

Approved at ADC Board Meeting on August 17, 2022
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1 *Pursuant to section 92-3.5, Hawaii Revised Statutes, this meeting was held remotely with Board*
2 *members, Staff, Applicants, and the Public, participating via Zoom meeting venue, and an In-Person*
3 *location was available for public participation at the State of Hawaii, Department of Agriculture*
4 *(HDOA), Hale Waiolama Board Room, 1428 S. King Street, Honolulu, HI 96814.*

5

6 **Members Present, virtually:**

7

- 8 Frederick Lau, City & County of Honolulu, Chairperson (Chair)
- 9 Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)
- 10 James Gomes, Maui County Member (Mr. Gomes) – joined the meeting at 9:08 a.m.
- 11 Lloyd Haraguchi, Member-At-Large (Mr. Haraguchi)
- 12 Glenn Hong, Member-At-Large (Mr. Hong)
- 13 Lyle Tabata, Kauai County Member (Mr. Tabata)
- 14 Warren Watanabe, Member-At-Large (Mr. Watanabe)
- 15 Karen Seddon, Member-At-Large (Ms. Seddon) (joined at 9:29 a.m.)

16

17 **Members Excused:**

18

- 19 Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-
- 20 Geiser)
- 21 Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)

22

23 **Counsel Present, virtually:**

24

- 25 Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

26

27 **Staff Present, virtually:**

28

- 29 James Nakatani, Executive Director (Mr. Nakatani)
- 30 Ken Nakamoto, Project Manager (Mr. Nakamoto)
- 31 Lyle Roe, Property Manager (Mr. Roe)
- 32 Lance Tashima, Administrative Services Officer
- 33 Lynette Marushige, Executive Secretary
- 34 Jason Azus-Richardson, IT Specialist
- 35 Mr. Stephen Dalton, IT Specialist (Mr. Dalton)

36

37 **Guests Present, virtually:**

38

- 39 F. Fuchigami
- 40 “Senate Ways and Means Committee”
- 41 Mark Ladao
- 42 “Public Testimony”
- 43 Sidney Higa
- 44 “ELC Tech”

45

46 **Guests Present, physical location:**

47

- 48 None

49

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on June 15, 2022

Via Zoom Teleconference and/or In-Person at 1428 South King Street, Honolulu, 96814

1 **A. Call to Order**

2

3 Chair called the meeting to order at 9:07 a.m.

4

5 **B. Roll Call**

6

7 Chair conducted roll call of the Board. Chair called the name of each board member and asked them to
8 identify their presence with a “here” or “present” and to state who if anyone is present in the room with
9 them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair
10 would ask if there were any objections. If there are no objections the motion will be approved on the same
11 basis as the initial roll call.

12

13 Roll call: Ms. Evans, Mr. Haraguchi, Mr. Hong, Mr. Gomes, Mr. Tabata, Mr. Watanabe. Acknowledged
14 attendance with no guests present. Ms. Seddon joined the meeting at 9:29 a.m.

15 Mr. Manuel and Ms. Shimabukuro-Geiser said they would be delayed

16 .

17

18 **C. Approval of Minutes**

19

20 **1. Board of Directors Meeting, April 20, 2022**

21 Motion to approve: Mr. Watanabe, Second: Mr. Glenn Hong

22 No staff comment.

23 No public comment.

24 No discussion.

25 Chair called for the vote. Minutes approved. 7/0

26

27 **2. Board of Directors Meeting, May 18, 2022**

28 Motion to approve: Mr. Tabata, Second: Mr. Gomes

29 No staff comment.

30 No public comment.

31 No discussion.

32 Chair called for the vote. Minutes approved. 7/0

33

34 **D. New Business**

35

36 **1. Request for Approval to Renew Revocable permit No. RP19-01 Issued to Helemano farms LLC**
37 **for Building M located at Whitmore village, Oahu, Tax Map Key (1) 7-1-002:009 (por)**

38

39 Motion to Approve: Mr. Gomes, Second: Mr. Tabata

40

41 Mr. Roe stood on his submittal but stated he was available for any questions.

42

43 Mr. Dalton said there was no one from the public.

44

45 Mr. Gomes asked staff how long the Whitmore food hub has been in discussion for developing a master
46 plan.

47

48 Mr. Roe responded, years. 2013.

49

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on June 15, 2022

Via Zoom Teleconference and/or In-Person at 1428 South King Street, Honolulu, 96814

1 Mr. Gomes asked how long till it is completed. The reason he's asking is because some of the
2 properties are RPs and one of them, D-3 is for 3-year approval. The other ones are small but they are
3 RPs. He's just curious if we're waiting for a master plan to develop because they might be moving
4 somewhere else or anything like that. He would just like some clarification.
5

6 Mr. Nakamoto said the anticipated timeline is about 3 to 5 years for construction to start and be
7 completed for the first phase. The first phase includes infrastructure, power, water, sewer to built
8 capacity for these redevelopment projects. The second phase is the RFP that ADC put out for the HPP
9 machine. They anticipate that to be in operation hopefully starting in November. A contract should be
10 signed coming in November. There's about a 3 to 5 year window for a lot of these individuals on RPs
11 and then he'll touch more on the D-3 item when we get to that.
12

13 Mr. Gomes asked if Mr. Nakamoto thinks eventually that some of the RPs could be turned over into
14 long-term rather than just an RP?
15

16 Mr. Nakamoto said it could be. In their preliminary discussions, in their outreach to the community and
17 the stakeholders in the area, they have voiced some concerns that they would want some space in the
18 redevelopment as they proceed with improving the buildings. He said he's getting ahead of himself but
19 if they saw some photos of the buildings they are in pretty bad shape. Basically, they're using the
20 buildings as parking garages and storage at this point. The buildings are in no real condition to do food
21 processing or packing which is why the redevelopment is important.
22

23 Mr. Gomes said in this RP they have buildings A and B but for this one they have building M.
24 Presently what is A and B used for.
25

26 Mr. Nakamoto responded that A and B used to be a dwelling, it used to be the old caretaker home. He
27 said they referred to it as the Magaoay home in their files but now it's part of Helemano's lease. They
28 have a 5-year lease on that area and they basically use it for storage for their Christmas tree operation,
29 for some of their equipment and as well as a dwelling. Building B is actually a dwelling, a small single
30 bedroom home.
31

32 Mr. Gomes asked if that dwelling has water and all the facilities whether it be a cesspool or a septic
33 tank.
34

35 Mr. Nakamoto responded that it's connected to County sewer lines and BWS water yes.
36

37 Chair Lau said just to point out, that is probably the very last phase to be developed he would think.
38

39 Mr. Nakamoto said as he mentioned it's a 4 to 5 phase project. Right now, they're in phases 1 and 2 as
40 he mentioned infrastructure and the HPP machine. Phase 3 and 4 which would be more of area A and
41 B, he's referencing exhibit. He said that would be potentially looking at workforce housing but that's
42 way down the road, maybe another 5 to 10 years.
43

44 Mr. Hong said Mr. Nakamoto mentioned that the structures are in pretty bad condition. He said most of
45 them have been there and have seen all the rust and everything. He asked if they have assessed the
46 structural integrity of the units so there's not a safety issue.
47

48 Mr. Nakamoto responded, for the buildings they are in now, no they have not assessed the issue. He
49 said they understand that there are some problems in some of the buildings which is why it is only used
50 for storage or parking spaces. As far as the actual integrity of the steel structures, it's poor but it's

AGRIBUSINESS DEVELOPMENT CORPORATION

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1 operational. The roof and everything are not the greatest but again, no, they have not done a structural
2 integrity test on each building.

3
4 Mr. Roe added that one of the things they are considering bringing this year is to have a contractor
5 evaluate some of the roof panels to make sure that they are secure enough and won't blow off in a wind
6 storm, damage adjacent properties or even just fall through and damage the tenants own equipment.

7
8 Chair Lau said he thinks that would be important. He asked if there was any other discussion. If not he
9 called for the vote. He asked if there were any objections. Hearing none, the motion was passed.

10 Approved: 7-0

11
12 **2. Request for Approval to Renew Revocable Permit No. RP16-05 Issued to Manoa Honey Company**
13 **LLC for Building BB Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:009 (por)**

14
15 Motion to Approve: Mr. Haraguchi, Second: Mr. Gomes

16
17 Mr. Roe said he had no presentation and stands on his written submittal.

18
19 Chair asked if there was anyone from the public. Mr. Dalton stated there was no one.

20
21 Chair asked for discussion. Hearing none he called for the vote. He asked if there were any objections.
22 Hearing none the motion was approved: 7-0

23
24 **3. Request for Approval to Issue a Lease Agreement to Ohana Hui Ventures, Inc. for Buildings K,**
25 **H, and G Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:004 (por)**

26
27 Motion to Approve: Mr. Tabata, Second: Mr. Gomes.

28
29 Mr. Nakamoto said he had no presentation and stands on his written submittal.

30
31 Mr. Dalton said there was no one from the public to testify.

32
33 Chair asked for Board discussion.

34
35 Mr. Hong said, in line with his earlier comment, he's wondering if we could ensure that there's a
36 provision in the lease documents that the tenant has current responsibility for assessing and determining
37 the structural integrity of the sheds and warehouses that we are leasing to them. He doesn't want
38 something to happen and then the State is liable for something. It's more of a legal question.

39
40 Chair Lau said that would be a question for Ms. Prescott-Tate.

41
42 Mr. Nakamoto said before she responds he said the buildings will be lease "as is, where is". He said so
43 they are fully aware of the condition of the property, that's why ADC is willing to offer a short-term
44 lease because they are willing to make that investment to improve some of these buildings and utilize
45 these basically vacant areas. He asked Ms. Prescott-Tate to correct him if he's wrong on the "as is,
46 where is" clause.

47
48 Ms. Prescott-Tate said, presumably the tenants know what they're getting themselves into and they are
49 required to obtain insurance. So, ADC is responsible for making sure that their tenants have habitable

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1 conditions. She said it is up to the board if it wants to make it a condition of the lease. She said the
2 board can if they want to.

3
4 Ms. Evans said she notes that Friends of Waimanalo is a partner in Ohana Ventures and they do
5 workforce development and training, working with local youth and families. She said, that's a little
6 different from storage and parking in terms of risk so she would feel more comfortable about approving
7 this lease with a condition that there is a safety assessment for the buildings, the three buildings.

8
9 Chair Lau asked if Ohana Hui is only using it for storage or are they actually having meetings.

10
11 Mr. Nakamoto responded that his understanding is that the meetings are being held in building E, where
12 the WEDG building is so that's where Mr. Roe's office is and there are other office spaces in there as
13 well. The parking garage is basically a parking garage and there may have some forklift operation in
14 the parking lot space on Saturdays. He said it's offered to all of their tenants as well as the farmers and
15 the general community but he doesn't see them having meetings in the parking garage. The other two
16 buildings, H and K are vacant. He said the homeless are using the buildings to pass through the
17 property because it's the only area they don't have a solid secure fence.

18
19 Chair Lau asked the board what they thought should be done; do they insert a clause?

20
21 Ms. Prescott-Tate said it would be up to the board or she said they could suggest that at the next meeting
22 that the premises be assessed for structural integrity. She said that can be revisited at the next meeting.
23 She said that Mr. Roe did say that a somebody will be brought in to do an assessment. But, if the board
24 wants to add it, it can be done or they can wait till Mr. Roe contacts a contractor.

25
26 Ms. Evans said she is reassured that the meetings will not take place in an unsafe location. She assumes
27 that the building Mr. Roe works out of is safe because otherwise that would be another problem. So,
28 she is reassured that it is ok to give a lease and approving a lease as early as possible to get occupancy to
29 make it less accessible to homeless in the area is actually a positive step toward controlling that issue.
30 So, she's ok for leaving it the way it is.

31
32 Mr. Nakatani said that part of what Mr. Nakamoto alluded to is the reason why we're issuing a lease, so
33 they can make improvements to the structure. He said as far as the integrity of the frame, it's solid. The
34 question is the integrity of the roof and that's what they are aware of and he thinks that's one of the
35 things that, speaking to them, that they want to repair. He said that's the reason why they are being
36 given a lease versus just an RP, they want to make improvements.

37
38 Mr. Gomes has a question about the homeless. He said not knowing where the property is or what it
39 looks like he is concerned about a fire hazard with the homeless; can anything be burnt besides the
40 building. He asks if there is a lot of forage out there that's very dry. He agrees that they want people on
41 there so they can curtail these homeless people by getting someone on the premise. He's just curious if
42 during the interim, can there be the possibility of a fire hazard due to dry grass around it. He doesn't
43 know.

44
45 Mr. Nakatani responded saying that one of the buildings is on the edge of the property that has grass
46 around it. It's not a fire hazard to the main structure. They want to clean that area, the grass around the
47 area to improve it. So, with them coming in, it's much of an improvement to mitigate fire and the
48 homeless. So, it's a real plus for them to come in and take care of it. Just somebody being there to keep
49 out the mischievous people is a plus, there's no real fire hazard as far as the buildings burning down.
50 The structures and garage are made out of steel so he thinks they're good.

AGRIBUSINESS DEVELOPMENT CORPORATION

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Mr. Gomes said thank you and he agrees.

Chair Lau asked if there was any other discussion. Seeing none, he called for the vote. He asked if there were any objections. Seeing none, the motion is carried..

Approved 7-0.

4. Request for Approval to Issue a Non-exclusive License to Pohaku O’Kauai Materials, LLC for Sand Removal Adjacent to Fields 221, 222, and 322 in Kekaha, Kauai, Tax Map Key (4) 1-2-001:002 (por)

Motion to Approved: Mr. Tabata, Second: Mr. Gomes.

Mr. Roe said as Chair alluded to, there is a difference in the TMK number between the agenda and the subject header for this. The correct TMK is (4) 1-2-002:001. Otherwise he stands on his submittal.

Mr. Dalton said there was no one from the public.

Mr. Gomes asked staff if requester has cured their default on their lease payment.

Mr. Roe said he would have to check but he didn’t recall that they were in arrears.

Mr. Gomes asked if we are comfortable with the appraised value of what we are getting.

Mr. Roe said that the appraised value is based on a 2020 appraisal that came in at \$39.41/cubic yard as an upper limit. That was for an exclusive license at the bird sanctuary for a lesser grade of sand. This is a non-exclusive. It’s an increase from what they suggested they were willing to pay. So, we don’t really have an appraisal for this site but if you read the terms in there, one of the things we will be doing is conducting our own appraisal for the specific terms before year two.

Mr. Gomes said he understands it’s not as high quality sand, there is some definite processing they need to do to use it.

Mr. Roe said it’s not so much additional processing as it is they can’t use it for certain things like concrete, he doesn’t think. And if they do, they probably sell it at a reduced rate. Sorry, they can sell it for concrete they can’t sell it for beach reclamation.

Mr. Gomes asked if they’re going to be required for a conservation plan?

Mr. Roe said yes and there is an NPDES application in the works as well.

Mr. Gomes said appreciate it, thank you.

Chair Lau if there was any other discussion. There were none.

Chair called for the vote. He asked if there were any objections. Seeing none, the motion carried.

Approved 7-0

(Ms. Seddon joined meeting at 9:29 a.m.)

AGRIBUSINESS DEVELOPMENT CORPORATION

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5. Election of Officers to the Board of Directors for Term July 1, 2022 – June 30, 2023

Chair stated that according to Article 3, Section 2 of the ADC By-laws the position of Chairperson and Vice-Chairperson shall be elected by the board of directors from among its members provided that neither of them shall be an ex-officio member. The election shall be held on the last regular meeting held prior to July 1st of each year. And the offices elected at each regular election shall take office on the 1st day of July following their election. The duties of the officers are set forth in Article 3 Section 5 of the ADC Bylaws which explains that the chairperson shall preside at all meetings of the Corporation. At the meetings the chairperson shall submit any information and recommendations the chairperson may deem proper concerning the policies and other affairs of the Corporation. In the absence or disability of the chairperson, the vice chairperson shall perform the duties of the chairperson and such other duties as may be assigned by the Board of Directors.

Chair Lau said he'd like to open the nominations for chairperson from the floor.

Mr. Hong nominates Fred Lau to serve another year as chairperson of ADC.

Mr. Watanabe seconded the motion.

Chair Lau said he didn't think a second is necessary.

Mr. Haraguchi moved that the nominations be closed.

Chair Lau said hearing no further nominations are there any objections to closing the nominations. Hearing none, the nominations for chairperson was closed. All those in favor say aye. 8-ayes.

Chair Lau opened the nomination for vice-chair.

Mr. Gomes asked who is the vice-chair now?

Chair Lau responded Warren Watanabe.

Mr. Haraguchi said he nominates Mr. Watanabe for vice-chair.

Chair Lau asked if there were any other nominations?

Mr. Hong moved that the nominations be closed for vice-chair of ADC.

Chair Lau said ok, the nominations are closed. He asked that all those in favor say aye. 8-ayes. Mr. Watanabe is elected as the Vice-Chairperson of ADC.

E. Old Business

1. Annual Performance Evaluation of the Executive Director

Mr. Watanabe reported that he and Mr. Haraguchi interviewed Mr. Nakatani. He said Mr. Hong who was appointed to sit on the committee decided to step down citing his short-term on the Board. He discussed the situation with Chair Lau.

AGRIBUSINESS DEVELOPMENT CORPORATION

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1 Chair Lau asked member Karen Seddon to sit on the committee and she agreed. So now there are 3-
2 people on the committee and they hope to complete the evaluation soon.

3
4 Mr. Watanabe said the interview with Mr. Nakatani went well. They will conduct other interviews so
5 he will schedule those with Mr. Haraguchi and Ms. Seddon and with the people they want to interview
6 and they'll move forward from there. He said he hopes to have this completed as soon as possible. He
7 apologizes for the delay. They will report back to the board on their findings.
8

9 **F. Executive Director's Update**

10
11 Mr. Nakatani said there hasn't been too many things happening. They are waiting for the budget for FY
12 July 1st to come out and for bills to be passed. They are preparing for some of the legislation like Lake
13 Wilson. For West Kauai, for the landfill, ADC received a letter from Kauai County saying they want to
14 possibly look at citing the next landfill somewhere in Kekaha. He thinks that's something that KAA
15 and Mr. Roe and the Board should be talking with the Mayor about. But he thinks that might be a great
16 compromise. He thinks it's better for ADC that the site is in Kekaha than in Lihue. The other issue is
17 the HPP machine. The RFP went out on June 2. So far, no one has gone to the site visit with Mr.
18 Nakamoto but that doesn't mean that they don't have any perspective bidders. They are waiting for the
19 deadline.
20

21 Chair Lau asked Mr. Tabata if he could speak on the landfill. He asked if that's a good thing for ADC.

22
23 Mr. Tabata stated that when he was in Public Works for the County of Kauai under the previous
24 administration as Mr. Nakatani noted, they tried to site the landfill on ADC land at Kalepa. It was
25 within the 3.5 mile radius that FAA restricts new landfills. Coincidentally, the landfills on Maui and the
26 Big Island are within that radius. But, this is a new landfill so they have the new restriction. Originally
27 when they did the original siting study location on ADC land in Kekaha was one of the criteria used to
28 possibly site. It was responded to negatively received so they moved away from that. He has some
29 questions on the location. PMRF has their airfield there and he's not sure that there are any FAA
30 jurisdictional responsibilities but there are questions that he has. He saw what Mr. Nakatani sent out
31 and waited for this meeting to find out who he works with to schedule meetings with the County.
32

33 Chair Lau asked if they will be impacting the roadways and the bridges or anything else that accesses
34 Kekaha?
35

36 Mr. Tabata responded the preliminary map he saw shows access to the site is further down, adjacent to
37 PMRF. He believes it's close to the location where the sand mining operation that was just issued a
38 license. He said its further down the road, so its farther away from where the landfill is presently in
39 operation. He doesn't know if they were planning to move facilities but they would need to fix
40 roadways to access and he's not sure there are bridges to be crossed to get to this location.
41

42 Chair Lau said if it's the bridges he saw, they are old.

43
44 Mr. Nakatani said he sent the letter to KAA, Mr. Uyehara and their group and so he will have the parties
45 with the Mayor to speak with all the interested parties in Kekaha and they'll take it from there. They
46 will include Mr. Tabata in the meetings so he can be part of the discussion.
47

48 Chair Lau thanked Mr. Tabata.
49

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1 Mr. Gomes asked if the bridges they spoke of were part of the plantation era and if the landfill is a
2 public landfill?

3
4 Mr. Nakatani responded yes.

5
6 Mr. Gomes said will they fix the bridges, are they safe to cross.

7
8 Mr. Tabata said he doesn't think those bridges were built to State and County standards. Although they
9 did carry substantial loads, the cane haulers but that is almost 25-years ago.

10
11 Mr. Nakatani said that those are the kinds of questions they need to work out with the County. They
12 had similar issues with Grove Farm. This is preliminary and it can change. He said he thought that they
13 were 90% sure on the Kalepa site. He said the present landfill has community benefits so for KAA and
14 the people there, make sure they get some community benefits if the landfill goes there. And the
15 process will probably be from, the landfill will go from DLNR to the County, ADC won't be
16 responsible for the landfill.

17
18 Mr. Gomes said he had one more question not pertaining to the landfill. He said a few days ago in the
19 news there was a sovereignty group in Kunia Ag land. He asked if the land was related to ADC?

20
21 Mr. Nakatani said he didn't believe so.

22
23 **G. Adjourn**

24
25 Chair asked if there was any other discussion. Seeing none he asked for a motion to adjourn.

26
27 Motion: Mr. Gomes, Second: Mr. Watanabe

28
29 Mr. Nakatani said before they adjourn, on behalf of the staff, he thanked Mr. Gomes for participating on the
30 Board. He said Mr. Gomes asked a lot of interesting questions and he hopes that he will continue to ask
31 those questions when he goes to the Board of Agriculture.

32
33 Mr. Gomes thanked the group and said it was educational for him and he's humbled by it.

34
35 Chair Lau did not realize it was Mr. Gomes last meeting and said they had a lot of interesting discussion on
36 cattle and feed and he looks forward to futures discussions.

37 He then asked for discussion on adjourning. Hearing none he called for the vote.

38 Approved: Vote 8/0

39
40 Meeting adjourned at 9:47 a.m.

41
42 Respectfully Submitted,

43
44 *Lynette Marushige*

45
46 Lynette Marushige
47 Secretary
48

Exhibit "5"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held on August 17, 2022

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Pursuant to section 92-3.5, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha State Office Tower Building, 235 S. Beretania St., Rm. 204, Honolulu, HI 96813.

Members Present, virtually:

Frederick Lau, City & County of Honolulu, Chairperson (Chair)
Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)
Glenn Hong, Member-At-Large (Mr. Hong)
Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)
Karen Seddon, Member-At-Large (Ms. Seddon) exited the meeting at 10:00 a.m.
Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-Geiser) joined the meeting at 9:58 a.m.
Mr. Earl Yamamoto (designated attendee for Ms. Shimabukuro-Geiser) exited the meeting at 10:00 a.m.
Lyle Tabata, Kauai County Member (Mr. Tabata)
Warren Watanabe, Member-At-Large (Mr. Watanabe)

Member Excused:

Lloyd Haraguchi, Member-At-Large

Counsel Present, virtually:

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, virtually:

James Nakatani, Executive Director (Mr. Nakatani)
Ken Nakamoto, Project Manager (Mr. Nakamoto)
Lyle Roe, Property Manager (Mr. Roe)
Mark Takemoto, Senior Executive Assistant (Mr. Takemoto)
Lance Tashima, Administrative Services Officer
Lynette Marushige, Executive Secretary
Mr. Stephen Dalton, IT Specialist (Mr. Dalton)

Guests Present, virtually:

Beth Tokioka, KIUC
Brad Rockwell
David Bissell, KIUC (Mr. Bissell)
Dawn Huff
Mike Faye, KAA (Mr. Faye)
“Public Testifier”
Scott E
“T”

Guests Present, physical location:

None.

A. Call to Order

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Chair called the meeting to order at 9:03 a.m.

B. Roll Call

Chair conducted a roll call of the board. Chair called the name of each board member and asked them to identify their presence with a “here” or “present” and to state who if anyone was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Ms. Evans, Mr. Hong, Mr. Manuel, Ms. Seddon, Mr. Yamamoto on behalf of Ms. Shimabukuro-Geiser, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present. Ms. Shimabukuro-Geiser joined the meeting at 9:58 a.m. Ms. Seddon and Mr. Yamamoto exited the meeting at 10:00 a.m.

C. Approval of Minutes – Board of Directors Meeting on June 15, 2022

Chair called for a motion to approve. Motion to Approve: Mr. Watanabe; Second: Mr. Tabata

Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for any board discussion.

Mr. Manuel asked to be excused from voting since he was not present at the June 15th meeting.

Chair asked if there was any objections to accepting the minutes. Hearing none, the motion was approved.

Vote: Approved 7-0 (Mr. Manuel excused)

D. New Business

1. Request for Approval to Extend the Term of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mānā Reservoir) Issued to Kauai Island Utility Cooperative in Kekaha, Kauai, Tax Map Keys (4) 1-2-002:001 (por.)

Chair called for a motion to approve. Motion to Approve: Ms. Evans; Seconded: Mr. Hong

Chair asked for presentation by Staff. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was any public testimony. Mr. Nakamoto said that Mr. Bissell had his hand raised.

Mr. Bissell stated his name and that he was from the Kauai Island Utility Cooperative (KIUC). He said KIUC had requested an extension of two of their license agreements. Originally KIUC asked for a six-month extension, and they appreciate staff’s recommendation to approve the extension although the staff recommended four months. KIUC put in for a six-month extension to work on the new lease agreement with ADC staff as there were some issues that need to be resolved. More importantly, was to give the environmental assessment (EA) process time to work its way through, where they could have an EA or FONSI (finding of no significant impact) in place and be able to execute lease agreements within six-months. They’re trying to be respectful of the board’s time and hopefully not have to come

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back for another extension. They appreciate the four-months but wanted to explain the six-month request. He's available for any questions.

Chair asked if there was any discussion from the board members.

Mr. Tabata asked staff why they limited the extension to four months versus the requested six.

Mr. Roe responded that ADC has been holding the reservoir in abeyance for KIUC. ADC has been paying the dam safety fees and being responsible for the area. Staff would like KIUC to begin to take over maintenance and cover some of those fees, sooner rather than later.

Mr. Bissell said KIUC was certainly willing to handle their responsibilities and pay some of the fees. It's the environmental side that's running slower than they had hoped. The revised EA will be submitted for public comment in September and hopefully they will go before the Land Board before the end of the year. It's going to be tight on a four-month extension.

Mr. Manuel asked Mr. Roe what was the amount of the dam fee ADC was paying?

Mr. Roe thought it was approximately \$2300-\$2700 annually.

Chair asked what was the maintenance cost for the reservoir?

Mr. Roe said there was mowing, access roads to be kept up, and he believed there was some maintenance to the slope and other areas. Mānā is not operational but it's still registered and so there's maintenance things that dam safety would like them to accomplish. ADC would like to see these existing maintenance things taken over now.

Mr. Manuel said he's trying to understand KIUC's request for an extra two months. It's an extra \$450 to give them that two-month extension, at our cost. It seems reasonable considering how long the environmental review process takes. He understands what staff's saying but is there a way to give KIUC the extra two-months, so they don't have to come back to the board for an extension. Is there some way to recoup those costs or build in a back stop so ADC's not paying beyond that six-month period and transfer those fees to KIUC after that period, something like that?

Chair asked Mr. Bissell if KIUC was willing to take over the maintenance and other fees during this period.

Mr. Bissell said he thinks they would certainly be willing to incur the fees, either now or on a retroactive basis. It's taking over legal responsibility that they're concerned with. Those are things they have to work through, the actual liability side. The financial side they would be willing to make whole after the fact or take them on now on some type of stand-alone basis for those amounts.

Mr. Tabata asked if this conversation was ever had with KIUC before we sent the letter back saying only four months. If this was an issue and Mr. Bissell was amicable to pay retroactively, he sees no reason not to extend to the six months they are requesting.

Ms. Evans said she would accept a friendly amendment to amend the floor action from four to six months if the second was willing to do that.

Mr. Nakatani said this has been dragging on a long time. Yes, the conversation has been ongoing. They have spoken to the consultants, and it still lingers. It's almost to a point where fish or cut bait. It might not be a big thing for bigger agencies but for ADC, maintenance around the dam and everything else like that. If they want to take it over, take it over but the thing is you can't have your cake and eat it too.

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This was just a signal to light the fire under them. He doesn't have a problem with the six-month extension, but they have not been very proactive.

Chair asked if he would be opposed to an amendment to the motion.

Mr. Nakatani said he would not be opposed to the six months. This has been dragging on a long time. It is money from ADC and Kekaha Agriculture Association (KAA). Six months is fine, so they don't have to come back but make it clear that they have to move on this project.

Mr. Tabata said he seconds the amendment.

Chair asked Ms. Evans if she would rephrase her amendment.

Ms. Evans said as the maker of the motion she amends the motion from four months to six months with a suggestion to KIUC to try to complete all the due diligence, which she understands does take time, within that six-month period. She asked if Mr. Hong was the person who seconded the motion.

Mr. Hong responded yes he was. With what KIUC indicated about the willingness to discuss fee reimbursement, he would add that to the amendment. So, if Ms. Evans is willing to do that, he would second it.

Ms. Evans agreed.

Chair said that was the amended motion. Chair asked if there was any further discussion.

Mr. Manuel said he noticed that on the cover page it says that this item was subject to the ceded land 30% revenue. Has ADC contacted the Office of Hawaiian Affairs (OHA) or Department of Hawaiian Home Lands (DHHL) prior to bringing this to the board; if they were notified that there was action to be taken on this or if there is a process?

Mr. Roe said, we have not and there was none.

Mr. Manuel said maybe between now and the shift from a Revocable Permit (RP) to a license that the consultation happens to ensure that those entitlements are protected. He recommends that staff engage those two entities before bringing a formal license for a longer term. He just wants it noted on the record.

Chair thanked Mr. Manuel and asked Mr. Bissell if he had any comments.

Mr. Bissell said he appreciates the consideration and the help that staff has given on this amendment.

Chair asked if there was any other discussion. Hearing none, he called for the vote.

Ms. Prescott-Tate interjected that the board must have two votes; one to approve the amendment and then one to approve the amended motion.

Chair asked if there were any objections to amending the original motion as restated by Ms. Evans? Hearing none, the motion was approved. Vote: 8-0

Chair then called for a vote on the motion as amended. Hearing none, the motion was approved. Vote: 8-0.

2. Presentation by the Board's Investigative Committee on Land Management Policy and Procedures of the Land Management Policy & Procedure Manual

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Approved: September 21, 2022
ADC BOD meeting

Chair called on Ms. Evans who chaired the committee for the report.

Ms. Evans said in November 2021, the board created a permitted interaction group (PIG) to investigate the development of a policies and procedures manual pursuant to a recommendation of the state auditor and an endorsement of that recommendation by the House Investigative Committee. The committee has met frequently with the wonderful support of the staff and has created a draft policies and procedures manual for your consideration. This is the second meeting of the three-meeting rule for the PIG process. The draft manual is not up for deliberation and vote at this meeting. This is just a presentation. The committee comprised of herself, Mr. Hong, Chair, Ms. Seddon and the staff, especially Mr. Roe, welcomes any questions you may have. The draft manual was part of the meeting packet and available to the public as well, so she turned the meeting back over to the Chair.

Chair asked if there was anyone from the public that wished to give testimony. There was none.

Chair asked if there was any discussion by the board.

Mr. Manuel stated that if they were not deliberating on this at all, if they have comments should he send them to the committee and/or staff.

Ms. Evans said he can address them to the committee, but should they be substantive and result in changes then the committee will work with staff on it.

Mr. Manuel also wanted to make sure that the correspondence to the committee was not in violation of the Sunshine Law because now it's four members and not three. That was why he asked whether he should just send it to staff versus the committee.

Ms. Evans asked Mr. Manuel what's his math on that. Based on eleven members.

Mr. Manuel laughed and said he was basing it on his own commission with seven members. The question was then, can that communication happen beyond the PIG members?

Ms. Evans said they are turning over the draft to the full board at this meeting so he can address his comments to the full board.

Ms. Evans clarified this discussion was for questions and comments but not for deliberation.

Ms. Prescott-Tate acknowledged that was correct.

Mr. Manuel said he has a lot of comments. In reviewing the document, thank you, great work. It's nice to see the logic and the multiple conversations they've had throughout at least his tenure on the board, represented in a comprehensive kind of document so kudos to the committee. He's wondering how many of these policies/procedures should be promulgated as rules and not procedure and policy. Some of them actually read like administrative rules, which most state agencies are required to promulgate. He throws that out there as a general comment to the committee and the board and maybe the attorney general (AG) for guidance. That's really to protect them as board members in decision making, policy versus rule, that dilemma. All boards and commissions deal with this, but he just wondered if that was part of the discussion.

Chair said that was part of the discussion but will leave the explanation to Ms. Evans.

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Ms. Evans said her personal view was that the Legislature created ADC as a quasi-public corporation for a distinct purpose and that was to give the corporation the ability to operate in a business environment. That requires flexibility, nimbleness and the clear attention of the board to changes in that business environment, changes in everything about agriculture. We're watching changes to the climate, changes to market demand, changes to cost for farmers. She believed that policies and procedures for a quasi-public corporation are the right way to go, because it will allow the board to make changes as conditions change much more quickly. Mr. Manuel and I are familiar with rules. They are a good tool for stable programs where conditions don't change quickly because they're based on a statute; mandated programs that are very stable. The legislature made the right call when they created ADC as a quasi-public corporation rather than a division or department.

Mr. Manuel said he appreciates that sentiment, and the flexibility as a quasi-public corporation. Rules are generally a process to provide due process and notification to public not necessarily ease of access as an agency or corporation. That's his question to the AG, is this policies and procedures and the ability for those to be changed at any board meeting, sufficient notice for due process purposes. He just wanted to have this discussion publicly with the board if they're making this decision and then similarly as a quasi-public corporation he reflects on HCDA, which has similar powers and authorities, but they still have rules. He just wanted to strike the balance between if there's some of this that should be rule and then some can stay nimble and flexible as an agency. He just throws that out there for the body to think through. That was his first comment of twelve.

Chair asked Mr. Manuel that as we goes through this process, please notice that a lot of the line items have justification and require approval by the ADC board. The committee was trying to ensure that matters will always come back to the board for a final decision.

Mr. Manuel continued with his list, so hopefully deliberations can go quickly next month. He asked if the definitions were new or consistent with the existing statutes, or were created specifically for this policy and procedure manual, like tenant, lease, license, etc. are those consistent?

Mr. Roe responded that the definitions were created for this document.

Mr. Manuel said something to consider just for consistency with other State agencies, to use the terms that other agencies use versus creating our own. Maybe that is something the AG can help advise on. He said other agencies have similar definitions that have been vetted at the State level versus ADC creating its own definitions. This will protect the board from any discrepancy. Another question he has is the decision to have different procedures for the different lands, Galbraith lands, Kekaha lands and Kalepa lands. What was the logic behind having a place-based procedure? Galbraith has procedures A through M, and Kekaha and Kalepa have A through H. Why are procedures in Galbraith not included in Kalepa and Kekaha? Why aren't they consistent across the board?

Ms. Evans stated there was considerable discussion on that. It goes back to how the lands were acquired by ADC. Some came over with different legacy procedures and they all have different characteristics. The committee did talk about it and decided it made sense to have a different set of procedures.

Mr. Manuel asked if they could add a footnote explaining the logic because it looks awkward that one has more conditions. For example, he would wonder why Galbraith had all these extra steps that Kalepa and Kekaha don't. Next on my list is there seems to be duplicative language related to the phase one EA. Was that intentional to cover it in different places. For example, section 5.1, 6.3 and 7.2 are duplicative. Why are they in each of those sections instead of referencing a prior section?

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Chair said that would be a question for Ms. Prescott-Tate.

Ms. Prescott-Tate said they were addressing different situations, but sure the later sections could be changed to reference the first section.

Mr. Manuel said when he's reading through it logically he thinks, didn't I read this in a prior section?

Ms. Prescott-Tate said yes, the format was already established when the document was given to her, so she just plugged it in that format.

Mr. Manuel remarked that the document could be shortened by five-pages if they just referenced the prior section.

Ms. Evans said the committee discussed that and thought duplication actually led to clarity. Somebody reading the document wouldn't have to flip back to an earlier section to get a complete picture. They didn't want staff or a licensee to have to flip back and forth to understand what had to be complied with.

Mr. Manuel said ok, he gets that. The next question is on rent credit. It recommends up to twenty-year discount. Giving people opportunities to get rent credits for up to twenty years on a thirty-five-year license is super generous. We're here to support agriculture and ag corporations, but ADC also has to operate, maintain and manage the corpus of the corporation. Is there a desire to limit the credit amount by a percentage of the base fees or is this actually best practice in the industry? Was this part of the discussion?

Ms. Evans stated they did debate this, quite a while. As a public corporation ADC doesn't always get CIP improvements for improvements to lands they have purchased. Sometimes ADC must depend on their licensees to do improvements on ADC lands, and these needed improvements can be substantial. Improvements may need to be more than say, what the Department of Agriculture does for their agriculture parks. The Hawaii Department of Agriculture (HDOA) puts in all the improvements, including the common areas. Since each new license will come before the board, the board will have an opportunity to know the condition of the land and what is a reasonable incentive for improving our lands to the point where the licensee can be profitable. There are guardrails on the board's ability to say it's up to twenty years, but it's not an entitlement.

Mr. Manuel said he appreciates that. In reflecting on some of the conversations they've had about somebody asking for a credit to put in a fence when that's actually part of their business and should be provided by the tenant. Should there be more explicit criteria within the manual and not just make it a case-by-case decision. That's just a comment. The next question has to do with the option to extend for an additional thirty-five years. If the base term is thirty-five years, that takes us up to a seventy-year total license term. Is it just doubling the number as the justification or logic? For example, other state agency general leases have terms of sixty-five year maximum. What's the logic behind the thirty-five-year license extension?

Ms. Evans said she can share what she recalls, and other members can share their recollections. ADC is focused on commercial farming. We expect the licensees to put in substantial infrastructure in order to be profitable. Licensees don't have the same viewpoint that HDOA has on its Ag-park leases. HDOA subsidize the improvements up front and then turn over those leases to allow new farmers to come in and get started with lower start-up costs. We want to see that successful, profitable licensees can benefit

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from their investment in the space and continue to be profitable and add food and export to our agriculture cluster.

Chair asked Ms. Seddon to comment on Mr. Manuel's question about the policy of issuing base period licenses for thirty-five years, and a thirty-five-year extension. Is that standard practice in industry? As Ms. Evans was saying, if we're trying to support profit of our farmers why not have a larger base term, if we're just going to allow a thirty-five-year extension. He's just trying to understand the logic behind the term periods. What was the discussion of this committee in coming up with those numbers?

Ms. Seddon responded that a lot of it came down to control. The committee had lots of discussion and she sort of started out where Mr. Manuel is on some of this stuff. But, when you start looking at having to put the large infrastructure and the other things that they're talking about, it sort of turned into how do we support them to be able to do this? The timing turned out to be rather than start with a big base, let's make sure they're doing a good job. If we find something wrong it's easier to stop it at thirty-five years than at seventy-five years.

Mr. Hong said their objective was to find those farmers that can be successful at scale because of the size of the acreage ADC is doing. If someone has a continuous track record of success over the initial thirty-five years we really, really want to keep that going. So, we wanted to say, if you have in fact been successful we want to offer you the incentive of continuing your business for an extended period of time. Obviously as you approach the second half of the initial lease term, and we have a farmer that has not been delivering on what we think the potential is, then we evaluate that and determine that maybe we don't give them the extension, or maybe if they're in violation of any of the terms, we need to look at termination. But the ones that are successful, you want them to continue to be successful. So that's kind of their thinking.

Mr. Manuel said he knows they put a lot of time in those meetings; he just wanted to dabble in their logic and conversations. He continued, in supporting licensees that do good, paragraph 4.6 in the document, reads, in his opinion, reads like they're rewarding bad behavior by allowing an extension renewal after expiration. Why was that clause put in because there is a clear renewal process? You are notified, you have ample time within that time period if you want to extend, let us know in writing. The procedure is clear. Then we have a caveat at the end, which kind of gives people a way out. They can say oh sorry I didn't get to it, my license expired but can I renew it. What was the logic behind that after laying out a clear procedure for license renewals?

Ms. Evans said she thinks it was based on the staff's experience in working with the licensees that occasionally, and this would be the exception rather than the rule, that a good farmer may not have office staff that keeps track of all of the paperwork. So, they wanted to allow for the very rare and occasional exception, where you have a good farmer, who occasionally will let the expiration date get past them. But it all comes back to the board.

Mr. Manuel said yes, he can see that. He's almost done. Annual reporting requirements. He's been asking for every license, have a way to track percentage or poundage of crops produced for local consumption because that's been a big state metric that no one is measuring. Could we add that to paragraph 9.1? That would be his recommendation and we can deliberate it next month. It just talks about the crops, types of crops and what's produced. But the local consumption or for local production is a key metric the state is looking at. What does ADC contribute? He'd love to see that added to the policy document as an annual reporting metric.

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Chair said licensees are to submit crops and production and quantity of crops produced data in aggregate. What are you asking?

Mr. Manuel said, of the total quantity produced, what is the percentage of that quantity that stays in local market versus exported. He doesn't know if that's an important metric for ADC but it's an important metric for the State. How do we support growing our own food here in Hawaii versus importing that food? The State doesn't have a handle on what that number is and how are we as a corporation contributing to that metric.

Chair said he thinks as the Wahiawa food hub begins to grow that would be an important consideration.

Mr. Nakatani said we just want to be careful on collecting stats on crops and value, there's confidential business information considerations if only one person is growing or limited people are growing stuff like that, we could run into problems. Maybe leave it to HDOA who knows what they're doing. We can always say, turn over the farm information to them. He doesn't feel it's very useful when it comes from an agency. It's more holistic for the state rather than just for ADC. You have to be very careful when you collect stats on crops, especially if there's a limited amount. That's just his comment.

Chair said he's been a proponent of collecting this data because it's really hard to work in agriculture without this sort of information. Maybe Mr. Yamamoto has a comment on this data collection.

Mr. Yamamoto clarified that he was attending for Ms. Shimabukuro-Geiser, but in his personal opinion, data is always good, he's always looking for it. As for what Mr. Nakatani was speaking on regarding non-disclosure in order to protect an individual or a small group of individual producers, that is a requirement in federal publications. If there's a way to get around that or to minimize the threat of disclosure, he can't think like that, he's not a statistician.

Mr. Manuel said he hears what Mr. Yamamoto and Mr. Nakatani are saying but ADC has built in the caveat for proprietary information by aggregating crops produced. So, in the aggregate even if he said 10% of his 100 million pounds of whatever he grew stays in the local economy, what proprietary information is being revealed by sharing that percentage of total aggregate.

Mr. Yamamoto said, that's a way to get around it.

Mr. Manuel said to him, that is not proprietary in any way, shape or form. In his opinion he doesn't know what would be proprietary in that context. His specific recommendation would be asking for annual reporting of crops produced and then the percentage of those crops produced for local consumption. Then you can do math by saying if it's not locally consumed it's exported right? We just need to ask for that dataset. It would help HDOA. Like Mr. Yamamoto said, he's been looking for that data; no one is tracking that data or asking for it. Even a small corporation like ADC, we can say based on our tenants, our producers are contributing this amount, this percentage to the local economy and local consumption. That's a dataset that we can use, to uplift ADC and the things that we're doing here as a corporation.

Chair said he agrees, but to Mr. Nakatani's point should this remain with HDOA? We're monitoring our tenants but we're a very small portion of all of agriculture in Hawaii. Should HDOA be taking care of this, even for our guys?

Mr. Manuel said the Department of Business, Economic Development, and Tourism (DBEDT) is a statistician house for the State. It collects economic development and tourist data and aggregates that,

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protects confidentiality, protects proprietary information but does do statistical analysis of the economic drivers in the state. So, maybe when we shift over to DBEDT as a board or as an agency that's something that DBEDT can help ADC collect information on. He's been pretty consistent on it throughout his tenure on the ADC board. He didn't see it in the manual so he just wanted to elevate that as something they should think about.

Chair asked if Mr. Yamamoto had any final comments.

Mr. Yamamoto said he agrees with Mr. Manuel's thoughts, that's just him. But again, HDOA always get questions about what the farmers are doing or what HDOA's lessees in the agriculture park/non-agriculture park programs are producing, and he can't promise this, but he'll try to look into what HDOA's requirements are in terms of their annual or whatever period of time, the reporting by their land management programs to see if they even gather that information and, he'll pass it on to Ms. Shimabukuro-Geiser to apprise the board.

Chair thanked Mr. Yamamoto and asked that he please share it with ADC if there's something, they're very curious.

Mr. Manuel said he has four more things. He didn't see in the core license conditions if it needs to be clear there is no living or residing on premise. He knows ADC doesn't allow it and he wanted to know if it needs to be explicitly set out in this document or was that part of the discussion.

Chair asked if Ms. Evans had any response.

Ms. Evans said she'll refer it to Mr. Roe or Mr. Nakatani.

Mr. Nakatani said for all of the new farm developments, they don't plan for any kind of housing because that costs a lot of money to bring in fire suppression, potable water, sewer, etc. If there's any kind of housing on ADC property it's usually inherited like the purchase in Whitmore that has two houses on. But aside from that, we don't normally plan for any kind of housing or things like that. Housing presents a different type of problem. The priority for ADC is agriculture. For housing, in the Whitmore project, for agricultural farmers or workers, that's a separate issue but ADC wouldn't put the housing necessarily on the farmlands. He's not really keen on that and that's ADC's position so far.

Chair said he thinks what Mr. Manuel is saying is that it should be somewhere in the manual.

Mr. Manuel said yes, added as a general policy of this body that they want to preserve ag lands for agricultural production. He didn't see that in the policy.

Chair said he doesn't think that was discussed.

Mr. Manuel said, towards the end of the document it talks about entitlements. When he asked Mr. Roe earlier about if it could be added when entitlements are obligated to DHHL under OHA that there is some kind of consultation, notification to those entities prior to board decision making. At least when the board is making a decision they know the DHHL/OHA beneficiaries were talked to and notified and their entitlements are protected. He shared this as a practice for the DLNR board, that a similar outreach, so a draft submittal sent to the agency for review to work things out before it's brought to the body for decision making. It just helps with coordination amongst agencies, but he just throws that out for a potential added process/procedure that they build in.

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Approved: September 21, 2022
ADC BOD meeting

Ms. Evans said because the legislature passes laws from time to time that set a cap on the 20% revenue entitlements for non-sovereign revenue by state agencies using ceded lands she thought the appropriate language was as directed by Budget & Finance that carries out the legislature's mandate. They didn't put that in for the DHHL 30% former sugar lands entitlement so a consultation might be a good step to have.

Mr. Manuel said he hears what you're saying about OHA and the legislature's approval of that, but ADC pays directly to DHHL so maybe that would be good to consult with DHHL because the legislature doesn't have oversight on that process. If that could be added under the entitlement section that would be a good amendment. Similarly, is there a way in this policies and procedures manual to get an annual financial report to the board like how much revenue did ADC make this year. Revenues versus expenditures. How much was paid to DHHL, OHA etc. or maybe just DHHL because that comes out of our expenses. Is that part of or was that part of the discussion in this group?

Ms. Evans thought the statute had an annual report requirement.

Mr. Manuel said that's to the legislature correct, not to the board. He's just wondering if the board as a decision-making body could get a financial update on where we're standing; are we in the red are we in the black, did we do better this year? Since he's been here he hasn't seen that. It's a corporation, understanding their financial situation would be beneficial and an annual report would be minimal.

Ms. Evans said her personal view, which was not discussed with the committee, but these policies and procedures are pursuant to a recommendation to have written polices on land acquisition, land disposition, land management, and document management. They didn't try to throw in everything but the kitchen sink. They took direction from the house investigative committee. It doesn't cover everything. It covers those areas where there weren't sufficient written policies.

Mr. Hong said Ms. Evans is correct. But as a board matter he agrees with Mr. Manuel entirely.

Mr. Manuel said he appreciates the feedback. If that was the function of the manual, then maybe the financial report doesn't need to be captured here. Maybe this is something the board can consider in future, just best practices, like every December or end of fiscal year just report back to the board on where we're at. That's helpful. And finally, when they have licenses that come for amendments and renewals but a policy that says, bring the license up to current license standards. For example, if you built a house back in the 60's but you try to build a house today, you are required to bring everything up to compliance in order to meet all of the best environmental, public health and safety requirements as possible. So he's just thinking as licenses are renewed and are amended either staff or the board, they adopt the latest standards of their license document versus using a document that is outdated, that is missing components that this policy committee has agreed should be the minimum requirements in the license. He wants to make it explicit that every touch of this body should be an opportunity to bring the license into current standing. Just out of good practice so there's parity amongst licensees that we're not treating someone differently in our review. That's it, he's officially done with his comments, and he thanked the policy committee.

Chair said he thinks it's good and they'll address that prior to the next board meeting. This submittal was just for informational purposes.

Ms. Shimabukuro-Geiser advised the Chair that she joined the meeting at 9:58 a.m.

Ms. Seddon and Mr. Yamamoto were excused at 10:00 a.m.

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held on August 17, 2022

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Chair called for a ten-minute recess at 10:03 a.m.

Chair called the meeting back to order at 10:11 a.m.

3. Request for Approval to Issue a Grant of Easement to Hawaiian Electric Company, Inc. for the Installation of Electrical Service at Galbraith Small Farm Lots at Wahiawa, Oahu, Tax Map Key (1) 7-1-012:001 (por.)

Chair called for a motion to approve. Motion to Approve: Mr. Watanabe; Second: Mr. Tabata

Chair asked for presentation by Staff. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to present testimony. There was none.

Chair asked for board discussion.

Mr. Manuel noted this submittal was missing compliance with HRS chapter 343, which was on the KIUC submittal. He's assuming this isn't exempt from an EA, but he wants to make sure that it's on the record in some way, shape or form, formally.

Chair asked if Ms. Prescott-Tate could respond.

Ms. Prescott-Tate said it's a good idea for it to be added on to the submittals. This is for a very small piece of property, it's .115 acres, so it's like the corner of the property so she didn't believe there needs to be an EA for that.

Mr. Manuel said he appreciates that but that's not the trigger. He just wanted to be very clear, as a board member that the prior submittal had an HRS chapter 343 compliance reference, and the remaining ones don't. He just wanted to make sure that it's in their authority to grant this and no EA was required.

Ms. Prescott-Tate said in the future they can add a check box to the submittal.

Mr. Manuel asked if there could also be a notation for whether the exemption was under part 1 or part 2. That would be great. He had no objection. He just wanted to make sure that for our records we're making an explicit decision on that.

Chair had a question for Mr. Roe. Ho farms is not using the greenhouse as far as he knows, do we know what's going on, is it because they don't have electricity?

Mr. Roe said that he thought there were some plantings, but he can double-check. He hasn't been there to look into the greenhouse recently.

Chair said when he goes by he always looks and sees about six feet of California grass there. It's a huge greenhouse to be sitting there. He was wondering if it's because they can't open and close the curtains because they don't have electricity.

Mr. Roe said he doesn't know the answer to that.

Chair asked if there was any other discussion? Hearing none, he called for the vote.

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Motion approved. Vote: 7-0

4. Request for Approval to Accept the Settlement Offer from Waste Management of Hawaii Inc. for the Over-Excavation of Soil in Kekaha, Kauai, Tax Map Key (4) 1-2-002:001 (por.) Between August 2008 and November 2019

Chair Lau asked Ms. Prescott-Tate if we should move to Executive Session.

Ms. Prescott-Tate suggested this matter be moved to the end of the agenda so they can consolidate the two matters that need to be discussed in Executive Session. We'll take Item number 4 out of order and move on to item number 5.

5. Request for Approval to Amend License Agreement No. LI-KA1405 Issued to Elesther Calipjo, an individual, for 305.43 Acres, More or Less, in Kalepa, Kauai, Tax Map Keys (4) 3-9-002:020 (por.) and (4) 3-9-002:009 (por.)

Chair called for a motion to approve. Motion to approve: Mr. Tabata; Second by Ms. Shimabukuro-Geiser

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to provide testimony. There was none.

Chair asked for board discussion.

Ms. Shimabukuro-Geiser said she just had a question for Mr. Roe. On the first page it says rental rate, annual rent is \$9,781.58 and in Exhibit C on the last page, page 2, at the very top it says lease rent and insurance \$2,500.00. That's in the Preliminary Plan of Utilization and Development. Is the rent in the utilization plan outdated or was there an adjustment made to the rent?

Mr. Roe said the utilization plan was developed by the farmer at the start of the license, and there may have been subsequent rent increases following submission of his utilization plan. The rent listed on page 1 of the submittal is what is currently charged.

Ms. Shimabukuro-Geiser asked shouldn't the utilization plan be updated to reflect the correct rent and insurance cost? Is it just something they submit when they apply?

Mr. Roe said yes. There are escalators built into the license and the rents change.

Mr. Manuel asked if this tenant was in good standing, are they farming, are they paying all their dues to Kalepa-Koalition? What's the status of this tenant on our property?

Mr. Roe responded that the tenant is current with ADC. They are current with their dues to Kalepa-Koalition. There is an on-going dispute that he believes is being resolved with Kalepa Coalition about whether or not Mr. Calipjo owes or should be responsible for special assessments for the road since the common element road does not run through his property. That's an ongoing question with Kalepa Coalition. They have not resolved it yet, but Mr. Calipjo has indicated that regardless of which way Kalepa Coalition membership votes on that, or how the issue shakes out, he's willing to resolve it. He just wants them to address his concern.

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Mr. Manuel asked if staff did a site visit to make sure the lands are being used as stated in the license, and it's in production.

Mr. Nakatani said that Mr. Calipjo is very outstanding and has a very nice pasture and he's one of the few tenants that has helped ADC with the water crisis and everything. He's been very cooperative and we're lucky to have a tenant like that.

Mr. Manuel said that's good to hear. He just wanted to double-check, even though this is kind of an administrative matter, it's great to hear success stories of our tenants, so thank you. One comment again, because of the 30%, hopefully our policies and procedures can get updated to do some kind of consultation with DHHL. He's assuming we didn't notify DHHL based on the staff's prior comments.

Chair asked if there was any other discussion or objections. Hearing none, he called for the vote.

Motion Approved. Vote: 7-0

6. Request for Approval to Issue a Revocable Permit to Kekaha Agriculture Association for 1 acre, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002:001 (por.)

Chair called for a motion to approve. Motion to approve: Mr. Tabata, Second: Mr. Manuel

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to provide testimony. There was none.

Chair asked for board discussion.

Ms. Shimabukuro-Geiser asked if this is a request to approve a RP for one-acre plus or minus; so, is the rental rate on the submittal correct? It says the annual rent of \$1,800. If it's only one acre shouldn't it be \$150.00?

Chair asked Mr. Roe if it's \$150 per acre, per year.

Mr. Manuel asked or was it per month?

Mr. Roe said he needs to consult with Mr. Nakatani on that. Typically, ADC's rental rates in Kalepa are \$150 per acre per year. So, he needs to consult on that, he thinks it's a typo.

Mr. Nakatani said it's \$150 per acre per year.

Mr. Roe said that's a typo on his part and apologized.

Chair asked if the motion should be amended.

Ms. Shimabukuro-Geiser said she thinks it should be amended because the motion was made including an annual rent of \$1800.

Chair asked Mr. Manuel if he had something to say.

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Mr. Manuel said similar to that, the map on the back shows 1.5 acres. Is it one acre more or less or is it 1.5 acres? If you do the 1.5, obviously it would change the fee amount. He can see that being an issue if it's \$150 per acre, per month that's a difference of \$900, that ½ acre. That clarity in the amendment would be helpful.

Mr. Roe clarified that the acreage is 1 acre. It's adjacent to the carpenter shop area that is currently licensed to Andros. The map on page 257 comes from the Andros license. Maybe that should be struck. But the location identified on page 258 is the acreage. It mapped out to one acre exactly.

Mr. Manuel said so the box on page 257 that says 1.5 is not accurate.

Mr. Roe said that is correct; that refers to the Andros property. He apologized and said he should have caught that.

Mr. Manuel thanked Mr. Roe for the clarification.

Chair asked if Mr. Tabata would amend his motion.

Mr. Manuel said he can make the amendment as the second to Mr. Tabata's motion. Mr. Manuel asked Mr. Tabata if he was open to amending the motion to approve the annual rent to \$150 per year.

Mr. Tabata said yes.

Chair asked if there was any further discussion. Hearing none, he asked if there were any objections to amending the motion. Hearing none, the motion to amend was approved. Vote: 7-0

Chair then asked if there were any objections to approving the motion as amended. Hearing no objections, the amended motion was approved. Vote: 7-0

Chair asked for a motion to go into executive session. Motion: Ms. Shimabukuro-Geiser, Second Mr. Manuel

Motion approved. Vote: 7-0

Board entered executive session at 10:27 a.m.

Chair called the regular board meeting back to order at 11:20 a.m.

Chair recalled Item D. 4.

D. 4. Request for Approval to Accept the Settlement Offer from Waste Management of Hawaii Inc. for the Over-Excavation of Soil in Kekaha, Kauai, Tax Map Key (4) 1-2-002:001 (por.) Between August 2008 and November 2019

Chair called for a motion to approve. Motion to approve: Ms. Evans, Seconded: Mr. Watanabe

There was no staff presentation.

Chair asked if there was anyone from the public who wished to provide testimony. There was none.

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Chair asked the board if there were any further discussion. Hearing none, he called for the vote.

Motion approved. Vote: 7-0

E. Old Business

1. Annual Performance Evaluation of the Executive Director

Chair stated that the board has been presented with an oral report on the Annual Performance Evaluation of the Executive Director and the vote will be taken up at the next meeting.

F. Executive Director's Update

Mr. Nakatani stated that the board was provided with his written update. Briefly, KAA received a \$1.9 million grant for the REPI program KAA had previously spoken to the board about. Hopefully that will help with flooding and cleaning up some of the water.

ADC started a REPI program for Wahiawa and they were starting the talk with the military, it's a Navy facility in Wahiawa.

ADC's transition to DBEDT continues. There were a couple of bumps with the transactions but overall, the move was happening. DBEDT has a different system. We're adapting to it. It's a good system, it's a tracking system they use because they have so many attached agencies. Mr. Nakatani thanked Ms. Shimabukuro-Geiser, Mr. Dalton and Mr. Jason Azus-Richardson for assisting ADC with the I.T. One last thing he wanted to introduce Mr. Takemoto; the new Myra.

Mr. Takemoto said it's nice being here. He has primarily an ag background. He came from Dole, prior to that he was with Pioneer HiBred, and also with Dole and Castle and Cook before. He started in ag in 1981 or so - worked in extension so he's done all kinds of different agriculture. He's looking forward to being a part of this organization and moving agriculture forward.

Chair asked the board if there was anything else.

Ms. Evans asked Mr. Nakatani if the term "open floodable space" was a detention basin or a retention basin; she's not familiar with that term.

Mr. Nakatani responded, he's not sure what it is but he thinks it's to help with the flooding and keep sediment out of the ocean. He doesn't think it's a substitute for the discharge right now, but he thinks when they have inclement weather and flooding it's supposed to help. It's a good thing.

Ms. Evans asked if the scope of work for the \$1.9 million grant was a typical plan, design, construction project?

Mr. Nakatani said he doesn't know that. He can have KAA send us more information when they start the project. They made several presentations on this before and he understands the concept, but he doesn't know about the construction and everything else. But kudos to them for getting the funds. We're not sacrificing much of our agricultural lands because those are the lands that get flooded anyway.

Ms. Evans said if Mr. Faye was able to make an informational presentation at some future meeting.

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Mr. Nakatani said he'll make that request to Mr. Faye, and he can provide an update on the plans.

Chair stated that if any of the members had questions, he has a meeting with KAA at the end of the month so just forward the questions and he'll make sure he gets an understanding. We should have them here for a presentation.

Chair asked if there were any other questions or comments. Hearing none the Chair moved to the next item.

L. Adjourn

Chair called for a motion to adjourn. Motion to approve: Mr. Manuel, Second: Ms. Evans

Chair asked if there was any further discussion. Hearing none, Chair called for the vote.

Motion approved. Vote: 7-0

Meeting adjourned at 11:39 a.m.

Respectfully Submitted,

Lynette Marushige

Lynette H. Marushige
Secretary

Exhibit "6"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on September 21, 2022

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Suite 204, Honolulu, HI 96813

1 *Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board*
2 *members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person*
3 *meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha,*
4 *State Office Tower Building, 235 South Beretania St., Suite 204, Honolulu, HI 96813.*

5

6 **Members Present, virtually:**

7

8 Frederick Lau, City & County of Honolulu, Chairperson (Chair)

9 Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans) exited the meeting
10 at 9:38 a.m.

11 Glenn Hong, Member-At-Large (Mr. Hong)

12 Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)

13 Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-
14 Geiser) joined the meeting at 9:50 a.m.

15 Morris Atta (Mr. Atta) (designated attendee for Ms. Shimabukuro-Geiser until her arrival) exited the meeting
16 at 9:50 a.m.

17 Lyle Tabata, Kauai County Member (Mr. Tabata)

18 Warren Watanabe, Member-At-Large (Mr. Watanabe)

19

20 **Members Excused:**

21

22 Lloyd Haraguchi, Member-At-Large

23 Karen Seddon, Member-At-Large

24

25 **Counsel Present, virtually:**

26

27 Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

28

29 **Staff Present, virtually:**

30

31 James Nakatani, Executive Director (Mr. Nakatani)

32 Ken Nakamoto, Project Manager (Mr. Nakamoto)

33 Lyle Roe, Property Manager (Mr. Roe)

34 Lance Tashima, Administrative Services Officer

35 Lynette Marushige, Executive Secretary

36

37 **Guests Present, virtually:**

38

39 Senate Ways and Means Committee

40 Basil Gomez

41 F. Fuchigami

42 “Guest Guest”

43 Joshua Uyehara

44 Kristy Ringor

45 Mike Faye

46

47 **Guests Present, physical location:**

48

49 None.

50

51 **A. Call to Order**

AGRIBUSINESS DEVELOPMENT CORPORATION

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Via Zoom Teleconference and In-Person at 235 S. Beretania St., Suite 204, Honolulu, HI 96813

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Chair called the virtual meeting to order at 9:02 a.m..

B. Roll Call

Chair conducted a roll call of the Board. Chair called the name of each Board member and asked them to identify their presence with a “here” or “present” and to state who, if anyone, was present in the room with them. Chair stated that the roll call served as the roll call vote. For each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Ms. Evans, Mr. Hong, Mr. Manuel, Mr. Atta for Ms. Shimabukuro-Geiser, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present. Ms. Evans exited the meeting at 9:38 a.m. Ms. Shimabukuro-Geiser joined the meeting at 9:50 a.m. Mr. Atta exited the meeting at 9:50 a.m.

C. Approval of Minutes – Board of Directors Meeting on August 17, 2022

Motion to Approve: Mr. Manuel; Seconded: Mr. Watanabe

Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for any Board discussion. Mr. Atta said he would abstain from voting because he was not present. Mr. Manuel stated that if Mr. Atta abstained, we do not have quorum.

Ms. Prescott-Tate reminded the Board that six members present makes quorum.

Chair called for the vote.

Motion approved: 6-0 (Mr. Atta abstained)

Chair asked if the Board should approve the August 17, 2022 minutes from the Executive Session at this time.

Ms. Prescott-Tate responded no, that will be taken up during executive session and to move on to the next agenda item.

D. New Business

Chair informed the Board that before addressing New Business, they will be taking Old Business Agenda Item E-1 out of order.

E. Old Business

- 1. Request for Approval to Adopt the “Land Management Policy and Procedure Manual” as Recommended by the Investigative Committee on Land Management Policy & Procedures (continued from August 17, 2022, Item D-2)**

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103 Chair called for a motion to approve and accept the Land Management Policy and Procedure Manual as
104 presented at the previous meeting. Motion to Approve: Ms. Evans, Second: Mr. Tabata

105 Chair asked Ms. Evans, Chair of the Investigative Committee on Agricultural Policy, to present the findings
106 and recommendation of the committee regarding the Land Management Policy and Procedures Manual.

107 Ms. Evans said that the committee presented the Land Management Policy and Procedures Manual at the
108 previous meeting in August. She does not have a presentation at this time but speaks in favor of the motion
109 based on the nine months of careful due diligence that the committee and staff put into creating the policy
110 manual and ensuring that it is consistent with the auditor's findings and the House Investigative Committee's
111 recommendations.

112 Chair asked if there was anyone from the public who wished to give testimony. There was none.

113 Chair asked if there was any discussion.

114 Mr. Manuel asked Ms. Evans, just for the record, that he provided robust feedback and comments last month
115 so were there any edits made to the policy based on that conversation as detailed in the minutes that they just
116 approved or is the recommended approval an approval as is without incorporating or editing based on his
117 comments?

118 Ms. Evans responded that his comments were very helpful and robust and allowed them to approve, once
119 again, the recommendations that the committee made to the full Board last session. They did not make
120 changes based on the discussion, but she very much appreciated the questions he raised and the opportunity
121 to consider those issues.

122 Mr. Manuel asked Chair to indulge him, as one of the only people providing comments to try to help improve
123 the policy document, he's just going to vote no on this because if the intent is to include the entire Board, he
124 feels that he's been pretty consistent and every time he's asked for guidance on policy he was told it would
125 be taken up in the policy document. To get to this point and realize that it's not being considered and there's
126 no amendments being made, he just can't agree to the policy as drafted. He supports the work that has been
127 done but speaking for himself and having participated and engaged and read through the policy, provided
128 comments and to see those comments not being addressed or incorporated, it doesn't sit well with him, so
129 he'll respectfully be voting no.

130 Chair stated that Ms. Evans did write a relatively lengthy list of comments to Mr. Manuel's responses and the
131 committee did review them. Chair asked if Ms. Evans could chime in.

132 Ms. Evans said that Mr. Manuel's questions were helpful but as the committee went through those comments
133 they were able to see that they were either addressed in the Policy and Procedures Manual that was presented
134 to the full Board or they should be addressed in ways other than through the manual. There was discussion
135 on his questions but that didn't result in changes.

136 Mr. Manuel said that none of that was reflected in the report that was presented today. It's just being told to
137 him now so it would be helpful if the justifications not to include his recommended edits would be on the
138 record. It's helpful to understand why those weren't included. Why those suggestions weren't included were
139 not present in the submittal so it's hard to vote yes on this matter.

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140 Ms. Evans asked that the responses to Mr. Manuel’s questions from the last meeting be added to the record of
141 this floor action.

142 Mr. Manuel said if that’s the case, could this be deferred till next month and then add the committee’s
143 responses. That way he could potentially change his vote if his comments were addressed. It feels awkward
144 to add it to the record when he doesn’t get to see it. He will still be voting no. Provide him with a response
145 so he can understand how they came to the conclusion that there was no need to amend the draft policy. He
146 leaves it up to the Board. He’s just trying to understand the logic and right now he doesn’t have anything
147 except for what Ms. Evan’s is telling him. He doesn’t see any justification in the submittal as drafted.

148 Chair thought the response was pretty detailed and he doesn’t have a problem with sharing it with the Board
149 and he doesn’t see a problem with delaying it until next month.

150 Mr. Watanabe asked to make a comment. He agrees with Mr. Manuel. He thinks it’s important the full
151 Board understands. This is a very important document for ADC to move forward. He would also like to see
152 the responses to Mr. Manuel’s questions. It makes for a better decision.

153 Chair asked Ms. Prescott-Tate if it’s ok to defer until the next meeting.

154 Ms. Prescott-Tate said it can be deferred till the next meeting and the comments can be provided.

155 Chair deferred the matter until the next meeting.

156 Mr. Manuel said he appreciates the deferral. He looks forward to reading the responses and making this a
157 stronger document and hopefully voting yes at next month’s meeting.

158 Chair asked if they should go back to the regular agenda.

159 Ms. Prescott-Tate responded yes.

160 **D. New Business**

161

162 **1. Request for Approval to Issue a Letter of Intent, Conduct Due Diligence, and Negotiate the**
163 **Purchase of Fee Simple Interest in Real Property Located at Wahiawa, Oahu, Hawaii, Tax Map**
164 **Key (1) 7-3-004:020**

165

166 Chair called for a motion for approval to issue a letter of intent, conduct due diligence, and negotiate the
167 purchase of fee simple interest in real property located at Wahiawa, Oahu, Hawaii, Tax Map Key (1) 7-3-
168 004:020.

169

170 Motion to Approve: Mr. Watanabe, Seconded: Mr. Tabata

171

172 Chair asked for staff presentation.

173

174 Mr. Nakatani stated he will do the presentation. This is to start the due diligence process with a Letter of
175 Intent (LOI). He visited the building and it’s not quite an apartment complex, more like worker housing.
176 This will be part of the Whitmore Project. They looked at building housing in Whitmore and if this could be
177 a substitute instead of building it in Whitmore, this is already built and it’s a pretty impressive building. It
178 has all the amenities. It’s practically in the middle of downtown Wahiawa. It has transportation modes a

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179 block or two away, and drugstores, hospital and everything like that. This would be a perfect worker housing
180 setting. This is subject to appropriation and approval by the Governor and of course approval by the Board
181 so hopefully we can move on this, thank you.

182
183 Chair asked how many units are in the building, it's not mentioned in the submittal.

184
185 Mr. Nakatani responded there are twenty-four units, eighteen parking stalls. Usually worker housing you
186 don't depend on people parking cars, the farmers usually pick up the workers and take them to the worksite.
187 It's a very nice complex, very new so it's pretty solid. It's worth taking a look at.

188
189 Chair asked so it's twenty-four one-bedroom units.

190
191 Mr. Nakatani responded yes.

192
193 Chair asked if there was any other Board discussion.

194
195 Mr. Manuel noted that the map on Exhibit A included in Item D-1 shows a vacant lot. The lot that is
196 highlighted on California Avenue is a vacant lot, so what apartment are you referencing?

197
198 Mr. Nakatani said he's sorry but it's not a vacant lot. It's 360 California Avenue and it's already built. He's
199 not sure what he's looking at but it's not a vacant lot.

200
201 Mr. Manuel said that Exhibit A in Item D-1 has a blue square around the vacant lot on California Avenue.

202
203 Mr. Roe interjected that he generated that map from DPP's (Department of Permitting and Planning) website.
204 The map was just to show the location.

205
206 Chair said he missed asking if there was anyone from the public who wanted to testify. There were none.

207
208 Chair asked if there was any other Board discussion.

209
210 Ms. Evans said she speaks in favor of the motion. During the last year the Office of Planning and
211 Sustainable Development has conducted a comprehensive economic development strategy process that
212 included focus groups on all four counties and on Oahu. The need for farm worker housing was the top
213 priority. It's critical for agriculture to have farm worker housing available in order to allow workers to work
214 in commercial agriculture entities.

215
216 Chair said he did a drive-by to look at the building. It's within walking distance of the new Wahiawa Value-
217 added product center that is being developed on California Avenue. It is near transportation which could get
218 people over to the food hub or even farms in that area. It's a convenient building and this is the approval to
219 begin due diligence.

220
221 Mr. Manuel said he totally supports workforce housing. Just a question he has in anticipation of acquisition.
222 What's the strategy of our property management ability? Coming from an agency that struggles with housing
223 in general, it's a whole other field of expertise and capacity that will need to be built. He just wants to throw
224 that out to the Board knowing that ADC's focus is on Agribusiness, but now we're moving into housing.
225 There is a whole different set of additional kuleana that comes with managing that type of investment.
226 What's the thought on that? Would it be a partnership or leasing it out through a property management
227 company.

228

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229 Mr. Nakatani said this is the strategy also with Whitmore if we were to build housing. It's not the desire of
230 ADC to run housing because that's not our expertise. We'd probably go to some type of non-profit agency or
231 a private entity or some partnership. Right now it's not in our portfolio to run a housing unit. That's
232 something that's been discussed, and we're not in the housing business.
233

234 Chair said in previous discussions about worker housing, for example that was being talked about in
235 conjunction with the food hub, they were looking at a property management group to come in and take care
236 of that. Good question though because he's thought about that too.
237

238 Mr. Atta said he had the same thought as Mr. Manuel and he's glad that it's on the table for discussion.
239 Property management for residential purposes is really different from ag land management. He was
240 wondering how that would work with the staffing that ADC has. He knows ADC is stretched really thin, so
241 he was concerned about that. And the valuation estimate, he knows this is all due-diligence but the six odd
242 million dollars value, is that a number that the seller is putting out? He's assuming as this moves forward
243 that this will go through an appraiser and get appropriate appraisal values and the question that he would
244 have is what kind of parameters would be given to the appraiser if the intent is workforce housing as opposed
245 to market housing. He's assuming, whoever developed this property developed it with that intent so there
246 may be valuation issues that will need to be dealt with. He's just throwing it out there. He supports the
247 intent, but he's concerned about those issues.
248

249 Mr. Nakatani said they visited the site. It's on the market, that's what the seller is putting it on the market
250 for. The seller is aware that everything is subject to appropriation, and everything is subject to appraisal.
251 Yes, there's a valuation question but that's part of our due diligence. It's not a typical apartment, it's more
252 like a barracks type building, three stories. It has a common kitchen and common recreation area; individual
253 rooms, individual toilets. Again, this is part of due diligence. We're aware of what is available, and we're
254 doing a comparison with building new units in Whitmore. And it has to go to the legislature for
255 appropriation. It will be scrutinized again.
256

257 Mr. Atta said based on the description that Mr. Nakatani gave, it sounds like they could be looking at some
258 community concerns about those monster homes. That's what it sounds like in terms of the structure. He just
259 wants to throw it out there from a public perception standpoint. Do we run the risk of having to deal with
260 that issue given the controversial nature of that lately in the papers?
261

262 Mr. Nakatani said that's part of due diligence. But it's already built. He's not sure what it was previously
263 used for but there were people living in the building. Our concern is the condition of the building. That will
264 all come out in due diligence. And again, ADC is not in the business of housing. We would get help from
265 another agency or management company. It's the same issue we would have if we built in Whitmore as part
266 of the Food Hub. But as Ms. Evans pointed out this is an important thing for agriculture and ADC is willing
267 to walk through it.
268

269 Chair said it looks more like an apartment building than a big house. Chair called on Mr. Hong.
270

271 Mr. Hong said it sounds like it's fairly recent construction. Do we know when it was built?
272

273 Mr. Nakatani said he has some information but that's part of due diligence. It's been occupied, it has coin
274 operated washing machines, dryers and everything. He doesn't know exactly what was there before but it's a
275 very nice complex, it doesn't look like it has any repair issues. That's the attractiveness and as Chair pointed
276 out it's close to bus lines and all of the amenities. One of the biggest things, when you look at Whitmore, we
277 would have issues with entitlements to water and building permits. We will do a cost analysis and everything
278 else and come back to the Board. But just looking at it now, it seems like a great buy.

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Mr. Hong said as they get into due diligence, obviously you'll look at permitting and does it have all the permits in place for a multi-unit dwelling as well as looking at demand side. He's assuming that generally we know the space demand for that particular type of housing, single individual. Is that sufficient to meet the demand or is it more than the demand out there and how do we manage that if it was a bigger unit then there's demand. It's all a part of due diligence.

Mr. Nakatani said yes it's all a part of due diligence. But just looking at the property, and the way it's set up, it looks very, very good. You never know when you start the due diligence and if there's any kind of deficiencies and stuff like that, it will come out.

Ms. Evans noted that now ADC is attached to Department of Business, Economic Development (DBEDT), DBEDT has the Hawaii Housing Finance and Development Corporation, which from time to time she sits on that board and she's aware that they have very detailed knowledge of the non-profit that operate affordable rental housing and that might be helpful further down the line to ADC.

Mr. Tabata said along those lines he had a question. Now that ADC is under DBEDT, what is the structure, where does ADC sit? He knows this is off topic but if DBEDT has any synergies within the department that can assist and take over, like Mr. Nakatani said up front ADC's not in the housing business. There may be other sections in DBEDT that can assist and oversee a project like this because they have the general knowledge that Mr. Nakatani is confessing not to have. He finds it a bit hard not understanding now the charge that Mr. Nakatani has, what his role is supposed to be, maneuvering from the Department of Agriculture (HDOA) to DBEDT. He just would like to know.

Mr. Nakatani said that was a great question. Scott Murakami at DBEDT made arrangements for some of his staff, members of DBEDT, ADC staff, and the ADC Chair to look at the Food Innovation Center. He couldn't make it that day. That had spurred some interest. He received an email from Mr. Murakami, and he said they want to talk with ADC to help with this housing issue, and other issues that will come up. He's not sure what group in DBEDT but it's pretty wide and they're pretty knowledgeable. What's amazing is that everybody's there to help and willing to put it together and they have an interest to see how ADC can fit within DBEDT, not only for our organization but the State. It's very refreshing. We're going to have a meeting in a couple of weeks. It's always been his position that he's not getting into the housing business. He would warn ARM that they shouldn't get into the housing business cause it's like Mr. Manuel said, it brings a different set of problems. A lot of it is social, family and stuff that you never anticipate. So, if you can avoid it, avoid it at all costs.

Chair asked if there was any further discussion. Hearing none, Chair called for the vote.

Motion approved: 7-0

2. Request for Approval to Issue a Letter of Intent, Conduct Due Diligence, and Negotiate the Purchase of Fee Simple Interest in Real Property Located at Wahiawa, Oahu, Hawaii, Tax Map Key (1) 7-4-012:005

Chair called for a motion for approval to issue a letter of intent, conduct due diligence, and negotiate the purchase of fee simple interest in real property located at Wahiawa, Oahu, Hawaii, Tax Map Key (1) 7-4-012:005.

Motion to Approve: Mr. Watanabe, Second: Mr. Tabata

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329 Chair asked for presentation by staff.

330

331 Mr. Nakatani said this is a parcel on the corner of California Avenue and Plum Street, 1001 California
332 Avenue. It's adjacent to the property that the Food Innovation Center is on. The property owner came to
333 them and asked if they wanted to purchase it. This has always been on the radar, but the owner wasn't
334 interested in selling that property. Now they're interested in selling. Again they want to start with the LOI
335 and conduct due diligence on this property to be part of the Food Innovation Center. This would be an
336 addition to the Food Innovation Center. The Chair visited the center and said it's already too small and they
337 need more space. This would be a very good addition to that space.

338

339 Chair asked if there was anyone from the public who wished to present testimony. There was none.

340

341 Chair asked for Board discussion.

342

343 Mr. Atta said he had a comment. He knows that they are approving a due diligence inquiry to the property.
344 Just something to think about. He's been involved in a bunch of contaminated property litigation,
345 specifically with regards to service stations, gas stations, and he does know the due diligence that will go into
346 that inquiry. It's something that he wants them to be acutely aware of. Very often the liabilities and risks
347 associated with these sites tend to be pretty high and he just wanted to point that out. He appreciates the fact
348 that they are doing due diligence and not actually moving forward.

349

350 Chair agreed with Mr. Atta. There is always a concern every time he looks at a service station. He has seen
351 some major problems that can take years to take care of. But again, this is just allowing the due diligence. It
352 does have to come back to the Board for approval. Chair asked if there was any other discussion? Hearing
353 none, Chair called for the vote.

354

355 Motion approved: 7-0

356

357 **E. Old Business**

358

359 1. Item 1 was taken out of order before Item D-1 regarding the Adoption of the Policy & Procedure Manual.

360

361 Ms. Evans exited the meeting at 9:38 a.m.

362

363 2. **Presentation and Update by Kekaha Agriculture Association (KAA) Regarding the 2022 Readiness
364 and Environmental Protection Integration (REPI), Program Challenge Grant for an Open
365 Floodable Space Proposal in Kekaha, Kauai, Tax Map Key (4) 1-2-002.001(por.)**

366

367 Chair asked for the representative from KAA to make the presentation.

368

369 Mr. Gomez joined the meeting and said that Mr. Faye was having communication issues this morning, so he
370 was available to speak on behalf of KAA. This presentation follows up on the presentation made to the
371 Board in March 2022 about a request to approve an in-concept lease or license of up to four hundred acres of
372 open space in Kekaha. KAA applied for a grant through the Department of Defense Readiness and
373 Environmental Protection Integration (REPI) Program. The grant will cover design and permitting over the
374 next three years. Total of ten million dollars is needed to complete the project and it will take eight to ten
375 years to complete. KAA will apply for other grants to complete the project.

376

377 Mr. Nakamoto said that Mr. Faye was now available to do the presentation. Mr. Faye entered the meeting.

378

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379 Mr. Faye shared a power point presentation giving an update on the open floodable space project. The initial
380 grant was for 1.9 million. The purpose of the project was to address flood water, sea level rise, climate
381 change, and improve the water quality. The project will use approximately four hundred acres of land near
382 Nahili Pond. Only two hundred acres will be flooded for purposes of trapping sediment. This will improve
383 the quality of water entering the ocean. The land is currently fallow and unlicensed.
384

385 Chair thanked Mr. Faye for the presentation and said he assumes that at some time in the future, they will be
386 back to give the Board another update.
387

388 Mr. Faye said that is correct.
389

390 Ms. Shimabukuro-Geiser joined the meeting at 9:50 a.m.
391

392 Mr. Atta exited the meeting at 9:50 a.m.
393

394 Chair called for a ten-minute recess.
395

396 Recess taken from 9:52 a.m. to 10:12 a.m.
397

398 **2. Annual Performance Review of the Executive Director (continued from August 17, 2022,**
399 **Item E-1)**
400

401 Chair called the meeting back to order at 10:12 a.m.
402

403 Chair stated the Board may go into executive session, pursuant to HRS section 92-5(a)(2), to consider the
404 evaluation of employees where consideration of matters affecting privacy will be involved; pursuant to HRS
405 section 92-5(a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's
406 powers, duties, privileges, immunities, and liabilities; and, pursuant to HRS section 92-5(a)(8), to deliberate
407 or make a decision upon a matter that requires the consideration of information that must be kept confidential
408 pursuant to a state or federal law.
409

410 Before going into executive session, Chair asked if there was any public testimony? Please be advised that
411 testimony is limited to the decision to go into executive session. There was none.
412

413 Chair asked for a motion to go into executive session.
414

415 Motion: Mr. Tabata, Seconded: Mr. Watanabe
416

417 Chair asked if the staff had any presentation. There was none.
418

419 Chair asked if there was any Board discussion. There was none.
420

421 Chair called for the vote.
422

423 Motion approved: 6-0
424

425 Chair called the meeting back to order at 10:46 a.m.
426

427 Chair stated that the Board deferred the acceptance of the annual performance evaluation of the ADC
428 Executive Director James Nakatani until the next meeting.

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429

430

F. Executive Director's Update

431

432

Mr. Nakatani said that ADC received notification from Andros Engineering Corporation at Whitmore, and he believes also on Kauai, that they were moving out of Hawaii. They have been accommodating the Board of Education to look at that site for their commercial kitchen and a temporary site for one of their buildings in Wahiawa, due to displacement while the Wahiawa Civic Center Project is under construction.

433

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437

Aside from that ADC is still waiting for their budget to be transferred from HDOA to DBEDT; it is somewhat tied up between the two agencies. We're in a lull period and he's hopeful that in the next couple of weeks the issue will be resolved, and they can start paying their bills again. In the meantime, they are keeping track of ADC's projects, and everything is moving ahead.

438

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442

G. Adjourn

443

Chair called for a motion to adjourn.

444

445

Motion to Approve: Mr. Tabata, Second: Mr. Manuel

446

447

Chair asked if there was any discussion. Hearing none, Chair called for the vote.

448

449

Motion approved: 6-0

450

451

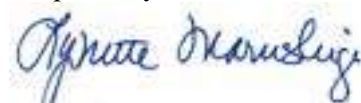
Meeting adjourned at 10:48 a.m.

452

453

454

Respectfully Submitted,



Lynette H. Marushige

Secretary

455

456

457

Exhibit "7"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on November 2, 2022

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Approved: ADC Board Mtg.

January 25, 2023

Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.

Members Present, virtually:

Frederick Lau, City & County of Honolulu, Chairperson (Chair)
Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)
Morris Atta (designated attendee for HBOA, Ex-Officio Member Ms. Shimabukuro-Geiser until her attendance) (Mr. Atta)
Warren Watanabe, Member-At-Large (Mr. Watanabe)
Glenn Hong, Member-At-Large (Mr. Hong)
Lyle Tabata, Kauai County Member (Mr. Tabata)
Karen Seddon, Member-At-Large (Ms. Seddon)
Katie Roth, Designated Representative, DLNR for Ex-Officio Member Kaleo Manuel (Ms. Roth)

Members Excused:

Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)
Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-Geiser)

Counsel Present, virtually:

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, virtually:

James Nakatani, Executive Director (Mr. Nakatani)
Ken Nakamoto, Project Manager (Mr. Nakamoto)
Lance Tashima, Administrative Services Officer
Lynette Marushige, Executive Secretary

Guests Present, virtually:

Mike Dahilig
Ford Fuchigami
Mark Ishmael
David Cho
Colin Peros
Loan Lovan, Scott & Rudy Ing
Sandi Kato-Klutke (Sandi)
Allison Fraley
KITV 4 News
Margaret Bush
Scott Ishikawa
18082

Guests Present, physical location: None.

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A. Call to Order

Chair called the virtual meeting to order at 9:02 a.m.

B. Roll Call

Chair conducted a roll call of the Board. Chair called the name of each board member and asked them to identify their presence with a “here” or “present” and to state who if anyone was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Ms. Evans, Mr. Hong, Ms. Roth, Ms. Seddon, Mr. Atta, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present.

Chair stated that he wanted to apologize for the abrupt cancellation of the October 19, 2022 meeting. Moments before the meeting was scheduled to begin a couple of the members that had previously confirmed their attendance notified him that they were not able to attend. This caused a loss of quorum. It was unfortunate but they will try to do better in the future.

C. Approval of Minutes

1. Board of Directors Meeting, September 21, 2022

Chair asked for a motion to approve the September 21, 2022 Minutes: Mr. Tabata; Second: Mr. Watanabe

Chair asked if there was anything from the staff. There was none.

Chair asked if there was anyone from the public wishing to give testimony. There was none.

Chair asked if there was any Board discussion. There was none.

Chair called for the vote. Ms. Roth and Ms. Seddon abstained from voting because they were not present at the September 21, 2022 meeting. Hearing no objections, the motion was approved.

Motion approved: 6-0 (Ms. Roth and Ms. Seddon abstained.)

2. Executive Session, September 21, 2022

Chair stated that this agenda item will be taken out of order and considered by the Board during executive session prior to agenda Item E-2, pursuant to HRS section 92-5(a)(2), to consider the evaluation of an officer or employee where consideration of matters affecting privacy will be involved.

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D. New Business

1. Request for Approval to Amend License Agreement No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Remove Field 207 (por.) from the License Agreement; Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.)

Chair asked for a motion to approve: Ms. Evans; Second: Mr. Hong.

Chair asked for Staff presentation.

Mr. Nakatani said it was pretty straight forward. Mr. Johnson wanted to return approximately forty acres and he asks the Board for approval. ADC will be coming back to the Board when they find a replacement tenant for that parcel. If there are any questions he would be happy to answer them.

Chair asked if there was anyone from the public that wanted to give testimony. There was none.

Chair asked if there was any Board discussion.

Mr. Atta stated that when you withdraw land from a disposition it would normally be done for a fairly good economic reason. He doesn't see any reason here for returning the acreage. When running property operations, normally you don't want disruptive withdrawals and additions, without knowing the reasons behind it. If there are reasons, there's no problem. He just didn't see any reason why the return was requested.

Mr. Nakatani responded that the submittal shows that Mr. Johnson had previously requested different parcels of land. He was more satisfied with one parcel and now wants to return land that is less feasible for him. It's a matter of economics for Mr. Johnson. In Kekaha there's a lot of land and this was just his preference and so he just wanted to return this portion. He has enough land for his purposes. Mr. Johnson's operation has changed quite a bit. There was forty acres for tobacco; it was an experiment he was contracted to do. That deal went away so now he's returning the land because it is no longer feasible for him. ADC will be offering to help Mr. Johnson find another assignee for that parcel of land.

Mr. Atta said that he did see the safeguard of finding a suitable assignee. He was just wondering what the rationale was.

Mr. Nakatani said that's the practice in Kekaha. They have people coming in and taking large pieces of land. The last transaction was the BASF land and ADC held them. Well actually it was the Beck's property that they took the lease and they're on the hook for that amount of rental unless they find somebody to take over the lease or license rather, and Hartung stepped up and took that piece of property. That's the rationale and they're trying to be consistent. If at a later date there's hardships they'll come back to the board and the board can make a policy decision if need be.

Mr. Tabata said he spoke to the folks on the West side and they had some questions. He understands the situation and just for the forty-acres it might be hard to find an assignee for this property because, as he understands, it floods when there is a big storm. He wanted to make sure that in the process of finding a new licensee, it's somebody who is suitable and can meet all the qualifications. Forty-acres is a bit small. The other question he had was would reducing the term help some of these situations of something like this happening. Those are some questions that were posed to him by the community.

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Mr. Nakatani said he's not sure who's asking these questions but if they put it in writing and come to the board; it's really a board policy. The parcel is small. What they're finding out, and Chair will agree with him, is the tendency to have smaller lots for smaller farmers. They don't like the big lots. We have an example of a tenant that took almost two hundred acres and they reduced it to ninety and they're still having a hard time. But you know that remains to be seen. He talked to Josh, that's good farming land for diversified agriculture. It's a bit overgrown, that might be the issue. If people have questions they should send him the questions and he can answer them.

Mr. Tabata said he'll get it in writing.

Mr. Nakatani said overall, it's the smaller parcels that are attractive to the smaller farmers. While forty acres might seem small, depending on what you farm, forty acres is pretty good size.

Ms. Evans asked Mr. Nakatani if the withdrawal was approved would it be contingent on inspection for hazardous materials or clean up of abandoned equipment or any of the other things we would want to have the current licensee do before the withdrawal becomes firm.

Mr. Nakatani said he thinks they did the inspection and he doesn't think there's any equipment or hazardous material. All of the so-called legacy chemicals have been gone for a long time. He doesn't believe that Mr. Johnson used anything toxic or anything like that. The biggest problem is the area is overgrown. They can check again. He's pretty sure there's no equipment or anything like that. In the past they have been pretty strict about people leaving stuff, but not now. He thinks Mr. Johnson is ok.

Chair said he met with Mr. Johnson a while back. He's a good farmer but he's not using large parcels. He's doing some greenhouse growing of mangos and melons, and the nine acres that he took over was much more conducive to this type of farming. The forty acres is really, really overgrown and just clearing it was a burden for him. He's a smaller farmer, he's a good farmer, and he's productive.

Mr. Hong said in reading the recommendation that ADC is still holding Mr. Johnson responsible for payment under the license until we can get some final resolution, either some kind of additional tenant or renegotiation or something like that. Is Sandi representing him? Why didn't he just make his request directly to the Board?

Mr. Nakatani responded that including Sandi's email in the submittal was an oversight. She's not involved in the decision making. She might be a consultant to him but he's not sure about that.

Mr. Hong said his only point was that the licensee should be making the communications.

Mr. Nakatani said he did.

Chair asked if there was any further discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved.

Vote approved: 8-0

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2. Request for Approval to Issue License Agreement to Lovan Taro Farm LLC for 60 Acres, More or Less, in Waialua, Oahu, Hawaii, Tax Map Key No. (1) 6-5-001:056 (por.)

Chair asked for motion to approve: Ms. Evans; Second: Mr. Watanabe.

Chair asked for staff presentation.

Mr. Nakatani said this was a carryover from the land that ADC purchased. Lovan's Taro Farm has a Revocable Permit and now they want to have a ten year license. One thing he wanted to point out is the soil conservation plan. He's assuming the Board is going to approve the Land Management Policy and Procedures Manual, and it states that the applicant shall have paperwork submitted within one year of the execution of the license amendment (Policies and Procedures Manual, 5.3 Soil Conservation Plan). He thinks they're in the process of getting a conservation plan and from all indications applicant has cleaned up his act. The farm looks pretty good and he recommends approval.

Chair asked if there was anyone from the public who wanted to provide testimony. There was none.

Chair asked for Board discussion.

Ms. Roth said she was looking at the submittal under the section on source of water and it says that the permittee currently accesses irrigation water via an agreement with Dole. Since she is new to this group, she's curious if more information can be provided about the Dole permit. She assumes Dole has a water use permit with the Commission on Water Resource Management (CWRM). She's just trying to get a better understanding about their end uses.

Mr. Nakatani said he doesn't believe it's a water permit from Dole; that's overstated. Lovan's Taro Farm has permission, he's taking water from Dole irrigation system. So, it's not a permit that each individual has; he's taking it from the ditch.

Ms. Roth said but Dole has a permit correct?

Mr. Nakatani said yes.

Ms. Roth said she was just wondering if the Dole permit is something that could be provided in these submittals. At CWRM they are trying to understand about the end uses associated with all the different permits.

Mr. Nakatani said he can provide that to her but they are taking water from the ditch, which ADC has no control over. Dole's providing the water; it's a separate agreement. ADC is not asking Dole, it's the farmer themselves asking Dole. Hopefully, in the future we'll resolve that issue with Dole.

Ms. Roth said she understood.

Ms. Evans asked Ms. Roth if CWRM could ask Dole directly for information in regard to its water end usage.

Ms. Roth said they could but she was just wondering if as part of the submittals that is something that could be provided or more detail could be provided because it's pretty vague when the

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on November 2, 2022

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

submittal lists a source of water. She was just curious if that was something that is normally provided or not or if its something they have to investigate themselves.

Chair thanked Ms. Roth and Ms. Evans and remarked that it's a good point and he thinks it is something they should look into.

Chair asked if there was any other discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved.

Vote approved: 8-0

3. Request for Approval to Amend License Agreement No. LI-KA-21-03 Issued to Hawaii Golden Farm, Inc. to Add 231 Acres, More or Less, of Land to Unit A-1 in Kalepa, Kauai, Hawaii, Tax Map Key No. (4) 3-9-002:001 (por.)

Chair asked for motion to approve: Ms. Seddon; Second, Mr. Tabata.

Chair asked for Staff presentation.

Mr. Nakatani said it was more of a housekeeping issue. The request was to put two parcels together on one lease to make it cleaner on paper. Hopefully the map is cleaner, showing where the farm really is. Basically, it's really just to clarify her license with ADC.

Chair asked if there was any public testimony. There was none.

Chair asked for Board discussion.

Mr. Atta said the request seems to be a housekeeping consolidation of two dispositions. He was curious about the note before the recommendation stating, "Approval of this Land Request represents an annual increase of \$26,300 to ADC in rental income." If it's only a consolidation of two pre-existing licenses, somehow this comment doesn't jive. With an increase in revenue he's not sure how that's occurring unless they're now being charged a higher rate. He just wanted to hear what the source of that comment was from.

Mr. Nakatani said that since we do licenses, not leases and if you look at the map some of it is not farmable. So, he thinks Lyle Roe (Mr. Roe) had discussion with the tenant and came to some agreement that this is what it is so it's being brought to the board.

Mr. Atta said his question was that he wasn't clear on where the additional revenue was coming from.

Mr. Nakatani said he would suspect that the amount of land or the demarcation of the property that's where it is. The write up is a little bit confusing because he thinks that they added some parcels that were not supposed to be a part of this map but part of the agreement that's not there. He can get the answer for him from Mr. Roe. He just wanted to make sure that it was consolidated and move ahead.

Mr. Atta said having additional revenue is good news, he was just puzzled about how it got there.

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Mr. Nakatani said, maybe it wasn't additional revenue, maybe it's revenue we're supposed to be collecting and it was stated incorrectly.

Chair asked if there was any further discussion. There was none.

Chair called for the vote. Hearing no objections to the motion was approved.

Vote approved: 8-0

4. Request for Approval to Grant a Right-of-Entry to County of Kauai to Investigate Potential New Sites for a County Municipal Solid-Waste Landfill in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Chair asked for motion to approve: Ms. Evans; Second, Mr. Hong.

Chair asked for Staff presentation.

Mr. Nakatani said this was a right of entry for the County of Kauai to do due diligence on the landfill that they're looking for, a new one. He just wanted to point out that in the recommendation it says that "staff recommends that the Board approve the land request." It's not a land request, it's a right of entry. There may be people from Kauai calling in if the Board has any questions about the land fill, but it's just exploratory at this point.

Chair asked if there was anyone from the public wishing to give testimony.

Mr. Nakamoto said there is one hand raised. Mr. Dahilig entered the virtual meeting.

Mr. Dahilig introduced himself. He is planning director for the County of Kauai. He thanked staff for assisting with this and said he was available if the Board had any questions.

Chair asked if there were any questions from the board for Mr. Dahilig. There was none.

Chair asked if DHHL had to be informed or can they just go ahead and do this?

Ms. Prescott-Tate asked why DHHL would have to be informed?

Chair said because of the 30% entitlement.

Ms. Prescott-Tate said that would be addressed in the future. Right now, this is just a right of entry for the County of Kauai to do their due diligence, investigate the site. No money is changing hands.

Mr. Nakatani said if they proceed, they will do the Environmental Assessment, which requires everyone to be informed about the project. So, just an FYI everyone will be informed.

Chair said that we should support the project and asked if there was any further discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved.

Motion approved: 8-0

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5. Request for Approval to Amend License Agreement No. LI-PU1807 Issued to George Rapoza dba JRs Ranch LLC and Margaret M. Bush to Remove George Rapoza dba JRs Ranch LLC as Licensee for Property in Waiialua, Oahu, Hawaii, Tax Map Key No. (1) 6-5-005:009 (por.)

Chair asked for a motion to approve: Ms. Evans; Second: Ms. Seddon.

Chair asked for Staff presentation.

Mr. Nakamoto explained that Mr. Rapoza is retiring from this area, slowly phasing out. So, the request is to remove him from the license and the applicant is available for any questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved.

Motion approved: 8-0

E. Old Business

1. Request for Approval to Adopt the “Land Management Policy & Procedure Manual” as Recommended by the Investigative Committee on Land Management Policy & Procedures (continued from September 21, 2022, Item E-1)

Chair asked for a motion to approve: Ms. Evans; Second: Mr. Hong.

Chair asked Ms. Evans who headed the committee to conduct the discussion.

Ms. Evans said on behalf of the committee that spent about a year looking at the State auditor’s recommendation and the House Investigative Committee’s further recommendation that ADC adopt written policies and procedures regarding land management. The committee worked with staff, Mr. Nakatani, Mr. Roe, Mr. Nakamoto, and Mr. Takemoto to develop these draft policies and procedures into a manual that will provide guidance going forward. It can be amended by the Board at any time should conditions change. The committee had a full discussion in August and September in response to Mr. Manuel’s very helpful questions. The committee developed a written response to those questions that was included in the Board packet. Should there be any follow-up questions, she and the committee would be happy to address them.

Chair thanked Ms. Evans and asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for Board discussion.

Mr. Atta said he knows that the policy manual was designed to be changed or amended subject to Board discretion and need. Was there any discussion on targeted, periodic reviews to assess whether or not those changes would be appropriate or not. A lot of these frameworks have a tendency to be reviewed periodically, whether it’s 5, 10, 15 years. He was just wondering whether or not that entered the thought process.

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Ms. Evans said she doesn't recall there being a discussion on a periodic review. There was a very thorough discussion on the use of policies and procedures because it allows the Board at anytime in the future to undertake revisions based on staff recommendations or changed conditions; especially changes in business conditions or land or climate conditions that might warrant some flexibility. But they didn't talk about setting any kind of periodic deadline for making revisions.

Mr. Atta said that's fine. He was just curious because the main point being that the manual could be changed at anytime based on need and that's the key to keeping it flexible. He's happy to see that.

Chair asked if there were any other comments. There was none.

Chair called for the vote. Hearing no objection, the motion was approved.

Motion approved: 8-0

2. Annual Performance Review of the Executive Director (continued from September 21, 2022, Item E-3)

Chair stated this matter will be heard in Executive Session pursuant to HRS section 92-4, which allows the board to hold an executive meeting closed to the public.

The Board may go into executive session for three purposes: 1) pursuant to HRS section 92-5(a)(2), to consider the evaluation of employees where consideration of matters affecting privacy will be involved; 2) pursuant to HRS section 92-5(a)(4), to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities; and, 3) pursuant to HRS section 92-5(a)(8), to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law.

Chair asked, before we go into executive session, is there any public testimony? There was none.

Chair asked for a motion to go into executive session: Ms. Evans; Second: Ms. Seddon.

Chair asked if there was any discussion.

Ms. Roth said that CWRM needs to recuse themselves from this. She doesn't know the details but was told she will not be voting on this item.

Ms. Prescott-Tate said she can vote on the motion to go into executive session and then recuse herself from voting on the issue later.

Chair called for the vote. Hearing no objection, the motion was approved.

Motion approved: 8-0

The Board entered executive session 9:40 a.m.

Board returned from Executive Session at 10:02 a.m.

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Chair asked for a motion to accept and approve the updated October 12, 2022 annual performance evaluation of the ADC Executive Director James Nakatani: Mr. Watanabe; Second: Ms. Seddon.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion. Ms. Roth said she will be recusing herself from voting.

Chair called for the vote. Hearing no objection, the motion was approved.

Vote approved: 7-0 (Ms. Roth abstained)

F. Executive Director's Report

Mr. Nakatani stated that Chair requested an update on the outstanding Galbraith parcels of lands that we're trying to license. By the next board meeting there should be two submittals, one for Ohana Hui Ventures and one for the Laws. The rest of the approved tenants have been doing their due diligence and hopefully they will be coming to the board for licensing shortly.

There is also a CIP request to the legislature. It's quite ambitious and he wanted to point out the two critical ones. The Aahoaka Reservoir on Kauai for \$1.1 million. The other critical one is the clean up of the soil at Galbraith and they're hoping it's around \$500,000 and hopefully they will get the appropriation to clean up the soil. The big one is the Wastewater Reclamation Irrigation Plan, it's a \$124 million. It seems like a lot but actually for that kind of project that's pretty small. The rest is self-explanatory. Number 7, Agricultural lands, Oahu, \$3 million, they had the appropriation a while back but they didn't have clear title so the funding lapsed. He was informed earlier that the lands have cleared title and they will see if they can purchase that property.

Chair asked if Hawaii Sustainable Agricultural Products had submitted their approved conservation plan. He thought they were one of the five tenants that had submitted their conservation plan. Are they moving ahead?

Mr. Nakamoto responded they have submitted their approved conservation plan and the next step is to look at their water situation and come back to the board to issue a license.

Chair asked if the tenants the board will be looking at approving their licenses at the next meeting are the Laws and Ohana Hui?

Mr. Nakamoto responded yes.

Chair said ok, he just wanted to clarify, so three out of five have submitted their conservation plans so he thinks they are moving ahead very well on this.

Ms. Roth said she had a question on the land acquisition request on the CIP form. Does ADC ever seek out, outside funding through grant? That's something that DLNR does regularly when trying to acquire lands and so she was just curious if that's something that ADC also looks into so that they can source money from other non-State partners.

Mr. Nakatani said they looked at it before but there's a caveat that if you charge lease rent that you have to pay that amount and it goes on forever. So, they elected not to enter that program. He said he thinks the first program they looked at was up in Whitmore, which would be a good plan if it stayed in

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conservation but in this case it would be for commercial use and it didn't fit that requirement so they elected not to do it. He thanked her for the question.

G. Adjourn

Chair asked if there were any other questions. There was none.

Chair asked for a motion to adjourn: Mr. Tabata; Second: Mr. Watanabe.

Chair called for the vote. Hearing no objection, the motion was approved.

Vote approved: 8-0

Meeting was adjourned at 10:20 a.m.

Respectfully submitted,



Lynette Marushige
Secretary

Exhibit "8"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on January 25, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Approved: ADC Board Meeting

February 16, 2023

1 *Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with*
2 *Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-*
3 *Person meeting location available for public participation at the State of Hawaii, Leiopapa A*
4 *Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.*

5

6 **Members Present, virtually:**

7

8 Frederick Lau, City & County of Honolulu, Chairperson (Chair)

9 Glenn Hong, Member-At-Large (Mr. Hong)

10 Kaleo Manuel, Designated Representative, DLNR for Ex-Officio Member (Mr. Manuel)

11 Karen Seddon, Member-At-Large (Ms. Seddon)

12 Lyle Tabata, Kauai County Member (Mr. Tabata)

13 Warren Watanabe, Member-At-Large (Mr. Watanabe)

14 Jayson Watts, Maui County Member (Mr. Watts)

15 Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker) joined at 9:20 a.m.

16 Earl Yamamoto (designated attendee for HBOA, Ex-Officio Member Ms. Sharon Hurd) (Mr. Yamamoto)

17 Vacant – Member-At-Large

18 Vacant – Hawaii County Member

19

20 **Members Excused:**

21

22 None.

23

24 **Counsel Present, virtually:**

25

26 Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

27

28 **Staff Present, virtually:**

29

30 James Nakatani, Executive Director (Mr. Nakatani)

31 Mark Takemoto, Executive Assistant (Mr. Takemoto)

32 Ken Nakamoto, Project Manager (Mr. Nakamoto)

33 Lyle Roe, Property Manager (Mr. Roe)

34 Lynette Marushige, Executive Secretary

35

36 **Guests Present, virtually:**

37

38 ADC Guest

39 F. Fuchigami

40 Joshua Uyehara

41 Matt Andros

42 Mike Faye

43 Richard Loero

44

45 **Guests Present, physical location:** None.

46

47 **A. Call to Order**

48

49 Chair called the virtual meeting to order at 9:10 a.m.

50

51

52 Chair apologized for his camera not working, so he would not be visible.

53
54 **B. Roll Call**

55
56 Chair conducted a roll call of the Board. Chair called the name of each board member and asked them to
57 identify their presence with a “here” or “present” and to state who if anyone was present in the room with
58 them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair
59 would ask if there were any objections. If there were no objections the motion will be approved on the
60 same basis as the roll call.

61
62 Roll call: Mr. Hong, Mr. Manuel, Ms. Seddon, Mr. Tabata, Mr. Watanabe, Mr. Watts and Mr.
63 Yamamoto acknowledged attendance with no guests present. Mr. Wicker joined at 9:20 a.m.

64
65 **C. Approval of Minutes**

66
67 1. Board of Director’s Meeting, **November 2, 2022**

68
69 Motion to Approve: Mr. Watanabe; Seconded: Mr. Tabata

70
71 Chair asked if there was anything from the staff. There was none.

72
73 Chair asked if there was any comment from the public. There was none.

74
75 Chair asked for Board discussion. Mr. Manuel said he would abstain from voting because he was
76 not present. Mr. Watts and Mr. Yamamoto also abstained.

77
78 Chair asked if there was quorum.

79
80 Ms. Prescott-Tate stated there needs to be six members for quorum and there were only five.

81
82 Mr. Manuel asked if he reviewed the minutes would he be able to approve them?

83
84 Ms. Prescott-Tate responded yes he can do that.

85
86 Mr. Manuel withdrew his abstention.

87
88 Chair called for the vote.

89
90 Motion approved: 6-0 (Mr. Watts and Mr. Yamamoto abstained)

91
92 2. Executive Session Minutes, **November 2, 2022**

93
94 Chair stated that this agenda item will be taken out of order and be considered by the board during
95 executive session prior to item E-1 pursuant to HRS §92-5(a)(2), regarding the evaluation of an
96 officer or employee where consideration of matters affecting privacy are involved.

97
98 3. Board Meeting Minutes, **November 16, 2022**

99
100 Motion to Approve: Ms. Seddon; Seconded: Mr. Hong

101

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102 Chair asked if there was anything from the staff. There was none.

103

104 Chair asked if there was any comment from the public. There was none.

105

106 Chair asked for Board discussion. There was none.

107

108 Chair called for the vote.

109

110 Motion approved: 6-0 (Mr. Watts and Mr. Yamamoto abstained)

111

112 4. Executive Session Minutes, **November 16, 2022**

113

114 Chair stated that this item will also be taken out of order and considered in Executive Session prior
115 to agenda item E. 1 and pursuant to HRS §92-5(a)(4), regarding consultation with the Board's
116 attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities,
117 and liabilities.

118

119 **D. New Business**

120

121 **1. Board Discussion and Approval of Board Meeting Schedule for Calendar Year 2023**

122

123 Chair stated that due to conflict with the Governor's Cabinet meetings scheduled for Wednesday's
124 at 10:00 a.m. it's proposed that the ADC Board Meeting be scheduled for the third Thursday of each
125 month at 9:00 a.m. Chair asked if there was any discussion.

126

127 Since ADC meetings have been on Wednesday's, Ms. Seddon noted there may be a conflict at times
128 with her corporate schedule. She will let the Chair know if an occasional conflict arises.

129

130 Chair agreed that it's a bit of a problem for him too, so he understands completely, but there doesn't
131 seem to be a better day. Would Tuesday be better for everyone?

132

133 Ms. Seddon stated there will always be a conflict someplace, she'll move things when she can, but
134 there's going to be times when she can't.

135

136 Hearing no further discussion, Chair announced that based on the agreement of the board, meetings
137 will be held at 9:00 a.m. on the third Thursday of each month.

138

139 **2. Request for Approval for the Assignment of License Agreement No. LI-K1502, Issued to**
140 **Andros Engineering Corporation, to Kekaha Agriculture Association, Kekaha, Kauai,**
141 **Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)**

142

143 Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe.

144

145 Chair asked for staff presentation.

146

147 Mr. Roe said the board has been made aware that Andros Engineering is leaving Hawaii. They have
148 already vacated their premises in Whitmore. They are doing the same in Kekaha. There is an
149 agreement between Kekaha Agriculture Association (KAA) and Andros Engineering for KAA to
150 take over their premises for use as a base yard. KAA will continue to provide some of the services
151 Andros had been providing to local farmers as well.

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Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for Board discussion.

Mr. Manuel had a question. The term of the license expires on December 31, 2024 per the submittal. What is the strategy from staff on when the license ends? Is it going to be month to month or are there any ideas on where this property is going? Will it stay in the same type of use?

Mr. Roe said he believes for now it will stay in the same type of use. There is an option to extend.

Chair asked if it was only a base yard right now.

Mr. Roe responded it's a base yard with a temporary structure; a concrete floor with a series of trailers with a roof over the top. It's pretty well built with covered storage.

Chair asked if there was any other discussion. Hearing none, Chair called for the vote.

Motion Approved: 8-0

3. Request for Approval to Amend License Agreement No. LI-K1902 Issued to Kokee Farms LLC, Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Chair called for a Motion to Approve: Mr. Watanabe; Seconded by Mr. Tabata

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked if Mr. Roe could summarize before the board discussion.

Mr. Roe said that Mr. Loero was present if the Board wanted to speak with him. The board approved a license back in 2019, it's now in year 3. The pandemic hit, they lost one of their partners, development of their business plan took a hit, they're behind schedule and not as built out as they anticipated being. They don't have as many crops in the ground as expected. So, they're not really making money. They've made minimum payments in year one amounts. They're behind about \$4500 now. They are asking to restructure rent payments retroactively to the beginning so that will clear out the arrearage. It involves some rent relief for year two and three. They're in year three so there's some rent relief in years four and five as well.

Chair clarified, so basically we're in year one rental fee for this year is what you're saying?

Mr. Roe responded yes, continuing \$1500 from years one, two and three, that is what they'd be amending it to.

Chair asked and we're in the third year?

Mr. Roe responded yes.

Chair asked if there were any further board discussion. There were none.

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Chair called for the vote.

Motion approved: 8-0.

4. Request for Approval to Authorize the Executive Director to Execute the *Department of Health – Wastewater Branch Individual Wastewater System (IWS) Owner’s Certification Form*

Chair called for a Motion to Approve: Mr. Watanabe; Seconded by Mr. Hong.

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion or questions? There were none.

Chair called for the vote.

Motion approved: 8-0.

5. Request for Approval to Amend License Agreement No. LI-WM1505 Issued to William H. Wise III dba Waihee Farms and Kalama Hardwood LLC for 16 Acres, More or Less, in Whitmore, Oahu, Hawaii, Tax Map Key No. (1) 7-1-002:004 (por.) by adding an Addendum that Requires the Licensees to Abide by the Requirements of Title 11, chapter 62 of the Hawaii Administrative Rules (HAR)

Chair called for a Motion to Approve: Ms. Seddon; Seconded by Mr. Hong.

Chair asked for staff presentation.

Mr. Roe said this was related to an item the board previously approved. It incorporates the requirements of the certification form into Mr. Wise’s license to make sure that he abides by the terms of the certification form, which involves a number of administrative rules that are listed in the submittal.

Chair asked if there was anyone in the public who wished to provide testimony. There was none.

Chair asked for board discussion.

Mr. Wicker asked what type of activity this entity was doing on the land.

Mr. Roe responded he is farming, growing some turmeric, flowers. There’s also a woodworking shop, that’s Kalama Hardwoods, they are operating out of one of the shelters there.

Mr. Wicker asked if he’s reading the submittal correctly, there are two homes? What do they mean by homes?

Mr. Roe said there are, the licensees were grandfathered in.

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251 Mr. Tabata said in reading the submittal, he just wanted to make a point that these are aerobic units
252 versus straight septic. It's a little more complicated system. Maintenance has to be followed. It's
253 not so simple as a straight IWS septic system.

254
255 Mr. Roe responded the Licensees and the Contractor are aware of that. The contractor will be
256 assisting with the management of the system developing a manual for the licensee as well.

257
258 Mr. Tabata said that is required by the Department of Health, but the follow-through part is many
259 times neglected.

260
261 Chair asked how do we ensure that it is maintained then?

262
263 Mr. Roe said to approve this agenda item. That is what we are attempting to do here; to incorporate
264 the requirements into the license so we have an enforcement mechanism.

265
266 Mr. Manuel asked what sort of enforcement authority do we have, just to cancel the license? Or do
267 we have the ability to seek fines? We don't have the ability to fine right? So, what is the corrective
268 action. If they are not fulfilling the license terms, the only recourse is rescission?

269
270 Mr. Roe responded he believes so. Before it got to that point we would be having a conversation
271 with the Lessees. It's ADC's reputation on the line with Department of Health as we are the
272 landowner. We have been keeping a pretty close watch on this.

273
274 Mr. Nakatani asked if he could interrupt. He thinks it's ADC's responsibility because the fine
275 always comes to ADC, so we'll make sure to keep tabs on him and make sure that the system runs
276 efficiently. That's the reason we're having this meeting to get the Board's approval because ADC is
277 the owner and is responsible.

278
279 Mr. Manuel says he recalls this conversation. He asked if it can be built into the license that if there
280 are any fines assessed by DOH to ADC as the landowner that the licensee agrees to pay.

281
282 Mr. Nakatani said that he talked to Mr. Wise and Mr. Wise will pay the fines and he thinks that the
283 biggest thing they have is if he doesn't follow through ADC will terminate his lease/license.

284
285 Mr. Manuel asked if they could make it explicit as a condition in the license.

286
287 Mr. Nakatani responded that ADC does not have the authority to fine, it's the Department of Health
288 that fines.

289
290 Mr. Manuel said he understands that, he is just saying that if a fine is levied by DOH to ADC as the
291 landowner that as a condition of the license, the licensee agrees that if it is in fact their fault, that
292 they will reimburse ADC for the fine.

293
294 Mr. Nakatani said that is something for Ms. Prescott-Tate to look at. For now, Mr. Wise has
295 promised to pay the fines. When we rewrite the contract, we can always put that in.

296
297 Mr. Manuel asked Ms. Prescott-Tate if it is something that can be pursued.

298
299 Ms. Prescott-Tate responded yes. She said the license already allows us to seek contributions from
300 the licensee for violations.

AGRIBUSINESS DEVELOPMENT CORPORATION

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Approved: ADC Board Meeting

February 16, 2023

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Mr. Manuel said so it's already imbedded in the existing license terms and what we are amending here is specific to the DOH title?

Ms. Prescott-Tate confirmed.

Chair asked if there was any further discussion or questions. There were none

Chair called for the vote.

Motion Approved: 8-0

6. Request for Approval of the Transfer of Water Use Permit No. 808 from Pioneer Hi-Bred International, Inc. to Aloun Farm, Inc.

Chair called for a Motion to Approve: Mr. Manuel; Seconded: Mr. Watanabe

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion.

Mr. Manuel asked to make a recommendation to the language in the recommended action because ADC can't actually approve the transfer. If anything, it would be for approval to allow Aloun Farms to request a transfer from the Commission on Water Resource Management. The Commission is the only entity that can actually transfer the permit. As written this sounds like ADC is actually transferring it but that's not the mechanism. So, to clarify, the board is supporting its tenant to apply for a transfer of permit. He asked Ms. Prescott-Tate, if that would help it be more in alignment with the intent of the submittal as drafted.

Ms. Prescott-Tate asked so the request is amended to: "Request for Approval to allow Aloun Farms to apply for the transfer of Water Use Permit No. 808 from Pioneer Hi-Bred Int'l Inc. to Aloun Farms Inc."

Mr. Manuel said yes, that would be more in alignment with the procedures under the Water Code, if the body is open to that amendment.

Ms. Prescott-Tate stated that a motion to approve the amendment of the action as previously stated was required.

Mr. Manuel moved to approve as amended.

Mr. Watanabe seconded the motion.

Chair asked if there was any other discussion.

Mr. Manuel said just to highlight, when it goes over to the Water Commission, they'll review it, and it should just be an administrative trading of names. But, if there are any issues that are raised that

350 are substantive then it may need to go back to the Commission for final disposition. But it seems
351 like a pure administrative transfer. That's just an FYI to the group.
352

353 Chair thanked Mr. Manuel asked if there was any other discussion. Hearing none he called for the
354 vote.
355

356 Motion as Amended Approved: 8-0
357

358 **7. Presentation by Deputy Attorney General Delanie Prescott-Tate on Changes to Chapter 163D,**
359 **Hawaii Revised Statutes**
360

361 Chair called on Ms. Prescott-Tate to present on changes to Chapter 163D, Hawaii Revised Statutes.
362

363 Ms. Prescott Tate said, Senate Bill 2473 from the 2022 legislative session is the bill that started out
364 its life changing the administrative attachment of ADC from the Department of Agriculture to the
365 Department of Business, Economic Development and Tourism. The testimony supported the move
366 because ADC's mission was to spur economic development in agriculture, while HDOA's mission
367 was more regulatory. The legislature believed that ADC's goals and objectives would align with the
368 goals and objectives of DBEDT. Near the end of Senate Bill 2473's legislative evolution, some of
369 the investigative committee's recommendations were included in the bill. These recommendations
370 included amending the focus, scope, responsibilities, and powers of ADC. The legislature
371 recommended amending the requirements and responsibilities of the ADC board; they specified the
372 contents of the Hawaii Agribusiness Plan; and prioritized local food production. A written
373 comparison between the two statutes was provided to you. The purpose changed from marketing
374 and export to supporting agricultural production for local consumption. The theme of local
375 production is shown in the change to the definition of agriculture. All the other definitions remain
376 the same. As to section 163D-3, this is where the changes to the board functions come in. The
377 legislature focused on making sure that the board is the entity in charge and included a mechanism
378 to ensure that the board's goals are being implemented. This mechanism is the annual evaluation of
379 the executive director where the board gives the executive director the goals and performance
380 measures. This was something the investigative committee thought was very important. Then
381 163D-4, which specifies ADC's powers, they took away the focus on marketing and export and
382 replaced it with agricultural production for local consumption. In 163D-5 they refocused the
383 contents of the Hawaii agribusiness plan, which includes assembling an inventory of ADC assets
384 and preparing a plan on how these assets can be used to prioritize local food production. They set a
385 timetable for how often this plan needs to be reviewed. Lastly, they repealed 163D-8.5 that required
386 HDOA oversight of all ADC projects. Everything else remains the same.
387

388 Chair asked, so 163D-8.5 was repealed and that was the approval by HDOA right?
389

390 Ms. Prescott-Tate responded correct.
391

392 Chair said that was his main question. He asked if there were any other board discussion questions.
393

394 Mr. Tabata remarked that he remembers when he first came on, they were talking about inventory
395 on agriculture infrastructure, irrigation system, drainage system, processing facilities etcetera. He
396 remembers something about software being purchased. Do we have the tools to accomplish this?
397

398 Mr. Nakatani responded that we were talking about the Yardi inventory program that we're just
399 about to execute the contract. ADC had a lot of problems when we made the transfer from HDOA

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400 to DBEDT. The transfer date was July 1st and what happened was that when it came to July 1st
401 many of their contracts were stuck at HDOA. It took well over four months to get everything
402 resolved. He believes they're starting to contract and asked Mr. Nakamoto if he had information.
403

404 Mr. Nakamoto said the contract was fully executed and he has started discussions with Yardi. ADC
405 is providing them with the base information that will go into the database. That's ongoing and they
406 should be wrapping up very shortly.
407

408 Chair asked if he could give the board an overview of what the Yardi program will be able to do.
409

410 Mr. Nakamoto responded that the premise was property management. This was cited in the audit.
411 The inventory of the lands and infrastructure was mentioned. My understanding is that Yardi will
412 put this in, and it'll help us keep track of license, leases but it'll also create a database where ADC
413 and the public can have all of this information. Make special reports to say, here is all of the vacant
414 lands, here is what is occupied, and where. We could even try to craft water availability and
415 infrastructure. The capabilities of the software are pretty good. ADC is just trying to get the
416 baseline chart of accounts where we provide them the base information. That will set up the
417 database. So that's ongoing. We've been working on this since July, so ADC is pretty close to
418 giving them something.
419

420 Mr. Tabata asked if the program has a maintenance component so that they can understand
421 infrastructure, especially in Kekaha. It can be very delicate especially when it floods. Could it tell
422 ADC the status of clearing of canals and ditches out there? Would that be part of the
423 documentation, if it's on an annual cycle, if they're in a cycle, etc.?
424

425 Mr. Nakamoto said that it should be able to provide some kind of depreciation and maintenance
426 schedule. He's not sure how "in-depth" it's going to be. It's something we can consider.
427

428 Mr. Tabata said especially the discharge pumps; they need to know the status and useful remaining
429 life and depreciation. If funds are available.
430

431 Chair asked who would populate this, who would put the data in? And then who would do the
432 maintenance, who would continue to put data in, further down the road.
433

434 Mr. Nakamoto said we have them on contract for 5-years. They will provide tech support and
435 training as well to help us to take this to where it needs to be. As far as who is putting in the
436 information, that's coming from ADC staff. We are trying to get some accounting services, not
437 necessarily related to property management. They can help us with the licenses and make sure the
438 data is accurate before it is entered.
439

440 Chair asked if there was any other discussion.
441

442 Mr. Hong asked if relative to the whole Yardi system, how is the Board going to see information out
443 of this. What are the dates they are looking for, baseline implementation, mid-baseline
444 implementation and full-implementation? What are the target dates to get this done? If they don't
445 have a target this thing could roll on for a long time.
446

447 Mr. Nakatani said he doesn't think it's going to roll-on for a long time because the pressure from the
448 legislature mandated for them to come up with a system for land. That's one of the priorities. It is
449 one of the sore points, that we don't know what we're doing with our land. This gives us a report

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450 for licenses. On the other side of that it will also give us the location of lands that are not being
451 farmed. For the legislature it's a priority and they will probably ask where we are with this. It will
452 be done by summer. Should be. We have the data to input, and we have one former employee
453 coming in and helping us gather that information so it should be moving.

454
455 Mr. Hong said that's great, he would like to see what that plan is to get it done by summer. What are
456 the resources that are needed, when the resources will be coming in and when can they expect to see
457 a functioning system?

458
459 Chair asked if they need more staff to do the work.

460
461 Mr. Tabata said so along the lines of what Mr. Hong mentioned is the budget funded for the
462 appropriate staffing to support this program? It could be huge. He's not sure how much total
463 acreage is under our responsibility, but the devil is in the details.

464
465 Mr. Nakatani said just an FYI. We've been going to legislative hearings, and it's almost every
466 single department has a huge number of vacancies and having a hard time to fill. For ADC, we are
467 adequately funded but we might want to look at bumping up those salaries. Everybody is just having
468 a hard time finding people to come into the office. The accounting position is so important but so
469 far they haven't gotten any qualified takers. We also have the asset manager position that's been
470 out for recruitment and so far they haven't gotten anybody. Some other departments have asked for
471 bumping up the compensation. Everybody's having a hard time. But we'll get there. Luckily we
472 have a small hard-working staff so they can do a lot of things. Yardi will help a lot. We might have
473 to depend on volunteers or 89-day hires to help input. But we'll get it done.

474
475 Mr. Hong said he understands the problem with getting resources. One thing that we may want to
476 ask HR is can they establish an intern program with the University, Chaminade, HPU. They have
477 people who want to get hands-on experience and they're available for a few months during the
478 summer and spring. Some of them may be able to start simultaneously with their spring classes,
479 they can help input information. Most of those folks in that category are tech savvy and capable of
480 doing things like that. Just a suggestion.

481
482 Mr. Nakatani thanked Mr. Hong for that suggestion. That conversation is also going on with some
483 of the other programs. If it's specific programs like engineering or accounting internship like that
484 then fine. ADC's problem is we don't have an HR. We depend on DBEDT's HR and although they
485 are very accommodating, they have shortfalls. It's just problematic across the state. Everybody's
486 trying to find a solution. It's a good idea conceptually but because we're so small, we cannot afford
487 to have somebody train somebody, take away time from their work and after 3-months the person
488 leaves. 89-day hire, if the person was experienced or past employees, that would be good, or they
489 know the accounting system. At one time, they got somebody from the Department of Agriculture
490 to help with the accounting, that's an option. We're looking at all the options. We're not ignoring
491 this, and we're starting to get desperate, looking at going out into the private sector and taking a
492 look instead of depending on the HR list. If you read this morning's paper, even the Federal
493 government, and the City and County, they need 200 positions. And the City and the Federal
494 government pays a lot more than the State. That's part of the problem.

495
496 Mr. Manuel said DLNR is in the same spot, and they are looking into ways to create a relationship
497 with UH to create a pipeline for capacity and filling the vacancies at the State level, so he thinks it's
498 across the board. Is Yardi a geospatial database or is just an asset management type of database? Is
499 it going to have that capability?

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Mr. Roe responded that it's focused on land management but they did organize this procurement so it will connect with ARC GIS. That's one of the things he has been working on as well.

Mr. Manuel said he was going to recommend that in the interim, Office of Planning also has GIS capabilities and manages the State files. If you need help with that as an agency, maybe as a sister agency we can partner with them.

Mr. Roe responded that they have already been a huge help.

Mr. Manuel said he wanted to shift to 163D-5, the Hawaii Agribusiness Plan. This is something he had brought up before. Are we contracting out the development of this plan, do we have this plan, what's the strategy to meet this new mandate?

Mr. Nakamoto said they tried to do a professional selection, and that Mr. Yamamoto sat on the selection committee. What they realized was that a lot of these professionals were not quite what they were looking for. We reached out to DBEDT and specifically, the new director, Mr. Wicker, as well as Scott Glenn from the OPSD division. They are trying to tap the special planning branch. They have the ability to contract and so they are trying to set up an agreement with them, they are just waiting for the Governor's approval to execute and to staff by contract. WE have already been in touch with Scott Glenn, they're on board. We will try to tap some of their professionals, they know a lot more planners than ADC does. It will be a similar approach to the 2012 study that was done, where they set up interviews and they will focus on ADC's properties.

Chair asked if there was any other discussion? If not, let's move on.

8. Request for Approval to Establish an Ad Hoc "Committee to Evaluate the FY2021-2022 Annual Performance of the Executive Director"; Appointment of Members thereto.

Chair called for a Motion to Approve: Mr. Tabata; Seconded by Mr. Watanabe

Chair asked for staff presentation. There was none

Chair asked if there was anyone from the public who wished to give testimony. There were none.

Chair asked for Board discussion. There was none.

Chair called for the vote.

Motion approved: 8-0

Chair appointed Ms. Seddon, Mr. Watanabe and Mr. Manuel.

9. Request for Approval to Adopt the RFP-2022 Evaluation Committee's Recommendations to Establish a Permitted Interaction Group of Board Members and Project Professionals to Assess and Evaluate the Offeror's Proposal.

Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe

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549 Chair asked for staff presentation. Mr. Nakamoto stated this is related to the RFP that was issued
550 back in June. It's still an open procurement, which is why they are recommending that they form
551 this committee to kind of look into the proposal they received in more detail. He is open for any
552 questions but if it is too specific they may have to go into Executive Session because it is still an
553 ongoing procurement.
554

555 Chair asked if there was anyone from the public who wished to give testimony. There was no one.
556

557 Chair asked Ms. Prescott-Tate if they should go into Executive Session.
558

559 Ms. Prescott-Tate responded yes.
560

561 Chair Lau stated HRS section 92-4 allows the Board to hold an executive meeting closed to the
562 public for the Board to discuss New Business Item 9, which is a competitive bid procurement matter
563 that has yet to be awarded. HRS chapter 103D requires this discussion to be closed to the public
564 pursuant to HRS section 92-5(a)(8) in order to deliberate or make a decision upon a matter that
565 requires consideration of information that must be kept confidential.
566

567 Also, to be considered in Executive session is Old Business Agenda Item E-1, 4, regarding the
568 Complaint Referral from Department of Budget & Finance, and Old Business Agenda Item E-2, 1,
569 regarding the Ohana Best v. State of Hawaii, et al., Civ No. 19-1-1640 update. These matters must
570 be heard in executive session pursuant to HRS section 92-5(a)(4) for purposes of consulting with the
571 board's attorney on questions and issues pertaining to the board's powers, duties, privileges,
572 immunities, and liabilities.
573

574 Before going into Executive Session Chair asked if there was any public testimony. There was none.
575

576 Chair called asked for a motion to go into Executive Session and a 10-minute break prior to
577 Executive Session. Motion: Ms. Seddon; Seconded by Mr. Manuel.
578

579 Chair called for the vote.
580

581 Motion approved: 8-0
582

583 Board closed for Executive Session at 10:05 a.m.
584

585 Meeting resumed at 10:40 a.m.
586

587 Chair called for the vote on New Business Item 9.
588

589 Motion approved: 8-0
590

591 Chair appointed Ms. Seddon, Mr. Hong and himself as members of the Permitted Interaction Group
592 to Assess and Evaluate the Offeror's Proposal and then report back to the Board.
593

594 **E. Old Business**
595

- 596 1. Complaint Referral from the Department of Budget & Finance
- 597
- 598 2. Update Regarding Ohana Best v. State of Hawaii, et al., Civ. No. 19-1-1640-10

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Chair stated that both items were provided for informational purposes only so there will be no motion or vote.

F. Executive Director’s Report

Mr. Nakatani stated that most of ADC’s time was spent on the transition from HDOA to DBEDT. This legislative session has been somewhat challenging. People who have witnessed the hearings will see that it’s pretty intense. They have been spending a lot of time trying to listen to what the new administration has. Today, DBEDT, has to go back for another hearing at 2:00 p.m. so they’re trying to prepare for that. Overall, there’s a number of bills that are coming out, today’s the deadline and as soon as he accumulates the bills that affect ADC, he will send it to the Chair and the board members.

G. Adjourn

Chair called for a Motion to Adjourn: Mr. Watanabe, Seconded: Mr. Manuel

Chair asked if there were any discussion/objections. There was none.

Chair called for the vote.

Motion approved: 8-0

The meeting was adjourned at 10:50 a.m.

Respectfully submitted:



Lynette Marushige
Secretary

Exhibit "9"

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on March 16, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

APPROVED: ADC BOARD MTG
April 20, 2023

Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.

Members Present, virtually:

Frederick Lau, City & County of Honolulu, Chairperson (Chair)
Glenn Hong, Member-At-Large (Mr. Hong)
Sharon Hurd, Chair HBOA, Ex-Officio Member (Ms. Hurd)
Karen Seddon, Member-At-Large (Ms. Seddon)
Lyle Tabata, Kauai County Member (Mr. Tabata)
Warren Watanabe, Member-At-Large (Mr. Watanabe)
Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker) joined at 9:10 a.m.
Vacant – Member-At-Large
Vacant – Hawaii County Member

Members Excused:

Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)
Jayson Watts, Maui County Member (Mr. Watts)

Counsel Present, virtually:

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, virtually:

James Nakatani, Executive Director (Mr. Nakatani)
Mark Takemoto, Executive Assistant (Mr. Takemoto)
Ken Nakamoto, Project Manager (Mr. Nakamoto)
Lyle Roe, Property Manager (Mr. Roe)
Lynette Marushige, Executive Secretary

Guests Present, virtually:

ADC Guest
Beth Amaro, KIUC
David Bissell, KIUC (Mr. Bissell)
Dawn Huff, KIUC
Ford Fuchigami
Jason Okuhama (Mr. Okuhama)
Joshua Uyehara
Thomas Heaton
Linda Rosehill
Kathy Sokugawa

Guests Present, physical location: None.

A. Call to Order

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Chair called the virtual meeting to order at 9:02 a.m.

Chair apologized for his camera not working, so he would not be visible.

B. Roll Call

Chair conducted a roll call of the Board. Chair called the name of each Board member and asked them to identify their presence with a “here” or “present” and to state who if anyone over the age of eighteen was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Mr. Hong, Ms. Hurd, Ms. Seddon, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present. Mr. Watts and Mr. Manuel were excused. Mr. Wicker joined the meeting at 9:10 a.m.

C. Approval of Minutes

1. Board of Director’s Meeting, **February 16, 2023**

Chair called for a Motion to Approve: Ms. Hong; Seconded: Mr. Tabata.

Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for Board discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 6-0.

D. New Business

1. **Request for Approval to Issue a Lease to Hartung Brothers Hawaii, LLC for 42.019 Acres of Existing Office and Processing Operations in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:035**

Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe.

Chair asked if there was any background from staff.

Mr. Roe noted that DLNR Lease No. S4654 was issued to Pride Company, Inc., in 1980 for 42.019 acres. Over the years the lease has been intermittently assigned, extended, transferred, set-aside and re-set aside. The property is now managed by ADC and held by Hartung Brothers Hawaii for office space and agricultural processing purposes. The lease is set to expire May 15th of this year and Hartung requested the lease be extended for a term of 35 years. Consistent with past practices, staff recommends that a new ADC lease agreement be issued.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

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Chair asked if there were any questions from the Board. There were none.

Chair asked if an updated assessment of the property was necessary.

Mr. Roe said that regular BMP [Best Management Practices] inspections were conducted. He is going to Kauai on the 22nd and this is one of the properties he'll be inspecting.

Chair asked what the 42 acres were being used for.

Mr. Roe responded office space, processing, employee parking, and storage.

Chair asked if it was for fuel storage.

Mr. Roe responded no.

Chair asked if there was any other discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 6-0.

2. Discussion of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mānā Reservoir) Issued to Kauai Island Utility Cooperative for the West Kauai Energy Project in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.), Various

Chair called for a motion to approve: Mr. Watanabe; Seconded: Mr. Tabata.

Chair asked for staff presentation.

Mr. Roe stated that in 2017 ADC issued two license agreements to Kauai Island Utility Cooperative (KIUC) for the Kokee Ditch, and the Mānā Reservoir, for the West Kauai Energy Project (WKEP). The Board has been briefed on the WKEP several times. The terms of those license agreements allowed the licenses to be converted to long-term lease agreements with very generous terms. ADC negotiated those terms with KIUC on the basis of KIUC's status as a not-for-profit utility cooperative. ADC remains supportive of the WKEP. However, in January 2021, KIUC announced that they were partnering with AES Corporation, a global for-profit energy company who would provide development and operational expertise for the project. Participation of a for-profit project partner is reason for pause and concern as it represents a for-profit entity potentially benefitting from generous lease terms that were negotiated for a not-for-profit entity and project at the expense of ADC, the State, and taxpayers. Staff recommends that the Board authorize the executive director to open discussions with KIUC on updated lease terms that reflect the change and the development in operational realities of the project.

Chair asked if there was anyone from the public who wished to give testimony.

Mr. Nakamoto said that Mr. Bissell wished to testify.

Chair thanked Mr. Bissell for attending.

Mr. Bissell said he appreciated the opportunity to testify and wanted to emphasize that even though AES was brought into the project the terms of the agreement have not changed, the core agreement has not changed, and the benefits to the Kauai rate payers and the people of Kauai has not changed

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with AES coming on board on this project. It's not like there's a windfall certainly for KIUC and the AES terms are the standard development side so it's a risk management strategy from KIUC to minimize the risk of their membership. AES bears all the development risks and in return for that, they have fixed costs that have not changed, ever since they first brought AES into this, the people of Kauai benefit significantly from the project.

Chair asked if the Board had any questions.

Mr. Tabata said he doesn't have any questions, but from his standpoint this project has many benefits for the people on the island of Kauai, but particularly the West-side. Teaming with AES on this project was the only way to pull it off so they need to keep moving forward.

Chair asked if there was anyone else.

Mr. Hong said in reading the submittal, he wondered if the term "partnership" was the right term. Is this more of a management consulting agreement? The only thing he's concerned with is the term "development". Are they developing a project for a fee or are they developing lands for a development, typical construction development purpose. If it's really a contract for services to utilize the AES management expertise and they're paid for their consulting services that's different than a partnership where they actually have equity ownership in the entire development. He needs clarification on that.

Chair asked if Mr. Bissell was still available.

Mr. Bissell said the term partnership comes when a joint development between KIUC and AES. AES actually owns the project; they would build the project; they would operate the project, at least in the initial years. The terms of the agreement they have with AES, KIUC has opportunities to buy the project back at certain points as it goes forward. But, the partnership comes in we're jointly developing it, we're working together. KIUC leads how the project would be operated, how the water would be handled. AES builds it, they operate it, they have to meet certain performance standards of it and in return they get paid for the availability of the equipment, but KIUC directs the operation of it, they just have a payment stream that goes to them. AES from the KIUC side it's nice, they bear all the risks with constructing the project, negative things that happen in construction and all that goes to AES rather than KIUC.

Chair asked if Mr. Bissell answered Mr. Hong's question.

Mr. Hong said yes. He guesses it's a situation where AES really takes an equity position in the project. We have to balance that against the purpose of what ADC is trying to do. He understands Mr. Tabata's position that it's probably the only way they're going to get this project done. They will have to see what the net benefit is in fact going to the community and Kauai, as well as the goals of ADC.

Mr. Nakatani said he thinks that Mr. Hong hits it right on the spot. It came from a non-profit to a for-profit and he thinks that we have to justify our position for ADC. He understands where Mr. Tabata is coming from that KIUC needs to be successful on this but at the same time, ADC needs to do its due diligence as far as the responsibility for ADC.

Chair asked if Mr. Bissell had any further comment.

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Mr. Bissell said he just wanted to clarify one thing to try and put the Board into a negotiation frame of when they brought AES in. Back in 2017 the project was failing. The price setting the capitol costs were going higher and higher and KIUC was in a position where they were likely going to have to recommend cancelling the project. When they brought AES into this, they had a rate that they needed to get for their membership to be able to ensure the members that the benefits were there. The whole negotiation with AES was centered around trying to deliver this project at a cost that was beneficial to their membership and would work for KIUC. So, there's really in effect a ceiling brought in of what they could pay, of what made sense for KIUC to go forward with this and that was the whole negotiation with AES was working with them, trying to drive the rate down to what we needed to make it beneficial for the people of Kauai. And they succeeded in that so that's where it's at, they do have an equity interest in this, they are a for-profit business, they have to make an acceptable return, but that return was all factored in those initial negotiations, based on their assumptions. AES at some point is going to say if the costs escalate past that, they will walk away from the project, or have to renegotiate, and all that will pass back onto the people of Kauai.

Mr. Hong asked if this agreement had to go through the PUC [Public Utilities Commission] approval process or has it gone through the approval process.

Mr. Bissell responded that it has been approved by the PUC.

Mr. Hong asked, at the stipulated rate?

Mr. Bissell responded yes.

Mr. Hong asked, what if AES comes back and says they want to renegotiate. That kind of botches the whole deal, correct?

Mr. Bissell responded they likely would have to go back for PUC approval for any material changes in the terms.

Mr. Hong said this was for the Board. They have been through a PUC review process and those processes are fairly expensive. The Board should give some heavy weight toward that other regulatory process in terms of the benefit to the community. The question then is can ADC approve this, is it within their power to say yes, this is the type of agreement that they can move forward with. So, the question is what would happen if AES miscalculated the amount of capital that they would have to put in for the amount of revenue they would receive from it. Would they walk away from it? We're left with a partially developed project and does KIUC or ADC have any residual liability in this situation if they walk away from it?

Mr. Bissell said he doesn't know the answer to that. It would all depend on what stage the project was at. If they had land agreements in place, KIUC would have certain obligations regarding the condition of the land but in terms of what happens with AES, it would all depend on the stage they walk away and the facts and circumstances.

Mr. Hong asked if ADC staff sees any liability or recourse that AES would have against ADC if they were to decide to walk away.

Mr. Roe said that's a question better directed to Ms. Prescott-Tate. He wanted to remind the Board that all this request does is authorize ADC to engage in discussions on negotiated terms. What the actual terms would be is dependent on some of these conditions.

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Mr. Hong said that part of this Board's question is that hopefully they'll be providing some guidance to that next process, the next step, in terms of things to consider. Clearly they don't want to get into a situation where ADC is left holding the bag. Mr. Bissell has to look after the interests of their shareholders, their owners. In the larger scheme of things, having this project move forward makes sense, Hawaii needs to diversify its energy reliability somehow. He just wanted to raise these questions.

Ms. Prescott-Tate said another question to be considered is has the HRS Chapter 343 requirement been met given that EarthJustice filed a lawsuit challenging the result of a finding of no significant impact (FONSI).

Mr. Bissell said that's purely a legal question. They do have a FONSI in place that has not been revoked; it's currently in place so that's something that would need to have legal advice from legal counsel.

Chair asked if there was any further discussion. So, should the Board permit the Executive Director to negotiate with KIUC on the license versus lease terms and conditions and bring the matter back to the Board for further discussion? If the answer to those questions are no, then do things remain status quo? The current license expires in September 2023 and the matter would be set for issuance and approval of KIUC's 65-year lease upon terms and conditions previously approved by the Board in 2016. Ms. Prescott-Tate could you give us some guidance?

Ms. Prescott-Tate said there should be some kind of consensus on what the Board would like to see going forward. Do you want to let the Executive Director take the lead? Or do we not even need to go there and just go with the 2016 decision of the Board, or we could refer the matter to the newly formed administration committee.

Chair said they have an administration committee now that could work with KIUC. Chair asked so how do they do this? A motion? An amendment to the motion?

Ms. Prescott-Tate said it's a discussion right now. Where would the Board like it to go? If they come up with one solution then the Board can vote on that.

Chair said so the three options are, allowing the Executive Director to negotiate with KIUC; remain status quo with the agreement that was approved in 2016; or refer it to the administration committee to work with KIUC.

Mr. Nakatani asked why doesn't staff do more fact gathering and put some options on the table for the Board to consider at a subsequent meeting. As Ms. Prescott-Tate mentioned there's a [HRS Chapter] 343 contested case at this point so there's time. He thinks it can be done fairly quickly to look at what was agreed to prior and what they want today. What they're missing is, as Mr. Hong pointed out, they don't know what really, what the numbers are, the facts are, as far as AES they're doing their thing. They want to give a fair deal to all parties but that is what they are not sure of, what is the deal. So, they just have to find some facts to justify each position. We know what KIUC's position is but it's a matter of ADC and AES and for our obligation for our organization to get a fair deal for this whole project.

Chair said in that case we will defer the matter to get more information.

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3. Request for Approval to Issue a New and Amended Revocable Permit to The Davey Tree Expert Company and Davey Tree Surgery Company for 21,510.5 Square Feet of Space, More or Less, in Whitmore Village, Oahu, Hawaii, Tax Map Key Nos. (1) 7-1-002:004 (por.), :009 (por.)

Chair called for a motion to approve: Mr. Tabata; Seconded: Mr. Watanabe

Chair asked for staff presentation.

Mr. Roe said Davey Tree Expert Company has been a tenant with ADC since 2016. Except for a brief period of contraction during the pandemic they've enjoyed pretty consistent growth. In mid-2021, an allied company, Davey Tree Surgery Company, joined their workspace at Whitmore and due to their expansions, the Davey Tree Company collectively requests an additional 117.5 square feet of office space at Whitmore. Staff recommends a new and amended revocable permit that includes that new office space.

Chair asked if there was anyone from the public who wished to testify. There was none.

Chair asked if there were any questions or discussion by the Board. There were none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

4. Request for Approval to Issue a Right-of-Entry to the State of Hawaii, Department of Education, Helemano Elementary School for 1.0 Acre, More or Less, for Parking Access for May Day Activities on May 12, 2023 in Whitmore Village, Oahu, Hawaii, Tax Map Key Nos. (1) 7-1-002:004 (por.), :009 (por.)

Chair called for a motion to approve: Ms. Hurd; Seconded: Mr. Hong.

Chair asked for staff presentation.

Mr. Roe said Helemano Elementary School located in Whitmore Village is requesting to use a portion of the open space in Whitmore for overflow parking for their May Day celebration on May 12th this year. Staff recommends that the Board authorize the issuance of a Right of Entry for that purpose. It's the same location that we approved last month for the 46th Annual Wahiawa Pineapple Run and it's the day before.

Chair asked if there was anyone from the public who wished to testify. There was none.

Chair asked if there were any questions from the Board. There were none.

Chair asked if this has to come before the Board or is this something that staff can approve.

Ms. Prescott-Tate responded there was some liability involved if something should happen on ADC property so it's something the Board should know about and approve.

Chair asked if ADC is requiring insurance from the school.

Mr. Roe responded yes.

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Chair asked if there were any other questions. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

E. Old Business

1. Presentation of the Draft Annual Performance Review of the Executive Director (continued from January 25, 2023, Item D-8)

Chair stated that HRS section 92-4, allows the Board to hold an executive meeting closed to the public. The Board will be discussing Old Business Item 1, which is the presentation by the committee established to conduct an evaluation of the Executive Director's performance for fiscal year July 2021 to June 2022. This presentation may be closed to the public pursuant to HRS section 92-5(a)(2) to allow discussion of an employee evaluation where consideration of matters affecting privacy will be involved.

Before entering executive session, Chair asked if there was anyone from the public who wished to testify on the decision to go into executive session. There was none.

Chair called for a Motion to go into Executive Session: Ms. Seddon; Seconded: Mr. Hong.

Chair asked if there was any presentation by Staff. There was none.

Chair asked if there was any Board discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

The Board went into Executive Session at 9:35 a.m.

Chair called the meeting back to order at 10:10 a.m.

Chair stated that this was just a presentation by the Executive Director's Evaluation Committee and the motion to adopt the evaluation committee's report and recommendation will be heard at the next Board meeting.

F. Executive Director's Report

Chair called upon Mr. Nakatani to provide his monthly update.

Mr. Nakatani told the Board they had the legislative update in front of them. The most significant bill was SB 833, SD 2, which was just passed out and it has a couple of more committees to go through but it's still alive. All the bills that they see before them are alive. SB 836, which was ADC's condemnation powers, was never heard. However, SB 837, SD 1, is a similar bill but gives the Department of Business, Economic Development and Tourism (DBEDT) the authority to condemn. The rest are related to value-added products. Those have already passed and so that's good.

Mr. Nakatani pointed out that Mr. Takemoto has been in charge of having staff meetings, weekly or every two weeks.

The budget has crossed-over so we'll see how everybody's budget goes.

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Ms. Seddon and Mr. Watts' senate confirmation hearing is coming up soon. Mr. Nakatani thinks the committee on agriculture, Senator Gabbard will send a questionnaire to them prior to the hearing. There is a new applicant, Mr. Okuhama, for the at-large Oahu seat. He comes from USDA services. Mr. Okuhama's recommendation came from the Governor's office. We may also have one other applicant from the Big Island, Jacob Tavares from Parker Ranch, although we have not seen the GM [Governor's Message] yet.

Mr. Nakatani noted that the Dole well purchase is in escrow, and regarding Ohana Hui Ventures, the proceedings will probably be in the next two weeks, they're waiting for paperwork from Ohana Hui Ventures.

Chair asked if anyone had any questions. There were none.

G. Adjourn

Chair called for a Motion to Adjourn: Mr. Hong; Seconded: Mr. Tabata.

Chair asked if there was any discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

The meeting was adjourned at 10:14 a.m.

Respectfully submitted:

Lynette Marushige

Lynette Marushige
Secretary