

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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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.

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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