

**AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

*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:**

Warren Watanabe, Member-At-Large, Chair (Mr. Watanabe)  
Glenn Hong, Member-At-Large (Mr. Hong) (joined the meeting at 9:15 A.M.; left the meeting at 11 A.M.)  
Sharon Hurd, HBOA, Ex-Officio Member (Ms. Hurd)  
Karen Seddon, Member-At-Large (Ms. Seddon) (left the meeting at 9:25 A.M.; rejoined the meeting at 10:22 A.M.)  
Lyle Tabata, Kauai County Member, Vice-Chair (Mr. Tabata)  
Russell Tsuji, Designated Representative, DLNR for Ex-Officio Member Ms. Dawn Chang (Mr. Tsuji)  
Jayson Watts, Maui County Member (Mr. Watts)  
Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker)

**Members Excused:**

Jason Okuhama, Member-at-Large

**Counsel Present, virtually:**

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

**Staff Present, virtually:**

Wendy Gady, Executive Director (Ms. Gady)  
Mark Takemoto, Executive Assistant (Mr. Takemoto)  
Ken Nakamoto, Project Manager (Mr. Nakamoto)  
Lyle Roe, Property Manager (Mr. Roe)  
Linda Goto, Accountant

**Guests Present, virtually:**

ADC Guest  
Brian Miyamoto  
Dnellis  
Ford Fuchigami  
HDOA  
Katy  
Kim  
LM  
Meg Turner – Gabbard Staff  
Sen. DeCoite  
Thomas Heaton  
David Cho  
Rebecca Crall – Sen. DeCoite  
Scott

**AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

**Guests Present, physical location:** None.

**A. Call to Order**

Chair Watanabe called the virtual meeting to order at 9:05 a.m.

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 are no objections the motion will be approved on the same basis as the roll call.

Roll call: Chair, Ms. Hurd, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker acknowledged attendance with no guests present. Mr. Hong joined the meeting at 9:15 a.m.

**B. Approval of Minutes**

**1. Board Meeting Minutes, August 8, 2023**

Chair called for a motion to approve the August 8, 2023 minutes.

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

Chair asked if there was anything from the staff. There was none.

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 objections, the motion was approved. Vote: 7-0

**2. Board Meeting Executive Session Minutes, August 8, 2023**

Chair stated that during the executive session held on August 8, 2023 the Board conducted interviews and discussed a hiring decision. HRS sections 92-4 and 92-5(a)(2) allows the meeting to be closed to the public when necessary to discuss matters affecting privacy. In order to maintain the confidentiality of matters discussed in the executive session the draft minutes were provided directly to the board members for review. Chair asked that the Board respect the confidentiality of the executive session held on August 8, 2023 when discussing approval of these minutes.

Chair called for a motion to approve the August 8, 2023 minutes.

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

Chair asked if there was anything from the staff. There was none.

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

Chair asked for board discussion. Chair called on Ms. Hurd.

## **AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Ms. Hurd pointed out there were some non-substantive typos where Mr. Tabata's name was misspelled.

Mr. Wicker also pointed out a typo on last paragraph of page 5 where is said "ABC", should be "ADC" and where it said, "budget general table" it should be "budget journal table".

Mr. Tsuji stated that he was not present during the August 8, 2023 meeting and that he did not receive the meeting minutes so he would not be voting.

Chair stated that the non-substantive typographical errors will be corrected. Chair called for the vote. Hearing no objections the Executive Session minutes of August 8, 2023 were approved. Vote: 6-0 (Chair, Ms. Hurd, Ms. Seddon, Mr. Tabata, Mr. Watts, and Mr. Wicker.) Mr. Tsuji abstained from voting.

### **C. Chairperson's Report**

1. None.

### **D. Committee Reports**

1. None.

### **E. Action Items**

- 1. Request for approval to refer License Agreement No. LI-GA1810 issued to Liu's Plantation, Inc. to the Department of the Attorney General for enforcement action, TMK (1) 7-1-012:001 (por.)**

Chair called for a motion to approve.

Motion: Mr. Wicker; Second: Mr. Tabata.

Chair asked for staff presentation.

Mr. Hong joined the meeting at 9:15 a.m.

Mr. Roe stated that the submittal lays out the background and staff's request. The Licensee has a couple of unapproved structures, storing abandoned vehicles on the property, and hasn't been responsive to the notice of violations sent. Mr. Roe recommends the matter be sent to the Attorney General's office for enforcement action. Mr. Roe noted that he has received communication from the Licensee and they are actively removing the abandoned vehicles and removed the structure.

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

Chair asked for board discussion.

Mr. Tsuji asked staff about the procedures and wanted clarification that the action is to send the matter to the Attorney General's office and not to terminate the License and if this is typical ADC practice.

**AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Mr. Roe stated policy and procedures were developed last year which includes a pre-default process that includes inspections and notices of violation designed to mitigate a problem before we default on the license. Mr. Roe confirmed that this request is to refer the matter to the Attorney General's Office.

Mr. Watts asked Mr. Roe what does default mean?

Mr. Roe stated it would cover financial default, such as rent, the tenant has 30 days to cure. For non-financial default such as breach of the License the Licensee has 60 days to cure.

Chair asked if there was any further board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved. Vote: 8-0

**2. Request for approval to conduct due diligence for the purpose of negotiating the fee simple interest of 155.702 acres, more or less, in real property located at Waialua, Oahu, Hawaii, TMK (1) 6-5-005:008**

Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Mr. Tsuji.

Chair asked for staff presentation.

Ms. Seddon exited the meeting at 9:25 a.m.

Mr. Roe stated that Dole Food Company has put a parcel up for sale adjoining an ADC parcel in Waialua and staff is requesting board approval to send a Letter of Interest and conduct due diligence for the possible purchase of the property, which is subject to the availability of funding. Mr. Roe noted that the property is currently in pineapple production and there is water, so if ADC were to acquire the property it could be farmed right away.

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

Chair asked if there was any board discussion.

Mr. Wicker asked Mr. Roe if there was a reservoir onsite.

Mr. Roe stated that there is an irrigation pond, but he cannot verify the size he doesn't believe it is jurisdictional under Dam Safety.

Mr. Wicker asked if this is something ADC wants to pursue that the funding to acquire the property would be requested in the supplemental budget for FY24.

Mr. Roe responded, yes.

Ms. Hurd asked what does more or less mean?

Mr. Roe stated that it means there is some room for error. He wasn't able to verify the acreage, so he puts that in to prescribe a certain amount of uncertainty to it.

**AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Mr. Tsuji interjected that staff does that to allow some flexibility when the acreage come down and it's a little bit over 155 acres or even lower than 155.

Ms. Hurd asked if there's a delta to that.

Mr. Roe said, no.

Ms. Hurd stated more or less could be a little vague and that a plus or minus would be helpful.

Mr. Tsuji said that it's probably because this is just a request to do due diligence and when it comes back to the Board for final approval they'll have the exact acreage.

Chair asked if there was any further board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved. Vote: 7-0

**3. Request to amend prior Board approval to issue a 35-year non-exclusive license to the County of Kauai for two monitoring wells in Field 311 in Kekaha, Kauai, Hawaii, TMK (4) 1-2-002:001 (por.)**

Chair called for a motion to approve.

Motion to approve: Mr. Tabata; Second: Mr. Wicker.

Chair asked for staff presentation.

Mr. Roe stated that he made an error of the April 20, 2023 submittal that stated the monitoring wells were on land licensed to Hartung. Actually the area is licensed to Sunrise Capital, not Hartung. Just trying to correct the name of the licensee from Hartung to Sunrise Capital.

Chair asked if anyone from the public wished to give testimony. 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. Vote: 7-0

**E. Action Items – 4, 5, 6, Executive Session**

Chair stated that HRS section 92-4 allows the board to hold an executive meeting closed to the public. Pursuant to HRS section 92-4, the board will be discussing action items 4, 5, and 6, which are: Number 4, request for settlement authority on complaint by Ohana Best LLC vs. State of Hawaii, Agribusiness Development Corporation and James Nakatani (deceased) in his individual capacity, and Wendy L. Gady, in her capacity as executive director of ADC, Civil No. 19-1-1640-10, First Circuit Court, State of Hawaii to allow the Board to confer with its attorney pursuant to HRS section 92-5 (a)(4); Number 5, update and discussion regarding RFP 2022, including a) dissolve the permitted interaction group established on January 25, 2023, and b) establish a new permitted interaction group of Board Members and project professionals to assess and evaluate the offeror's proposal to allow the Board to consider information that must be kept confidential pursuant to HRS section 103D-101 to ensure a fair procurement process on an open solicitation; and

## **AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Number 6, discussion of Sunshine Law complaint (S APPEAL 24-02) by anonymous complainant regarding the hiring of the new ADC Executive Director to allow the Board to confer with its attorney pursuant to HRS section 92-5(a)(4).

Chair asked if there was any public testimony on the decision to go into executive session. There was none.

Chair called for a motion to go into executive session.

Motion by Ms. Hurd; Second: Mr. Tabata.

Chair stated there was no staff presentation.

Chair asked if there was any board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved. Vote: 7-0

Chair stated that the public meeting was in recess subject to reconvening at the conclusion of the executive session. The Board entered into executive session pursuant to HRS section 92-5(a)(2) and 92-5(a)(4) at 9:31 a.m.

Chair called the virtual meeting back to order at 11:30 a.m. The Board members present when the meeting reconvened was Chair, Ms. Hurd, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Wicker, and Mr. Watts.

Chair noted that Mr. Hong has left the meeting.

Chair stated that pursuant to Act 19, SLH 2023, he summarized what was discussed in Executive Session.

Regarding action Item E-4, Chair stated that the Board discussed the settlement offer which will remain confidential until accepted by the Court. The Board will confirm the vote on the public record.

Regarding action Item E-5, the permitted interaction group assigned on January 25, 2023 to assess and evaluate the offeror's proposal was dissolved due to the resignation of a member. The new permitted interaction group members will be appointed on the public record.

Regarding action Item E-6, Board requires no further action.

#### **4. Request for settlement authority on complaint by Ohana Best LLC vs. State of Hawaii, Agribusiness Development Corporation and James Nakatani (deceased) in his individual capacity, and Wendy L. Gady, in her capacity as executive director of ADC, Civil No. 19-1-1640-10, First Circuit Court, State of Hawaii.**

Chair called for a motion to approve.

Motion to approve: Mr. Tsuji; Second: Mr. Tabata.

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

## **AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Chair asked if there was any further board discussion. There was none.

Chair called for the vote. Hearing no objections the motion was approved. Vote: 7-0

**5. Update and discussion regarding RFP 2022, including a) dissolve the permitted interaction group established on January 25, 2023, and b) establish a new permitted interaction group of Board Members and project professionals to assess and evaluate the offeror's proposal.**

Chair stated that Article 3, Section 4 of the ADC Bylaws authorizes the Chair to appoint members to an ad hoc committee, also known as a permitted interaction group, or investigative committee. Chair appointed Ms. Seddon, Mr. Hong, and Mr. Wicker. Chair said that the permitted interaction group tasks are to evaluate the offeror's proposal and enter into discussion with the offeror and project professionals and if necessary craft a counter offer to the offeror's proposal that is within the parameters of the initial request for proposal.

Chair asked if anyone from the public wished to provide testimony. There was none.

This matter did not require a motion or vote.

**6. Discussion of Sunshine Law complaint (S APPEAL 24-02) by anonymous complainant regarding the hiring of the new ADC Executive Director.**

Chair stated that based on the advice of counsel, no further action is needed at this time.

Chair asked if anyone from the public wished to provide testimony. There was none.

**7. Confirmation vote regarding the hiring of the new ADC Executive Director.**

Chair stated that based on the advice of counsel, no further action is needed at this time.

Chair asked if anyone from the public wished to provide testimony. There was no one.

### **F. Informational Items**

**1. Appointment of members to the standing Technical Assistance Committee and the Marketing & Communications Committee.**

Chair deferred this agenda item until the Governor fills the seats of the Hawaii Island and Honolulu representative to the Board.

Chair asked if there were any questions. There was none.

**2. Executive Director Report**

Chair deferred this agenda item until the next board meeting.

### **G. Adjourn**

Chair stated seeing no other business before the Board he called for a motion to adjourn.

**AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on September 21, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Motion to adjourn: Ms. Hurd; Second: Ms. Seddon.

Chair asked if there was any board discussion.

Mr. Watts asked if any discussion by the Board on the Executive Director's report should be listed on the agenda.

Ms. Prescott-Tate stated it should be listed on the agenda or the report attached to the agenda.

Chair asked if there was any further board discussion. There was none.

Chair called for the for vote. Hearing no objections the motion was approved. Vote: 7-0

Meeting adjourned at 11:40 a.m.

**Date of Next Meeting:** The next meeting will be held on October 19, 2023, at 9 A.M.