

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on October 19, 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 Hawai‘i, 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 (Chair)
Glenn Hong, Member-At-Large (Mr. Hong), joined the meeting at 9:05 A.M.
Jason Okuhama, Member-At-Large (Mr. Okuhama)
Karen Seddon, Member-At-Large (Ms. Seddon), exited the meeting at 10:00 A.M.
Lyle Tabata, Kauai County Member, Vice-Chair (Mr. Tabata)
Jayson Watts, Maui County Member (Mr. Watts), joined the meeting at 9:04 A.M.
Earl Yamamoto, Designated Representative, HDOA, for Ex-Officio Member Ms. Sharon Hurd (Mr. Yamamoto), joined the meeting at 9:12 A.M.
Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker)
Russell Tsuji, Designated Representative, DLNR for Ex-Officio Member Ms. Dawn Chang (Mr. Tsuji)

Members Excused:

None.

Counsel Present, virtually:

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

Staff Present, virtually:

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

Guests Present, virtually:

18082272350
Scott Ishikawa
ADC Guest
dnakano
Garrett Leong, Brown & Caldwell (Mr. Leong)
Susan Mukai, Brown & Caldwell (Ms. Mukai)
Trisha Yamato
ChunKB
Mark Ladao
Aldric Ulep (LTG)
LM

Guests Present, physical location:

None.

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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 a roll call vote, and for each subsequent vote, he 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: Chair, Mr. Okuhama, Ms. Seddon, Mr. Tabata, Mr. Tsuji, and Mr. Wicker acknowledged attendance with no guests present. Mr. Watts joined the meeting at 9:04 A.M. Mr. Hong joined the meeting at 9:05 A.M. Mr. Yamamoto joined the meeting at 9:12 A.M.

A. Call to Order

Chair called the meeting to order at 9:03 A.M.

B. Approval of Minutes

1. Board Meeting Minutes, August 17, 2023

Chair asked for a motion to approve the August 17, 2023 minutes.

Motion to Approve: Mr. Okuhama, Second: Mr. Wicker

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

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

Chair asked for Board discussion. There was none.

Chair called for the vote. Hearing no further objections, the August 17, 2023 minutes were approved: 8-0. [Chair, Mr. Hong, Mr. Okuhama, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker.]

2. Board Meeting Minutes, September 21, 2023

Chair asked for a motion to approve the September 21, 2023 minutes.

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

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

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

Chair asked for Board discussion. There was none.

Chair called for the vote. Mr. Okuhama noted that he was not present at the September 21, 2023 meeting and would abstain. Hearing no further objections, the minutes of September 21, 2023, were

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approved: 7-0. [Chair, Mr. Hong, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker. Mr. Okuhama abstained]

3. Board Meeting Executive Session Minutes, September 21, 2023

Chair stated that during the executive session held on September 21, 2023, the Board discussed with its attorney matters related to settlement authority for a civil complaint, matters regarding a procurement issued under RFP 2022, and matters related to Sunshine Law Complaint S APPEAL 24-02. HRS sections 92-4, 92-5(a)(2), and 92-5(a)(4) allows a meeting to be closed to the public when necessary to consult with the board's attorney, to discuss a hiring decision where matters affecting privacy will be involved, and where matters must be kept confidential pursuant to HRS section 103D-101. 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 September 21, 2023 in discussing approval of these minutes.

Chair asked for a motion to approve the September 21, 2023 minutes from the executive session.

Motion to approve: Ms. Seddon, Second: Mr. Wicker.

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

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

Chair asked for Board discussion. Ms. Seddon identified a typo on page 12 and informed staff that where it states "HFC", it should be "HHFDC."

Noting the typographic error, Chair called for the vote. Hearing no objections, the minutes of September 21, 2023 executive session were approved: 7-0. [Chair, Mr. Hong, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker. Mr. Okuhama abstained.]

C. Chairperson's Report

1. None

D. Committee Reports

1. None

E. Action Items

1. **Request for approval to conduct due diligence for the purpose of negotiating the fee simple interest of 6,200 acres, more or less, of real property located in Kauai, Hawai'i**

Mr. Yamamoto joined the meeting at 9:12 A.M.

Chair asked for a motion to approve: Mr. Wicker, Second: Mr. Okuhama

Chair asked for staff presentation.

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Mr. Roe stated that ADC staff recently traveled to Kauai and learned that property was going to be put up for sale. These lands are in agriculture and conservation and contain portions of the Kekaha Ditch that staff believes may be important to acquire. Mr. Roe went on to explain that there was not a lot of information about these lands, and that this request was to begin due diligence and conduct research on the property.

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

Chair asked for board discussion. Mr. Wicker asked if ADC staff could provide a map of the 6,200 acres to see the proximity to ADC lands and the potential to see how it fits into ADC's plan for Kauai.

Mr. Roe noted that a map was provided directly to the Board due to privacy concerns as the land owner(s) have not publicly announce the land sale.

Mr. Tsuji asked what kind of due diligence budget ADC staff has, or were they planning to request funding, and secondly, what type of due diligence was ADC staff planning to do; if it was for feasibility purposes or for complete land acquisition due diligence, such as environmental studies, the condition of the land, title reports to ensure ownership and other issues are disclosed, encumbrances on record, etc.

Mr. Roe said if ADC moves to a Purchase Sale Agreement, then they would look at those sorts of things, like history of the land, phase 1 assessment, and encumbrances. ADC does not know a whole lot about the property. The reason for this request is to bring the Board into the discussion. If it's decided that the land is appropriate for purchase it would involve approaching the Legislature for funding, although it is believed the time to do so this year has passed.

Mr. Wicker confirmed that the time to submit a funding request through DBEDT [Department of Business, Economic Development and Tourism] for the administration part has already passed. The next step would be to work with legislators to see if they would support the purchase and put in a request during the legislative session. Mr. Wicker then asked about the map provided to the Board that shows two areas, one outlined in red and one in yellow. What is the distinction between the two?

Mr. Roe explained that the yellow area is ADC's property, and the red is the proposed area ADC is looking at.

Mr. Tabata said he wanted to make a correction. The maps were incorrectly labeled. Exhibit A named Kalepa is Waimea, and Waimea is Kalepa.

Mr. Roe apologized and acknowledged that it was his mislabeling.

Mr. Hong asked how the property was being used now; is it in production, grazing, or what.

Mr. Roe said all of the above. Some of the land's in conservation, some has cattle on it, there's diversified agriculture on it, there's housing proposed on some of it. The current landowner wants to do different things on different portions of land and some of the areas about the urban areas; the owner(s) anticipate shaving those off and subdividing it and using these areas for housing development. The land towards the interior of the island closer to ADC lands are in conservation, pasture, and diversified agriculture particularly as you get more mauka, a lot of those areas are in conservation.

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Mr. Watts asked for clarification on the background. On page 5 it states ADC staff was recently made aware. Did ADC staff seek it out, or was staff approached.

Mr. Roe said Ms. Gady could answer that question. Mr. Roe explained that Ms. Gady had several meetings on Kauai during an inspection trip and the landowner(s) approached her.

Ms. Gady stated that she had a number of meetings while she was on Kauai and she was invited to subsequent meetings of large landowners. Those meetings were not initially on her to-do list but they wanted to meet because some lands adjoin ADC land and during the conversation ADC was offered right of first refusal. This is why the matter is on the agenda. The land sale is not public.

Mr. Watts asked Ms. Gady about Mr. Wicker's comment on the budget. Has ADC already missed the deadline and will the Board be reviewing and voting on the ADC budget.

Mr. Wicker stated yes, the deadline was the end of September. Could Chair or Ms. Prescott-Tate clarify if there is a statute that authorizes the Board to approve the budget? Some Boards do, such as the Board of Education and the Board of Regents. In the future maybe ADC should present its budget. He doesn't know what it is yet because DBEDT is still having internal discussions with BNF [Budget and Finance] on what's in and what's out. It would be the final budget that BNF agrees upon that could be presented to the Board.

Mr. Watts asked if it was a statutory thing that the Board doesn't approve the budget. Who created the ADC budget?

Mr. Wicker replied, ADC's budget is created by the agency itself and DBEDT has input on it.

Mr. Watts stated he understands that; who is the "agency?"

Mr. Wicker replied, ADC.

Mr. Watts asked isn't the Board the agency? Who speaks for ADC?

Mr. Wicker acknowledged Mr. Watts' point of inquiry, is it the Executive Director, or is the Board considered the agency.

Mr. Watts confirmed that was his question. Who created the budget and who submitted it?

Mr. Wicker stated the ADC budget was submitted by the Executive Director.

Mr. Watts asked was there any approval process? Does the Board vote on the budget? This is my first Board budget process and I'm just trying to figure out what that process is.

Mr. Wicker asked the other Board members, has the budget ever come before the board for their review and approval? It's probably not required under this Board.

Ms. Seddon stated the Board never entertained the budget.

Mr. Tsuji said his understanding was that it may not be required in the ADC statute at this point. In the past probably the executive director working with the attached director, whatever department before, was Hawaii Department of Agriculture (HDOA), now it's DBEDT, worked together with

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them to submit the budget administratively. That does not prevent notwithstanding if there's no statutory requirement requiring the board to approve the budget that does not mean the board cannot see the budget or approve it anyway. He doesn't think there's a prohibition on that statutory.

Mr. Watts stated he knows this isn't on the agenda but this response is to the line of questions about this due diligence if and when potentially there's going to be a request to the legislature to pay for this, he wanted it put on the record that he would like to request in the future the Board should review ADC's budget and we should vote on that budget for the year. We are a governing board and in previous audits it was made very clear the Board was not involved. When the Deputy Director says the word "agency" I think the word "agency" would be the Board. The Executive Director cannot act without the Board. In the future I would like to review the budget, or help put together a budget, vote on that budget. That way when we're questioned by legislators or other people about the budget, the Board can truthfully say they were involved in the process.

Ms. Prescott-Tate interrupted to explain that Article 6, section 1 of the ADC By-laws, under "Executive Director and Staff" it says the "executive director shall submit the annual corporation budget to the chairperson for the consideration of the board of directors."

Mr. Watts thanked Ms. Prescott-Tate and asked if the Board was going to review the budget?

Chair offered a point of information that he has never seen the budget.

Mr. Wicker asked for clarification on what point that is. Is it the budget as submitted by the agency to the attached department?

Mr. Hong stated that in the years he has been on the Board the budget has never been presented to the Board. The Board has a responsibility and as Ms. Prescott-Tate pointed out it should be done.

Mr. Wicker stated that he just wants to know at what point. Is it the point when it goes down to Budget and Finance, or after Budget and Finance agrees? Does the Board want the first touch and see everything before it goes down?

Chair stated correct me if I'm wrong, but I think it's before it gets submitted to Budget and Finance.

Mr. Watts said correct and he suspects the Board would agree to a budget and the ED [Executive Director] would turn it over to DBEDT and DBEDT would go through whatever process it goes through with the Governor's office etc.

Chair stated it would be an opportunity for the Board to provide some input in the budget.

Mr. Hong stated that they need to summarize that the staff under the direction of ED in consultation with the Chair would put together a detailed budget that would then be presented to the Board then be presented on up through the rest of the process.

Ms. Gady stated that she has consistently put in the ED report that her projection was to bring the budget as proposed to the Board in the November meeting.

Mr. Watts stated at that point the budget is already public, and it's gone to the legislature, and the Board hasn't even seen it yet.

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Mr. Wicker said it is not public by then, but it would probably be closed internally by the administration by then. The budget is public in mid-December.

Mr. Tsuji said maybe this year they can start in November, but the following year staff, knowing it has to be presented to the Board, can prepare it earlier before the deadline before it has to submit it to DBEDT.

Mr. Wicker said July-August of next year would give the Board time to review, opine, and make adjustments before being submitted for review by DBEDT.

Ms. Prescott-Tate asked if the Board could stop for a second because this is not an agenda item. The Board was getting very close to making decisions, which was not allowed when an item was not on the agenda. Could this discussion be moved to November?

Mr. Watts said he understands that, but his question goes to this exhibit here that's talking about expenditures, and he hasn't seen any documents about any money regarding ADC. When he came on to the Board and reviewed the audits he was very critical of the Board. He's not asking for a decision, but going forward part of the Board's responsibility is to create and assemble a budget with the staff, vote and approve a budget that goes to the Governor. Right now there's an ADC budget out there that none of the Board Members has seen or worked on.

Chair stated that in his opinion this Agenda Item is all very preliminary right now. Once the Board decides they may be interested in pursuing these lands, then the Board can discuss financing. The question at this point is whether to explore this purchase.

Mr. Watts said he's not debating whether or not to explore the purchase; it just raises the budget question. He hasn't seen a budget so he's curious as to why this would be. If this was submitted after November or already past the date even if it was submitted today for approval to purchase, we would have to submit an amendment to Budget and Finance. It would be outside our 2024 budget request. I'm trying to figure out what our process and deadlines for stuff like this is if we're going to consider purchases for a fiscal year maybe that deadline should be in June or July so it can be included in the October submission to DBEDT, to Budget and Finance, and to the Governor without us having to go back for a supplemental request.

Chair stated that the way Ms. Prescott-Tate read the bylaws and the way the bylaws are written he thinks the procedure has been followed. We can move this discussion to the November meeting.

Mr. Roe asked Chair if Agenda Item E-1 was being moved to the November meeting.

Chair stated that the discussion on the budget will be moved to the November meeting.

Mr. Yamamoto asked for clarification on the map. Is the area under consideration in Kalepa outlined in yellow?

Mr. Roe stated the area outlined in yellow was ADC's property. The area in outlined in red is the area potentially up for sale.

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

Chair called for the vote. Hearing no objections the motion was approved: 9-0.

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F. Informational Items

- 1. Presentation by Allison Fraley on behalf of the County of Kauai for an update regarding a proposed new landfill site to be located near Kekaha, Kauai, Hawaii, TMK (4) 1-2-002:001 (por.)**

Chair stated that at the last minute Ms. Fraley was unable to attend so this presentation will be rescheduled to a future date.

- 2. Presentation by Brown & Caldwell on the Wahiawa Reclaimed Water Irrigation System**

Ms. Mukai, Brown and Caldwell's Project Manager, introduced herself and Mr. Leong. Ms. Mukai gave a PowerPoint presentation regarding Galbraith Irrigation System Improvements. (See PowerPoint presentation attached to the submittal as pages 042 - 052.)

Following the presentation Mr. Hong noted that it appeared the phases have similar construction routes and asked, from a construction stand point wouldn't it make sense to do that simultaneously since both will be using similar conduits or excavation?

Ms. Mukai said they tried to break it up to what's necessary in terms of the agreement with the City. Ms. Mukai explained there is a Memorandum of Agreement (MOA) between the City and the State and that there are simultaneous projects going on between this project and the City's projects to upgrade the wastewater treatment plant to convey the water to ADC property, as well as, to meet R-1 certification requirements. Brown & Caldwell was focusing on MOA compliance in Phase 1. She doesn't know if the pipelines would be running through the exact same trench. The pipelines might be running in a slightly separate alignment and they tried to break it up into portions that would be easier to get the construction funds for.

Mr. Hong stated that the point was if they could be put in the same trench, then we wouldn't have to go back and do it a second time and double the cost. It would be more efficient. He understands the phased approach, but from an overall project standpoint the question is wouldn't it be more efficient to design it simultaneous and have it constructed simultaneous. Regarding the lake intake pump station, did they considered taking it further up the reservoir so it's coming from cleaner water and also higher up elevation wise so they could use some gravity flow down to the 10MG reservoir rather than pumping because the cost of operation is going to be high.

Ms. Mukai replied they've done some studies to see where the best place to pull the water from based on the flow. They did not evaluate anything upstream as far as possible locations for the pump station due to the lack of accessibility. She was not sure where else they could pull the water from because of the residential areas and the amount of space needed to bring large vehicles into the area to do construction and maintenance. It didn't appear there was anywhere else that was readily available to construct the lake intake pump station. What does help is they are using the same access for the dual pipelines. It would fall in the same trench essentially as the other pipelines.

Mr. Hong said he understands and he's just trying to find ways to make the overall system more efficient with less overall maintenance and operational cost on an annual basis. By doing phase one and phase three simultaneously you would avoid dual easement issues and having to go back and revisit the same easement issues a second time.

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Mr. Tabata said he assumed in the PR and phasing there were operation and maintenance costs included that ADC would have to budget for.

Ms. Mukai stated they haven't looked into the operation and maintenance cost as of yet. She knows that needs to be looked at for ADC to move forward and for budgeting purposes.

Mr. Tabata said having a little bit of knowledge on wastewater, what happens if the plant cannot meet the standards? What do you do with that off spec water?

Ms. Mukai stated that would be a responsibility of the City as part of the MOA. The City is working on doing some upgrades at the treatment plant and there's 1.72 MGs of storage onsite for them to store any off-spec water onsite and recirculate it through the MBR system that they have onsite to treat it before it would be sent to ADC.

Mr. Wicker thanked Ms. Mukai and echoed some of the comments made by Mr. Hong. We must figure out a way to lower that cost and be more efficient. \$178 million is a lot of money especially if ADC is going to ask for the money in the next year or two. Anywhere you can be more efficient so we don't have to go back and double the efforts would be much appreciated. And for the lake intake pump station, have you checked if Dole has any preexisting lake intake stations? Dole had one on top of their parcel in Whitmore Village and if the lake intake pump station is just to draw lake water to feed the reservoirs, then to Mr. Hong's point you might be able to look where that intake was before or if it can be renovated and reused that might make it a shorter path to the reservoirs.

Ms. Mukai asked Mr. Wicker to clarify that Dole previously owned and operated a pump station.

Mr. Wicker said he thought Dole had one on the 42 acre parcel. He heard that, but it might be hearsay and he will check with Dole if they have any pumps going into the lake.

Ms. Mukai said she noted that and thanked Mr. Wicker for letting her know. She wanted to point out that this project isn't just an irrigation project. Although that's in the title, it's really a concerted effort between the City and the State to work together and use their resources to not dump into Lake Wilson anymore and to use that water for beneficial purposes. With climate change and wanting to have a more sustainable irrigation source this recycled effluent is a drought proof source and will always be there. This is something that would be consistent, and we need to look at ways to pool resources and look at it in terms of a "one water" lens. Using things like water and wastewater efficiently in a concerted effort in CIP [Capital Improvement Projects] project to make sure we are being sustainable in the future. We're trying to convey to the public and to the agricultural users that it's not just an irrigation and ag project, it's a holistic thing; a "one water" vision and they're trying to be mindful of that.

Mr. Wicker stated that Ms. Mukai's correct and the Board will echo that. You might be speaking to the choir here, we're all for ag. This is an underutilized water source, and it's costly to take this on. This morning there was an editorial from Board of Water Supply talking about droughts. This project is also about resiliency and ADC is looking at and considering acquiring the Wahiawa Irrigation System. This dove tails into that. He asked Ms. Mukai to figure out a way to lower the cost at any point because that would help get support from the legislature to fund it. It's going to be a big ask for \$178 million and it's broken down in phases already. If they can bring down the cost of each phase that would make it more attractive.

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Mr. Hong stated there is a 5.4 million gallons per day (MGD) use requirement projection, 1.6 from wastewater and 5.1 from the lake intake pump station. He asked if once all the phases are done, would ADC be able to sideline Bott Well and avoid pumping, and could the 5.1 MGD from the lake be used universally for irrigating things like leafy crops.

Ms. Mukai stated that the lake water can be used to irrigate leafy crops but potable water must be used to finish.

Mr. Hong stated that it appears it would eliminate for the most part the need to pump water from the Bott Well at that point.

Ms. Mukai stated that Bott Well would be a backup source. ADC may want to exercise the Bott Well every so often because the Water Commission requires it, but the whole idea is to not use groundwater.

Mr. Hong stated it's a very expensive water source with huge pumping costs.

Chair asked if there were any other questions.

Ms. Mukai said that she wanted to clarify that she will look into ways to combine the phase one and two pipelines, but while it does look like they are close to each other there is an existing access road on the ADC site, phase one will be located on the south side because they didn't want to encroach on the farmer's areas. Phase two will be located on the other side of the road, which helps with a connection to a conjunction vault they'll be installing and going up to the 3MGD reservoir. There is an existing pipeline in the roadway now and by locating the pipes on each side they wouldn't have to cross the roadway. She understands Mr. Hong and Mr. Wicker's comments and will look into ways to reduce the price and the need for cost savings.

Chair asked if there was any further discussion. Seeing none Chair thanked Ms. Mukai and stated this was just an informational presentation so no motion or vote was needed.

Chair noted that Ms. Seddon left the meeting at 10:00 A.M.

3. Presentation by staff regarding the East Kauai Irrigation System

Mr. Roe started the presentation by providing an overview of the East Kauai Irrigation System. (*See attached PowerPoint presentation for reference.*)

Ms. Gady asked if Mr. Tabata and Mr. Tsuji could provide some additional insight from their unique perspectives.

Mr. Tabata said, referencing a map in the presentation, traditionally when there were sugar operations everything makai of Maalo Road was furrow and in the end drip irrigation. Everything mauka of Maalo Road, which ends at Wailua Falls, was traditionally unirrigated. There are several reservoirs on the system. The Kapaia reservoir is where Grove Farms surface water treatment plant draws water to turn surface water to potable water. The water now serves all the way to the Wailua River and Puhi. The groundwater resources had dried up over time. When Lihue Plantation converted to drip irrigation, the furrow irrigation was a recharge source for all the other wells in the Lihue area. The groundwater dried up, so Grove Farm wanted to utilize Kapaia Reservoir to service Kauai Department of Water with 5.5 MGD of potable water. After the Lihue plantation shut down, he got calls that the Fern Grotto, Reservoir 21, dried up. Grove Farm is allowing the water to flow to get to Reservoir 21.

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If they take that system out of service, there is no water to keep ferns green at the Fern Grotto, which is a major tourist attraction on the island. The long and short of it is the possible available lands that were presented by Mr. Roe is located to the south of the boundary state versus other from Kalepa Ridge and abutting Lihue town and Hanamaulu town that all gets irrigated and is in diversified ag in certain areas and the irrigation water comes off of the Hanamaulu ditch and Ilililiula (North Ditch System).

Mr. Tabata continued, there was a plan as seen in the CIP funds for Aahoaka Reservoir, which shows as inactive on a map. When he was working for Kauai County, the former executive director and himself were trying to work a plan to revitalize that reservoir and bring a pipeline down, so that more of the lands above Maalo Road could potentially be irrigated and bring a direct water source wholly on State land down to the farms behind Kalepa Ridge. An operating agreement needs to be looked at because there's a siphon going through DHHL [Department of Hawaiian Home Lands]. Right now DHHL has that portion in front of Kalepa in pasture, so it's mostly for grazing and water for the cattle, but there's also potential discussion because there is enough elevation in several locations that micro turbine hydro generators could be put in place and take on the model that Kekaha Ag Association has for the West Kauai lands where you generate electricity to bring more commerce to the area. In Kekaha a lot of the water flows in the ditch, and it doesn't really get to where you need it unless you pump it. Pumping water is expensive and having a source of available electricity to power the pumps is really important. He doesn't know the DLNR perspective. The reason Kauai Island Utility Cooperation (KIUC) hasn't improved the two hydro plants, the upper Waiahi and the lower Waiahi is because KIUC doesn't have anything more than a year-to-year revocable permits and it doesn't allow them to go to the bank and borrow money to reinvest and upgrade those generators. He heard that those generators only put out 1.5 MW. In its heyday they had 2.5 MW, almost 3 MW being output through that with 50 MGD of water flowing through the penstock. Another point of interest was after Hurricane Iniki, the Lihue plantation abandoned the Kaapoko tunnel and Hanalei tunnel system that brought additional water from the Hanalei River all the way to the East Kauai system and that's how you end up with over 100 MGD.

Mr. Tsuji said from the perspective of DLNR's Land Division that inherited this reservoir and this system from the plantation when it closed, the system was being operated 20 years ago by the East Kauai water users. They have all since disbanded and there is no operator at this point. That was in 2001 or 2002. Since that time DLNR has been trying to find someone to take it over because from DLNR's perspective, under Act 90 they turned over almost all their ag leases to HDOA. On Kauai in particular, DLNR turned over almost all their ag inventory, most of it, to ADC both on the West side and East side. Anyone using water right now, technically it's not authorized by them. To use water, you need a water license or lease and there is a process to follow under HRS chapter 171-58, which is quite cumbersome. As Mr. Tabata mentioned maybe the utility has a hydro and they're planning some pump storage that he couldn't recall if it was on the West side or the East side. The utility is planning that, but to go through the process of obtaining a long-term disposition such as a 65, or even a 35, 45-year lease requires a lot of work, EIS, etc. For purposes of this, DLNR has been in discussions with HDOA who thought that this would fit in to their mission in that the water users tend to be farmers in the area, although some of them are private, they thought it would fit their mission. HDOA has been taking its time evaluating the feasibility, meanwhile, the reason there's a sense of urgency on DLNR's side is the land division continues to expend their operating revenue to the tune of about \$150,000 per year just to pay a contractor to bare minimum to maintain the system for health and safety purposes only, not to deliver water or manage water to water users; it's solely for health and safety and to make sure we don't have a bad situation with the reservoir. Fortunately the Wailua Reservoir is in relatively good shape. At this point, there is minimal maintenance that needs to be done. When ADC expressed interest, he thought that they should have thought of ADC

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earlier because he knew DLNR gave ADC all their lands on the West side and East side and DLNR gave ADC the East side with the Green Energy Team and all those guys out there, as well as the West side with all those farmers out there near the Pacific Missile Range Facility. That is pretty much what it is and DLNR is looking for someone to take over the system. DLNR understands there are a lot of potential private agriculture users and perhaps that could fit, whether it's HDOA or ADC. DLNR is willing to work with either one of them, whoever is willing to take it. ADC is a better fit because they have tenants out on this side in addition to supporting ag in general for private ag users. One of the issues DLNR wants to get out of it, and it's very unusual, is because they appear before the Land Board, and it is not so much this reservoir, but DLNR have other reservoir they've inherited from the plantation when they closed because they just turn up their leases, or they say they're defunct or not operating and DLNR had to take over. They have another sister division called the Engineering Division who actually regulates these dams. It would probably be better to separate being that the BLNR [Board of Land and Natural Resources] is the regulator from being a land manager of the dams. Considering that together with the fact that most tenants are all over at HDOA, or ADC that it is probably best that one of those agencies, if they wish to, take over the reservoir and they take it rather than DLNR managing it, so we don't have one agency telling another agency what to do about getting the reservoir ready for health and safety purposes from a regulation stand point.

Mr. Roe thanked Mr. Tsuji and Mr. Tabata and asked if there were any other questions from the Board.

Hearing no further questions Chair thanked Mr. Roe and stated that this was just an informational presentation and no motion, or vote was needed.

4. Update regarding ADC-owned buildings in Whitmore Village, Oahu, Hawai'i

Mr. Roe stated there is nothing new to report. The Contractor has done air sampling and wipe sampling of the enclosed spaces at Whitmore. A report will be submitted to ADC by the Contractor within a month.

Mr. Tsuji said that he hopes ADC staff look at the Whitmore Village issue about contamination in the buildings very carefully. Next time ADC starts an acquisition for example if they start acquiring property in Kauai that it look at it and evaluate thoroughly, not just the feasibility of ADC acquiring the land and how it would help its program, but also just on the land, the environmental aspects of the land and the buildings just to make sure it's clean, free of hazardous materials, making sure title is clean and you don't have in-land holding or kuleana lots in between. Sometimes when you acquire a large amount of land, you will find many times that there are kuleana lots in between and there are access issues that need to be worked out. All of that should be studied and it's quite a feat to complete the due diligence for acquisitions. A lot of times we're all excited about acquiring property and sometimes the excitement may get in to trying to close the deal quicker than you ought to, but when you do that it comes back and later on you'll have to do what you guys are doing right now, which is finding out about the contamination that exist in the buildings and the environmental regulatory agencies, DOH [Department of Health] or EPA [Environmental Protection Agency], will require remediation. For the next acquisition ADC staff must make sure they do their due diligence. Hopefully the Board Members will be diligent enough to inquire about these issues.

Ms. Gady stated Mr. Tsuji brought up excellent points and that these points have been fully received by staff.

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Chair asked if there was any other discussion. Hearing none, Chair noted this was just an informational presentation.

5. Update regarding Ohana Best v. State of Hawaii, et al., Civ. No. 19-1-1640-10.

There was no nothing new to report.

6. Executive Director's Report

Chair stated that the Executive Director has been submitting weekly reports to the Board, which are posted on the ADC website under "reports" and Chair asked the Board members and the public to please visit the website to view these weekly reports.

Mr. Watts asked if they have questions about the Executive Director reports do they just review the report and ask questions at the next Board meeting.

Ms. Gady said she would welcome Mr. Watts calling her directly if he would like to have clarification on anything or more information.

Mr. Watts stated that he only asked because he would prefer to communicate his questions with the Board. The Board sometimes may have further consideration and he's trying to figure out how not to violate the Sunshine Law and how Board members raise questions.

Ms. Prescott-Tate said if a Board member has a question, they should direct it to staff. If a Board member wants something placed on the agenda, they should direct their inquiry to Chair.

G. Adjourn

Having no further business before the Board, Chair asked for a motion to adjourn.

Motion to adjourn: Mr. Tabata, Second: Mr. Wicker.

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

The meeting was adjourned at 10:28 A.M.

Date of Next Meeting: The next meeting will be held on November 16, 2023, at 9 A.M.