

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on July 22, 2020

Via Teleconference/MS Teams meeting

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

Members Present, virtually:

Sandra Kato-Klutke, Kauai County Member (Chairperson)
Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member
Lloyd Haraguchi, Member-At-Large (*joined at 9:23 a.m.*)
Kevin Hopkins, Hawaii County Member (*joined at 9:11 a.m.*)
Frederick Lau, City & County of Honolulu Member
Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member
Douglas Schenk, Maui County Member
Karen Seddon, Member-At-Large
Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
Warren Watanabe, Member-At-Large

Counsel Present, virtually:

Andrew Goff, Deputy Attorney General
Valerie Kato, Deputy Attorney General

Staff Present, virtually:

James Nakatani, Executive Director
Myra Kaichi, Sr. Executive Assistant
Todd Low, Special Projects, Aquaculture Development, HDOA
Ken Nakamoto, Project Manager
Lynn Owan, Administrative Services Officer
Lyle Roe, Property Manager

A. Call to Order

Chairperson Kato-Klutke called the virtual meeting to order at 9:00 a.m. She welcomed new members, Ms. K. Seddon and Mr. F. Lau.

B. Roll Call

Ms. Kaichi conducted a roll call of the Board.

C. Approval of minutes from the May 20, 2020 virtual meeting

Motion to approve: D. Schenk / Second: W. Watanabe

Correction will be made to indicate P. Shimabukuro-Geiser's presence from Item H.

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Hearing no further comments, Ms. Kaichi conducted a roll call vote. For each subsequent vote, the Chair will ask if there are any objections. If there are none, motion will be carried on the same basis as this initial roll call vote.

Vote: Approved, 8-0

- D. Request for Approval to Issue a Land License to Aurora Bunao & Arnold Bunao for Agricultural Purposes, in Kalepa, Kauai, Tax Map Key (4)3-9-02-20 (por); Deferred on May 20, 2020

Motion to approve: D. Schenk / Second: W. Watanabe

No response to call for public testimony.

Ms. Shimabukuro-Geiser asked if Mr. Manuel was satisfied with information submitted by the Bunaos. Mr. Manuel had questions on the graphic explanation and also the crop rotation agreement. Ms. Kaichi asked about the crop rotation and the NRCS grant.

Mr. Nakatani expressed that crop rotation in this instance is a great opportunity for agriculture and the smaller ranchers in Hawaii. He has spoken with the University of Hawaii, College of Tropical Agriculture and Human Resources Dean Nick Comerford and they will actually have staff on Kauai to look at this type of operation. Mr. Nakatani fully endorsed the crop rotation program.

Mr. Manuel supports crop rotation but he needs more information on the Bunaos' plan – how many acres are in rotation -- the information provided doesn't make sense. Is there a narrative that goes with the plan? The financial information is also not clear.

Mr. Nakatani understands that there are questions as to the details of the Bunaos' plan but he explained that the grass rotation (vs. crop rotation) for cattle is a good start for Kalepa. The concept of a rotation program is good for diversified agriculture and cattle operations to co-exist – this is an important step forward.

Ms. Shimabukuro-Geiser shared that Mr. Nakatani has discussed this type of rotation (cattle and sweet potato) with Dean Comerford and the Dean has said it is doable if done right. She asked if we should recommend that the Bunaos and Taiwan Gu work with UH, CTAHR, Cooperative Extension. Would that ease any concerns the Board may have with mixed-Ag-use? (Ms. Kaichi clarified that the potential agreement with Tai wan Gu will be a farm lease agreement and not a sub-license.)

Chair shared her view that if we can do this crop rotation project with the Bunaos and Taiwan Gu and it is successful, we can try it in other areas.

Ms. Kaichi asked if there was an issue with crop rotation as she had heard that there might one with regard to the NRCS. Was there an informal conversation with the Bunaos? Chair replied, no.

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Mr. Schenk asked for clarification on the farm lease agreement – the terms are inconsistent. Ms. Kaichi explained that depending on what the Board decides today (10 years or 15 years), the language will need to be cleaned-up to reflect the approved term. Staff's recommendation is 10 years.

Ms. Kaichi asked again if the crop rotation is a material condition of the agreement (Item 5 of staff's recommendation). We need to be clear whether the requirement that the Bunaos enter into a crop rotation agreement with Taiwan Gu is part of the approval. Mr. Manuel stated that yes, it should be a formal relationship. Mr. Schenk agreed as did Mr. Lau.

Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0 (*Mr. K. Hopkins joined the meeting at 9:11 a.m. and Mr. L. Haraguchi joined the meeting at 9:23 a.m.; they are included in the vote count from this item and going forward*)

- E. Request to Reconsider Approval to Withdraw 200 acres for Diversified Agriculture from Unit A (por), Under Revocable Permit (RP) 1802, Issued to William Sanchez, in Kalepa, Kauai, Tax Map Key (4)3-9-02-20 (por)

Motion to approve: W. Watanabe / Second: D. Schenk

No response to call for public testimony.

Mr. Lau understands the need for diversification and asked if ADC took into consideration what Mr. Sanchez has done in the community. He asked for the Executive Director's recommendation. Ms. Kaichi answered on behalf of ADC and explained that staff is asking for the Board's guidance on whether ADC will take into account the community involvement -- are we changing our focus from truck crops to livestock? Mr. Sanchez raised a new issue for us – she asked if it is time for ADC to reassess policies which form staff's recommendations to the Board?

Mr. Nakatani stated that there are several issues related to current policies and recommended that we form a separate policy committee to review items such as Kalepa, lease rent vs. RPs, setting specific rates for specific parcels, where does public service come into play, etc.

Mr. Lau asked if we looked at crop rotation on this property? Mr. Nakatani shared that we received good information from UH on crop rotation on property with cattle. Because of COVID-19 restrictions, we weren't able to look further into this new program and weren't able to formulate a proposal. Pasture rotation with the Bunaos is a good start. Information from USDA on successful programs on the mainland was shared with Chair.

Mr. Hopkins asked if we have people who want to use this land for farming. Mr. Nakatani answered, yes, we do; however they have not been able to perform their due diligence yet because of this request for reconsideration. Mr. Hopkins agreed with forming the committee to look at the best way to handle this. Mr. Manuel also supported Mr. Nakatani's recommendation and he requested a list of what policies already exist.

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Mr. Schenk wholeheartedly agreed and suggested that the committee visit the properties to see what the situation is and to speak directly with the tenants. Chair also agreed with Mr. Nakatani to appoint a committee to look at this right away. Mr. Lau expressed his support and concern for Mr. Sanchez's business.

Ms. Kaichi clarified that staff's recommendation is to reconsider the revocation of the 200 acres. Once the policies are reviewed/updated, staff will come back to the Board with appropriate recommendations.

Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0

- F. Request for Approval to Amend License No. LI-K0801 Issued to Beck's Superior Hybrids, Inc. to Recharacterize 17.64 Acres of Field 102, More or Less, in Kekaha, Kauai, Tax Map Key (4)1-2-02-01 (por)

Motion to approve: L. Haraguchi / Second: D. Schenk

No response to call for public testimony.

Chair asked if Ms. Kaichi and Mr. Roe had viewed the subject property. Mr. Roe stated yes, and that the portion in question is truly non-tillable. The makai section may be remediable but the mauka section is not.

Chair is in support of the recharacterizing the acres. The previous tenants planted mango trees and they died because the ground was too wet. Mr. Nakamoto clarified that is a different field. Mr. Roe explained that the previous tenant on field 102 was Pioneer. The parcel was vacant for a time until Beck's cleared it and started to plant and discovered the area to be unsuitable.

Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0

- G. Request for Approval to Amend Prior Approval Dated April 24, 2019 to Issue a License to Kokee Farms LLC for Agricultural Purposes, in Kekaha, Kauai, Tax Map Key (4)1-2-02-01 (por)

Motion to approve: M.A. Evans / Second: L. Haraguchi

No response to call for public testimony.

Mr. Manuel asked what has been done to date since this was initially approved in April 2019. Mr. Nakamoto explained that initially rent was deferred as this is an orchard. This parcel is in the mauka area which previously did not have any diversified ag on it. The area required significant improvements to the irrigation system as it had been neglected for decades. The rehabilitation of the water lines took a while but water is now ready. Kokee Farms has about 8000 coffee plants ready to be planted which have been growing offsite. They also have other trees that they are growing.

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Mr. Manuel asked to confirm the rent schedule – Mr. Nakamoto clarified that it is in ten-acre increments and by year four, they will be paying for the full 62.29 acres.

Mr. Manuel asked about conservation plans – does the Board get to view them? Mr. Nakamoto said yes, they are in ADC's files and are available should the Board want to see them. He further explained that the soil conservation plan is approved by the Conservation Districts; ADC Board approves the land utilization plan. When asked what the differences are, Mr. Nakamoto explained that soil conservation plan makes sure run-off/soil erosion is mitigated and that conservation practices are in line with NRCS. The land utilization plan tells ADC what they are planting and when they're planting, and also where.

Chair asked if KAA has gone up to see what is happening on the property. Mr. Nakamoto stated that the farmer is not doing anything on the property as he doesn't have a license. KAA has ensured that water is available to the parcel.

Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0

- H. Request for Approval to Amend License Agreement No. LI-K1601 Issued to Umi's Farm for Agricultural Purposes, in Kekaha, Kauai, Tax Map Key (4)1-2-02-01 (por)

Motion to approve: L. Haraguchi / Second: D. Schenk

No response to call for public testimony.

Mr. Manuel asked about the well mentioned on page 2 of the submittal. Mr. Nakamoto clarified that the well is not on the property; the water he uses comes from the ditch which is managed/operated by the KAA.

Chair asked how he did during the March flood. Mr. Nakamoto stated that he lost about 30 avocado trees but is recovering. His mango trees and citrus trees are doing well. He is replanting his avocado trees. He is having trouble with wild pigs so he wants to put up this fence.

Mr. Manuel asked if the perimeter fence is just part of doing business. How do we determine what is creditable and what is not? Mr. Nakamoto explained that it includes items that will remain on property – things that ADC will retain after the tenant leaves. Things that are permanent are eligible; this is at the discretion of ADC and the Board.

Chair asked if we have given other tenants rent credit for putting up perimeter fencing. Mr. Nakamoto said no other tenants are doing tropical fruit trees which take 3-5 years. Chair said Mr. Wally Johnson who has mango trees put in fencing but did not receive rent credit. Mr. Nakatani explained that it is a judgement and policy-call -- if the Board doesn't want to approve this, they can reject it. Staff wants to help this farmer.

Mr. Lau asked if this sets precedence. If we grant this, do we have to do this to everyone? Ms. Kaichi explained that precedence is already there. It is treated case by case.

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Mr. Hopkins asked if we are improving the property, should the rent be adjusted to an improved property rate? Ms. Kaichi said that approach has not been done before. The Board has to make that decision if they want to take that route.

Ms. Evans is in favor of this rent credit. It is important to support agriculture and farmers – it is a vulnerable business at this time. She would like to see us helping farmers.

Chair asked if this should be part of the new committee's task – to look at this issue? Mr. Schenk stated that over the years we have given consideration to many growers to improve the land, knowing that the improvements would stay with the land. It is really important to give discretionary decision-making on these types of issues to the staff – they know the growers best and how to help them be successful. He thinks that creating a policy will restrict the ability of staff to help farmers be successful. Mr. Haraguchi agrees – flexibility for the staff is very important.

Mr. Hopkins would like all applicants to know that this is an option and can request it – he stressed being transparent. He also stated that we need an objective way to review and approve the requests. Mr. Nakatani understands Mr. Hopkins' concerns and explained that the transparency is present by bringing this request to the Board for approval.

Mr. Haraguchi asked if the AG can provide a definition of what can be considered rent credit. Ms. Kaichi acknowledged the request. Mr. Hopkins would like to see this looked at by the ad hoc committee who will be looking at ADC policies. He sees this as a potential public-private partnership which may be beneficial going forward.

Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0

- I. Request for Approval to Enter Into a Memorandum of Understanding with Kelena Farms, Inc. for the Operation of the Bott Well Pump Station and Irrigation System, in Whitmore, Oahu

Motion to approve: M.A. Evans / Second: F. Lau

No response to call for public testimony.

Mr. Manuel asked about page 2 of the submittal which mentions a maintenance contract – will the proper procurement method be followed? Mr. Nakamoto explained that the maintenance contract will be procured and we will follow the normal invitation to bid process. This MOU is a 'gift' as there is no money involved. We are memorializing what is being done by delineating the roles and responsibilities. This is not a contract - it is non-binding to either party. This has been vetted with the AG.

Mr. Manuel asked about paying for fuel -- does payment go to Kelena Farms or to ADC? Mr. Nakamoto clarified that the funds collected from the farmers goes directly to ADC and is used to purchase the diesel fuel for the small farmers. Kelena Farms buys their own share of diesel.

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Hearing no further questions/objections; motion to approve carried.

Vote: Approved, 10-0

- J. Request for Approval to Re-Issue a Revocable Permit to Guardian Transport Services LLC for an Uncovered Parking Area at 1001 California Ave., Wahiawa, Oahu, Tax Map Key (1)7-4-12-16

Motion to approve: D. Schenk / Second: W. Watanabe

No response to call for public testimony.

Hearing no questions/objections; motion to approve carried.

Vote: Approved, 10-0

- K. Executive Director's Report and Updates:

1. ADC Newsletter

- Mr. Nakatani reviewed the newsletter which features Umi's Farm. Note that he is using an impressive technique of mango tree trellising; something to keep an eye on.
- We are actively moving out abandoned cars off our lands; we also continue to manage fires.

2. Vacant ADC Agricultural Lands

We have discussed with Ms. Shimabukuro-Geiser ideas on ways to help agriculture during COVID-19. We would like to consider re-purposing our vacant lands (about 800 acres) from diversified agriculture to cattle raising for the following reasons:

- We have had a lot of interest from the cattle industry
- We will likely not be receiving funds for infrastructure improvements
- We want to keep fires from becoming a bigger problem

ADC is requesting that Chair form a selection committee to look at vacant lands and develop the parameters for solicitation, and also evaluate the land applications received. The selection committee can be made up of three Board members and two members from other agencies. Mr. Nakatani confirmed that Chair can appoint the committee.

- L. Ohana Best:

1. Update on Ohana Best, LLC vs. State of Hawaii, et al., Civ. No. 19-1-1640-10.

"The Board may go into executive session, pursuant to H.R.S. §92-5(a)(4), to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Motion to enter Executive Session: M.A. Evans / Second: P. Shimabukuro-Geiser

Hearing no questions/objections; motion to approve carried.

Vote: Approved, 10-0

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The Board emerged from Executive Session with no action taken. Ms. Kaichi conducted a second roll call; all Board members were present.

2. Request to Rescind Board Approval Dated January 14, 2014 to Issue a Land License to Ohana Best, LLC for a Portion of the Galbraith Agricultural Lands in Whitmore, Oahu, Tax Map Key (1)7-1-01-05 (por)

Motion to approve: M.A. Evans / Second: P. Shimabukuro-Geiser

No response to call for public testimony.

Hearing no questions/objections; motion to approve carried.

Vote: Approved, 10-0

M. Adjourn

Meeting was adjourned at 10:59 a.m.

Respectfully submitted,

Lori Nakamura
ADC Executive Secretary