



NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism



BOARD OF DIRECTORS MEETING MINUTES

DRAFT

Natural Energy Laboratory of Hawaii Authority (NELHA)

Tuesday, September 18, 2018

11:00 a.m.

An Interactive Conference Technology will be held between the following two locations:

Kailua Kona Location:

NELHA Executive Conference Room
Keena Hana Building
73-987 Makako Bay Drive
Kailua-Kona, HI 96740

Member/Designees

Ron Whitmore (Mayor Rep)
Robert Masuda (DLNR)
Neil Sims (Tenant Rep)

Guests/ Staff Present

Laurence Sombardier (NELHA)
Karen Appleby (NELHA)
Jan War (NELHA)
Keith Olson (NELHA)
Patricia Tummons (Environment
Hawaii)
Glenn Jensen (Cyanotech)
Matt Caster (Cyanotech)
Mawae Morton (Cyanotech)

Honolulu Location

DBEDT Conference Room
250 South Hotel Street, Suite 436
Honolulu, HI 96813

Linda Rosehill (Gov. Appointee)
Dr. John Morton (HTDC)
Mary Alice Evans (DBEDT)
Dr. Vasilis Syrmos (U of H)
William Mielcke (Gov Appointee)
Jim Wyban (RAC Secretary)

Gregory Barbour (NELHA)
Bryan Yee (Deputy AG)
Karl Fooks (HSDC)

Members /Designees

Not Present/Excused

Alan Hilton (RAC Chair)
Gerry Cysewski (Tenant Rep)
Michael O'Malley

1. Call to Order.

The meeting was called to order at 11:00 am.

2. Approval of July 17, 2018 NELHA Board of Directors' Meeting Minutes.

Director Evans made a motion to approve the July 17, 2018 NELHA Board of Director's meeting and Director Mielcke seconded the motion. A vote was taken, and the motion passed unanimously, 8-0.

Director Whitmore arrived at 11:12 am.

3. Financial Report. Approval and Decision Making.

The NELHA Executive Director (ED) gave the NELHA Financial report stating that the report covers the first two months of fiscal year 2019. On the expenditure side NELHA has just begun the procurement process, so you will not see the major expenditures that are listed in the budget.

The revenue side is healthy, we're up 3% over the same two months of last fiscal year. One item of note is that the seawater system was down slightly, 2%, due to lower flows from last year. Lease rent was flat despite the loss of the Puna site. Office rent continues to increase with Hale Iako at full occupancy and is up \$20,000 or 75%. Percent rent is up by \$17,000 with receipt of late payments from last fiscal year. Reimbursements for freshwater is lower due to less use for road construction.

Total expenses for the first months of this fiscal year were \$663,000, or \$112,000 or 6% lower compared to the same period last fiscal year. We continue to closely monitor expenditures. Much of the change is a posting anomaly, the first electrical bill of last fiscal year was encumbered in FY17, so we could make the payment on time. Tenant utilities, the large expenditure of \$46,000 for the first two months of last fiscal year was due to the settlement of a dispute with the Board of Water Supply over a broken water meter. The dispute was settled in July and paid in August of last fiscal year. Administrative costs are down approximately 10%.

Director Sims would like to know more with respect to the environmental monitoring increase of 45%. The NELHA ED stated that he did not have the specifics in hand and would respond at the next Board of Directors explaining the increase.

Special Fund Balance: All data is as of August 31, 2018, the balance is \$455,000, this is an increase of \$65,000 from the beginning of the fiscal year. Current arrears are currently \$325,000; if these monies were paid the balance would be approximately

\$780,000. Since this report was completed NELHA received approximately one-third of the arrears from Cellana making the special fund balance closer to \$600,000.

Customer Revenue Report: Total revenue for this time is up 3% from last year. Revenue from the water bottling sector is up 10% due to payments of past delinquencies and increased seawater use. The Aquaculture sector has no change. The energy sector is down significantly, approximately 40% due to the loss of the Puna site and the volcanic eruption. The research/office category is higher by 25% due to occupancy in the new building, conference room rental and rental of lab space.

Arrears: As of August 31, 2018, the arrears totaled approximately \$325,000, with the majority being due from Cellana. Destiny Deep Sea Water also makes up a significant portion of the arrears; they continue to make payments but have been unable to make their account current. They are reviewing alternative business plans and the possible sale of the company. NELHA has received approval from the Department of the Attorney General to write off the two long term debts from Savers Holdings and Keahole Solar Power.

Revenue Budgeted vs. Actual: Revenue is approximately 5% below the budgeted amount for the first two months of the year due to planned revenue from the sale of the HDMI building, which we anticipate being in the next 4 to 5 months.

Expenditures Budgeted vs Actual: Total expenses are approximately 11% below budget. We are currently in the procurement process for several of the large expenditure items and it will take several months until the contracts are completed and encumbered.

Director Mielcke made a motion to approve the financial report, and Director Evans seconded the motion. A vote was taken, and the motion passed unanimously, 9-0.

4. Old Business.

- a. Report from Special Investigative Committee regarding the annual performance evaluation of the NELHA Executive Director.**

This agenda item was moved to be heard after New Business item 5a, and the informational status report for HSDC and HTDC.

Director Mielcke made a motion to move Old Business after New Business to accommodate individuals in different time zones, and Director Evans seconded the motion. A Vote was taken, and the motion passed unanimously, 9-0.

5. New Business.

- a. Discussion and Decision-Making regarding Assignment of Sub-Lease K-26 from Cellana LLC to Cyanotech Corporation. **

Martin Sabarsky joins the meeting via conference call. NELHA staff member Laurence Sombardier gave a summary of the request for Assignment of Cellana LLC Sublease K-26 to Cyanotech Corporation.

Cellana LLC and Cyanotech Corporation are seeking NELHA Board consent for the assignment of Sublease K-26 from Cellana to Cyanotech.

The project, known as the Kona Demonstration Facility (KDF), initially started as an RCUH operated research facility dedicated to research and development of technology for commercial production of biofuels from microalgae (HR Biopetroleum). It quickly obtained the backing from Royal Dutch Shell who funded approximately \$14M of the facility's construction starting in 2008. Facility construction including the construction of a ½ mile access road was completed in 2009. The company received multiple million-dollar level grants from US DOE and USDA and although Royal Dutch Shell eventually pulled out of the joint venture, the company continued to develop microalgae based bioproducts for biofuels as well as bi-products including high value nutrition (such as Omega-3 nutraceuticals), ink, animal feeds, pigments, and specialty chemicals.

Cellana started experiencing significant financial difficulties several years ago after existing grants ended and expected new grants did not materialize. Cellana ceased its monthly payments in November 2017 and as of September 15, 2018 the total amount due to NELHA was \$279,537.83. The issue was brought to the NELHA Board on several occasions, most recently at the May 15, 2018 meeting. At that meeting, the Board gave Cellana a final 90 days to cure the breach of contract or the lease would be terminated. A termination letter was sent to Cellana on August 31, 2018.

Meanwhile, Cyanotech and Cellana have entered into an asset purchase agreement. The agreement is for the purchase of trade fixtures and improvements such as buildings, facilities, equipment and other tangible property. The agreement also includes Sublease K-26. The purchase does not include algae strains or inventory, nor does it include IP or stock. In other words, Cyanotech would be acquiring KDF but would not be acquiring the core Cellana business. The asset purchase agreement is contingent on NELHA and DLNR consents to assignment of the sublease K-26. Payment of all past due amounts

to NELHA is included in the purchase agreement. As a first step, \$100,000 was immediately paid by Cellana to NELHA on September 5, 2018. The remaining \$170,537.83 would be paid to NELHA upon closing.

Cellana submitted a formal request for assignment of its lease to Cyanotech on September 7, 2018. A proposal from Cyanotech for the use of KDF was also submitted concurrently. The asset purchase agreement was announced by press releases from both Cellana and Cyanotech.

The 6.216-acre Cellana Kona Demonstration Facility (KDF) is adjacent to the 90-acre Cyanotech facility. The KDF facility was originally designed as an R&D facility and would add needed capacity to Cyanotech's existing R&D program to help expand that program. Cyanotech is one of NELHA's success stories. It is a world leader in microalgae technology and markets its spirulina and astaxanthin nutritional products for skin, eye, joint, cardiovascular immunity health as well as recovery from exercise. Cyanotech has been a NELHA client since 1996 and is in good standing. Cyanotech is a publicly traded company and its first quarter report for FY19, reported net sales of \$7,145,000.

Both companies specialize in microalgae products. However, Cellana's focus has been on biofuels and as such, the base rent was in line with the energy use base rent of \$1,800/acre/month. On the other hand, Cyanotech will be looking at potential marine microalgal products that fall under NELHA's productive use. Cyanotech's lease on their current 90-acre facility, sublease K-4 is for productive use (\$246.78/acre/month).

In their proposal, Cyanotech has requested to pay the Productive Use lease rent rate as opposed to the Energy Use rental rate for the KDF property. They have agreed to pay \$500 per acre per month in their proposal to us. The decrease in monthly revenue to NELHA from this property will be significant as the monthly rent paid by Cellana was \$11,188.80/month versus \$3,108/month at the proposed rate. However, the proposed rate is fair given the expected use for the property. It is also important to keep in mind that NELHA would share in any successes brought about by the development of new product lines developed at this facility. This would happen through percentage rent at either the R&D facility if production takes place there or through the existing K-4 sublease if production takes place at that location.

The stated resource demands of the new project by Cyanotech are modest and can be provided by NELHA. Cyanotech plans to refurbish the existing generators and transition to PV within one year. Cyanotech plans to work with marine species of microalgae and therefore, fresh water usage should not be

significantly different from Cellana's past freshwater usage. Cyanotech plans to convert the building AC to sea water air conditioning (SWAC). As a result, the deep-sea water usage may increase; Cyanotech will need to work with NELHA staff to make sure the 300 percent increase can be accommodated by the existing seawater delivery infrastructure.

KDF offers quality lab space and equipment to Cyanotech's researchers who will utilize it immediately. The property has had no maintenance for the past 6 months and it would be preferable for the facility to be utilized sooner rather than later. Cyanotech has carried its due diligence on the property and evaluated most systems.

Cyanotech plans to fund the R&D expansion through cash from its operations as well as a \$2M line of credit which the NELHA Board approved in 2016.

Provided the requested assignment and rate change are approved, an amendment to the existing K-26 sublease will be. A standard lease assignment will also be executed. Both documents were sent to NELHA's attorney for review. These documents are standard, and no issues are expected from a legal perspective.

A consent for assignment will also be needed from BLNR. This request is typically made after NELHA Board consent is obtained. Given the consideration amount and the costs of improvements and trade fixtures, no premium is expected to be owed.

Staff recommends that the NELHA Board consent to the proposed assignment of sublease K-26 from Cellana LLC to Cyanotech Corporation and that the NELHA Executive Director work with the NELHA AG and respective businesses to produce and execute the relevant documents.

Martin Sabarsky stated that the second payment that is scheduled on closing would fully take care of the arrearage 100%.

Director Masuda asked if the base rent was different depending on the type of use. Ms. Sombardier answered, yes. NELHA has three uses in the park, one is productive use, such as aquaculture/agriculture, the others are energy and extractive.

Director Morton made a motion to accept the staff recommendation of the proposed assignment of sublease K-26 from Cellana LLC to Cyanotech Corporation and that the NELHA ED work with the NELHA AG and respective

businesses to produce and execute the relevant documents, and Director Masuda seconded the motion. A vote was taken, and the motion passed unanimously, 9-0.

The Board was advised by the AG that prior to going into executive session the Board should ask whether there's any public comment that would like to be made on this item before proceeding into executive session.

A member of the public stated that given the remainder of the agenda includes the ED's report and was wondering if the report could be made prior to going into executive session.

Director Masuda made a motion to have the Executive Director's report prior to executive session, and Director Morton seconded the motion. A vote was taken, and the motion passed unanimously, 9-0.

6. Hawaii Strategic Development Corp. (HSDC) Informational Status Report.

Karl Fooks gave the informational status report for HSDC stating that HSDC planned to focus on supporting its existing portfolio of investment funds and authorized commitments to three of our existing portfolio funds who are raising capital. HSDC is hopeful of closing a couple of those.

7. Hawaii Technology Development Corp. (HTDC) Informational Status Report.

Chair Rosehill gave the informational status report stating with the veto of the HTDC reorganization bill, the focus of the recent HTDC BOD meeting was on trying to decide how to move forward and cover the costs of HTDC for continuing operations. The HTDC Board is focusing understanding alternative scenarios and options for the structure of HTDC operations and has asked the HTDC CEO to prepare a report on this issue.

8. Executive Director's Informational Status Report on ongoing projects including: new leases; seawater system maintenance; 2019 Legislative session; aquaculture initiative; new potable water supply update; hydrogen production, storage, and fueling initiative; renewable distributed energy resources initiative including grant applications for microgrids and energy storage projects; energy storage conference; and grant application to the federal government for damage to buildings and other property in Kapoho, Hawaii. *

Seawater System: The NELHA ED gave the informational status report stating that NELHA is getting ready to begin the selection process on procurement for the Regional SWAC project for a professional services contract. NELHA is starting the same process

with the pipe removal. NELHA has not yet started the procurement process with the offshore pipes at this time; this will be delayed until spring/summer when ocean activity permits. The SCADA system development is an ongoing process. NELHA has identified a list of items and has received Governor's approval to expend the funds. All the money for the SCADA system upgrade is using CIP funds.

Installation of the PV in the research campus has been delayed by an issue with the glare from the panels from one of the buildings briefly reflecting towards the airport control tower, which is not allowed. NELHA negotiated with the provider contractor to adjust the angle, at no cost, and put small spacers in the panels to stop the glint and glare. NELHA now has FAA approval for that and are now awaiting the Department of Transportation approval. NELHA is hoping to complete this project by the end of the calendar year.

Energy: The energy storage conference is proceeding well. The conference is scheduled for December 5th and 6th, 2018. The flow battery installation is proceeding and NELHA will have a commissioning ceremony the second day of the energy conference. Regarding the microgrid initiative, NELHA still continues to work two avenues, one is with the Korean government and they have just issued their version of a request for proposal. NELHA sent them a letter stating that NELHA is interested in applying. NELHA will be issuing a request for interest to find any other interested parties to apply with us for the grant. NELHA also awaiting a funding announcement from the US DOE and we have begun discussions with possible collaboration with Sandia and Oakridge National Labs if funding might become available. HNEL's hydrogen storage testbed facility is still in the commissioning phase as all equipment gets checked before operations. Regarding the DOE Sunshot Solar desalination project, we're continuing to negotiate with the Department of Energy and finalizing the grant forms and applications, this should be done shortly.

Aquaculture: NELHA is awaiting Governor approval expend the \$500,000 appropriation. On a related note, Hawaii Strategic Development Corporation (HSDC) has a grant from the Economic Development Administration that could potentially assist in NELHA pulling together this project a bit better. HSDC has approached University of Hawaii (UH) regarding working together on the grant and would like to include NELHA as well. Director Syrmos also agreed that this was a good project that UH could support because we have a lot of aquaculture researchers that could assist in research commercialization startups. It is proposed to request EDA to approve adding UH and NELHA as co-applicants. It is hoped that NELHA could issue an RFP as early as hopefully NELHA could get an operator early next year and then launch in the springtime of next year.

Economic Driver: NELHA is securing a consultant to develop an RFP, dependent upon receiving additional funding from the sale of the HDML property. Regarding the potable

water well, NELHA has filed the draft environmental assessment and the comment period is ending soon. Regarding an MOU with the County, the County seems to have changed their policy given the recent changes with the shortage of water.

NELHA did lose its three buildings at the Puna site. These buildings were covered by lava between May 24th and May 28th, 2018. The area is now inaccessible, and there's no sign of our facility. NELHA has talked with FEMA at length. Their program for public facilities is available to NELHA. They encourage NELHA to apply for coverage. NELHA did so and was given approval from FEMA that our application to apply for funding, replacement costs, was accepted. NELHA is now inside a window of 18-months where the next steps are for NELHA to prepare a replacement cost for those buildings. They have indicated that because of the lava activity they realize that replacement on that site is not reasonable and they've agreed to consider allowing us to rebuild the buildings at the NELHA facility HOST Park.

NELHA does not anticipate having any legislative bills for this upcoming session.

Director Evans made a motion to convene into Executive Session pursuant to section 92-5(a)(2), HRS to consider the evaluation of its executive director where considerations of matters affecting privacy will be involved, and Director Morton seconded the motion. A vote was taken, and the motion passed unanimously, 9-0.

The Board meeting reconvened at 12:35pm. Director Morton left the Board meeting at 12:35pm.

9. Announcements

- a. None.

10. Adjournment.

There being no further business, Director Evans made a motion to adjourn the meeting and Director Morton seconded the motion for adjournment. A vote was taken, and the motion passed unanimously, the meeting was adjourned at 12:40 pm, 8-0