PUBLIC HEARING

JULY 1, 2015

A public hearing of the Council of the County of Kaua'i was called to order by Gary L. Hooser, Chair, Public Safety Committee, on Wednesday, July 1, 2015, at 1:30 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa *(present at 1:31 p.m.)*
Honorable Arryl Kaneshiro *(present at 1:31 p.m.)*
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

The Clerk read the notice of the public hearing on the following:

"Bill No. 2589 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, SECTIONS 13.1 AND 13.2, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE RECOVERY OF RESCUE EXPENSES,"

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on June 3, 2015, and published in The Garden Island newspaper on June 14, 2015.

The hearing proceeded as follows:

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Committee Chair, we have one (1) registered speaker, Alice Parker.

Committee Chair Hooser: Thank you. Ms. Parker, please come up.

ALICE PARKER: Alice Parker for the record. Good afternoon.

(Councilmember Kagawa and Councilmember Kaneshiro were noted as present.)

Committee Chair Hooser: Good afternoon.

Ms. Parker: As I testified before, I believe that people should not go out into the hiking areas and the rural areas when the weather is threatening, or if it seems unlikely to be a safe hike. If tour companies take their passengers, their ticketholders out, I think the tour company should be faced with the whole expense, not just fuel expense, because that is unreasonable. As I said before, Kaua'i, gorgeous as it is, is not an amusement park. I would like to at least recapture the fuel expenses. Thank you.

Committee Chair Hooser: Thank you very much. So you are testifying in support of the Bill?

Ms. Parker: Yes.

Committee Chair Hooser: Okay. Thank you very much. Are there any other registered speakers?

Ms. Fountain-Tanigawa: There are no other registered speakers.

Committee Chair Hooser: I see that we have someone in the audience who wants to testify. Please come forward.

MATTHEW BERNABE: Matt Bernabe. I hope everybody had a great lunch. I would like to say two (2) points: one, I support recovery fees right off the bat. However, with that said, I still believe there is another mechanism in this discussion to alleviate the liability from the County, and that is looking at how much County trails are used, identify the State trails, and force the Department of Land and Natural Resources (DLNR) to do their job. Most of the issues that we have are on State trails like Kalalau and Hanakāpīʻai. I said it the last time. You have one hundred twenty-one (121) folks in there. Before we drop off a fireman, there should be a DLNR agent in there with one hundred twenty-two (122) Meals Ready to Eat (MREs), one for himself, fire starting kit, tarps, bandages, and for whoever is immediate, then you have to assess that and get them out if need be. But we should not be having our firemen spending the night over there. Yes, it is in the job title of a fireman, but that is not the issue here. The issue is that it is a State hunting trail that they, for whatever reason have allowed tourists to go in there, and they advertise that trail. That trail is on all kinds of photos. I have been in boot camp and have seen pictures of the Nā Pali Coast in the eateries. What I am saying is that this is an attractive nuisance that the State benefits from in their overall tourism policy, and they need to get DLNR in there to do their job. That is double for the Sleeping Giant. The Sleeping Giant is also a State trail. I have never seen a DLNR agent on that mountain—never. I barely see them at the end of the road. In fact, to be honest, when you are at the end of the road, usually the guy telling you what to do is a State worker. If he sees something wrong, I have seen him spot-correct folks, but other than that, there is no regulatory agency out there. That is it. Just the State guy doing the rubbish and every once in a while, he sees something not *pono*...I have seen him with my own eyes when I am walking the reef to catch *tako*. It is a State issue. I support recovery and I support what you folks are saying, "Yes, let us get some of our money back." If you are not a smart local and you get caught too, and you use the resources to get out...if you are not calling your cousin to get you out, and calling Air 1, then you are paying for Air 1. Sorry. I hike. If I need it, I will pay for it. Let us go after the State, too. Thank you.

Committee Chair Hooser: Thank you very much for your testimony. Is there anybody else in the audience who would like to testify on this? Would anyone like to speak for a second time?

KLAYTON KUBO: Klayton Kubo, Waimea, Kauaʻi. As I think about this one, one thought comes to my head: who is going to make the call to say, "Yes, the person was negligent?" Maybe you folks have to think about that one. That would be a good one, recovering, if people were totally negligent. Like Hanakāpīʻai...I guess this is what this incident is more about, right? It is about the Hanakāpīʻai stuff. All they really needed to do was wait over there until the water receded and go across, but I guess some people just cannot stay out in the wild. What I would like to tell you folks is this...About maybe a year and a half (1.5) or

maybe even two (2) years now, when the lady actually took a wrong turn on Berry Flat Loop or maybe it was the Water Tank Trail, was she negligent when she took that wrong turn? I do not want to say anybody's name, but think about it in that sense. Was she negligent? That is all I have to say. *Mahalo.*

Committee Chair Hooser: Thank you. Is there anyone else who would like to speak on this issue? Ms. Parker.

Ms. Parker: Alice Parker. Yes, some trails are not well marked and if somebody takes a wrong turn because the trail is not well marked, that is not negligence. I do not think we would pursue that person. I think the trails that are used should be marked or we would be liable, I would think. Anyway, I do not think we will go far enough capturing fuel costs, but I think we should recapture manhour costs and things like that, too. Anyway, thank you.

Committee Chair Hooser: Thank you very much. Any further testimony? Please come forward.

Mr. Bernabe: Matt Bernabe for the record. The gentleman brings up a great point. How do you prove negligence? Maybe we should put together something that states, "If you want to go into the interior of our island, you need to be with a certified guide." This is a mechanism for the discussion. I am not saying this is where we need to go. In a lot of countries, you get guides, even if it means a weapon for that guide. Most people I have talked to have asked me, "Why is there no guide service on Kaua'i?" I said, "They have guide services." They say, "Yes, but they are the 'frou-frou tourists' one. They do not take us where we want to go." Once again, I am going to reiterate that even Kōke'e is a State trail. The State needs to be in this room right now. I hope they are watching. DLNR, get down here and put your "two (2) cents" in because we are coming for you. You guys need to pick up this bill, not us. These are your trails.

Committee Chair Hooser: Thank you very much. Come forward.

FELICIA COWDEN: I am Felicia Cowden. I am probably going to take the opposite argument. I would probably like to see us not charge. We probably need to give other guidelines that help people to be sharper, sharper, and sharper, like put more films in the airports or on visitor television and help them to understand things like that. My understanding is that we own that helicopter, the County, and we have the pilot and fireman on-call anyway. Whether they are cooking really *'ono* food in the fire station or if they are out working, it is the same cost, I believe. I am not sure of that...maybe not? You would know, I would not. There are probably some additional costs, but maybe not as much and my concern would be for those people who do not have that kind of money and they say, "No, do not take me," and they do not make it because they used that kind of judgment. Then I think it really leaves the County open to liability. I appreciate that you folks are looking at things that are incredibly important, and then to really look at those numbers are important, because it is probably just a certain amount to add-on between the normal operating costs and then helicopter time or whatever it is. We do not want to risk our firemen's lives, but most of them are heroes by nature anyway. I appreciate what they do, but I think that looking at it is good, being cautious is very important, and in the balance, I would probably say, "Take the risk and spend the money." Invest what we do have in better training. I know we have had success with those rescue tubes with the video on how to use them. I think that we can do something similar to keep people from making poor choices. Thank you.

Committee Chair Hooser: Thank you very much. Thank you for your testimony. Any further testimony on this issue? Seeing none, this public hearing is adjourned.

There being no further testimony on this matter, the public hearing adjourned at 1:42 p.m.

Respectfully submitted,

JADE K. FOUNTAIN-TANIGAWA
County Clerk

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