

## COUNCIL MEETING

MAY 4, 2022

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, May 4, 2022, at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.  
Honorable Mason K. Chock  
Honorable Felicia Cowden  
Honorable Bill DeCosta  
Honorable Luke A. Evslin  
Honorable KipuKai Kuali'i  
Honorable Arryl Kaneshiro

### APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda, as circulated, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience wishing to testify on the agenda? Anyone on Zoom wishing to testify on this matter?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Seeing none. Are there any questions or is there any discussion on approval of the agenda?

The motion for approval of the agenda, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

### MINUTES of the following meetings of the Council:

April 20, 2022 Council Meeting  
April 20, 2022 Public Hearing re: Bill No. 2853

Councilmember Kualii moved to approve the Minutes, as circulated, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: None. Are there any questions or discussion on this item from the Members?

The motion for approval of the Minutes, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

CONSENT CALENDAR:

C 2022-89 Communication (04/11/2022) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of February 15, 2022.

C 2022-90 Communication (04/20/2022) from the Director of Finance, transmitting for Council information, Period 9 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of March 31, 2022, pursuant to Section 21 of Ordinance No. B-2021-877, relating to the Operating Budget of the County of Kauaʻi.

C 2022-91 Communication (04/21/2021) from Councilmember Evslin, providing written disclosure of a possible conflict of interest and recusal relating to ES-1073, relating to an Executive Session briefing and request for settlement authority in the matter of Dylan DePue, et al. vs. County of Kauaʻi, et al., Civil No. 5CCV-21-000022, due to a personal matter with Mr. DePue.

C 2022-92 Communication (04/22/2022) from the Hawaiʻi State Association of Counties (HSAC) President, transmitting for Council consideration, HSAC's Fiscal Year 2023 Proposed Operating Budget, pursuant to Section 21 of the Bylaws of the Hawaiʻi State Association of Counties, Inc.

Councilmember Kualii moved to receive C 2022-89, C 2022-90, C 2022-91, and C 2022-92 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Seeing none. Are there any questions or is there any discussion from the Members?

The motion to receive C 2022-89, C 2022-90, C 2022-91, and C 2022-92 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

### COMMUNICATIONS:

C 2022-93 Communication (03/24/2022) from the Chief of Police, Deputy Chief of Police, and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to receive and expend an increase to the original Hawai'i High Intensity Drug Trafficking Area (HIDTA) Grant Award No. G2H10002A, in the amount of \$1,454.58. The increase in award will be used for the HIDTA Prevention Initiative to send an Officer to the Gang/Drug Training on O'ahu and Prevention-related supplies, such as drug prevention videos and media in the schools. The increase would bring the new award amount to \$159,984.58.

Councilmember Kualii moved to approve C 2022-93, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Seeing none. Are there any questions from the Members on this item? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: I believe this is a recurring grant, but can you help the public know essentially what this is for?

There being no objections, the rules were suspended.

BRYSON M. PONCE, Assistant Chief of Police, Investigative Services Bureau (*via remote technology*): Good morning, Council Chair and Members of the County Council. What we are looking at with the moneys is sending two (2) of our School

Resource Officers (SROs) to DARE training in Honolulu for two (2) weeks—Assistant Jonathan Anderson from Kapa‘a High School, and Kaulana Renaud at Kaua‘i High School. It is a good investment. We always want to get the prevention and education piece on the dangers of drugs started at the youngest level, such as middle schools and high schools.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any further questions on this item from the Members? If not, I will call this meeting back to order.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members?

The motion to approve C 2022-93 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-94 Communication (04/11/2022) from the Director of Finance, requesting Council approval to accept the standard terms stated in the Fee Schedule from BNY Mellon Corporate Trust, Trustee for the Kukui‘ula CFD project, which includes unspecified future obligations to the trustee engaged for the CFD No. 2008-1 Refunding Bond Series 2022 (*Kukui‘ula Development Project*).

Councilmember Kuali‘i moved to approve C 2022-94, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Reiko, when it mentions “unspecified future obligations,” are they not sure what those types of obligations will be or is that so that they do not have to come back with each individual obligation that comes up?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Basically what they are talking about is attorney fees, that if we do not pay, they can come after us for attorney fees.

Council Chair Kaneshiro: Okay. Are there further questions from the Members? If not, I will call the meeting back to order.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members?

The motion to approve C 2022-94 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2022-95 Communication (04/13/2022) from the Chief of Police, requesting Council approval to receive and expend Domestic Cannabis Eradication/Suppression Program funding, in the amount of \$35,000.00, which will be used for payment of overtime, renting vehicles and aircraft, training, equipment, and technology for conducting drug enforcement operations both on the island of Kaua'i and with other State, County, and Federal law enforcement agencies in the fight against drug- and gun-related crimes.

Councilmember Kualii moved to approve C 2022-95, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received written testimony on this item. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. Are there any questions from the Members? I will suspend the rules. Councilmember Cowden.

There being no one present to provide testimony, the meeting proceeded as follows:

Councilmember Cowden: Thank you for being here. We got some resistance, which is similar to what we experienced last season. This is a routine payment. Can you explain if this is going after neighborhoods or State land? What are they looking for when it involves marijuana and helicopters?

*(Councilmember Euslin was noted as not present.)*

There being no objections, the rules were suspended.

Mr. Ponce: Good morning Councilmembers, Bryson Ponce, KPD. The Domestic Cannabis Eradication/Suppression Program started back in 1979. It targeted Hawai'i and California with illegal marijuana grows on public land. What we try to do is keep Kaua'i honest. There is a legal way to get marijuana with the dispensaries for those who went through all the regulations to be able to provide medical marijuana for people who need them. We conduct our operations looking at illegal grows throughout the island by looking at public or State land. Every now and then we see some growing in the back of someone's yard, which we follow up on that. The majority will be for public land, State land, and big open areas around the island.

*(Councilmember Evslin was noted as present.)*

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members on this item? Councilmember DeCosta.

Councilmember DeCosta: How are you, Chief Ponce? Is this "Green Harvest" still used in other counties across the State?

Mr. Ponce: Hawai'i Island does not, but Maui and Honolulu do. We assist them and they assist us.

Councilmember DeCosta: Is the thirty-five thousand dollars (\$35,000), is this all our budget or is this a small amount that goes towards the larger budget that we are using?

Mr. Ponce: This is all the moneys. This is enough for one (1) two-day operation, which includes equipment, rappel training, gloves, and all the safety equipment to do the operation.

Councilmember DeCosta: Basically, for better clarification and for my understanding, you sit on this funding until you get a call that says, "Hey, there is something happening on public or private land"? You would then saddle up, get in your helicopter, and do the investigation for the seize and remove? You are not going to waste the funding on flying around a few times throughout the year trying to look for something?

Mr. Ponce: Not necessarily. If we get a tip, we would want to address the issue. There are times when we do spot checks, catch people off guard, and find things. It is a little bit of both.

Councilmember DeCosta: You just told me that the thirty-five thousand dollars (\$35,000) is for a one- or two-day operation. Your spot check would be for one

(1) or two (2) days, and the rest of the year we would not have any funding? How does that work?

Mr. Ponce: A two-day operation would cost about fifteen thousand dollars (\$15,000).

Councilmember DeCosta: We are looking at a one and one half (1 ½) day operation that is about thirty-five thousand dollars (\$35,000).

Mr. Ponce: Yes.

Councilmember DeCosta: Thank you, now I understand.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Good morning, Bryson. Can you give more background on the technology and what it entails.

Mr. Ponce: As far as equipment?

Councilmember Carvalho: Yes, overall. I understand everything else, but people wanted to know about the technology side of it.

Mr. Ponce: With equipment and being able to view things clearer, I do not want to go into the specifics of what we use and the tools, but it is basically the updated equipment and resources that we can use to detect and help our investigators when we fly these operations.

Councilmember Carvalho: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members on this item? If not, I will call the meeting back to order. Is there any final discussion from the Members?

There being no objection, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2022-95 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion Carried. Next item.

C 2022-96 Communication (04/14/2022) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 11A, Kaua'i County Code 1987, as amended, relating to Environmental Impact Fees.

Councilmember Kualii moved to receive C 2022-96 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. Are there any questions from the Members? This will come up later on our agenda. If not, is there any discussion?

There being no one present to provide, testimony, the meeting proceeded as follows:

The motion to receive C 2022-96 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2022-97 Communication (04/14/2022) from Ka'aina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to Additional Dwelling Units.

Councilmember Kualii moved to receive C 2022-97 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. Are there any questions or discussion from the Members? This item will come up as an item later in the agenda.

There being no one present to provide testimony, the meeting proceeded as follows:

The motion to approve C 2022-97 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2022-98 Communication (04/18/2022) from the Acting County Engineer, requesting Council approval to purchase unbudgeted equipment of a scum pump assembly (pump and motor) to be used at the Wailua Wastewater Treatment Plant (WWTP), which will replace the inoperable pump assembly with a similar model, at a cost of \$28,000.00.

Councilmember Kualii moved to approve C 2022-98, seconded by Councilmember Cowden.



Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. Are there any questions from the Members on this item? I will suspend the rules. Councilmember Cowden.

There being no one present to provide testimony, the meeting proceeded as follows:

Councilmember Cowden: Troy, is this at Haleililo Road or is it down by Lydgate Beach Park at the WWTP?

There being no objection, the rules were suspended.

TROY K. TANIGAWA, Acting County Engineer (*via remote technology*): I am sorry Councilmember Cowden, I missed the first part, can you repeat the question again?

Councilmember Cowden: Yes. Is this pump at Haleililo Road or at the WWTP at Lydgate Beach Park?

Mr. Tanigawa: I am coming in fresh on this without the agenda item in front of me.

Councilmember Cowden: This is the twenty-eight thousand dollar (\$28,000) replacement of the inoperable. You are replacing a pump. Is this at the Lydgate Beach Park WWTP? I do not have a problem approving this. I was just wondering how often they go out and how important is this pump?

Mr. Tanigawa: Okay. The pumps for the WWTP is located at strategic pump stations or it is at the WWTP itself.

Councilmember Cowden: Okay. How many pumps do we have? When this does not work, are there other pumps that make it functional?

Mr. Tanigawa: There are emergency pumps.

Councilmember Cowden: There are emergency pumps. Okay.

Mr. Tanigawa: This is one instance where one (1) pump is not working. We are replacing that pump so that we have redundancy.

Councilmember Cowden: Okay. That was my question. Redundancy. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, I will call the meeting back to order. Is there any final discussion from the Members?

There being no objection, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2022-98 was then put, and unanimously carried.

C 2022-99 Communication (04/20/2022) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to a Planning Department Transient Vacation Rental Program Account.

Councilmember Kualii moved to receive C 2022-96 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. If not, are there any questions from the Members? Is there any discussion?

There being no one present to provide testimony, the meeting proceeded as follows:

The motion to receive C 2022-99 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

CLAIM:

C 2022-100 Communication (04/18/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Donald S. Greer, for personal, physical, and punitive damages, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2022-100 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify? Are there any questions or discussion from the Members on this item?

There being no one present to provide testimony, the meeting proceeded as follows:

The motion to refer C 2022-100 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Kaneshiro:           The motion is carried. Next item.

COMMITTEE REPORTS:

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2022-01) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2846 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 10, RELATING TO VALUATION OF WASTELAND,”

A report (No. CR-FED 2022-02) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2847 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING SECTION 5A-11.25, RELATING TO ORCHARD DEVELOPMENT EXEMPTION,”

Councilmember Kualii moved for approval of the reports, seconded by Councilmember Carvalho.

Council Chair Kaneshiro:           We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none. Are there any questions or is there any discussion from the Members?

There being no one present to provide testimony, the meeting proceeded as follows:

The motion for approval of the reports was then put, and unanimously carried.

Council Chair Kaneshiro:           The motion is carried. Next item.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2022-06) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2850 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1 BETWEEN JULY 1, 2021 AND JUNE 30, 2025,”

Councilmember Kuali'i moved for approval of the report, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify on this item? Seeing none.

There being no one present to provide testimony, the meeting proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

RESOLUTION:

Resolution No. 2022-17 – RESOLUTION APPROVING THE PROPOSED FISCAL YEAR 2022-2023 OPERATING BUDGET FOR THE HAWAII STATE ASSOCIATION OF COUNTIES

Councilmember Kuali'i moved for adoption of Resolution No. 2022-17, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience wishing to testify? Seeing none, is there anyone on Zoom wishing to testify? Seeing none. I will suspend the rules. Councilmember Chock, do you want to go over the Operating Budget for HSAC?

There being no one present to provide testimony, the meeting proceeded as follows:

Councilmember Chock: Okay. Thank you, Chair. Members, the budget you have in front of you is reflective of a few consequences. One, not having an annual conference for the past two (2) years, which affected the HSAC Budget significantly. In addition, we continued to enlist a lobbyist for our annual legislative session and an additional position that is called Executive Assistant. As I mentioned before, there

are a couple reasons for the positions. One, the need for continuity and consistency since there has been a lot of executive membership turnover at HSAC. What we are seeking now is to do a better job at getting to our mission which is a lobbying effort across State and Federal needs. Also, to be able to bring the organization together. That is reflected here. What you will see is that the budget has been restructured a little. The major highlight is that the increase of membership fees is an additional five thousand dollars (\$5,000). Our last increase was prior to 2008. We felt that it was time for us to consider the increase. In addition, every year the NACo membership fees are paid out of HSAC's budget. What that amounts to is close to thirty thousand dollars (\$30,000) annually, and it is by population. When we looked at the budget, we felt a more equitable way to approach NACo fees was by County. For instance, the City & County of Honolulu is about nineteen thousand dollars (\$19,000), almost twenty thousand dollars (\$20,000). For Kaua'i, based on our population, we will be at one thousand three hundred dollars (\$1,300). What we tried to do was separate that cost, so we are individually paying it by County and not collectively. The total increase for Kaua'i County in the next budget year would be about six thousand three hundred dollars (\$6,300). As you can see, the other areas that will continue is our annual conference scheduled for September 2022, hoping to generate revenue and get us back on our feet. The budget projection for 2023 is complete. If you are looking at this, what I think we need is clarification and an amendment. I can resend that to you regarding the starting and ending reserves. We included the actuals this year, which we typically do not. To me, what we need at the beginning balance of 2023 is something that is more accurate. Members, everything else within the budget proposal is correct but I would ask to revise the beginning line. If this Body would like to move forward on approving this budget, I can follow up with sending a revised ending and beginning actuals.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: Thank you for the work that goes into this. We are going to have the next HSAC event on Hawai'i Island this upcoming Fall. Is that correct?

Councilmember Chock:

Correct.

Councilmember Cowden: Is it going to be on Kaua'i the following year? Whoever hosts HSAC, does this funding pay for the hotel, et cetera? Does the hosting County take on a bigger hit or not?

Councilmember Chock: The hosting County is responsible for the conference. There is "seed money" in our annual budget. I think it is five thousand dollars (\$5,000) that goes into a reserve account for the conference. The hosting County uses that seed money to put the conference together. They take care of all expenses. The income from the annual conference goes into the HSAC Budget.

The HSAC Budget pays for not only NACo dues...in this case it will not any longer, but travel. For example you have Councilmember Kualii who is the NACo representative. You also have the WIR and Executive travel paid out from the same budget. Does that answer your question?

Councilmember Cowden: Yes. I know it is a concern for next year. When we look at how they split out the size of counties by population, O'ahu has an easier time coughing up the money to put an event together because it is about the same size regardless of which island you are on, right? How much do these events typically cost?

Councilmember Chock: That is kind of why we are where we are in this budget. One, we did not have the conference for two (2) years. Historically, if you look back at HSAC, there were two (2) conferences every year and we were making a lot of money. In my mind, this organization has been riding off of the reserve for some time now. The last time Kaua'i County hosted the conference, I think we generated approximately ninety thousand dollars (\$90,000), maybe even more. City and County of Honolulu about the same or more. We had some years where we broke even with other counties. As I mentioned, the continuity and philosophy is something we want to have consistency on moving forward as to what this organization is for and how we intend to accomplish it. My expectation moving forward and what I have been trying to vocalize to the current board is that the conference is our income generator and we need to have it every year in order to be successful. As you can see in the 2023 conference income line item, there is sixty thousand dollars (\$60,000) budgeted. We are already close to that with the current conference planning. I feel confident that we will bring in good income.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions?

Councilmember Chock: The only other thing I would say is what we have done with HSAC is revamped and changed the way we look at our Legislative session. We have our annual HSAC Package and enlisted a priorities list so that we can use different bills to home in on the outcomes we are looking for at the County level. Although no bills passed out of our package, we have a priority list of items we have supported significantly and have had significant influence on. For example, the minimum wage, a Sunshine Law Bill that was drafted by our Executive Committee that I just found out was passing, and also, an omnibus package of abandoned and derelict vehicle bills that have passed. Those were HSAC-supported. Once we finish the session, I will be able to give you a full report on it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you for that. Respectfully, my request is we start the whole process a month or six (6) weeks earlier. If possible, can we put it on the floor to ask for things early to get that energy of the group together, so we are more assertive or aggressive with what we need and want.

Councilmember Chock: I think that is the sentiment from everyone at the table. We understand it takes a long time. The only feedback I would offer in return is—every year hundreds of bills go to Legislature. Many times, only a few pass. There is a lot of work that happens over periods of years. Rather than recreate the wheel because that is combining our efforts to look at what has gain traction and where we might be able to assert the outcomes we are seeking is really the right avenue. If you can identify what those are early, by the time we get to the table for that discussion, we will be able to rally around them easier.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: You were explaining it a bit with the starting and ending reserve. I am a little confused.

Councilmember Chock: I apologize. This is something I just came across this morning with Council Chair Kaneshiro. One, the actuals is something we have not included in the past. There is a correction needed there in terms of a transfer. When you look at the beginning balances of each line column, those are the areas that need to be corrected. In my mind, that is inaccurate and needs to be revised.

Councilmember Evslin: The starting reserve for the next year should be equal to ending reserve from the previous year.

Councilmember Chock: In my mind it should, and it should include the anticipated amount and position we are at the end of the year.

Councilmember Evslin: Okay. Budgeted for 2022 was a deficit of one hundred fifty thousand dollars (\$150,000). Currently, there is a fair surplus. Is there an expectation that HSAC is going to spend that down?

Councilmember Chock: We are going to spend that down significantly in the next few months because our NACo dues have not been cleared, as well as travel expenses. As you know, the conference coming up for WIR and the July annual conference are now being paid for in this Fiscal Year. We are also finalizing our lobbyist and Executive Assistant pay.

Councilmember Evslin: What happens if HSAC ends up with a deficit at the end of the year. Where is the money actually coming from?

Councilmember Chock: If you look back in the actuals, you can see that the City and County of Honolulu offering a membership capacity-building fee that has helped us. Again, the position over the last few years has been compromising. I would agree with you that the only way to build it is through our annual conference or cutting the budget.

Councilmember Evslin: Okay. I understand, thank you.

Council Chair Kaneshiro: I believe if HSAC went into a deficit, the amount would have to get split as higher fees between the counties to help fund it. That is the only place the money would come from.

Councilmember Chock: That is part of the reason why we were looking at places that would generate income; one of the places is in the membership fees, and we are already making that move.

Councilmember Evslin: Maybe it is too far in the weeds. Given that it is still expected to be a deficit by the end of the this Fiscal Year, yet our increased dues will come in 2023. Where is the cash coming from through the end of 2022? Is it possible that we are going to be paying this Fiscal Year to cover that cash? Or we already have the cash and we are going to make it up in higher dues next year? Do you know?

Councilmember Chock: I do not think we will have to do that because of the reserve we might be at, given the end of the Fiscal Year and what we are anticipating in support from the City and County of Honolulu.

Councilmember Evslin: It was just the negative reserve figure.

Council Chair Kaneshiro: I was going to mention at the end after discussion, I would be more comfortable if we did not approve this and came back later with a refined budget. The beginning and ending balances are really important. When you look at Fiscal Year 2021, the ending reserve is twenty-eight thousand dollars (\$28,000). That should be how much cash we had in the bank at that time. I am not sure if that is how low our bank account got. For some reason, when we started Fiscal Year 2022, it said one hundred seventy-three thousand dollars (\$173,000).

Councilmember Chock: That is incorrect.

Council Chair Kaneshiro: What is the amount of money that we have, is it one hundred seventy-three thousand dollars (\$173,000)? Obviously with the budget and not doing a conference, we budgeted to the max, did not do a conference, and with COVID-19 we have an ending reserve of negative ninety-eight



thousand dollars (-\$98,000). That is the budgeted ending reserve. If you look at the actual, it would be nice to have a comparison of where we are at now. If our cash right now is two hundred ten thousand dollars (\$210,000), and we still have to pay NACo dues, et cetera, I think it would be good for us to get actual numbers of where we are at now and what is the anticipated balance for the beginning of next year. If we pay the lobbyist every month, we can calculate and estimate the amounts. If we did not pay for NACo dues, we know how much that is going to be. We should have a starting balance for next budget so we know where we are at. In the past, we got lax on the sponsorships and fundraising during conferences—which carried the budget. We always tried to make the budget break even. Our reserve number always stayed the same. When you did your budget, fundraising and sponsorship for conferences was usually over one hundred thousand dollars (\$100,000), which is also to help cover everything for the next year. In the last few years and with COVID-19, one of the conferences we had, we lost money. The reserve balance starts going down and you see that it is difficult to get the reserve back up. For me, I would feel comfortable knowing what our cash balance is now, what it is anticipated to be at the beginning of the next Fiscal Year, and what our budget looks like moving forward. That will tell us what type of financial position we are in at the end of the next Fiscal Year. I think it is going to show that you need to raise money at the conference. Going back to Councilmember Cowden's question, how do you make money at the conference? It all depends. You could do a shorter conference and have everyone come. A longer conference costs more money. Instead of doing a three-day conference, you do a two-day or one-day conference, and you can get sponsorships. There are a bunch of things you can do to make your conference profitable or sustaining. At the end of the day, if HSAC runs to zero (\$0), the counties will end up having to pay. Historically, the conferences have been the mechanism to continue to fund HSAC. The mindset was always finding sponsorships, or a golf tournament where people pay dues into, and that money goes into HSAC and supplements the budget.

Councilmember Chock: I do not mind revising this so that you can see the updated version prior to it passing. I know that in order for the budget to come into play, we probably would have the next meeting as a deadline. We would have to pass it in order for it to be in on time. I looked at the cashflow this morning. We have approximately one hundred sixteen thousand dollars (\$116,000). As I mentioned, although the conference is a separate account, there is already close to sixty thousand dollars (\$60,000) that will be materialized in addition to whatever else we make midyear of the next Fiscal Year. We can anticipate a larger amount. It is hard for me to answer that question of where we would be. As Council Chair Kaneshiro also asked, you have the right figures.

Council Chair Kaneshiro: Right now, the net income for this next budget will be in a fifty-two thousand dollar (\$52,000) deficit. It will take more strain on the reserve again, so it is important to know what our actual balance is. Councilmember Cowden.

Councilmember Cowden: I think he had a question first.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I got elected during COVID-19, so I had no exposure to HSAC. Fundraising got my mind spinning. As you mentioned, Chair, is the golf tournament just members of HSAC that came over, or would it be open to the public? That is what I am looking at. When you include the community, your fundraiser would be more viable and fruitful. If you only limit it to the people who are coming from different counties and they had to spend their money out of their pocket, the revenue base would be small. How are the fundraisers done? Can we include the community?

Council Chair Kaneshiro: I do not think the Kaua'i community will fly to Hawai'i Island. In the past, you do a golf tournament right before the conference and anyone can play. The Chair usually advertises it, you get sponsors, and they run the golf tournament. It is up to the individual county how they want to run their conference. It is not a template across the counties. A lot of times you get sponsorships at the conference, or people advertising. Those are the types of things they do to get people there. Conference fees. The conference is open to a lot of people and they are able to attend. It is not only for Councilmembers.

Councilmember DeCosta: I understand. Thank you, Chair.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: My question piggybacks on Councilmember DeCosta's question to some degree. I have been to one (1), and that was all that was available. I am going to be helping with the conference on Hawai'i Island. An outcome of these term limits, we are in the front end of that, is that we do not have longterm Councilmembers after the both of you leave. Is it our staff, who works hard all the time—who knows how to put this event on, because if I had to put the event on in September, we have never put one on. Is it you?

Council Chair Kaneshiro: I can tell you the staff works super hard at making the conference a success.

Councilmember Cowden: Okay. Thank you.

Councilmember Chock: I will say that at the Board level, what we decided, since we did not have a conference, we are putting a golf tournament together, which I am spearheading. Everyone is stepping up and being asked to make the annual conference this year, so we can also have a really good fundraiser. That is what you can expect.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Councilmember Chock taking a leadership role and being the alternate. With this budget, we have come a long way.

There was a lot of changes since 2008 and adding staff to make the quality of the outcome for the conference. With the work that is being done, I know we are on the right path; defining the budget, and going from there. I think this is a good discussion and we are on the right path to making it work and moving forward.

Council Chair Kaneshiro: I can tell you other things that they do. It is fundraising, but it is also educational. A lot of times they will set up tours prior to the conference. People pay a certain amount to go on a tour and visit different businesses. That is another way that they are able to raise money. You get a set fee for the tour, charge a little extra, and people go on the tours. By doing this, Councilmembers get to see what is going on while they are there. That is an example. It is not set where every County has to do it this way, but that is what has been done historically. Councilmember Cowden.

Councilmember Cowden: I guess this would be discussion. I have to say, when I attended the conference on Maui, it was the first and only time I attended a conference during my time in office. It was extraordinarily valuable. Not only as a fundraiser, but how much we learned and planned together, and having the a few days to connect with various Councilmembers. The downside of it if it is only one (1) day is you have the cost to fly there and you do not get as much experience if the event was short as opposed to robustly look at different topics. I found it to be a really important learning experience.

Council Chair Kaneshiro: Are there any further questions on the budget or how we want to move forward? Councilmember Chock, I know I said it might be better to hold off on approving this, clean it up a little, so when we are approving something the numbers are tightened up more than what it is now.

Councilmember Chock: Under the starting and ending revenue, and beginning balance, we can do some changes so that it is more accurate. That is fine with me.

Council Chair Kaneshiro: Are there any other questions from the Members? Is there any discussion from the Members? If not, we can take a motion to defer.

Councilmember Cowden moved to defer Resolution No. 2022-15, seconded by Councilmember Kualii.

The motion to defer Resolution No. 2022-15 was then put, and carried by the following vote:

FOR DEFERRAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Kaneshiro: The motion is carried. Next item.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2856) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 11A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENVIRONMENTAL IMPACT FEES (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-5)

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2856) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 1, 2022, and that it be referred to the Planning Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Seeing none, I will suspend the rules, Ka'aina, if you want to give us a brief description on this item.

There being no objections, the rules were suspended.

KA'AINA S. HULL, Planning Director (*via remote technology*): Thank you, Chair. Good morning Councilmembers, Ka'aina Hull, on behalf of the Planning Department. The Bill is in alignment with the series of Bills that have been proposed by both the Department and Council to reduce barriers and fees for multifamily construction. The Environmental Impact Assessment Fees was established back in the 1980s. It is two hundred fifty dollars (\$250) for single-family dwelling units, and one thousand dollars (\$1,000) for every multifamily dwelling unit. It is cost prohibitive to do multifamily construction under the Environment Impact Assessment (EIA) program. Someone speculated that back in 1980, the multifamily construction was centered on second home ownership, timeshare programs, and the impact those types of project have on Kaua'i. Since that time, there have been restructuring for actual hotel units having a different EIA fee. Multifamily units now are the primary thrust of not only affordable housing development programs, but ways that "mom and pop" property owners can set up their Additional Dwelling Unit (ADUs) or Additional Rental Unit (ARUs) in a multifamily fashion. They will still be required to pay a higher fee. This is not to say that an EIA fee may or should be extracted. In order to adjust the EIA fees, you have to go through a nexus and proportionality study to reduce or change the EIA fee. We have not done that, but in recognizing the housing crisis, what we immediately can do is instead of adjusting it, we can take it away in totality. We may look at adjusting it and spinning up a study in the future. Again, in line with the series

of the other Proposed Draft Bills to reduce barriers of entry for multifamily housing, this is another one.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you, Director Hull. The Legislature gave us the House Concurrent Resolution No. 126. Did you see that? It uses powerful language in here relative to affordable housing where the basic Resolution says, "They will have an exemption of all rules, regulations, and laws." I was amazed by how powerful that wording was. In paragraph 3 it says, "It grants the Hawai'i Housing Authority to develop on its own on behalf and in partnership with qualified partners, housing projects that are exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to zoning and construction standards. The subdivision development and improvement of land and in the construction of homes." This has to do with trying to create more affordable housing. Did you see this concurrent Resolution?

Mr. Hull: I did. The Legislature also recently passed the "Yes In My Backyard" working committee to look at a statewide approach to tackling the housing crisis. I would say that this is well done. The Resolution and working group are specifically tasked with looking at allowing multifamily in the commercial districts, allowing multifamily in all residential zoning districts, and allowing different housing types in the residential zoning districts. All of which I can say, this administration and Council have adopted those measures in the past three (3) to four (4) years.

Councilmember Cowden: Does this supersede anything we already have or are you saying it is not going to impact it? Either way, I am okay. It seems huge. On this particular Bill that you are putting on, there would be a small piece when we remove the Environmental Impact A fee for affordable multifamily dwelling. This is basically segregating out visitor or short-term housing. They still have to pay for the EIA. If it is for affordable or long-term housing, we are not going to put the extra cost on it. Am I understanding the Bill correctly?

Mr. Hull: Councilmember, that is correct. A small clarification, it is only for multifamily. Hotels have a different EIA fee. I can say that TVRs in a single-family dwelling do not have a separate EIA fee. They still call it the residential EIA fee. That can be adjusted. While it probably should, we have to set up the proportional nexus study for impact fees.

Councilmember Cowden: Okay. We can have a conversation at another Council meeting to really understand the impacts of this Concurrent Resolution. Thank you.

Mr. Hull: Thank you.

Council Chair Kaneshiro: Are there any questions from the Members on this item? Councilmember Evslin.

Councilmember Evslin: Ka'āina, you said it in your introduction that this would apply to someone who is trying to do an ARU or ADU. I want to confirm that it is any...I apologize, I was trying to look up the definition of multifamily and there is multiple family, multiclass family, and different terminologies throughout the Code. For clarification, this is for anyone building an attached structure to their home whether this is adding onto their existing home or building an apartment building with six (6) units. It would be for all the above—ARUs, ADUs, or using their density as long as it is more than two (2) structures attached, is that correct?

Mr. Hull: For the most part. Multifamily and the definition of the Zoning Ordinance is actually where there are two (2) units that is structurally dependent upon each other. There is a separate definition for detached, which is two (2) units that are attached but not structurally depending upon each other. The Department is trying to help applicants out by doing the ARUs, ADUs, and guesthouses with kitchens that are attached. As much as possible, we try to have their plans drafted so that it is attached as opposed to structurally dependent so that they can get away from this fee. In proposing this amendment to the EIA program, it fully exempts out the structurally dependent ARUs, ADUs, and guest houses, which we are not able to do right now.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? Is there any final discussion from the Members? If not, we will take a roll call vote.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2856) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 18, 2022, and that it be referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kual'i, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Seven (7) ayes.

Proposed Draft Bill (No. 2857) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-6)

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker, Lonnie Sykos.

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2857) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 1, 2022, and that it be referred to the Planning Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We have a speaker who is in the audience. Mr. Sykos. Welcome. I think you know the rules. You have three (3) minutes. The light will turn green, yellow when you have thirty (30) seconds, and red when your three (3) minutes is up. State your name for the record. I will go around the room and if there is no one else to testify, you can come back for another three (3) minutes if needed.

There being no objection, the rules were suspended to take public testimony.

LONNIE SYKOS: Thank you. For the record, my name is Lonnie Sykos. If you are sitting in the back, it is difficult to hear what the staff says. I have no idea what agenda item I am sitting here for.

Council Chair Kaneshiro: This is regarding ADUs.

Mr. Sykos: I have two (2) questions about the ADUs. First, as I read through everything, it was an acknowledgement that going back through institutional memory, it was significant that there were substandard roads that could be brought up to standard which would allow emergency vehicles to get into these properties. I read that there was not a single road addressed. As a member of the public, my question is if there is a public safety issue that is not being addressed; or, was this entire issue misconstrued from the beginning and it is not an issue? I would like to see more housing built, but I would not like to see it built so you cannot get an ambulance, fire truck, or police vehicle down the road. This is tough because it is increased money to build units. I am perfectly happy that we relooked at the issue and it is not an issue. I need clarification as to whether it is an issue or it is not. As I was reading through it and if I read correctly, everything that had to do with the cesspool, the term "cesspool" has been removed? There is a cesspool at my house, I cannot put another bedroom. Again, this is a huge statewide problem. It is not the sole problem of the County Council. The problem the County Council has is how am I going to fill in

my cesspool, put a septic system, or get hooked up to sewer? What is the measurable plan for that? A year from now, what has changed so that I can get off my cesspool and into the modern era of dealing with sewage. Thank you very much.

Council Chair Kaneshiro: Thank you. Is there anyone else in the audience or on Zoom wishing to testify? While the rules are still suspended, Ka'aina, do you want to give a brief description about this item and/or address any of Lonnie's questions at the same time, please do.

Mr. Hull: Thank you. Ka'aina Hull, on behalf of the Planning Department. You have received a series of Bills over the past month and this is in line where I asked staff to take a look at regulations in our Code—do they make sense and are they being used? It is not substantial reviews or requirements, but exist and do not serve a purpose. The ADU facilities clearance form was set up in order to ensure that properties proposing an ADU would have adequate access to infrastructure before they apply for the building permit. That is a good thing. Before dropping fifteen thousand dollars (\$15,000) or twenty thousand dollars (\$20,000) on plans, it would be good to find out if all the infrastructure is in place. They have to check with the Department of Water and Department of Health. The language of cesspools is still there, which the Department of Health does not approve anymore. They would have to check with each of the respective agencies. This last requirement, that the lot has access to a County standard roadway, in theory, I believe it was set up so that if it did not, the property owner would improve the substandard County road into a full blown County standard roadway. That is the way it was set up. When you are proposing a two hundred-thousand-dollar (\$200,000), three hundred-thousand-dollar (\$300,000), or five hundred-thousand-dollar (\$500,000) house, improving a substandard County roadway would be to the tune of several million dollars. This has extracted absolutely zero (0) improvements to County roadways. In fact, while there was concern back in the 1980s when the new law passed without having County standard roadways for emergency access, our County standard roadway is forty (40) feet wide. The Fire Department needs sixteen (16) feet of clearance to get to an emergency site. Having a full-blown County standard roadway is not a necessity for emergency vehicle access. I can also point out that back in 1980s, the Fire Department was not reviewing single-family dwellings or ADUs. They are now. Upon building permit review, among other things, they will be checking to ensure there is adequate fire access. This requirement in the Clearance Form for ADUs, there are not many lots that do not have access to a County standard roadway. For those that do, it generally adds a month or two (2) extra to the review process for which the Fire Department and the County Engineer ultimately sign off, but it takes extra time during the permit review. We are proposing to remove it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you. I know in several agenda items in the past couple of months, we have talked about these crowded roads. We have this



blend of needing more housing...I even see that California passed a law recently basically putting ADUs on every property there. They have such a large housing crisis. When these roads are so narrow with cars on either side, are you saying that that does still get looked at? If someone is putting in an ADU on a property or an ARU, in the process of application if it is already an extremely crowded neighborhood, will that get flagged or not? When I say crowded I mean in terms of on-street parking.

Mr. Hull: Yes, the Fire Department has to look at whether or not they have adequate access to the ADU. If there is inadequate access there are other series of fire suppression measures I believe that the Fire Department can require during the building permit review.

Councilmember Cowden: Are we looking at fire flow when we realize we have standpipe challenges? Especially if a pipe has both residential use and shares it with these standpipes. Does that get flagged? If you double the amount of water users in the neighborhood and you do not have separate fire flow, you are going to be losing your water pressure. Does that get looked at anywhere?

Mr. Hull: The Department of Water does look at that when reviewing the building permit.

Councilmember Cowden: Alright. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Ka'āina, I wanted to...I do not know if you can answer this. I am very concerned about our testifier's question about cesspools. By all means I do not want to be disrespectful. I think you are a year or two (2) older than I am. I think there are a whole bunch of your kind out there who are really worried about their cesspools. How can these fixed-income retirees pay for a cesspool? He asked about sewers and what our County is going to be doing looking at our sewer system. Are we looking at our sewer system across the island? I know it is kind of impossible to go out into the area where the infrastructure is not there yet. I know Līhu'e and Kapa'a has a sewer system. I would like to get our testifier's question touched on a little bit if you can, Ka'āina.

Mr. Hull: While the Planning Department and the planners in general look at zoning as the end all be all, it is not, right? At the end of the day, we have done a lot, both the Council and the Administration, to free up a lot of zoning regulations in our town corridor areas, residential areas, and in allowing property owners to construct ARUs, guest houses with kitchens, et cetera. While we free up the zoning regulations, ultimately, and I believe some Councilmembers have also used the phrase...the housing crisis is an infrastructure crisis. Having access to adequate infrastructure, in particular water and wastewater, has become a crucial point of needed attention. Whether the County is ready to start funding brand new

wastewater treatment plants to service residential areas so that they can get into compliance or increase the density, I think we all have to look at that. That is a bigger discussion beyond my status on the totem pole. It is absolutely crucial in deciding whether or not infrastructure will descend into these areas or programs are going to be made available. I believe the Council recently took action in freeing up or providing funds for local mom and pop property owners to upgrade their systems to septic systems.

Councilmember DeCosta: Correct. I am not Albert Einstein, but I do believe and do understand that infrastructure does cost money. Somehow within our County we have to look at other sources of revenue so we can someday service people like our friends sitting out there. Thank you for that explicit definition about what we are looking at for the future. Thank you, Kaʻāina.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: This is just a follow-up question. In Wailua Houselots, we have that pump station right on Haleilio Road. That is there to move the waste down the highway. We do not have any sewer lines in the Houselots, right? Do we have sewer lines anywhere in the Houselots?

*(Councilmember Chock is noted as not present.)*

Mr. Hull: I am sorry, was that question for me,  
• Councilmember Cowden?

Council Chair Kaneshiro: The answer is no. There are no sewer lines up there. I think we may be going a little off-subject on this. If we want to have another agenda item in the future with the Department of Public Works, we can ask them to tell us where the areas are that have the potential for a wastewater system, et cetera. I know there are difficulties in getting sewer to certain areas because obviously it is going to start costing homeowners money as well for the connection, monthly fees, et cetera. It is kind of a gray area as to whether we do it or not for neighborhoods. Councilmember Evslin.

Councilmember Evslin: Kaʻāina, so the two- to three-month delay in the ADU Clearance Form process, is that...say there is an ADU off of a non-County standard roadway, they apply, there is a two- to three-month delay and will they ultimately get rejected or pull their permit because of this? What happens after that delay?

Mr. Hull: I think previously, years ago when this first started off, they were getting rejected. It is relatively rare. We do not get a lot of these, but we do get some of these. In the cases now, because there is some leeway within the

current requirement that...that the Planning Director and the County Engineer shall apply standards and improvements established in Subdivision Ordinances...we have interpreted it as somewhat having the leeway to interpret the roadway standards. Both I and the Engineer will consult with the Fire Department to make sure they have adequate access and have been signing off on the permits, but it takes a concerted effort between the three (3) agencies. I will be honest in that there may be some issues with that and why we have to affix and review it individually ourselves as the agency heads. We have been clearing the path that way. We want to get the three-month process off the deck so they can come in and just get reviewed by the Fire Department for access.

*(Councilmember Chock is noted as present.)*

Councilmember Evslin: Okay, thank you. Sorry, one other question. The current requirement that this Bill would delete is simply that the lot has to have access to the County-standard roadway and not necessarily the house has to have access, right? You can still have the house set three hundred (300) feet back without a County-standard roadway on that property even with this law in place, right? The interpretation was not that they have to bring the County road into compliance and their own driveway into compliance, right?

Mr. Hull: That was the interpretation before.

Councilmember Evslin: Okay.

Mr. Hull: I would say that virtually all lots have access to a County road, not necessarily a standard road, but a County road. Also, there are a few situations where you have *kuleana* lots or lots that are somewhat landlocked and need to get an easement through the County road-adjacent property. This would just remove the whole thing and have them rely strictly on the Fire Department for emergency access during building permit review.

Councilmember Evslin: To be clear, a strict interpretation of this would potentially mean that they have to bring their driveway into compliance along with whatever County road?

Mr. Hull: Correct.

Councilmember Evslin: Okay, thank you.

Mr. Hull: Up until about five (5) years ago, the front counter team was interpreting it as the driveway has to be up to the County standard, which is extremely cost-prohibitive.

Councilmember Evslin: Yes.

Council Chair Kaneshiro: Are there any further questions from the Members?

Mr. Hull: Just for the Council's information, about two (2) years ago, both the Council and the Planning Department launched a bit of a blitzkrieg on zoning amendments. I think there were roughly thirty (30) zoning amendments that were moved through the Council Chambers and ultimately acted upon. I was under the impression that we had done this on the ARU section of the zoning ordinance. It was brought to my attention while we were handing this over that the ARU one had not actually gone over. We will be sending that to the Planning Commission and then sending it your way. I apologize that they are not in tandem. If the Council prefers to hold this until the ARU one can get over there to move on it, it really is up to you. I just wanted to let you know that this requirement still also exists in the ARU Ordinance, which was mimicked very closely to the ADU portion. I think in the next three (3) to four (4) months, we will get to you a similar bill for the ARUs.

Council Chair Kaneshiro: I do not feel like we should hold it up. That is my personal opinion on that. Are there any further questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember DeCosta.

Councilmember DeCosta: I think the general public needs to hear this and we all need to hear this. What worries me is the price of construction and home building has escalated. It not only has to do with the lumber costs, but to do with the limited number of construction companies on the island. I am worried that this sewer to septic to cesspool...we have a strict timeline to 2050...the septic companies know this. They know the people on fixed-income are going to have to do it soon. What happens when they all agree to raise the price from twenty-five thousand dollars (\$25,000) to fifty thousand dollars (\$50,000) for a septic system? We do not have anyone that governs that. There is no Public Utilities Commission (PUC) that governs that. Now all of a sudden you have people like my friend out there who has to put in a septic system for fifty thousand dollars (\$50,000) and the five (5) or six (6) companies on Kaua'i are not willing to do it for any cheaper. We have a serious crisis and it is going to happen. It is evolving right now and I want throw that out there. Thank you.

Council Chair Kaneshiro: Councilmember Evslin, then Councilmember Cowden.

Councilmember Evslin: Thank you to the Planning Department for doing Code review like this to try to find aspects of the Code that are barriers or cause

delays in being able to add on things like ADUs. This item and the EIA fee seem like great steps forward. Also, welcome back Lonnie. It is great to see you here. Just quickly to address your comments, in addition to what Ka'āina and Councilmember DeCosta had said, the Council did approve and helped developed in conjunction with the Housing Agency a program to provide up to one million two hundred thousand dollars (\$1,200,000) annually to homeowners to convert from cesspools. Hopefully there will be more infrastructure moneys coming into Hawai'i. I think everyone recognizes that we have to leverage Federal funds more as everybody has said, this is a crisis. Also, two (2) years ago during the budget process, the Council appropriated funds to do a Sewer Expansion Study for the island to identify areas where sewer is likely to be extended to and areas where sewer will never get extended to so that people could at least have some certainty in going forward with a septic system knowing they are in a place that will never get sewer. There are lots more to do on that front, but we are taking two steps forward. Again, good job, Planning. I am happy to support this and see it move forward.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: He said a lot of what I was going to say...Councilmember Evslin. I appreciate the removal of barriers for ADUs and I do not think we need to hold this up to get the ARUs included. I think we will easily say yes for essentially the same thing. Whatever way we can help people to have homes or hold on to homes, especially for their extended *'ohana*, who hopefully will be in these homes...I do want to acknowledge what Councilmember DeCosta brought up in that...not even just cesspools going to septic...everything from getting your house painted to finding a plumber, pretty much the fresh development for the high-end is able to get these people at one hundred dollars (\$100) per hour. It is very difficult for working class people...I would consider all of us in that category...to be able to get the basic services. We have big challenges. Some people can build their own. Can they be an owner-builder for an ADU? You can? Alright. Thank you.

Council Chair Kaneshiro: Does anyone else have final discussion? If not, could I get a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2857) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 1, 2022, and that it be referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Proposed Draft Bill (No. 2858) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO A PLANNING DEPARTMENT TRANSIENT VACATION RENTAL PROGRAM ACCOUNT (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-7)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2858) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 1, 2022, and that it be referred to the Planning Committee, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony. Are there any questions? Ka'aina, if you want to give us an overview of this item, then we will take public testimony if there is any.

There being no objections, the rules were suspended.

Mr. Hull: Thank you, Council Chair and Members of the Council. Ka'aina Hull on behalf of the Planning Department. Happy May 4<sup>th</sup> to you all. I forgot to say that. This Bill is essentially just to establish an account in which the Transient Vacation Non-Conforming (TVNC) Use Certificate holders, which is roughly about four hundred twenty (420) on-island...they pay an annual renewal fee of seven hundred fifty dollars (\$750). The proposal is to take that money and utilize it specifically for TVR management both within the Planning Department as well as to essentially funnel funds up to the Office of the County Attorney to deal with litigation. The backstory behind this is that we spend about seventy thousand dollars to ninety thousand dollars (\$70,000-\$90,000) a year just in the management of our TVNCU renewal process, as well as on the contract that helps us with enforcement. We have been utilizing our enforcement fines for that contract. Currently, our enforcement fines go directly back to the Planning Department to utilize for enforcement purposes and management. With proactive TVR enforcement on the world wide web, litigation willing to go as far as necessary, as well as I think what happened two (2) years ago when we signed the memorandum of understanding (MOU) with Airbnb and Expedia, what we have found was that we have taken a significant step forward in shutting down the illegal vacation rental industry. That is good news. I think we went from an estimated one thousand four hundred (1,400) illegal vacation rental units in 2017 on Kaua'i to today, where we are estimating less than fifty (50). It is a credit to our staff and the work they have been doing, along with the MOUs and agreements that we have with Airbnb and Expedia, is a success. The flipside of that success is our enforcement account is getting drained and is going down. We are not really fining much anymore. We hold pretty stiff penalties on illegal vacation rental operations that refuse or take a while to cease. We do not really hold very much penalties or fines on your regular zoning violations as long as they bring them into remediation and compliance. That is roughly

one hundred thousand dollars (\$100,000) a year that we could use for our contracts for vacation rental management and we are now bringing in a lot less than that, and we are not going to be able to maintain those contracts. We feel that continuing, maintaining, and having constant vigilance is going to be necessary to ensure the success of the shutting down of the illegal vacation rental industry continues. What we are proposing is to take the money from the TVNCU program that right now goes into the General Fund, and directing up to two hundred fifty thousand dollars (\$250,000) of that money per year so that we can have the TVR management program in our office continue as well as to funnel and allow those funds to be used by the Office of the County Attorney. While the Planning Department and Planning Commission face a fair amount of litigation over the years, the vast majority of that litigation is actually TVNCU holders who got their certificates revoked because of untimely renewal. Taking the money from this program to use it in litigation is much of what this proposal is. That is what it is in a nutshell. I am open to any questions.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: I have a couple of questions. Congratulations on getting the illegal TVRs under control on Kaua'i. You mentioned the four hundred twenty (420) non-conforming permits...has that also gone down significantly since the grandfathering? I am just curious how we are moving through on that end of the management.

Mr. Hull: Yes. Those are non-conforming use certificate holders outside of the VDA that got legally permitted essentially to continue their uses because they were doing it before the Vacation Rental Bill passed. Honestly, in its original inception it had roughly four hundred fifty (450) and it is down to about four hundred twenty (420) now. Almost all of those removals have been voluntary. The County of Kaua'i and no county in Hawai'i has the ability to amortize non-conforming vacation rentals, because there is a provision in Hawai'i Revised Statutes (HRS) Section 46 that prohibits the County from doing that. For several years, my predecessor, Managing Director Michael A. Dahilig, would go to the State Legislature asking for those powers to amortize. I went up for several years asking for powers to amortize and every year the State Legislature has denied those requests and those bills never got acted upon. We do not anticipate the Legislature giving us that authority. If they did, it would ultimately behoove any Administration or Council at that time to look at then passing a County ordinance that would amortize them. I would suspect that given the amount of money involved with these uses, that it would face a heavy level of litigation. That is not to say that we steer away from it. We are always "gung ho" to meet them in court. Should that ever happen, Council Vice Chair Chock, it would still take a prolonged amount of time to get those amortized out. We are not even at the table on that yet.

Councilmember Chock: My question is more about whether we have seen through attrition or voluntarily opting out, have we seen a dwindling down of these non-conforming uses and permits, or have they been status quo?

Mr. Hull: For the most part it has been status quo. We have seen a handful during my time as Director, I have probably seen three (3) or four (4) voluntary removals of TVNCU certificates. The rest of them, there is a deadline for renewal every year that the TVNCU holder has to apply for renewals. Those are the only ones that we have rejected. Every single one of those are in litigation right now. We will have to see what the courts do.

Councilmember Chock: Thank you. My other question is about the TVRs within the VDA and our ability to manage them. Do we have accurate figures? I know that that is a gray area in the past that we have not been able to pull them under management. I think that will affect some of what you are trying to accomplish with this Bill.

Mr. Hull: Yes. Thank you for that. The Department is not...from an overall enforcement perspective, we generally do not go and "hit people up" for illegal violations, with the exception of illegal TVRs. There are roughly four thousand (4,000) TVRs operating within the VDA. We know that because of tracking through Real Property's tax programs. The vast majority of them do not actually have the specific Class I over-the-counter thirty-dollar (\$30) zoning permit that they are required to. This is because they are outright permitted, so we are not out there expending our resources to bang on their doors to get them to apply for the thirty-dollar zoning permit. It is something that we do want to accomplish, and we do want to tackle one day. In looking at the moneys that would be appropriated under this Bill, there definitely is a program that we could spin up, because getting in influx of four thousand (4,000) applications is either going to be done under a contractor or exorbitant amounts of overtime. I think we would rather go the contractor route, quite honestly. Once those permits are in, it would not necessitate a renewal process. Hawai'i Island went through that process and they spent roughly six figures in overtime in the processing of their roughly four thousand (4,000) VDA-associated TVRs. We definitely have that on our radar, Councilmember, and this proposal could help us tackle that problem.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: We have a follow-up question from Councilmember Cowden.

Councilmember Cowden: Thank you so much for the information about the four thousand (4,000) TVRs in the VDA. Is that on the increase? I have been getting calls, from Po'ipū mostly, where people are concerned that their residential



neighborhoods are increasingly becoming more and more vacation rentals. Are we seeing...it is four thousand (4,000) now, was it three thousand (3,000) five (5) years ago? Are we tracking the trend? Is it going up?

Mr. Hull: Yes, I want to say that in the past year, we saw an increase of approximately two hundred (200). I can get that information for you. I would say in the past year, approximately two hundred (200) units in the VDA came online that were not online before. I can get the full details from Real Property in the next week or so.

Councilmember Cowden: Is it possible or are there limitations when people have bought a house in a VDA...for houses that are not yet vacation rentals, we cannot pass anything that restricts the future of having more and more houses change over, can we?

Mr. Hull: In theory, you can. What that would take is removing the VDA district from all of the residential areas in Po'ipū and Princeville. Then we would spin up a process for what would be non-conforming TVRs in those areas. That would probably be to the tune of ballpark two thousand (2,000) units. I would need significant staffing to run a TVNCU program for two thousand (2,000) more units. In theory, it can be done, Councilmember.

Councilmember Cowden: It does seem to be a very serious concern. It seems to be a pathway that is underway. I think it should at least be on our radar screen.

Mr. Hull: Definitely.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: For the seven hundred fifty dollar (\$750) annual renewal fee for the TVNCUs, has that ever been increased? Did that figure come from some sort of nexus analysis for what that fee could be? Should we be looking at increasing it?

Mr. Hull: I do not know that offhand, Councilmember. I am not sure how the seven hundred fifty dollars (\$750) figure came about and from what study that figure was established. My understanding is that if we did want to increase it, that we would have to update the study or do a new study.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members on this? If not, while the rules are still suspended, is there anyone in the audience wishing to testify on this item? Lonnie.

Mr. Sykos: Aloha, Ka'āina. Great presentation. Thank you, sir. I would like to point out to the County Council that Ka'āina and I know each other solely because he comes here and testifies. Councilmember Evslin knows my name is solely because I come here and testify. That I know Scott, that I know any of the employees in the County government is solely because they are in this Chamber interacting with us. Tip of the hat that Ka'āina is saving me money by staying in his office and being productive; however, sir, I want you to waste my money and come down here and be in-person so you can meet the other people who live here on the island. Excellent job. I think you have done wonderful things here recently, reducing the expense of government and burden of government. Normally, I am against creating special accounts because it just makes things complicated. I read through your deal on the internet and understand why this account makes sense. I am thoroughly supportive of being able to track what it costs to monitor vacation rentals. This is one of the outcomes of this...it will be very simple to figure out the costs year-to-year. Tip of the hat, Ka'āina. Thank you very much. I am very happy to have you as an employee. You earn every dollar that you get, sir. Thank you very much.

Council Chair Kaneshiro: Thank you. Is there anyone else in the audience wishing to testify? Bruce?

BRUCE HART: Good morning, Council. I have not met Councilmember DeCosta. It is good to meet you, sir. Hello to everybody else. It is good to be back. I would like to speak on this issue. I pretty much echo what Lonnie had to say. The real issue for me is what he related about...my life would not have been nearly as rich by this experience if I had not had the opportunity to meet all of the agency heads, staff, and the citizens who come here to speak. It is just not the same. Ka'āina and I are friends because we met here, and all the rest of them. I would like to see them here. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? If not, is there anyone on Zoom wishing to testify. Seeing none, I would like to call this meeting back to order.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember Evslin.

Councilmember Evslin: I support this echoing what has been said here. Kaʻāina, you are doing a good job here. Your entire Department is. If *The Garden Island* is listening, this is headline news. This should have been in the news for the last year and a half. One thousand five hundred (1,500) illegal TVRs to fifty (50). That is such a huge accomplishment. You are groundbreaking in all of your enforcement efforts and in the ways that you do it. That is a huge shoutout to the Planning Department. I do not want to go too far down a tangent, but I guess I will. The seven hundred fifty (\$750) fee, I hope that we can look at increasing that whether it takes a study or not. Certainly, I do not know how long it has been in place here, possibly a decade or more with those TVNCU, inflation, et cetera. It should be rising. Just from looking at the impact of those TVNCUs on their communities, they have a hugely disproportionate impact. TVRs have a huge impact on Kauaʻi and TVNCUs have even more of an impact. They are located in areas where we do not have infrastructure for tourism. As we saw during the 2018 flooding, we have Blackhawk helicopters having to evacuate tourists from places like Hāʻena. They are displacing residents in those areas. I hope that we can potentially increase that seven hundred fifty dollar (\$750) fee down the line. I am fully supportive of using that funding to help with our enforcement account. Just on the TVR issue more broadly as we have discussed a little bit here...if we have four thousand (4,000) TVRs on Kauaʻi, that is one in eight houses. It is a gigantic housing crisis. Our General Plan says we need nine thousand (9,000) new homes by 2035, half of those are sitting as TVRs and are already built. If you get places like the Grassroots Institute, I do not know if you have seen with Honolulu passing their bill to regulate TVRs and you have these people who have been advocating for more housing supply coming out and saying that regulating TVRs does nothing to impact the cost of housing, that is just bonkers. If they were building homes or trying to get TVRs to convert to resident-occupied, or getting vacant homes to resident-occupied, supply is supply. We should be trying to get it through any means necessary. I think the issue that we face right now in our VDAs is that with that complete allowance to do it, anybody in a VDA, you have zero financial incentive to long term rent that house. There is a huge opportunity cost even to just live in that house, right? If you own a house in the VDA, you are better off using it as a TVR and making a ton of money and buying another house somewhere else. I just think as we added one hundred fifteen (115) to two hundred (200) new TVRs this year and similar numbers in the previous years, that trend is going to just keep on growing until our VDAs are entirely full of hotels. We are displacing residents and increasing the number of tourists on Kauaʻi to a level that is beyond sustainable. Rather than trying to come up with a Rube Goldberg contraption through our Zoning Code, I think we have a pretty good mechanism through property taxes to try to disincentivize TVRs. That is all. I support this Bill here. We have Decision-Making coming up in a few weeks, maybe we can think about property taxes then.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: I want to echo what Councilmember Evslin just said and not so much on the financial part. It is a drain on our local lifestyle. I live in Kalāheo next to a vacation rental. I run fifteen (15) hunting dogs and I have smokehouses making smoked meat. My boy plays AC/DC loudly in his truck while he is washing it. You do not think the visitors in the non-designated area...I believe we should only have rental units and residential units across Kaua'i and leave the vacation rentals in vacation areas so that our chickens can crow if anyone wants to raise roosters, or if the dogs want to bark or if you want to smoke your meat. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am also in support of putting a separate fund aside. I think it is very valuable to be proactive so that we do not run into a challenge later and that the money is competing. I think the intention of this Bill is accurate and on-point. Echoing what is being said, it is also important to notice that a lot of the times once something is already in the TVR application, rarely do those properties sell to be anything other than being brand new residents. It is very hard for existing residents here to buy it, particularly when that tax base follows for the new purchase. There are a lot of areas where we need to be working on so we can take those houses and turn them back into long-term rentals or homes that people can qualify for and purchase. This Bill is narrow and is just about setting up a funding area and special account. I support that. I just wanted to reel us in to what this Bill is about. I will be voting yes.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: After all of the discussion, Ka'āina, the Planning Department, and just taking that whole step forward and the lead...and the numbers overall. I totally support this Bill and I heard all of the discussion. We have gone through numerous previous discussions. Today, we are in a good place and we are at the right time to do what we need to do. The decisions here at the Council table and with the Administration, I am totally supportive. We have had healthy discussion and we are on the right path. It is about affordable housing and rentals. The vacation rental piece...stay where you have to stay. Let us move forward. I know that once we start moving forward, there are going to be more options moving forward in making it better. That is the biggest part for me. I just wanted to say good job and let us move forward.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I, too, find this Bill very easy to support. Like many of the other bills that have come from Planning, I think it is critically important that you keep doing what you can to support our housing inventory. As far as Code enforcement, I am happy that several years ago we made that a priority and told you that we were willing to fund Code enforcement, because we knew that it had to be a priority. It still remains a priority. Keep up the great work. The numbers have come

down so much from one thousand five hundred (1,500) to fifty (50) illegal TVRs, that is great news. You have to stay on top of it to keep that number down. You absolutely have to have your funding. The only other thing I would say is that I appreciate everything that you are doing, but like what Councilmember Evslin talked about with the real property taxes, I think it would be great to hear from you and the Administration, maybe Planning could work together with Housing to come to us with some information of possibilities. You talk about these fees, the nexus, and the amortization and how we cannot do that, but tell us about what we can do and what makes sense. I like to see the Council work closely with the Administration. When budget time comes, I do not really want us to be throwing you a hard wrench because we took a drastic budgetary approach that you did not account for in your budget. But I think year after year, it keeps getting pushed back. I think at some point, we have to take some action. Other counties are trying things, but as far as real property taxes go, we have not really. We have not done anything serious to disincentivize that four thousand (4,000) number. You said in your whole tenure, you only saw three (3) or four (4) voluntarily come down. Well, more would voluntarily come down if they were disincentivized by the bottom line. It would be great if Planning or Housing could work on some things and bring it to us. You bring a lot of good stuff to us. I know I would like to see that. It sounds like Councilmembers Evslin and Cowden as well. I see a lot of nodding of heads. Thank you so much for all of your great work, including the Planning Committee Chair. I am happy to support this.

Council Chair Kaneshiro: Is there any further discussion from the Members? If not, I will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2858) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 1, 2022, and that it be referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

#### BILLS FOR SECOND READING:

Bill No. 2846 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 10, RELATING TO VALUATION OF WASTELAND

Councilmember Kualii moved to approve Bill No. 2846 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. Do we have any questions from the Members? If there are no questions, we do have a testifier. I will start off with anyone in the audience wishing to testify on this item. Lonnie?

There being no objection, the rules were suspended to take public testimony.

Mr. Sykos: For clarity, I moved here from Maui about fifteen (15) years ago. On Maui, I farmed either as my primary source of income or for side-income for about twelve (12) years. I am fully supportive of eliminating these exemptions in that they come from a period of time that we are no longer in and they are inappropriate in how you are structuring real property tax. This ultimately affects property taxes. The County Council in the United States of America, you are one (1) of one thousand two hundred (1,200) local government entities, and the power that you have is the power of the purse strings. If the Administration does things that you do not approve of, you either pay to do what you do not want, or you take the money away from them. This sets up the dynamic that is necessary for our government to function properly, which is that you are not supposed to be hand-in-hand with each other and the Administration. You are supposed to be having a robust conversation which demands disagreement over both the detail and perhaps the big picture of what we are trying to accomplish. I want to accomplish more housing and I want to accomplish the growth of agriculture. My view in all of this is utterly different than all of yours, because I have a background in it and most of you do not. The cost of living, which this is trying to address, is how to afford to be a farmer on Kaua'i. The cost of living is so high because for every one thousand (1,000) containers that come to Kaua'i, nine hundred ninety-five (995) go out empty. The cost of everything on Kaua'i includes shipping an empty container back. If you want to develop agriculture and you want people to make money on their farms, you have to fill containers and ship it out of here. This actually helps to do that. My time is up, thank you very much.

Council Chair Kaneshiro: Thank you. We have a clarifying question from Councilmember DeCosta. You have a clarifying question?

Councilmember DeCosta: I do. For the length of time in politics, fruitful discussion and disagreement has been the norm of politics. Why is that so bad when your Council and your Administration agrees on the same thing for the betterment of our community? Why is that bad?

Mr. Sykos: That is good...

Councilmember DeCosta: Thank you.

Mr. Sykos: ...in the perspective of efficiency and if in fact the entire community agrees on something. The reality is, very seldom does the entire community agree on anything. It is constant weighing and balancing which is your predicament which is what you find yourselves in as a politician, that the different factions want different outcomes. Oftentimes, the preferred outcome for one is the non-preferred outcome for the other. The Council, the Mayor, the courts, all have to basically balance these things out. That is why that...I am trying to think of the terminology that I learned in Political Science, between the different branches of government is supposed to be tension, and not a war that is self-destructive, but tension that continually forces the examination of the issues. The problem with everybody being in lockstep is that you quit examining the issues. Now you are into the world of hubris in which you think you are correct because you were correct in the past, but you quit examining what is going on and thus nothing changes. My question is how would you...

Council Chair Kaneshiro: Okay, I think you answered his question. Is there anyone else in the audience wishing to testify? Bruce.

Mr. Hart: Since I first began attending this Council now eight (8) years ago, I have encouraged unity amongst Councilmembers and amongst the other branches of government. That is where the focus is. Let us love each other and try to work together. If there is a disagreement between the different administrations and the Council, and the Judiciary, then that is a disagreement that can be discussed in the open so that the public can know what is going on and everybody on the Council, Office of the Mayor, et cetera can know what is going on. The idea that we cannot be friends, not only Councilmembers, the Office of the Mayor, and everyone else, is just...I am friends with all of you. I want to be a citizen who participates in a manner that bears good fruit, as Councilmember DeCosta stated. We want to work together to be able to come to a fruitful conclusion to the problem. Housing has been a problem for the eight (8) years that I have been here. Let us work together to solve it and come up with some kind of solution that works. If we cannot come up with a solution that works, let us admit it. We should not keep rolling it around. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Seeing none, I know we have someone signed up to testify virtually. Mauna Kea Trask.

MAUNA KEA TRASK (*via remote technology*): Did you call my name?

Council Chair Kaneshiro: Yes, Mauna Kea, you are up. This is on the valuation of wasteland item for second reading.

Mr. Trask: Thank you, Council Chair Kaneshiro. In the interest of time, can I testify as to both items and then I will be gone.

Council Chair Kaneshiro: Sure. Bill No. 2846 and Bill No. 2847.

Mr. Trask: Correct. If it pleases you, I would like to speak about both and then I will cut out. Honorable Chair and Members of the Council, please do not take offense to my testimony today. I mean you no ill will. You are all good people regardless of your vote today. In my opinion, approving these bills today is wrong for two (2) reasons. One, there is no evidence to support the basis for them, and two it is against the General Plan. I think these bills are underutilized because people did not know about them, not because they are not necessary. To say that tax exemptions should be scrapped because they do not get granted sets a dangerous precedent. What is next? For example, eleven (11) Kuleana Tax Exemptions are granted under the Kuleana Tax Exemption Ordinance. I took it upon myself to review and recommend approval while I was a Deputy County Attorney. The Department of Finance simply did not have the capacity to process them at that time. I bet that none of them have been granted since I left. Does that mean you will get rid of that program too? I desperately hope not. Per County Code Section 7-1.4(a), "All actions and decisions undertaken by the County Council and the County Administration, including all departments," et cetera, "shall be guided by the vision statement, policies, and the implementing actions of the General Plan." It is indeed arguable that voting against tax incentives that support agriculture is against the General Plan. It is also true that you can vote today in violation of the General Plan and you will not be fined or imprisoned, but I think it could result in the unfortunate messaging that you are above the law. See, anyone who wants a Class IV Zoning Permit, Use Permit, Special Management Area (SMA) Permit or Subdivision Permit, amongst others, and anyone who wants to redistrict their property must show consistency with the General Plan, but an affirmative vote today sends the message that the County does not have to. That is a double-standard. The last General Plan was in 2000. The current Managing Director, as the Planning Director, facilitated and guided the creation of the General Plan, which won an award for the best General Plan in the country in 2018. Councilmembers Chock, Kaneshiro, and Kawakami voted for the Plan, and then Mayor Carvalho signed it into law and although they did not take official action, Councilmember Kualii'i is seen attentively participating in its creation on page 49, as is Councilmember Evslin on page 31, with his infant child in a BabyBjörn carrier. General Plans are supposed be reviewed every ten (10) years. It took eighteen (18) years for the County to get the people's *mana'o* and update the old one. Why violate it in four (4) years? This is not a scolding. This is a warning. I want to see you all again next year. I sincerely appreciate Councilmember DeCosta's effort here even if I disagree with him. You are our elected officials and I appreciate and respect your public service. I know more than most how hard your jobs are. I just ask today that you do what is right from a policy perspective. Either vote against these bills or simply table them until you have the new Agricultural Dedication Bill



in-hand. There is no rush. Take your time so that you can ensure that critical agricultural incentives are not only present in the new Agricultural Dedication Bill, but that they are improved. *Mahalo nui loa* and have a great day.

Council Chair Kaneshiro: Okay, thank you. We have a clarifying question from Councilmember DeCosta.

Councilmember DeCosta: Yes, Council Chair Kaneshiro, it is a clarifying question. Hello, Mauna Kea. For the record, I am your personal friend and I highly respect you and I thank you for acknowledging that. Thank you for showing up. Mauna Kea, I need to ask you, please give me your definition of our General Plan. Is it a law? You used the word "violation" and I told you this in person that that word makes a lot of our constituents out there, who do not know about the logistics of your attorney jargon, they get nervous. Please clarify what is your definition of the General Plan, is it a law?

Mr. Trask: Yes, definitely.

Councilmember DeCosta: Or is it a guidance?

Mr. Trask: I believe the General Plan is a law. It is Chapter 7 of the Kaua'i County Code 1987, as amended, entitled the General Plan for the County of Kaua'i. It is provided for in State law...it is a plan. Like I said, clearly in my testimony today, there is no fine or imprisonment or anything. It is not a misdemeanor or any kind of lawful violation. It is a policy document that is set by this Council, the Administration, and the people of Kaua'i. When I say "violate" to be clear, and thank you for asking, I mean as defined in the dictionary, not legally, just colloquially, which means to break or fail to comply with a rule or formal agreement. I think voting for this is against the clear policy in the General Plan, which will thus violate it. It is not a legal violation. You are not going to get arrested or ticketed.

Councilmember DeCosta: Thank you for that clarification, Mauna Kea. I am not the smartest Portuguese, but I think I would never introduce this Bill if I knew that I would break a law. I just wanted to let you know that. Mauna Kea, I have one more question that I want to ask you. The Orchard Bill and the Wasteland Bill, do you know what landowners have used that in the past?

Mr. Trask: Let me say that I do not think you are unintelligent. I think that is very humble of you, but I do not agree. My understanding is that per the draft ordinance, no one uses the Orchard Development Exemption.

Councilmember DeCosta: On the Wasteland item, do you know any owner that used the Wasteland Ordinance since it was introduced?

Mr. Trask: I do not. Again, as I said previously, I do not think that is my *kuleana*. I think that is the responsibility per Council rule of either the Committee Chair or the introducer of the Bill. At the same time, it can go both ways. If no one is using it, then why get rid of it. It will raise taxes. With inflation right now being crazy, if you can put land to good use, what is the justification to tax it? That is the whole theory behind land taxes...to be industrious. This goes back to the Hawaiian Kingdom. It is industrious use of land. If you cannot use the land, why take money from people? I am generally against raising taxes.

Councilmember DeCosta: Okay. I have another clarifying question if I may? I am trying to follow along with you right now, Mauna Kea. To me, my constituents told me that your testimony was the most viable. You are a smart man and they are nervous when you testify. When you talk about a wasteland and someone buys the land and cannot use it, then why should they pay taxes on it. May I ask you, what about a landowner who buys a chunk of land like one hundred (100) acres or five hundred (500) acres on the North Shore and says that the land is too wet to plant or grow anything and they want to leave it there for five (5), ten (10), or fifteen (15) years, which is in the Wasteland Ordinance, and then they will resume paying property taxes? Do you think that is fair? Do you think that we should let a large landowner on either side of the island sit on five (5) years of paying no property taxes? I have to pay property taxes on my residential properties. I know you in Kai Ikena pays property taxes on your residential property. They do not give us a break because we have bills. Tell me, what do you think?

Mr. Trask: Two (2) points—under Chapter 5A-10.1(a), wasteland means “land which is classified as such by the Director.” The Director of Finance has the ability to define that in any way possible. It can be whatever the Director wants. If there is a concern of what it is, then the Director should define it as such. Secondly, I do not think it is relevant who the taxpayer is. What I mean by that is that the law should be applied equally to everybody. Male or female, whatever gender, race, ethnicity, age, and wealth. If you do not do it that way, it becomes arbitrary. You have a lot of leeway with taxes. It is on a rational basis. I am not saying this is illegal in that regard. It should be fair, should it not? It should be applied equally, irrespective of anything. The Department of Finance has the ability to further scope this in rules. That is where I think that should be done. That is just my opinion.

Councilmember DeCosta: I want to ask one more clarifying question...

Council Chair Kaneshiro: Let us make it a clarifying question to his testimony. I think it is extending his testimony a lot.

Councilmember Cowden: Yes.

Councilmember DeCosta: Hang on. The Council Chair is telling me or are you telling me? Which one? The Council Chair is talking to me or are you? This guy provided the most influential testimony that got this Bill deferred twice and he is up here again. I just want to clarify things by asking him who is he representing, why does he want these bills not to be abolished, and does he know who used the Orchard Exemption since it was introduced back in 1996? Do you know who used the Orchard Exemption?

Mr. Trask: No.

Councilmember DeCosta: For the record, you are testifying against us doing away with these Wasteland and Orchard Bills, yet you do not even know who used it, correct?

Mr. Trask: Yes.

Councilmember DeCosta: I am done. Thank you, Council Chair.

Council Chair Kaneshiro: Is there anyone else wanting to testify virtually? If not, thank you. Are there any other questions while the rules are still suspended? I have a question for Mike or Ka'aina regarding the General Plan. Lonnie, did you want another three (3) minutes? Lonnie, you can testify for the second time and then we can get to my question.

*(Councilmember Carvalho is noted as not present.)*

Mr. Sykos: Our former County Attorney is another person who I only know because I met him here. Having people come here versus on the screen is enormous to help the little democracy on Kaua'i. Very interesting listening to Mauna Kea. Even though I would be supportive of eliminating these from my personal views of agriculture, I do have a question of why would this be occurring now when in the relatively near future I believe we have some agricultural bills coming. What is the necessity of doing this now, instead of doing it all at the same time? Whether or not there is some ulterior motive somewhere in all of this, I have no idea. It certainly could look that way to the public as to the hurry to do this now versus in the near future when it might be more appropriate. Thank you very much.

Council Chair Kaneshiro: Anyone else wishing to testify? Mike, rather than asking Mauna Kea the question, I think I would rather ask the County a question regarding the General Plan, agriculture, and this Bill. Are we violating the General Plan by passing a Bill that is getting rid of an exemption? We still have the Agricultural Dedication process for all of these types of farming activities. Can you reiterate a little bit about the General Plan and this Bill?

*(Councilmember Carvalho is noted as present.)*

MICHAEL A. DAHILIG, Managing Director *(via remote technology)*: Sure, Council Chair Kaneshiro. It is funny because Mauna Kea was also the County Attorney at the time that the General Plan was going through adoption. It is kind of a reshuffling of chairs and everyone is one big, happy family. I did want to make one comment regarding the actual adoption process during the General Plan. I know there was a number of questions from Councilmembers around the table at the time as to whether the Plan was considered regulatory upon adoption or would there ultimately need to be ordinances to implement what was proposed as ideas in the Plan. The General Plan is meant to be an aspirational document. It is not regulatory. It is meant as a guide. The Council as a lawmaking body is still empowered to interpret what different statements within the Plan actually translate to as black and white bills for adoption. As Ka'aina mentioned earlier in the meeting, that is why you saw a flurry of bills over the past three and a half (3.5) years come through as policy debate vessels to get into the granular of implementing these things. When you look at Policy #11, which is related to having agricultural lands being productive, that is up to interpretation as to how the Council wishes to see that. If there is a view that all agricultural land is valued to be for agriculture and not classified by taxation as having no utility whatsoever, I could see that as a debate. The Plan is not meant to be black and white as a regulatory vessel, but to guide and direct along with the four (4) goals and nineteen (19) policies, a general "North Star." It is not specifically the North Star. I would suggest that if the Council is looking for some consistency with the legislation, that it would like at Policy #11 about helping agricultural lands be productive and whether or not the mechanisms or bills that are there either support the economic diversification or allow for all lands to be considered that are in agriculture, for agricultural use. That is something that you can look at. Right now, it is an exemption for developers that wish to not do agriculture on their land and get a tax incentive for it and I think that is why the proposal incrementally has come up. There is an idea that we would love to have everything in an omnibus manner where we can look at all the different parts and we want one thing to come before the other, but it has been our attempt at modernizing our codes to look at things on a detailed basis and that is why you see the items proposed by Councilmember DeCosta with cooperation with our Director of Finance to look at these things individually as to not leave anybody behind. We think that this proposal still has merit to be consistent with the General Plan, and I am available for any questions, Council Chair.

Council Chair Kaneshiro: We are coming up on a caption break. Are there any direct follow-up questions to that regarding the General Plan, if not, I will take our ten-minute caption break and we will come back and continue to ask more questions.

There being no objections, the meeting recessed at 10:35 a.m.

The meeting reconvened at 10:46 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. While the rules are still suspended, are there any further questions? I wanted to ask another clarifying question to Reiko. I am going to keep it specific to this Bill regarding valuation of wasteland. Can you describe what types of lands we are talking about? From my understanding, it is land that eventually needs to be developed or something done to it. On the front end, I was thinking that it involved resort area, anyone that has land to build on, and they have an area that they cannot do something with, and they are asking for a tax break on it. What is the swath of entities or type of land that can take advantage of this valuation of wasteland? Of course, I will predicate it on this...no one has taken advantage of it, ever. Can you explain what type of venture or activities would be trying to use this wasteland exemption?

Ms. Matsuyama: The wasteland is really for developers. A portion of their property could have a bunch of boulders on it or something that they need to clear in order for them to develop. There is a timeline to it and maybe that is why we do not have any applications. It has to be developed within five (5) years. The wasteland development exemption is really outside of the scope of agriculture.

Council Chair Kaneshiro: Okay. Councilmember Kualii.

Councilmember Kualii: As a follow-up, that is what I was thinking then. If we completely delete this or repeal it, it is not going to come up as a part of the Agricultural Dedication rewrites that you are working on now and will come before us in a month or two (2). It will just cease to exist?

Ms. Matsuyama: Yes, that is correct.

Councilmember Kualii: Okay.

Council Chair Kaneshiro: Are there any further questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any discussion from the Members?  
Councilmember Cowden.

Councilmember Cowden: I am going to support this Bill in removing this exemption. I think something very important, and one of the testifiers, Mauna Kea Trask, he used the word "arbitrary." I think this is an incredibly arbitrary ordinance when we have wasteland meaning land which is classified as such by the

Director. That is about as arbitrary as one can get. There is not even any parameters. I am especially glad to know that this has not been utilized before. I consider this a very poorly crafted ordinance from whenever it did happen. It is too broad, too loose, and too open for any kind of arbitrary use. I am very supportive of removing this. I do not see in any way where it is a violation of the General Plan. Having been a part of the General Plan in the '90s, it took a very long time for it to be adapted. It finally got adapted and unless you build the County's zoning ordinances on top of that General Plan, the General Plan is toothless. It influences the General Plan, but we do not violate the General Plan when we take out a bad or poorly crafted, unused, earlier ordinance that in fact is very arbitrary. I am strongly in support of removing this exemption.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I support removing this exemption as well. I have expressed my hesitation with the other bills, which we will get to. For this one, it seems like a no-brainer. We should not be incentivizing someone to land bank or to take their time. If you have land that could be developed for housing, then get going and get it developed for housing. If you are getting taxed something on that land, that is going to hurry your process up, instead of paying little to nothing to sit on it in some capacity. I agree with the introducer's intent here, Councilmember DeCosta. I agree with the Department of Finance. I agree with Councilmember Cowden in saying that this is probably a badly worded exemption. It is not used. It could incentivize behavior that we do not want to do. I will be voting in support.

Councilmember Kualii: Can I ask another question?

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I just wanted clarity on the five (5) years. If someone was trying to take advantage of this, they would have to give you a specific plan...you used the example of boulders. They would have to tell you how many boulders they had, how many acres it covered, and what period of time they would need to remove them, correct? They have up to five (5) years, but it could be shorter than five (5) years?

Ms. Matsuyama: Yes, that is correct. We have Administrative Rules that are promulgated for this. We have a basis of criteria for approving it. Yes, to answer your question Councilmember Kualii, they have to submit the intent, the manner of which it will be developed, and all that stuff for basically providing us evidence that they are going to commit to developing within the five-year period.

Councilmember Kualii: My last question for clarity. When you hear the statement about landowners taking advantage and trying to avoid taxes, you

would not allow that to happen because there are procedures in place. You would only grant this to a legitimate application, correct? You would hold them to the plan and if they did not follow the plan, you would revoke their exemption, right?

Ms. Matsuyama: That is the intent.

Councilmember Kuali'i: When you say, "That is the intent," are you alluding that it is difficult to do?

Ms. Matsuyama: For this one, I cannot really speak to it, because we have not had one for so long. For the others, there is continuous monitoring that has to happen.

Councilmember Kuali'i: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members before I call the meeting back to order?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Council Vice Chair Chock.

Councilmember Chock: Thank you. I will be supporting this Bill as well. I think inherently, as it is currently written, it goes against our philosophy on valuing land in Hawai'i. Whether it be the need for cleanup, regeneration, or identifying what is unfarmable, there is obscurity in the way it was formed. It allows for the land to actually not get the attention it needs to be productive and healthy. For those reasons, I am in full support.

Council Chair Kaneshiro: Does anyone else have any discussion? For me, I am in full support of eliminating this exemption. If you look at it, this is a five-year tax exemption for a property owner that has twenty-five (25) acres or more and they are saying they have a wasteland. I am just not in favor of that type of tax exemption. I am fine eliminating it. I do not think it will make a big difference in the grand scheme of things. It is definitely not a violation of the General Plan if we get rid of this exemption. I think it is the right thing to do. That is the way that I am voting. Councilmember Carvalho.

Councilmember Carvalho: I, too, support this item. I heard everything and I understand the whole process. Based upon the information that has been discussed, I think we should move forward, and I support it.

Council Chair Kaneshiro: Does anyone else have anything to add?  
Councilmember Kualii.

Councilmember Kualii: I just wanted to say that I agree with the testifier's point about eliminating something just because nobody used it. I think there could be a legitimate use for it. I get that it is potentially an administrative thing and we are cleaning up our real property tax system. It is very clear that it will pass. I will be supporting it with reservations.

Council Chair Kaneshiro: Does anyone else have final discussion? If not, could I get a roll call vote?

The motion to approve Bill No. 2846 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: Next item.

Bill No. 2847 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING SECTION 5A-11.25, RELATING TO ORCHARD DEVELOPMENT EXEMPTION

Councilmember Kualii moved to approve Bill No. 2847 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions on this item before we take public testimony? Council Vice Chair Chock.

Councilmember Chock: Reiko, I think you mentioned this the last time in terms of the reasoning we would like to address this prior to the Agricultural Dedication amendments coming forward. Can you reiterate the reason?

There being no objections, the rules were suspended.



Ms. Matsuyama: Sure. For both the Tree Farm Development Exemption and this one, we have been talking about this with Councilmember DeCosta, basically since he was elected. It has been a discussion item on the table for a long time. More recently, we had traction with Agricultural Dedication. This is kind of coming in advance of it, and I think the intent is still good to push these through without Agricultural Dedication on the floor. We are really trying to focus all agricultural tax relief through the Agricultural Dedication program. That is the primary vehicle. On top of that, the Agricultural Dedication Bill is going to be very complicated. The Tree Farm Development Exemption and Orchard Development Exemption, I do not want to say they are relatively simple, but compared to the Agricultural Dedication program, these are going to be pretty easy. You are talking about sunseting these two (2) programs, as opposed to Agricultural Dedication, where we are creating a whole new program. I said it to a few of you...these exemptions, Tree Farm we have sixteen (16), and this one we have zero (0) that are currently in it. They are all going to be affected the same way or they are not going to be affected at all. For the Agricultural Dedication program, we have hundreds of properties in Agricultural Dedication and all of them are going to be affected differently. It is really going to be a convoluted ask. I think separating these out and getting rid of them so that we can focus our attention, and again, make sure they are included in the Agricultural Dedication Bill will come to a head. I think that is the best route. I think it will be the most effective for everybody, including the agriculture industry.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I appreciate the time that you have taken with me individually, as well as answering my other questions. Just clarifying publicly, my understanding is, right now, if we pass this today, it will not impact any properties out there. The only one that it has been applicable to before is the coffee farm. They have moved beyond this original dedication. My clear understanding from you is that as we go through our Agricultural Dedication Bill, as we develop it, we absolutely can put all of this in there in this other form. We are not eliminating the opportunity to incentivize orchards. We are just going to roll it into the other piece. Right? It is not going to impact anybody.

Ms. Matsuyama: That is correct.

Councilmember Cowden: What is very important to me is when businesses have invested and created a whole long-term plan, that we do not shift their direction that is going to have a negative impact. As we have discussed, there is no farm or orchard out there that is going to be negatively impacted with this change.

Ms. Matsuyama: Yes, that is correct. Remember that this Orchard Exemption is for fifty (50) acres or more. In the Agricultural Dedication Program you could do an orchard on smaller pieces of land. I definitely think the Agricultural Dedication Program will capture more people that can do orchards with smaller chunks of land. Obviously, they will pay a little bit of taxes, but they will benefit from the Agricultural Dedication Program.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members? Councilmember Kualii.

Councilmember Kualii: Reiko, I know that when I asked about the numbers for tree farms, you gave me the example of what the tax would be with the Tree Farm Exemption, what the tax would be in the Agricultural Dedication Program, and then what the tax would be without. Clearly, the without scenario tax was super high. The difference between the Tree Farm Exemption and Agricultural Dedication was pretty small. It was not that big of a difference. Would you say that would be the same situation if you were to create an example for the Orchard Development Exemption as well?

Ms. Matsuyama: Yes, it would be exactly the same if you are talking about the same amount of acreage. The orchard and tree farm would both have this diversified agriculture rate attached to it and that is how we would determine the Agricultural Dedication value.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Are there any further questions for Reiko? If not, while the rules are still suspended I will take public testimony. Is there anyone in the public wishing to testify on this item? Bruce?

There being no objection, the rules were suspended to take public testimony.

Mr. Hart: I have taken every opportunity and I will take this one before the Council for as long as I have been here in order to encourage the Council to offer incentives for the planting of orchards. It is a big project to plant an orchard. The farmer is not going to derive income from the orchard until the trees mature. It could take anyone from four (4) to five (5) to even ten (10) years for those trees to become productive enough for them to actually provide a significant income for the farmer. He has to tend to those trees and the orchard during all of that time. For me personally, and the farmers that I have talked to, they are not going to plant trees and have to pay full taxes on that orchard while they are waiting for some kind of income. Please, most of you here know me and I have spoken on this before. I

know that there will be details that you have to work out: How small can it be? How large can it be? What kind of exemption? How much are you going to incentivize? I am aware of that. Please, do what you can. We could use more orchards. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Lonnie?

Mr. Sykos: This is actually a somewhat complicated issue in that this generic orchard could be anything from large bushes that would produce fruit within a year like *Noni*, or it could be something like the mahogany forest that I visited on the island of Pohnpei when I was a teenager that was planted by the Japanese in the 1920s and '30s with a three hundred-year wait for the beginning of hardwood. The trees would not actually be ready for commercial harvest for five hundred (500) years. The mahogany tree can be harvested early and turned into veneer, but if you want dense hardwood, it is a very long-term project. Encouraging people to go into any type of tree production...coconut trees takes roughly eight (8) years before you begin to get nuts. *Ulu* trees take five (5), six (6), or maybe even eight (8) years. *Ulu* trees, thirty (30) years later, you can harvest the trunks for a canoe hull like they did on the islands that I grew up in. Milo trees take thirty (30) years from the time you take the seedling until the Milo becomes hardwood, it takes roughly thirty (30) years. Even a five-year dedication for trees is like, "What are you thinking?" Why five (5) years? Why that set period? I really think this is all better getting rolled into the Agricultural Dedication Bill that is coming up rather than trying to take each variety of farming and create a little deal for each thing that is simply too complicated and everyone lacks the expertise in. I thank you though for trying to reduce the amount of paperwork that the County has to deal with along with everything else. For me, I would be in favor of eliminating this, because it can be dealt with when you do the Agricultural Dedication Bill. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? Seeing none, Bruce, did you want another opportunity to speak? You have a second three (3) minutes.

Mr. Hart: Just to clarify, I think this should be rolled over into the Agricultural Dedication Bill as well. I am saying that this removal is not a problem. The other thing is, you were discussing wastelands...for orchards, a lot of what is considered wasteland for agriculture, in other words, you could not plant ground crops like lettuce and those types of things, you could plant an orchard. It might utilize some of that wasteland. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I appreciate the testimonies wanting to support our orcharding. We have had rather robust conversations on the floor on this. A big piece of this is the size of the land. Because there are no orchard properties right now that will be impacted or that will have to shift their direction, what I have gained confidence in in talking with Real Property Assessment, where we have seen increase in smaller properties, especially if somebody lives on the land...I am very much in support of diversified farming. In the region of the island where I live, there are a lot of small, diversified farms, which not only does Agricultural Dedication address, but more importantly, if they live on the land, they can have the Homestead tax rate. That is where we get the diversified subsistence farming, which is what I feel the most compulsion to protect. They would end up with the best real property tax rate anyway. I appreciate what we have talked about needing to export crops, fill up the containers leaving, et cetera. If we have homesteads with things that are smaller, it also works well for building resilience on the island. These are little pieces that are out there. Again, on this particular Ordinance, when we remove it, it is with full intention to be replacing that opportunity in ways that can function for smaller properties. That is my perspective on why I am willing to support it now.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I have struggled with this, along with the Tree Farm Development Exemption, as I had expressed at Committee. I am at a 51%-49% place now. I think that we should be pointing to the success of Kaua'i Coffee as the success of the Orchard Exemption. We have not heard from them. We do not know how much the Orchard Exemption played into whether they were able to build that out or get investments, et cetera. If it did have some factor in the two (2) years of no taxes for the largest plantation in the country and a major exporter of coffee is a success. If removal prevents future "Kaua'i Coffees" from that success, that is my major holdup. I agree with Mauna Kea's testimony that repeal could go against the spirit of the General Plan at least. The General Plan clearly says to support big and small farms and do that through tax incentives. With all of that said, that is my forty-nine percent (49%). My fifty-one percent (51%), I will be voting in support of it. I think that both of those concerns can be ameliorated through the Agricultural Dedication Program. I think it puts more onus on us to ensure that we are passing an Agricultural Dedication Bill this term which ensures that we are filling that gap in providing that incentive for farmers. I have been working on the Agricultural Dedication Bill, so I have seen it. I am confident that it is a significant improvement over our current system. Even for people wanting to do an orchard, that Agricultural Dedication proposal provides a better route than the current Orchard Exemption does...or that future hypothetical Agricultural Dedication proposal that we are going to be talking about at some point. My fifty-one percent (51%) is to say...and the

reason that I am going to vote yes today with reservations is to say let us ensure that we pass the Agricultural Dedication proposal this year to ensure that we are incentivizing farming and orchards both big and small.

Council Chair Kaneshiro: Does anyone else have anything?  
Councilmember DeCosta.

Councilmember DeCosta: I introduced this Bill, so it is obvious that I am going to be supporting it. I just wanted to give a final discussion on why it was introduced. I have not heard the term before, "Yes with reservation." I never was instructed that we could use that. I do not know what that means.

Council Chair Kaneshiro: It is a yes.

Councilmember DeCosta: Council Chair, could you clarify that, please?

Council Chair Kaneshiro: There is no reservation. A yes is a yes.

Councilmember DeCosta: You either pick yes or no, right? Okay, that is fine. I think throughout the world, equity and fairness is by far the point that we want to go with. In any issue and dynamic, fairness. What I viewed as unfair are landowners who own fifty (50) acres or more, and again, I beg you to look at those landowners on Kaua'i, come up with names, and see who owns fifty plus (50+) acres on Kaua'i. I look in this room and I do not see not one of us here. They are corporations. A corporation can afford to pay the same taxes that we pay. I introduced this not to hurt anybody, not to stop a future Kaua'i Coffee or a future macadamia nut orchard, but to hold them accountable like how they hold us accountable to pay for our real property tax or our commercial taxes like when you lease a building space at the Kukui Grove Mall. Let us start holding our large corporations accountable for taxes that they should pay. Whether the revenue comes in within one (1) year or comes in in ten (10) years, I made that example about the wine that you drink. When that wine is put in a bottle and sold on a shelf within the first year of the harvest of the grapes or the wine that is put in barrel to sit on a shelf for maybe fifty (50) years and it comes out in a bottle of that Chardonnay. That bottle might cost one thousand dollars (\$1,000). It is the same process. I rest. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Councilmember DeCosta. Just to clarify two (2) things. To say yes with reservations...of course we have a yes or no option ahead of us, but to express my reasons for being hesitant. I do not want to get into an argument. I am voting in support of your Bill here. I think that what you are saying would be more valid if we had tons of agricultural operations all competing for land in a thriving agricultural industry, which we do not have. Agriculture is not profitable or barely marginally profitable. There is United States Department of

Agriculture (USDA) data showing that farmers are making less and that we are losing more and more land is going fallow. I think it is on us to ensure that we are providing whatever benefits we can or making it as easy as possible for farmers to be successful. I think that we are hopefully going to succeed in making it easier to farm through the Agricultural Dedication Program. I am just expressing the reasons I am hesitant about this though I will be voting in support.

Councilmember DeCosta: May I?

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am working with you on the Agricultural Dedication proposal, so by all means you know we are going to address the smaller orchard farmers in the proposal. The point that I was making is that this was only for those with fifty (50) acres or more. Thank you, Councilmember Evslin.

Council Chair Kaneshiro: Councilmember Carvalho, then Council Vice Chair Chock.

Councilmember Carvalho: I just wanted to say that I think overall and in agriculture in general, we need to balance everything out so that everyone has the same opportunity. I keep saying that. It is not getting rid of Kaua'i Coffee, but it is providing opportunities for small, medium, and large farmers. I think that is a big thing. We have to be careful moving forward that we as a Council continue to ask the right questions to keep everyone accountable. Even in the agriculture community and the leadership, they are supportive from what I understand. I just want to make it clear that I am going to support this, but there is follow-up and information that we have to stand firm on to keep everyone accountable and at the table. We are not eliminating anyone. We are trying to be inclusive. The Department of Finance has done a good job in trying to figure out and balance things out so that we can meet the requirements that are on the table. That is from me. I will be supporting the Bill.

Council Chair Kaneshiro: For me, I will be voting in support of getting rid of this exemption. Again, this is for fifty (50) acres or more and the exemption is for up to two (2) years after their first harvest. If you are harvesting within three (3) years, it is a five-year exemption to real property taxes and that is for any property over fifty (50) acres that is growing these types of orchard crops. Again, to bring it back, we get so stuck in the details. Are we hurting agriculture by getting rid of this exemption? I do not think so. I think real property taxes from the County is not going to be the weight that breaks agriculture on Kaua'i. There are so many other factors that are way greater than our real property taxes. We are fighting over a five-year exemption or a two-year exemption. Are these taxes going to make or break these businesses? That business should be incorporating the taxes into their business plan. They should be incorporating all of the risks into the business and trying to

figure out what their costs are going to be if they are selling product in ten (10) years, four (4) years, five (5) years, et cetera. What are their costs? Labor costs are huge. Weather. All of these factors that we cannot control. For us to say that if we do this we are not encouraging agriculture and killing agriculture, we are the smallest part of their bill in terms of agriculture. Labor costs, fertilizer costs, and all of those other things, we have no control over is what is going to hurt agriculture. Public sentiment, maybe they do not want agriculture next to them...those are things that are going to hurt agriculture. We are looking at such a small thing. When people are saying that we do not care about agriculture, that is not true. We are putting agriculture one step ahead. We have the Agricultural Dedication process that any type of agriculture can apply for. It gives them a tax break. Any agriculture, trees, farming, ranching, et cetera. Anyone can apply for it. Can a rancher apply for a tax exemption and not pay taxes? No. Can a farmer that is farming twenty (20) acres of lettuce apply for a tax exemption and pay no taxes? No. Again, we are talking about fairness and equity here. We are trying to make it fair and equitable. We are not violating the General Plan and we are not going against the General Plan. We already put agriculture one step ahead and we provide the Agricultural Dedication process. We do not provide tax relief to any new company that is going into a commercial building. We do not provide tax relief or exemptions to a new family-owned business going into an industrial or commercial building starting a new business. We do for agriculture, and we put it one step ahead. All of this talk about us going against the General Plan and hurting agriculture...we really have to take a step back and ask ourselves what are we doing. If we are solely here to make every single agricultural operation on Kaua'i succeed, then I do not know. We better raise taxes and start dumping millions of dollars to subsidize agricultural operations. At the end of the day, we are trying to...taxes are the only tool we have and we are providing a tax relief. We provide an Agricultural Dedication Program that we are trying to make fair across all agriculture. We are not going to be the sole purpose on whether a business is going to succeed or not. There are so many other factors to it. I am in support of this. We are providing an Agricultural Dedication process which is fair and equitable to every agricultural producer here. Again, if we are going to start looking at whether businesses are failing because of the loss of this, then why do we not look at family-owned businesses? We are not. Why, because we are going to end up giving away more money than the County has. We are just a limited factor. I am in favor of getting rid of this exemption and having all agricultural producers go through the Agricultural Dedication process. Councilmember Kuali'i.

Councilmember Kuali'i: I am sorry that I missed my turn. You should always speak last. I just wanted to make a few comments that I am in complete agreement with Councilmember Evslin. I too will be voting with reservations. I appreciate the comments made by our testifier Bruce Hart about the orchards and how the trees take time to grow. There has been all of this talk about being fair and equitable. I just need to make it really clear that there is a difference between equality and equity. If you are talking about equity and what is equitable, then you have take into account that there is a difference between someone who is growing

vegetables and someone who is growing fruit trees. Just the fact that they would not be able to earn any kind of income until the trees mature means that if you are going to treat them equitably, you have to treat them differently than you treat the vegetable grower. In the end, you want them all paying the same, yes. But, the orchard grower is not making anything, it is all expenses and no income until those trees are grown. What is fair and equitable is not what people are saying. They are talking about equality and treating everyone exactly the same. Equity means that we do not treat everyone the same. I am assuming that when we look at this Agricultural Dedication proposal, there will be some differences between...and that is why it is probably so difficult too...there are so many different types of agriculture, but that we would have to account for the fact that different things grow at different rates and the ability to make any kind of income and pay taxes on that income or on the land deriving that income has to be considered. That is all I will say. I will be supporting this with reservations.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I wanted to personally thank you, Council Chair. I think you always put things in perspective and you are very intellectual in your delivery of the content information that we and our constituents need to hear. I wanted to say thank you for today's delivery of your information.

Council Chair Kaneshiro: Is there any further discussion? If not, we will take a roll call vote.

The motion to approve Bill No. 2847 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: Next item.

Bill No. 2850 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1 BETWEEN JULY 1, 2021 AND JUNE 30, 2025

Councilmember Kualii moved to approve Bill No. 2850 on second and final reading, and that it be transferred to the Mayor for his approval, seconded by Councilmember Cowden.



Council Chair Kaneshiro: We received written testimony on this item. Do we have any questions from the Members on this item? If not, I will suspend the rules. Is there anyone wishing to testify?

There being no objections, the rules were suspended.

Mr. Sykos: Can you repeat the item?

Council Chair Kaneshiro: This is the collective bargaining item for Bargaining Unit 1. Lonnie?

Mr. Sykos: Given the way it works in the state, you do not really have much choice here. However, in clarity for the public, it would be good if you could review which portion of our labor force this governs. We are fully aware of the three percent (3%) and five percent (5%) pay raises and the one-thousand-dollar payment—whatever the actual figures are, that is close. Without doing a bunch of research, we do not know which employees this governs. If you could just let us know that, please? Thank you.

Council Chair Kaneshiro: Is there any further testimony? Is there anyone else wishing to testify on Zoom? If not, questions from the Members? Councilmember Cowden.

Councilmember Cowden: I was just reacting and going to answer his question. Is it more appropriate to ask?

Council Chair Kaneshiro: We can ask the Department of Human Resources. I know who has testified and I know what they have written, but it might be better just to ask the Department of Human Resources.

Councilmember Cowden: Yes. Can you just for the sake of the public explain which group our United Public Workers (UPW) and the general classification of the type of work that they do?

ANNETTE L. ANDERSON, Director of Human Resources (*via remote technology*): Certainly. Good morning, Council Chair, Council Vice Chair, and Councilmembers. Bargaining Unit 1 is the United Public Workers, otherwise known as UPW. It represents blue-collar workers. It includes a lot of our equipment operators, groundskeepers, and those kinds of positions. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any discussion from the Members?  
Councilmember Cowden.

Councilmember Cowden: I will be supporting this Bill. These are some of the hardest-working people and typically not on the higher end of the pay scale. They are very much needed. When I look at the general economic indicators...we have had inflation...we have not received our April numbers yet, but in March it was eight and one tenths percent (8.1%). When we see our gross domestic product (GDP) has gone down one and four tenths percent (1.4%). Our trends are towards difficulty. We are in a housing crisis. I know we will have the other unions likely to have similar increases. I think there is enough flexibility in our existing budget that we will be able to absorb those increases. If we do not take care of our people who are out there working hard, most likely to have injury, we are not actually addressing the bread and butter of what our County's responsibilities are. These include fixing our roads, making sure the parks are cleaned, taking out the trash, et cetera. I am appreciative of our workers and team members. I will be supporting this.

Council Chair Kaneshiro: Does anyone else have final discussion? If not, we will take a roll call vote.

The motion to approve Bill No. 2850 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: That concludes the business on our Council Meeting agenda. Not seeing or hearing any objections, this Council Meeting is now adjourned and we will head into our Committee Meetings.

#### ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:30 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

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