

COUNCIL MEETING

JUNE 1, 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, June 1, 2022, at 8:35 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 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: None. Are there any questions or discussion on this item from the Members?

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:

May 13, 2022 Special Council Meeting
May 18, 2022 Council Meeting
May 18, 2022 Public Hearings re: Bill No. 2854 and Bill No. 2855
May 25, 2022 Public Hearing re: C 2022-101

Councilmember Kuali'i moved to approve the Minutes, as circulated, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. 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.

INTERVIEWS:

BOARD OF WATER SUPPLY:

- Tom Shigemoto – Term ending 12/31/2024

Council Chair Kaneshiro: Ellen, I will give you the floor.

ELLEN CHING, Boards & Commissions Administrator (*via remote technology*): Good morning. I am pleased to introduce Tom Shigemoto. Born and raised on Kaua'i, Tom attended Elsie H. Wilcox Elementary School and Kaua'i High School before leaving for University of Hawai'i (UH) at Mānoa to earn a Bachelor's of Fine Arts in Urban and Regional Design. After a brief stint working in a private firm on O'ahu, he jumped at the chance to return home for a position in the Planning Department, starting as a Planner and eventually serving as the Planning Director for the last two (2) of his eighteen and a half (18½) years with the County. After a year in Princeville, Tom moved on and accepted a position with Alexander & Baldwin (A&B) as their Vice President of Planning on Kaua'i until his retirement in 2022. Some of you may know Tom in his professional capacity, but many others know him for his volunteer work on the state-level as a past member of the Ni'ihau Burial Council, board member of the Hawai'i Health Systems Corporation, which includes Samuel Mahelona and the Kaua'i Veterans Memorial Hospitals, and on the UH Board of Regents. Locally, he served as the Boy Scouts District Chair, the highest volunteer position in the Boy Scouts for nine (9) years, worked on the American Red Cross Advisory Committee for seven (7) years, the Kaua'i Chamber of Commerce for twenty (20) years, and the Kaua'i United Way for thirty (30) years. In his retirement, he enjoys golfing and eating his wife's barbecue teriyaki chicken. Since the pandemic, Tom and his wife have had limited trips to visit their grandchildren in Las Vegas and they look forward to a return trip to Japan. Tom has lived a life in service to our community. I appreciate his willingness to share his knowledge and expertise and I look forward to his contributions to the Board of Water Supply.

Council Chair Kaneshiro: Thank you for that introduction. Tom, do you have anything else you would like to add?

TOM SHIGEMOTO (*via remote technology*): Thank you, Council Chair, but that was information overload. It is not about me; it is about serving. I am open to any questions that the Councilmembers might have. By the way, good morning. Also, I would like to thank Ellen and the County for affording me the opportunity to continue my public service, like I have been doing my whole professional career. Thank you.

Council Chair Kaneshiro: Thank you. Do we have any questions from the Members? Councilmember Evslin.

Councilmember Evslin: Tom, it is good to see you this morning and thank you for your willingness to serve. In your application, you mentioned offering new perspectives to the Department of Water (DOW) with respect to DOW rates, rules, and regulations. I was wondering if you had any specifics. I think those are really important things to focus on, but if you have specifics along those lines on what you are thinking of regarding rates and rules that you could share today?

Mr. Shigemoto: Sure. My whole professional career, I have been...I am aware, and I have worked with the Department of Water in different capacities. When I was the Planning Director, of course, it was government-to-government. I understand the frustrations that the staff and members at the Department of Water have. I understand the rules and regulations. When I stepped into the private sector, that was a different realm. We were subject to a lot of conditions and doing unnecessary requirements that were very onerous. I have had battles with the Department of Water before, and so I am very familiar with the rules and regulations of the Board of Water Supply. There are some, of course, that you have to comply with, because it involves health and safety. I guess the biggest gripe was or is, that it takes so long to get permits through the Department of Water. Let me share with you that a couple of months ago, I had the opportunity to listen to Joseph Tait, the new Manager & Chief Engineer, and I was very impressed and very happy to see that he has a plan and vision to improve these shortcomings. That spurred me on when I was asked to serve on this Board to really lend a hand if I can. I am certainly not going to overrule what the Department of Water has to do, but to lend a helping hand in that realm. One more thing, I am also a ratepayer. As you know, the Department of Water relies on money that they receive from their customers. From that perspective, serving as a board member, as a sounding board to the Department of Water and to the public, is where I hope I can lend some insight or some help there.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you, Tom, for your willingness to take this position. It is hard to imagine someone having more depth of experience to be able to contribute. You are an excellent candidate. I am also recognizing Joe Tait's skillset and experience. There are a few issues that I just want to bring to your attention. The fire flow capacity, we are seeing that there is an inadequacy on the island relative to the standpipes. Do you have any background or experience of what that is?

Mr. Shigemoto: Are you talking specifically about standpipes?

Councilmember Cowden: The standpipes...we are learning that those are the tall, yellow, sort of like fire hydrants, but they do not have the same kind of capacity. They are not a separate fire flow. We have been having fires and we are conscious of that challenge. That is something that the Department of Water is picking up. I feel confident that you would be able to really take that on well. I just wondered if you were aware of the challenge.

Mr. Shigemoto: Absolutely. Standpipes served their purposes many years ago. Due to the fact that you do not have adequate line sizes and hydrants with adequate pressure, it creates this health and safety concern. I am sure that the Department of Water is very aware of it. It all comes down to budgeting, fiscal, and financial capabilities of upgrading all these systems. A lot of them, I believe, were from the plantation camps or plantation towns. With any function, as you know and as I know, the pressures are just not adequate. In order to provide sufficient fire flows, you have to upgrade these systems. Again, that comes with a cost. I have to be aware, and the Board has to be aware of where these fire prevention devices have to be upgraded and where it can stand not to be for the time being. A lot of the Fire Department's apparatus and trucks now have their own water tanks and can supply the needed fire protection, but it is not enough. There are so many remote areas that are without adequate fire protection.

Councilmember Cowden: Yes, thank you on that. What you might not be aware of is that there are certainly valleys and areas that are remote, but we also have houses now that are worth tens of millions of dollars that are on long, nested driveways. They have these standpipes that are in a lot of places now. They are no longer these very small houses that would be able to be put out with a tank. That is one element. Another one that I wanted to bring forward...I am sure you have a lot of experience with the changing tolerance in the community about cultural issues and lawsuits. There are challenges where people are unhappy about the water usage. Very much when we need an eighteen-inch (18") pipe in town here, as a developer, you must have understandings of those challenges and then how to work constructively with the community that is resisting the water diversions. I know that is upland, but it still ends up in our surface water treatment plant in Lihue. The question is...just to give people the confidence that you will be able to deal with

respectively open awareness to the public who have concerns about our water management.

Mr. Shigemoto: I do know that the Department of Water is very concerned about over usage and irresponsible usage of domestic water. When I was with A&B, and especially with the Kukui'ula Development Company, they requested and required, if possible, to use non-potable water for irrigation and the company had to provide its own domestic water source, supply, and storage, which it did. There is also a water conservation component that the Department of Water is always aware of. I served on the Kaua'i Watershed Alliance for many years as a representative of A&B. If you do not know what the Watershed Alliance was responsible for, was to protect all the natural barriers and watersheds for this particular purpose; to preserve our natural water resources. There is a very keen awareness about over usage or irresponsible uses and how you curtail that, I am not sure. I think it is the Board's responsibility to provide some oversight or insights to the Department regarding this realm. It is hard to control how people use their water and what they use their water for.

Councilmember Cowden: Thank you. One last point to bring up...I am not sure what your science background is on wastewater management, but I certainly know that in your A&B background you would have knowledge of wastewater management. There are issues of contamination that are apparently surfacing in sometimes the groundwater as it is being pulled up. There are concerns in the community where there is a push and pull as to whether it is developer contamination, Department of Water contamination, et cetera. I am just trying to call it to your attention and just trying to hear a little of your *mana'o* about bacterial contamination in the water, at least is expressing itself very evidently in some faucets. Where the source of that contamination is a point of conflict, can you speak to any experience, background, or thoughts you might have in that direction?

Mr. Shigemoto: This sounds more like a State Department of Health *kuleana*. I know the Department of Water has really strict standards on chlorification and disinfection whenever new water systems are put in place. I know they also do test on a regular basis to ensure that their domestic water supply is safe. As far as bacteria getting into your natural aquifers, I believe that those are due, if anything, primarily to cesspools that are prevalent on the island. As you know, and for some that do not know, by 2050 all the cesspools have to be converted to septic systems. I personally do not think septic systems are the answer, but not every town or county can have treatment systems in place. Again, that is something that needs to be addressed. How we address it, is dependent on financial capabilities and fiscal responsibility.

Councilmember Cowden: Thank you. No more questions from me.

Council Chair Kaneshiro: Are there any other questions?
Councilmember Evslin.

Councilmember Evslin: Tom, I have one more. Sorry, I know that it sounds like we are asking you to solve every problem that the Department of Water has. I appreciate the dialogue here. I think we are asking because you are extremely experienced and well-qualified. I think we all value your insights. My only other question was, you mentioned that the length of time to get a permit through the Department of Water is a major barrier to housing construction, which I think we all recognize. What are your thoughts, or do you have thoughts about how we can fix that or shorten the length of time?

Mr. Shigemoto: If I did, I would probably be the Mayor by now. No, I really do not have solutions. The Department of Water is just one of the total building permit process. It may be a case where they may be short-handed. I am not sure exactly what they look at when they review plans. I am not sure if every and all plans go to the Department of Water necessarily to have their sign-off. I am sure that the current Board Members are very aware. They have heard it. You hear it all the time. How they solve it is up to Joe Tait. That is what I heard him saying at the presentation he made. He is working diligently on it. He has a fairly young staff. They are energetic and they are all public service minded. I think that portion can be resolved.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there anyone in the audience wishing to testify? We received no written testimony. Is there anyone on Zoom wishing to testify?

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

Council Chair Kaneshiro: Does anyone have any final discussion?
Councilmember DeCosta.

Councilmember DeCosta: Tom, I am not going to ask you any more questions. I just wanted to tell you to please tell your wife I said hi. She was my mentor when I first started off in teaching. She took me under her wing with Reiko Matsuyama's mom. I feel very grateful. I also wanted to tell you that you forgot to mention your new workout regimen that you do with your son at the Kaua'i Athletic Club. Maybe if I am at the Club I will workout with you sometime. Thank you for everything, Tom. Thank you for coming onboard and to have a man of your knowledge from the County-side and private sector-side, I am excited to have a knowledgeable candidate like yourself on our Board. Thank you, Tom.

Mr. Shigemoto: Thank you, Billy.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: *Aloha*, Tom. Good morning. I just wanted to *aloha* you and thank you for your service in all areas of this island that I know. At the same time, you are stepping to the plate again. You bring a wealth of knowledge on all different levels. I know we can come to you to talk story or to get clarification on things. You bring that to the table. I just wanted to *mahalo* you for that. I look forward to talking story. Thank you for what you do for Kaua'i.

Mr. Shigemoto: Thank you, Bernard. I will try.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Just to echo my colleagues, thank you, Tom for your willingness to serve here. As you said, because of the semi-autonomous nature of the Department of Water, I think the Board of Water Supply takes on increased...all of our boards and commissions are extremely important. I think the Board of Water Supply is probably amongst the most important boards out there. You are extremely qualified, experienced, and dedicated to Kaua'i. I have a lot of confidence that you are going to help fix some of these problems that we have all experienced with the length of time it takes to get permits. As you said, there are no easy solutions here. It is not as if a simple rule change is going to make it so that we can approve plans quicker through the Board of Water Supply. I think there are some structural changes that possibly have to get made, or long-term shifts, but I know that so many people at the Department of Water are working on these already, including Joe. I really have a lot of confidence in your abilities here and appreciate your willingness to serve. Thank you.

Mr. Shigemoto: Thank you, Luke.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to echo what was said. Your seventy-four (74) years or maybe it is seventy (70) or sixty-eight (68) years of living on the island will be a really excellent contribution in terms of your networking and how much you are respected in the community for our new Director to be able to be bringing that together. Having attended many Board of Water Supply meetings and even a number of the virtual ones...I much prefer being there in person. Your ability to ask the right questions gives me a lot of confidence. Sometimes, just even knowing the right questions to ask is really important. I asked the question about community resistance, because as many people know, I am a really comfortable ally to people who are concerned about choices being made by what is the perceived as positions of power. I just want to recognize how you see the best in the people who are out there

expressing their concerns. You have been their Boy Scout person, or you have raised your kids with them. You have an open mind and seeing people with a different understanding as the human beings that they are. I find that you are very easy to talk to in asking questions that might not be comfortable. That is a really important quality. I think it is as important as your knowledge as a developer and as a Planning Director or being in the Planning Department. I think you are extraordinary for this position.

Council Chair Kaneshiro: Does anyone else have any discussion? If not, I just want to say that I am happy you are willing to serve even if you are retired. I thought you would just relax. If you were that bored, you could have let me know. I could give you some tasks to do around my house. You definitely have a wealth of knowledge and would be a valuable asset on the Board of Water Supply. Just hearing the way you answered the questions now, I think everyone can understand and see the value that you have, the experience you bring from the public and private sector, and you are definitely just an unreal asset to have there. Thank you for being willing to serve, even though you just retired not too long ago. It will be a value to us at the Board of Water Supply. Thank you.

Mr. Shigemoto:

Thank you.

Council Chair Kaneshiro: Does anyone else have anything else to add? If not, thank you. We will be voting on this at our next meeting. Next up we have Lauren O'Leary for the Civil Service Commission.

CIVIL SERVICE COMMISSION:

- Lauren O'Leary – Term ending 12/31/2024

Ms. Ching: I am happy to introduce Lauren O'Leary. I just love saying that! What a beautiful lyrical name! Lauren was born in Mississippi and raised on Kaua'i. After the sudden loss of her father and at the tender age of 4, Lauren, her mother, and two (2) siblings moved to Kaua'i. She attended Holy Cross, Kōloa Elementary, and Kaua'i High School. At UH Mānoa, she earned a Bachelor of Arts in Home Economics Education. While working, she continued on to earn two (2) Master's degrees, one in Curriculum and Instruction and another in School Administration. In 1978, Lauren started her career as a teacher at Konawaena High School on Hawai'i Island and was promoted to principal of Hōlualoa Elementary School and Kalaniana'ole Elementary until she retired in 2016. Upon her retirement, she decided to return to her childhood home and relocated to Kaua'i. As a home economics teacher, she is a great cook and a great baker, her specialty is upside-down cake, and her favorite food is cheesecake. She is a voracious and diverse reader of novels, including mysteries and history books. Lauren is also a world traveler. As a child, her mother decided to take a year-long trip around the world, they lived in Japan, Hong Kong, and Spain and traveled through Singapore, India, Egypt, London,

and the Panama Canal. She would love to revisit some of those places. In her career as an educator, Lauren has had the experience of working with diverse groups of people representing different perspectives, children, parents, teachers, Department of Education (DOE) administration, union members, and representatives. She has the benefit of thirty-eight (38) years of technical knowledge, and I appreciate her willingness to share her time and expertise with the Civil Service Commission.

Council Chair Kaneshiro: Thank you, Ellen. Lauren, do you have anything to add to that introduction?

LAUREN O'LEARY (*via remote technology*): No. I think Ellen was very thorough.

Council Chair Kaneshiro: Are there any questions for Lauren?
Councilmember Cowden.

Councilmember Cowden: Thank you so much, Lauren. It is nice to meet you. I appreciate your willingness to do this. What has motivated you to be on the Civil Service Commission?

Ms. O'Leary: I have always promoted throughout my career, both as a classroom teacher and school administrator, the value of service. Being able to give to others without expectation of any monetary return. I believe it is a foundation of how I have been raised. I am hopeful that is how all of our children have been raised where there is a sense of community, and we help each other. That support system continues throughout our lifetime. I wanted to stay here when I graduated from UH Mānoa, but there were no teaching jobs available, so I ended up going to Hawai'i Island. I continued there until I retired. I was glad to be able to come home. My support system is here, classmates, and people I have known throughout the years. I really feel that now it is my obligation to give back and support Kaua'i and the structure of the Civil Service Commission in order to make it the best place that we can be for both ourselves, as community members, but also for our children.

Councilmember Cowden: I think that your background as a principal of two (2) elementary schools, and you have been a teacher...I am particularly focusing on the principal position. That would give you experience in the leadership of staffing. I am curious and have two (2) questions that you can lace together. You probably dealt with the Hawai'i State Teachers Association (HSTA), United Public Workers (UPW), et cetera. Which unions have you worked with in that position?

Ms. O'Leary: HSTA, UPW, and the Hawai'i Government Employees Association (HGEA) were the primary unions. Then, we had other staff who were support systems that would come in as resources for the school assigned for

maybe a day of the week, because we have to share those positions. We had limited resources, especially on the neighbor island where they may not have enough or there is not enough resources in order to stretch to one (1) per school. It was the gamut of the different unions and understanding the agreements made between the employee, the union, and how it affects the school system.

Councilmember Cowden: About how much staff did you have in those schools?

Ms. O'Leary: At Hōlualoa Elementary, which was a school of about five hundred fifty (550) children, we had about one hundred twenty (120) staff comprised of both permanent and part-time staff. At Kalaniana'ole Elementary, that was an intermediate and elementary. That was a little smaller school and that one had approximately sixty (60).

Councilmember Cowden: Okay. Thank you so much for that. It helps us to understand that you have familiarity not only with the unions, but the unions from the state and interacting with the State of Hawai'i. I would say that my final question is...I do not expect you to really have a strong answer on this one...but something that you will be faced with really quickly is something that we call salary inversion. Do you understand what that means?

Ms. O'Leary: Not enough to comment on. I would definitely have to learn more before I would have a strong opinion one way or the other.

Councilmember Cowden: Just framing it a little bit...just like you would have between HGEA and HSTA, there are different amounts that people might get paid. Maybe one works just as hard or harder than another but gets paid less. Leadership in our departments get paid less than the top of the pile. We have a real challenge with that right now.

(Councilmember Kualii was noted as not present.)

Councilmember Cowden: We have a challenge in government of placing strong leadership in these positions when they have higher risk, because they do not have the union protection and they get paid less than the third in line. You do not have to have a strong answer. That will be one of the big challenges that you will face right away. It is very important. That might be something that you look into.

(Councilmember Kualii was noted as present.)

Councilmember Cowden: I think almost anyone who is joining the Civil Service Commission, that might be something unfamiliar to them. It certainly was unfamiliar to me as a Councilmember. It does not line up with common sense, but it

is something significant. I thank you for your willingness to do this. I accept that you do not know what this yet.

Council Chair Kaneshiro: Salary inversion is related to the Salary Commission.

Councilmember Cowden: The Civil Service Commission does not touch it at all?

Council Chair Kaneshiro: No. Civil Service deals with Human Resources.

Councilmember Cowden: Okay, my bad. It is good for you to know that.

Council Chair Kaneshiro: Are there any other questions for Lauren? If not, is there anyone in the audience wishing to testify? Lonnie.

LONNIE SYKOS: Good morning, Council. Good morning to the candidate. Thank you very much for your willingness to serve the public. We thank you for your long career. I believe you said earlier that you had been at Hōlualoa School on Hawai'i Island. Tip of the hat. When I was a resident of Hāna some decades ago, we were quite happy and amazed that your students were world class developers of solar-powered cars and won the Science, Technology, Engineering and Math (STEM) contest. Tip of the hat to your past work and I am sure your work in the future for the County will be similarly successful. I would like to ask the head of the Office of Boards & Commissions if they would be kind enough to describe what the duties are for this Commission for the edification of the public. Thank you very much.

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

Councilmember Cowden: I believe he asked if Ellen Ching could define the role of the Civil Service Commission. I do know that about the Salary Commission. I made a mistake. Maybe she can speak to that.

Council Chair Kaneshiro: Ellen, I do not know if you have the Charter in front of you, but you could probably just read the Charter description of the...

Ms. Ching: Yes. I will just go over a couple of bullet points. The Civil Service Commission shall adopt rules and regulations to carry out the civil service and compensation laws of the State and the County. They hear and

determine appeals made by any individual aggrieved by any action of the Director or any appointing authority. Typically, it is the Director of Human Resources. They advise the Mayor and Director of Human Resources on problems concerning personnel and classification administration. They execute such powers and duties as may be provided by law. The major duty of the Civil Service Commission is that they shall appoint and remove the Director of Human Resources. It puts it as evaluate and assess.

Council Chair Kaneshiro: Thank you for that. Are there any further questions from the Members? Is there any final discussion? Councilmember DeCosta.

Councilmember DeCosta: Ellen, thank you for that detailed description. You always seem to amaze us. Thank you, Ellen. Lauren, I am an educator and have been for twenty-one (21) years. A great principal is always at the forefront of curriculum and children's lifestyle at school. I know you mentioned two (2) important things to me that makes you a great person for this position. You only served as principal at two (2) schools, which means you did a really good job, and your school did not want to let you go. Normally, someone would be a principal for six (6) or seven (7) schools, they move you around. You must be a gem. I am happy to have you. Dealing with children is one thing, but dealing with parents of their most precious commodity, which is their child, puts you at the forefront with all your knowledge. If you can deal with parents of children, you can deal with any issue out there in the County. Bless you and welcome onboard, Lauren.

Ms. O'Leary: Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I just want to thank Lauren and Tom for your willingness to come out and serve the community. You both bring a lot to the table. The boards and commissions or Charter years ago, with the intent of helping to create checks and balances in the system to make it more transparent or accountable...we need to use it as a tool to our benefit. Having proactive minds and people in these positions are key. I can tell you that where the Council cannot move or make decisions, we do lean on our commissions to do so. With that being said, we have had discussions at this table about some of the needs the Board of Water Supply as mentioned is a semi-autonomous operation and I appreciate that due to their ability to run separately and determine their future. I think the matrix of housing has been on this Council's and Administration's priority lists and our ability to engage with the Board of Water Supply to make these sound decisions are key. Tom, you said that you represent the voice of the community and that bridge of what we are experiencing and what we need. Again, *mahalo nui*.

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

Councilmember Cowden: I will just thank you again. Echoing what Councilmember DeCosta brought up. In the schools, you can be right in the middle of conflict. I appreciate Director Ching highlighting that a piece of your job is making these decisions on grievances and challenges. I will be supporting you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I will just echo all of that. Thank you, Ms. O'Leary for your willingness to serve here. Thank you for your forty (40) years with the Department of Education. I just finished four (4) months of teaching only two (2) classes and I feel like I am ready to retire here. I have a ton of admiration for anyone who did that for forty (40) years. Your willingness to keep going in public service on behalf of the County and the employees is admirable. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: A big *mahalo* to you, Lauren. It was already said, but I will echo it. Your administrative background brings a lot to the table. My daughter is also a schoolteacher, and she is coming up the ranks right now. Hopefully she will be a principal one day. For you, bringing your knowledge and your understanding of working closely within that organization brings a lot to the table. I appreciate you stepping up to the plate and look forward to seeing you again. *Mahalo* for your service.

Ms. O'Leary: Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I will just say *mahalo nui loa* to both of you for your willingness to serve. Thank you so much.

Council Chair Kaneshiro: With that, thank you, Lauren. We will be voting on this at our next Council Meeting.

Council Chair Kaneshiro: Next up, we have the Consent Calendar.

CONSENT CALENDAR:

C 2022-101 Communication (05/05/2022) from the Mayor, submitting his Supplemental Budget Communication for Fiscal Year 2022-2023 and Proposed Amendments to the Budget Bills, pursuant to Section 19.02A of the Kaua'i County Charter.

C 2022-118 Communication (05/12/2022) from the Acting County Engineer, transmitting for Council consideration, a Resolution Amending Resolution No. 138 (1954) And Resolution No. 90-94, By Establishing A Crosswalk And A Left Turn Only Lane Along Hanamā'ulu Road, Līhu'e District, County Of Kaua'i.

C 2022-119 Communication (05/25/2022) from Councilmember Cowden, transmitting for Council consideration, a Resolution Amending Resolution No. 32, Draft 1 (1985), As Amended By Resolution Nos. 27 (1987), 75 (1988), 45 (1989), And Resolution No. 2000-21 Relating To Traffic Regulations At Princeville.

Councilmember Kualifi moved to receive C 2022-101, C 2022-118, and C 2022-119 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on these items. Are there any questions from the Members? 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. Is there any final discussion from the Members?

The motion to receive C 2022-101, C 2022-118, and C 2022-119 for the record was then put, and unanimously carried.

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

COMMUNICATIONS:

C 2022-120 Communication (05/04/2022) 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 Application of Regulations.

Councilmember Kualifi moved to receive C 2022-120 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. We will take this item up later as a Proposed Draft Bill. 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: Are there any questions or is there any discussion?

The motion to receive C 2022-120 for the record was then put, and unanimously carried.

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

C 2022-121 Communication (05/09/2022) from the Director of Finance, requesting Council approval of the Network Firewall End User License Agreement (EULA) associated with the County's renewal of maintenance and support of the County's network firewall products.

Councilmember Kualii moved to approve C 2022-121, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. I will suspend the rules. Reiko or Del, could you give us a brief overview of this item?

There being no objections, the rules were suspended.

DEL SHERMAN, Information Technology Manager (*via remote technology*):
Aloha. Regarding this specific request, in this case, your approval was needed to address an issue in the licensing terms that referenced limitations of liability and any agreement with that kind of terminology. It is nothing really unusual. This is a product that we have had in place for quite a while. We are renewing maintenance and doing some upgrades on the Network Firewall EULA this year. Per the County Attorney, the proper way to proceed with this is to make sure that we get your approval for these liability issues, hence that is why it was presented to you. Rather than me ramble on, do you have any specific questions you wanted me to answer?

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I do. This is probably just an Information Technology (IT) question. This firewall, what is it called? MSP? Is that the name of it?

Mr. Sherman: Could you repeat that, please?

Councilmember Cowden: What is the name of the firewall? I just have questions about how it operates.

(Councilmember Evslyn was noted as not present.)

Mr. Sherman: We specifically withheld the name of the actual product for security reasons. We tend to be fairly secretive about the exact type of hardware that we use to limit awareness on behalf of maybe bad actors about how we are protecting ourselves in the County. We just referenced it as the firewall instead of giving an exact product or model name. I am sure that we could discuss the details on that in a more secure way if you would like to learn more about that.

Councilmember Cowden: I am going to respect that. I just want to make a comment and I do not know if it happens to anyone else...my computer on my desk

runs so hot, I feel like it is going to have a nervous breakdown. I just pretty much will not use it. I use my own computer and I use my cell phone. Once we did Microsoft Teams, it burned up my phone and computer, because it runs so hot. I cannot even do these things in the car, because my phone will stop working. All of our things runs so hot. I do not know if it is our firewall or what it is, but I have a brand-new computer in my office, because it is screaming so loudly with the fan from almost the very beginning. If we have such strong firewalls, Microsoft Teams is obviously very hot. I cannot even do E-mails with my computer without wanting to turn it off. Is that the firewall? What would be doing that? I know we have all of this software that keeps us from having any kind of break. Something does not work well. Maybe that could be a private thing. Every time I turn on the computer, I think about that.

(Councilmember Chock was noted as not present.)

Mr. Sherman: That would be an unrelated issue. If your computer is overheating, we can get one of our IT technicians over there to take a look to see what the cause might be. It should not be so hot that you would not want to use it. That is not normal. We can check into that for you.

Councilmember Cowden: It is just so loud. I will look into that later. The computer science background in me thinks something does not work with all the things that we are doing to protect our computers. Thank you.

Mr. Sherman: You are welcome.

Council Chair Kaneshiro: You can request the Secretarial Assistant or someone to ask IT to check your computer. I am not sure if anyone else is having that issue with their computers or phones. Are there any further questions for Del on this item? If not, while the rules are still suspended, is there anyone in the audience wishing to testify? Is there anyone on Zoom wishing to testify?

There being no one present to provide testimony, the meeting was called back to order proceeded as follows:

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

The motion to approve C 2022-121 was then put, and unanimously carried. *(Pursuant to Rule No. 5(b) of the Rules of the County of Kaua'i, Councilmember Euslin and Councilmember Chock were noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

(Councilmember Euslin was noted as present.)

C 2022-122 Communication (05/10/2022) from the Acting County Engineer, requesting Council approval to apply for, receive, and expend State funds in the amount of \$330,507.01, from the State of Hawai'i Department of Health (DOH), and to

indemnify the State DOH for the Fiscal Year 2023 grant cycle, for the HI-5 Deposit Beverage Container program to be used to fund two (2) HI-5 Recycling Specialist positions and support mobile redemption center operations in Kekaha and Kōloa.

Councilmember Kualii moved to approve C 2022-122, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received no written testimony on this item. Do we have any questions from the Members on this item? Councilmember Cowden.

Councilmember Cowden: Can you give us a very brief update? Three hundred thirty thousand dollars (\$330,000) is a decent amount of money. Is this our normal budgeted amount or are we...how is it going? Please give us a brief update.

(Councilmember Chock was noted as present.)

There being no objections, the rules were suspended.

ALLISON FRALEY, Solid Waste Program Development Coordinator (*via remote technology*):

Yes, I will be happy to answer your question. This grant that we get that we get from the State Department of Health is to support our bottle deposit law and the HI-5 program. That is where people pay a deposit for their beverage containers as regulated by the State. They go and turn them in for a refund. That program is monitored here on-island with two (2) Recycling Specialists, who go out to the stores and make sure that all the containers are marked correctly and do regular audits. We have a contract with the State with a certain amount of audits each month that they perform. They also go to the redemption centers where people turn in their containers to make sure that all of that is operating smoothly. They take complaint calls from the public. This really does help the State. Also, that grant supports some of the remote locations where we have the HI-5 redemption centers like in Kekaha and Kōloa. It supports a land lease out in Kekaha where we are able to do that redemption. It also supports a lot of education. One of our goals for this next fiscal year is to get out to the vacation rentals and really instill more programs and education out where visitors are. These containers have value. We really want to be able to work with the vacation rental agencies. We have been working with the Office of Economic Development (OED) to get the list of all the different timeshares and places that have visitors so they can learn about how they can recycle. We do a lot with this grant money. It really stretches super far. We have been getting funding from the State since 2006 when the law went into effect.

Councilmember Cowden: I want to thank you, the entire team, and all the outreach and people who are actually returning their recyclables. I am curious, do the stores give us any information on how many things they charge five cents (\$0.05) for? I am wondering if there is a comparative to how much is purchased to how much gets returned to our recycling centers. Is it fifty percent (50%) or forty percent (40%)?

Ms. Fraley: I believe it is seventy-three percent (73%) right now. I may be wrong. I can get back to you on that. The State actually

calculates that. They receive the funding when the beverages are imported. They have a statewide percentage that they can give for the recycling rate. It is really hard to break it down island-by-island. They do know how many containers are redeemed on each island. It is a pretty high percentage. It used to be higher when the program first went into effect. If the deposit amount was higher like ten cents (\$0.10) in certain places, it is higher...only a couple of states. There are only ten (10) states that have bottle deposit laws by the way, so we are really lucky to have one. It does create a financial incentive for recycling. It is wonderful to have, and we are very grateful. The higher the deposit, the more incentivized people are to return their containers. Every year there are bills at the State Legislature talking about different ways to improve the law. We would support a higher fee so there would be higher redemption levels. It is what it is, and it is working great.

Councilmember Cowden: Great, thank you. That is what I wanted to know.

Council Chair Kaneshiro: Are there any other questions from the Members? If not, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: Good morning, Allison. Thank you very much for the excellent job that I have observed you doing more than a decade now, maybe two (2) decades now.

Ms. Fraley: Thank you.

Mr. Sykos: Personally, I think it is a shame that you have not been put in charge of creating the resource and recycling center that the County needs. You obviously have a very in-depth understanding and are up to date on national best practices and policies, so with how competent you are, it is astounding that the County is incapable of creating a resource/recycling center—it is just stunning, the incompetence that allows this to go on, which is not you. I have some questions here, the three hundred thousand dollars (\$300,000) that is for the salaries for the two (2) employees, does that also pay the five cents (\$0.05) refunds for the beverage containers? Do you have any idea what percentage of that would be used for visitor outreach? To the public, this is not a criticism of Allison, but this use of our tax money for visitor outreach on the one hand is a good thing, on the other hand, we are using our tax money to subsidize tourism once again, so this is a hidden tax on everyone that promotes tourism. The tourism industry is perfectly capable of providing the money and the resources to ask their guests to do exactly what we are going to use our money to ask them to do. My observation is, I do not want to be taxed to make profits for the tourism industry. Every penny of my money that goes to educate the visitors is pure profit for the visitor industry. They should be paying for this, not us. Allison, thank you very much for the great job that you do and to the Council, in the future, try and look at things differently. We do not want to be taxed to support tourism, tourism is supposed to be getting taxed to support us, not the other way. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? Are there any further questions from the Members? From

one (1) of the questions from Lonnie, Allison, regarding the refund when people turn in the recyclables, does that come out of a different pot of money from the State?

Ms. Fraley: Correct. What happens is the State collects the fees from the importers initially, so they have the funding. Then, the recyclers, who run the redemption centers, they actually front the refunds from their own pockets, and then get reimbursed by the State. They also get paid a handling fee for each container that they recycle.

Council Chair Kaneshiro: Thank you. Are there any other questions from the Members? Is there any final discussion? Councilmember Cowden.

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

Councilmember Cowden: First of all, I would like to acknowledge that in the room we have an Executive Director of one (1) of our redemption centers, so I wanted to acknowledge that and in Kilauea how people can come and turn in their recycling for a lot of different things. Anaina Hou does an amazing job. I think the whole program is important, so of course I support it, and I acknowledge what our community member points out is that we do partner with the visitor industry, I do want to say that the visitor industry does partner back with us too, so it is complicated, but it does work in both directions.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Obviously, I support this. I appreciate the focus on education for the Transient Vacation Rental (TVR) industry. It is something that Allison and I have talked about a couple of times. I have heard from numerous cleaners of TVRs that there is a large amount of recyclables that are coming out of these TVRs and going into the trash, and there is some frustration from those who clean these units that there is not better recycling options within the units from the management companies or the owners of these units, so we have discussed some ways to try and "crack that nut" a bit and I appreciate you focusing on education here. I do think maybe there are other things we can continue to explore, but to the point of this being a tax on residents to subsidize the TVR industry, I do not think that is true. Often, TVRs are likely paying a flat monthly fee for commercial pick-up of their waste, so they do not really have the incentive to recycle, and if they can increase the recycling rates that they are diverting that saves all taxpayers money and that is less refuse going to our landfill, as you know better than all of us. Saving the life of the landfill and going towards recycling that we can sell in some sense. It is a net benefit for us every time that we can increase diversion rates for the TVR industry and if we can spend a little bit through this grant or have some increase focus through this grant on education efforts along those lines, I think that is a win for all of us, and hopefully we can continue to explore other options to try and increase diversion rates for the TVR industry. Thank you, Allison.

Council Chair Kaneshiro: Is there anyone else?

The motion to approve C 2022-122 was then put, and unanimously carried.

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

C 2022-123 Communication (05/10/2022) from the Acting County Engineer, requesting Council approval to apply for, receive, and expend State recycling grant funds in the amount of \$45,000.00, to be used by the Department of Public Works, Solid Waste Division, to support Electronic Waste (eWaste) Recycling for Fiscal Year 2023.

Councilmember Kuali'i moved to approve C 2022-123, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received no written testimony. Are there any questions from the Members? Councilmember Cowden.

Councilmember Cowden: I think this is really important. Can you explain to the public one more time about when they recycle their electronic waste and I want to know, how much it costs us to recycle the electronic waste and what percentage are we taking out of landfill? Of course, I support doing it, but I would like to know a little bit about the details and the effectiveness of it. Are printers electronic waste?

There being no objections, the rules were suspended.

Ms. Fraley: Yes. Thank you, Councilmember. The Electronic Waste program is what is called an extended producer responsibility law that was passed in 2010, where the State requires that manufacturers pay a fee to the State when they are certified sellers of electronic equipment for certain devices, and that would include televisions, computer monitors, computers, laptops, and printers. So, there is an incentive...the law requires that they provide recycling opportunities. It is a very complicated, so I am going to simplify it by saying that the manufacturers provide opportunities and pay the recyclers to run programs, so we have Puhi Metals Recycling Program at Puhi six (6) days per week, where we accept electronics for free from the public. That is part of a larger contract—Puhi Metals, that is where we accept all of the metal that comes on to Kaua'i including automobiles, so there is not a breakdown in the pricing, per your request of how much it costs to actually recycle these things, we do not have a breakdown, but we do have a program that is part of a larger program. Regarding what this funding is for from the State Department of Health, this is purely for education and also provides...we have been doing a school contest every year, it has really competitive and fun for the kids, and that is a way that children can share with their family the importance of recycling electronics. Electronic recycling on the residential side is purely voluntary, because we have a six (6) day per week program that has stayed in the same place for several years, we are getting good participation. I do not know off the top of my head, the best way for us to know is our waste characterization study, which happened back in 2016—those are very expensive, so we only do those periodically, but we are looking at the tonnage as it goes through. Another thing for the commercial, monitors and televisions are banned from the landfill and disposal, so haulers know that they cannot accept these items, so they do have to be accepted through the recycling

program, and it is free, so there is a major incentive for businesses to be able to take this waste that they cannot dump it in their dumpsters anyway. The program has been working really well compared to all the other islands. I think we have the best program bringing in the public having stable operating hours, and this contest, and a lot of promotion—that is what you need in recycling education, is continual promotion, so this is a great grant that the State gives. That is how they are sharing the funding that they get from the registration program is through these grants for the counties to operate their programs.

Councilmember Cowden: I have a follow-up question. On this extended producer responsibility in our education, I cannot remember seeing where it might be talking about, thankful to the extended producer responsibility, because I think the people really need to start thinking about point source reduction—you know that is a big issue for me, so who pays the money, I will not name the brand, but is it the brand who makes the monitor and the screen, or is it the big box store that sells it, or is it both, because to me both should have some of that responsibility in the extended producer, especially when we look at all the styrofoam and things like that that goes into it, who pays for it? The manufacturer or the distributor, or both?

Ms. Fraley: You caught me. I am sorry. I am not quite sure off the top of my head I might get a text from my colleague who runs the program, but I believe it is the distributors, but I can get back to you on that. I am sorry.

Councilmember Cowden: Okay, no problem. It is something that as a Councilmember who is very concerned about our landfill contributions, it is on us and on me, I will take that responsibility in talking to these distributors, because sometimes these screens do not last very long, they give up very quickly. When we are looking for point source reduction it is important that they think about....so I am curious who is paying the fees. I am not disappointed that you did not have that information, it is a question that I need to be able to find out.

Ms. Fraley: Yes, I will get that information to you.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any further questions on this item from the Members? Is there anyone in the audience wishing to testify on this item? Jill.

JILL LOWRY: Good morning, Jill Lowry. I was not anticipating speaking on anything, but as Councilmember Cowden pointed out, we do have recycling on Anaina Hou Community Park grounds and at one point prior to the pandemic, we had electronic recycling there as well, and I am encouraging thinking about bringing that back, because the North Shore does not get to where they need to go in the proper place, so having an access point to get rid of this waste would be extremely beneficial both to the island and to the North Shore community. That is all I have to say, thank you so much.

Council Chair Kaneshiro: Is there anyone else? Is there anyone on Zoom? If not, are there any final questions from the Members? Is there any final discussion?

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

The motion to approve C 2022-123 was then put, and unanimously carried.

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

C 2022-124 Communication (05/12/2022) from the Director of Parks & Recreation, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 23, Section 23-3.7, Kaua'i County Code 1987, As Amended, Relating To Concessionaires At The Spouting Horn, by updating the status of the concession stands, removing the stall configurations and upset bid amount which will be addressed in Administrative Rules, and allowing the use of electricity by concessionaires.

Councilmember Kualii moved to receive C 2022-124 for the record, seconded by Councilmember Carvalho.

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

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

The motion to receive C 2022-124 for the record was then put, and unanimously carried.

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

C 2022-125 Communication (05/12/2022) from the Director of Finance, requesting Council approval of terms contained in the Cisco Systems End User License Agreement (EULA) associated with a Cisco-conducted audit of the number of product licenses used by the County.

Councilmember Kualii moved to approve C 2022-125, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Councilmember Cowden.

Councilmember Cowden: I will be very simple. This is the continuation of our existing End User License Agreement that we pay every year, correct? It is not new, it is what we do, correct?

There being no objections, the rules were suspended.

Mr. Sherman: Yes, that is correct. This is not anything new, this is just the requirement from our attorney now that these kinds of terms be reviewed and get Council approval when necessary. In this case, it is due to the fact that the text in question represents an unspecified future obligation, and those types of things require Council approval. We do not anticipate any issues for the exact reason that you just stated, and this is just a continuation of the same products that we have in use for years.

Councilmember Cowden: You just brought something up, can you give us an example of what it might be, or do we not even know?

Mr. Sherman: An example of what this might be, is licensing for our phone system. Each license, each phone, has a cost associated with it, so in this case, if we were to deploy licenses that we had not paid for and Cisco came in and did an audit, then we would owe them the money for those licenses that we had used. In our case, though, there are restrictions in place that prevent us from issuing licenses above our capacity, so it will not present a problem for us, however, the terms still require your approval.

Councilmember Cowden: Okay, thank you.

Mr. Sherman: You are welcome.

Council Chair Kaneshiro: Are there any other questions from the Members? Is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: I want to thank the IT Manager for his explanation. When I read this, I was thinking to myself, "What the heck? We are putting ourselves on the line for future unspecified possibilities"—very scary, but your explanation takes all the scare out of it. Thank you very much for doing an excellent job.

Council Chair Kaneshiro: Is there anyone else wishing to testify? Is there anyone on Zoom? If not, are there any final questions from the Members? Is there any final discussion?

There being no further testimony, the meeting proceeded as follows:

The motion to approve C 2022-125 was then put, and unanimously carried.

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

C 2022-126 Communication (05/20/2022) from the Deputy Director of Parks & Recreation, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 23, Article 3, Kaua'i County Code 1987, As Amended, Relating To Peddlers And Concessionaires, defining a "Peddler's Permit," clarifying that the Department of

Parks and Recreation issues such permits, and establishing the process by which fees will be set for such permits.

Councilmember Kualii moved to receive C 2022-126 for the record, seconded by Councilmember DeCosta.

Councilmember Carvalho: Chair, I have a floor amendment.

Council Chair Kaneshiro: This is just the communication, so the floor amendment will come up on the actual Bill.

Councilmember Carvalho: Okay.

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

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

Mr. Sykos: I am very glad that this is coming to the Council's attention. I am guessing it was 2004 or 2005, I purchased from the County a vendor's permit, however, there was nowhere to vend, nowhere legal. My observation here is, having traveled much of the world, it is problematic in Hawai'i that we have so many tourists and it is so difficult for the public to be able to directly make money off of them, so if you need to get a store, you are hundreds of thousands of dollars into trying to start your business. It is very difficult to do what I did, I am sixty-seven (67), when I was a kid, fifteen (15) years old, stuck in Honolulu, I lived in the south pacific, so we would get up in the morning and take local kids to Smorgy Boys and when we finished eating there, we would go through Waikiki and steal flowers from all the hotels, go to *tutus*, put them in *leis* back to the beach and sell them. So, the local kids were making "bank" selling *leis* to the tourists, today, you try to do that, and you will go to jail. They will run you down and put you in jail, number one, for the kids taking the flowers, which was wrong, but we did it anyway, but the other one is, you cannot sell to the tourists, so this vendors license is awesome that some of these kids can make *leis* and legally sell them, you can control how you access beach parks and things, but this is an excellent opportunity to let families, and especially kids learn how to become entrepreneurs, so that is one route of success, my own personal route of survival in Hawai'i was learning how to be an entrepreneur, so this permit is an excellent way to let the public do that. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Is there anyone on Zoom? Is there any discussion from the Members? Again, this is just the communication, we will have further discussion on it during the actual Bill.

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

The motion to receive C 2022-126 for the record was then put, and unanimously carried.

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

CLAIM:

C 2022-127 Communication (05/17/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by John Masterson, for damage to his vehicle, rental car fees, and pain and suffering, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kuali'i moved to refer C 2022-127 to the Office of the County Attorney for disposition and/or report back to the Council, 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: Are there any questions or discussion from the Members?

The motion to refer C 2022-127 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:

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2022-07) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

"COW 2022-02 – Communication (05/16/2022) from Committee Chair Kaneshiro transmitting the proposed increases to, deductions from, and other proposed amendments (plus/minus sheets) to the Mayor's Fiscal Year 2022-2023 Annual Operating and Capital Improvement Projects Budgets,"

A report (No. CR-COW 2022-08) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Resolution No. 2022-10 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 FOR THE COUNTY OF KAUAI,”

A report (No. CR-COW 2022-09) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2851 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 (*Fiscal Year 2022-2023 Operating Budget*),”

A report (No. CR-COW 2022-10) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2852 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 (*Fiscal Year 2022-2023 CIP Budget*),”

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

Council Chair Kaneshiro: We received no written testimony on these items. 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 or discussion from the Members?

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

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

RESOLUTIONS:

Resolution No. 2022-10 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 FOR THE COUNTY OF KAUAI

Councilmember Kualii moved for adoption of Resolution No. 2022-10, seconded by Councilmember Carvalho.

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

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

Mr. Sykos: Regarding real property tax rates, I want to thank the four (4) Members who voted down raising the taxes on any particular group of people on Kaua'i last week. The rationale for the money is irrelevant. What is relevant to me, what is relevant to the public is the violation of our due policy and the attempt to raise taxes without having public hearings, so that is my observation today. I want to thank Councilmember DeCosta, ex-Mayor and Councilmember Carvalho, Council Chair Kaneshiro, and Councilmember Cowden for preventing the increase in our taxation without public hearings. Thank you.

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

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

Council Chair Kaneshiro: Are there any questions from the Members? Is there any final discussion on the Resolution regarding tax rates? We will have ten (10) minutes to talk about the budget when we get to the Operating or CIP Bills. If you do want to talk about the tax rates, I would say we can talk about that now. I know it was a big issue on the floor at the time, and I think if we talk about it now then at the end, we will probably not have much to say about the overall budget. We can open it up now.

Councilmember Kualii: Can you at least say something about the process that he just said? Could you correct that? I am not sure myself, but is it a violation of our due process by raising our taxes without public hearing? We just had our budget process and throughout it, the public can participate, right?

Council Chair Kaneshiro: Yes.

Councilmember Kualii: Which is still continuing.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I do not want to get into discussion on the merits of the proposal or not, but this is the process that we have. I believe it was established from Council rules, which is working backwards from dates set in the Charter that the single meeting that Councilmembers can introduce changes is at

decision-making, from there, it goes to a public hearing afterwards, so if Council is ever going to change a real property tax rate, it will happen at a proposal at that meeting—that is our chance. I would have honestly love to have more input on it, but that is the process that we have, so maybe in the future it is worth figuring out ways to open up that process more to ensure that we can have longer deliberation periods over proposed rate changes, but for this year, that is the process and that was the only time that proposal can be made.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a process question. It really was a difficult situation for all of us. I think that all of us would like to be helping our people with housing. When we do this Resolution, is it accurate that the only time we can do a resolution on the rates of the tax amounts is in the middle of it, or can we do it at a separate time?

Council Chair Kaneshiro: We can raise rates on taxes any time throughout the year—no, sorry...

SCOTT K. SATO, Deputy County Clerk: It is only during the budget.

Councilmember Cowden: It is only during the budget. Okay, so those are difficult nuances, that none of us can put out ahead of time what our intention is, because we would be violating Sunshine Law, so I am in agreement that it is a weak piece in the process and maybe we could look at that piece, so it does not create the conflict. As I have stated there, seeing when we make a change like that, how disruptive it can be if people do not have the opportunity to be able to give input on it or anything else—it is very difficult. Perhaps, that is something we can look at in the future, is how that process piece works.

Council Chair Kaneshiro: That is the only time you can do it. It is a difficult decision to make, but to some extent they make it a difficult decision because they do not want you playing with real property taxes a lot, I would think. That is the process, we are in a time crunch when it comes to it, we have done it before, I believe we have increased the Real Property Tax rate a few years ago on the Residential Investor. It just means that you have to make the case clear, you have to make where the money is going clear, and then you have to get the votes for it. Ultimately, it is our decision whether we want to increase the tax rates or not, you know what the public's input would be on it, and ultimately, it is our decision whether we do it or not.

Councilmember Cowden: So, it might be that we could at least put out the date ahead of time that it is something that could be under discussion, because it is so highly impacting. It is on notice, but like I have said, the notice is next to

nothing. Unless you are really “wonkish” you are not going to know what is happening, you have to be deeply involved to have any idea what the public hearing is saying.

Council Chair Kaneshiro: Just on the process, real property tax rates, yes, that is the time to adjust it. As far as getting money to different departments, there are a few “cracks” at it, and that is two (2) different policy questions, do we want to increase the tax rate on a certain tax class, is one (1) policy discussion, then, where do we want to put the money is another discussion. In this case, if you try and separate it, where do you want to put the money? You get a few “cracks” at it. Prior to the budget, department heads are always asking for more money from the department, they have to justify their needs to the Administration and their budget group on what their needs are—that is one (1) “crack” at getting more money for a department. The second “crack” is after the original budget is submitted and the Council has seen it, either the department head can ask for more money, or the Councilmember can “jockey” with the Administration for more money—that is the process we have. Then the supplemental can come in and hopefully they have made the change in the supplemental. If the changes are not in the supplemental, again, our next option is to cut money from the budget and put it to where you want it to be. If you cut money from CIP, put it into housing or whatever item. Lastly, the final draw would be if you really wanted to put money somewhere, depending on whether you wanted to increase taxes or not, you can increase the taxes and put money where you want it. That is the process of the Council, and how they can control the budget and where they want money. Councilmember Carvalho.

Councilmember Carvalho: Just a clarification that is the process as we speak right now, right? Maybe working closely with the Administration side to get to this point where we need to make these kinds of decisions, which I want to talk about. I think we have an opportunity to look into different options, but the process is in place from my understanding. I was trying to clarify that role. I just wanted to clarify that was the process and maybe we can look at other options that we can get to a better understanding.

Council Chair Kaneshiro: Councilmember Kualii, then Councilmember Cowden.

Councilmember Kualii: I had one more item that is process-wise. I just wanted to put it out there again and make it very clear. When we took the vote there was some concern about if we were able to raise the four million dollars (\$4,000,000) and commit it to the Housing Development Fund, the concern was that it would just be dedicated to that fund for that year, the upcoming budget year, because we were working on that budget, and that the Council would not have a say going forward how much money would be going into the fund, and I would just say that is completely false, because the Council definitely has a say every year, so if

in one (1) year we raise the tax and dedicate that amount to the Housing Development Fund, when the next year came around and the Mayor did not put that amount on his own from the General Fund, again, dedicated into the Housing Development Fund, as a part of the budget the Council decides if it is not enough, then we raise it. Granted we have to deal with the whole issue of cuts, but I guess we could even say to the Mayor...the budget is the Council's biggest job, and ultimately, if the Mayor was not working with the Council, then we could "butt" head-to-head if it came to that. We have never had that problem in the past, but ultimately, it depends how important a policy commitment to what we are trying to do, for example, affordable housing is. Whether we would be able to alter the Mayor's budget and find the cuts to put the money in the Housing Development Fund like we intended by one-year, then the next year. We could put it back on the Mayor saying, we want "x" amount in the Housing Development Fund, we will leave it to you to make the change so it suits you best, otherwise, if you cannot do it, then we can do it. Again, it is a tough job. Give and take obviously.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I just want to follow up with that. When we shifted our Residential Investor threshold from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000), again, at that time our goal was to create more housing for our people, and we had the shocking gain of seventeen million dollars (\$17,000,000). Throughout the year, certainly in the pre-budget process, I am consistently saying I want to do community agricultural villages to be able to be placing our people who are houseless rather than on the side of the road into a place. It happens that we have major inflation this year. Our County is chartered to deal with our infrastructure, which needs a lot of repairs, we have a lot of infrastructure problems, which is our chartered responsibility, but when we had an extra seventeen million dollars (\$17,000,000) when we stated when we were changing it was to create more housing opportunities. It still did not make it into the budget. To claw back four million five hundred thousand dollars (\$4,500,000) or seventeen million dollars (\$17,000,000) item-by-item when it takes five (5) of us to agree—do we not get that fire truck? Do we not surface that road? Do we not do this one piece? It is not so easy to do. It is simple to say that we could just do it. I know that our County Administration cares about the housing challenge also. We have done a lot with that, but it is not so simple to just claw it back, because if we could, when we received those seventeen million dollars (\$17,000,000), why did we not do it? So, it is not an easy thing, and I do not think anyone in the Administration, Department of Parks & Recreation especially, and probably the Managing Director does not know how adamantly I am interested in trying to help our houseless community and people who are barely housed. It is just not as simple as it sounds. It would have been onetime correction. He is breathing hard here. I do not mean to give him a hard time. We were trying to make a rightful decision and we all care about the same outcome, it is just how do we get there? I would say, same to the

Administration and anyone out there our Charter has a process problem then, if we can only give this light acknowledgement to people who might be deeply affected by a tax change. It is not as easy as it sounds.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Would you like to explain on what she just said, or can I touch up on it? We are talking about 2017, correct?

Councilmember Cowden: No, I am talking about seventeen million dollars (\$17,000,000) that was in the budget.

Councilmember DeCosta: Correct, but did we not in a certain year, I believe it was Council Vice Chair Chock, and I think the Mayor was on the Council when they decided to increase the TVR rate and money was put into the housing, correct, Chair?

Council Chair Kaneshiro: Yes, I believe money was put into housing and supposed to be improvements to Vidinha Stadium.

Councilmember DeCosta: Correct. Now, since that time, has every year followed that the same amount of money that was raised goes into the housing? It has not?

Council Chair Kaneshiro: They have always put money in housing. I believe it was reduced during COVID-19. During COVID-19, we lost money not only from COVID-19, but we lost Transient Accommodations Tax (TAT) from the State.

Councilmember DeCosta: Correct. Again, you folks sat on the Council and saw that money. Not you? Councilmember Kualii, you sat on that Council?

Councilmember Kualii: Probably not, 2016 to 2018.

Councilmember DeCosta: I am talking about the years to follow.

Councilmember Kualii: I have been on and off.

Councilmember DeCosta: And you saw that money be used by the Administration, because the Mayor needed to use that money in the budget. So, the process is not that simple, just to take money, tax people. You know that taxing is a very insufficient way to be fiscally responsible when you run any kind of business, that should be our last resort. I believe my vote on it was not to see money sit in an account that we could not spend for that year, and Adam told us that he had fifteen million five hundred thousand dollars (\$15,500,000), he had more than enough that

he could spend for that year. This whole thing made us look really bad with the media that all seven (7) of us do not have a conscience about public housing—that is our biggest concern, the seven (7) of us and our Mayor and his Administration. We would love to build a house for everyone, but taxing a certain group of people and leaving that funding in an account that is not being used for that year is not a fiscal way to run a business or a county, you want the money circulating in the economy—that is how you strengthen your economy. That is my point on this.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: I was hoping we would not get down this road. Taxing is the only means for this County to balance its budget. I would completely agree, and the perceptions are perceptions and that is just part of the job, but we all care as was mentioned about housing. In that much, I think we can all agree upon. The Council is very limited in its abilities to move the needle forward on certain items, this primarily sits in the Council's seat in order to make a decision. It is set up such that it cannot be done easily and that is a good thing—it is done by a super majority, so to say that this is something that can be easily done is false. It is our process in order to put it on the table to have that discussion and it should be ongoing. Now, going back to when the last increase in TVRs was done, and that funding was sent to the Housing Revolving Fund, all those funds were expended, it was utilized, and we have great outcomes because of it today that we can be proud of. I think that when we plan for something and you go through enough of these budgets overtime, you know where your levers are and what you need to pull, and that is something that I think some of you will come to understand, and maybe be able to plan for it ahead of time, but certainly, I have seen enough budgets to see that this is where it happens, and this is the mechanism of which we go through in order to make it happen. So, you know what happened after that vote and the following budget was the flood happened followed by the pandemic, so to have that flexibility, which I think I agree, and I know our Chair does definitely, to have that flexibility is really important. That is one of the reasons why a charter amendment was never introduced for and earmark, because we like to have the flexibility of moving that funding, and we decided the following year that we needed it. Is that money still there? Yes. Should we be active on it? Yes, and such is whenever another increase is considered. I would just say, I do not know if we need to get hard on ourselves here, this is the way for us to make those changes, and we need to continue to have those discussions.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I just wanted to be very clear, too. I am not saying it was simple or easy. All I was saying is that it is our responsibility that we have that authority and responsibility. Like Vice Chair talked about as far as the lever and mechanism, that is our biggest responsibility—the budget is our biggest responsibility, and the thing about the fifteen million dollars (\$15,000,000), our

Housing Director shared with us fifteen million dollars (\$15,000,000) worth of expenses that had he had fifteen million dollars (\$15,000,000) in his Housing Development Fund, he could spend on all these purposes. Now, he did also say the whole thing about it is more than a year and going forward and having to grow the funds because of what is coming in the next couple of years is way beyond the four million dollars (\$4,000,000) or five million dollars (\$5,000,000) that we have been allocating year-after-year. It is not simple or easy. It is big, bold, broad policy decisions, but that is our job, we all were elected to not have it simple or easy. We were elected to make tough decisions, and sometimes when it is on the floor, you just have to vote up or down, explain your reason why, then move on. I was very clear and passionate at the end saying, I hope that next budget cycle, hopefully, we are here and the next Council for them, that they do not start from a blank piece of paper again, that they start from where we left off, because we have at least got it to that point of the discussion.

Council Chair Kaneshiro: For me, I am just going to say, I do not think we have a scheduling problem. The way our budget is set up is that we work backwards, the budget needs to be passed at a certain time, this is the way it goes, I think if we started the budget earlier because of this option for a tax rate change, I do not know if the outcome will be any different than what it did. I think everyone made their decision on the spot, they are sticking with their decision, and that is the way it should be. I do not think there should be a schedule change with the way the budget goes. That is the way it has been going this whole time. I think it works well. Staff works well on it. That is my opinion. I think we make the decision at that place and time. We have a lot of knowledge and information from the budget going into that decision to decide whether we want to go up and down, it might not be a comfortable decision we make, but it is a decision we make and stand by. With that being said, I guess now would be a good time for me to justify where my stance was on that actual proposal to increase the TVR rates and to provide that increased revenue to housing. I did make the statement. I did not think that was the right time to do it. The premise of that is I am not in favor of increasing taxes, because I strongly believe we need to be fiscally responsible and live within our means. Taxes should only be done sparingly, strategically, and when absolutely necessary. In this case, when I say I did not think it was the right time, the County saw a forty-nine million dollar (\$49,000,000) increase this budget in revenue. A forty-nine million dollar (\$49,000,000) increase in revenue is huge. In the past, I believe we might have had a negative around COVID-19 time, a three million dollar (\$3,000,000) to ten million dollar (\$10,000,000) increase is usually typical of what we see, a forty-nine million dollar (\$49,000,000) increase is huge and there are reasons for that forty-nine million dollar (\$49,000,000) increase. Off the top of my head, the additional three percent (3%) TAT we received that we are taxing on top of TVR that brought in, I believe, nineteen million dollars (\$19,000,000). The Residential Investor tax class brought in seventeen million dollars (\$17,000,000) more dollars, and just basic assessments increase. Even assessments on vacation rentals increased, they brought

in an additional seven million dollars (\$17,000,000). Every vacation rental the average increase for them was about fifteen percent (15%), so that is how we got this big influx of money. When you think about it, the Vacation Rental tax class has already been impacted, because they saw that fifteen percent (15%) increase that brought in seventeen million dollars (\$17,000,000) to the County, and then they were assessed with that three percent (3%) on top of the States already ten and a quarter percent (10.25%), so they have already been affected in this budget cycle and not long ago last year or two (2) years ago, they could not even operate, we did not have tourists on-island, we never gave them any reprieve on the real property taxes, they all paid it. For me, it was not the time, we live within our means, forty-nine million dollars (\$49,000,000) is a lot of money that has come in. A lot of that money went to CIP, we had a lot of new projects, twenty-two million dollars (\$22,000,000) worth of new projects in our CIP. Again, if we really wanted to push money into housing then we can look at that CIP list and say what is not a priority on that list and what is the need for housing now. At the time, I did not hear from the Housing Director as far as a need for money at this time. They did give us a list of fifteen million dollars (\$15,000,000), but that was a wish-list. On that list, five million three hundred thousand dollars (\$5,300,000) of that was for construction of a community center at Lima Ola, which is not housing, it is a community center and at the time, we had information from the Office of the Mayor that we are also getting money from the State to fund part of that community center, so that would not be the total amount. Other parts of the money were relating to purchasing property in Kilauea, he mentioned numerous times that many of the projects on his wish-list was not shovel-ready. It depended on all these preconstruction type of studies first before he can move into getting into some of these other items, and all of those preconstruction items were on that fifteen million dollar (\$15,000,000) list, and all of those were being funded by the three million dollars (\$3,000,000) that housing was getting at that time. That is two (2) sides to the coin on that proposal. That is some of the justification why I did not vote for that proposal. We have to live within our means. I am not a fan of taxing and spending earmarks. I am in favor of being fiscally responsible and I think that is the way I ran the budget, all eight (8) years that I have been on it. Again, if the Housing Agency really needed the money, then they needed to convince everyone that they needed the money. Adam was honest and clear, he said he did not need all that money at this time. I think they mentioned it could go in the revolving fund, it does not necessarily need to be spent that year. Again, the County has many needs. We base our budget on the needs we have now, and that was the decision I made at the time. Councilmember DeCosta.

Councilmember DeCosta: I want to reiterate, Chair, you always seem to have much common sense when you point things out. Our job as seven (7) of us here is to be able to absorb what each other says on this table and to be able to change our minds based on the influence, statistics, or the information that we share with each other. I have done it many times. You folks won my vote many times on this floor. I think this is one of the situations where being fiscally responsible is important. I am

going to say this, because I think Council Vice Chair Chock mentioned it twice about COVID-19 and the flood. I am an economist that is my background, that is my degree, and I look at how the economy is and the buzz word right now at our nation's capital is a recession. What does a recession mean? It means that people live within their means. It means counties and States across the nation may not travel, may not spend that lucrative cash that they have willingly. I believe our Mayor was looking at that. If we hit a recession, what would happen to the TVRs? They paid their taxes during COVID-19. We hit a recession; they still are going to be able to pay those taxes. They bounce back within a year. We have one (1) year of them bouncing back. I am trying to be a responsible Councilmember for all the entities on Kaua'i from our local families who do not own a TVR, who do not even own a home, to our local families who own a family, to local families who own a TVR, and to the mainlanders who own a TVR. We are their Councilmember, and we should be responsible. That is what I wanted to give you my *mana'o* and tell you about my stance on this.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: I understand all the discussion and I think we are on the same page with most of it, but speaking on the Administrative side, and I understand the process and the importance of what is on your wish-list and what is the actual funding that you need to get things done, because at the end of the day the Administration will have to make it happen and the funding is coming. In the discussion part, the opportunity is still on the table in the future. The funding can go and can be utilized in a time that it can be used. We can let it flow that way. On the Administration's side, we would like to be sure that we can follow through and be sure that the funds are utilized by Housing. Housing is a big thing for us. I think it is all a part of the process. We all made our own decisions and I, too, felt that the timing and all the information was being discussed. I remember Housing saying that right now they could not use all the funds. It is not that they did not need. It is just the timing of it. We will move to the next level. I understand that. I just wanted to say that on my part and move forward. It is still open for discussion. We can move forward in other ways working together.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: I was not prepared to have this conversation again. I do not necessarily think it is valuable to have it again. I am ready to go bat a year from now and try it all over. I guess for today, I do want to respond to a couple of things. Everyone is passionate and everyone around this room has taken hard votes on affordable housing, has introduced policies relating to affordable housing, and I think everyone recognizes the scale of this problem and is trying to address it in different ways. I think we all recognize that it is an "all of the above" approach. We need to encourage more market rate development, do what we can with our zoning and infrastructure, and need to be building more subsidized affordable housing. In

my opinion, we need to be doing more to disincentivize vacant homeownership and TVRs to get supply from everywhere that we can get housing supply. This policy was a small step in that direction. I agree with everything that Councilmember Kuali'i said, except when he said that this was bold. I do not even think it was bold. It would still make us less than the TVR rates on every other island. It is a policy that comes right out of the General Plan. TVRs should be equal to Hotel & Resort. It would not have solved the problem, but it would take us a half ($\frac{1}{2}$) step in the right direction. It is something at the bare minimum necessary. Bold is going to what the other islands are doing or even higher, which is eleven dollars (\$11) or twelve dollars (\$12) per TVR. Going bold is going what the mainland would tax a TVR, which is twenty dollars (\$20) per one thousand dollars (\$1,000) assessed. Bold is not going to ten dollars and eighty-five cents (\$10.85). I think maybe we all heard what Adam was saying differently or we all heard what we wanted to hear, possibly. What I heard from Adam was that there was a need for more money for affordable housing. We have giant infrastructure projects coming through the pipe through the next few years with no funding source identified. With the Revolving Fund, even if the money rolls over, it could be used for these big projects coming up. I never once heard that the money is not needed. In fact, I heard the opposite. He has said multiple times that even if it is not a county project, that that money can be used to help subsidize other low-income housing development, which enables these projects to pencil out and often get access to Low-Income Housing Tax Credits (LIHTC) that they would not otherwise. This is leverage private and Federal funding when we have access to this type of moneys that can be...there will be another housing development going up across the street that is using some County money that was able to help get it penciled out. I think the money is absolutely necessary. Regarding what would happen if we went into a recession, that is why when times are good is when we try to build the capacity to get through times that are not good. What would happen to TVRs if there is a recession? What would happen to residents in a recession? That is the time when we really need to be spending even more money on affordable housing. If we had the capacity to and have a Housing Revolving Fund with money in it, you could even cut other taxes. That is what you should do in a recession, possible cut taxes using the money that you received during good times. These are as good of times as they get with TVRs. The industry is booming. Ask anyone who owns a TVR, they are doing better by far than they have done. Lastly, before I go on too long, a couple of misstatements that I think have been made in letters to the newspaper or elsewhere. There was a statement in the newspaper saying that there was no earmark. That is not true. This was an earmark. That is how the budget process works. We have gone over that. This money raised the tax, and it made a one-year earmark. That is all we can do absent a Charter Amendment. We have gone through that. This was clearly an earmark for affordable housing. Secondly, there was a letter in the newspaper saying there was only fifty (50) TVRs on the island and that the four thousand (4,000) number is inaccurate. That is not true. Four thousand (4,000) is approximately the number of TVRs that our Real Property Assessment Division classifies as TVRs. That means there are short-term rental operations happening on

those properties. Even that number is an underestimate, because that is just four thousand (4,000) parcels with TVRs. Many of those parcels have two (2), three (3), four (4), five (5), six (6), or seven (7) TVRs on a single parcel. That four thousand (4,000) is not even the total number of TVRs that we have on Kaua'i. Another error and I apologize for it. Councilmember DeCosta asked me on the floor how many residents own TVRs and I cited a number from the Appleseed Foundation which said that fifty-two percent (52%) or fifty-four percent (54%) are owned by mainland investors. That came from a report of statewide data. There was a caveat on the data that the data was not good. I asked our Department of Finance if they could figure out how many were owned by local homeowners. They came back with fifteen percent (15%) and that is using address data for their TAT filing separating out management companies. Their best approximation was somewhere in the range of fifteen percent (15%). Even that data is most likely not good, because that is just looking at where someone is filing their taxes. That was my fault. I gave that number out and that number has been repeated many times elsewhere. That number is likely a lot closer to fifteen percent (15%) of TVRs owned by local residents. There is more, but I will not keep going here. I deeply appreciate the conversation that we have had here. I deeply appreciate everyone's perspectives here. I look forward to having this conversation in three hundred sixty (360) days, maybe.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I think this kind of conversation is extremely important. For the viewers who might not know, we have the Sunshine Law that keeps us from being able to talk about it when we are together. These things are very important. On the earmarks, you might be talking about my statements, I was talking about permanent earmarks. What I just heard from Council Vice Chair Chock about the trouble with Charter earmarks, is worthy of consideration. When we look at our deferred maintenance, which is our *kuleana*. I do not know if anyone has noticed, but that bridge in Anahola, you cannot go across the road anymore. You cannot make that loop. When I looked at that knowing how much it costs to fix bridges, I do not know how much that one costs. It seems like crazy amounts. It is one million dollars (\$1,000,000) or two million dollars (\$2,000,000) just to fix a little bridge and sometimes more. Councilmember DeCosta brought up recession. Yes, we are looking at recession. Inflation needs to be added to that. Inflation and recession. Everyone is getting a tax increase because of the inflationary pressure, except for those of us in Homestead or Commercial Residential because we have this assessment cap. I appreciate where Council Chair Kaneshiro pointed out those different pieces of the forty-nine million dollars (\$49,000,000). These are not easy choices. When I look at the deferred maintenance on our infrastructure, that is a big piece. Infrastructure is such a key part of being able to have affordable housing. I like that we are all on the same page. I just want to speak to term limits for a moment. I know that I am a beneficiary of these term limits. We are going to lose two (2) important people, whether I agree with you or not on things. You both have a whole lot to bring

to the table. I am thankful for your many years of service, Councilmember Carvalho, and it takes a learning process of knowing what is going on. When you are in the experience of pushing for something that is stopped, is important. When I look at these very short terms, this was all a part of the Charter Amendment. The short terms are competing against each other all the time. We try not to, but we have these short terms, and we lose institutional memory and knowledge, and when we have citizens that maybe rightfully complaining by pulling points out where they disagree with us, part of it is the training process, learning process, and this myriad of nuances. I am thankful that we did have this conversation right now. When we are thinking about three hundred sixty (360) days from now, believe me, I will be pumping ahead of time of when we will be talking about that so that anyone on any of those tax classes can be getting their input in to us so that we make our best decisions and can feel confident that we heard from them. That is a big issue for me. If I have been sitting in an empty room for two (2) years...I am really thankful to have people begin to be coming back. The public is such an important part of this process. I thank you all for this conversation. I have full respect to my colleagues who voted differently than I did on a very difficult decision. I feel like a very loud champion for those without housing or barely housed. It cannot get closer to my heart than that topic.

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

The motion for adoption of Resolution No. 2022-10 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: With that, we will take our ten-minute caption break and we will be back to continue with our Council Meeting agenda.

There being no objections, the meeting recessed at 10:34 a.m.

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

(Councilmember Cowden and Councilmember Evslin were noted as not present.)

Council Chair Kaneshiro: Welcome back. We are on page 5, the second Resolution.

Resolution No. 2022-18 – RESOLUTION AMENDING RESOLUTION NO. 138 (1954) AND RESOLUTION NO. 90-94, BY ESTABLISHING A CROSSWALK AND A LEFT TURN ONLY LANE ALONG HANAMĀ'ULU ROAD, LĪHU'E DISTRICT, COUNTY OF KAUAI

Councilmember Kualii moved for adoption of Resolution No. 2022-18, seconded by Councilmember Carvalho.

(Councilmember Evslin was noted as present.)

Council Chair Kaneshiro: We received no written testimony on this item. I will suspend the rules and have Michael Moule give us an overview of this Resolution and what changes are going to take place.

There being no objections, the rules were suspended.

MICHAEL MOULE, Chief of Engineering *(via remote technology)*: Good morning. As a quick overview, this is one (1) of two (2) Safe Routes to Schools projects that we are currently building here on Kauai. This is for King Kaumuali'i Elementary School. There are a few changes here from a resolution point of view. The project includes sidewalks, crosswalks, paved shoulders, and flashing beacons for the crosswalks. What is being changed in this Resolution are two (2) things. The first is that we are moving a crosswalk. If it would help, I could share my screen so you can see a map of that. Let me do that really quickly. That is the wrong screen, sorry. That is not what I meant to share. Here we go. This should be a screen of the Resolution itself. I will show the map and pull up Google Earth to show you that as well. This should give you a better picture of what is going on. Here is the map. This is the school area right here. Right here is the school. This is the entrance to the school and into the parking lot. The exit is here at the bottom of the map. This is the map attached to the Resolution. There is a left turn lane here and the crosswalk is here. The project also includes some improvements to a crosswalk nearby. I will show that to you momentarily on Google Earth. The left turn lane is an existing feature that we are reconfiguring as a part of the project. Through our research and checking with Council Services Staff, we were unable to locate any resolution establishing that left turn lane. Since the Code states that the Council shall establish things like turn lanes of traffic lanes by resolution, we wanted to clean up the fact that that was not established by resolution here. That is why the left turn lane is included even though it is an existing feature. We are shifting it a little bit as a part of the project. It is roughly speaking where it was before. I am going to pull up Google Earth here so you can see the area here on the map. Let me drag this over. Here is the school area. This is the school parking lot entrance and exit. Let me turn off these roads. You can see the turn lane existing here. This is an existing image. You can see an existing crosswalk right at the school entrance and that crosswalk is being moved from this location to here just west of Lawehana Street, which is this street

here off of Hanamā'ulu Road. There is an existing crosswalk down here down to Kuli Street. We are doing some improvements there to put in a curb extension to bring the students and other pedestrians crossing the street out past the parked cars so that they can see better when they are crossing the street. We are not moving that crosswalk, so it is not included in this Resolution. The work does include some safety improvements for that crosswalk as well. Again, the simple changes are to take this turn lane and establish it by resolution, remove this crosswalk, and establish a crosswalk over here at this location. The Resolution also includes repealing an old crosswalk and the text for that. If you look at the text on the Resolution, you see this first one being repealed here regarding one thousand fifty-five (1,055) feet east of Kūhiō Highway...I can do it in Google Earth here if you want...I do not think it is necessary though...it takes you to a location where there is no crosswalk now. Based on aerial images that we have we do not see any crosswalk there for years...twenty (20) years roughly. We are just repealing that since that crosswalk has not been in place for a long time even though there is a resolution for it. Section 2 here, is establishing the one at the west side of Lawehana Street. Section 3 is repealing the one that is one hundred fifty (150) feet west of Lawehana Street near the school entrance. On the next page, Section 4, establishes the turn lane, which again, existed physically here, but we are doing the Resolution to clean it up as part of the Resolution today. That is all that I got.

(Councilmember Cowden was noted as present.)

Council Chair Kaneshiro: Thank you for that explanation. Do we have any questions for Michael on this Resolution regarding the crosswalk and left turn lane? Councilmember Cowden.

Councilmember Cowden: I know I have walked with different members of the community. I am sorry I was a little bit late here. Was this community-driven?

Mr. Moule: This project has been around for a while. The funding was obtained back in 2014 for the Safe Routes to Schools project. We worked with the school and held public meetings at the school. We worked with the homeowners' association in Hanamā'ulu. The project originally included more elements traveling down Ho'ohana Street nearby. Those were removed based on public meetings. They were pretty hard to implement given the constraints on that street. We worked with the school and the public to not include those improvements mainly focusing on the area shown on the map now, which includes sidewalks on Akuli Street here and these crossings and sidewalks on Hanamā'ulu Road all the way to here and Hanamā'ulu Place, and the crosswalks that I talked about before.

Councilmember Cowden: I believe I was involved in that Safe Routes to School project. We had a young member of that community hit by a car with some serious enduring injuries.

Mr. Moule: Yes, that was at the other end of the community though. That was not close to the school here.

Councilmember Cowden: Yes. That is further down and that is where you say we are not making the correction yet.

Mr. Moule: That crash occurred way over here on Laukona Street. That area was never part of the Safe Routes to School project. My understanding is that the student who was hit there was not walking to King Kaumuali'i Elementary School, but rather to a nearby bus stop to catch a bus to the middle school, when she was unfortunately hit.

Councilmember Cowden: Okay, thank you.

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

Councilmember DeCosta: I had a general question, not specific to this. Michael, I am glad you brought up about the cars that are parked on the street and having to bring out the crosswalk. It seems like when there are parking stalls next to crosswalks that have a sign, but do not have a flashing beacon, it is kind of dangerous. The pedestrian has to walk out to see the coming traffic with cars parking on both sides of the street. I was talking a little bit about this with Troy that there is a spot out in Waimea that needs attention. Thank you for bringing that up, Michael, it is important.

Mr. Moule: Yes.

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

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion? If not, roll call vote.

The motion for adoption of Resolution No. 2022-18 was then put, and carried by the following vote:

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

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

Resolution No. 2022-19 – RESOLUTION AMENDING RESOLUTION NO. 32, DRAFT 1 (1985), AS AMENDED BY RESOLUTION NOS. 27 (1987), 75 (1988), 45 (1989), AND RESOLUTION NO. 2000-21 RELATING TO TRAFFIC REGULATIONS AT PRINCEVILLE

Councilmember Kualii moved for adoption of Resolution No. 2022-19, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received written testimony on this item. Councilmember Cowden, did you want to explain this Resolution?

Councilmember Cowden: Yes. This is a pretty simple Resolution. There is a traffic circle as you enter Princeville on Ka Haku Road. I believe that was one of the very first traffic circles, if not the first one on the island. It is not exactly a roundabout because it is not exactly circular. The stop signs are within the circle and now we have people who understand to yield as they enter a roundabout or traffic circle. That is essentially the change that was made. We have traffic confusion going into that area. There are sometimes speeding issues partly driven by frustration as people are coming out. We want to start by fixing this. I just really want to thank Michael Moule for going above and beyond the call of duty for helping with this. He made it be a really easy solution and suggestion. You will see that both homeowners' associations have written letters of approval and they did a survey of the community as I suggested. There was not a challenge on that. I think it will help the flow through that area, especially when Kūhiō Highway is damaged and broken, that area has an exceptional amount of traffic going through it that is not ordinary. I am thankful that this is in place. I do not know if Michael Moule would like to add anything to that. Thank you very much, Michael, for the work that you did and for improving and cleaning up the rest of the document that was really quite old for that subdivision. You did a very nice job.

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

The motion for adoption of Resolution No. 2022-19 was then put, and carried by the following vote:

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

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2868) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO APPLICATION OF REGULATIONS (*County of Kauai Planning Department, Applicant*) (ZA-2022-4)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2868) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 2022, and that it be referred to the Planning Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. I will suspend the rules. Ka'aina, if you want to give us an overview of the Bill, please.

There being no objections, the rules were suspended.

KA'AINA S. HULL, Director of Planning (*via remote technology*):
Good morning. Sorry, I just ran up a bunch of stairs. The draft that you have before you today is a measure concerning having the appropriate dwelling unit count for each condominium property regime (CPR) unit proposed in a CPR project. To give you some background information on this...the Horizontal Property Regime (HPR) has been in State law since the 1960s. In the 1980s, it really began to get applied in a rather robust manner here on Kauai to essentially somewhat circumvent the one-time subdivision agricultural limitation that we have here on Kauai. CPRs can be a galvanizing topic, but one (1) issue that arose back in the 1980s was the CPR process is a State regime and is run by a State entity. At that time, the Planning Department policymakers here on Kauai had grave concerns about the Kauai Real Estate Commission letting CPR projects happen "willy-nilly" sometimes without density and essentially developers or realtors selling CPR units on the open market without any density rights. What happened is there was not a way...a fair amount of CPR units sold on the open market which people could not really build on. That in response had some concerns both by the Hawaii Real Estate Commission, as well as the County of Kauai, whereby in the early 2000s, the Real Estate Commission started actually checking with the County of Kauai Planning Department to ensure that each of the respective proposed CPR units in a CPR project is in conformance with County law. The standard outreach was requesting whether or not there are any zoning violations, which we would respond to whether or not there were. In around 2010, recognizing that there are still concerns about CPR units being sold without density, the Planning Department began actually communicating with the

Hawai'i Real Estate Commission that these properties and projects need to have the respective dwelling unit entitlements per CPR unit, so again, no CPR units without any density rights were sold on the open market to unsuspecting buyers. We have had that practice in play for nearly a decade now. I would say about a year ago, some land use attorneys a bit more on the private property side, began reflecting that this policy and practice may be an overreach on behalf of the Planning Department being that there are no hard and fast rules or regulations concerning that restriction. In response to those concerns and the possible legal liability we may be open to continuing the practice, we drafted up this Bill you have before you, to essentially limit the amount of CPR units or any CPR project the respective number of dwelling units that are on a subject property. It went through the Planning Commission relatively easily without much controversy and is before you now. I can say since it went to the Planning Commission, at least one (1) land use attorney reached out, in fact just yesterday, to me, expressing his concerns that while this makes sense for residential CPR projects, he has concerns about it being applied to commercial or industrial CPR projects being that many of them may have no intention of ever developing a dwelling unit on the respective unit that they are chopping up. Hearing that, I think it is a valid concern. I have asked that attorney to submit official comments to the County Council so that we can get that on the record. I believe there are ways we can address those concerns and issues and I look forward to Committee should you refer it to Committee.

Council Chair Kaneshiro: Thank you for that explanation. I have questions. Councilmember Evslin, then Councilmember Cowden.

Councilmember Evslin: Thank you, Ka'āina. Along with there being potential concerns with commercial and industrial, could there not be some value on agricultural land about having zero (0) density parcel, which somewhat ensures that parcel will get used for agricultural purposes, like I think we see a lot in Moloa'a or elsewhere?

Mr. Hull: Yes. It is the agricultural area that is our concern where most of these CPR units were chopped up and utilized...sold on the open market in a manner of which the buyers thought they had dwelling rights. There are disclosure documents. It is their responsibility and their realtor's responsibility to go through the CPR declaration in detail, and if they do, they might realize that they do not have a density entitlement. It is a valid point, Councilmember Evslin. There is more we can discuss about that in Committee and in working together. I would say that Moloa'a comes to my mind in particular. It was arguably one of the most problematic situations for CPR units being chopped up without density rights. Having said that, I can recognize also that Moloa'a has a fair amount of actual farming occurring on those CPR units that are vacant. Whether or not this practice that was put in play is much more a function of maybe we reeled in as we "beefed up" and scaled our enforcement operations...it is a balancing act I guess, Councilmember.

Councilmember Evslin: Thank you. I guess along those lines, I could see some value in a larger lot getting CPR'd and bundled the density together into one portion, which I think is better for a lot of reasons, including infrastructure,

et cetera...then leaving a large segment with no density and the owner of that is forced to farm it or lease it out for farming purposes or something along those lines. You do not need to answer that. I am just speaking hypothetically. Another example, what if there are two (2) adjacent properties, say one (1) owner for two (2) tax map keys (TMKs) and they want to CPR-off a house site on the bottom TMK, say an acre around the single house at the bottom of the TMK and it leaves a large swath of that TMK with no density, but since they own the adjacent TMK, they build their house on the adjacent TMK, and they are using that TMK sort of as their farm, yard, or whatever. Are there options for them to change their lot lines, or how can that be accommodated?

Mr. Hull: It could in theory be accomplished through the CPR processes that exists today. It is not necessarily the way we have been practicing it with the Real Estate Commission and in working with them to ensure that we have no non-conformance issues. Arguably and off the cuff, I would say that the best approach for setting up a no-density agricultural parcel if you will, really should be done through the subdivision process. In that you can get a variance against the one-time subdivision process whereby you can establish just a parcel for agricultural purposes with no density and through that process more conditions of approval can be established for the Planning Department to enforce and ensure that that parcel is really being used for agriculture and we are separating one with no density. The case that is particularly emblematic of that is the agricultural park in Kilauea. That was created explicitly through the subdivision process for a non-density parcel for agricultural purposes with very specific conditions on how it can and needs to be used for agricultural purposes. That is the one route that I will generally try to push applicants towards if they want to go for that regime. Again, that is not to say it cannot be done through the CPR process, should the policy of the Council want to lean more towards that, that would ultimately be in receipt of this Bill if you will.

Councilmember Evslin: Sorry, one more question. Some of these things should be discussed during Committee, but just a quick one. If someone is trying to change their lot line without creating any new lots...they have two (2) lots and are just trying to move lines around...how hard is that process to do? Do you have to go through the subdivision process to do that?

Mr. Hull: You are talking about lot lines, not CPR lines, right?

Councilmember Evslin: Right. Say two (2) adjacent TMKs, right, they want to kind of carve something out that is different so they can possibly CPR off a smaller parcel of it, while re-conforming their TMK to absorb some of that existing parcel, if that makes sense.

Mr. Hull: For the most part, it is not that much of a lengthy process if no additional density is going to be established. If moving and doing a small, minor lot line adjustment results in the increase in density, then it could be a bit more thorough in which all the infrastructure agencies have to participate.

Councilmember Evslin: Okay, thank you, Ka'āina.

Mr. Hull: I will just say, too, to your point...sorry.

Council Chair Kaneshiro: Go ahead.

Mr. Hull: To your point, Councilmember Evslin, about various discussions of how CPRs are utilized, what function, and in what capacity, along with the idea of clustering units to ease up the infrastructure requirements, this is...it has been a bumpy road with the County of Kaua'i and CPRs. I think Director Shigemoto who spoke to you earlier this morning was first to utilize it robustly back in the 1980s. Director Shigemoto attempted to and propose essentially tying CPRs to the subdivision process. That was ultimately not adopted by the Council at that time. Later on in the 1990s Director Crowell attempted to propose a bill that would cluster farm dwellings on agricultural lots, so to speak particularly to that concern that you are bringing up, Councilmember Evslin. Again because of the concerns that were happening with CPRs and the chopping up of agricultural land...ultimately that also was not adopted. There were valid concerns on both sides. In an attempt to address CPRs and concerns that arose out of them, there has been a long slew of history with the Planning Department. This we think is a relatively minor one, but at the same time we are recognizing now that there may be a few bumps or hiccups that hopefully we can iron out in Committee.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a reasonable amount of experience in this as a consumer. For full disclosure, I had been a partner in four (4) CPRs. The first one was in the 1980s. I believe we were the third one on the island. I will say that three (3) of the four (4) had difficulties. The design of doing this kind of land division really matters and that there are well-informed and agreed upon partners. It is problematic. I just want to acknowledge that. It did result from a difficult economic shift from the northeast side and north. A question that I would have, just for clarity, in many of these properties, let us say they were broken into five (5) and they had five (5) house sites, and then one (1) guest property or guest house. What happened is that maybe the first three (3) to build built a house and a guest house, so all of sudden there were six (6) and the remaining two (2) then no longer had a place to put a house. Is that the problem that you are addressing here?

Mr. Hull: One (1) of the problems, yes.

Councilmember Cowden: Would this stop that particular challenge? As it is, that has been a huge challenge. It is like a race to the top of getting properties built. It sidelines the last couple of builders, so this would assist that.

Mr. Hull: There are two (2) issues when you bring up the race to the top, Councilmember Cowden. One is that...and this was associated with the driveway requirement that we previously had that stated you have to have a driveway...sorry...a driveway could only service less than five (5) dwelling units.

Anything five (5) or above had to be serviced by a full-blown County standard roadway.

Councilmember Cowden: Right.

Mr. Hull: The race to the top that would happen in properties or lots of record that qualify for five (5) or more units is, the first one that built got to build and just put in a relative *manini* driveway. It was the fifth or sixth, and sometimes there was only a fifth owner who got stuck upgrading that driveway to a County standard roadway before they could build their house. That happened for several years. About three (3) years ago, we had a bill before you in conjunction with the Engineering Division and the Fire Department where we were proposing to shift the burden of having to do a County standard roadway to twenty (20) dwelling units and not five (5). The vast majority of properties that have the ability to do CPRs no longer have that race to the top, because it is usually between five (5) and ten (10) where that problem arose. That issue is no longer problematic, because of the bill that we proposed to you was adopted three (3) to three and a half (3½) years ago. The other part of the "race to the top" is, we, the Planning Department do not oversee private covenants. If there are some old CPR units that are out there and were proposed...there are five (5) CPR units, but actually the property only qualifies for two (2) dwelling units, right, it is only the first two (2) CPRs that come in for a dwelling unit to get approved and the other three (3) are just stuck because they do not qualify for dwelling units on the property and the Planning Department is not going to sign off on it. This proposal ensures that never happens again. It is happening by practice and has been happening by practice for several years in the Department. As I stated earlier, there are some land use attorneys that feel we may be overreaching given that we do not have the regulatory authority established in Code to restrict it to the dwelling unit capacity.

Councilmember Cowden: Thank you. I would also like to bring up this zero (0) density element. Again, just a little bit of background on my experience...when I was in leadership in the North Shore Business Council...I think most of the time I was the President of it. Sugar was shutting down and we had a number of economic challenges on both the east and the north. One of our board members was the realtor of it and we worked together on this Moloa'a Hui. I believe there were fourteen (14) properties, if I remember correctly, or something like that that had zero (0) density. There was a trade for the density to have smaller properties along the ridgeline on the less agriculturally positive places. The thought was that it would be sugar workers who would be buying those pieces. We had a really hard time selling it. It did not move very easily and there was a turnover. There are non-permitted structures that are essential for the farming that ended up on those properties. As the property sells and sells, there is a different understanding than what was there. When we first did it, we thought it would be pineapple or bananas. The "best-laid plans of mice and men oft go awry" I think is the quote. It did not happen the way we intended. That is where I look at what is the value...I have a question here. That is the experience. Even when I look at those properties right now that have zero (0) density and they try to get Agricultural Dedication, it is very difficult for them. If those had one (1) house site on it, they can be Homestead or they can be Commercial Residential as farmers. I think as we look at our goal of creating

sustainable agriculture, a resilient Kaua'i with housing, having the one (1) homesite seems like it is far better than zero (0). Tax-wise it is going to be better. I know you are Planning and not Finance. What value is there in not having even one (1) house on an agricultural property? Do you experience with the trend where we are going with smaller boutique farms?

Mr. Hull: Yes. That is kind of the same. I was around for it. I believe it is the same discussion. The point I want to highlight, Councilmember Cowden, is that I believe it is the same discussion that happened with the Moloa'a Hui and when they went through the subdivision process and ultimately a CPR process of chopping up small parcels that have no density for farmers to utilize. The merit to that is those parcels without any house sites are now no longer competitive on the global speculative market of people that want to buy homes and property for homes here on Kaua'i. It decreases the value of those parcels in a manner that now farmers could possibly afford them. The kickback that we saw was a lot of farmers were farming out there saying it is hard to farm without having an actual house site on it and began putting house sites on them. Some of them had the ability to do house sites, but some of them were doing it illegally. In response, you saw for a brief time, the realtor industry saying the County of Kaua'i is going to allow house sites, and then they began jacking the property rates and sale rates up for those parcels that were intended to be used for farming. It is a bit of a rock and a hard place in that farmers could barely get on parcels on agricultural land to begin with. Let us consider having them with dwelling rights so that they are not that expensive, but then again on the flipside, needing dwelling units to adequately farm their sites, right?

Councilmember Cowden: I want to acknowledge that everything that you are saying right now is accurate to my memory. We had those at ten thousand dollars (\$10,000) an acre and mostly ten-acre parcels. The whole intention was to sell it to people who lived here and would drive to it from their home. That was not who bought it. It was bought out...there is always competition now for what could be luxury homes. The zero (0) density does keep them from being luxury homes. I am in agreement with your assessment, and it is not easy to solve. This is just one little piece of it that keeps that race to the top from happening. That is all I see here. That one little piece is in this Bill, correct? Alright.

Council Chair Kaneshiro: Ka'āina, what is the role with the Hawai'i Real Estate Commission and how are they drawing the line on it? I know they have an approval process that they go through. Are they saying that every CPR unit needs to have a dwelling unit density, or are they saying we just need an understanding that if you have five (5) CPRs and only two (2) densities, then these three (3) are not going to have density? How are they interpreting it currently?

Mr. Hull: The Hawai'i Real Estate Commission has the full authority over the CPR process. When you apply for a CPR or to CPR it up, you do not apply to any agency or division in the County of Kaua'i. You go through an attorney to get your paperwork and documentation for the CPR project to go before the Hawai'i Real Estate Commission. That is a fairly arduous process. It is not simple and easy. It is a little easier than the subdivision and infrastructure exactions,

but as far as a fairly laborious and lengthy process of legal documentation and disclosures necessary, it all goes through them. Part of that process is...and it started happening at the turn of the century recognizing that some of these CPR units have been creative with absent any density and the problems it was creating along with the lawsuits it was creating around the turn of the century or millennium, the Hawai'i Real Estate Commission began checking with each of the respective counties with a letter asking whether the proposed project and the lot in conformance with the Kaua'i County Code. When we first started responded to those...at least the Department did...I was not around. The first response to those were limited to just zoning violations. They just asked if there were any zoning violations. Around 2010, recognizing that there were still having problems with developers chopping up CPR units with no density, and the confusion it was creating on the real estate market, the Planning Department began a practice of informing the Real Estate Commission that it is not in compliance if the proposed CPR project does not have the same amount of density units as they had CPR units. We do that by practice, today, and the Real Estate Commission has not objected to that. They hold the line with us on that. We have not had any problems at all with that, quite honestly, Council Chair Kaneshiro. As of late, we have been getting some pushback from the Office of the County Attorney saying that they may be willing to challenge our position on that in that we do not have the authority to say it is non-conforming, being that we do not have any regulatory mechanism to stand on if you will. The proposal is just clarifying and establishing in the Code a practice that has been happening in the past almost decade.

Council Chair Kaneshiro: There is a follow-up question from Councilmember Evslin.

Councilmember Evslin: The overreach that the attorneys have mentioned, they are saying that the overreach is in you saying that the property does not conform to the Comprehensive Zoning Ordinance (CZO)...you mentioned another issue where someone comes in with a zero (0) density property trying to build and you say that you do not have any density and you cannot build, no one is challenging your authority to say, right? There is no argument saying that someone bought a zero (0) density property, and they have the right for a minimum of one (1) structure.

Mr. Hull: Correct, no.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I do not want to add to the race to the top either, but we have a lot of families in the Lāwa'i-Ōma'o-Kalāheo area that have had family land in their generations, CPR'd it, and passed it down to their kids. They have five-acre lots CPR'd into two (2) parcels. Two and a half (2½) acres per parcel. One (1) gets the guest house and one (1) does not. Their density is three (3) homes on that CPR five-acre lot into two (2) sections. Now they each had two (2) children and they have two (2) acres or two and a half (2½) acres with one (1) house and they want to leave something to their second child. Do we have anything in the works that

could assist these local families without creating a real estate market like on the North Shore that is going to add so much more density that is going to drive the prices even further up that we might hit a situation where we do not want to be in. I am just looking at those families where that conversation piece has to happen. We normally do not have a chance to talk about it until now. I am pretty sure up in Kapahi and in the Kapa'a area, there are quite a bit of families like that.

Councilmember Carvalho: Yes.

Mr. Hull: That is an absolutely valid point. It is one we are constantly having to respond to and look in to from inquiries. From a written policy perspective, there is no way we can say that...there is no mechanism like the Additional Dwelling Units (ADUs) or Additional Rental Units (ARUs) that we could from a written perspective say that this applies to Lāwa'i, or to local families. Constitutionally we have problems with that. As much as I think there is a desire, not on the part of the policymakers, but much of the island to try to figure that out, just from a legal perspective, there are barriers to that. From a mapping perspective and zoning district perspective, there is a possibility to do that. There is the possibility to looking at certain areas around the island that we would up-zone, so that it is no longer is agricultural and so that it is low-density R-1, R-2, or R-4. That is a lengthy process though to be honest, because you have to go through the General Plan and update or amend the General Plan to say that these areas that have been designated for agriculture need to be looked at being up-zoned. After doing that, then you have to go to the Land Use Commission to actually get State Land Use District- (SLUD) Urban or SLUD-Rural zoning. Then from there, you can go to the County Council and actually up-zoning them to higher intensity of dwelling units. I am not trying to push it off and saying that it should not be done. I think that can surgically be looked at, to do it in a prescriptive manner, but it is a lengthy process and lengthy by design, quite honestly. It is done not just on the impacts it could have, right, but you have more local families knocking on your door from Lāwa'i saying that they want to do this up-zone. If they are not on SLUD-Rural or -Urban district, saying no or yes to one (1) or two (2) families is one (1) issue, but when you do it on a wide scale, the reason it is so lengthy and there is a process to it is because not only the impacts it has to development, but the demands it will take on infrastructure can be very serious. A lot of the issues that you deal with in regards to deferred maintenance costs and not being able to keep up with the road improvements, and the Department of Water not being able to keep up with its water maintenance lines and the ability for Wastewater to run sewer lines to additional areas, right, what has come through as the "chicken have come home to roost" is, we did a lot of up-zoning without actually anticipating or planning for the infrastructure upgrades and so up-zoning these agricultural areas without really planning on how the infrastructure is going to be addressed can be extremely problematic and we are trying to figure out how to fund those now. I will not say that no, we cannot do it, it is a cautious approach on how it should be done, if as policymakers we are going to embark on that path. Sorry if that was kind of lengthy.

Councilmember DeCosta: I was just trying to understand the importance of what we are talking about in regard to public and affordable housing. Now we are talking about people with land that might need infrastructure to get to

that land to build. There are other ways that we can hit affordable housing and different avenues or ways. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members on this item? It is at first reading for right now. That was a good discussion on it as we head to Committee. If not, is there anyone in the audience wishing to testify? I have Lonnie, followed by Jill.

Mr. Sykos: In this conversation, I lived on Maui for twenty-five (25) years. The issue of CPRing any land, including and especially agricultural land, we began to address on Maui in the mid 1990s as best as I can remember, as the direct result of the CPRing of agricultural land on Kaua'i. I know from going to the Planning Commission on Maui, I know from going to the Board of Water Supply on Maui, I know from going and trying to get occupancy permits for the office trailer on the farm, that the argument that the CPRing of land was forced on Kaua'i is a lie. There is nothing in State law that requires you to allow or have allowed the CPR of any land including agricultural land. For the public, wrap your head around what a condominium is: a building that privately owned space and community-owned hallways, sidewalks, and parking lots, and now take a bare piece of land and chop it up and tell me how it is rational that the physical condominium buildings are somehow reflected in a piece of bare land. This is the only County that allowed that to occur. On Maui, we have monster battles and use water meters as the way to prevent this process from moving forward. The same happened on Hawai'i Island. Being from Hāna, Maui, radio-wise and communication-wise, we were cut off from the rest of Maui. Hawai'i Island, in their budget, budgets money for Civil Defense for East Maui, because they are the only people that can reach us in an emergency. We follow the politics on Hawai'i Island because they help us. This whole CPR thing was created on Kaua'i and it was utterly corrupt. What it allowed for was the turning of land and increasing the value of land without providing anything to the public. Instead of making subdivisions where you get roads, sidewalks, and improvements for the entire public, by CPRing the land the private landowner gets all the value of the appreciation of the land and the public gets nothing.

Council Chair Kaneshiro: That is your first three (3) minutes.

Mr. Sykos: Thank you.

Council Chair Kaneshiro: I will have Jill come up.

Ms. Lowry: Good morning. This question is for Ka'āina if he is still floating around in the ether somewhere. Is he? Is he able to hear my question?

Council Chair Kaneshiro: He is. One of the Councilmembers can ask the question once you have testified.

Councilmember Cowden: Just speak.

Ms. Lowry: Okay, sorry. With regards to the CPR Bill of record, with the project that we are considering at Anaina Hou Community Park, I am wondering as we try to identify our options with Waikoa's property prior to or after their sale, how this might affect us as far as ending up with a few additional acres. It is based on my ignorance, so I apologize for asking this question. Maybe here is not the venue. I am not sure who to even address this to. Okay. Silence. Not a good thing. Is there a time and place that I can ask some questions with regards to the CPR Bill that would give me a better understanding of how it relates to the project that I have at Anaina Hou? That might be a better question.

Council Chair Kaneshiro: You can E-mail us questions, or you can request a meeting with the Planning Department on those questions. Those are the different avenues. We heard your question so one of the Councilmembers can relay that to Ka'a'ina now if they want to.

Ms. Lowry: Okay, perfect. Thank you. I appreciate it.

Council Chair Kaneshiro: Lonnie, did you need another three (3) minutes?

Mr. Sykos: Ka'a'ina has presented some really good arguments on both sides of the argument here. I can understand the attraction of having used the CPR system, but what I cannot wrap my head around is how it is that the Planning that went into doing that, was incapable of seeing the unintended consequences that are biting us today. For instance, the fire lines that are inadequate are inadequate because this County Council, not you Councilmembers, but the County Councils, Mayors, and the Planning Department allowed thousands and thousands of houses to get built with no regime in place to deal with the infrastructure improvements needed because all the houses came into existence. The taxpayer, me, I am the one taking the jerk. Yes, it is uncomfortable sitting up here occasionally being beaten up by the public, because of past decisions because of what you have to deal with, which is the truth of it. My question sitting here is, is the County ever going to allow another CPR of raw land as a policy decision? If it is, you all are nuts. If you do not understand how badly this island is messed up, because of CPRs, it leaves no hope of fixing anything. That is the problem. You built tens of thousands of housing units without dealing the infrastructure required. Here we are down the road with all these houses built and this enormous infrastructure backlog. If you allow more CPR of land, you are just digging a deeper hole. Policy-wise we need to put an end to that. It is probably problematic having allowed it to occur so many times, unlike the other counties that prevented it. Here, there is an argument that if you let everyone else do it, why can I not?

Council Chair Kaneshiro: Okay, thank you. Jill, did you want another three (3) minutes? Is there anyone on Zoom wishing to testify? We are back to questions from the Members? Again, I heard what Jill's question was. Ka'a'ina, I think it might be more appropriate for you to contact her. You two can get in touch with each other. It is more of an individualized issue. I do not know if you have the background information on it. I do not want to put you on the spot. It might be a better venue for you two to discuss their property on its own, unless you wanted to

take a crack at it. I would say it might be better to speak with Jill independently of the meeting on that particular issue.

Mr. Hull: Yes. I do not have her specific CPR proposal. Jill has my number, so we can speak offline.

Council Chair Kaneshiro: Are there any other questions from the Members? Councilmember DeCosta then Councilmember Cowden.

Councilmember DeCosta: I did want to address Lonnie, if I may.

Council Chair Kaneshiro: Do you have a clarifying question?

Councilmember DeCosta: I have a clarifying question. Lonnie, I have two (2) questions. Lonnie, do you know of any generational families in the area that you live in, in Lāwa'i or Kalāheo, that has benefitted from the CPR zoning that they could leave their children some land?

Mr. Sykos: I live in Wailua, but my answer is yes. I have met many families who have benefitted personally from the CPRing. Yes.

Councilmember DeCosta: Second question, do you know anything about, you mentioned the sidewalks, roads, et cetera, that subdivisions put in. Do you know anything about access to mountain areas that subdivisions have to put in and when you go through a CPR, the developer can cut off the access and they do not have to give access? Do you know anything about that?

Mr. Sykos: Yes. When a subdivision is approved, as part of the approval process, the County has many opportunities to create requirements for them to fulfill. *Mauka* or *makai* access could be one of those. For CPRs, no, it is private property and keep off.

Councilmember DeCosta: Thank you for that clarification. I am impressed that you know that, thank you.

Council Chair Kaneshiro: Are there any clarifying questions? Thank you, Lonnie. Councilmember Cowden.

Councilmember Cowden: I think my question is really for Mike Dahilig. It might be for Ka'āina. Mike, from what I heard from Lonnie the first time, when we have that question about the State circumventing the County subdivision rules and that it was only Kaua'i that did it, can you speak to that? Is it correct that it could be that there will be no more CPRs?

Mr. Hull: I can address that, Councilmember Cowden. What Lonnie was referring to is that in circumventing the subdivision laws that the County of Kaua'i has...the County of Kaua'i is the only county in the State of Hawai'i that has a one-time limitation on agricultural subdivisions. All other counties you can continue to chop up your agricultural lot into smaller and smaller units as long

as it is in conformance with the lot sizes prescribed in their ordinances. The County of Kaua'i is the only one that has...once you chop it up and at these very large sizes for the most part...you cannot re-subdivide it anymore. You can continue on other islands to chop up subdivisions until it only qualifies for one (1) dwelling unit. On Kaua'i, when you chop up your agricultural lots, for the most part, your agricultural lots are going to be chopped up in a manner that it qualifies for three (3), four (4), or five (5) dwelling units and can no longer be further subdivided thereon out. That is why the HPR process, in which you can lay a condominium-style property ownership lines horizontally over property has been in play in the State of Hawai'i since the 1960s. It was only in the 1980s where realtors, developers, and land use attorneys started using the process to lay those horizontal ownership lines...because it comes down to ownership...these are not land use lines, these are ownership lines...over lots of record, because you could no longer chop it up to sell it for individual ownership. By using those lines, they did to a certain degree circumvent the one-time subdivision rule in play here on Kaua'i. Again, it is a State law and it is a manner in which if you have a five-unit CPR, five (5) owners are saying that they are going to have shared ownership of this lot of record. It is not like it is illegal. In policy or in the implementation of it, it does to a certain degree get landowners around the one-time subdivision rule.

Councilmember Cowden: In my memory, I was in my twenties, and I did not really understand what we did. We did pull it off. In that window of time, it was like for the 1980s, it was like affordable housing. In the 1990s there was the hurricane, right? In the 1980s, sugar, our boating industry, and what I will discretely call alternative agriculture, all sort of collapsed at the same time. It was a race for people to be able to have a home somewhere. As all these industries collapsed, vacation rentals bought up their homes. Their homes were taken by not being able to continue to afford it. It was not like some awful way of trying to exploit everything. It was a way to just be able to have a home and many people who were "agriculturalists" if I could say that. I guess you answered that. People were actually farming those properties, right? It was sometimes families buying it with no knowledge of where this would run to. It really created a lot of problems. You are saying that because of how we are different than these other islands, we would not be...I am just trying to answer his questions...we would not be able to say, "Stop this now." I am hearing ranchers, farmers, and families that have owned their land for a long time and their adult kids want a home. Do we want to stop it, or how do we do it? If you could just speak to that a little bit further to what I am hearing of this challenge between what is legal and what is right. It has certainly been exploited and certainly the fire flow circumstance where there are high-end houses at this point with inadequate fire flow is an outcome. I do not know if you get my question. I am just giving you a little bit of a foundation and if you could speak to that. It is complicated.

Mr. Hull: The fire flow question, I think, from here on out should be addressed already. The fire flow issue, a lot of it stems from the fact that for a long time, the Fire Department was not part of the building review process for single-family dwellings. They are now. As far as whether they choose to CPR a property or subdivide it, whenever that single-family dwelling is being proposed to construct, they have to get a building permit and they have to go not just before the

Planning Department, Building Division, and Department of Water, they also have to go to the Fire Department. That should be addressing the way that the building permit functions today. Really, the Draft Bill here is not attempting to restrict density or provide more density. All it is saying is the CPR unit amount that is being proposed on the project has to adhere to the dwelling unit count that the respective property has.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Are there any other 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? If not, we will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2868) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 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. 2869) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, SECTION 23-3.7, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CONCESSIONAIRES AT THE SPOUTING HORN

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2869) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 2022, and that it be referred to the Parks & Recreation / Transportation Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received written testimony for this item. Do we have any questions? I will suspend the rules. Pat or Wally, if you want to just give us an overview of this Bill.

There being no objections, the rules were suspended.

PATRICK T. PORTER, Director of Parks & Recreation (*via remote technology*): Basically, this is just a clean-up Bill. We have our Spouting Horn vendors that have been inactive since just before COVID-19. Since then, the old booths have been

redone. We tore down the old booths and rebuilt a new facility out there for the vendors during the shutdown of COVID-19. That has been completed. In this Chapter originally, it has the old diagram of the old structure and some dates that just needed to be cleaned up. That is all this is about. It is a clean-up Bill. Once this is done, then our plan is to create Administrative Rules and then we can go out to bid to fill those vendor spots out at Spouting Horn.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I think this is a simple question. The COVID-19 period was probably a good time to institute this change. How many of the previous vendors are likely to be the new vendors? Do they have any prioritization in the application process? Have they been included or outreached to in terms of getting their vision of the right design moving forward?

Mr. Porter: The plan to redo the vending facility was already in the works before COVID-19. Our Planning & Development team did reach out and they were a part of the planning and design process of the new facility. It just so happened that COVID-19 hit, and it shut things down. It just happened that during that closure time was when the facility was supposed to be under construction already. Before that there was time for them to be brought in. Meetings were held for the planning and design of the new facility.

Councilmember Cowden: Just confirming, I would assume that the Kōloa Neighborhood Association and the whole South Shore Community Plan...this was all feathered in together, basically?

Mr. Porter: I missed the first part.

Councilmember Cowden: The Kōloa Neighborhood Association and the South Shore Community Plan all of this somewhat worked together? This is all community agreement with our General Plan Update, our South Shore Plan, and our Destination Management Action Plan...I would expect that. Is that basically, correct?

Mr. Porter: Yes. I would say so. I think this started before the Destination Management Action Plan was in the works. This was a few years back, but yes.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members? Is there anyone in the audience wishing to testify on this item? Lonnie.

Mr. Sykos: For those of us who are not familiar with that area and do not live there, I am interested in how many vendors are there going to be and what is the length of the contract for the vendor? What is the County's plan for outreach to new vendors or does the County even want new vendors? Those are the questions that I have. How many vendors used to be there? How many would be

envisioned in the new facility? What is the outreach for vendors? Councilmember Cowden asked the obvious question about whether or not the pre-existing vendors would have some type of a priority. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Is there anyone on Zoom wishing to testify? Wally, did you want to try and answer some of those questions?

WALLACE G. REZENTES, JR., Deputy Director of Parks & Recreation (*via remote technology*): Basically, we are moving from nine (9) vendor concessionaires to eight (8). We intend to solicit new concessionaires through Hawai'i Revised Statutes (HRS) Chapter 102. That is the concession law that we would need to follow. We do believe there is going to be demand for the sites from past vendors, as well as new vendors in the future. We need to follow the concession contracts in our solicitation of our vendors. There will be advertisements through the Purchasing Division.

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

Councilmember DeCosta: What was the length of the contract?

Mr. Rezentes: In the past we have gone under a five-year term. I think we intend to stick to that as well. We have to go through the Administrative Rules process once we get the approval from the Council with this ordinance amendment. In the past, we have had a minimum bid of two thousand five hundred dollars (\$2,500). We intend to have that revisited through the Administrative Rules process as well.

Councilmember DeCosta: Wally, are the products that are going to be in those vendor areas going to be similar to what we had or are we going to allow new businesses to surface in that area?

Mr. Rezentes: It is up to what the concessionaires want to propose. We do not intend to restrict the offerings of the concessionaires.

Councilmember DeCosta: Could it be a service or a food item, or is it more of a product?

Mr. Rezentes: No. Food items are not usually allowed. It is not configured in a way to allow it. It is open space and there is actually not going to be water at that facility. Electricity will be provided, but not water.

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

Councilmember Evslin: When you said food items are not allowed, that is specific for Salt Pond, or is that under the definition of a peddler? In theory, if you give a peddler another park could they be a food vendor?

Councilmember DeCosta: We are on Spouting Horn.

Councilmember Cowden: That is the next item.

Councilmember Evslin: Okay, sorry.

Council Chair Kaneshiro: Are there any 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? If not, I will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2869) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 2022, and that it be referred to the Parks & Recreation / Transportation Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kuali'i, 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. 2870) – A BILL FOR AN ORDINANCE AMENDING
CHAPTER 23, ARTICLE 3, KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO PEDDLERS AND CONCESSIONAIRES**

Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2870) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 2022, and that it be referred to the Parks & Recreation / Transportation Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony.

Councilmember Carvalho: I have a floor amendment.

Councilmember Carvalho moved to amend Proposed Draft Bill (No. 2870) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kuali'i.

Council Chair Kaneshiro: Councilmember Carvalho, did you want to explain? If this is coming from the Administration, they could explain it.

Councilmember Carvalho: I could give an overview and Pat, if you want to chime in. Overall, it is pretty simple. I know the original Bill talks about referencing a peddler's license that the Department of Parks & Recreation does not issue. Therefore, this amendment defines a peddler's permit versus a peddler's license. A peddler's permit is issued by the Department of Parks & Recreation. That is pretty much the gist of this particular amendment. If the Department wants to come on, they can, if there are any questions. That is basically what it is about. If you read the entire document, it references that.

Council Chair Kaneshiro: Are there any questions from the Members on this amendment? If not, is there anyone in the audience wishing to testify on the amendment? Is there anyone on Zoom wishing to testify on the amendment? Is there any final discussion on the amendment?

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

The motion to amend Proposed Draft Bill (No. 2870) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Kaneshiro: We are back to the main motion as amended.
Council Vice Chair Chock.

Councilmember Chock: I just have one question for Pat or Wally. The one hundred dollar (\$100) per year permit fee, I understand that is not changing. It remains the same. Can you explain how we got to one hundred dollars (\$100)?

There being no objections, the rules were suspended.

Mr. Porter: The one hundred dollars (\$100) referenced the license that Councilmember Carvalho was just talking about. It was a yearly fee for a license that was one hundred dollars (\$100). How this came about was that we identified that we did not have Administrative Rules that the Department by ordinance should have had for the different activities like food trucks and things like that in the parks. What we started doing was looking at creating these Administrative Rules. Once we started diving into the details of creating Administrative Rules, we came across this contradiction where it referenced this license. Then, we got the Office of the County Attorney involved and we wanted to clean that up first. That became our first goal, to clean that up. In order for us to have these food trucks continue to operate, we needed to keep that one hundred dollar (\$100) reference in the Bill, but our intention is to go and bid it out per the HRS that Wally talked about for the Spouting Horn. In the proposed ordinance, it references that the one hundred dollars (\$100) is there, unless Administrative Rules are created. In the Administrative Rules, we can do the bidding process and we can outline from there on that side. In order for us to continue these operations, we need to keep those one hundred dollars (\$100) in there for now.

Councilmember Chock: Okay. Got it. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a question when we are emphasizing parks and recreation. I see here that it is clear that it is any County area or roadway. There are many places where there are food trucks or what we might think it a peddler even on private properties or even sometimes with nonprofits. When someone is going to be having a food truck on a nonprofit or private property, do they still need to get a peddler's permit, or is that completely separate? Is the peddler's permit only for County property?

Mr. Porter: Yes. This section of the Code is specifically for Parks' properties.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Are there any other questions from the Members on the Bill, as amended? If not, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: As an entrepreneur, I am very interested in learning when the rules will be available to us. I realize they said that they are in the process of writing Administrative Rules. I want to see them. That is the "meat and potatoes" of this thing. What do the rules say? As I said earlier, the County has an opportunity to improve the personal economy of the residents by making it easier to make money off of our primary industry, which is tourism. Anything the County does to make it easier for a private citizen to make money off of tourism, for the most part, I am for. Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify? Is there anyone on Zoom? Are there any additional questions from the Members? Councilmember Cowden.

Councilmember Cowden: I will ask when will the rules be ready? I might disagree with our person in the audience. When I think about going to Bali, I cannot even get out of the car without someone trying to paint my nails, braid my hair, or sell me some earrings. I think there is some value in a certain amount of limitation. It is the gradient between being against the law and being an overwhelming peddler. Right now, having been in the water sports industry in the past, you cannot just go rent gear there on the beach. You cannot rent snorkel gear or surfboards. When we are looking at peddlers, would that be a type of peddling permit that someone could ask for right on the beach? It has been such that the community has been really opposed to having a high commercial beachfront. Will it be available by the time we get to Committee? Actually, we are beyond that, right?

Council Chair Kaneshiro: This is first reading.

Councilmember Cowden: Okay. What about the rules?

Mr. Porter: We are in the process of drafting the rules right now. They will need to go through the Small Business review. After the Small Business review, then we have to go out to a public hearing. There will be a lot of chances for input moving forward as the rules get developed.

Councilmember Cowden: We approve this before we see the rules? Is that correct? This would go through our process before we see the rules.

Mr. Porter: Yes. The rules will follow passage of this ordinance, if approved.

Councilmember Cowden: It is what we do? Okay.

Council Chair Kaneshiro: Are there any other 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? Councilmember Evslin.

Councilmember Evslin: I appreciate the work from the Department of Parks & Recreation. I know this is certainly needed. I know we have had a couple of discussions in the past during COVID-19 about trying to encourage entrepreneurship possibly and also at the time, we needed more outdoor eating. We are trying to encourage better usage of underutilized parks. If you look around Līhu'e, we spent a lot of time and effort to get Kalena Park to be better utilized to try to discourage bad behavior. We have an empty neighborhood park and bad behavior moves into those parks. You get good activities happening in those parks, it pushes bad behavior out of those parks. For good reason we invested a lot in that park. In conversations around how we could maybe have some food trucks in the parks, we always hit a dead end because we have no process to really allow that to occur. I appreciate the Department working to fix it. If you look around Līhu'e, we are trying to encourage better usage of Kalena Park through things like food trucks, possibly, which is hard to do. When you look at vacant parking lots all around Līhu'e which have food trucks in them, there are a lot of people. We have the answer...food trucks can really help with that activity. Certainly to Councilmember Cowden's point, that is not for every park. I think there is a big line between having a process that allows it and Bali. I want to be clear that a lot of our beach parks are probably not suitable for this type of commercial activity because they are already well-utilized and packed with people. We do not want to create another draw. For our underutilized community parks, I think there should potentially be a process to allow this. I appreciate the pathway forward here.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a follow up on that. Thank you for your distinction. Our crowded parks that already have a high volume, which might draw

the merchants there to paint someone's nails...I am being playful. As you are developing the rules, would we be able to determine which parks would be applicable to having this? There are neighborhood parks, little triangles of green spaces, and residential communities where they probably do not want a daily ice cream truck or something...I am not picking on the ice cream truck...but they might not want that. When we look at the concession and peddling elements, there will be future opportunity and it will be in there that the County Council can help to approve which parks have these concessionaire rules applied? Is that a part of the process?

There being no objections, the rules were suspended.

Mr. Porter: Exactly. Those sites will be identified throughout the Administrative Rules process.

Councilmember Cowden: Okay.

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

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: That is a good point, Councilmember Cowden. A lot of our neighborhood parks are probably not suitable for this type of activity. I think Kalena Park is a unique example. It is more of an urban park in the center of Līhu'e. There are not a whole lot of houses around it. I think there is a clear need for something like this in a park like that. How many of these parks do we have? I cannot say and I think your process will identify those.

Council Chair Kaneshiro: Are there any other questions from the Members? Is there any final discussion from the Members? I will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2870) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 6, 2022, and that it be referred to the Parks & Recreation / Transportation Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualī'i, 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. 2851, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 (*Fiscal Year 2022-2023 Operating Budget*)

Councilmember Kuali'i moved to approve Bill No. 2851, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions on this item? This is the time where we can take our ten (10) minutes if you want to talk about the budget. We will just pass the Capital Improvement Projects (CIP) budget at that time. Is there anyone in the audience wishing to testify on this item? We are on Bill No. 2851, Draft 1, the Operating Budget. Is there anyone on Zoom wishing to testify?

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

Council Chair Kaneshiro: If there are no questions, is there any final discussion from the Members? Councilmember Evslin.

Councilmember Evslin: I do not have ten (10) minutes here. I was really hoping we could all argue about TVR tax rates again. I am just kidding. There is so much good things in the budget, that we spent four (4) weeks going in-depth line-by-line here. I think the fact that our day-long Decision-Making was relatively constrained to something like TVR tax rates and not on these other issues is a testament to the budget process and the Administration. I think they came to us with a good budget focusing on repair and maintenance and using that extra revenue to get caught up on all these projects we have been laying by the wayside for a long time. They utilized our input throughout the process. I think they refined the budget to make it better and better. When we finally made it to Decision-Making, there was not a whole lot for us to change in the budget. That is a testament to the process. I want to thank the Administration for all of their work and engagement throughout the process. Highlighting some items like the inclusive playground, I think it is going to be great. The Lydgate one is just an amazing place for the community. A huge shoutout to our staff here. They just do tremendous work throughout. They answer our questions really quickly and turn that Supplemental Budget over to us and highlight the differences. Obviously, we could not do our jobs without them. Thank you to the staff. Thank you to everyone for the discussion here throughout this process. Thank you to our Chair for his last budget that he will be running here. He ran an incredibly efficient budget process and I think he sets a high standard for us in the future moving forward, if one of us takes over for him, on how to run the process. I really appreciate your leadership here for the last few months.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I also want to thank the Administration for what they are doing. When we are talking about the housing issue, what I keep

pushing for are these community agricultural villages. In defense of the Administration, the larger community with houses does not want that. I hear that stridently with angry voices at me. I will own that I had a very unstable childhood, so I highly identify with these kids in the parks, in their cars, and people with medical issues. I will throw out, so next year when we are doing this, I want a medical transitional housing. There are people with deep medical issues on the sides of the roads. This includes physical issues like cancer. When I do not get what I want, I get that the Administration is reflecting what the larger community does not want. When we put money back into our Reserve Fund, I think that is important. Councilmember Kuali'i and I just came back from the Rural Action Caucus at the National Association of Counties (NACo), Western Interstate Region (WIR) Conference. We will do a bigger piece on that later. Across the nation, rural counties everywhere are having desperately that same problems. That is the race to rural mad rush for housing from urban people who can pay metropolitan prices who have an external income. We are not unique. Missouri, Mississippi, North Carolina, Alaska, Texas, Arizona, et cetera, they are having the same problem with displacement due to housing shortages. When we are looking at our budget and we have some room and we really did not give too hard of pushback, I anticipate that we are going to have increasing inflation, and this is not transitory at all. It is additional moneys into the money supply, which is very different than 2008. These purchases of houses are financial instruments. They are not bought on credit. A lot of them are being bought with cash to park money. This problem is so huge, it is not lack of will from our government. It is like arguing with gravity. We need to absolutely do whatever we can to address it. When we are looking at, what I anticipate might absorb some of the extra money is that we have more of our bargaining units and payroll. Everyone on our team, they are having to pay higher prices for a can of soup and a gallon of gas. I anticipate where there might be some squeeze room of three hundred sixty-one million (\$361,000,000) I believe is where we are at in total...you have to add it together, we are right about that. I am okay with what the County came up with. We know we are going to have adjustments. I think I have that too high. It is three hundred eleven million dollars (\$311,000,000).

Council Chair Kaneshiro: Three hundred ten million
dollars (\$310,000,000).

Councilmember Cowden: Three hundred ten million
dollars (\$310,000,000). I am going to support it. I know it was not easy. In clawing back four million five hundred thousand dollars (\$4,500,000) in the future, I could not really do it easily right here. That was part of my no vote on that one (1) piece, too. I thank you all for your different perspectives. I thank the County Administration and each department for their efforts.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I would like to just say thank you to the Mayor's Administration for being fiscally conservative in a time that it was very much needed. We have all had our conversations with them. We have all had our conversations with the different departments. We knew where we wanted to go. When looking at a budget like this, our Council Chair has a little bit of an easier time

than the rest of us here, because he has an accounting background. It is important. It is not that easy to grab a three hundred ten million dollar (\$310,000,000) budget and tear it up to find where I want to cut and add things. It is very confusing. That is why we do not dive that deep into it. We usually take it for what they present to us. I just want to say that I am very fiscally conservative. I always look years down the road and not just one (1) year. Where are we going to be and where do we want to be? There are a lot of things that we want to improve in the County. One that we touched upon was wages and having salaries that are comparable to what they get paid on the mainland, and how do we retain our people here. It included raises for our employees and how we pay for it. We pay for it out of our budget. There are a lot of things that we have to look at when we talk about having surplus moneys. Affordable housing is just one element. There are a lot of things that we have to look at. One important thing that I wanted to touch on, and I think our former Mayor and I had this conversation a few times...retaining our own people here and retaining our *keiki* that are growing up through high school and college, coming back and having those jobs that pay well so they can live a good life here...having them in power and in positions of leadership, I think too many times we bring leadership in and they leave. I think we are having one of our biggest leaders leave. If you did not hear about that. One of our leaders is leaving. I think I can say it. The Fire Chief is leaving. I think it is important that we raise our *keiki* to empower them to be leaders and run Kaua'i. They should get paid a good salary to live here. It is our job to be fiscally responsible and make those things happen. Everyone thinks it is easy to get elected and be a Councilmember, but when you look at a three hundred ten million dollar (\$310,000,000) budget and sit down to crunch numbers to come up with a budget that is fiscally conservative, it is a lot to chew on. That is where I stand. Thank you.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: I just want to echo what has been said. I truly understand and appreciate this side of the street, if you will, on the Council floor. I appreciate my fellow Councilmembers. The staff is awesome, as well as working closely with the Administration. It is not always easy, and we do not always agree. It is about the people that we serve. I think that is the big part of it. At least we can agree to disagree sometimes. The process and the budget of three hundred ten million dollars (\$310,000,000) that we went through...just understanding the total process has been awesome. I look forward to more discussions and making things happen. Relationships and people are so important. Knowing the process on the administrative-side and tying that in on the Council-side has been very enlightening. I look forward to more opportunities. *Mahalo*.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I, too, will just throw in my gratitude and say a big *mahalo nui loa* to everyone. I think the process this year was quite smooth, as it has been in the past. You do not get to see all the work that goes in behind the scenes. Especially to the Administration's Budget Team and all the directors who come before us with their presentation, and to our own Council Services Staff who makes sure we have what we need to do our deliberations in our most important job

of the year. I will just highlight and recognize the assistance that we received from our State and Federal partners that could help bring moneys to our constituents directly, our residents, and our businesses, and also to help some of our programs with COVID-19 over the last couple of years. This additional support has been critical. I think we go through things relatively smoothly as a county government for the last couple of years because of that kind of assistance. I am excited that we were able to put moneys into our Līhu'e and Wailua Wastewater Treatment Plants and upgrade them, which was long overdue. It is critical infrastructure for our people. You mentioned the inclusive playground. The only other thing I would say is that yes, for Solid Waste, the challenge remains as far as being at the top of the list. Siting of the new landfill and updating these studies on curbside recycling, Materials Recovery Facility (MRF), et cetera, will have to continue. It will not just be in the next budget cycle but may include money bills throughout the year. The big job happens now, but it continues throughout the year. Thank you, everyone, and thank you, Council Chair.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: I just want to highlight how pleased I am with the process that we have. Thank you to your leadership. I think the diligence here of our staff and how well they follow up to the questions that arise so that we can get our questions answer is key. I am ultimately excited about the position that we are in. What Councilmember Kualī'i had mentioned is that with the fifty million (50,000,000) CIP Budget, that I think we have not seen in many years...it is the largest in a long time...it gives us the opportunity to leverage additional funds. With so much infrastructure opportunities that are out there, my hope is that we can leverage them in a way that we do not leave any money on the table on the State and Federal levels. That would require us to really look towards enlisting and being ready with grant writers. I think it is clear that the County does not want to extend or expand its services here. I think we have a strong community that knows how to rally and be that third party in order to ramp up and bring in the funds that we can for our island. That is what I am looking for and excited about. It is a structurally balanced budget. I do not think we can ask for more out of our Administration. As a team, I know they do it every year. They have specific requests and interests from each department to come up with a direction and something they can agree on. The Council sort of serves as the lightning rod in that checks and balances. To that end, we have a duty to look at what those priorities are from a leadership and visionary standpoint and to make decisions that can help support those, whatever they may be. What I would say is, we have liabilities. Many of them are unfunded and that we are responsible for. From that standpoint of having a conservative approach to it, I completely agree. Let me put that into perspective. When I started back in 2013, the Operating Budget was at one hundred sixty million dollars (\$160,000,000). That is less than nine (9) years ago. We are at two hundred sixty million dollars (\$260,000,000). If for every year that I have been here, there has been an increase. An increase, as much as we say we can be conservative, those unfunded liabilities continue to affect us. As you can see by our process, we did not make any cuts or additions. I am not criticizing our work. I am saying that it is difficult. In past years, it has been difficult to find those cuts even when we really try. I think what we are looking at is needing to look at the system as a whole and because we

are still moving the needle forward, we need to look at the priorities. They will never go away, and we will never be able to fund them if we do not look at them now. That is what the job is of this Council. Thank you.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: Thank you, Council Vice Chair Chock, for really hitting the nail on the head and being able to define our priorities and looking at the system as a whole. It is very important. I had a couple of things that I wanted to add. First of all, I wanted to acknowledge the value of our staff and how important it is each piece that they put in there to help us to look at it. It is huge. As I am looking at our summary in here, seeing a piece that was important to me, is the turbulence of the world. We have these wars going on in Eastern Europe. There are threats of other ones starting. We are seemingly always at war. Everything is escalating. When we have yet to look at our retirement, Employees' Retirement System (ERS), and the stock market really dropping hard right now...people are retiring while the moneys are down. We have so much that we have to adapt to. We cannot be too tight when we have not cut back on what is there. In alignment with what Council Vice Chair Chock spoke about, and I know Councilmember Kuali'i and I have made quite a lot of notes on, is as we were just at this NACo meeting, they gave us the notice of funding opportunities for billions of dollars coming out to help rural communities. We saw our State has set aside a billion dollars (\$1,000,000,000) for housing. We are looking at moneys and also knowing that that will again influence our inflationary pressures that ripple throughout everything, both for citizens and our county government. I appreciate the work done and the flexibility that is left.

Council Chair Kaneshiro:

Councilmember Kuali'i.

Councilmember Kuali'i: I have one last thing and probably the most important thing about the budget process and our County is that our truest and best success in this budget as we have done with other budgets in the past is to fully fund our employees across the County. Yes, it is a structurally balanced budget, but what is critically important to me is that we are not having to furlough or lay off anyone, and honoring our negotiated and/or arbitrated collective bargaining agreements. Clearly, as a County, we could not do what we do for our constituents if it was not for our staff, workers, and employees throughout the County. To me, that is the number one sign of a successful budget, if we can fully fund our employees, so we can continue with our services. Thank you.

Council Chair Kaneshiro: Does anyone else have anything to add? I thought we were going to talk about TVRs again. I am just joking. Our budget is two hundred sixty million dollars (\$260,000,000) in our Operating Budget and fifty-one million dollars (\$51,000,000) in our CIP Budget. We had an increase of forty-nine million dollars (\$49,000,000) in revenue. I just want to make it clear that the Administration and the Council were extremely cognizant of not growing government. We were very cognizant of not adding perpetual costs. We could have said that we have all of this money and let us add a whole ton of positions since we have the money. Those are perpetual costs that will be around forever. What the

Administration and Council have structured is that we have this increase and we put a lot of it to CIP projects and that included twenty-two million dollars (\$22,000,000) in new CIP projects. Those are a lot of deferred maintenance types of costs, IT infrastructure that needs to be updated, sewer improvements, park and playground improvements, and tangible one-time costs that the County put that extra revenue into. I believe that was the right thing to do for us. We were extremely cognizant of not just trying to grow government with that revenue. We did add a few positions, but it was critical and justified. Some of the positions were to add a beautification crew around the Līhu'e area. We added more time to clean-up the area and it took away resources from East and West Beautification from being able to concentrate on their areas. It is critical for us to recognize that need. Another thing we always heard was about the problems at the skate park. There were a lot of people out there doing drugs or graffitiing. There was more use there and they wanted someone there. The Mayor added a position to add one more Ranger there to add additional eyes. Listening to the community and weighing the needs of it, the Administration did a good job at not using this extra revenue to grow government. I know for a fact that when it comes to cutting...I think when I first started, we had fun trying to cut the budget. I can tell you that before the budget gets to us, the Mayor already set the precedent and I believe they said that no one's budget can grow more than five percent (5%). I believe they cut a whole bunch on their end. When the budget actually comes to us as a submittal, there is not a lot of fat to the budget. That is why you do not see us being able to cut a bunch of things. Maybe items in the past that we wanted to cut; you see that they already trimmed it this year. We cannot cut it further. There has been a growing process and that is why the budget process is the way it is. That is why it has been streamlined. In their presentations to us, the Administration knows what we are looking for. They are justifying increases or decreases in their budget and they are answering a lot of our questions on the front-end so there are no lingering issues. That has really streamlined the process. I think we all should pat ourselves on the back for not going crazy with the increase. We really concentrated on the CIP projects. I want to really thank the Administration, the Mayor, his team, all of the department heads, et cetera, for all of the hard work that goes into the budget. Obviously, they have a wish-list of what they want to do. They are being cognizant of their budget and putting in what is pressing for them and justifying it to get into the budget, knowing that they have a whole other list of items that they would love to put into the budget. We may not have money at this time, or it is not as pressing as some other priorities. I just really appreciate them bringing forward a budget that we combed through line-by-line and each line item is justified. I want to thank the Council for all of your hard work. It is three (3) weeks of budget, and we pretty much go line-by-line through every item. I think we had great conversation on the floor regarding policy, increases, where we wanted to put more money, et cetera. I think the conversation was good. I think the public gets the benefit of hearing the process, the thought that goes into it, and hearing some of the background of why we felt this proposal was needed or did not pass. I think that was all information for everyone to hear. Lastly, I just want to thank the staff. There is no possible way that we could get through the budget the way we did if the staff did not work so hard for us. Every year, they have just been stellar. Everyone on the Council staff has been awesome. I just want to say thank you to all of you. That is all I had to say. Is there anyone with any final comments? Councilmember DeCosta.

Councilmember DeCosta: I did not get a chance to thank the staff. Maybe we should have another luncheon from the Councilmembers and cook for them like we did before. I am amazed. I always thought I was very charismatic and smart, but with working with staff like Jade, Scott, Christiane, Darrellyne, Allison, Aida, and all of the girls, I am actually brilliant because of the staff. I am pretty sure you six (6) also look good. I do not know how we can not get reelected with staff like this. I just want to say thank you. Thank you so much.

Councilmember Cowden: Jenelle and Eddie, too.

Council Chair Kaneshiro: With that, we will take a roll call vote.

The motion to approve Bill No. 2851, Draft 1, 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, Kuali'i, 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.

Bill No. 2852, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023 (*Fiscal Year 2022-2023 CIP Budget*)

Councilmember Kuali'i moved to approve Bill No. 2852, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony on this item. 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: Are there any questions or is there any discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2852, Draft 1 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.

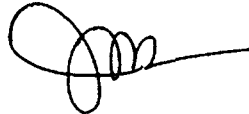
Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: The motion is carried. That concludes the business on our agenda. Not seeing or hearing any objections, this Council Meeting is now adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 12:40 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:jy

(June 1, 2022)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2870), Relating to Peddlers and Concessionaires

Introduced by: BERNARD P. CARVALHO, JR., Councilmember (By Request)

1. Amend SECTION 4 to read as follows:

“Sec. 23-3.4 Peddling [License Fee] Permit; Exemptions.

“[(a) Beginning January 1, 2008, all persons who wish to engage in peddling activity shall have a valid peddler’s license. The annual fee for a peddler’s license as provided for in Section 445-141, Hawai‘i Revised Statutes, shall be one hundred dollars (\$100.00), except that no license fee shall be required of persons who are of the minimum age of sixty (60) years, or anyone who peddles fish, fresh fruit, lei, flowers or vegetables. No license issued under this Section shall be transferable. The license shall authorize only the named licenses and no other person to engage in peddling activity and shall authorize peddling only at the locations or along routes noted on the license. All licenses shall at all times keep the license exposed to view, in a prominent place and convenient for inspection while engaged in peddling activity. All licenses shall also comply with the requirements of Chapter 237, Hawai‘i Revised Statutes, General Excise Tax Law and any other State laws.]

“(a) All persons who wish to engage in peddling activity in County parks, playgrounds, beaches, roads, parking lots, and other facilities and areas subject to, or adjacent to, facilities under the jurisdiction of the Department of Parks and Recreation, including unpaved roadway areas adjacent to parks and any area subject to Department of Parks and Recreation jurisdiction between the ocean and the abutting property line, shall have a valid Peddler’s Permit. Unless otherwise established in rules established by the Director of Parks and Recreation pursuant to Section 23-3.3, the fee for a Peddler’s Permit shall be one hundred dollars (\$100.00) per year. No permit issued under this Section shall be transferable. The permit shall authorize only the named permittees and no other person to engage in peddling activity, and shall authorize peddling only at the locations or along routes noted on the permit. All permittees shall at all times keep the permit exposed to view, in a prominent place and convenient for inspection while engaged in peddling activity. All permittees shall also comply with the requirements of Chapter 237, Hawai‘i Revised Statutes, General Excise Tax Law and any other State laws.

(b) Notwithstanding any law to the contrary, any concession or permits, granted by the State for any activity shall be exempted from the provisions of this Article.”

2. Amend SECTION 5 to read as follows:

“(a) It shall be unlawful to violate any of the rules and regulations adopted pursuant to Sec. 23-3.3.

(b) It shall be unlawful to: [engage in peddling without a valid peddler's license in the peddler's possession, or to operate at a location not authorized thereby, or to transfer a peddler's license to another, or to alter or possess an altered peddler's license.]

(1) Engage in peddling in County parks, playgrounds, beaches, roads, parking lots, and other facilities and areas subject to, or adjacent to, facilities under the jurisdiction of the Department of Parks and Recreation, including unpaved roadway areas adjacent to parks, without a valid Peddler's Permit in the peddler's possession;

(2) Engage in peddling in any area subject to Department of Parks and Recreation jurisdiction between the ocean and the abutting property line, including but not limited to parking lots and County parks, without a valid Peddler's Permit in the peddler's possession;

(3) Operate at a location not authorized by a Peddler's Permit;

(4) Transfer a Peddler's Permit to another; or

(5) Alter or possess an altered Peddler's Permit.

[(c) Peddling shall be unlawful without a permit issued by the Director of Parks and Recreation within County parks, playgrounds, beaches, roads, parking lots, and other facilities and areas subject to, or adjacent to, facilities under the jurisdiction of the Department of Parks and Recreation, including unpaved roadway areas adjacent to parks.

(d) Peddling shall be unlawful without a permit issued by the Director of Parks and Recreation in any area subject to Department of Parks and Recreation jurisdiction between the ocean and the abutting property line, including, but not limited to, parking lots and County parks on the island of Kaua'i.

(e)] (c) Prima Facie Evidence; Peddling. The presence of a peddler without a [permit issued by the Director of Parks and Recreation] Peddler's Permit in any areas described in either Subsection [(c)] (b)(1) or [(d)] (b)(2) of this Section, with the peddler's or his/her employer's goods, wares, novelties, merchandise, foodstuffs, refreshments, or other property or services shall constitute prima facie evidence of peddling, in violation of said Subsection."

(Material to be deleted is bracketed. New material to be added is underscored. Amended material is highlighted.)

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