

COUNCIL MEETING

SEPTEMBER 21, 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, Lihu'e, Kaua'i, on Wednesday, September 21, 2022, at 8:31 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 Chock moved for approval of the agenda, as circulated, seconded by Councilmember Kuali'i.

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

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

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

Councilmember Cowden: I see there is a lot of people here for an item later in the agenda. Is there going to be any movement, or not?

Council Chair Kaneshiro: No. We have someone presenting on a Committee Report, and they need to be done by twelve o'clock. We might have to move the Committee Report up, but other than that, we will go through the agenda as we always do.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Are there any questions or discussion 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:

September 7, 2022 Council Meeting

September 7, 2022 Public Hearing re: Bill No. 2878 and Bill No. 2879

Councilmember Kualii 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? Are there any questions or discussion on this item from the Members?

The motion to approve the Minutes, as circulated, was then put, and unanimously carried.

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

INTERVIEW:

BOARD OF REVIEW:

- Julie Black Caspillo – Term ending 12/31/2025

Council Chair Kaneshiro: I will suspend the rules. Ellen, would like to give an introduction?

ELLEN CHING, Boards and Commissions Administrator (*via remote technology*): Today, I am pleased to introduce Julie Black Caspillo. Julie graduated early from high school. So, she and her friend set off on an adventure from California to Kaua'i. At the time, she had no inkling that decision would be a turning point in her life. The initial vacation was extended and extended, until a year later, she decided to make Kaua'i her home.

She enrolled at Kaua'i Community College and worked nights at Hanamā'ulu Café. She later enrolled at the University of Hawai'i at Mānoa and graduated with a degree in fashion merchandising and design. Upon her return, a few years later, she became a real estate agent, and just three (3) years later earned her broker's license and opened her own company Kaua'i Dreams Realty.

Along the way, Julie got married and had two (2) daughters, one working in California as a paralegal, and the other has joined her to work in her real estate company. When I asked Julie, had she ever visited Kaua'i before perhaps on a family vacation, she replied, "No." I asked her, did she come from a family of entrepreneurs? No, again. In fact, she and her sister were raised by a single mom who was a dental hygienist. In her mind, that made her independent. I thought what a gutsy girl and told Julie, "You have two (2) daughters, can you imagine your

seventeen-year-old daughter telling you, "I am taking off to a place I have never been for vacation! And it is going to be for a while!" Julie did say, her mom was not happy about it. I asked her what made you stay, and Julie said, "Just look at this place." Julie's life story is of someone with a great sense of adventure, grit, determination, and focus. She created a life for herself and her family in the place of her dreams. It is no wonder that she named her company Kaua'i Dreams Realty. In her free time, she enjoys bodyboarding, working out at the gym, and doting on her two-year-old grandson. With all her business experience, I am grateful that Julie is willing to volunteer to donate her time and expertise to the Board of Review.

Council Chair Kaneshiro: Julie, would you like to add anything?

JULIE BLACK CASPILLO (*via remote technology*): Thank you, Ellen. I do not know if she mentioned that I have already served six (6) years on the Board of Review. I have experience and I am happy to serve again.

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

Councilmember Cowden: Julie, you might remember that even before I was elected, I enthusiastically endorsed you for this position. One of those reasons and I want to ask if it is still the same? My knowledge of you is that you sell a lot of homes to residents and first-time homeowners. What is your main market that you do as a realtor?

Ms. Black: Thank you. Yes, in the beginning of my career, my focus was selling to residents and first-time homebuyers. When the market was changing, I saw that the foreclosures were happening. I went, applied, and specialized in foreclosures in 2008-2012. Unfortunately, these days it is mixed. We try to sell to first-time homebuyers, but we have to be realistic. Survival—we have to sell at the higher price ranges also. I hope that answers your question.

Councilmember Cowden: Okay. I have another question. This is something that you will be dealing with a lot. We have had changes to the Real Property Tax (RPT). Yesterday, I got another distressed call from someone who is a longterm provider of rentals at market rate, but for people who work here. We have a very big challenge right now with people having RPT amounts misapplied. Have you been following the tax rates and challenges? You are going to have your hands tied a little bit. It is going to be more extreme from the six (6) years you previously served. Have you been following the issue relative to Residential Investor being applied to residential houses?

Ms. Black: I am not sure exactly what you are asking, but I think I understand that you are saying we will have a lot more appeals due to the

new Residential Investor Threshold. What I learned at the Board and Review, is that we are not there to “make the law,” we are there to see if the law has been equitably applied.

Councilmember Cowden: I think that is accurate, but you are going to see a lot of it, because we have a lot of challenges. I am going to do my best to change that law.

Ms. Black: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there anyone in the audience or on Zoom wishing to testify? Is there any final discussion from the Members? Councilmember DeCosta.

Councilmember DeCosta: Yes. This is a message for realtors in general. Because of the housing crisis, and you mentioned that your “heart” is in the right place to sell to local families. Now that the market has changed and prices are higher, realtors make a higher percentage when the seller sells it for more. It seems that realtors have some control over the buy and sell market on the higher end. I want to let the realtors know to try your best and sell to local families. When mainland people offer one hundred thousand dollars (\$100,000) more, and you make an extra five thousand dollars (\$5,000) on the sale, have a heart for local families. I know it is hard to do, but I am trying to pass along a message. We do not know how we are going to curb this, it is a real problem, and I want you folks to know that it exists. Thank you.

Ms. Black: Thank you, Councilmember DeCosta. I want to let you know that in our office, our philosophy, is to try and sell not only to island residents, but to essential workers. We do make that a priority in our office on sales and rentals.

Councilmember DeCosta: We do appreciate it, thank you so much.

Ms. Black: Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Good morning, Julie. I just wanted to say *mahalo*. I have known you and your *‘ohana* a long time. All the work you have done by reaching out into the community. I know housing is at the forefront with you and making sure the residents have the opportunity. To you and your daughter, I wanted to say *mahalo* for stepping up to the plate and for your hard work and commitment to our community. *Mahalo*.

Ms. Black: Thank you, Councilmember Carvalho.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I *mahalo* you, Julie. To the listeners and viewers, for the Board of Review, it is hard to have a better applicant than someone who is a real estate worker. It takes nuance to understand what is going on in the market and the laws surrounding it. It is excellent that we have someone in real estate that is being chosen for this. I know Julie. I see her being compassionate and operate with integrity. I appreciate that. I will state that the house I live in, I bought at a low price, and it came through her office. I would not have a house if it was not for the type of products that I have known her to sell and being helpful. I acknowledge that I may be biased, but I have experience. I appreciate that there is integrity. Thank you.

Ms. Black: Thank you, Councilmember Cowden.

Council Chair Kaneshiro: Is there anyone else? If not, Julie, I will definitely be voting for your appointment to the Board and Review. You are a good candidate, you have been there, and you have the working knowledge to be there. Thank you for your service and thank you for your willingness to volunteer for that Commission.

Ms. Black: Thank you.

Council Chair Kaneshiro: Is there anyone else? If not, thank you, Julie and Ellen. Next up, is the Consent Calendar.

CONSENT CALENDAR:

C 2022-211 Communication (09/12/2022) from Councilmember DeCosta and Councilmember Carvalho, transmitting for Council consideration, Proposed Draft Resolutions relating to the County's Structurally Balanced Budget and Reserve Fund Policies.

C 2022-212 Communication (09/12/2022) from Councilmember Kualii and Councilmember Carvalho, transmitting for Council consideration, a Resolution Supporting Operation Green Light For Veterans.

C 2022-213 Communication (09/14/2022) from Councilmember Carvalho and Councilmember Kualii, transmitting for Council consideration, a Resolution Authorizing The Transfer Of The Real Property Identified As Tax Map Key (TMK) No. (4) 3-8-018-012 To Grove Farm Company, Incorporated For The Purpose Of Operating An Adolescent Treatment And Healing Center.

Councilmember Kualii moved to receive C 2022-211, C 2022-212, and C 2022-213 for the record, seconded by Councilmember Chock.

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

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

JOANN YUKIMURA (*via remote technology*): Yes, Chair.

Council Chair Kaneshiro: JoAnn, I think you are going to be testifying on an item coming up later?

Ms. Yukimura: I am testifying on the Resolutions, which is covered by C 2022-211. I believe it is the first item on the Consent Calendar.

Council Chair Kaneshiro: Okay, say which item you are testifying on, and we will incorporate that testimony into the actual Resolution.

Ms. Yukimura: Thank you. May I proceed?

Council Chair Kaneshiro: Yes. You may proceed. Let me know which item you are talking on first.

Ms. Yukimura: Council Chair Kaneshiro and Members of the Kaua'i County Council, good morning. I present this testimony on both Resolution No. 2022-35 and Resolution No. 2022-36 because they go hand in hand. Resolution No 2022-35 amends Resolution No. 2017-29, which supports a structurally balanced budget. Resolution No. 2022-36 amends Resolution No. 2017-28, which updates and strengthens the County's Reserve Fund and Reserve Policy. Resolution No. 2017-29 and Resolution No. 2017-28, which are being proposed to be amended, do not seem like appropriate vehicles by which to establish annual appropriations of real property revenues for affordable housing. Both Resolutions are well-intended, but I believe they are not binding. By my understanding, they just lay out guidelines for the Council to follow or not follow. As such, I do not believe they would support the floatation of a bond for affordable housing. If I am mistaken, I would like to see a written opinion from bond counsel assuring the County that the subject resolutions would support a bond float. I suggest that such a written opinion should be provided before any vote is taken on these Resolutions, because a bond float is essential for leveraging any appropriation for affordable housing.

The amendments proposed by Resolution 2022-35 would result in an internally contradictory document. On page 2 of Resolution 2022-35, it defines General Fund appropriations for affordable housing projects as "recurring expenditures," and in the next paragraph the definition of "non-recurring expenditures" are defined as "Special Projects such as capital improvements, asset acquisition and other costs that the County incurs infrequently." The description of nonrecurring expenditures sounds like common expenditures for affordable housing—capital improvements, acquisition of land, etc., but appropriations for affordable housing are defined as recurring. The contradictions are even stronger in Resolution 2022-36, where the appropriations for affordable housing are explicitly defined as "exceptions." On page 2, Resolution

No. 2022-36 says that the Reserve Fund is intended to be used for “unanticipated and non-recurring costs and is reserved based on priority in the following order” in which “affordable housing infrastructure or land acquisition” is identified as the fifth priority, even though Resolution No. 2022-35 defines appropriations for affordable housing projects as recurring expenditures.

In the last “BE IT FURTHER RESOLVED” paragraph on page 2 of Resolution No. 2022-36, it is stated: “the Reserve Fund should only be used to provide a short-term solution to maintaining necessary services until revenue growth and/or expenditure reductions are instituted to balance the budget and normalize cash flow” but because expenditures for affordable housing do not fit within those words, affordable housing expenditures had to be added--again, like an exception. Finally, the Reserve Fund Policy attached to Resolution No. 2022-36, is amended by Resolution No. 2022-36. On page 2 of Exhibit “A” the section entitled “Use of Reserves” says: “It is the intent of the County to limit use of the general fund reserves to address unanticipated or non-recurring needs. Reserves shall not normally be applied to recurring annual operating expenditures.” Because those original words do not encompass affordable housing expenditures which are not “unanticipated or non-recurring needs, Resolution No. 2022-36 proposes to amend that sentence by adding: “with the exception of appropriations for affordable housing projects,” showing again how incompatible it is to use reserve funds for affordable housing appropriations. In conclusion, I am opposed to Resolutions No. 2022-35 and 2022-36 for the following reasons: 1. They are inappropriate and insufficient vehicles for earmarking affordable housing appropriations. The proposed amendments are attempting to fit a square peg into a round hole. 2. Ironically, they establish a dangerous and inappropriate precedent for more inappropriate appropriations that could siphon off the reserves. 3. There is no assurance that a bond for affordable housing could be floated based on the proposed amendments. 4. The ease with which these resolutions can be passed (no public hearing nor second reading required) shows how easily the proposed affordable housing provisions could be removed. This does not meet the need for a stable, substantial, and long-term source of unrestricted capital required to move the needle for affordable housing.

Council Chair Kaneshiro: JoAnn, that is your six (6) minutes.

Ms. Yukimura: I respectfully urge that both Resolutions be received. Thank you.

Council Chair Kaneshiro: I have a clarifying question. Councilmember Kualii. Did you submit this to us in writing, or can we have it?

Ms. Yukimura: No, but I will, sir.

Councilmember Kualii: Can you do it right away? Thank you.

Ms. Yukimura:

Yes, I will. Thank you.

Council Chair Kaneshiro: Thank you, JoAnn. I opened the Consent Calendar for one (1) testimony. I may as well do it for all. On the Consent Calendar, there is the Adolescent Treatment and Healing Center. If anyone needs to leave or does not want to stick around, they can provide their testimony now, but you are not going to be able to testify again when the item comes up. Typically, it is for someone who is not going to stick around or does not want to state a testimony later. Lonnie, do you want to testify now, and we will incorporate your testimony into the Bill.

LONNIE SYKOS:
not able to read it.

Can I get a copy of the Resolution since I am

Council Chair Kaneshiro:

I think we need to print it out.

Mr. Sykos: For the Council. The reason why the public does not come is because how hard it is to communicate with you people. Fix the screen and put the document on the screen, so that we can communicate. You blind us. We come up here and I am the blind leading the blind because I cannot read the documents. This is a joke, this is why the public does not come, therefore, the public does not vote. Regarding the language, you do not even have a copy for...maybe I can bring my computer, but I cannot get online here. Unless I want to print this out at home at my own nickel, this is disgusting. You need to receive this Resolution. To the Mayor, this Resolution is so dishonest, that I will probably go home and take a four-by-eight (4x8) sheet of plywood and create a campaign sign for the man running against you who I know nothing about. However, I sat in here for twelve (12) years over this treatment center. The reason I am so upset today is what you lay out in here with the "whereas, whereas, whereas" is factually incorrect. From my perception, it is intentionally lying. We are in the middle of a lawsuit over this. We are in a lawsuit because the contractor is claiming, which is a fact, that they were define by both the Council and the Administration. This is nothing but an attempt to whitewash what the County Council and Administration have done. Where this thing falls apart, this is at the end of the first page, "Whereas the County executed the contract the Adolescent Treatment and Healing Center on October 31st." However, "Whereas on March 14th, at the offset of global COVID-19, the facility was requisitioned to operate as a COVID-19 isolation center." The problem with this is you left a whole bunch of facts out. What the facts are is, you did not ever appropriate any money to open this. You defrauded us, you lied to us. You went through this whole kabuki theater to set this up and you never had any money to do it. The fact that COVID-19 came, was an excuse, not the cause, of the misuse of the facility. It is a fact that in the newspaper Sarah Blane stated, at the time Grove Farm wanted it back you had not executed the contract, the County admitted it had not executed the contract, it was never going to open, et cetera. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience who wants to testify now on the item? Again, it will come later in the agenda. If you testify now, we will add it to the item. You can have your second three (3) minutes.

Mr. Sykos: We are still here, March 14th...

Council Chair Kaneshiro: Mr. Pa wants to speak.

ROBERT PA: Hi, Chief Robert Pa, from the Polynesian Kingdom. This facility that they built...my son had to go to O'ahu and my daughter had to go to jail, because we did not have this facility. We have the facility now. You used it as a scandemic, taking it away from our people. I had to fly to Honolulu to visit my son in treatment. I love my son; I love my children. I want to help them. My three (3) children who had problems, they are doing good now. I had to fly there, and I could not take my grandchildren to see them. We have a facility here that is built, why are we not using it for that reason? It was built for that reason, so why are we not using it today? Like I said earlier, over two hundred (200) people per day are dying from this "drug." It is a problem, the police are not doing anything, and they are getting away with it. The police know who are selling the drugs, but they are not getting arrested. Why are we not opening this facility and why is there no funds to run this program? Why is this facility not for our people and children who need help? People who really want help, they cannot leave here because they will miss their grandchildren and children, they will leave behind to go get help. Why can they not do it right here in our own homeland? We have to fix our problems, it is on you to help us fix our problems, and it is a problem. Scandemic is not a problem. It was all made up. We all fell for it, well whoever got the shots fell for it. We did not. I call it the "intelligence test." Whoever took it, was not that intelligent. Now, I am faced with helping my children. I do not want my grandchildren doing drugs. I want a place for them. I want a place for my friends. My daughter is willing to work at this facility because she has been a problem. She had that, and now she is not. She is going strong. My other daughter, her children's dad relapsed a week ago. The very next day, she jumped on a plane. It happened on a Friday, and Saturday, they left Kaua'i. She took them to a place in foreign land, there is no one that knows anyone there. She took him there because there is no treatment center here. Now, I have to miss my grandchildren that I watched every single day, and I am only able to see them on the phone. Why? Because no one cares about our children. I cannot say no one. We all care, we all have a heart, so please put it in the right place. For the sake of our children and the love of God for our children, please help our people. Thank you.

Council Chair Kaneshiro: Mr. Pa, that is your first three (3) minutes.

Mr. Pa: Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify for the first time? Bruce.

BRUCE HART: For the record, Bruce Hart. As I remember, I sat through every single Council and Committee Meeting on this subject. I testified several times. I said to all of you that was here at that time, this would not work. The model that you set up, at that time, was already proven to not work by the places that had been implemented before...on the mainland. JoAnn Yukimura got up and testified in agreement with me and I with her. They do not work. Now we have this problem that I foresaw coming. The money spent, the time. People think it is just the money that was spent on the facility. It is the time, like "now." I said this before. How much does it cost to convene this Council, to pay all of you to be here, and all of us have to be here when this could have been prevented? I said at the time, indemnify one of the Christian Drug and Alcohol Rehabilitation Programs. Indemnify those people and give it to one of them. You cannot even find someone who wants to run the place and that was mentioned at the time. This is so sad. What are we going to do about the drug problem in our community? They do not even prosecute these people. The police catch them, and they do not prosecute them. The cases are dismissed and plea-bargained down to lesser charges. These people go right back to it again. Thank you.

Council Chair Kaneshiro: Is there anyone else for the first time? State your name for the record.

KEA KANEALI'I: Kea Kaneali'i. I see you folks sitting down and listening to testimonies. I want to question you and you have told me what is going on. I read the paper about the facility that is not being used. How come it is not in use? I am new, I do not know what is going on, and I want you to tell my why it is not in use.

Council Chair Kaneshiro: Kea, that is going to come up later when we get to this item on the agenda. We are giving anyone the opportunity to...it will get answered when the item comes up.

Councilmember Cowden: We cannot do it now; we are not allowed.

Council Chair Kaneshiro: It will come up later.

Mr. Kaneali'i: I am just getting my feet wet.

Council Chair Kaneshiro: Is there anyone else for the first time? Tracie.

TRACIE FU: Good morning, everyone. Tracie Fu. My son is Austin Thronas, he passed away on August 30, 2021, from a fentanyl overdose. I

am here to say and remind everyone of the need, to remind everyone that it is there. I ask the adults in the room to please think about the children. I brought mine, I brought some of mine. When you vote, I want you to look at them. That vote is going to determine what facility is going to be open for them. They have already lost enough. Robert is holding my granddaughter; he is the other grandfather. We are the only sought of her community. I am asking you folks right now... Robert, can you please hold her up? This is Ku'ulei Thronas-Pa. She is sixteen (16) months old. This is what we are going to do for the rest of our lives. Her dad is not here because of the problem with fentanyl. I have a couple of things to read to you folks.

Dear Council Chair Kaneshiro and Councilmembers (this is not from me), as the Council is aware, in 2017, Grove Farm Company, Incorporated donated approximately five (5) acres of land to be used in perpetuity as an Adolescent Health Treatment Center. Grove Farm's donation was the combination of many years of work by the community and community stakeholders, and the County, all of whom which believed that such a facility was urgently needed. Grove Farm has made the gift of the land subject to a ride of reversion if the County failed to use the property as its intended purposes. Unfortunately, the County's inability to open and operate the treatment center has caused Grove Farm to seek to recover the property. We understand that the Council has expressed concerns about reconveying the property to Grove Farm due to concerns about the potential for it to be used and that would not benefit the public. Please accept this letter as our insurance that Grove Farm intends the property for adolescent treatment purposes and is actively seeking partners and funding to operate the facility in order to avoid pointless litigation. In the interest of opening the facility as soon as possible, Grove Farm is willing to a deed restriction for the property that will require its use solely for the public benefit purposes, including without limitation; health care, education, and/or community outreach purposes. While Grove Farm is not currently seeking funding from the County, once the plans for the facility had come to focus, we could look forward...

Council Chair Kaneshiro: I am sorry, Tracie, that is your first three (3) minutes.

Ms. Fu: Okay.

Council Chair Kaneshiro: We are going to go back around the room for everyone's second time, and you can have another turn.

Ms. Fu: Ku'ulei's name is on, so I will take the rest of her time.

Council Chair Kaneshiro: If you can have Ku'ulei read it, we usually only let people...

Ms. Fu: Ku'ulei is sixteen (16) months old, I am reading on her behalf, and I will be on her behalf for the rest of her life. Let me read this on her behalf.

Council Chair Kaneshiro: Tracie, you can have your other three (3) minutes after.

Ms. Fu: Thank you, Council Chair Kaneshiro, thank you.

Council Chair Kaneshiro: Is there anyone else testifying for your first three (3) minutes?

EARL THRONAS, JR.: Earl Thronas, Jr. I spoke the last time. Like I said, I was the one who got the call when my brother passed that night. I was the one who found him. In seeing all of that and looking at what the County's reaction to it is kind of heartbreaking and a slap in the face. A lot of times I see...I try and involve myself in the community. I coach flag football, and I try to give back a little to make a difference in one (1) of their lives. I feel no one is meeting us halfway. I feel like it is like, "Oh okay, your brother died." If my brother was to commit a crime, the results would be very quick and without question. I do not come up here for publicity. I am up here for my niece that I need to help my mom take care of, for my son, for their classmates, and that generation. I am close with Bryan Baptise's son, and he still struggles today. It hurts me to see that. I know Bryan Baptise was one of the main people initially pushing for this. I am asking you folks, please think about the children and the community. Think about your children, nephews, and nieces. Fentanyl is killing children without them even knowing. I am asking you to please find it in your hearts to think about the children, because they are innocent. They make mistakes. Nowadays, this mistake can be your last. Please, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: This is a clarifying question and I am actually asking this of everyone, too. We really appreciate your heartfelt stories, but please be clear and tell us if you are in support or opposition to the Resolution. We do not want to take for granted what your position is.

Mr. Thronas: As far as?

Councilmember Kualii: Is your testimony in support of the Resolution that we will be considering today, which is to move forward, give the property back to Grove Farm, so that they can operate...

Mr. Thronas: Yes, give the property back to Grove Farm, so that the purpose of the land can be fulfilled as the plan was in the beginning. There were other buildings that could have been used for COVID-19.

Councilmember Kualii: Your answer is, "yes," you are in support?

Mr. Thronas: Yes.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Thank you, Earl. Is there anyone else for the first time? For the second time, we will go back in order. Lonnie.

Mr. Sykos: For the record, Lonnie Sykos. I support giving this facility back to Grove Farm. I do not support this Resolution. I do not support this Resolution because all this "whereas" facts are not facts. From the doctor to the Ethics Commission, every single person on the Ethics Commission is protected by the Federal Constitution in a Right to Political Speech. The Ethics Commission, just like you, constantly fails the public. How is it that two (2) of the principals in the lawsuit that this represents, are involved in this? Were you not the Vice Chair of the Council at the time we approved accepting this property and funding the Adolescent Treatment and Healing Center, when Mel was the Chair?

Council Chair Kaneshiro: I was never a Vice Chair but keep on with your testimony.

Mr. Sykos: Anyways. The principals involved in this that created this lawsuit for us, this conflict, should not be involved in this Resolution pushing to get rid of it. This is a whitewashing of what occurred. If you go back to May 23rd, at that point, when the County government said, "We do not have the money to operate it, we are terminating our contract with the provider." At that point, this had nothing to do with COVID-19. Zero. Sarah Blane came out in the *Garden Island* Newspaper, and I will not quote her correctly, but what she said was we are not giving the property back no matter what. We have all these people with law licenses in the Administration, telling the public we are intentionally violating our contract with Grove Farm because we are declaring a COVID-19 emergency. Long after you failed to open it, you should have given it back to Grove Farm. Everything written in this passed on May 27th, is *waha*, it is bull manure. I do not want my integrity impugned by this fake and false timeline. You need to give the land back. Both the Administration and the Council have zero integrity because you cockroaches their property, you screwed up, did not get any money, and the reason for that is, you were operating on a fifty million dollar (\$50,000,000) or sixty million dollar (\$60,000,000) surplus that you burned up, and ran out of money.

Council Chair Kaneshiro: Lonnie, your three (3) minutes is up. Not to extend what you were saying earlier, but Lonnie, that is the second time you complained about us having a screen with nothing on it. We did not have anything to present on the screen. If you need a copy of a bill, you can let us know ahead of time and prior to coming in.

Mr. Sykos: What should be up there is the Resolution.

Council Chair Kaneshiro: Everyone has access to that. Thank you.
Next up, Mr. Pa.

Mr. Pa: Hi and *aloha* again. While holding my granddaughter, thinking she needs to go the rest of her life without her dad, and the love from her dad. Especially a person like him, he was a very good man. It is very sad. I will do anything to protect her. Even if I need to go in and help with that facility. I just went to court, helped a person who was on drugs for a long time, Uriah Calcano, he is on his way to the facility on O'ahu. These are the things I help with and doing on my own. I bring people from jail to my house because they cannot get the help, no one is helping them. I take families in left and right, you can ask my son or my children's mom. My doors are always open to people who do drugs, because if I can help them, I want to be a part of that. To hear people say all of this and to give the land back to Grove Farm, where did the land come from? Grove Farm. Who owned it before Grove Farm? This facility, please help us with this facility, make it right. Get it up and running as soon as possible, we need it, and before the next person dies. Please help the families. The drug is so addicting that they do not care. It is hard to love someone even if they do not care, I still want to bend over backwards, and help them. But we cannot because of the Catch-22 of how everything happens around here. The problem that we need to fix, is the day of problem of the overthrow, because it is not getting fixed and getting whitewashed under the table. The agenda comes up, and if it changes, it changes the rules and regulations, so they can run and keep doing what they are doing. If there is any possible way you need people to help, I am willing to help, my daughter is willing to help, and I know some good people who are willing to help and support this. Please do the right thing and help us out. For the sake of my granddaughter and all the families that need to live because people had problems that we could not help. Please, I am asking each and every one of you, please. I am willing to help with whatever I need to do. I helped with that facility. I got called at the last minute because the cement pump...

Council Chair Kaneshiro: Mr. Pa, that is your final three (3) minutes. I have a clarifying question. I do not want to answer it for you. Are you in support or opposition of the Resolution to deed the land back to Grove Farm?

Mr. Pa: If Grove Farm turns that into a place, yes. If they are going to put in a facility that is going to help our people, yes.

Council Chair Kaneshiro: Okay, thank you.

Mr. Pa: Thank you.

Mr. Kaneali'i: Listening all of these people about drug addiction, let me tell you something about drug treatment facilities. It is a revolving door, that is the problem. How many people go away to drug treatment, come home, and they go right back? Unless they want it, it is not going to help. We need the drug facility, and we need the treatment. If they do not want to put it in their backyard, put them in Anahola. When I grew up, Anahola had the first ever boy's home. Anahola has the best drug facility right now. Seventy percent plus (70%+) improve come out of U-Turn for Christ, more than any other drug facility. The County is not even spending a penny or giving them money. They are on Hawaiian Homeland. You folks should think about that instead of listening to everyone else. Look into why U-Turn for Christ has a better outcome than any other drug facility. When you talk about drugs, I have been there, I know. Do not be scared to ask for help. We all need to be in this together and as a group. If Grove Farm wants to "chicken out," let them "chicken out" and find another place. Come to Anahola. Councilmember Kualii is right there. Like I said, it is already there. U-turn for Christ is already there, you might as well add to the next parcel. It is only a fire burning area, you might as well make use of it, instead of letting the Anahola people burn the place up. Thank you.

Council Chair Kaneshiro: Next up is Bruce.

Mr. Hart: For the record, Bruce Hart. At first, I want to say to the public that every single person sitting here cares. This idea that somehow you do not care, is bologna. You all have families here. I see it. Except for one, like me. You were all born and raised here. I know that, and I am acknowledging that. I am upset because of what I said before. These programs do not work. The model upon which this is based has been proven to not work. I am not the only one that knows and believes that. I believe that because of my experience with the Lord Jesus Christ, that he is the only way out of this. You keep looking for solutions, and there are no solutions. Come onto me, all ye that labour and are heavy laden, and I shall give you rest. I have pleaded with you. Indemnify a Christian-based drug and alcohol rehabilitation program, one who has a proven track record and give it to them. I cannot sit here and say, "Go ahead and try the model that does not work, spend more money, and more time." I asked the police. I stand up for Kaua'i Police Department (KPD). These people work hard, they want to stop this, too. They work hard. How disappointed they are when they have a case they have been working on for years, and it gets dismissed, or it is never even charged. I talk to people; I have seen the pain that drugs caused. I have them ringing in my ears because of drugs. I have a war going on at my home because of drugs. Alright you folks, I will pray for you.

Council Chair Kaneshiro: Next up, is Tracie. Jade, did you want to talk? I have Tracie, then Earl, and you can go.

Ms. Fu: The last two (2) paragraphs on this commitment letter says, "While Grove Farm is not currently seeking funding from the County, once the plans for the facility has come into focus, we look forward to the County financial assistance as indicated in the 2017 County Resolution. As a successful operation of the facility, will require a private-public partnership, additionally since the County will be ceding funds from the State Opioid Settlement of seventy-eight million dollars (\$78,000,000), we are hopeful that such money can be earmarked for the Adolescent Treatment Health Center. We hope that this understanding will also allow the parties to focus on moving forward as the need for the treatment center is greater than ever. Our children should no longer be left to (inaudible) to the spirits of addiction when we can work together to provide that necessary services to save life and kill our community." This is written by Warren Haruki. The reason I am reading this is because I heard a couple of questions that flabbergasted me. Someone was concerned that this would be turned into a yoga studio. That is kind of insulting. Land donations that came from Grove Farm have been The Kaua'i Humane Society, Island School, Kaua'i Community College, YMCA, The Kaua'i Philippine Cultural Center, and now the Adolescent Treatment and Healing Center. To propose to say what prevents you from turning this into a yoga studio, it is pretty insulting and disrespectful, considering the investment in our community that Grove Farm has already given us. Grove Farm scholarships have contributed to seven hundred eighty thousand dollars (\$780,000) going out to graduates. When you folks were working at Grove Farm, they gave one thousand dollars (\$1,000) to the Employee Volunteerism Program, right? Grove Farm Market and Craft Fair. At the onset of the Coronavirus, Grove Farm took that on. We have people selling their fish and their farming market when we could not do it anywhere else, but they could do it there. The Bon Dance, it was not open any place else, but they opened it there. Kaua'i Veterans Center, Kumu's Cubbard, Mahelona Hospital Emergency Room, Kalawai Youth Baseball, Kaua'i Pop Warner, Elsie H. Wilcox Elementary, King Kaumuali'i Elementary School, Kōloa Elementary School, Chiefess Kamakahelei Middle School, Alzheimer Association, and County of Kaua'i Agency of Elderly Affairs have all benefited directly from Grove Farm's contribution to our community. Instead of insulting the group that is trying to donate the land, let us work with them, open the facility, and look at the children that this is going to affect and who we are supposed to be saving. Let us make the right choices. You are going to ask me what I want to do? I want to get it open. I am not a fan of the Resolution. There are a lot of things in there that I am not happy with, but if that is the document that your body can put in front of us with good faith knowing that it is going to be on professional record for the rest of your lives. Historically, it is going to be there. Then fine. Thank you.

Council Chair Kaneshiro: Tracie, that is your six (6) minutes, thank you. Earl, did you want to speak again? Jade.

JADE WAI'ALE'ALE-BATTAD: *Aloha* everyone, my name is Jade Wai'ale'ale-Battad. I am happy to be here. I am going to talk about the model that our *kūpuna* taught us when we had things that we need to work through. That model was *ho'oponopono*. We come back together, come to the table...I think that is Councilmember Carvalho's initiative, to come to the table and talk story, and we work through it. We have to bring the best of hearts and our intentions together, see each other, and navigate through the difficult and tough tasks of working through things. I thank you all for being here present at the table. I do not think there is anyone who would dispute the need. I do not think there is anyone who can. I do not think there is any person on this island that can say, "We do not have a need or crisis where a healing facility, healing for our children, or drugs, is a concern." I think we all agree on that. I think moving forward is the "how," the method. Here we are now, this land, and the building. All I can say to that is this, I am grateful to Grove Farm for giving the land. At a time that they gave the land, we were going through very difficult times trying to site a place. You all know the story, I do not have to go back to that, but it was given. It was not rubbish land. If you have been up there, you know what I am saying. It is pristine, beautiful healing land, in a beautiful location. It is not just rubbish land somewhere where the children will be forgotten. It was the most beautiful place that when you get there, your spirit feels healed just by being there. I ask you to please go up there, sit in that spot, and feel the healing that will take place with our children and families. By the time our children get to a facility, families are broken. I can say this. I have never suffered from drug addiction, but my family was broken because of it. My parents both Sonny and Linda Wai'ale'ale left this world not seeing my brother healed from drugs, both of them. I feel like it is my *kuleana* to continue this charge for our community, for our children. We have gone back and forth about the need. We have gone back and forth about the location. We have gone back and forth about Grove Farm. The time is to do what is right for our children. I ask you all. I am in support of this going back to Grove Farm. I am in support of us *holomua* and moving forward with this beautiful facility that stands vacant. It has never been used to heal our *keiki* not once since the doors opened. That is *hewa* on us. *Mahalo*.

Council Chair Kaneshiro: That is your first three (3) minutes. Bill, it looks like you want to speak.

BILL ARAKAKI: Thank you, Council Chair Kaneshiro and Councilmembers. My name is Bill Arakaki. I am here speaking on behalf of myself, and I am not representing any organization. As you may know, I am a retired Alternative Learning Center Special Motivation teacher, football and track coach, Vice Principal, Principal, and former Complex Superintendent for the island of Kaua'i. I have seen the children, *keiki*, and the families that have been impacted by

substance abuse, addiction to drugs, incarcerated for the violations, dying from overdose, and suicide because of the challenges and struggles due to the ongoing and current problem that we have. Hearing and seeing the families is so touching. We need to open the Adolescent Treatment and Healing Center now to save lives and not to lose our precious *keiki* to the drugs and problems associated with this real situation. I came here thirty-four (34) years ago from O‘ahu, Waipahu, which was a community known for the start of “batu” or ice. When I moved here, being a teacher with the alternative learning students, I could see that ice was coming, and that was back in 1988. Today, there is a fentanyl problem that is occurring. This has been continuing and everyone has been working hard to address this matter, but it is time now. I have known all of you for many years. All of you have supported education in many areas. Some of you may have former students or friends that have these kinds of issues. All of you have relatives, friends, and family that may have been impacted by this kind of situation. Kaua‘i is very small. My main message is, yes, I do support the Resolution. Kaua‘i has always worked together. Together we can, together we will. There is history to that. In 2003, the vision of former Mayor Baptiste was there, in having a living health center and support for the youth. In 2017, it was mentioned that the dedication of the land was given to the County. In 2019, we had a great dedication and the feeling of something that was really there to support our children and ‘ohana. Do you know that we need to send the children off island, and it is very hard for people to get there and have that “togetherness” to work with the families? We cannot wait much longer; we must save our *keiki*. Former Superintendent Kishimoto provided a letter supporting this program and to provide moneys for supplies and equipment in support. Again, thank you so much for this opportunity to see the (inaudible). If there are any questions that I may answer.

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

Councilmember Chock: Mr. Arakaki, do you have more to share, and do you need an additional three (3) minutes?

Mr. Arakaki: No. If you have any questions regarding support, let me know.

Council Chair Kaneshiro: Clarifying question, Councilmember Cowden.

Councilmember Cowden: I have a clarifying question. You were a part of the piece that had the DOE put a place for the children who were on suspension. That was a piece that you had a big role in and the design of how it was done. Is that correct?

Mr. Arakaki: Anything to do with as far as policies and procedures when a student is suspended due to drug use, there is a protocol that is followed.

Councilmember Cowden: You had a piece of where it was going to be implemented into the Adolescent Treatment and Healing Center. You were the Superintendent at that time and putting half of it...

Mr. Arakaki: Anything to support the educational component, we do support. Again, I do not speak for the DOE because I am retired. I am in continued contact with Christine Nishimoto who is the Alternative Learning Program Supporting Services Director. I am in contact with Mr. Danny Hamada, Interim Superintendent. Until today, principals have discussed that currently, there are twenty-one (21) students identified that need support related to this matter. Right now, they are trying to support those students currently. Again, if this Resolution is passed, there is ongoing negotiations or talk on how they continue to fund the educational part and support the services as needed.

Councilmember Cowden: Okay. That was my question because I thought that was an important compliment and I am hoping that is something that continues. If you talk to someone who can send us a letter or show up here as we get to the Resolution, it would be of value.

Mr. Arakaki: Okay, thank you. Are there any other questions?

Council Chair Kaneshiro: Is there anyone else wishing to speak for their first time? Theresa.

THERESA KOKI: Good morning, Council Chair Kaneshiro, and Councilmembers. My name is Theresa Koki, for the record. As you all know, I was the Project Manager for this treatment center. We had a very good team of a Blue-Ribbon panel under former Mayor Carvalho. We formed everything, including the ninety (90) day suspension at the school that you talked about. I found out in 2018 when we went to a convention that we are the only State in the nation that suspends the children for ninety (90) days. We needed to give them the component of the outpatient treatment and the school. We have three (3) different classrooms at the center. I should stick to the subject. I do support the Resolution because I really want that place to open. Fourteen (14) years ago, former Mayor Baptise passed away. We were already working on that project. For various reasons, we never got it going until Grove Farm offered us this land. During former Mayor Carvalho's Administration, we were being warned to watch out for the reversionary clause, you folks are behind schedule, et cetera. I did not agree with the use of what the Prosecutors wanted to use the treatment center for or the COVID-19 isolation facility, because that was a conflict with the reversionary clause. I do support the Resolution. Although, there is maybe five (5) things that is not correct. I would like to say for the tenth time, there was more than one (1) vendor. I kept telling everyone to go to the Purchasing Department and to go look at the records. There was more than one (1)

vendor. The important thing is now, since COVID-19 and the mental health aspect of this duo diagnosis center, there is more money to fund the facility. Before COVID-19, there was a lot of people that wanted to donate money, but they gave up because it was not being used for its intents and purposes. I gave a list of eight (8) vendors to the Prosecutor and Administration that are interested. Now there is about nine (9) people.

Council Chair Kaneshiro: There is a clarifying question.
Councilmember Cowden.

Councilmember Cowden: Yes, what were you about to say?

Ms. Koki: There is about nine (9) vendors that are still interested in running the facility. If we give it back to Grove Farm, I think we can avoid the procurement loopholes that people do not want to respond to. It is a very complicated process, and we can get this center going. When COVID-19 hit and they took away the center, we were working on another contract. I could not see how they were housing tourist that were sick with COVID-19, while our children continue to die. I could not see that, and I did not agree. Hopefully now, Grove Farm will find someone without having to go into the conversed process of the art?

Council Chair Kaneshiro: Councilmember DeCosta, has a clarifying question.

Councilmember DeCosta: Hello, Theresa, thank you. We do not say it enough for all you and the former Mayor have done to try and get this up and running. Clarifying question. I believe that you are not the only one who mentioned this. You mentioned supporting the Resolution, but some of the language is what you do not support, or you have thoughts on it. Can you tell us what language you would like to either see inserted or deserted? I would like to understand.

Ms. Koki: It was the "whereas" stating there was only one (1) vendor that applied, and a few other things. I do not think it needs to be redrafted. I do not want to delay this any further. It is not as if it is lies or anything, it might come across as a misunderstanding.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else for the first time? Jade, did you want to speak for a second time?

Ms. Wai'ale'ale-Battad; My name is Jade Wai'ale'ale-Battad. Thank you for having me back again, Council Chair Kaneshiro and Councilmembers. I wanted to say that I *mahalo* everyone in the community. Many of those people are

here. For their tireless work. I heard it being said that I have been here from the beginning of this process. I was here from the beginning the treatment facility being cited at Ma'alo Road. There were people that was doing this long before that like Theresa Koki. This treatment facility is literally her baby. I cannot imagine seeing it from before and walking it all the way through, how she must feel being here knowing that it is not opened, it technically has not been used for the purpose it was given, and it has been used for other things that were not purpose of this facility. I think everyone that has been in the trenches doing their part, there is so many people, and we need to come together to do this. I agree with Theresa that some verbiage in the Resolution is "storytelling," and not necessarily the best verbiage. I also do not want to delay this process any further. I think we already understand enough to know that the need is now. I really wanted to recognize Theresa and thank her for being here today. Thank you, Councilmember DeCosta, for acknowledging her. I will say it again and again. I have watched her from the time I started with the County with former Mayor Baptiste, I have watched her tersely continue trudging along in this momentum of treatment and healing for the island. I am honored to call her my friend. I wanted to recognize her and thank her for being with us today to stand arm-in-arm here at this table. One more thing I wanted to say is that the body of us that came together though powers of be, we were all part of the CATCH Board and one point. We are not here representing the CATCH Board today, but we were. I said to all of us, the body, we were handpicked, and hand selected by *ke akua* to continue the work that was started. We recognized that this is bigger than us, and I think it is bigger than all of you as well. Someday, you will look back at this and you will see healing. Yes, maybe there are things that are not perfect like the wording or as Bruce said, some of the model may not be perfect, but perfect is our desire to heal our community. All of you will be the foundation that people will look back on and say, Councilmember Cowden did this, Councilmember DeCosta did this, Councilmember Kuali'i this. So, thank you so much. I know it is a tough place to be, but we were born for tough things. Thank you.

Council Chair Kaneshiro: Thank you, Jade. Bill, did you want to go a second time? Theresa, did you want to go a second time? Is there anyone else wanting to speak for the first time? Aaron, I know you signed up. We are only on the Consent Calendar; the item is coming up later. If you want to, you can speak on it now and we will include it in the testimony. If you need to leave, I will say, testify now.

AARON HOFF: My name is Aaron Hoff. I am the founder of the Keala Foundation. We specialize in drug prevention and drug intervention. I do not want to offend anyone; I only know how to speak from my heart. I truly believe that the State should have nothing to do with the facility. For the State to take five (5) years to not get something opened, that is proof that it cannot be done. It is five (5) years. I have been doing this for twenty-four (24) years. The number of children that have died in five (5) years because that facility is not open, that is a huge burden. I look at that... I just opened an intervention camp for children. It was

an eight (8) week program, successfully done. It is not hard to do. I have been in this field for twenty-four (24) years. I would be more than happy to help you folks in any way, but I truly believe that somewhere along the line, for the State to do it, it is too hard because there is so much red tape. Pushing things through, takes a lot of meetings. I hear you talking about verbiage, et cetera, that should not stop us from getting something done. If you look at COVID-19, how fast you moved for that pandemic. There should not be any problem just as fast for this pandemic. I am not sure if you noticed, there have been six (6) suicides in the last month. The number of overdoses we have had is staggering. It is getting worse. I deal with these families on a daily basis. It is not an attack on anyone. I know the solution to it, and I am doing it right now. It is being done. In the past five (5) years, I have helped hundreds, if not, thousands of children and families with a program that we have built. I do not know if you know this, we held the Ultimate Hawaiian Trail Run last week. We had people from all over the world who came to run, we had over one thousand (1,000) participants. I am working with many gyms and programs to help run what we have created. What we created, you can put this in any community, and it does not cost much.

Council Chair Kaneshiro: Aaron, that is your first three (3) minutes.

Mr. Hoff: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Clarifying question. Aaron, would you be willing to participate in this drug treatment center during the day and provide some of your services through your foundation?

Mr. Hoff: Of course. I have endless resources to help provide to this cause. It is my life's purpose.

Councilmember DeCosta: Thank you. For the record, I would like to say, thank you for all that you do. You bring tears to my eyes.

Mr. Hoff: Thank you to you too, brother.

Council Chair Kaneshiro: Councilmember Carvalho, clarifying question.

Councilmember Carvalho: *Mahalo*, for everything that you do.

Mr. Hoff: Thank you. You folks have been supportive. I know it is hard and your hands are tied. To make things move forward through the bureaucratic things, it is a process.

Councilmember Carvalho: Not tie, just moving forward. As far as the location and the land part of it, I would like to hear your *mana'o* on that and that you totally support it.

Mr. Hoff: I support it. Anything that is "good," I support that one hundred percent (100%). I will do whatever I need to do to save our culture and island, which is on the bridge of extinction. I am there to help.

Councilmember Cowden: Clarifying question. You have experience with youth and adults. We had a lot of testimony regarding the age range with problems. Has Keala Foundation had experience with helping intergenerational challenges?

Mr. Hoff: Yes, for twenty-four (24) years.

Councilmember Cowden: Clarifying question. Have you been in communication with Grove Farm?

Mr. Hoff: Yes, a little.

Councilmember Cowden: Okay. Are you aware that you have three (3) more minutes that you can speak when he gives that to you?

Council Chair Kaneshiro: If you need it. Is there anyone else wishing to speak besides Mel? Mel has a presentation. I will let you do your final three (3) minutes, and I will let Mel do his full six (6) minutes, so that we are not splitting up his presentation. Aaron, if you want to use your last three (3) minutes, you can.

Mr. Hoff: My philosophy is that I have worked in the recovery process and for people who attract a deep addiction. The return from that is about one percent (1%), and that is being generous. It is very rare, and I am a miracle that I walked back from an ice addiction. Over the years, I worked with children. The prevention method...if you bring someone to an Alcoholic Anonymous (AA) meeting down the road, you ruin their drinking for the rest of their life. With children, prevention is making them aware of what is going to try and kill them. I make them aware and ruin their drinking and using at a very young age. They know all the facts, they learn all the tools, it is very simple to teach, so that they can have a good run at life. I give them all the tools starting at the age of five (5), up until they leave high school. They are prepared for what is going to try and kill them. It is getting in there daily, being consistent, and giving them the knowledge. Teaching them about transparency, how to process trauma, and how to level things that are going to make them uncomfortable inside, so that they are not going to want to smoke a joint to feel good; or do what their aunties and uncles are doing to feel good. They are already going to feel good about themselves and will have the God-given ability

that we all have when we are born to be a successful and impactful person in the community. I cannot stress the fact that it is very simple to teach. You need the right people who can be assistant and are willing to give their time. Be a part of the solution and the solution is in the community. There are a lot of people who want to help. They just do not know where to start because it is a massive problem. The Keala Foundation has created a platform where everyone can do little to make a massive difference. It is fast, it is swift, and we do not take a long time to make things happen. If someone has a problem and they come to me, they are going to get help right away. I have resources all over the world and phone numbers I can reach out to people, that I have established over twenty-four (24) years. That is the solution. You start them young because that is the next wave of people coming in. If we do not, we are going to try and save people who are already gone. When they do get help, the return from that is very minimal. The biggest return is in the children. If we are investing in giving these children the simple tools, it will change the direction of the whole island. That is all I have.

Council Chair Kaneshiro: Okay. Clarifying question, Councilmember Cowden.

Councilmember Cowden: If I am hearing you correctly, it is not only while they are in the program, but you also have a prolong aftercare...whether it is jobs, et cetera. If people are problematic or somewhere else, you have people in the community that these children can touch base with.

Mr. Hoff: Yes. We are growing that and refining it as we go. My focus is the prevention and intervention with children. We get them when they are already veering off, and we bring them back to the environment that they do not know about. The Keala Foundation, gyms, and programs, are their home. Once they get in there, they do not want to leave because they have all the resources at their fingertips. They have everything. They have jobs, if they want to go around the world, whatever they want to do, we can make these dreams happen for them. The children that have not experienced the Keala Foundation, which means "The Way" in Hawaiian, they will be able to come into our intervention program, and we bridge them back into the program; so, when they do come, they say, "Wow, we do not want to go anywhere else, and these people love us. They have all the resources, why would you want to go anywhere else? They are helping me become successful." Once these children see this opportunity in front of them, you would be surprised at how fast they turn. We had four (4) children, one (1) (inaudible). We have three (3) left that are just crushing it. That is a seventy-five percent (75%) return. To me, as opposed on the recovery side which is one percent (1%) return, that is huge.

Council Chair Kaneshiro: There is a clarifying question from Councilmember Chock.

Councilmember Chock: Thank you again, Aaron. Like you said, the treatment center is a more reactive response, recovery. Your approach is prevention. I am trying to be clear about your interest. Obviously, you are supportive of the Resolution and us moving forward with getting the treatment center up and running or doing what we can to help others with the treatment center. Your interest here is that you would like to be a (inaudible) program to the treatment center, or what is it that you foresee?

Mr. Hoff: There are two (2) options. I could take the whole treatment center over. I can get it funded and run it. That would not be hard.

Councilmember Chock: Hold on, before you go on, are you saying that you want to take on the treatment center aspect?

Mr. Hoff: It is a possibility. I would have to see. It would have to be with no strings attached. I would have to be given full one hundred percent (100%) access to run it.

Councilmember Chock: Do you have any experience in treatment centers?

Mr. Hoff: No. I have gone through treatment. There are different calibers and I do not want to push that out, but right now, I see something being done is better than nothing being done. I am that something.

Council Chair Kaneshiro: Do you have any more questions?

Councilmember Chock: No. I just wanted to make sure I understood.

Mr. Hoff: I know you folks do a lot and I appreciate it. We are all in this together. No one is in the wrong. This is a battle.

Council Chair Kaneshiro: Thank you, Aaron.

Mr. Hoff: Thank you.

Council Chair Kaneshiro: I think Mel is the last person signed up to speak.

MEL RAPOZO: Thank you. Mel Rapozo, here as a private citizen. I have a PowerPoint, Scott. I know that I only have six (6) minutes. I will go through it quickly. Before the presentation, I would like to say, I was here when former Mayor Baptiste did his vision. That was my first term as a Councilmember and that was his first term as Mayor. I was here when we accepted the land, I was

here when we did a Council Resolution to commit support, and I was here with former Mayor Carvalho lobbying at the Legislature on our hands and knees asking for five million dollars (\$5,000,000) to build the structure. I come with a lot of experience. I am not saying that to brag, I am being factual.

One thing that I want to address, and I want to clarify. You received testimony a few weeks ago from Dr. Chellius. He said that the CATCH Board was put together to be obstructionist and that we, in fact, tried to vote Lance Segawa who is the Chief Executive Officer (CEO) of HHSC off the board. That is an outright lie. I sent an E-mail to them calling them out asking where they got the information from? Lance Segawa who we supposedly voted off the board responded and said, "At no time did CATCH call for a vote. Basically said, we have been working together very hard on this project for a very long time." Dr. Chellius's response said, "He stands by his testimony." He has never been on the board, he was never in any of our meetings, so there was no way he could have said that. My point in all of this is that he submitted testimony to sway your vote, and that bothers me. I wanted to clarify that because that is not right for a professional doctor on this island to submit false testimony to the Council.

I want to get through all these points. We talked about former Mayor Bryan Baptiste. Back in 2002-2003, I was there, and I sat on his antidrug coalition. I was there when he said, "he had the vision." Former Mayor Carvalho, I can honestly say, he worked his 'okole off to get this going. In August 2015, the first Memorandum of Understanding (MOU) signed five point eight (5.8) acres to the County for this vision. In 2016, I and some of you were on the Council at that time, the Resolution clearly stated that we committed to profaning the shortfall in annual operating funds in increasing County revenue if necessary for ongoing operations. We felt that this was a need for our community. In 2016, Grove Farm grants extension, the County needed more time, and Gary Hoser is saying, "Grove Farm should give the County more time." Grove Farm gave the County time to get all the final permits and approvals. Grove Farm was very cooperative in 2016. Former Mayor Carvalho sent us the final documentation and a dedication deed. The official deed is done in February 2017. It included a two (2) year restriction, which automatically revert this property back to Grove Farm if the County could not fulfill the mission. That would take us to February 2019. I bring this up because I want you to visualize the dates. Is that three (3) minutes?

Council Chair Kaneshiro:

That is your first three (3) minutes.

Mr. Rapozo:

Oh gosh. February 2017, two (2) years will take it to February 2019. In October 2019, the County awards the HOPE Treatment Center Contract. In 2019, the center is officially dedicated with the cutting of the *maile*, and the blessing. It was a great show. In 2020, March and May, the County has issues with HOPE Treatment, but we are not going to get into that because they

are in litigation. June 2020, shortly after the contract was expired or terminated, we find out that the County has now changed the use, and they are going to make this an expansion of the Office of the Prosecuting Attorney, drug treatment prevention and reinversion, as well as programming for crime victims and witnesses. A total deviation from the intended use. Again, this was done without Council's knowledge, it was just done. We all found out reading Civil Beat. June 2020, Grove Farm sent a letter to the Mayor saying, "Hey, what is happening to the use of the property? That was not part of the agreement." In that same month, Managing Director Mike Dahilig responds saying, "1) We terminated the HOPE Treatment Center's contract; 2) We are going to be using this for COVID-10; 3) We are sending the property and building over to the Office of the Prosecuting Attorney, and they will take control." Again, no one on this Council was made aware. This was all done at the Administrative level. Obviously, due to the pivot, a lot of community members got together trying to figure out a way to get this to work. CATCH was formed. I am not going into the details, but it was made up of myself, Jade Wai'ale'ale-Battad, Bill Arakaki, and others who came in as well. I am not going through all of this because it takes too long. That was the CATCH Board. We were there to try to get this place open. We were there to try and make this happen. The whole original plan was Grove Farm...the land in our eyes had already reverted, the land was going to go back to Grove Farm, Grove Farm was going to lease the land to CATCH—community non-profit that was able to generate funds and utilize religious based programs, and all these things that the County cannot do, no procurement and that we would do it. In fact, CATCH was part of the discussion with the Senate Legislative Delegation to get one million three hundred dollars (\$1,300,000) for Fiscal Year (FY) 2022, which is still in the budget at the State level. CATCH sent a letter to the Mayor saying, "Please give the land back so we can move on with this amazing plan." At that point, the Mayor said, "No, we are going to send it directly over to HHSC." Now this is the kicker right here and I want the public to understand, this County and no disrespect to any of you, does not have a penny in the budget for this treatment facility, zero; HHSC, zero. How in the heck is anyone going to get this off the ground without money? That was the reason for the community non-profit, so that we could get public foundation, private foundation, we could get funds to operate this center. That is the only option. It has been five and one-half (5½) years that we have seen HOPE Treatment Center...they filed a complaint, and I am not going to get into that. The former Prosecutor supported the reversion of the land back to Grove Farm. Over five (5) years have passed, the center sits unoccupied, we have lost many children through addiction, and you have heard some of the stories. This is a dual diagnosis facility. It is not only drugs, but also mental illness as well, because that is a huge need that we have right now. Tracie told her story. I get emotional. Today, we have an opportunity. You can get this thing back to Grove Farm. So, we can now when I say "we," I mean the community. I am not going to be part of a non-profit, Grove Farm is not going to be part of it. I keep hearing Grove Farm is going to run the center. Grove Farm is going to become a landlord. Grove Farm will become the landlord which will lease this property over to a community non-profit that will be

able to generate the funding. We can use programs like Aaron Hoff, because his has such a successful program, and so many others. We can do this without having to go through procurement and having to deal with *pilikia* that this County has gone through over the last twenty-two (22) years. It has been a long time. You have a chance, this is the Resolution to do it, the language of the Resolution...some of that is stretched, I am not really concerned about that. It is getting this land back to where it belongs, so we can work at getting it opened. Thank you.

Council Chair Kaneshiro: Thank you. We are coming up on a caption break, but we will take clarifying questions, and see how long it goes. Councilmember DeCosta.

Councilmember DeCosta: This is to address Tracie, Jade, and yours. That language, please help us understand. Are you comfortable or not comfortable with the language?

Mr. Rapozo: The Resolution of the deed?

Councilmember DeCosta: The original deed has that same language in the Resolution.

Mr. Rapozo: I understand that some of the Councilmembers have concerns about the deed language, that it was too broad. Gary Hooser wrote a huge article that is in the paper today, about the broadness of the deed language. The deed language that is in this transfer, that you are deciding upon, is the exact same deed language that sits in it today. Nothing has changed. They are making it seem like it is an undermining thing that CATCH and everyone is trying to do. The language did not change. It is still restricted to the use for adolescent. There is an adult component in the language because, if a child came in at sixteen (16) or seventeen (17), turns eighteen (18) during treatment, you do not kick them out. You need to keep them in the treatment. Some of them will turn into an adult. The bottom line is this, someone read the letter earlier today, the commitment is to make sure that it is used for an adolescent residential drug treatment center. I am fine with that language. I was talking about the Resolution language itself. It has things in there that may not be completely accurate. It is leaving things out like the part where the County decided to convert that to expand the Office of the Prosecuting Attorney. I am not working, I took off to come here, I work for the Office of the Prosecuting Attorney, and I do not know if I will have a job when I go back. The bottom line is, when that happened Councilmember DeCosta, it became clear to me, that the intention of this County, was no longer to provide a residential treatment center, which was the reason why we took that land, and it was now to be used for outside County uses. To me, that was totally inappropriate.

Council Chair Kaneshiro: Are there any further clarifying questions from the Members? If not, thank you for your testimony.

Mr. Rapozo: Thank you very much.

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

The meeting reconvened at 10:47 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We are still on the Consent Calendar. We gave everyone the opportunity to speak on items on the Consent Calendar if they wanted to speak now. We are on C 2022-213, regarding the Adolescent Treatment and Healing Center. Does anyone else want to testify on this item now? If not, is there anyone on Zoom? Please state your name. JoAnn, is that you?

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

Ms. Yukimura: Chair, are you talking to me?

Council Chair Kaneshiro: Did you want to testify on the Adolescent Treatment and Healing Center?

Ms. Yukimura: No, not really. I want to speak on C 2022-219, but I need your help in understanding when it comes up.

Council Chair Kaneshiro: We are not there yet.

Ms. Yukimura: It is on the Consent Calendar, oh no, it is not. Okay, thank you. I am good.

There being further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Okay, thank you. Is there anyone else on Zoom wishing to testify? If not, I will call the meeting back to order. Are there any questions or discussion? We will be talking about this Resolution later on the agenda.

The motion to receive C 2022-211, C 2022-212, and C 2022-213 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next up, we are on Page 2, Communications.

COMMUNICATIONS:

C 2022-214 Communication (08/09/2022) from the Chief of Police, requesting Council approval of the indemnification provision in the Leica Geosystems General Terms and Conditions for Customer Care Packages (CCP) and Supplemental Terms for State Government Software License Agreement, Sale of Goods and CCP.

Councilmember Kualii moved to approve C 2022-214, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: If possible, I would like a brief statement of what this is and what it does.

There being no objections, the rules were suspended.

BRYSON PONCE, Assistant Chief, Investigative Services Bureau (*via remote technology*): I am going to turn it over to the Criminalist Christian Vlautin to explain the Leica scanner.

CHRISTIAN VLAUTIN, Crime Scene Specialist I: Good morning. For the record, Christian Vlautin, Criminalist, Kaua'i Police Department, Investigative Services Bureau. Briefly, the Leica scanner is a three (3) dimensional scene scanner that may employ at scenes and incidents that allows us to collect information and data. Basically, it is a very high-resolution use of the scene in order to use it for reports, investigations, identify, measure evidence, and things along those lines.

Councilmember Cowden: Do we already have it or is this new? This is a purchase, and it is a new tool for us?

Mr. Vlautin: Yes. Procured with the grant two (2) years ago, it was a Justice Assistance Grant. What we are asking for today is a continuation of the maintenance contract that we have on it.

Councilmember Cowden: Okay. So, we already have it. Has that helped our prosecutions or reporting? It seems like an amazing tool.

Mr. Vlautin: I cannot speak to the prosecutions. I know for investigative purposes, it has helped us greatly. One of the primary aspects we use it for is investigations of traffic collisions and incidents. One of the selling points that we had was the amount of time it takes to scan a scene is one of the major determinants in road closures. Since we started using the scene scanner, our road closure times in the County has gone down nearly fifty percent (50%), about forty-five percent (45%). The time it takes for our traffic safety section to respond to an incident, for the year 2018-2020 before we had this scanner, our road closure time is just under four (4) hours. Now, we are down to about two (2) hours and fifteen (15)

minutes. The new technology, the new scanner, basically made life better for us and for the community because they are not waiting in traffic for so long.

Councilmember Cowden: Is it somewhat like a drone or is it handheld?

Mr. Vlautin: It is a tripod mounted machine, it is about ten (10) pounds, it is about the size of large old school camcorder.

Councilmember Cowden: Okay, thank you. I have to give you credit. You do amazing things. What your group does to help get the details and help be more specific with evidence, is very important. I want to honor you.

Mr. Vlautin: Thank you very much, I appreciate your support.

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

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

The motion to approve C 2022-214 was then put, and unanimously.

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

C 2022-215 Communication (08/22/2022) from the Director of Parks and Recreation, requesting Council approval to apply for, receive and expend USDA Food and Nutrition Service, Summer Food Service Program (SFSP), in the amount of \$31,860.00, with matching funds from the County of Kaua'i of \$31,140.00, to cover the full cost of lunch meals to *keiki* age 18 and younger during the summer months when school is not in session.

Councilmember Carvalho moved to approve C 2022-215, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: Are there any questions on this item? I will suspend the rules. Councilmember Chock.

Councilmember Chock: Thank you, Wally. I appreciate this item and I think it is a need for the community especially during summer months. Often our children are stressed to find meals, throughout the year, and look forward to it. I was curious about the details of how it is distributed and if you are collaborating with other organizations? I know there are community non-profits that are doing similar work to fill gaps.

WALLACE G. REZENTES, Jr., Deputy Director of Parks & Recreation (*via remote technology*):

Yes. This funding is recurring that the Recreation Division applies specifically for the Summer Program. We have had this for a number of years, and it comes directly from USDA to us for our youth community. We work directly with the USDA. It is not something we get and then we can move to other entities.

Councilmember Chock: Is it applied to the Summer Programs? Is that where it is distributed or is it distributed separately from our County programs?

Mr. Rezentes: I am sorry, I did not get that.

Councilmember Chock: It is to fill summer needs and I am asking if it is distributed to our County Summer programs or outside of it?

Mr. Rezentes: It is directly to our Summer programs in various areas Countywide.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: That was basically my question. It is for the Summer Fun programs. Is this for next summer, but we are applying for it now?

Mr. Rezentes: Yes. It is an annual allotment that we receive based on the estimated number of children we service annually.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, while the rules are still suspended, is there anyone in the audience or Zoom wishing to testify on this item? None.

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

Council Chair Kaneshiro: Is there any final discussion?

The motion to approve C 2022-215 was then put, and unanimously.

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

C 2022-216 Communication (08/31/2022) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds, in the amount of \$37,060.00, from the Edward J. Byrne Memorial Justice Assistance Grant (JAG) Fiscal Year 2022 Local Solicitation Grant, to continue employment of the one (1) Full-Time Equivalent (FTE) Process Server to continue process serving for the Office of the Prosecuting Attorney for three (3) months, purchase office supplies, and allow

officers of the Kaua'i Police Department to attend training sessions. The grant will cover expenses for the time period October 1, 2021 through September 30, 2025.

Councilmember Kualii moved to approve C 2022-216, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions from the Members on this grant? Is there anyone else in the audience or on Zoom wishing to testify on this item? Is there any discussion from the Members?

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

The motion to approve C 2022-216 was then put, and unanimously.

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

C 2022-217 Communication (09/01/2022) from the Fire Chief, requesting Council approval to receive and expend State Fiscal Year 2023 funds, in the amount of \$380,000.00, from the State Legislature, to be used for Water Safety Officer positions at Kē'e Beach and Hā'ena State Park, from July 1, 2022 through June 30, 2023.

Councilmember Kualii moved to approve C 2022-217, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: I will suspend the rules. Does anyone have any questions on what we are looking at?

Councilmember Cowden: If Chief Gibson is there?

Council Chair Kaneshiro: Chief Gibson, if you want to give an overview? I have a legal question that might be for you or Matt. If you want to give us a brief overview of the money that the State is sending to us?

Councilmember Cowden: And maybe a little bit about what looks like back payment?

Council Chair Kaneshiro: Chief Gibson might not be present. My question is for Matt. Matt, were you able to review the changes they were making as far as the language goes? Let me see if I can find it in my notes regarding what almost looks like an indemnity of our lifeguards at the State beaches.

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): I have not reviewed that. Who proposed that change?

Council Chair Kaneshiro: I believe it was the State that proposed the change, and I am trying to look through my notes right now.

Councilmember Cowden: It is on page 2. It says, "The following language is deleted in accordance with Act 170." Basically, "A County Lifeguard, the employee, and the State shall not be liable for any civil damages resulting from any act or omission of the lifeguard while providing rescue, resuscitation, or other lifeguard services on the beach or in the ocean in the scope of employment as a County Lifeguard." They took that out and...

Council Chair Kaneshiro: Matt, did you see that language?

Mr. Bracken: I have, sorry. It is not new language, that language has been included for several years. When they are removed, the immunity that our lifeguards had on the beaches, they removed that language from the agreement we had with the State. At this point, we have insurance that is a pretty good policy for our lifeguards to counteract the fact that we no longer have immunity. We have more coverage for our lifeguards at the beach than we typically for other things at the County. Our self-insurance threshold is much lower. It is ten thousand dollars (\$10,000) versus one million dollars (\$1,000,000). While we do not have immunity, we have a much better insurance coverage.

Council Chair Kaneshiro: It sounded like the language they were adding was almost indemnifying our County Lifeguards at the State Beach. I believe it is something the County Councils have been fighting for a long time. I wanted to see if that was your read on it, or if that is what it is doing. It basically says, "Employees of the State will include persons employed by a County of the State as lifeguards and designated to provide lifeguard services at a designated State Beach Park."

Mr. Bracken: My understanding with that is...and I have had discussions with the State office on that, is they now view our lifeguards that are employed on their beaches as their employees. Meaning, they would cover them in the event of a lawsuit, which is the description of that. It is an improvement.

Council Chair Kaneshiro: Okay, thank you. That has been a big item for HSAC for a while. At one time, we got comfortable with how the language was written. That language appealed to me that they are actually being proactive and adding language to cover our employees at their State beaches. Councilmember Chock.

Councilmember Chock: Thank, Mr. Chair. Chief, thank you for coming on. I am happy about this. When this was first presented, it sounded as if it was a one-time appropriation of funding. I want to be clear about the commitment the State has to continuing to fund these positions as needed.

MICHAEL GIBSON, Fire Chief (*via remote technology*): Thank you Vice Chair. This is another MOU extension through an agreement that was dated back to 2008. Since 2008, we have been requesting every year, and all about a few

years, we received the request of funds. This year, we requested three hundred eighty thousand dollars (\$380,000), and they allowed the full amount.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Okay. How many lifeguards at both beaches?

Mr. Gibson: This will cover Hā'ena and Kē'e towers. A total of four and one half (4 ½) positions total. We share personnel with the Hā'ena tower with our part-time personnel.

Councilmember Cowden: When we backdate the payment as we did a few months ago on July 1st, it says, the effective date is July 1, 2022. Usually we have these come through before the start of the payment process. I am sure you had a way of working that out. Why are we getting this after the effective date?

Mr. Gibson: Thank you. We will bill the invoice amount by the quarter, the actual amount for each quarter, the quarters have been based upon overtime. Sometimes between eighty thousand dollars (\$80,000) and ninety thousand dollars (\$90,000). Once we issue them, they bill the invoice, we return it back. There were a few times where it was paid late. On their end, they had personnel turnover in the office. Typically, when we bill for the quarter, we will receive payment within two (2) to three (3) weeks.

Councilmember Cowden: Okay, thank you.

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? I will call the meeting back to order.

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

Council Chair Kaneshiro: Is there any final discussion from the Members? I will go. I am glad that the language is in there. It has been years where our lifeguards have been working at State beaches which are Kē'e and Hā'ena Beach Parks, getting paid from the State, but we were not being indemnified for any type of lawsuit that could occur. It has been a fight at the State. I think HSAC pushed hard to get some type of indemnification. I think at one time, we led off on it. I think we had lobbyist trying to push for it and it did not get anywhere. The State said they would cover it, but I do not think it was ever in writing. With this new language that was added in here, I am very hopeful. It makes sense that our lifeguards are at a State Beach, so they should be covered by the State. I think this language does that. I am happy. Is there anyone else? Councilmember Cowden.

Councilmember Cowden: I am thankful that we have the State support, and we have the lifeguards on beaches where they are needed. If we did not have that, it would be a crisis.

Council Chair Kaneshiro: Is there anyone else? None.

The motion to approve C 2022-217 was then put, and unanimously.

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

C 2022-218 Communication (09/02/2022) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal Fiscal Year 2022 funds, in the amount of \$125,205.00, from the Impaired Driving Grant, to reimburse up to 1,040 hours of the Traffic Safety Prosecutor's position, as well as travel costs, for training and meetings. The grant will cover expenses for the time period October 1, 2022 through September 30, 2023.

Councilmember Kualifi moved to approve C 2022-218, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions from the Members? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: Thank you for doing so much to get the different grants. Can you tell us a little about impaired driving, what that covers, and I am looking at the page that is showing us the supporting data. I want to know how much it is helping. Are we having more effective convictions or how is it affecting our way of following through on impaired driving?

JAMIE OLIVAS, Grant Coordinator (*via remote technology*): Jamie Olivas, Grant Coordinator for the Prosecuting Attorney's Office. The grant is going to cover our Traffic Safety Resource Prosecutor (TSRP), it will cover fifty percent (50%) of his position. The hours that he works, training, and training the new deputies who work with vehicular crimes and for attending trainings. He is the TSRP not only for our County, but he represents the State as well, in getting the information out and helping other law enforcement offices with anything that deals with vehicular crimes.

REBECCA LIKE, Prosecuting Attorney (*via remote technology*): Rebecca Like, Prosecuting Attorney. Good morning. Regarding your inquiry Councilmember Cowden about conviction rates, I do not have that data in front of me. If that is something you are interested in, I can try to provide that. In the last year, I know that we have had an increase in the number of State and Nationwide traffic fatalities. It is something top of mind and we are very fortunate to have the TSRP as Jamie Olivas mentioned on Kaua'i. He is really on top of things that are happening State and Nationwide regarding traffic safety and implementing best practices going forward to prevent those types of things.

Councilmember Cowden: We just had a grant piece about the triple laser. Has that made a difference? I want to know if we are getting better at what we are doing. I am hearing that we are looking at it for less time, because we are more efficient with our Police Department. The end result is the information that goes to you and how

is our traffic safety follow through? Are you happy? I would like to see it and maybe you can send it to me. I would like to see our effectiveness with these things.

Ms. Like: Absolutely. Those technological tools are phenomenal. It makes a huge difference in mapping the scene. Christian did a good job of talking about it. A huge area of concern for folks is the shut down of the roads. In regards to processing cases faster, there is a lot of evidence that needs to be collected in these types of cases, it sometimes takes a decent amount of time. Unfortunately, the KPD's Traffic Safety Unit is very short-staffed. Currently, they only have one (1) person handling almost all their investigations. It is somewhat unavoidable right now, but it will result in some delays in those reports making their way to our office. I think that we are operating as efficiently as we are able to under those circumstances.

Councilmember Cowden: Okay. I will put it in very simple terms. Are we having these accidents because people are intoxicated, not paying attention while they are driving, is someone crossing the line, or poor road design? We had a pedestrian killed that was a friend of mine, last week on the side of the road. I would like to see why we are having increased fatalities, so that we know which way to make the directional changes. Something is not working right on the roads. I am curious when we invest in the personnel and the equipment, I am wondering if we are going to get a report back on why we are having more accidents.

Ms. Like: I think that is an issue that is top of mind at the national level as well. There has been an increase Statewide and Nationwide in traffic fatalities. Reports from the National Highway Traffic Safety Administration (NHTSA) and the Department of Transportation (DOT) regarding that and there are different theories as to why those numbers are fluctuating. Even though it seems when it happens on Kaua'i it is a big deal, it is hard to make a correlation between an isolated traffic collision or traffic fatality and a broader trend. I think that happens at a lot of our crime statistics too, because we are dealing with such a smaller number. I think typically in these types of cases, a lot of times there is speed, alcohol, a lack of lighting in some areas, because it is so dark on the road it is hard for folks to see. I am not an engineer, so I am not a traffic expert. I have concerns on how well lit our crosswalks are. I think that it would be nice to have better lit crosswalks or elevated crosswalks, but that is not my area of expertise. I think that would result in safer conditions for pedestrians. There are a lot of factors to consider, but I do not see an overarching trend indicating why there is an increase.

Councilmember Cowden: Okay. May I please have a report and if we can have a quarterly report, I would like to know that. That way, we can make better decisions as a Council whether it is that we do not have flashing yellow lights or big potholes that people are dodging. When we are making budging decisions, it helps us to know why we are having the accidents. If we are investing in the money for the equipment and the people to determine that, we need to know the results. Thank you for getting this grant for this person. Yes, please, I would like to have a report.

Ms. Like: Okay.

Councilmember Cowden: Thank you.

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

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

The motion to approve C 2022-218 was then put, and unanimously.

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

C 2022-219 Communication (09/12/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 6, Article 9, Section 6-9.4, Kaua'i County Code 1987, As Amended, Relating To The Housing Development Fund.

Councilmember Kualii moved to receive C 2022-219 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: This is only the communication. I believe JoAnn wanted to speak on this now and prior to the item. I will suspend the rules. JoAnn, you can have your full six minutes.

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

Ms. Yukimura: Thank you, Chair. I speak in favor of Bill No. 2888 which provides for the appropriation of no less than two percent (2%) of Real Property Taxes (RPT) annually for the County's Housing Development Fund. It also establishes a mechanism by which the annual appropriations can be used to float a bond. This comes closer than any other proposal to affecting a much-needed earmark of capital for affordable housing without the inflexibility of a Charter amendment that worried the Administration and some of your Councilmembers. I think you have a win-win here, and I commend the co-introducers of the bill, Councilmembers Evslin and Chock, for their perseverance in seeking a solution that all can support. I know I am repeating myself, but I feel this point is fundamental to solving the affordable housing crisis: The County cannot effectively address the affordable housing problem without a large amount of unrestricted capital set aside for the building of affordable housing, which is what this Bill does. By conservative estimates, it takes an average of five hundred thousand dollars (\$500,000) to build a dwelling unit. Since most people who live on this island cannot afford a down payment or mortgage or rent for such a unit, the per-unit subsidy is great. Using only the four million two hundred thousand dollars (\$4,200,000) produced by taking two percent (2%) of RPT will build about fifteen (15) units. The General Plan says we need nine thousand (9,000) units by 2035, which is less than fifteen (15) years away. Targeting the families with incomes at one hundred twenty percent (120%) AMI or less, which is in accordance with how the County policy defines "affordable housing," this means we need to be building at least four hundred fifty (450) affordable units per year. If the two percent (2%) set-aside is structured, as in this Bill, an eight million dollar (\$8,000,000) bond can be floated; using that eight million dollars (\$8,000,000) to match and leverage

federal funds and inclusionary zoning requirements, many more homes can be built. The unrestricted moneys can also be used to build homes for families between eighty percent (80%) and one hundred twenty percent (120%) AMI, which are ineligible for federal tax credit moneys. This Bill, if passed, will enable housing developments to have a mix of incomes and become flourishing communities. To alleviate the housing crisis on Kaua'i, I urge you to vote for this Bill.

Council Chair Kaneshiro: Okay, thank you.

Ms. Yukimura: Are there any questions?

Council Chair Kaneshiro: No questions, thank you.

Ms. Yukimura: Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify on this item? It will come up later on the agenda. If not, I will call this meeting back to order. The motion on the floor is to receive.

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

The motion to receive C 2022-219 for the record was then put, and unanimously.

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

CLAIM:

C 2022-220 Communication (09/08/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Remillard Huynh & Barbour on behalf of Terry Uchtyl, for personal injuries, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2022-220 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? None. Is there anyone on Zoom wishing to testify? Are there any further questions from the Members on these items?

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

The motion to refer C 2022-220 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:

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (No. CR-HIR 2022-02) submitted by the Housing & Intergovernmental Relations Committee, recommending that the following be Received for the Record:

“HIR 2022-02 – Communication (08/05/2022) from Councilmember Cowden, requesting agenda time for an informational briefing from Members who attended the 2022 National Association of Counties (NACo) Annual Conference held on July 21-24, 2022, in Adams County, Colorado,”

A report (No. CR-HIR 2022-03) submitted by the Housing & Intergovernmental Relations Committee, recommending that the following be Received for the Record on second and final reading:

“HIR 2022-03 – Communication (08/09/2022) from Committee Chair Kualii, requesting the presence of the Housing Director, to provide an informational briefing on past, current, and future housing projects and programs,”

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

Council Chair Kaneshiro: Is there anyone in the audience or on Zoom wishing to testify on these Committee Reports? Are there any questions or discussion from the Members?

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

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

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

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2022-10) submitted by the Finance & Economic Development Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2875 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-6.4, 5A-8.1(g), 5A-9.1, AND 5A-11.23(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX,”

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

Council Chair Kaneshiro: 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 for approval of the report was then put, and unanimously carried.

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

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2022-16) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2876 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2022-886, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2022 THROUGH JUNE 30, 2023, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Department of Public Works Project Manager Transfer - \$118,177.00*),”

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

Council Chair Kaneshiro: 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 for approval of the report was then put, and unanimously carried.

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

RESOLUTIONS:

Resolution No. 2022-35 – RESOLUTION AMENDING RESOLUTION NO. 2017-29, RELATING TO SUPPORTING A STRUCTURALLY BALANCED BUDGET FOR THE COUNTY OF KAUAI

Councilmember Kualii moved for adoption of Resolution No. 2022-35, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Councilmember Carvalho or Councilmember DeCosta, do you want to explain your Resolution?

Councilmember DeCosta: Yes, we would like to explain this. Councilmember Carvalho and I, met in detail with Ken Shimonishi who is the Financial Analyst, who was former Mayor Carvalho's director of finance at the time. We also met with our current Director of Finance and her team. We would like to amend the Resolution, I believe Council Chair Kaneshiro created with the former Mayor as a Reserve Fund. This would basically allow us to have an increased amount of tools to enhance our affordable housing. We have a crisis, and we all know that. We are trying to come up with fiscally responsible ways that we can have access to revenue. This is one of the tools. We talk about the Reserve Fund as being a "rainy day fund." We talk about the Reserve Fund as being a "crisis intervention." For example, when there was a natural disaster landslide in Waimea Valley, the North Shore flooding, we had access to the Reserve Fund. Housing is a crisis. With the existing Resolution that Council Chair Kaneshiro and Councilmember Chock worked on, that Resolution has been very powerful with the current and previous Mayors. It has a lot of teeth. All we are introducing is the language change that now puts housing as a crisis entity. We will have access to the Reserve Fund if we need the Housing Agency to float a bond or if we need money to be leveraged against. I want to explain this for our local people, so they can understand. It is like when you are at the hub changing a tire and your wrench cannot take out that lug nut, you put in WD-40 and it still is not loose, how great would it be if you had an impact wrench that you could have air impact to take the nut off. This is our impact tool that we can use along with other measures to get affordable housing up and running.

Councilmember Carvalho: To follow-up on Councilmember DeCosta, the original intent working the Government Financial Office Association (GFOA) to create this fund, which we need especially during disaster situations where we could utilize the fund for support and not having to deal with the operational side of funding. With this movement, it would help to include housing. We are obviously trying to look at the housing situation and provide the funding through this. Again, the original intent was to have that set aside for situations such as this. I am hoping that with this Resolution and the intent of the Reserve Fund, and how it has proven to work for so many different ways, we hope that the Resolution will tie in with housing. I really believe that this is the time to add this on and continue to move forward with this Reserve Fund program policy, because it is proven. It did not just fall out of the sky, we did all the work, we reached out, we went to the mainland and sat down with the advisors, to follow through and enhance the Reserve Fund that we have been able to tap into. I hope that we can move forward on this and include the housing part, which will be a big plus as we move forward.

Council Chair Kaneshiro: Councilmember Cowden. We are on the Structurally Balanced Resolution.

Councilmember Cowden: Yes. I also heard what Ken Shimonishi said. I worked on something very similar. I would like to ask a few questions of both Matt

Bracken and Reiko, our Director of Finance. It gave me confidence because we are working in the same direction. Matt, a budget resolution is different than a regular resolution. This budget resolution is part of our responsibility. This is binding, is that correct? This is a binding resolution.

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): Matt Bracken, County Attorney. I think the best way to explain this is that the resolution that is on the agenda today, is a different type of resolution. There is a nonbinding resolution which the County does not have direct authority over generally, yes the Council wants to support a certain action that does not necessarily fall under your purview. This Resolution does in that under the Charter, the budget falls under your purview. This Resolution is different than a nonbinding resolution in that it is a policy that the County would strive to follow.

Councilmember Cowden: Okay. We had a testifier earlier saying it would be nonbinding. I wanted to correct that, and this has that. I am looking at what was sent, I asked if we could have something confirming how much this could compel us with the issuance of bonds. We have a difference between the Revenue Bonds and the General Obligation Bonds. I am not sure if this would be for Reiko or Matt? What we were seeing is, that we would be able to still get a General Obligation Bond if we chose to do so relative to this Resolution. Would that be Reiko or Matt, we talked about that together?

REIKO MATSUYAMA, Director of Finance (*via remote technology*): I can take it and you can add after. Yes. We would not need any of these to go after a General Obligation Bond. We could do that at any time. The advantage of a General Obligation Bond is that we can tie it into other CIP projects, deferred maintenance, et cetera. I think the advantages of a General Obligation Bond opposed to a revenue bond, which I am not super familiar with, and I have never done a Revenue Bond. From what our advisors are telling me, Regular Bonds are more expensive, the interest rates are higher, and the leverage capacity is such that you cannot borrow as much as you could under a General Obligation Bond. I do not know if the County would ever pursue a Revenue Bond over a General Obligation Bond.

Councilmember Cowden: When we looked at this as we discussed it, we could get as much as ten million dollars (\$10,000,000) in a year, because we have this thirty percent (30%). We can get as much as ten million dollars (\$10,000,000) towards the Housing Revolving Fund on this particular Resolution if our revenue is similar to what currently is.

Ms. Matsuyama: It all depends on the reserve.

Councilmember Cowden: Yes. If our revenue and reserve...if the reserve is there, this allows us to pull up to ten million dollars (\$10,000,000). I am trying to do a comparison between the Bill and the Resolution. Not that they

have to be separated, it can be an “and” not an “or.” With this, we can possibly pull up to ten million dollars (\$10,000,000) in a given year, as opposed to two million dollars (\$2,000,000) to four million dollars (\$4,000,000).

Ms. Matsuyama: I think you are talking about the next Resolution. This current Resolution is basically redundant of the proposed Ordinance of the Housing Development Fund.

Councilmember Cowden: Yes. These two (2) basically go together, one goes with the other.

Ms. Matsuyama: Correct.

Councilmember Cowden: It is an approach. It is a double resolution approach. With this approach that we heard from Ken Shimonishi, when we had to deal with not having the ballot amendment. When we are looking at these two (2) resolutions to take that place, this Resolution approach has the potential to get us up to ten million dollars (\$10,000,000). Given the economy and whatever year we are in when we did the math in a year like this, it is ten million dollars (\$10,000,000) as opposed to two million dollars (\$2,000,000) to four million dollars (\$4,000,000). We can get a greater amount of the way this Resolution is structured.

Council Chair Kaneshiro: I believe Reiko is saying that is the next Resolution.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: This is the Structurally Balanced Resolution, which basically adds a “whereas” in the Resolution and adjusts the requiring expenditures to include two percent (2%) of the year’s certified RPT.

Councilmember Cowden: The reason I am bringing it up now, is because they come together. If we voted “no” on this, without realizing that there is a different amount. The upcoming Bill and this Resolution do not have to conflict with each other. This Resolution relies on the next Resolution. We had a earlier testimony that put them together. What I like about this Resolution is that the volume is currently higher. It allows us to do a lot more and we have a lot of upfront problems. I am trying to make sure that is brought forward and revealed at this point rather than if we for some reason vote down this Resolution, the second one does not matter.

Council Chair Kaneshiro: I think that might be a legal question, I do not know. As far as the Resolution goes, if you vote down this one where it has, “Whereas the County defines General Fund appropriations for Affordable Housing Projects in

the amount of no less than two percent (2%).” If this will affect the next Resolution, I am not sure. That would be a question for Matt.

Councilmember Cowden: That is why I am bringing that up now. I brought it up. I see that we have two (2) other Councilmembers with questions. We can move on if they want to.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Matt, Councilmember Cowden was asking about the strength of this Resolution. When you said and I think you used the word “future Councils” would strive to follow it during the budget process. I think that was the words you used. Does this hold the Council accountable to a guaranteed two percent (2%) allocation in a future budget?

Mr. Bracken: The answer to that is the hierarchy of our laws. We have the Charter, we have ordinances, and we have resolutions. If an ordinance conflicts with the Charter, the Charter trumps. If a resolution conflicts with an ordinance, the ordinance trumps. When you have this Resolution, it is a firm policy statement from Council saying, this is how we want to operate budget-wise. To my understanding, Council has followed these resolutions, but when you are talking about a Budget Ordinance, the Budget Ordinance is still an ordinance. If a Council elected not to follow this Resolution and pass the Budget Ordinance, and did not exactly follow this, that Budget Ordinance would then trump the resolution. If something came up and Council did want to allocate funds as outlined in this Resolution, they do not necessarily have to.

Councilmember Evslin: Thank you. We met with the Revenue Bond Council. Is it fair to characterize that when asked what would be stronger as far as getting Revenue Bonds between an ordinance or resolution, you said the ordinance would be the stronger mechanism. You can elaborate on that if you want.

Mr. Bracken: We had a meeting with the current Bond Council that aiding the Housing Agency with the current Bond Float that you are working on. When the question was asked, he did state the difference between a resolution and ordinance, and which one could be used for a Revenue Bond, and he stated that an ordinance would be better. I cannot remember his exact language at this point. I communicated with him more since then because additional questions were proposed to him. He said he is open to meetings with Councilmembers. His group of work is very specific to what Housing is currently working on. This would be outside the scope of what he is currently working on. He is not really comfortable giving you an opinion on the legislation that is in front of you today. I think if you wanted an opinion from Bond Counsel, we could definitely do that. I think we would have to hire Special Council to opine on that. I do not have specific training or

expertise in bonds, so I can only say what I have heard. If you want a specific opinion, we likely have to use Special Counsel to get an opinion on it. He is open to continued dialogue and discussions on this matter.

Councilmember Evslin: Thank you. I can quickly clarify the intent of my question. I really appreciate the work of this Resolution. I think it is complementary of the Ordinance. My hope is to not see this trump the ordinance. I think they importantly go together. Thank you, Members.

Council Chair Kaneshiro: I think Matt made it clear that the resolution does not trump an ordinance. Councilmember Chock.

Councilmember Chock: Matt, to clarify further, there are three (3) measures relating to housing that are earmarked today. Is this Resolution in conflict in any way, shape, or form to the other two (2)?

Mr. Bracken: No, it is not. I reviewed three (3) which do not conflict with each other. Potentially, they all could be passed.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Kualifi.

Councilmember Kualifi: Matt, my question is pertaining to the testimony earlier that mentioned the conflict between recurring expenditures and nonrecurring expenditures. This new language that is added is basically talking about affordable housing as a recurring expenditures. The paragraph that immediately follow talks about Special Projects, capital improvements, asset acquisition, and other costs as nonrecurring expenditure. It seems like a conflict or a confusion. You reviewed this and you said that it was legal, but do you see any problem with that, even if it may be legal? I am curious and I would have like to hear from the Housing Director, but I know that he is gone. Will this in any way inhibit rather than help us with bringing more funding to affordable housing. Basically, the only change in here is the additional "Whereas."

Mr. Bracken: Are you referring to the current expenditure language that is in Structurally Balanced Budget Policy that is attached to the Resolution?

Councilmember Kualifi: No, the Resolution itself. The Resolution adds that "Whereas," which says, what Council Chair Kaneshiro read regarding Affordable Housing projects of two percent (2%), and it says as recurring expenditures. The next whereas that was already in the Resolution says, nonrecurring expenditures are comprised of...and it lists Special Projects such as capital improvements, asset

acquisition, and other costs. Clearly, an expenditure of affordable housing funds could be a capital improvement or an asset acquisition. To call it recurring and nonrecurring, I am wondering if that confusion or conflict could potentially create any problems for any funding for housing in the future?

Mr. Bracken: It potentially could. Part of this is, a policy statement. It is a policy statement that you are saying two percent (2%) would be allocated. That allocation would then occur in the budget process, and the budget process would outline how that could be spent. If the two percent (2%) goes into the Housing Development Fund, it would be broken up on how it could be spent. I agree that it may be confusing with the way it is worded, I do not see any legal problem because the mechanism for this to occur would still be an Ordinance. It would be clear in the Budget Ordinance of how it would be spent.

Councilmember Kuali'i: Let me bottom line this. Originally, when we started talking about this Resolution, we said it was "binding," because it is having to do with budget, which is under the authority of the Council. Ultimately, every year, we pass the budget by doing a Budget Ordinance. While this is nice and it says what we can, want, and should do, ultimately, we can only do it by the Budget Ordinance, which would ultimately trump what this Resolution is saying we should do. This Resolution is not necessary.

Mr. Bracken: I would not say that it is not necessary, but I would agree that it is a policy statement that should (inaudible) Council. The Ordinance would be what trumps.

Councilmember Kuali'i: Ultimately, it is not binding, because what would bind, is the Budget Ordinance that follows and happens every year.

Mr. Bracken: Budget is what the County follows every year.

Councilmember Kuali'i: That is what is binding. This ultimately, is not binding. Every year, we vote on a Budget Ordinance.

Mr. Bracken: I agree that is a policy statement.

Councilmember Kuali'i: Thank you.

Council Chair Kaneshiro: I worked on the original Resolution and Structurally Balanced Budget. We had this conversation on doing it as a resolution or an ordinance? We decided that an ordinance was too strong to do because there is going to be certain instances where you might not be able to follow the structural balanced budget, and then what? Do we get a penalty? We decided to do it as a resolution, which we should follow. It is not binding, but it has been something that

we have been following. That was the purpose of the Resolution. It was not to say, "Let us do this Resolution, but we do not need to care about it when we do the Budget." It was, let us do this Resolution, because this is the way we should be balancing our Budget at the end of the day. These are our priority items, and this is what we should strive for. If a Council comes on and does the complete opposite, that is their own purview. They can do it. They can go in and use the entire Reserve Fund if they have four (4) votes, take it down to zero (0), to balance the budget. They can do whatever they want in the Ordinance. This Resolution was here to say that this is the right way to do it if we want to be a sustaining government and be able to budget our finances correctly throughout the year. That is my take on it. It is not to say that this does not matter. Anytime budget comes up, Councilmembers can propose whatever they want. They can propose to use the entire Reserve Fund on housing or anything they want. The Resolution was prepared as a framework to say, this is the way we should be budgeting. Councilmember Chock, followed by Councilmember Cowden.

Councilmember Chock: I think that is a great point. I am going to frame this in a question to Matt or Reiko. In previous budgets or budget years, has it occurred or have there been revisions to the uses of the Budget Reserve where we have gone under and not followed the Budget Reserve Policy?

Ms. Matsuyama: I am going to call on Ken Shimonishi. I do not believe that happened since the resolutions were in place, but he can give you an idea.

KEN SHIMONISHI, Budget Administrator (*via remote technology*): Aloha, Councilmembers. Ken Shimonishi, Budget Administrator. I am sorry Councilmember Chock; can you repeat your question. Did you ask if we used the Reserve Fund for other than what it was intended for and is that what you are asking? To my recollection, no. It was always used for what it was in line with the resolution on the Reserve Fund. But, to shed light on the Structurally Budget Balance Resolution, we are talking about Special Projects. Keep in mind that the Structurally Budget Balance Resolution is basically saying that recurring revenues have to cover recurring expenditures. Back in FY 2019, when the budget was being proposed and deliberations by the Council, there was a need that you needed to contribute to affordable housing. At that time, you and former Councilmember Kawakami introduced rate changes in the Vacation Rental and Resort to raise funding and to have this contribution go towards the Housing Fund of two million seven hundred thousand dollars (\$2,700,000), going to the Reserve Fund and other items. That is where we say, we need to fund what we need to expend or appropriate. Each year thereafter, the General Fund has made contributions to the Housing Development Fund for the purpose of Special Projects. We have not even identified what the actual project was going to be, but we said we wanted to put money towards that initiative. We can argue how much was wanted, whether it was more or less, but that has occurred every year since then. The purpose of this Resolution is to say,

“Okay, we have been doing this every year, let us say, it is a recurring expenditure, so we put that at the forefront when we start the budget process. Let us commit to this two percent (2%), get it in there, and from there, we can do or adds or minuses.” That is the intent of doing this on the front end of the Structurally Balanced Budget Resolution. Not to get too much into the next item, but following the Structurally Balanced Budget Resolution, is what then sets up our ability to have a Reserve Fund in place. That would be my comment.

Councilmember Chock: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a general question. I know that Mike Dahilig is not with us today. Is there someone from the Office of the Mayor that can give us an opinion if they are in support of this Resolution, Bill, Ordinance, or both? My understanding is that the Resolution and the Bill, or Ordinance are not in conflict with one another. Does the Administration feel that they want it, they do not, or how do they feel?

Ms. Matsuyama: I will be speaking on behalf of the Office of the Mayor. Basically, it is the purview of the Council to enact what you feel is necessary. The strength of that will depend on you folks as well.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Okay. I have an amendment.

Councilmember Cowden moved to amend Resolution No. 2022-35 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kualii.

Councilmember Cowden: It is a very simple amendment. It is for the next Resolution.

Councilmember Cowden withdrew the motion to amend Resolution No. 2022-35, Councilmember Kualii withdrew the second.

Council Chair Kaneshiro: Are there any further questions on the Structurally Balanced Budget Resolution? Is there any changes or amendments. If not, is there anyone in the public or on Zoom wishing to testify on this item?

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 additional discussion?
Councilmember DeCosta.

Councilmember DeCosta: Yes. I would like to reiterate why Councilmember Carvalho and I dove deep into this. We are really concerned about housing. Whether it is a resolution or an ordinance, we want to do everything we can. At the same time, we want to be fiscally responsible, which means that we are going to be facing trying times. Whether it be a natural disaster, COVID-19, or a landslide, we need to pave the way for the Administration to say, "Hey, this is a time we can pinch a little more and give it to the Housing Agency?" This is the time we need to pinch a little more and fix this major natural disaster. It worked under the Administration of former Mayor Carvalho. This Resolution worked with Council Chair Kaneshiro and Councilmember Chock. It is another impact tool that we have at our availability to help with affordable housing. I am a little disturbed that we have not grasped the depth to which Councilmember Carvalho, myself, and Ken Shimonishi's work that we have worked on this.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am going to be supporting this. I think it is important for us to have as many tools in the box as we can. I do not really understand the resistance against it because there is another ordinance that we are contemplating. You have a tool in your right hand, and you have a tool in your left hand. When I look at this, what I really like is sometimes we have a need, with a little more money, an opportunity is going to be right there. This is going to allow us to do it. We are not going to be in a difficult situation. We can have a greater capacity to have that funding. I lived long enough, I think all three (3) of us are old, no I am kidding. Things change. We could have a different type of crisis. I like having a little flexibility, but I want the strong intention for doing the resolution the way it is. I support it.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Yes. I support the Resolution. I appreciate the work of Councilmember Carvalho and Councilmember DeCosta. When we spoke during the Charter Amendment process, I think it was a request...all of us supporting the Charter Amendment to go back to the table for those in opposition, and to come together with solutions. I appreciate that you folks did the work with Ken and the Department of Finance. I want to add that the primary intent of the two percent (2%) via Charter and the primary intent of two percent (2%) via Ordinance, is to help us get access to Revenue Bonds. When we were discussing with our Bond Counsel, he discussed a whole multitude of reasons why most large municipalities are pursuing Revenue Bonds in addition to General Obligation Bonds. They help fill an area of gap funding, which I was hoping he could give an explanation, but he is not here today. We will work on a real explanation for how Revenue Bonds are utilized in ways General Obligation Bonds are not. Again, I think these all help complement

each other, using all the tools that we have here. I appreciate you folks going back to the table to get this work done. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: In short, knowing that this process works, and it does complement each other and the reason why we laid it out that way. This process has worked, and I believe housing is at the forefront. We all agree at this table that this process is not separate, and one complements the other. I think that is a good thing to have at the forefront and on the table. I wanted to make sure we cleared that up. We spoke with the Department of Finance numerous times regarding both areas, which is why I believe we are on the right path.

Council Chair Kaneshiro: Is there anyone else? Councilmember Kualii.

Councilmember Kualii: Yes. I will support this. The statement being made that we can make it different ways, I support that as far as a resolution, I encourage all Councilmembers in future votes, this is a nice vote, but the important vote, is the vote on the ordinance and on the budget each year. Ultimately, that is where the rubber hits the road and that is where you create the funding that we so desperately need for housing. I am happy to support this. The concern I had has been addressed by the Attorney's advice. In a way, I can see that it can be both. We are singling out affordable housing as a recurring expense, and we can also support affordable housing with a CIP, or an Asset Acquisition Project, which is a nonrecurring expense. It can be both, the glass is both half full and half empty.

Council Chair Kaneshiro: I will be supporting this. I worked on the original resolution with Ken. It took months of work. I think this sets out the parameters of our budget and what the Council is expecting. Again, Council can go to budget, and not abide by this if they have four (4) votes. This sets out the type of framework and what we should be doing. It is not necessarily what will happen, but what we should be doing. I agree, and I will be voting for it. Is there anyone else? If not, roll call vote.

The motion for adoption of Resolution No. 2022-35 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. 2022-36 – RESOLUTION AMENDING RESOLUTION NO. 2017-28, RELATING TO THE COUNTY OF KAUAI RESERVE FUND AND RESERVE FUND POLICY

Councilmember Kuali'i moved for adoption of Resolution No. 2022-36, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Councilmember DeCosta or Councilmember Carvalho, do you want to explain the Resolution or the changes to the Resolution?

Councilmember DeCosta: Yes. It is the same thing. We are amending the language to include affordable housing to use the Reserve Fund. It is another tool in our toolbox. I do not have to go into further detail, you folks already got the explanation.

Council Chair Kaneshiro: Councilmember Cowden, did you have an amendment?

Councilmember Cowden moved to amend Resolution No. 2022-36 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kuali'i.

Councilmember Cowden: This is a small detail, but these two (2) Resolutions go together. As it is here, it says on page 3, "Be it further resolve that if the funds from the Reserve Fund are utilized, the County Council and County Administration shall timely propose and improve a financial plan to replenish the Reserve Fund." This is how we pay it back. Last year or the year before, it seemed as if we dipped into the Reserve Fund for COVID-19. It was a "rainy day" fund. We also did it for the flood because that was another "rainy day." We used the rainy-day funds for problems and we have to pay it back, and we have. Often, that is with funding we get from the Federal Government or other ways. It could be possible, that with housing, we are not able to replace it as quickly. Right now, it says, "Efforts should be made to restore necessary funds to required policy levels within three (3) years with the exception that amounts used for affordable housing projects be restored in one (1) year." This is a small amendment that says two (2) years. Sometimes we might borrow and take that money later in the window of the budget year. If we needed to use ten million dollars (\$10,000,000), it might take us a little longer to pay it back. I thought if we are wanting to have the latitude that this is asking for, I wanted to give it breathing room on the backend. This is moving it from one (1) year to two (2) years. As we see, another thing we would be using this, is at three (3) years. It is still more conservative, but not as generous as what we are doing for the regular Reserve Fund element. Is there any thoughts or feedback on that?

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I would like to know what the Department of Finance has to say about the amendment. I think that would be good.

Councilmember Cowden: Okay. We worked on it together, so I am sorry, I just figured that they would know. Finance Director Matsuyama or Ken Shimonishi, what do you think? How do you feel about two (2) years as opposed to one (1)?

There being no objections, the rules were suspended.

Ms. Matsuyama: We are fine with the proposed amendment. I think a caution for you folks is that if we pull anything in multiple consecutive years, it will be harder to pay back. But, going from one (1) year to two (2) years is okay.

Council Chair Kaneshiro: I have a follow-up question. When I look at the types of use we can use our Reserve Fund for, the other ones are out of our hands; disaster response, self-insurance provision, revenue volatility, unfunded mandates and legal claims. In this situation, it will be at our hands that we are obligating that money. When I look at the three (3) versus one (1), (3) makes sense, because we have no control over some of that. We were fortunately able to pay back all the money we used from the Reserve Fund in the next year through Federal Grants or budgeting. In this case, we are making the logical decision to pull Reserve Funds for a certain project. To me, it feels a little riskier to extend that deadline out two (2) years. If it is two (2) years, Councilmembers may say, "take all of it," and worry about paying it back in two (2) years versus one (1) year. That is my initial thoughts on it. What are your thoughts on that?

Ms. Matsuyama: It increases the risk, but it would give more time for planning. Like I said, I think the question is if you pull multiple years in a row, it would be difficult to replenish within the given timeframe.

Council Chair Kaneshiro: Should it not be difficult to replenish? The timeframe should make it difficult, so we do not use the money freely.

Ms. Matsuyama: It will keep people more accountable by keeping a shorter time limit.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I always like to explain it for the people watching, so they can understand. It is like a Visa credit card that you have to pay back within a month versus a Visa credit card you payback in a year. If you go shopping and spend five thousand dollars (\$5,000), and you have to pay it back in thirty (30) days, you are going to be really careful how you spend that money. If you have the whole year to pay it, which would probably be the two-year plan, you would

be a lot looser with that. I want to be more fiscally responsible, along with Councilmember Carvalho, Ken Shimonishi, and Reiko, because we owe our taxpayers that. I am open to listening to more, but I did not want us to get so financially conservative.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I am going to respond to his metaphor. If we are Christmas shopping, we do not want to spend five thousand dollars (\$5,000). If you are buying a house, sometimes you want a thirty-year mortgage rather than a fifteen-year mortgage to buy something better on the frontend. It is how comprehensive you can be on the frontend. I think that we need to have faith in future Council's, that they are not going to on a buying binge and they are going to make fiscally responsible choices. If we borrow this much, can we repay it? You borrow ten million dollars (\$10,000,000), and the next year you do not pull another five million dollars (\$5,000,000). If you have to go five million dollars (\$5,000,000) and another five million dollars (\$5,000,000)...that is what we have been hearing from the Housing Director. You get little chunks in increments, but you just go out and borrow it anyway. When you have enough to do what you need to do, you are more likely to be effective, because it is not accruing each year. In the Revolving Fund, I do not think that is going to accrue. Sometimes, we need more money and what we are dealing with is a lot of trending inflation. I think it allows us to be prepared. Enough said, you can decide if you like it or not, but that was the rationale. I know in business, that is my background is in business, if you do not have enough money, it is called being undercapitalized. If you are undercapitalized for your plan, you cannot make that plan or you are going to get strung out.

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

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 from the Members on this item? For me, I see us tapping the Reserve Fund as our last-ditch effort, which is why I want the shorter time. I do not want us to hold the Reserve Fund as our "piggy bank" of money to be grabbing from. I think the budget process allocating money to housing, whether it is an ordinance of two percent (2%) or through the budget process where the Housing Director is saying, "I need this much money to do this." In the budget process if the Mayor puts it in or the Council allocates the money through cuts, the last ditch-effort would be pulling from the Reserve Fund. That is why I like the shorter time. I am more conservative. I think

the appropriation of that money should happen in the budget process. This is the last resort. Councilmember Cowden.

Councilmember Cowden: Can I respond?

Council Chair Kaneshiro: It is your discussion.

Councilmember Cowden: My discussion is going to respond to that. I think that when we put this Charter Amendment for a ballot question on there, we were serious about wanting to get money into the Reserve Fund. What we are all in agreement on is housing is a critical issue. What we hear from the Administration and when they are a little resistant of that, do not create something inflexible. We are creating something flexible that can have enough money to do what we need to do. If you are saying, "If we are responsible, we will not touch the Reserve Fund for housing," we are all the way back to square one in our conversation in saying it is not the priority. This Resolution is the middle ground where we are saying, "We are going to be committed to it." The ballot amendment was strong. The Bill is not leaving wiggle room. Here is our piece of flexibility, and you are saying no, we do not want that there or that is what is being said. I am trying to make us be more effective and make us be able to achieve our goals. I am listening to what I hear from the Housing Director on how we need to move forward and what we need to do. Just because I gave the ten million dollar (\$10,000,000) example and if we got five million dollars (\$5,000,000) instead of ten million dollars (\$10,000,000), we have to go out borrow at an interest for that other piece. Our current debt level on bonds is ninety-three million dollars (\$93,000,000). You hear me all the time. I like to borrow as little as I can. I am trying to put my money where my mouth is. Housing is important, let us get to it, let us get to it with capacity if we need it, do it responsibly, and that would be giving us a little time to return the money to the pot.

Council Chair Kaneshiro: I am not talking about the Resolution. Your amendment is about...

Councilmember Cowden: The two (2) years.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am sorry.

Council Chair Kaneshiro: Your amendment is about restoring the money withing one (1) or two (2) years.

Councilmember Cowden: Yes.

Council Chair Kaneshiro: I was saying that being more conservative, I would prefer the money to be paid back within one (1) year. I did not say anything about not supporting the Resolution or not supporting housing. Right now, we have

the amendment on the floor, and do we want to amend it from one (1) year to two (2) years? That is the conversation we are having, and you clearly heard what my preference was. Is there any further discussion from the Members on the amendment? If not, roll call vote.

The motion to amend Resolution No. 2022-36 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by the following vote:

FOR AMENDMENT:	Chock, Cowden, Evslin, Kualii	TOTAL – 4,
AGAINST AMENDMENT:	Carvalho, DeCosta, Kaneshiro	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Kaneshiro: The amendment passes. Back to the main motion as amended. Is there any further discussion on the Resolution as amended? If not, roll call vote

The motion to adopt Resolution No. 2022-36, as amended to Resolution No. 2022-36, Draft 1 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.

Council Chair Kaneshiro: Next item.

Resolution No. 2022-37 – RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR VETERANS

Councilmember Kualii moved for adoption of Resolution No. 2022-37, seconded by Councilmember Chock.

Council Chair Kaneshiro: Councilmember Kualii, if you want to explain your Resolution.

Councilmember Kualii: In advance of the upcoming Veterans holiday, Councilmember Carvalho and I, are proposing this Resolution designating our County as a Green Light for Veterans County, encouraging the displaying of green lights especially during the week of November 7-13 as part of Operation Green Light. It is a new national collaborative initiative of the National Association of Counties to support military veterans and raise awareness about the unique challenges faced by many veterans and the resources at the County, State, and Federal level to assist

veterans and their families. This new collaborative is spearheaded by the National Association of Counties and the National Association of County Veteran Service Officers. Councilmember Carvalho will read the two (2) main “Resolves” at the end.

(Council Chair Kaneshiro was noted as not present.)

Councilmember Carvalho: Of course, following up with supporting this Resolution. “Be it further resolved that in observance of Operation Green Light, Kaua‘i County encourages its citizens in patriotic tradition to recognize the importance of honoring all those who made the immeasurable sacrifices to preserve freedom by displaying a green wildlife friendly light in a window of their place of business or residence. Be it resolved that a certified copy of this Resolution shall be transmitted to Matthew D. Chase, National Association of Counties, Chief Executive Officer/Executive Director; President of the Hawai‘i State Association of Counties, Executive Committee, Kaua‘i Veterans Council; and Derek S.K. Kawakami, Mayor of the County of Kaua‘i.”

Councilmember Kualii: To clarify and so people are aware, the language, “wildlife friendly”—a wildlife friendly light would use a lower wattage bulb, eliminate upward facing lights, would not be pointed to the sea, be covered under the eaves of homes, and have a timer switch. In addition to lighting County buildings, residents and businesses are encouraged to participate by simply changing one (1) lightbulb in their house to a green bulb. This could be an exterior light that neighbors and passerby see, or an interior light that sparks a conversation with friends. By shining a green light, we let our veterans know that they are seen, appreciated, and supported. That is all from us.

Council Chair Kaneshiro, the Presiding Officer, relinquished Chairmanship to Council Vice Chair Chock.

Councilmember Chock: Thank you. Are there any questions on the Resolution. Is there any public testimony on this Resolution? I will suspend the rules, Bruce.

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

BRUCE HART: For the record, Bruce Hart. I want to take this opportunity to say, I am in support of our veterans. In the current Presidential Administration, there has been a lot of pressure put on our military. I feel this is something to say that we are in support of them. Thank you.

Councilmember Chock: Thank you. Is there anyone else or on Zoom wishing to testify? No. I will call the meeting back to order. Is there any final

discussion on this? Is there anyone in the audience or on Zoom wishing to testify on this amendment? Councilmember Kualii.

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

Councilmember Kualii: This came to us from the National Association of Counties. I know Councilmember Cowden has already spoken with the Mayor. The expectation is that and I am thinking, we will have a certificate from Councilmember Cowden, and a proclamation from the Mayor. I am hoping that will happen before November 7th. Folks can start shining their green light from tomorrow if they want to. Veterans' Day is coming up on November 11th. Thank you.

Councilmember Chock: Thank you. Councilmember Cowden.

Councilmember Cowden: I am really happy we were both at the National Association of Counties meeting. Maybe I jumped the gun and was too excited about it. I said "yes," and communicated with the Office of the Mayor, and I already told the veterans. It was already organized, and I did not realize we needed a resolution. I have a certificate coming and it will be ready soon. We will be putting that together with the Office of the Mayor at the same time.

(Council Chair Kaneshiro was noted as present.)

Council Vice Chair Chock returned Chairmanship to Council Chair Kaneshiro.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you. I just want to thank the introducers. My only additional comment is that a copy gets sent to the other Counties for support. (If we have the opportunity for in-person meeting in the following week when those proclamations become available.) Thank you.

Councilmember Kualii: Of course.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I could be oblivious to the color code on the light. I would like to know why the chosen color is green. I was thinking red, white, and blue bulbs would be cool if it was patriotic with the flag.

Councilmember Cowden: I think it is the army color.

Councilmember DeCosta: Army color? The Navy is blue and the Air Force is gray.

Councilmember Kualii: There is probably about twenty (20) pages of explanation on the NACo website that you can read.

Councilmember DeCosta: I am not going to read twenty (20) pages. As introducers, can you tell me?

Councilmember Kualii: I will find out for you.

Councilmember DeCosta: You do not know what the green bulb is, and you are introducing this?

Councilmember Kualii: It is a color, right? It was a color that they chose.

Councilmember Cowden: Yes, it is a national thing.

Councilmember DeCosta: They chose green. I support it, but I want to be educated. Thank you. A lot of people out there do not know what green is.

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

The motion for adoption of Resolution No. 2022-37 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. 2022-38 –RESOLUTION AUTHORIZING THE TRANSFER OF THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY (TMK) NO. (4) 3-8-018-012 TO GROVE FARM COMPANY, INCORPORATED FOR THE PURPOSE OF OPERATING AN ADOLESCENT TREATMENT AND HEALING CENTER

Councilmember Chock moved for adoption of Resolution No. 2022-38, seconded by Councilmember Kualii.

Council Chair Kaneshiro:
want to explain the Resolution.

Councilmember Carvalho or Kualii, if you

Councilmember Carvalho: Again, I appreciate all the discussion on this Resolution. A lot of it has been discussed. There was a lot of back and forth, I wanted to touch a little on it, and have Councilmember Kualii chime in, as we worked on this together. I appreciate all the emotional discussion that took place today and over the years. I wanted to hone in on the specific part of this discussion having been involved from day one, from former Mayor Baptiste to present; and the importance and need for this facility to happen tomorrow. The big part I wanted to make clear and the difficulty that took place that was not done overnight, is the land. The location of the land. The process and visiting different treatment facilities on the neighbor islands...had their own ambiance, if you will, but this particular Kauai Adolescent Treatment and Healing Center dealt with the land and the healing part of it. Jade Wai'ale'ale-Battad mentioned that earlier. In our discussions, we did not just go there. We started in Hanamā'ulu with the first location and went to numerous community discussions. At that time, we were seeking a location that could work, be tucked away, but at the same time have close proximity to the hospital, should there be a need or to the airport. At the same time, this facility was not only about the building, but it also had to be the surrounding area; the water, the growing of crops, and working with animals, all of it ties into that healing process. The only other option was Grove Farm, and they came to the table and said, "Let us work together." It took a lot of effort and total outreach into our community and the business side of it. It took a lot of time to get all the information, I will not go into all the details. To help everyone understand, before the building, it was about the land and having the adolescent heal the land. To me, that is where we are at right now. I am hoping we can move forward. There was a lot of discussion about who did this or what happened here, enough already. We need to move forward. I believe solely in Grove Farm's efforts to do and follow through on the vision, hope, love, and *aloha* of this facility that needs to happen tomorrow. I feel very strongly and that we need to move forward on this. I am hoping that with all of the discussion, I know there are still questions here and there, but understand, it is unlike anywhere else—the land, the location, and the healing is what it is all about. I am going to state that for now. Councilmember Kualii.

Councilmember Kualii: I am reading the three (3) be it resolves. Be it resolved that the operation of an adolescent and adult treatment center will benefit the residents of the County of Kauai and the transfer of ownership to Grove Farm Company, Incorporated is in the public interest. Be it resolved that the Mayor or Director of Finance and other appropriate officials of the County are hereby authorized to take such other actions as may be necessary or appropriate in connection with the transfer of title. Be it finally resolved that this Resolution shall take effect immediately upon its adoption by the Council. Those are the resolves. For me personally, my statement, we as in a community all agree, we have a critical need

for these treatment and healing services. As a Council, we believe this is the best way forward currently. Personally, I know we cannot afford any further delay. Many lives are depending on this and us passing this Resolution today, and our Council acting. That is it.

Council Chair Kaneshiro: We have the Mayor here, did you want to say anything?

There being no objections, the rules were suspended.

DEREK S.K. KAWAKAMI, Mayor: Chair, Councilmembers, Council Services Staff, and to our public at large, my name is Mayor Derek Kawakami. I am truly honored to be here. I want to start off by first, thanking all the previous Administrations including former Mayor Carvalho and former Mayor Baptiste, and all the people that put a tremendous amount of time and effort into this healing center. I want to offer my sincere apologies to the many members of the public that had to see loved ones struggle through substance abuse and who have gone through tremendous hardship waiting for this center to open. I am here before you, humbly asking, as I wrote in my letter, that I do believe that the best path forward is to turn this center over to Grove Farm and their team, so they can have success in opening this center. If our Administration has led any of the Councilmembers or members of the public to think that we ourselves did not put a tremendous amount of time and effort into this center, let me begin by saying that we put in everything that we possibly could to find someone and an organization to run it. If you go back to the 2014 feasibility study, it never said that it was going to be easy. I am here before you saying, it is not easy. I think the best path forward is to let a private-sector entity without all the laws that we are required to operate within, take the center over because our own priority is to make sure that the children get the treatment they need right here at home. I am hoping and I hope you realize the gravity of me being here, because I do not think I ask you folks to vote a certain way. I am asking each and every one of you for your support and for a "yes" vote. If you cannot vote "yes," I hope that you have ideas on a best path forward. Thank you, Council. I am here for any questions.

Council Chair Kaneshiro: Are there any questions for the Mayor or to the Administration? Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. While the rules are suspended. I completely agree with the direction that this Council is moving, and I will be supporting it. I think for the sake of the public and the comments that were made on the floor here today and in previous, it might be good to hear from the County Attorney regarding what the County has done, the process it has gone through, and the difficulty it has gone through in getting to this point that we are today, and also to manage expectations moving forward and highlight the liabilities and concerns

that the community will need to respond to. I did not mean to make this into a speech, but if Matt Bracken can speak on that.

Council Chair Kaneshiro: Matt, are you there?

Mr. Bracken: Yes, I am.

Council Chair Kaneshiro: I know that was a big question. Hopefully you can answer some of it or try your best.

Mr. Bracken: I suppose I could start at the history. We still have an active lawsuit. I will start with negotiations. We have been in active negotiation with Grove Farm for a couple months on various things. Some of that is with the deed language and how to reconvey the property back to them. We proposed the original deed language, they had proposals of their own. The language that is before you I would say it is a compromise. It is not exactly what the County wanted, and it is not exactly what Grove Farm wants either. I should emphasize that the language that is the deed attached to the Resolution, is the language from Grove Farm to the County. That original deed language is still what we would rely on. The one difference would be that there was a revisionary clause in the original deed from Grove Farm to the County, but that does not exist in the deed from the County to Grove Farm. I would say that is not the language that either party necessarily wants, but I think it is language that would allow them to get the facility up and operating. They have various plans for it and this Resolution allows them to do that.

The history of the facility. The facility was completed. After its completion, there was a Request for Proposal (RFPs) to get an operator in there. Unfortunately, the operations never materialized, and the facility was used as a COVID-19 isolation site because of the pandemic. That is the status of the facility. I am not sure if that answers your entire question, but are there any further questions that you want me to address?

Councilmember Chock: No. I do not know what we can say because we are in litigation, which is why I wanted you to share what you can.

Council Chair Kaneshiro: I guess you are the best person to share whatever information we can on it. Councilmember Evslin has a question.

Councilmember Evslin: Matt, thank you for the overview. The deed language refers to "adult and adolescent health purposes." Can you clarify what that would allow?

Mr. Bracken: I would say that if the Council adopts this Resolution, the litigation will go away, and that would resolve the outstanding dispute with the County and Grove Farm. The difficulty is the current litigation is still active as of now. That is the one question that is actively disputed in litigation. What does that language mean? What it can mean and what it does mean, that is currently in dispute. It is probably best if I do not really get into that, I do not think it is the proper time.

Council Chair Kaneshiro: That is why you are our attorney.
Councilmember Evslin.

Councilmember Evslin: I will keep asking and you do not have to answer. Did you propose deed language that said, "solely for use as an adult and adolescent drug treatment center?"

Mr. Bracken: Yes, that language has been proposed to Grove Farm.

Councilmember Evslin: What was their response?

Mr. Bracken: They wanted the same flexibility that they gave the County. The deed language is the same as they gave it to us. They wanted that flexibility because they want to be able to do what they hope the County would do. They wanted to have the Department of Education (DOE) component. They wanted to be able to have the outside or complete component. If the language was stricter, it would not allow them to get the facility operating to the original vision.

Councilmember Evslin: As we all know, we were pretty close to deeding it over to Hawai'i Health Systems Corporations (HHSC), can you give an overview of why HHSC decided not to pursue operation of the facility?

Mr. Bracken: I can say that I had quite a few discussions with HHSC's attorney over the process preparing the deeds. We went through everything to get the permits ready to take the facility...I really cannot speak for HHSC, I can say that I have a really good idea, but I cannot speak for them. The best way to summarize it would be a letter that they sent after they decided not to take possession of the facility. This is their words that they summarized in a one-page letter, but one (1) paragraph summarizes it best. They said, "After much deliberation of the last twenty-four (24) hours, it became abundantly clear to me that my decision to execute the warranted deed would only put HHSC in a legal quagmire with no clear outcome." That was at the point where HHSC decided not to move forward and take possession of the facility. That was from June of this year.

Councilmember Evslin: Thank you.

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

Councilmember DeCosta: Matt, I am trying to grasp and wrap my head around the flexibility of the language. I am a true believer that both Mr. Haruki, Grove Farm, former Mayor Carvalho, and Mayor Kawakami all want to help our Kaua'i children. My heart breaks hearing the people testifying here today. My own brother right above me was a drug user. He passed away, not by suicide, but by an overdose. It touches my heart, too. With that being said, I think Grove Farm has and will put forward the best intentions, they have to. Why would someone donate land, a kind gesture without anything else to get back? They did not do that to get us to develop and permit them to do public housing. They did it as a gift. I have the utmost respect that it will come into fruition. Matt, if it does not come to fruition in two (2) to three (3) years and there is a financial struggle to keep the Adolescent Treatment and Healing Center operating, at that point, can that center be used for other purposes besides adolescent treatment and healing? Would they have to go back to the Land Use Commission Board to get an approval to use it for another type of entity?

Mr. Bracken: I will start with the land use. The facility was constructed in an agricultural zone, State Land Use Agricultural designation. When the County built the facility, we had a Special Use Permit, and a Special Use Permit was to construct the Adolescent Treatment and Healing Center. To change that use, it is potentially possible. Council does have the authority to do some zoning designations like a special treatment overlay. It was done in Princeville for public use overlay. Council could establish zoning mechanisms that would require a Use Permit to change the use. As of now, the Deed Restriction allows for adult and adolescent health care purposes. With that, it could mean and is broader than an adolescent treatment center. It could be other health care purposes.

Councilmember DeCosta: Thank you, Matt.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Matt, I have a question regarding the Resolution. We had commentary where people are concerned that there are omissions in the Council Resolution. Having resolutions before us monthly, often times, we do not put everything in the "whereas" because we might have four (4) to eight (8) pages of "whereas" when we are doing something. In this case, when we were going back and forth between the County and Grove Farm, we were not always in agreement with what the "whereas" should say. When we came to agreement of acceptable between both parties, if we have things omitted, this is intended to be completely extensive. How would this impact us relative to any other lawsuits. In my view, this is a skeleton of what we could have said. I am wanting to move on and

resolve it. I am asking right now, if every detail is not in the Resolution, does that create further problems for us?

Mr. Bracken: No, it does not. The “whereas” section is really storytelling. We use the “whereas” because it is a legal framework. When you are looking at a Resolution, the binding language is at the end. It is binding because the Charter says it is binding, but it is the “Be it resolved” section that is binding. That is the action, that is what acts, that is what is important. The “whereas” is meant to tell the story. It is meant to tell the reason for the resolution. Like the last Resolution, the “whereas” section is telling you “why” you are doing this. It is the same thing with this. There are two (2) sides to every story, and two (2) sides are not always going to agree on the same story. It is really meant to tell a story and tell a story why the Council would authorize the transfer of this property. If there is a dispute on the “Whereas,” the reality is, that is not really the important part. The important part is the “Be it resolved” part. The “whereas” is there to establish the story ending up with a purpose behind why Council would allow us to do this.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. Matt, I think the big concern is that we received public testimony around the fact of deeding the property back over may not result in the outcome that we are seeking. It was mentioned that it could turn into a yoga retreat, or something else. As a Council, we have discussed with you remedies that the Council may enact in the future to strengthen retaining its intent and use. Are you at liberty to share what remedies that is, or not?

Mr. Bracken: My recommended approach would be a zoning special treatment overlay. For instance, if you were to designate this area as a Special Treatment Public (STP) overlay, the landowner would then be required to get a Use Permit from the Planning Commission for any change in use. This body has the legislating zoning authority, and you can do a lot with that zoning authority. STP overlay would then allow further oversight on the future use of the property. They would need to obtain a Use Permit for any sort of change, which is then reviewed by a public body or public volunteers from our community.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there anyone in the audience or on Zoom that has not testified earlier this morning that wants to testify? Fern.

FERN ANUENUE HOLLAND: Aloha, Fern Anuenue Holland, for the record. I initially was not going to testify on a position because I do not feel privy to a lot of the information over the last fifteen (15) years. When I was in high school, I

graduated in 2002 from Kapa'a High School. We were in the height of the ice epidemic throughout high school. Bill Arakaki is here. I grew up in this community and I watched so many lives ruined. If this is not right, this entire process is not right. Is it right that seven million dollars (\$7,000,000) of our taxpayer money gets handed back through this weird process that has happened? No, none of this is correct. What is correct is that we do whatever we can to do get the doors opened. This is a drop in the bucket. A youth facility is the start of what we need. It is shameful and it is disgusting, that it took this long and the amount of impact. You folks know that. You all know what I have been through in the last few years. I will say that whatever it is, it is just a shame that so much faith has been lost in our County or government systems. People really believe that our County and government cannot do things right. In this case, we should hand it over to a private entity to do it, because we cannot figure it out, we cannot get it together. Whatever it is that has led to that point, is heartbreaking and disappointing. Do whatever you have to do. I trust all of you and our Mayor that the best path forward is to hand this over and allow it to open immediately. If that is what each of you genuinely believe is the fastest route to get the doors open, then it is the correct action to take. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify for the first time? Fern, did you want to testify again?

Ms. Holland: No.

Council Chair Kaneshiro: Is there anyone on Zoom wishing to testify? If not, I will call this meeting back to order. Is there any final discussion from the Members? Councilmember Cowden.

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

Councilmember Cowden: First of all, I really want to thank the Mayor, for coming here, and sitting with us by our side in a difficult moment. The hard part is this reveal of how difficult the public process is, to be able to create an adolescent treatment facility. It is in part what we do by Charter, it is certainly what we have wanting to do for decades. I was on that original coalition for Drug Free Kaua'i. I knocked myself out to see the humanity and sit by their side in the hospital when they are dying, which we have gone through these past few weeks. A private format will most creatively and effectively allow this to happen. I have worked hard to get different groups that have the capacity to do something exciting. We have Board Members from effective programs that live on this island, effective programs from California and other states. When I ask them to help, they will not apply for a government program. There are too many limitations. I appreciated Ms. Fu's testimony highlighting good examples of where Grove Farm has done the right thing. That was very helpful for me, and I liked that. What we have seen amongst the

different topics today, when we see that connection between the lack of application for Hawaiian Homeland, the despair and drugs that come from it when people are not allowed to be there. They create a problem for others when we do not have housing. All of this is the cause. The symptom that we need to deal with is, we need to fix the causes, get those houses, we are trying hard, but we need to fix and help our children as much as we can. I will be supporting this. I am sure all your phones are blowing up with people saying, "Do not do it." Getting texts saying, "Do not do it." But I think they do not know the broader picture. We have to help our children and we have to help them as quickly as possible. I got an informal suggestion statement that the DOE can still help. When we have someone like Keala Foundation that can be a satellite that helps not only with the effort, but out in the community where we need it, I am wholeheartedly supportive of getting this open. I thank all the Mayor's, Grove Farm, all of you, and for all the families of the people and those surrounding us that have suffered and died. I am sorry that it is so hard for government to move those bill's faster. We are doing what we can, and I appreciate you all.

Councilmember Cowden: Councilmember DeCosta.

Councilmember DeCosta: I think the seven (7) of us and the Office of the Mayor have been put in a very tough predicament. I do not disagree with most of what was said today. I do disagree with one (1) thing. I think we all, including our Mayor, former Mayor, Council, Mr. Haruki, and Grove Farm has really tried hard to make this come to fruition. It is not an easy thing. There are not health care providers out there chomping at the bid to take this over. You heard a lot from Mr. Hoff today, he is my friend, and if anyone can assist with the out-treatment care of that facility, it would be Aaron Hoff and the Keala Foundation. That facility would have to run twenty-four (24) hours. You need doctors, nurses, and staff that would have to be in that hospital. Mayor, I commend you on coming here. You did not have to come. We all spoke. We are going to take the blame on this, and we are going to move forward with what needs to happen for our children. Yes, there are people out there that might think giving Grove Farm back the building that is worth eight million dollars (\$8,000,000) is not the thing to do. I want to ask the families that are out there that lost a son or daughter to drugs, then we will talk about if it is worth eight million dollars (\$8,000,000). I want to tell you folks, the right thing to do is to return that building to a company like Grove Farm who has been committed to our island. I am going to ask Mr. Haruki personally and right now, to follow through with the vision. To lead us into this epidemic addiction center that we need. We are going to have to trust the process. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: As a former Mayor, and current Councilmember, having current Mayor Kawakami here, having numerous

conversations, the time is now. It is about our children. It has been so long. I am hoping that...I am not hoping, today is the day that we will come together and move forward because tomorrow, we will still need to work together. There are issues that are still going to be happening. We are still needing to seek funding. Today is the day. *Huli* and set aside everything from the past and move forward. That is what it is about. Thronas *'ohana*, thank you for being with all your *keiki*, that is awesome. Grove Farm, for always being at the forefront. I still go back and say it had to be that place and this island. It had to be in that area, and I will keep saying that because you can feel it. I am thankful for all the discussion and all the dialogue. I feel strongly that this is the time, and it is going to make a difference for our families. *Mahalo*.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: I appreciate Grove Farm's initial donation of the land. I appreciate Mr. Haruki's stated commitment to operating an Adolescent Treatment and Healing Center. I appreciate all the great work of CATCH; especially to Jade, Mel, and Bill Arakaki for being here today to get the center up and running. I appreciate our Mayor and previous Mayor's. Theresa Koki, Councilmember Kualii, everyone who came here to testify today. You are all heroes in my mind, and you have done more than anyone could have done to get this going. I want the center to be open as much as anyone. I have had multiple family members battle addiction, including going to residential treatment for it. I grew up here and I have seen friends lose this battle. I have two (2) young children, I coach high school sports, I teach high school children, and I worry about losing these children every single day. Most of my family works in the health field and deals with these issues. I know the need and I know the destruction of addiction. I have deep concerns about today's Resolution. Given the operational and financial difficulties facing private treatment centers across the Country, difficulties that were outlined in the 2013 Feasibility Report, which the Mayor mentioned, and difficulties that have led to closures of facilities in Hilo and O'ahu. In my opinion, the best route towards operation and treatment centers have always been through our State hospital system. I was enthusiastic about the steps that the County was taking to sign the land over to HHSC, I was enthusiastic about their willingness to get it up and running, and I was disheartened when HHSC pulled out because of threatened litigation. HHSC Kaua'i Regional CEO Lance Segawa said in the letter that map cited, executing the warranty deed would only, "Embroider HHSC in a legal quagmire with no clear outcome. I fear that a community-wide collaboration would be obscured given the outstanding legal issues raised by Grove Farm." That letter was reaffirmed from HHSC doctor in drug treatment provider Dr. Chellius. He spent his career doing drug treatment who said, "We simply cannot move forward with the threat of legal action or actual legal action preventing funding and a secured future." Given that as Grove Farm's legal intervention that helped push HHSC out of the picture, I have a hard time handling the property back to it. I am also concerned that the language in the deed restriction only refers to, "Adult and adolescent health care purposes." I do not believe that the

current language is strong enough to ensure that the building will not be used for other purposes. If Grove Farm were a public entity, like the State, to me, the language would suffice. They are a for-profit company. I am sure that Mr. Haruki has every intent to operate the drug treatment center and I know everyone on the CATCH Board is wholly committed to it. If Grove Farm is sold or Mr. Haruki is no longer there, the land is transferred and they cannot successfully operate the center, there is a multitude of hurdles, there is nothing here to guarantee that the center is used for drug treatment as adult and adolescent health care purposes, we open many uses under drug treatment. Today, we are voting today to hand over a facility to a for-profit with no legal binding obligation of the land for a drug treatment center to be operating. With all of that said, we are faced with a bunch of terrible options. The County cannot run the center. Our difficulties with finding a provider and difficulties in treatment centers across the State, HHSC remains noncommittal in running it as long as the threat of litigation from Grove Farm exists. With Grove Farm filing a complaint against the County, that leaves Grove Farm as the only partner unconditionally willing to get the center going. As Matt alluded to, we tried repeatedly to negotiate stronger deed language, and we failed. Despite all those concerns, I do not see any other option, but to vote "yes." I am hopeful that we can work on a Special Treatment overlay to limit the possibility of other uses on the property. More than anything, I hope Grove Farm is successful. I am hopeful that CATCH will hold them to it in the near-term and long-term and to make this happen for all of us. Again, I deeply appreciate the work of CATCH, everyone here, and everyone that has worked hard to make this happen. I hope we are making the right decision. Thank you.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I definitely want to start by saying, *mahalo nui loa* to everyone for their personal, heart-wrenching, and tearful testimony. From the beginning, this has always been about community. I think in the end, it will only happen because of community. I want to thank the Mayor, I think it is really important that you came today. Nothing big like this can happen without the Mayor and Council working together. I appreciate that we have been able to work together so well. I agree with some of the points Councilmember Evslin made. It is hard when you think about judiciary responsibility. Throughout all of this, we had to carefully adhere to the advice of our Attorney. Clearly, we cannot afford any more delays. This is our best way forward. The Mayor and I have said it before. I think it is important that we unanimously pass this Resolution today and move forward. In the long run, I know it will be a challenge for anyone to make it happen. As far as accountability, I think it is important. I will gladly join in the efforts as an individual with my whole family behind me, because this is a personal matter for us as well. I trust that the community will play a leading role in making sure this happens in holding ourselves accountable, because it is critical.

Council Chair Kaneshiro: For me, I will be supporting the Resolution. In looking at it, the focus has always been on moving forward and what is the most likely path to success. As we look at it now, it has been a long time coming. I think I was here when people were saying, "If you build it, they will come." At the end of the day, it is a difficult thing to get going and moving. As far as the County goes, I am trying to look out for the best interest of the County and in the best interest of the island. You really have to look at this from a higher perspective in saying, "What is the best path forward?" For me, even the Mayor said it, the best path forward might not be with us. He came in with a lot of humility and humbleness to say it. It is not because we did not try, we tried. I think we put a lot of chips into HHSC and the State running it. It made sense. I believe the State had money come in and put money towards the building. At the end of the day, if they are not going to sign and commit, we are back to square one. Looking at the options we have, the Mayor was able to say, "The best forward is to give it back." The success of us being able to do it is low. We have exhausted all options. We are at a point of what is our best option. Right now, the best option is to give it back. Grove Farm said that they are committed. Their intent is to provide adolescent treatment purposes. They are actively seeking partners and funding to operate that facility and they want to do it. Do we hold onto as a County even though we do not have a clear path to success? I think sometimes you need to let it go. You need to think about the best way for this to get going and operate. I think it has been a hard pill to swallow, but at the end of the day, we may not be the best option to get it going. I think that is where a lot of heartache is coming from. A lot of work has gone in from the County's end, you want to see it work, but we are probably not the most appropriate organization to get it going. Ultimately, the County would not be running it as their own Adolescent Treatment and Healing Center. We have always had to count on finding a partner to do it. It has been hard to do. Moving forward with this Resolution, it makes the litigation go away. The litigation was creating problems for us to get a partner. Again, what is the best way to get it going? I got E-mails about the deed being too loose. I know it was a negotiation. At the end of the day, I am comfortable with the deed, because it is the same language we had. For me, what is fair is fair. We may have wanted it a little more specific, they may have wanted it a little broader, but it is the same language as what the County was responsible to do. I hope the project can move forward. It will not be on the shoulders of the County and the burden will be on Grove Farm to get it up and running and into place. As far as people are concerned with what is going to happen to it, there are layers that the County can put on. The public will keep everyone accountable. The public has been here testifying, keeping us accountable, and they will continue to do so. I think this is the only path to move forward and working. My vote is to move forward with the Resolution. Is there anyone else? If not, roll call vote.

The motion for adoption of Resolution No. 2022-38 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.

Council Chair Kaneshiro: Motion passes. We are at 1:00 p.m. We will take our one-hour lunch break and be back at 2:00 p.m.

There being no objections, the meeting recessed at 1:00 p.m.

The meeting reconvened at 2:00 p.m., and proceeded as follows:

BILL FOR FIRST READING

Proposed Draft Bill No. (2888) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 9, SECTION 6-9.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING DEVELOPMENT FUND

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2888) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 19, 2022, and that it be referred to the Housing & Intergovernmental Relations Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions from the Members on this Bill? I think we have been through it, or something very similar.

Councilmember Cowden: Hang on, okay.

Council Chair Kaneshiro: Councilmember Evslin, do you want to explain what it is?

Councilmember Evslin: This is introduced by Councilmember Chock and me. This is a two percent (2%) allocation to the Housing Development Fund via ordinance. We added language in there to say, "If the two percent (2%) appropriation is utilized for a Revenue Bond, as long as the bonds remain outstanding and unpaid, the Council will collect the revenue. This is to ensure that we do not use it for a Revenue Bond and a future Council does not get rid of it, the Revenue Bond was based on this guaranteed allocation. This ensures that cannot happen. If it is not used for Revenue Bond, like the other bill, it could be repealed by a future Council.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I will add that we were up against a deadline the last time with the Charter Amendment. We are going based on experience and what other Charter Amendments were good for. That led us in that direction, until

we found out that we could do it through an ordinance. That is where we are today. It is not as restrictive as the Charter, which was a concern in previous discussions. I will also say that this is first reading. We have talked to a Housing Bond Specialist. Our hope is that he can shed light on this and tell us what we are looking at, sharing the reasons why he was focused on this measure as it relates to the Floating Bond Charter.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I will add a few things to that. As we were talking about before, the primary intent is to access Revenue Bonds. I want to be clear; it is a marginal increase compared to what we have been allocating over the last few years. It is slightly higher than what we have been doing as a floor. This is in no way intended to...I think the Administration has been doing a good job to fund affordable housing. This is going to be slightly more than that, but again, the primary purpose is to ensure ability for long-term planning and the capacity to go after Revenue Bonds. Maui and Honolulu both have allocations via Charter, and Hawai'i Island a minimum allocation for the Housing Development Fund via ordinance. In speaking to the Revenue Bond Counsel, he said many municipalities are doing it via Charter or ordinance as a mechanism to Revenue Bonds. It is a common practice.

Council Chair Kaneshiro: Are there any questions from the Councilmembers on this? Councilmember Cowden.

Councilmember Cowden: I am sorry, you kind of mumbled. I did not hear everything you were saying, and you put your hand in between your face and me. I missed it, but I heard you speaking. I am clarifying that I understand clearly, this is taking two percent (2%) of revenue like we intended to do with the Charter Amendment and putting it in the Housing Revolving Fund. I get that if we put this in here, if there were a change, it would go back. I thought it said somewhere and I am trying to look where it says it, if it does not get spent, it goes back. Was that on this one, or no? Okay, no. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, I will suspend the rules. Is there anyone in the audience or on Zoom wishing to testify?

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

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: You mentioned the Revenue Bond versus the General Obligation Bond. The Revenue Bonds interest rate is slightly higher. The Department of Finance told us that they would rather go with a General Obligation Bond. With the Resolution that Councilmember Carvalho and I introduced and was passed, with the amount in the Reserve Fund, you can leverage that for the General Obligation Bond. Would we still need to levy the Revenue Bond? If so, can you

explain to us why the Revenue Bond with a higher interest rate is better than the General Obligation Bond? Can we get the same result with either Bond?

Councilmember Evslin: Yes. I was hoping that we would have the Housing Director or Bond Counsel here to further explain this. In our meeting with the Revenue Bond Counsel, he talked us through why many places are using Revenue Bonds. To my understanding, Revenue Bonds do not impact your bond rating like a General Obligation Bond. They are often used for things that the General Obligation Bonds are not used for. I think he used a term called Gap Funding. He said that the intentions for some of the ways that they are using it, is that it results in County ownership of developments that might not have otherwise occurred. We are hoping that he can be at the Committee Meeting or get a written response on exactly how Revenue Bonds are being utilized. The main takeaway is that they are commonly utilized for building affordable housing. The intent here is to provide another tool for large infrastructure development and housing development, especially when we are sitting on large acreage that we are trying to develop.

Councilmember DeCosta: It is an impact tool.

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

Councilmember Cowden: I guess I have a statement.

Council Chair Kaneshiro: Okay, you can do it in discussion. Are there any further questions? If not, is there any discussion? Councilmember Cowden.

Councilmember Cowden: Can we make sure that we have those people here?

Council Chair Kaneshiro: Is that a question?

Councilmember Cowden: I guess it is a question. I would like to have that information.

Council Chair Kaneshiro: Councilmember DeCosta, is this for discussion or a question?

Councilmember DeCosta: If this Bill is passed in First Reading, it will go to Committee.

Council Chair Kaneshiro: Councilmember Evslin. Do you have a question or is this discussion? We are on discussion.

Councilmember Evslin: Discussion. Yes. This is an amazing Bill, it will do great things, and I support it. We got testimony from the Budget and Policy Center when we discussed this during the Charter Amendment Proposal. They ran through it a little on how Revenue Bonds are utilized, that they are common, and they supported it. We have some information from them already. It is important to

get more from Bond Counsel and have the Housing Director here to talk through ways that this can be utilized. I appreciate it. Hopefully this will move out of first reading, and we can continue.

Council Chair Kaneshiro: Is there any further discussion from the Members. Is this a question?

Councilmember DeCosta: I am sorry, Chair. Please do not get frustrated. I plead the fifth. Did you correspond with them and what is their overall feeling?

Councilmember Evslin: We consulted with them.

Council Chair Kaneshiro: They might be available. I can suspend the rules if you want to ask them. I will suspend the rules.

Councilmember DeCosta: They took a "no" position the last time. Director of Finance.

Ms. Matsuyama: I am sorry. Was the question whether we support this?

Councilmember DeCosta: Yes. I am sorry to always put you on the spot, but your insight is much appreciated.

There being no objections, the rules were suspended.

Ms. Matsuyama: To answer that question, I know the Mayor met with the introducers separately and I think there was an understanding in that meeting. I do not want to speak on their behalf. I would say, as far as the Administration is concerned, we put our money where our mouth is. We have been contributing two percent (2%) for the last five (5) years, which has totaled more than fourteen million dollars (\$14,000,000).

Council Chair Kaneshiro: Okay, thank you. Are there any further questions while the rules are still suspended? Councilmember DeCosta.

Councilmember DeCosta: Yes, I have a question. We have a Resolution. This is another tool that seems like a different tool with teeth that allows a guaranteed sum of money. With the Director of Finance admitting that the Administration has been putting in close to two percent (2%), did you feel this was important in case there is another Administration or another Council, that would not keep the ball rolling? Was that the intent? It seems like our Administration for the last four (4) years, has contributed close to that amount. During budget, we had the process where we cut if we needed to add.

Councilmember Evslin: Yes, everything is the same. I do not want to put words in the Mayor's mouth, but he expressed the fact that they are putting in close to this amount. Fiscally, he is not concerned with that allocation because it is

close to what we are doing. For our intention, exactly as you said, it is slightly higher than what we are doing right now as a minimum floor. I want to be clear for the Legislative record, that the intention is still to allocate more than that when we can. At least it sets the floor and allows for longer planning and Revenue Bonds based on that floor.

Councilmember DeCosta: Thank you.

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

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

Councilmember DeCosta: I would like to commend Councilmember Evslin and Councilmember Chock. It seems as if we were chomping at the same biscuit. You folks took the ordinance route and Councilmember Carvalho and I took the resolution route. We all care about affordable housing, and we are trying to do everything we possibly can to put all the tools in our tool chest in order to fix the problem. I thank all seven (7) of you.

Council Chair Kaneshiro: Is there anyone else? If not, roll call vote.

The motion for passage of Proposed Draft Bill (No. 2888) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 19, 2022, and that it be referred to the Housing & Intergovernmental Relations was then put, and carried by the following vote:

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

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

BILLS FOR SECOND READING

Bill No. 2875, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-6.4, 5A-8.1(g), 5A-9.1, AND 5A-11.23(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX

Councilmember Chock moved to approve Bill No. 2875, Draft 1, seconded by Councilmember Carvalho.

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

Councilmember Cowden: I do not know if I have a question, but I sit unsettled with it. That is for discussion.

Council Chair Kaneshiro: Is there a question that you want to ask to make you more comfortable? I will suspend the rules.

Councilmember Cowden: Okay. Reiko, I appreciate all the work that you folks have done, and I appreciate our robust conversation about it. My concern is, when we talk about landowners who are the ranchers or land producers, and we have other big landowners who have lessees on that land. It seems that lessees are more of a tool to keep the property tax cheap until the time becomes right to sell. I sit with lack of comfortability when I look at...We have at least one (1) legacy landowner of large land and a handful of small landowners who are doing the work. My worry is that there is so much wealth on the island that we can pressure the people who are land rich or only farming on land that they own. I worry that we will push people into selling the land. That is my discomfort. Can you speak to that?

There being no objections, the rules were suspended.

Ms. Matsuyama: Good afternoon, Reiko Matsuyama. That is absolutely not our intent with this Bill. I am not sure which part of the Bill that concerns you most that would believe this?

Councilmember Cowden: There is the five percent (5%) piece. I do not mean to be targeting one (1) particular over another, but I will say, when we look at Ni'ihau and they are paying one hundred thirty thousand dollars (\$130,000), they do not receive any garbage pickup, roads done, or any of the rest of the things we do. I am a little uncomfortable with charging them so much for something, and we do not even provide them any services. Thank you so much for the qpublic.net property website where you can look at how much people pay for their taxes, and you are able to look at the reports. As I jumped around on these large pieces of property, some of them I understand are non-profits, but not all of them. Some very big and large pieces of property pay one hundred fifty dollars (\$150), and others pay substantially more than that. When I am trying to look at the property and the land, it is hard to tell when you are looking at a map. It looks so high up the island; I do not know how anyone is doing a lot there. I looked at a new purchase that happened recently for ten thousand (10,000) acres towards the top, which is a private investment capital company, they got the one hundred fifty dollars (\$150) a year. How do we decide what is right and where we tax people for wild land or what I think is wild land, and other people we do not. My worry is that we do not force people into selling more land. We are having so much land shift. I worry that when we push people into selling land to people who do not have any continuity with the history of the island, it might not be the best choice. That is my gut feeling that troubles me. I speak so often to people who are lessees on newly purchased land that have invested in all their trees, et cetera, and it sells from right under these lessees. I am being honest. It is not an easy part. There are parts I love with what you are doing here with the rollback tax, et cetera. It is the five percent (5%), and for Ni'ihau.

Ms. Matsuyama: Just to clarify, the five percent (5%) is completely revenue-neutral for the County. We are not making any more money. But it will affect people differently. Some people will pay more, some people will pay less. The problem with soil rates and the current system we use, soil rates are old and content that did not change for a long time. It does not take into consideration the market value. When you are looking at a parcel, it is not fair how the soil rates are applied because it does not take into consideration the market value. When you are trying to say, "Okay, what am I now and what is the five percent (5%)?" It is very difficult because you cannot say across the board that the soil rate equals seven percent (7%) of market value, or the soil rates equal two percent (2%) of market value. This will go up or down. There is not a general statement that you can say based on soil rates right now.

Councilmember Cowden: Okay. How about this...I am trying to look at how I can be comfortable. When I look at these very large parcels of land, and some are charged one hundred fifty dollars (\$150), and some are charged as agricultural land. When I am starting at the top of the map to the best of my knowledge of the island, they are not terribly different pieces of land. If they chose to do so, could those landowners subdivide those big, huge pieces where some of it goes into conservation, so that they will only pay one hundred fifty dollars (\$150) for keeping land at the top of the island. I feel uncomfortable with the disparity and how it looks like these big parcels are taxed. To my knowledge, it seems as if it is all wild land. Lumaha'i for example, they pay one hundred fifty dollars (\$150). There are cattle and horses in there. Lumaha'i is owned by Bishop Estate. I look at Lumaha'i—a big, beautiful piece of land. Am I happy that is one hundred fifty dollars (\$150)? Yes, because I do not want to see it developed and I do not want to see it pressured into something else. I look at a piece of property. I have never been up there, so I do not know what is on it. When we flew over the island, it looks like it is as wild as Lumaha'i, and that same piece is taxed on a different basis. I just do not understand, and my worry is we are going to force pieces of property into sale and bought by others with less of a connection to the heritage for the island. It makes me worried.

Ms. Matsuyama: My comment would be that we have a lot of different tax relief programs. There are very high market value properties that qualify for a charitable exemption. It depends on the use, how the owner is applying that use, and if they are eligible for any tax relief programs. While we are trying to be consistent and fair throughout, it is all dependent on the use and the property.

Councilmember Cowden: It is up to the landowner if they are choosing to be in agricultural land or conservation. They could split it and put a portion in conservation if they needed to. When I see an investment capital firm that has the one hundred fifty dollar (\$150) price tag, hopefully they do the right thing, but that is not a non-profit and it is the exact opposite.

Ms. Matsuyama: I do not know the specifics for that parcel, so I would have to look.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I can shed a little light on what you are talking about. Those parcels were subdivided a long time ago. Mr. Robinson, if I may speak to this, they never subdivided those large parcels. If they do, that is their one-time opportunity. If they cut that property and put "X" amount of acres into conversation toward Wai'ale'ale and keep the other one, that is the last time they can ever cut it. They want to be able to utilize it at the time when it is most necessary.

Councilmember Cowden: Okay. Alright. That does not make me have less anxiety, but I appreciate the understanding.

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

Councilmember Evslin: Councilmember Cowden, to try and better understand your anxiety. Is your anxiety the Agricultural Dedication Program itself, which will lead to a reduction in property taxes for a large portion of diversified agricultural producers. Are you concerned that this program would force people to sell, or is your concern that we do not have enough tax relief measures for land that is outside of the intent of the Agricultural Dedication Program?

Councilmember Cowden: I guess I would frame it the way you did. I am really happy with the vast majority of parcels that this would be applied to, especially when they are lived on and owned by the food producers. I think it is quite an improvement. When I have this tear, I want to vote "yes." There were people talking the last time, I listened. I am looking on the land and maps of what people pay trying to figure it out. If you put cattle up high, it may not be good for the environment, it might not be good for a lot of the species there, we do not want them grazing on everything. I am always worried about unintended consequences. It might only be a handful of landowners; it is a lot of land...in terms of up at the watershed and everything else. I would not want to force cattle up there and grazing on important trees.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I largely agree. I think the intention with Agricultural Dedication is to reward actual and legitimate farmers with lower tax breaks and to incentivize real farming. From my understanding, your concern is more along the lines that if the land is outside the intended scope of Agricultural Dedication, if you have untouched 'Ōhia forrest area in the *mauka* area, that is not land we want to see grazed. We want to incentivize a landowner to maintain that untouched 'Ōhia forrest. I think the route to that is the Reduction Program. Agricultural Dedication should be for ninety-five percent (95%) reduction of property tax for viable agriculture. Let us work on making more to ensure that people do not need to feel that they need to move cattle into these upland areas of Agricultural Dedication. There are other programs available. My closing point there is, I do not necessarily think it is done through Agricultural Dedication, it is done through another mechanism.

Councilmember Cowden: What would that other mechanism be? My worry and my anxiety...in the whole four (4) years I have been here, we have these well-intended pieces, without any intention, whether it is 'Ōhia trees getting grazed or shoreline having to be sold off, so we can afford uplands. Where do you see that going and where would we do that? Help me feel confident that we can create that next process that is going to fix it.

Councilmember Evslin: I think it has to happen with Reiko and Ken talking us through options as far as how conservation land is assessed, the rates, and possible dedications for conservation land. I want to clarify that there is nothing in our current Agricultural Dedication Bill right now, that has affordable and the cattle ratio is in the rules already. What we are talking about with this new Bill is the same thing. A table or some type of chart based on rainfall pattern that is going to be in the rules, which will require a certain amount of cattle per acre depending on rainfall patterns. The requirement is already existing now, and a requirement will be there in the future. I do not necessarily see a change with this Bill, compared to our current system, as it applies to *mauka* 'Ōhia forest.

Councilmember Cowden: If we have ten thousand (10,000) acres and we put nine hundred (900) in an Agricultural Dedication, that parcel is Agriculture, only the nine hundred (900) gets the break, the other nine thousand one hundred (9,100) is going to get the highest tax rate, right?

Council Chair Kaneshiro: You may want to ask that question to Reiko and try to frame your question again.

Councilmember Cowden: Is it Conservation or Agriculture or is it such that...Mike Hubbard is often pretty good at this, so it might be his question. Mike, if someone has ten thousand (10,000) acres, one thousand (1,000) is agriculturally dedicated to ranching. When we have the other nine thousand (9,000) acres, do you take the valuation and not make it be worth very much, so that the tax is not high? How do you that? How do we make it that when we have uplands that are wild forest, we do not punish them into something reckless.

MIKE HUBBARD, Tax Manager (*via remote technology*): For the record, Mike Hubbard, Tax Manager, County of Kaua'i. The program we are talking about is trying to incentivize agricultural activity and a commitment to the County for doing agriculture. When we are talking about conversation land where they cannot do an agricultural, zoning, and the requirements from State Land Use Commission (LUC) and the Planning Zoning, is to maintain that property, its current nature, and not doing anything with it. There is limited use that they have and there will be a limited market value for that property. Councilmember Cowden, you mentioned that there was a sale up in Wainiha area, *mauka*, and I think A&B McBryde sold it. It was a seven-million-dollar price tag for maybe ten thousand (10,000) acres or so. That was context of what the markets is doing. What we are going to do, on your example, we are going to incentivize one thousand (1,000) acres, that will be in our program, and we are going to reduce the assessment on the one thousand (1,000) acres by ninety-five percent (95%).

Councilmember Cowden: What are you going to do with the other nine thousand (9,000) that does not have anything on it? When I hit that button on the property and I look at the report, the whole piece says agriculture. We discussed Māhā'ulepū where it gets steep, you told me that steepness basically does not add to the value of the land. It is the acreage that is useable is how the land is valued. Is it something similar for when I look at this big piece that says agriculture?

Mr. Hubbard: It could be. I do not know exactly what piece you are looking at and if it has a lot of land inland? I would think that a large conservation piece would not have a giant market value as compared to the useable agricultural land.

Councilmember Cowden: We have a member of the family in here. I do not know if they are allowed in their testimony to answer my question. If they are, it would be helpful for me.

Council Chair Kaneshiro: You could possibly ask a clarifying question. What I am hearing is, we are talking about Agricultural Dedication. I feel like I am hearing that you are talking about Conservation Land?

Councilmember Cowden: I am looking at when we have a piece, we had this discussion, if there is an agricultural piece, if we would dedicate the piece that is actually growing food? If they have a little landscaping in a nice front lawn, that does not get the Agricultural Dedication. We can take a parcel, there is a portion where the food is being grown, it would get that ninety-five percent (95%) discount. The portion that is being used in other ways, needs to pay one hundred percent (100%). When I look at that and where we were giving the example of gentleman farms, the opposite of that is when you have wild country land and certain portions of that can or should be utilized for growing food. When I look at the footprint of the TMK, it looks huge, and I cannot imagine that there is cattle where there should not be. That is my view, I am sorry, I do not want to tell you what to do. I am looking at where this is, I am wondering, and I am just asking. I am pretty good with all of this, that is the only place where I have room where I am still squirming.

Ms. Matsuyama: Maybe I can comment, Mike and Steve can jump in if I am totally off base. When you are talking about a big parcel, part of it is used as agricultural unless part is cliff. Most of the value is going to be on this flat land that is prime agricultural land. Let us say it is designated "A" or "B" agricultural land. Out of the ten thousand (10,000) acres, if one thousand (1,000) is nice, good, and usable land, we want it to be productive. That is probably going to be where most of the value is when we do the market value assessment. The cliff part will probably be discounted, for the terrain or un-usability of it.

Councilmember Cowden: Okay, alright. I think I have stated my position enough, thank you. I believe one (1) of the owners might be here, they can add a little bit more. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? Is there an amendment on this Bill?

Councilmember DeCosta: There is an amendment for Bill No. 2875, Draft 1, subsection 3.

Councilmember DeCosta moved to amend Bill No. 2875, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Councilmember DeCosta, do you want to explain your amendment?

Councilmember DeCosta: I will let Councilmember Evslin explain it.

Councilmember Evslin: This is by request and done by Council Services in collaboration with the Department of Finance and County Attorney on wordsmithing. (1) In the definition of agricultural products this adds the words "cultivation of" and rearranges some words. (2) It clarifies that a driveway may not be dedicated for agricultural use by adding the term "driveway" into the "residential homesite area," which cannot be dedicated. (3) It clarifies the relationship between (C)(1) and (C)(2) and clarifies that the Director can consider other factors in reaching those determinations, which will come through the rules. (4) It is some relocated wording. Numbers five (5) through eight (8) is complicated integration of the Tiers Bill, which passed while this was in process. We had a funky situation where a bill was passed which modified the section of the Code which this is modifying. So, we are trying to integrate tiers into this language. That is it.

Council Chair Kaneshiro: Are there any questions from the Members on the amendment? Councilmember Cowden.

Councilmember Cowden: On the second page, under (a), I wonder if we are missing a word? It says, "and vacant properties shall be classified as zoned." However, it is zoned, is that what it means? It is classified, but it says as zoned. What does that mean? Does that mean however way it is sitting as zoned.

Councilmember Evslin: That was finance language that was already there. If you look, it is going to be in the section that says the exact same thing. Classified as zoned. It means whatever the zoning is, that is how the land is classified.

Councilmember Cowden: Okay, thank you.

Councilmember Evslin: There is no change, it is already there, the language is only being moved around.

Council Chair Kaneshiro: Are there any further questions on the amendment? If not, is there anyone in the audience or on Zoom wishing to testify on the amendment?

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

NICOLE GALASE (*via remote technology*): Hi, this is Nicole Galase.

Council Chair Kaneshiro: Do you want to testify on the amendment or on the Bill?

Ms. Galase: On the Bill, thank you.

Council Chair Kaneshiro: We will get through this amendment first and resume back to the Bill.

Ms. Galase: Thank you.

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

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

The motion to amend Bill No. 2875, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and unanimously carried.

Council Chair Kaneshiro: Back to the main motion as amended. Are there any further questions from the Members on the Bill? If not, is there anyone in the audience or on Zoom wishing to testify on this item? Alan, let me go over the rules. Please state your name for the record. You will have three (3) minutes for your testimony. The light will turn green when your time starts, it will turn yellow when you have thirty (30) seconds, and red when your time is up. We will go around the room for everyone's first round of testimony, once that is done, you can have another three (3) minutes if you need it.

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

ALAN ROBINSON: My name is Alan Robinson, and I represent Gay & Robinson. I do not represent Ni'ihau. I am speaking on this Bill, and I am speaking to the livestock issues that are presented in this Bill. I have to say, I am a lot more comfortable than I was from the first reading. I appreciate you taking out the "stocking rate" issue. Although, my comfort level, as Councilmember Evslin said, it will probably be discussed in rules again, comes back. I have to say, if the County is going to enforce the stocking rate on the ranches, it could put us out of business. That is an important tool for any Ranch Manager who needs to manage his cattle and the resource in the best way that he can. If he is forced to overgraze, he might do well in the first year, but after that, he is not going to have any resources to continue his enterprise. I am also a little concerned about the five percent (5%) tax break across the board. I am going to talk to Reiko. She has been willing to sit down with Koa and myself at Gay & Robinson to explain that to me. That is more of an ignorance thing for me regarding how that works. She said it is not going to be as impactful as we think it is going to be. Overall, I am really happy with the Bill. I am hoping we get a committee together with cattlemen and Councilmembers to discuss this and

come to resolution that is agreeable to both sides. I want to thank you for letting me speak. Do you have any questions?

Council Chair Kaneshiro: I have a clarifying question. The stocking rate you mentioned, currently the rules, already has a stocking rate. Anything that is dedicated in the past has had to abide by that stocking rate. When our stocking rate came up, it mirrored it, and made it better, because they divided the island by sections and lowered the stocking rate on the Westside. Can you clarify if you think that stocking rate did not work at all. That was what was there in the past.

Mr. Robinson: I will plead ignorance to that because I did not know that was in the previous Bill. There is no way that we ever get that. You are basing that on precipitation, and on a yearly basis. On our side, it is thirty (30) inches of rain per year. Well, we can get twenty (20) inches in two (2) months and nothing for the next ten (10) months. We have ten (10) months of dry pasture and two (2) months of overgrowth. It is really hard to match up your cattle inventory to what your pastures are. That is normally the case. We have been going through a sustained drought for five (5) or six (6) months. We are really struggling. If I had one (1) cow per five (5) acres, I would have nothing but dirt out there that would be washing into the ocean. We are not going to do that. When it rains, only weeds will come back, and take over the viable grass we use for our cattle.

Council Chair Kaneshiro: Okay. Councilmember DeCosta.

Councilmember DeCosta: I have a clarifying question for you Mr. Robinson. You told us that you did not know about one (1) to four (4) stocking rate. But it has been in the County Ordinance and Agricultural Program ever since we had this. Is that correct?

Council Chair Kaneshiro: It has been in the rules.

Councilmember DeCosta: In the rules from what year? Was it from 1996? Since that time, did the County ever come out, assess, and held you liable to that?

Mr. Robinson: I had one (1) visit from one (1) person who came out and questioned if we even had cows there. I took that person out and we had cows. I would not say that stocking rate was one (1) to four (4) on that piece of property, but we did have cows, and I proved that to him.

Councilmember DeCosta: From then until now, you have been operating the ranch and the County has not put any pressure on you folks, because they know you are bona fide cattle ranchers.

Mr. Robinson: Well, that is true, but if the law is the law, at any time that can change. If we are not following what the rules are, we can lose the exemption.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: The land that is up high, is that Gay & Robinson or is that owned by someone else?

Mr. Robinson: No, it is Gay & Robinson.

Councilmember Cowden: The land that is up high, has that been taxed and you have no issue about it. I should drop my anxiety on that one.

Mr. Robinson: It is taxed fairly now. I do not know what it is going to be in the future. Just to clarify a little bit, we do not run cattle way up there. That watershed, we are protecting our resources. That watershed is our lifeblood. It brings the water down to do the irrigation on our lower pastures. It is impossible to run cattle up there. We would never get them out of there, we block them from getting up there.

Councilmember Cowden: I believe that is agricultural land. Why is that agriculture? Should it be in a different category?

Mr. Robinson: I would assume so.

Councilmember Cowden: You are not growing food up there; you are growing water. You are taking care of the watershed. That is probably partly involved in the watershed alliance, is it in that?

Mr. Robinson: I am not familiar with that. I cannot answer that.

Councilmember Cowden: Okay. On the map, it looks like upland. I was really surprised to see it that way. Right now, you are taxed okay?

Mr. Robinson: Yes.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am uncomfortable with Mr. Robinson answering those questions right now on parcel land.

Councilmember Cowden: Okay.

Councilmember DeCosta: He is getting an agricultural break, and he does not need to answer to us about that right now. Mr. Robinson, you do not need to answer that.

Mr. Robinson: Thank you.

Councilmember Cowden: I was just looking and trying to understand what that was up there, because it did not seem like it would be agriculture.

Council Chair Kaneshiro: Okay, thank you. Is there anyone else in the audience wishing to testify? Stuart.

STUART WELLINGTON: For the record, Stuart Wellington. I represent ranchers and farmers. I, too, am pleased with the outcome of where we are at from the original reading. I would like to thank the Councilmembers that worked with us to come to a solution. Reiko, I have had discussions with her. A lot of it has been education and making sure everyone understands what is at stake here. I am happy as far as the stocking ratio. That is something that we are going to discuss further in the committee meeting that I am sure we can resolve. I still have concerns about the five percent (5%) across the board. My main concern is that in the process of the intent of the Bill, that we are not going to have casualties of legitimate farmers and ranchers, in particular, the smaller folks. I am getting more educated on the language of the Bill regarding the ninety-five percent (95%) et cetera. One thing I want to make sure we are all aware of, is that we are going to decide on something we have to live by. We need to get it as close to correct as possible. As far as I am concerned, a loss of any farmer or rancher, is too much cost. I am very sensitive about that. Historically, if we lose any agricultural land, we do not get it back, it is gone, and it is lost forever. In the islands, it is even worse, because we are such a small piece of land. I am worried that if we are not careful about what we are going to put on road percentage, we do not know what the assessments of the escalated cost of fair market. It is coming out soon, but we do not know. There is so much wealth that people are buying agricultural land for a ridiculous amount. It is going to affect the value. It is that small farmer who is going to have to decide whether he can farm because of the assessment. I want all of you to be very sensitive to that. When we make this decision, that is the people that we are going to really affect.

Council Chair Kaneshiro: Stuart, that is your first three (3) minutes. You can have another three (3) minutes after I check to see if anyone else in the audience wants to testify.

Councilmember DeCosta: I had a clarifying question for Mr. Wellington.

Council Chair Kaneshiro: Alan, did you want to come back? Stuart can go through the rest of his testimony, and you can ask at the end.

Mr. Wellington: I gave testimony and I have discussed it with the parties that we need to. I wanted to come before the rest of the Councilmembers to really emphasize how sensitive these issues are. We really cannot afford to lose any farmers, ranchers, or agricultural land in the process of what we are doing. With that, that concludes my testimony.

Council Chair Kaneshiro: Are there clarifying questions?
Councilmember DeCosta.

Councilmember DeCosta: I am going to use your expertise because I respect you and I know you are smart, Stuart. When you talk about assessed value and we talk about parcels that may be sold, how does the County get an assessed

value of the property when it is sold? How do they look at the price value and what do they compare it to?

Mr. Wellington: To comparable prices to what is around them.

Councilmember DeCosta: Correct. On the Westside of the island, from Hanapēpē to Kekaha, is there anyone else besides the Robinsons who is a large landowner with that kind of acreage?

Mr. Wellington: No. Well, the Knudsens have some land out there.

Councilmember DeCosta: There is not comparable pieces out there to compare it to the Robinsons'.

Mr. Wellington: As far as recent sales, yes.

Councilmember DeCosta: Okay, that is all.

Council Chair Kaneshiro: Councilmember Cowden, clarifying question.

Councilmember Cowden: I thought I was hearing you say you feel like we need more time. Is that what I was hearing?

Mr. Wellington: To get it right.

Councilmember Cowden: What does that mean? Does that mean to have the rules defined before we pass it?

Mr. Wellington: For me personally, I would feel a lot more comfortable if we had those defined. Not even knowing what the new assessments are going to be, it is hard to make a business decision. All of this is based on business. At the end of the day, it is return on investment and whether a person who had that land growing crops or something to pay for college for his children. The assessment is to a point where it is not affordable for him anymore and is going to push him into what you talked about and selling the property. Chances are, the person who buys it is not going to be food production-oriented. That is not the clientele we have right now on Kaua'i. We are attracting more and more wealthy people. I cannot blame them. This is a beautiful place. Their motive is not high production agriculture, and that is the land that we are losing. Personally, I feel there should be another class of tax. If it is going to be a regulated production, they are going to have to get taxed differently. Farmers are at the mercy of large landowners, because there is not available land for sale. We rely on large landowners to lease us the land. Historically, the farmers are going to pay land tax. In almost every lease agreement you have, that is the way it is written out. It is going to price you out. We have had an example in our last discussion on lands that I am directly involved with. The numbers that were given to me were numbers that came from the Department. Those numbers put me out of business. What I want to ensure is that we get it as close to correct as we can, because we need to live with it. That is where I am coming from.

Council Chair Kaneshiro: Clarifying questions, Councilmember DeCosta.

Councilmember DeCosta: Stuart, I sympathize with you, and I spoke to you privately, and you know where my heart is. I want to make sure my colleagues know a little of what you are talking about. You were negatively affected because you are the lease holder of the higher price that you have to pay. That is the people we want to tax.

Mr. Wellington: Absolutely.

Councilmember DeCosta: They have the land, and they are getting the agricultural break. If you cannot pay that agricultural break and you pull your cattle out, that large landowner will not get the agricultural break. That is what we want, is bona fide farmers. You mentioned that you would feel more comfortable if the rules were with a group of ranchers that the Director of Finance, Councilmember Evslin, and myself promised you in this room with Mr. Robinson, that we were going to do with you folks, correct?

Mr. Wellington: Correct.

Councilmember DeCosta: You may very well be on that Board.

Mr. Wellington: I hope so.

Councilmember DeCosta: Right. You left that night saying, you were comfortable that we gave our commitment.

Mr. Wellington: I did not come back to the next meeting because I was comfortable.

Councilmember DeCosta: For the record, that is the commitment we gave them. Even if this passes today, we are committed to you folks to form that Board that is going to come up with the rules.

Council Chair Kaneshiro: Clarifying question? Councilmember Carvalho.

Councilmember Carvalho: What land are you losing?

Mr. Wellington: We did not lose any. We had a piece of property that was sold when it was assessed for a lot. We will use numbers and say, ten million dollars (\$10,000,000), but it was sold for over sixty million dollars (\$60,000,000). The assessment of the fair market value is going to go up on that property. Now, when you apply your five percent (5%) tax, you can go anywhere from three thousand five hundred dollars (\$3,500) to twenty thousand dollars (\$20,000), on that same property. That is only one (1) example. What we need to be sensitive to is that it is happening all over Kaua'i. There are people that are adjacent to those properties that are going to be affected in their new assessment,

because the fair market value encompasses what you are talking about. That is where I am really concerned. In the process of what we are trying to do—incentivize people to do agriculture that we are not losing agricultural people along the way. That is what is happening. As Councilmember Cowden talked about, it pushes smaller landowners that cannot afford to do farming anymore to sell. Chances are, it will be the same person that just bought that property. For me, I look at it as an Agricultural Deed, we just lost agricultural land, which we will never get back. That is where I am coming from. I wanted to make sure that we are all aware of what is at stake. Thank you. I appreciate it.

Council Chair Kaneshiro: Okay, thank you. Is there anyone else in the audience wishing to testify? Nicole.

Ms. Galase: Yes, thank you, Councilmembers. My name is Nicole Galase. I am the Managing Director for the Hawai'i Cattlemen's Council. My comments are on Bill No. 2875, Draft 1. First, I want to say thank you for your work on this Bill and the efforts to deter gentleman farmers and streamline this Agricultural Dedication process. We are grateful for the extra time that you folks took to meet with ranchers and stakeholders on the concerns. I know that there is a lot of time dedicated to listening directly to them. Our goal is to ensure that legitimate ranchers can continue their operations as land stewards and food providers, and to hold the line on the decline of agriculture. It is a difficult business, but we need agriculture and food production in our State. Statewide, pasture has been on the decline. Based on the State Agricultural Use Study from the Department of Agriculture, like Stuart noted, if land is taken out of production or out of management, it is costly and difficult to get back up and running, if at all. That is why we want to hold the line on anything coming out of production. Some of these restrictions will cause that. I appreciate that you have heard the concerns and took the stocking rate out of the Bill to define agricultural use. From what I understand, it is the Council's intent to create a taskforce to address this administratively instead, and to include stakeholders. I am here to encourage that, as ranchers are ready to take part and they can. As I heard from Councilmember DeCosta, you are committed to that. *Mahalo*. Thank you.

Council Chair Kaneshiro: Are there any clarifying questions?
Councilmember DeCosta.

Councilmember DeCosta: I know that this says, Hawai'i Cattlemen's Council. Are you out of Hawai'i Island?

Ms. Galase: This Hawai'i Cattlemen's Council is the umbrella Council for Maui, Hawai'i Island, and O'ahu Cattlemen's Association. We represent statewide. Kaua'i Cattlemen's Association members are also members of the Hawai'i Cattlemen's Council. The reason we are testifying here is because we had concerns about the stocking rate. We do not want it to set a precedent for the rest of the State. As Alan and Stuart noted, the stocking rate is something that landowners have to pay close attention to. It is not just rainfall that affects it. Invasive species like two-line spittlebug, the ability to get cattle to processing, which

is sometimes a bottleneck and market demand. These are all things that a manager has to think about when they are thinking about stocking their pastures.

Councilmember DeCosta: Are you from Hawai'i Island?

Ms. Galase: I am originally born and raised on O'ahu, but I live on Hawai'i Island in Volcano.

Councilmember DeCosta: Do you folks have a stocking rate that you go by on the Southside or Westside of the island?

Ms. Galase: No, we do not. Stocking rates, like I said, one of our main goals is making sure ranch managers are producing food, but also taking care of the land—stewarding the land. Part of that is being flexible with the stocking rate, because there is so many things that can affect that. We do not want stocking rates to be a line where ranchers say, "I have to have this number of cows on the land during a certain time." I think there are other ways to look at whether a rancher is ranching, and that might take a visit to the ranch.

Councilmember DeCosta: Okay, thank you.

Ms. Galase: Thank you very much.

Council Chair Kaneshiro: Thank you, Nicole. I will call the meeting back to order. Are there any final questions? Councilmember Cowden.

Councilmember Cowden: Yes, my question is for the Department of Finance. In listening to the testifiers, are we able to approximate the assessed value? For example, the ten thousand (10,000) acres that sold for seven million dollars (\$7,000,000), if we took the current sale prices to determine if it is going to bring up the assessed value when we move to the five percent (5%)...We want to be very careful with what we are doing. Have we done any experiments and looked at recent sales and what it would be?

Ms. Matsuyama: I am going to have to turn to Mike or Steve. We did the analysis to ensure that the five percent (5%) keep the program revenue-neutral. To project what it is going to be next year or five (5) years from now, that is something we cannot do. Steve, do you want to jump in?

STEVE HUNT, Executive Assistant to the Mayor (*via remote technology*): Steve Hunt, Executive Assistant to the Mayor, for the record. I am actually going through some of the time adjustments studies right now to look at the sales that we had recently. Worried that it might be moving a lot of our benchmarks not only for agricultural land, but for all types of properties. Ultimately, if there is a jump in value for Agricultural Land...I am not going to make up any numbers, but hypothetically if it was a ten percent (10%) increase, and you wanted to keep this revenue-neutral based on the five percent (5%) conversion, you could always lower the tax rate by five percent (5%) to get the offset. As was said earlier, there is a lot of movement. It is rearranging the chairs within the room. Obviously, properties

that are more *makai* oriented, oceanfront, five percent (5%) is going to be at a higher value than a dedicated value that we are seeing. In reality, you are probably looking at some of the *makai* properties as being sort of interim uses, because they are highest and best use and is going to be a residential estate someday. If you think about it, it is not property taxes that are forcing the sale. It is prices that these buyers are willing to pay that is forcing the sale. The sixty million dollar (\$60,000,000) price that Stuart mentioned was probably what forced the sale of the landowner, not the assessment of ten million dollars (\$10,000,000) on that particular property that was being taxed at an agricultural rate. It is very difficult for me or Mike to come up with a ballpark estimate of what the impact of the five percent (5%) is. We are only able to look in the rearview mirror based on last year's assessment and how that might impact, not what is going to happen with the future assessment. Again, ultimately, if you feel the increase is warranted, and you wanted to have an adjustment, you still have the property tax rates to adjust.

Councilmember Cowden: Okay. We are looking at fallout from one of our last tax changes. What we learned is, when people make this mistake and they do not figure it out until it is too late, there is no reprieve. If someone has to pay an extra nineteen thousand dollars (\$19,000) or one hundred thousand dollars (\$100,000), et cetera, they cannot get it back. I want us to be very careful to not get more people stepping in a beartrap. What is the critical window of us needing to pass this? If we say "yes" today, it is done. I want to be satisfied. I realize that is a one (1) to six (6) vote, but I want to be satisfied that we are not going to be forcing five percent (5%) of our farmers and ranchers into a sale. How long is the process of creating the rules?

Ms. Matsuyama: I have done a few rule changes since I have started. It takes a long time. Those were much easier than this one will be.

Councilmember Cowden: Will it take a year?

Ms. Matsuyama: My internal deadline to myself would be the Agricultural Dedication annual deadline, which is July 1, 2023. I think that is pretty aggressive, but we will try to do it. I already talked to Stuart about that and let him know that was my goal. I am saying it now out in public, I need to commit to that. With that being said, to go back to the soil rates and the comparison between that and the five percent (5%), we talked about it before repeatedly on the floor, but the soil rates have not been changed for a long time. They were based on a State Agricultural Census Report in 2006. There is an updated report from 2017, and that called for soil rates to be four (4) times higher than they are now. When they do the study again, which they might do in 2023, it will still be higher. Again, it is arbitrary. It is not set in the Code, and it is not set in the rules. Basically, we have the discretion to set the rates to whatever we want it to be. We do get into trouble with the State Tax Court because they are arbitrary the study is based on market value, and it is something that we need to do. Whether it be five percent (5%), et cetera, we set that percentage at market value in the sale.

Councilmember Cowden: So, you are saying less than a year. We are basically being asked to say, "yes" to a moving target that we do not even know where

it is going to end up at. When we say, "yes" when there are no rules, even if we do not think about what the soil values are, the rules can be all over the place. I will assume that they will not be, but we do not even know. Thank you for doing your briefing on our last agricultural piece. In the zone where I live, four hundred thirty-seven (437) houses ended up changing into Residential Investor. This is my fear, that we are going to have something like this happen here, and they are going to end up with higher assessments than we would ever anticipate. I have that concern, but okay, next summer. Valuation cap on length of ownership, that is a charged question. That is like Proposition 13. When I look at having the valuation caps on things, that helps too. If people are on their land for a long time, what we saw with houses with a lot of these that have no valuation caps, people bought that house for two hundred thousand dollars (\$200,000) or three hundred thousand dollars (\$300,000), and they cannot help it if it is now assessed at eight million dollars (\$8,000,000). I am worried that is going to happen to the farmlands.

Council Chair Kaneshiro: What is your question?

Councilmember Cowden: Where is the role for valuation caps on the ownership? When the length of ownerships...all of these sits there at market value. What can people afford when they are buying now? When we are having this influx of high wealth, it is hard to compare that or make people who have owned their land for a very long time compete with the capacity of new people to buy the land. I think we have a lot of problems here. It is kind of a question. Did you hear that? What do you think about valuation cap on length on ownership?

Council Chair Kaneshiro: For agricultural property?

Councilmember Cowden: For agricultural property.

Ms. Matsuyama: We tossed this question around even before first reading based on the feedback we were getting from our outreach efforts. We have a cap on Homestead properties. Basically, it came down to, we do not have the software capacity to handle it. That might be a "cop-out" excuse. The Homestead rate and the Homestead cap go on an entire parcel. The entire parcel will have this cap. If you have a farm on a parcel that you live on, you will have the cap. The problem with the Agricultural Dedication and having a current cap, which I will say policy wise is always a bad idea. When you have it only on a portion of the property, the software cannot accommodate doing that manually.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: I wanted to clarify; the rules are not changing from the existing rules that we have now. The only change that will happen is the discussion on stocking rate, is what I am hearing. Right now, if we pass this Ordinance, the rules are still the same.

Ms. Matsuyama: Yes. There are existing rules. Although it is much smaller than what we are doing now, the rules have not been updated with any of our ordinance changes that we have done. There are things in there on rollbacks,

et cetera, that we need to revise. I would say to Councilmember Cowden's comment to the moving target, the Administration Rules is how we administer the law. Until the law is passed, I do not know how we are going to administer the law. Assuming this passes, we have already started drafting the Proposed Rules, but they are very premature. We are going to learn as we go through it. Committing to almost a year for a timeline is definitely aggressive.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Hi, Director of Finance Reiko Matsuyama. We are going to make sure we take Dr. Mark Thorne's advice on the lack of rainfall in certain zones, especially the zone where the Robinson family has their cattle ranch. The ten percent (10%), twenty percent (20%), thirty percent (30%), that was all conversation pieces that was very important and that we all agreed upon. They are here today, I want to make sure they are comfortable with that, and that is going to be put into our rules, right? That is what I think Mr. Wellington was very concerned about and I believe we gave a commitment to that. Is that correct?

Ms. Matsuyama: Yes. I am completely committed to creating some kind of working group with the agricultural industry. We are not going to take that table and put it directly into the rules, but some form of that will be included. I talked to Stuart about what my intentions are, and I think we are on the same page as to what we want to put in there and how to define a bona fide rancher.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: This may be for clarification or partially a question for Councilmember Cowden. From what I understood of your main concern, it was not necessarily knowing what the assessments were going to look like. To clarify, the rules are going to be around how the Administration is administering the program. The assessment system is not changing. They currently have a spreadsheet that looks at assessed values for every agricultural parcel on Kaua'i. The current property tax is based on soil rates and the change based on a five percent (5%) assessed value. That is how we got to revenue-neutral and that is how we got to the five percent (5%). Taking every Agricultural Dedication property, put the five percent (5%) on there, we do not want the County making any more money on it, what does the percentage need to be, we got to roughly five percent (5%). You can look down that list of roughly one thousand four hundred (1,400) TMKs or parcels and see, for the most part, the trend is all diversified agriculture pays less, and many ranching properties will go up. That exists and that is not going to change in the rules. I think the part where you are questioning, which is unknown, which is how sales from this year are going to impact comparables, how the assessed values will change next year, and the year after that. They cannot predict that in the future, but they have it for right now. Also, right under the program, one-hundred-thousand-dollar increase in the value of the property translates to a thirty- in property taxes. The intention again with the ninety-five percent (95%) reduction in assessed value is, even as property values go up, the ninety-five percent (95%) shaves off so much that the financial impact for farmers will hopefully be mitigated enough.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Steve, welcome back. We want you to put your Real Property Hawai'i County hat on, because the comment we got from Reiko is, that they do not use a stocking rate. How do you provide exemptions to determine the validity of these businesses?

Mr. Hunt: In Hawai'i County, they are currently using soil rates. As Reiko mentioned, the 2006 Study was the last one that was employed here. You have pasture lands, they are using four hundred twenty dollars (\$420) per acre as an assessment. Although, the data they receive from the survey in 2017, strongly suggested that the productivity of the soil is about four (4) times higher. I think the number was about one thousand six hundred eighty dollars (\$1,680) per acre for pasture lands. Hawai'i County chose not to employ that for whatever reason; I was not involved in the assessment in terms of my job here in Hawai'i County, so I cannot speak to why they did not up the rate to the new soil rate.

Councilmember Chock: I got it. They are deferring it at this point. Okay, thank you.

Council Chair Kaneshiro: They probably did not want to increase their taxes by four (4) times. Are there any further questions from the Members on this? Is there any final discussion from the Members?

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

Council Chair Kaneshiro: If not, I will speak. I want to praise the introducers for their hard work. I know they went out to a lot of ranches and spoke to a lot of agricultural people. They did their homework as far as the outreach goes. I do not think many people can say that they are not aware of what is going on. Again, as you take a step back, I definitely think this Bill is a positive. The Department of Finance went through it to make it easier on farmers and ranchers. In general, you do not need to record your leases or dedications. I know that it costs money, and it is a hassle. There are no rollback taxes. They really tried to make this process easier knowing that ranchers and farmers do not have a lot of time to concentrate on their dedication, filing papers, et cetera. The intent of this is to make it easier. On the other hand, they are trying to make their work easier and saying, they want to get away from the soil rates because it is too complicated. Soil rates have gone up, they have not increased the soil rates to what it should be, and the that the percentage is a lot easier for them to implement and a lot fairer on their end because everyone gets assessed the same value. At the end of the day, if you look at the five percent (5%), that means that anyone who is doing active agriculture that is dedicated, gets a ninety-five percent (95%) tax break on their agricultural dedicated lands. If you ask me, that is a huge tax break. Not even homeowners get a ninety-five percent (95%) tax break. We can fuss and fight about the percentage that it should be two and one half percent (2.5%) so they get a ninety-seven and one half percent (97.5%), I am comfortable with the five percent (5%). Some people's taxes might go up, some might go down. I think it is a fair and equitable way to do RPT on both ends. I think it is

going to make it more predictable on everyone else's end. I will be voting in favor of this Bill. Obviously, if this five percent (5%) is affecting farmers or ranchers, you can always adjust that percentage, you can always adjust the Agriculture Tax Rate. There are mechanisms to adjust. At the end of the day, I do not think anyone wants to pay one dollar (\$1) more than what they are paying. I do not think we will ever get a consensus that people want to increase their RPT. I think if you look at what we are trying to do, they are trying to make it easier for farmers and ranchers to dedicate. Agriculture and ranching are important to this island, they want people to be doing it, but they also need it to be easier to implement on the rancher and farmer side and on the County side and how we implement the program. For me, this is a good step in the right direction. I will be interested to hear how the rules and stocking rate changes. Again, where we are at, I am comfortable moving forward with the Bill. Councilmember DeCosta.

Councilmember DeCosta: I commend my co-introducer and partner. We worked really hard. The Department of Finance, Mike, Steve, Terry, and Reiko, what an amazing group. It was not easy coming in here with a room full of ranchers with boots, buckles, and spurs. Luke and I took the blows on that one. We bent over backwards and listened to our farming community. The community is somewhat segregated. You have your bona fide ranchers who actually ranch and raise cattle, and you have the ones who are land banking sitting with two (2) horses, three (3) mango trees, and two (2) tame cows. How do we come up with a Bill that justifies everything across the board? That is what we did. We might not fit everyone into this mold, but I can tell you one thing, you know if we bent over backwards to help you folks out because we met with you multiple times. I want to tell my partner thank you, and for all that people who worked hard on this, really did. We picked a Bill that no one wanted to touch in a long time, and we did it.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Councilmember DeCosta and Councilmember Evslin. I think you said it well. This has been somewhat of a thorn in our side for the County, for years. I do not think that people did not want to touch it, it was, how do we touch it and how do we create a system that is fair and equitable and make it easier to administrate, which has been a real challenge for us. Like any Bill that we go through here at the Council, at least in my time, I recognize that it is difficult to answer all the needs of everyone. To Stuart's question to getting this as close as possible, I think we are there. I certainly hear the challenges and concerns. I am also concerned about them. I think more than ever, we have a dedicated RPT team and a Director of Finance who is willing to get together and take the step. The next step is the administrative rules. We have to pass this in order for you folks to have that conversation. I think someone said that is where the heavy lifting will occur. My encouragement is that this is just the beginning to answer some of those needs. I know we are talking about a lot of different ways to address the stocking rate of ninety-five percent (95%) do not leave out the fact that there is Director discretion that can be inputted into the process. I hate to put that on Reiko, but because you have a champion right now, I think that is one way to deal with the nuances that you cannot get to a resolution on by creating a model that does not fit the mold. That is something I would suggest looking at. The bigger conversations

that I hear about our taxing system that is affecting every single class. When we create the biggest discounts possible with our Agriculture Dedication, and people are still being challenged, what I am hearing is that the ad valorem system is problematic based on market valuation. At some point or another, that is something this Council and County is going to have to address. I am not suggesting it right now. I am just saying, those are the kinds of things I think you need to be talking about. That is not the conversation for today. My point is that I support this wholeheartedly. I want to thank everyone involved for pushing it through.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to thank everyone for their work on it too. I especially want to thank Mike Hubbard for being sensitive to some of the fallout that has happened in the past, so we can work on ways of getting rid of the rollback tax and the things that require farmers to be stronger administrators. It is not always in alignment with someone's temperament. Overall, I feel that this is an improvement. I think what would help me be more enthusiastic is if we could please have a quarterly briefing on the rules development as we move forward. I would like to hear how that is moving forward, so we have an opportunity to hear from the ranchers and farmers if they are okay. Thank you, Director Matsuyama, as you mentioned, the Council does have other levers that they can move. Whether that is the tax rate, percentage, or different levers. If we are seeing that we are treading into difficulty, we have enough knowledge ahead of time when we see it come out, that we can do what we can do on the other side of it and keep it from having unintended consequences. We have a role, and you have a role. We need to work together to create this. When I look at these larger pieces, the percentage when you double it, it goes much higher. I will be voting yes, but I want and will be requesting quarterly briefings. I want to make sure that we are moving in the right direction if we develop the rules.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I have been talking to some of the ranchers. They are concerned with the rates. I hear what Reiko mentioned about the soil rates that has not even been touched since 2017. I think we are at a good place in having the discussion with cattlemen and cattle ranchers. It is not perfect, but I think it is a start to really looking at how we move forward. In my conversations, there are concerns about the rates. In hearing the Department of Finance, all the work that has been done, and forming that team, I think that is a good thing. Maybe we can encourage others to join in to get more hands-on information for the ones who are "sitting on the fence," if you will. I think overall, we are moving in the right direction, and I support this movement. For the next level, we will get there. The Director of Finance committing to 2023, that is going to be another one. Let us hope to be part of that process and continue moving forward for our ranching community.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I will start off with thanking my co-introducer, Councilmember DeCosta. We spent a year with a good collaboration

and a lot of times butting heads, but I think we hopefully worked well together to come up with a good program. A huge thank you to the Department of Finance, Mike, Reiko, Steve on the tail end, Terry Phillips, Andrew Michaels, Office of the County Attorney, and especially Jenelle for her work. It has been a heroic task. This has been attempted several times in the past and sort of imploded under the weight of it all. When we first started to talk to the Department of Finance and the Office of the County Attorney about some of the issues with Agricultural Dedication, that is a huge under all taking. You cannot modify parts of the Bill because the entire Bill has giant created flaws. These folks were willing to take it on with us. I really appreciate all the tremendous work. Another shoutout to Councilmember DeCosta. I learned more about ranching in the past year than I ever wanted to learn. Thank you for that. To the farmers that we met with, it was a lot of them, we learned a lot about their operations and challenges that they face. I think a lot of people who contributed gave good input and it was reflected in the final Bill. Especially at the eleventh hour in meeting with the ranchers. We spent two and one half (2.5) hours, and we were not getting anywhere. I was texting my wife saying, "I think we are going to be here all night." To the rancher's credit, it was them who came to us with a compromise, which I personally think makes the Bill stronger, which was done by expert research and gives more flexibility all around. I think it will be a good help. It is not exactly what they wanted. Again, to their credit, brought it to us. I really appreciate that. Back to the point of this, the whole purpose is to incentivize real agriculture and disincentivize abuse. To make it easier for farmers to get into. Reducing administrative burden for both the farmers and for the County. Ensure, by reducing that burden, the County has more boots on the ground to ensure compliance. To make it easier for farmers to get out of. That is one of the things we heard over and over again is by locking it in, we are incentivizing abuse, we are making it harder for older farmers, et cetera. Those are the goals. I think as everyone said, we are going to have to continue to look at this to making sure we are achieving those goals. We have some of the tools to mitigate some of the concerns that came up. Steve and Council Chair Kaneshiro said it. We can tinker with the rates every year. We can change the Agricultural Rate if we need to. If there are huge impacts down the road, it is on us to modify the RPT for Agriculture, or even the ninety-five percent (95%) if we have to. Lastly, this does not solve everything, there are still going to be problems out there and I am sure there is still going to be abuse. There is still going to be an issue for farmers affording their land. I am sure we are going to be faced with this issue of declining agriculture. We need to do a lot more, but I do think this is, from the Department of Finance's and RPT perspective, a good effort that will help. There are still issues. *Kalo* has come up and Councilmember Chock has talked about some of the difficulties with *kalo* farmers. They often have large amounts of fallow land and they do not have enough water to get it going. Issues with Ni'ihau, issues with conservation land. I think there are other problems out there which will need to be addressed over time. That is what we are all here for, is to keep up the good fight, and keep facing these problems as we move on. I appreciate everyone here. I think we had good deliberation through all the Committee Meetings, first reading, and second reading. I appreciate the collaborative effort to make this better. Thank you.

Council Chair Kaneshiro:

Is there anyone else? Councilmember Kualii.

Councilmember Kualii: I will be very brief. I want to add my voice of credit. *Mahalo nui loa* to everyone involved in getting us to this point. I think it is a big, important step forward. Always connecting agriculture with food security. It is very easy to support this.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I forgot to thank one of our most intricate parts and you mentioned her. Jenelle, amazing, we could have not done it without you.

Council Chair Kaneshiro: Is there anyone else? If not, roll call vote.

The motion to approve Bill No. 2875, Draft 1 as amended to Bill No. 2875, Draft 2 on seconded 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.

Bill No. 2876 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2022-886, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2022 THROUGH JUNE 30, 2023, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND

Councilmember Kualii moved to approve Bill No. 2876 on second and final reading and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this? Is there anyone in the public or on Zoom wishing to testify? Is there any final discussion from the Members? If not, roll call vote.

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

The motion to approve Bill No. 2876 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
RECUSED & NOT VOTING: None

TOTAL – 0,
TOTAL – 0.

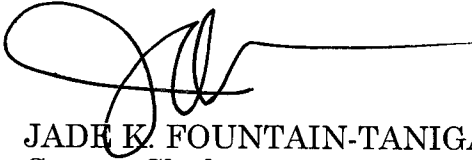
Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: 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 3:36 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:ks

(September 21, 2022)

FLOOR AMENDMENT

Resolution No. 2022-36, Relating to the Reserve Fund and Reserve Fund Policy

Introduced by: FELICIA COWDEN, Councilmember

1. Amend Resolution No. 2022-36, by amending the 4th "BE IT FURTHER RESOLVED" paragraph to read as follows:

"BE IT FURTHER RESOLVED that if funds from the Reserve Fund are utilized, the County Council and County Administration shall timely propose and approve a financial plan to replenish the Reserve Fund to prescribed policy levels. Depending on the circumstances, strategies to replenish reserves could include accessing budget surpluses, reducing expenditures and adoption of revenue enhancement measures. Revenue measures may include but are not limited to: long-term and short-term financing; adjusting real property tax rates; fuel taxes; vehicle weight taxes; and various other established fees for services. Effort should be made to restore necessary funds to required policy levels within three (3) years, with the exception that amounts used for affordable housing projects be restored in [one (1) year.] two (2) years."

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

V:\AMENDMENTS\2022\2022-500 Resolution No 2022-36 Floor Amendment - Reserve Fund Policy (9-21-22) FC_CNT_mn.docx

09-21-2022
Councilmember Cowden
Resolution No. 2022-36

(September 21, 2022)

FLOOR AMENDMENT

Bill No. 2875, Draft 1, RELATING TO REAL PROPERTY TAX (AGRICULTURAL DEDICATION)

Introduced by: BILL DECOSTA, Councilmember (By Request)

1. Amend Bill No. 2875, Draft 1, SECTION 3, Subsection (a) (Definitions), by amending the definition of "Agricultural products" as follows:

““Agricultural products” means products derived from animals or vegetation, including [floricultural, horticultural, viticultural, aquacultural,] : the cultivation of floriculture, horticulture, viticulture, and aquaculture products; forestry[,] products; tree farm[,] products; nut[,] products; coffee[,] products; dairy[,] products; poultry[,] products; bee[,] products; livestock or animals raised by grazing and pasturing (except horses)[,]; and any other farm, agronomic, or plantation products, excluding products (e.g., hay) derived from guinea grass, [hale koa,] leucaena (koa haole), panicum, pangola, kikuyu, napier grass, and similar forage crops.”

2. Amend Bill No. 2875, Draft 1, SECTION 3, Subsection (a) (Definitions), by amending the definition of "Residential homesite area" as follows:

““Residential homesite area” means the portion of a parcel used for residential purposes, including land upon which a dwelling or driveway is located and land designated to be the yard space. A residential homesite area may not be dedicated for agricultural use.”

3. Amend Bill No. 2875, Draft 1, SECTION 3, Subsection (c) (Petition Process), as follows:

“(c) Petition Process. Petitions shall be filed by July 1 of any calendar year. The Director’s review shall proceed as follows:

(1) Following a petition filing, the Director shall [consider the following factors to] determine whether the land is reasonably well suited for the petitioned use[.] and whether the petition has sufficiently demonstrated potential success for the petitioned use, by considering factors including: land size, use of surrounding similar land, economic feasibility, State and County land use restrictions, and conformity with the County General Plan and applicable Community Plan.

(2) The Director shall approve the portion of the petition that satisfies all of the following:

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(A) The land is reasonably well suited for the petitioned use.

(B) The petition has sufficiently demonstrated potential success for the [specific agricultural] petitioned use[and].

(C) The petition has met all requirements of this Section and all additional requirements of any rules adopted by the Director pursuant to HRS Chapter 91.

(3) The notice of assessment shall serve as notice of full or partial approval or disapproval of the petition. If approved, the reduced assessment pursuant to Section 5A-9.1(d) shall be reflected on the real property tax bill due on August 20 of the following calendar year.”

4. Amend Bill No. 2875, Draft 1, SECTION 5, Subsection (a) to effectuate a minor wording relocation improvement:

“SECTION 5. Chapter 5A, Section 5A-6.4 (Real Property Tax Rate Classifications), Kauaʻi County Code 1987, as amended, is amended to provide consistency with other amendments made by this Ordinance and make other “housekeeping” amendments, as follows:

“(a) For purposes of tax rates, real property shall be classified into one (1) of the following general classes according to the property’s actual use, and vacant property shall be classified as zoned until actual use is established, unless otherwise provided in this Chapter:

- (1) Residential.
- (2) Vacation Rental.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and Resort.
- (8) Homestead.
- (9) Residential Investor.
- (10) Commercialized Home Use.

[Vacant property shall be classified as zoned until actual use is established. For the tax year 2014, any owner shall be allowed to submit a new “Use Survey Form” to the Department of Finance, Real Property Tax Assessment Division by December 31, 2014. Should the Director determine that a property was designated an incorrect tax rate classification for tax year 2014, a tax credit of the difference shall be applied to the

owner's 2015 tax year bill and all penalties and interest for delinquent payment shall be waived.]”

5. Amend Bill No. 2875, Draft 1, to add a new SECTION 6, with all subsequent SECTIONS renumbered, to integrate the proposed amendments to Chapter 5A, Section 5A-6.4 (Real Property Tax Rate Classifications), Kaua'i County Code 1987, as amended, pursuant to Ordinance No. 1130 (approved September 12, 2022), to read as follows:

“SECTION 6. Chapter 5A, Section 5A-6.4 (Real Property Tax Rate Classifications), Kaua'i County Code 1987, as amended (KCC), is amended pursuant to Ordinance No. 1130 to take effect for the Tax Year beginning July 1, 2024 (KCC codification date of October 1, 2023), and to supersede SECTION 4 of Ordinance No. 1130, as follows:

“(a) For purposes of tax rates, real property shall be classified into one (1) of the following general classes according to the property's actual use, and vacant property shall be classified as zoned until actual use is established, unless otherwise provided in this Chapter:

- (1) Residential.
- (2) Vacation Rental.
 - (A) Tier 1: Up to \$1,000,000;
 - (B) Tier 2: In excess of \$1,000,000 up to \$3,000,000;
 - (C) Tier 3: In excess of \$3,000,000.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and Resort.
- (8) Homestead.
- (9) Residential Investor.
 - (A) Tier 1: Up to \$1,000,000;
 - (B) Tier 2: In excess of \$1,000,000 up to \$3,000,000;
 - (C) Tier 3: In excess of \$3,000,000.
- (10) Commercialized Home Use.

(b) When property is divided into condominium units, each unit shall be: (1) classified based on its actual use into one (1) of the general classes in the same manner as other property, and (2) deemed a parcel and assessed separately.

(c) Parcels that are used for no other purpose than as the owner's principal residence shall be classified as Homestead provided that the owner has applied for and has been granted a home exemption according to Sec. 5A-11.4. The Homestead class shall also include parcels used as the owner's principal residence that are being

assessed according to their agricultural use as provided in Sec. 5A-9.1; provided that the owner has been granted a Home Exemption and no portion of the parcel be used for a purpose other than the owner's principal residence and agriculture. Dedicated land, as defined in Section 5A-9.1, on which refining or industrial use occurs shall not qualify for the Homestead class. The Homestead class shall also include parcels used as day care centers by licensed day care providers; provided that the owner has been granted a Home Exemption or is renting a Long-Term Affordable Rental to a tenant in accordance with Section 5A-11A.1, no portion of the parcel is used for any other commercial activity, and that owner has provided a current copy of their day care provider license or their tenant's day care provider license to the Director on or before September 30 prior to the applicable tax year. The Homestead class shall also include parcels that have applied for and have been deemed a Long-Term Affordable Rental pursuant to Sec. 5A-11A.1.

(d) For the purposes of this Article, the Residential Investor tax rate classification shall be applied to properties that do not qualify for the Home Exemption, are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of [one million three hundred thousand dollars (\$1,300,000.00)] one million dollars (\$1,000,000) or more.

(e) If a property has multiple actual uses, it shall be classified as the use with the highest tax rate, unless it satisfies the criteria for classification as Commercialized Home Use set forth in subsection (f).

(f) Parcels that are used for multiple purposes, one of which is use as the taxpayer's principal residence as of the date of assessment, shall be classified as Commercialized Home Use provided that the taxpayer has received a Home Exemption on the property pursuant to Sec. 5A-11.4.

(g) The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment."

(h) Owners of Vacation Rental tax class properties intending to reclassify property to the Residential tax class rate based on this provision shall: (1) change the use of the property to a long-term rental; and (2) complete and comply with the County's Criteria For Change To Tax Classification form."

6. Amend Bill No. 2875, Draft 1, SECTION 1 in pertinent part only as follows:

"As explained in this SECTION 1, the purpose of this Ordinance is to update the County's Agricultural Dedication program in Section 5A-9.1, Kaua'i County Code 1987, as [amended,] amended (KCC), and make corresponding and other technical amendments to Sections 5A-6.4, 5A-8.1(g), and 5A-11.23(a), as follows:

- SECTION 2 repeals the existing Section 5A-9.1 in its entirety.
 - SECTION 3 provides the new Section 5A-9.1.
 - SECTIONS 4, 5, [and 6] 6, and 7 include necessary cross-references, non-substantive edits, integration of Tiered Residential Investor language with delayed effective date pursuant to Ordinance No. 1130, and removal of reference to Hawai'i Revised Statutes (HRS) Chapter 186 (Tree Farms) to clarify that the County no longer provides a separate tree farm exemption.
 - SECTIONS [7 and] 8 and 9 provide the usual severability and codification clauses.
 - SECTION [9] 10 explains that existing dedications shall remain valid until the end of their originally-approved dedication periods unless canceled, but in all other respects existing dedications will be subject to this Ordinance.
 - SECTION 11 provides: "This Ordinance shall take effect upon its approval, provided that pursuant to Ordinance No. 1130, SECTION 6 of this Ordinance shall take effect for the Tax Year beginning July 1, 2024 (KCC codification date of October 1, 2023) and shall supersede SECTION 4 of Ordinance No. 1130."
7. Amend Bill No. 2875, Draft 1, SECTION 10 by renumbering it to SECTION 11 and amending as follows:
- "SECTION [10.] 11. This Ordinance shall take effect upon its approval, provided that pursuant to Ordinance No. 1130, SECTION 6 of this Ordinance shall take effect for the Tax Year beginning July 1, 2024 (KCC codification date of October 1, 2023) and shall supersede SECTION 4 of Ordinance No. 1130."
8. Allow Council Services Staff to make corresponding technical amendments as may be necessary to compile Bill No. 2875, Draft 2.

(All Bill No. 2875, Draft 1 SECTION 3 material is new to the Kaua'i County Code 1987, as amended, but the Bill No. 2875, Draft 1 SECTION 3 underlining throughout has been removed from this floor amendment to allow for Ramseyer formatting. For purposes of this floor amendment, Bill No. 2875, Draft 1 language to be deleted is bracketed and language to be added is underlined.)

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