

COUNCIL MEETING

NOVEMBER 16, 2022

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, November 16, 2022, at 8:36 a.m., after which the following Members answered the call of the roll:

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

APPROVAL OF AGENDA.

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

Council Chair Kaneshiro: 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 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 meeting of the Council:

October 19, 2022 Council Meeting

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

Council Chair Kaneshiro: 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 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:

KAUAI HISTORIC PRESERVATION REVIEW COMMISSION:

- Lee S. Gately (At-Large) – Term ending 12/31/2023

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I want to give a quick introduction here. Lee Gately is a retired teacher who lives in Lāwā'i with his wife Terry, who is an active member and former president of the Mokihana Club. Lee has worked with the Kaua'i Historical Society for many years, formerly as a board member and currently as a volunteer. He created public presentations for Kōloa Plantation Days and for Friends of King Kaumuali'i. From 2019 to 2022, Lee completed the task of scanning thousands of large maps donated by the Kekaha Plantation and he has recently started digitizing the society's collection of historic maps from the Līhu'e Plantation. In 2017, Lee created a social media group called Kaua'i History, where he and other share images and documents to document the changes to Kaua'i. The group now has over eight thousand (8,000) members. I wanted to share how I got to know Lee is from this Facebook group, which is one of the best things going on, on social media. He posts almost daily pictures and is just a very interesting and inspiring place—that Facebook group. Lee's home on Kōloa Road was built in 1939. As he described to me, it is a single-wall (inaudible) built and he has enjoyed caring for this old house, restarting each of the old door knobs, nailing new boards to replace eroded ones, and doing his best to preserve the home's original qualities. If he is confirmed on the Kaua'i Historic Preservation Review Commission, he hopes to be a voice for a healthy Kaua'i that embraces its own historical value. I nominated Lee. I think he is going to be perfect for the position. He is obviously passionate about history, he has a lot of experience looking at historic maps, digitizing maps, clearly a passion for the subject.

Council Chair Kaneshiro: Lee, do you have anything else to add?

Mr. Gately: I was honored to be invited to the position. I love the history of Kaua'i. I love studying it and I am fond of the study of preserving it. I hope to follow in the steps of people that I look up to, people who have gone, Theodore Blake and Randy Whitman, who has left the island, but...Bod Schleck who helped to preserve the building that you are sitting in, who was our former president of the Historical Society. These are people who saw something in making sure that what is

old stays valuable and stays appreciated, and that is my goal. My goal is to have a voice in that and hopefully a reasonable voice.

Council Chair Kaneshiro: With that, do we have any questions from the Members? If not, is there anyone in the audience or on Zoom wishing to testify?

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

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

Councilmember Cowden: I am part of that Facebook group and I look forward to your posts every, seems like every day. I am amazed at the depth that is there and I think it edifies all of us. You are excellent for this position. Thank you, Councilmember Evslin for making a recommendation. Great job. Thank you, thank you. Thank you for bringing it much larger than a room in a building that is holding on to all these beautiful things including an original document from the Captain Cook trip. Amazing things are in our Historic Society downstairs, but thank you.

Councilmember DeCosta: Hi, Lee. I am not on the Facebook group, but I think after today, you may want to request me. I grew up in Pākalā in these single-wall homes, actually my dad was part of the construction crew who repaired them, and I have vast knowledge on how to restore historical plantation single-wall belly band. If you know plantation, they got that “belly band” around about four-feet high, the ceramic door knobs and the skeleton key that goes into that door, sure brings back some memories. It is so nice to have been raised in that type of home, just comes with a lot of culture. I am glad that we have a person with a lot of culture.

Mr. Gately: Thank you, Billy. You and I have talked for a while before on the Canyon trail and I appreciate your work with the studies up there as a teacher.

Councilmember Kualī'i: I wanted to say *mahalo nui loa* for all the work that you do with the Kaua'i Historical Society and for being willing to step forward in this capacity to serve our people. My father is 89 years old, pure Hawaiian and he was a paniolo in KipuKai Ranch, he is still doing quite well and I want to get him back in there to see it, maybe, one more time. I know the place to go is the Historical Society. Thank you so much.

Councilmember Evslin: I wanted to express appreciation to Lee, again, for your willingness to serve as a volunteer. I know you are going to do great work. My only request is that you do not get too busy where you cannot post on the Kaua'i History Facebook page. It really is...social media can be a bad place and it incentivizes oftentimes outrage and bad behavior, and your little corner of Facebook is just an amazing place where every single day you can see some old picture of Kaua'i from an angle that you have not seen before. Often, you are posting a sort of before and after pictures or current pictures from 1910, so you can see the changes. There is often really great discussion, comments on there, people trying to figure out where

it is. It is just such a really great and positive place; it helps connect so many people, all eight thousand (8,000) members to Kaua'i's history. Thank you for your work there and I know you are going to do great work on the commission.

Councilmember Chock: Thank you so much, Lee, for your passion and dedication and for volunteering in your role. The preservation of our history is often times goes unnoticed in terms of its importance and it is so important in terms of keeping the identity in who we are and I think taking on that *kuleana* is a big ask. Thank you for accepting it and recognizing it and representing it well. Thank you.

Mr. Gately: Sure. Thank you very much.

Councilmember Carvalho: The historic preservation is so important and I still go back to the old plantation days, I remember visiting my grandma folks. Just having you present and knowing your *mana'o* that you have to bring to the table and then connecting within the community and bringing it back to the table to really ensure that everything is done in the right way and that preservation is at the forefront. *Mahalo* for stepping to the plate and I look forward to talking story.

Council Chair Kaneshiro: Lee, Council Vice Chair Chock and myself will not be able to vote on your appointment, but if I was here, I would definitely would vote for your appointment. You have always been very helpful with the Kōloa Plantation Days, it takes a lot of time, it is all volunteer work. Those old photos that you post on Facebook are just always fun to look at. You try to imagine what things looked like one hundred (100) years ago and it is just amazing to put yourself back in that space of what Kaua'i looked like back in the day, seeing the changes that have happened, and you get grounded on what do we want to see for the future of Kaua'i. Hopefully when people look at the pictures now, they are saying "Look at how great it was back then, too." I always love seeing those pictures. Always "liking" them. Thank you for all your service and being willing to volunteer and be on this commission. I think you are perfect fit for it. With that, thank you, Lee. Next up, is the Consent Calendar. Oh, we have a testifier? Okay. Kiara, please state your name for the record and you will have six (6) minutes to testify. Oh, Roslyn.

ROSLYN CUMMINGS (*via remote technology*): Aloha, Councilmembers. Aloha Mr. Gately. I am the great-great-granddaughter of William (inaudible) and in this time on this hundredth anniversary, he was celebrated as Kaua'i's oldest (inaudible)—has thousands of writings right now (inaudible). I just found that it was good timing that the Historic Preservation and the committee here, I know that at yesterday's meeting about Kukui'ula, I found a lot of writings about Kōloa and it opposed preservation. I am hoping with my email letters that I am going to be sending out addressing the councilmembers and addressing the Kaua'i Historic Preservation Review Commission with these issues of preserving Kōloa, because as you can tell, Kōloa is our highly developed area of Kaua'i and yesterday we had Kukui'ula (the development) with thirty-one (31) large homes being approved. I just wanted to say thank you for your time and I hope and pray that the truth comes out, where we can continue to preserve our history beyond just the plantation. We cannot continue to blame the plantation for what is happening now, because the plantation at the surface level never blasting dynamiting like they are today. Back in those days we

never used the bathroom and never consumed the way we are consuming today. I hope I can bring that preservation and conservation back into Kōloa, especially Kānei'olouma Heiau coming up today. I thank you all for your time. I wish you all luck in the upcoming year. *Mahalo*.

Council Chair Kaneshiro: Thank you. Is there anyone else on Zoom? Okay. If not, we will move on to the Consent Calendar.

CONSENT CALENDAR:

C 2022-261 Communication (10/11/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Laurie Yoshida to the Police Commission – Term ending 12/31/2025.

C 2022-262 Communication (10/20/2022) from Councilmember Evslin, transmitting for Council consideration and confirmation, the appointment of William Kinney (*Anahola – Hā'ena*) to the Public Access, Open Space, Natural Resources Preservation Fund Commission – Term ending 12/31/2023.

C 2022-263 Communication (11/02/2022) from the Director of Finance, transmitting for Council information, the Fourth Quarter Statement of Equipment Purchases for Fiscal Year 2021-2022, pursuant to Section 22 of Ordinance No. B-2021-877, as amended, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2021-2022.

C 2022-264 Communication (11/03/2022) from Council Vice Chair Chock, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2890, A Bill For An Ordinance Amending Ordinance No. B-2022-886, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2022 Through June 30, 2023, By Revising The Amounts Estimated In The Public Access, Open Space, Natural Resources Preservation Fund (*OSC Waipā Foundation Acquisition of Halulu Fishpond*), as his company Kupu a'e Leadership Development, sometimes uses Waipā Foundation property as a site for leadership initiatives.

Councilmember Kualii moved to receive C 2022-261, C 2022-262, C 2022-263 and C 2022-264 for the record, seconded by Councilmember DeCosta.

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

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

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

The motion to receive C 2022-261, C 2022-262, C 2022-263 and C 2022-264 for the record was then put, and unanimously carried.

COMMUNICATIONS:

C 2022-265 Communication (10/26/2022) from the Acting County Engineer, requesting Council approval to purchase unbudgeted equipment of a Trimble GPS tracking equipment specific for the CAT 836k Compactor at the Kekaha Landfill, at an estimated cost of \$36,500.00. This equipment is vital for proper tracking of landfill compaction and increasing airspace gain by visualizing current site conditions allowing landfill staff to best direct operations to be more effective.

Councilmember Kualii moved to approve C 2022-265, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions on this item?
Councilmember Cowden.

Councilmember Cowden: Can we have a simple explanation on this and have we ever had something like it?

There being no objections, the rules were suspended.

ALLISON FRALEY, Acting Environmental Services Manager (*via remote technology*): Good morning, Councilmembers. I have Keola Aki here who has been helping with this GPS purchase, so he does have an explanation about the purchase.

KEOLA AKI, Acting Solid Waste Program Development Coordinator (*via remote technology*): Thank you very much for your time today. Currently, we have the system up and running at the landfill. The Trimble GPS tracking, but not installed into this equipment. It is already installed on our old compactor and this is a new one that we just online, so we want to install this equipment so we can continue the work that we are already doing with the compaction. It is system that allows us to visualize how much compaction we are doing, right in the cab. Without it, we use handheld devices, mobile devices to help us track, but with the system installed in the machine itself, we can more quickly do the work.

Councilmember Cowden: It is basically a sonogram type of thing? Is it finding holes underneath? Is that what it does?

Mr. Aki: No. It is just tracking the location of the equipment and the levels and how the equipment is running along the landfill. It also helps us with grading and fills to see how we are matching with the design that is installed with the software, so it is trying to match us up with the design that we have already approved. It is just reading a signal, the exact location of the equipment, the angle, and the different specifications that come out of the compactor.

Councilmember Cowden: Would this help us to have a more accurate estimate of how long we have on the landfill? Does it gives us a daily tracking of how much is filling?

Mr. Aki: It helps us maintain our track of where we are at. Our aerial flyovers are the way we track how much airspace we have, and we do that annually, or every six (6) months, and then we can update our airspace via our annual reports.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there further questions from the Members? If not, is there anyone in the audience or on Zoom wishing to testify on the item? Lonnie.

LONNIE SYKOS: Good morning. For the record, Lonnie Sykos. How come this was not in the annual budget? We purchased this compacting machine, they knew that they were going to need this, and so we decided and purchased the new compactor since the budget was approved? If we did not decide to purchase the new compactor since the budget was approved, why was this not in the budget? This creates a problem for both the public and you trying to run the finances of the County in which this should have been in the annual budget. Now this is being asked to be drawn from somewhere else, so you want money for housing. There is your money for housing, right there—sixty-six thousand dollars (\$66,000) that you could have spent on housing had this be put in the budget. Now this is going to get taken out of the surplus, moneys will get shifted around, but the budget that you passed is not the budget that we are operating on. The mayor does not care about your budget. That is what this says. He should have said we need more tax revenue in order to fulfill all of the obligations that we have and instead they hid this obligation and now come after-the-fact and want the money. As badly as we need this, as greatly as this will affect our ability to get more trash into a smaller space in the dump, I am telling you “no.” Do not approve this and tell the mayor next year “Get your budget together.” This is wrong. If you want to be fiscally responsible, just say “no.” It is up to you. You can be fiscally irresponsible and let the mayor just add on as he chooses to the budget that you approved, which you did not approve the tax revenue to pay for this. Say “no.” Thank you.

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

ALICE PARKER: Alice Parker, for the record. I wholeheartedly echo Mr. Sykos. I think he is right. It should have been in the budget and we should not have to pull it from other places, especially when we are so desperately need housing funds. Thank you.

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

Councilmember Cowden: Was these unanticipated somehow and why was this not in the budget?

Mr. Aki: The equipment that was ordered, the compactor is a very large piece of equipment, over one million dollars (\$1,000,000), so it does take some time to come in and process out, after we receive it. The timing of it...it

was faster than expected and when it came online, we wanted to get it up and running as soon as possible. Along with that, this equipment is vital to get it up and running. We really want to get everything all at once. If we put it in our budget and the machine was not ready, then we would have had to postpone it one way or another. It would not be ready to install, and we would not be able to purchase it.

Councilmember Cowden: I hear it was a timing issue. It sounds like if this piece of equipment had taken longer, I know this was an essential piece that we needed for quite some time, basically the compactor, this thirty-six thousand five hundred dollars (\$36,500) is likely to have ended up in our next budget, if the compactor had come when we were anticipating it. Is that what I am hearing?

Ms. Fraley: Correct.

Councilmember Cowden: So we are spending the money now instead of spending the money later, but it is an essential piece—if we were to say no to this, this would be something that would impact the functioning of a foundational piece of equipment for managing our landfill.

Mr. Aki: It would take a much longer time for us to do the same amount of work. We are going to do the work one way or another. It is essential that we do have as much compaction as possible, but without having the system installed on a machine, it is going to take a longer time, having to manually cite each run of the equipment. Just to follow up on the timing, we were dealing with the supply chain issues on that came through. We were not guaranteed the equipment to come in when it did and we are just lucky to get it early like we did.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Maybe just for a little more clarification, Mr. Aki, you are not asking for more money or a money bill, this is money that is coming out of the current budget that maybe was going to be spent on something else or you unspent on something; that is where the money is coming out of, right?

Mr. Aki: Exactly. We do have some good savings. We had some new contracts that went into place that came in much under budget, which really allowed us to get this equipment right now. We did a good job on negotiating with some of our earlier contracts and it came through, it helped us out with our budget overall needs.

Council Chair Kaneshiro: Okay. Thank you. Are there further questions from the Members? If not, is there any final discussion from the Members.

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

Councilmember DeCosta: I would like to thank not only the Solid Waste Division, but the landfill employees. They are always the unsung heroes of one of our biggest problems on Kaua'i, which is trash. The key word for me was airspace. The

compactor, this GPS unit, will create more space for our trash to go into. If we can expand the life of that landfill with this new GPS unit, that costs sixty-six thousand dollars (\$66,000), I do not even think we can build one-fourth of a home in our affordable housing department, so I think this is a well-worth price tag. Thank you, Keola, thank you to the Solid Waste Division, and thank you to the landfill employees in Kekaha for doing such a great job.

Council Chair Kaneshiro: It is thirty-six thousand five hundred dollars (\$36,500). Is there any further discussion? Councilmember Cowden.

Councilmember Cowden: Thirty-six thousand five hundred dollars (\$36,500). I appreciate the public's questions, that is their role. When we do the budget design, we know there is a certain amount of flexibility. Sometimes that is from unfilled job positions, there is a number of things like that. This is something we have been needing for a long time, so I am happy that it is in there. Thank you.

Council Chair Kaneshiro: Is there anyone else? If not, the motion on the floor is to approve.

The motion to approve C 2022-265 was then put and unanimously carried.

Council Chair Kaneshiro: Next item.

C 2022-266 Communication (10/28/2022) from the Housing Director, requesting Council approval to receive and expend an amended total amount of up to \$16,700,000.00 from the State via the federal American Rescue Plan Act (ERA2) (originally submitted as Communication (03/16/2022) C 2022-74 requesting \$2,260,000.00 and amended up to \$16,000,000.00 during the April 6, 2022 Council Meeting).

Councilmember Kualifi moved to approve C 2022-266, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: I just want to clarify if this is essentially a grant or a loan? Is this a grant? We are getting this money.

There being no objections, the rules were suspended.

STEVEN FRANCO, housing Development Coordinator (*via remote technology*): This is Steve Franco, for the Housing Agency, responding for Adam. Yes, it would be a grant.

(Councilmember Chock was noted as not present.)

Councilmember Cowden: Okay, good job.

Council Chair Kaneshiro: We must amend the amount. We can do a friendly amendment to amend the sixteen million dollars (\$16,000,000) to seventeen million dollars (\$17,000,000).

Councilmember Kualii moved to amend the amount per memorandum dated November 15, 2022 of up to seventeen million dollars (\$17,000,000), seconded by Councilmember Cowden.

Council Chair Kaneshiro: Yes, this is just an updated number that came in. Are there further questions for the Housing Agency? Let us vote on the amended amount first.

The motion to amend the amount per memorandum dated November 15, 2022 of up to seventeen million dollars (\$17,000,000) was then put, and unanimously carried (*Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Councilmember Cowden: This is really great to have. The extra seventeen million dollars (\$17,000,000), when we so need it for our housing. Can you just give us a very brief place of where it is going to be spent?

Mr. Franco: Briefly, we will be using the additional funding for a little bit more flexibility as compared to our previous emergency rental assistance moneys that we received in the past. We have a housing stability program that these funds can be used for. We can also use it for an emergency rental assistance, and there is also flexibility for using it for housing development as well. We are working with the Administration to come up with a plan on the best uses for those funds.

Councilmember Cowden: When we are looking at the emergency rental assistance, one of the challenges that has come up is some houses particularly if they got caught in the wrong category for real property tax, we have a number of rentals that are now Residential Investors, when they are actually long-term rentals. If that has gone up say two thousand dollars (\$2,000) a month that the homeowner is pinched for to have to pay on their mortgage. Can this bridge that extra two thousand dollars (\$2,000) a month? I know we have a good handful of houses that we are contemplating having to essentially toss their long-term tenant and find a new one. Could we direct those homeowners to this funding source to be able to help? That was sort of a CARES problem in a way.

Mr. Franco: Yes, Councilmember Cowden, that is a possibility that could be used through some of the different programs with the Emergency Rental Assistance (ERA) and the housing programs. For example, Hawai'i Community Assets has a financial counseling and assistance programs that are funded with these types of ERA funds, so yes, it would have to go through one of the different housing stability programs to see if it would qualify for those uses.

Councilmember Cowden: That is a big relief. I respectfully suggesting it be considered as a way to portion some of these moneys, so some of these people adversely affected with a tax classification mistake can hold on to their tenants.

Council Chair Kaneshiro: Councilmember Evslin.

(Councilmember Chock was noted as present.)

Councilmember Evslin: Maybe I am confused here. It is not the sixteen million dollars (\$16,000,000) we are approving today, it is just an additional seven hundred thousand dollars (\$700,000), right? The additional fourteen million dollars (\$14,000,000) was approved in April, and this is just slightly amending that upwards, right?

Mr. Franco: Yes, that is correct. Back in March when it was previously approved, up to sixteen million dollars (\$16,000,000), we did not have the final numbers from the State and the amendment that Council Chair Kaneshiro mentioned will bring it all the way up to the seventeen-million-dollar-mark.

Councilmember Evslin: Got it. Thank you very much.

Councilmember Cowden: Thank you for that clarification.

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

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?

The motion to approve C 2022-266 as amended per memorandum dated November 15, 2022 of up to seventeen million dollars (\$17,000,000) was then put, and unanimously carried.

Council Chair Kaneshiro: Next item.

C 2022-267 Communication (10/28/2022) from Mason K. Chock, Hawai'i State Association of Counties (HSAC) President, transmitting for the Kaua'i County Council's consideration, the following proposals to be included in the 2023 HSAC Legislative Package, which were approved by the HSAC Executive Committee on October 25, 2022:

- A Bill For An Act Relating To The Employees' Retirement System *(County of Maui)*
- A Bill For An Act Relating To Special Management Areas *(County of Maui)*
- A Resolution Requesting The Department Of Health To Adopt Rules For A Permit To Discharge Pollutants That Consider The Major Factors That Are Considered In Identifying The Functional Equivalent Of A Direct Discharge For Point Sources Or Non-Point Sources *(County of Hawai'i)*

- A Bill For An Act Relating To The Regulation Of Tobacco Products (*County of Hawai'i*)
- A Bill For An Act Relating To Traffic Fines (*County of Hawai'i*)

Councilmember Kualifi moved to approve C 2022-267, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions from the Members? This is just the communication. We have the resolution coming up later in the agenda, so if we want, we can take public testimony now and then when we get to the resolution, we can go through each item and vote on the items, but it is up to the Councilmembers. Do you want to go through them now? We will have to vote on it again as a resolution.

Councilmember Kualifi withdrew the motion approve C 2022-267. Councilmember Cowden withdrew the second.

Councilmember Kualifi moved to receive C 2022-267 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions on the motion or for this item? If anyone wants to testify now, they can, or if they wanted to wait until the Resolution comes up, it will come up later in the meeting.

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

THOMAS NOYES: Good morning, Councilmembers. My name is Tommy Noyes. I am here this morning representing this young gentleman. This is Ronald Griffin-Noyes, my grandson. He is four-and-a-half years old and attends Island School's preschool. This is a calendar, which will serve to remind us that time marches on. In 2018, Hawai'i Island's County Council passed a measure raising the age at which a person could buy tobacco from eighteen to twenty-one. Later the Hawai'i State Legislature adopted that motion serving to protect our children from tobacco use. The Federal government had adopted twenty-one as the age at which people can buy tobacco products, and that includes electronic smoking devices, vapes. Now, I show you the picture of my grandson because in a couple years he will be in elementary school, a few years after that he will be in middle school. Today, twenty-two-and-a-half percent of our middle school students vape regularly. We have fourth/fifth graders waking up and the first thing they do is suck on their vape. Ten/fifteen years ago, this was not even on our radar. This package from the Hawai'i State Association of Counties has in their legislative package a very small item, which will repeal preemption. Preemption is a move by the tobacco industry to eliminate your ability to regulate the sale of tobacco products in your home. You do not have to do a thing in order to move this law off of Hawai'i's books. It is the grass level that promulgates regulations that the tobacco industry hates and fights, with millions of dollars of legal force...

Council Chair Kaneshiro: Mr. Noyes, that is your first three (3) minutes. Is there anyone else in the audience wishing to testify on this item? I am going to have Val come up and speak, and then you can have another three (3) minutes after.

VALERIE SAIKI: Hi, everyone. My name is Valerie Saiki. A lot of you probably have associated me with my job, but I want to testify today on behalf of being a parent of a ten-year-old and a community member. This bill is really important to me to be included in the Legislative Package because sometimes things come up where it is community-specific. In regards to tobacco control, there are things that the State may not see as important, but it is greatly important in our community, especially to keep it out of the hands of young kids. My son is ten, he knows of his classmates who use these products and have access to these products, and do not even know what they are. If we want to provide education, if we want to restrict the sales. I am not just talking about sales in certain stores, but maybe within a thousand feet of a school or something that logically makes sense to keep it out of the hands of youth. It may not even be the sales, but advertising. No advertising within five hundred yards or feet from a school. Things like that makes sense. If the preemption is repealed, you folks can enact those bills or introduce them and pass them; making it safe for our communities, children, and our family. That is why this bill is really important to me. Again, aside from my work, it is my son. He is at the age where they are being influenced left and right. There are things that we can keep just out of reach of them until they can learn more about it, so they can make healthy decisions for themselves. This is not about passing stronger rules or laws, it is about if we had the power to or if we want to, we can, versus, now we are at a situation where we want to, but we just cannot because the State has to pass the law. It is not something we need to move forward with, with any type of decision, but just to allow you to have that power when the time comes. Thank you.

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

ALICE PARKER: Alice Parker, for the record. This is very imperative that we include this to, this is a good act. My mother died at age thirty-one, she was a chain smoker, and this was in 1941. You get these kids not even near tobacco, thoroughly, and they have a better chance for a longer life. Thank you.

Council Chair Kaneshiro: Is there anyone else for the first time? If not, second time? Tommy.

Mr. Noyes: Tommy Noyes, speaking on behalf of myself and my grandson Rolland. You are asked to vote on this legislative package from HSAC. I think this is a very low bar for you to clear, because you do not have to take any action at all on the matter of preemption. Maui, Hawai'i Island, City and County of Honolulu can do the heavy lifting on it, and bring in legislative at their level. All you are doing is allowing other councils in the state to take the action that they deem necessary. All you have to do is not block them. If you vote this down, you are saying you do not have the right to represent your people in your county to protect your children. Please protect our children and approve this package. It is a small step towards saving lives. Thank you very much.

Council Chair Kaneshiro: Tommy, there is a clarifying question from Councilmember Cowden.

Councilmember Cowden: Do you have any reason to believe that we have a reason to block this?

Mr. Noyes: It is a yes or no vote on the package as I understand it. I have had discussions with councilmembers previously on the matter of preemption, and it did not come to your attention before, so that is why I am urging moving this package forward today. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? Are there any final questions from the Members?

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

Councilmember Chock: Allison was able to pass out summary of the bills that are being introduced in the package today, we had a chance to review them prior to the item, so we can be prepared for any questions. Thank you.

Council Chair Kaneshiro: Councilmember Cowden, do you have a question?

Councilmember Cowden: I have a comment.

Council Chair Kaneshiro: You can state your comment in discussion. Again, it will come back up and we will go through the entire list, when the item comes up as a resolution.

Councilmember Cowden: As a general comment, I am big on home-rule. I do not like preemption.

Council Chair Kaneshiro: Is there anyone else?

The motion to receive C 2022-267 for the record was the put, and unanimously carried.

Council Chair Kaneshiro: Next item.

C 2022-268 Communication (11/03/2022) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$7,546.00 for the Fiscal Year 2023, and to indemnify the State Executive Office on Aging, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals.

Councilmember Kualii moved to approve C 2022-268, seconded by Councilmember Carvalho.

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

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

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

Councilmember Cowden: I just want to make this simple comment that I am always appreciative of the home-delivered meals. It is more than food that ends up going to people's houses. I am thankful that we have organizations that are providing this service, continuing to provide this service.

The motion to approve C 2022-268 was then put, and unanimously carried.

Council Chair Kaneshiro: Next item.

C 2022-269 Communication (11/03/2022) from the Executive on Aging, requesting Council approval to apply for, receive, and expend Year 3 grant funding awarded by the Corporation for National and Community Service to the County of Kaua'i, Agency on Elderly Affairs, Kaua'i Retired and Senior Volunteer Program (RSVP) for the three-year period of April 1, 2021 to March 31, 2024, in the amount of \$75,000.00 per year, combined with matching County funds in the amount of \$153,679.00, to assist Kaua'i RSVP in carrying out the national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C., Chapter 22).

Councilmember Kualifi moved to approve C 2022-269, seconded by Councilmember Cowden.

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

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

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

The motion to approve C 2022-269 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2022-270 Communication (11/04/2022) from the Director of Finance, requesting Council approval of the terms contained in the DOXO, Inc. Provider Terms of Service, including the indemnification and tax obligation clauses, which is used to process payments to the County of Kaua'i for real property taxes as well as sewer payments, to change the payment method to the County of Kaua'i from check to automatic clearing house (ACH).

Councilmember Kualii moved to approve C 2022-270, seconded by Councilmember Carvalho.

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

Councilmember Cowden: We often just approved these things without even really looking deeply on our own personal level whenever we are upgrading. Is there anything significant or different? Can you give us the main points that the DOXO, Inc. Provider gives us?

There being no objections, the rules were suspended.

MICHELLE L. LIZAMA, Deputy Director of Finance (*via remote technology*): Good morning, Councilmembers. Michelle Lizama, Deputy Director of Finance. Councilmember Cowden, thank you for the question. DOXO is just a bill payment service paying on behalf of our property tax payments and sewer bills. It is just changing from paper check to electronic use, and no exposure or any risks involved.

Councilmember Cowden: Okay, I was just doublechecking. I did not look through all the details or see it here. 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 wishing to testify? Lonnie.

Mr. Sykos: For the record, Lonnie Sykos. Just for clarity, if I understand this correctly this change through DOXO will allow people to pay their bills electronically, using credit/debit cards. Will it preclude people who currently pay with a check from paying with a check? Will it preclude walking up to the counter and paying with cash? Will any of the current methods of paying be impacted? If it is, what outreach will be made to the public so that when it comes time to pay their bills, they do not find themselves in technically violation of paying on time, because they can no longer pay by the method that they assumed because they done it in the past, would currently still be acceptable. For the public, please do not let us get smacked in the unintended consequences, which occurs all to commonly. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else in the audience? Alice.

Ms. Parker: Alice Parker, for the record. This is analog Alice, I touched digital things, even the things in the stores and they die. I have to be able to circumvent that and either paper or use debit/credit card. I cannot touch this and I am sure I am not the only one in the world, it feels like it, but...thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else? Is there anyone on Zoom? Are there any further questions from the Members? Councilmember Cowden.

Councilmember Cowden: I wanted to clarify that question. I presume that we would continue to accept checks and cash as we do for almost any payment method, but it is a valid question as changes are coming. On the sake of analog Alice, are we continuing to help all our analog cliental have traditional methods of payments, which would be check or cash, and can they go to the county and pay if they need to do it in cash?

Ms. Lizama: Yes, that is correct. Other methods of payments are still acceptable.

Councilmember Cowden: Okay, thank you.

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

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

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

Councilmember DeCosta: I want to thank Mr. Sykos for bringing those questions up, because my mom is eighty-six (86) years old and she does conventional mail-in checks, and Councilmember Cowden asked my clarifying question, so thank you. We have a group of *kūpuna* that still do things that way and we need to honor them. Thank you to the County for still making that possible, Ms. Lizama, thank you.

The motion to approve C 2022-270 was then put, and unanimously carried.

C 2022-271 Communication (11/09/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance

Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Tax.

Councilmember Kualii moved to receive C 2022-271 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: This is just the communication, we do have the Proposed Draft Bill coming up later in the meeting. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify?

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

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

The motion to receive C 2022-271 for the record was then put, and unanimously carried.

C 2022-272 Communication (11/09/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Section 12.7(B) And Adding A New Section 12.15, Kaua'i County Code 1987, As Amended, Relating To Real Property Taxes, Appeals Settled By Director.

Councilmember Kualii moved to receive C 2022-272 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: The bill is going to come up later in the agenda. Is there anyone in the audience or on Zoom wishing to testify on this item? Are there any questions or discussion from the Members?

The motion to receive C 2022-272 for the record was then put, and unanimously carried.

LEGAL DOCUMENTS:

C 2022-273 Communication (11/02/2022) from the Acting County Engineer, recommending Council approval of the following Right-of-Entry Agreement to build, construct, reconstruct, rebuild, repair, maintain, and operate a bike and pedestrian shared-use path across Airport-owned land for access (sidewalks and pathways) purposes for the Nāwilili Park-Ahukini Landing Bike/Pedestrian path segment of Ke Ala Hele Makalae:

- Right-of-Entry Agreement by and between the County of Kaua'i and Hawai'i Department of Transportation (HDOT) Airport, Parcels Tax Map Key Nos. (4) 3-5-001:005 (por.), (4) 3-5-001:008 (por.), (4) 3-5-001:009 (por.), (4) 3-5-001:109 (por.), (4) 3-5-001:128 (por.), (4) 3-5-001:158 (por.), (4) 3-5-001:160 (por.), (4) 3-5-001:092 (por.), and (4) 3-7-002:999 (por.).

Councilmember Carvalho moved to approve C 2022-273, seconded by Councilmember Kualii.

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

Councilmember Cowden: Can we place the map up there on the screen? These are biking/walking pathways that are right on line of the entrance of the planes, right, just they come in or could take off? Can you give us a little information about this?

There being no objections, the rules were suspended.

WADE LORD, CIP Manager (*via remote technology*): Wade Lord, for the record. The path is the segment between Ahukini Landing and Nāwiliwili. I will share my screen so that you can see the satellite view of the section of the path that we are looking for approval from you for the indemnification language in the Right-of-Entry Agreement.

Councilmember Cowden: While you are preparing that—the landing strip, the runway is actually...the one that runs along the airport buildings, that is going to be moved in a little bit, right? This path looks like it is right at the beginning of the runway, but the planes are going to land a little further in, now that the airport improvement master plan or modification plan, is that correct? Is that runway moving a little bit further?

Mr. Lord: I am not familiar with the future runway plans.

Councilmember Cowden: Okay. I am, it is moving in. That is the key reason why they had to do an upgrade. If the pilot just missed a little bit, it could be a problem.

Mr. Lord: Yes, Councilmember Cowden. This satellite view was taken from our SMA plan, that is with the Planning Department currently, so it was a different report, but I thought it would depict the pathway a little easier

for you folks versus the black and white photocopy that was at the end of the exhibit. Can you see this now?

Council Chair Kaneshiro: Wade, are you able to make it a little bigger for us?

Mr. Lord: Yes, let me see if I can do it. Is that better?

Council Chair Kaneshiro: Yes, that works.

Mr. Lord: In looking at this depiction here, the sections are noted in the tax map keys (TMKs) along the way. It begins at Ahukini Landing and it moves up along the coastline and along Ahukini Road, and then breaks along the coast with another leg running up towards the terminal and back up to the highway. That is the future leg. We are currently working on the leg that is noted as "A." That is the one that we are currently in review with the various State and federal agencies for approvals.

Councilmember Cowden: Thank you. Just for my colleagues that are not familiar with the airport plan, where we see that runway comes really close to the *makai* side that goes at an angle, that is going to shift further inland. I am curious, too, along segment "A" is where we have some of the roughest population of our displaced people, is there any type of plan of adapting that? I know right here we are just approving this, but it is an occupied territory.

Mr. Lord: You did bring up a good point, Councilmember. I do not know what that plan is. We are some time off before we get to the construction phase. This is the design phase. It is some time away before we get there. We did walk the path and walked through some of the encampments, which was an experience, but most of them are generally in that lower segment towards Ahukini Landing, between Ahukini Road and the ocean.

Councilmember Cowden: I am just making a recommendation to consider working with our Houseless Coordinator for that to be articulated to that community, because that tends to be sort of a last (inaudible) of where people are. It is not the easiest population. Just adding that in there. I think this is a nice element that we can have the parameter where pedestrians can travel.

Council Chair Kaneshiro: Are there further questions on the map?
Councilmember Evslin.

Councilmember Evslin: I am sorry if you explained this already, but what is the reason...it looks like there is a runway that Councilmember Cowden was

concerned about, just to the right of that there is a “U” which adds a significant length to the path instead of just going over that, what I think is a little section of road...

Mr. Lord: Right, so there is an actual access road intersection at the upper right corner there. It is at the top little valley looking area. But then it drops away and turns off of the road. I believe that intersection was a logical place for the surveyors and the planners to place it, because it was easy access. From that point, it drops back towards the coastline and I think the effort generally was to stay off of the access road, parameter road around the airport as much as possible and have separation between vehicles, bicycles, and pedestrians.

Councilmember Evslin: Okay, thank you. I have another question.

Council Chair Kaneshiro: Are there further questions on the map? If not, Wade, you can take down the shared screen.

Mr. Lord: Okay, great.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: You stated that this is in the planning phase, but do you have a time estimate for construction?

Mr. Lord: Let me pull that up. We do have a project schedule for it. We are working hard to stay on schedule. This particular phase is Phase “A” and it is what is called the design phase. That particular phase has a variety of components to it that we are in the middle of, some of which we achieved and some are in process, but we got our (inaudible .156 1:04:00) review, our shoreline survey and certification, permits, SMA permits, shoreline variance permits, and at that point it looks like our final...again, this is all a little bit of an estimate, if you will, but we are looking at hopefully getting through this design phase by mid-2023. It is also dependent on the appropriations and fundings.

Council Chair Kaneshiro: That is just the design phase?

Mr. Lord: Yes, that is correct.

Council Chair Kaneshiro: Councilmember Evslin was asking when you think the construction would actually happen?

Mr. Lord: That is dependent on funding obligations, we are working with federal highways, and the appropriations, but that would be looking at late summer or early fall of 2024.

Councilmember Evslin: Given that you said "federal appropriations" it is still the case that this is entirely federally funded, given that the County can match with land and maybe other voluntary donations, is that true?

Mr. Lord: Generally, yes, that is true. It also needs to fit in the STIP, which is the State Transportation Plan. The federal moneys will come down to the State and then the State allocates them between the counties through this function called STIP. If the allocation of funds is made available, best-case scenario would be late 2024.

Councilmember Evslin: Okay.

Mr. Lord: Could be on the outside, it could be as much as six (6) years, depending on when that allocation happens.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Has there been outreach with the fishing community? This is an area with shoreline fisheries, they may really like this, I do not know. I know this evening at 6:00 p.m. at Elsie H. Wilcox Elementary School, they are having a Division of Aquatic Resources Management (inaudible) fishing discussion. There is a lot of passion in the fishing community right now and this might be something that would be preserving and opening for fisheries. They may care about this. I am just calling that to your attention.

Mr. Lord: I think that there have been outreach efforts and public meetings regarding this. Because we are in the regulatory process, there has been a bit of a lag between those meetings, because we have to get the progress done on the actual concurrences from the various agencies, but our intention, plan, and schedule is to go back out to the public.

Councilmember Cowden: Thank you.

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

Mr. Sykos: For the record, Lonnie Sykos. I attended the meeting in which the State Airports Division talked about the renovations that are going on at our airport. The runway is not getting lengthened, it is getting moved as a safety requirement. The map is like fuzzy, so it means nothing looking at it from out here. It appears that at the lighthouse of the route, that the runway is being pushed towards that, so the obvious is being pushed the other way, up. The obvious question is, as they route this walking path around the end of the runway, what is the decibel level expected when airplanes are taking off and landing. Will the decibel

level be low enough that the County will have no liability for letting people on the path in which if it is too close to the jet exhaust, you run the risk of having people's hearing damaged and if the airplane lands short, you could actually have people blown across the ground by the exhaust coming out of the jets. The ends of runways are very dangerous places. The FAA has all types of requirements that there is no fuel load, that there is so many feet in case the airplane runs off the end of the runway, and so it seems a small thing to run a walking path around the end of the runway, but it is not a small thing. We do not want to waste our money creating a walking path that is a danger to the public. I am not impressed at all by the Administration's attention to both the safety and the liability factors running this thing right at the edge of the runways. Not to mention airport security. That if the airplane is only one hundred (100) feet overhead, you can shoot the thing down with a rifle, by just standing underneath it. With all of the security that goes on in airports, another question is ultimately does the FAA or Homeland Security want the public that close to the airplanes as they take off and land? These are questions that need to be answered before we spend a lot of money routing this along the end of the runway. Thank you.

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

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? Councilmember Cowden.

Councilmember Cowden: I do think that the team needs to look at the amendments to the airport, while it makes it easier on one end, it makes it closer to the other; that is the one that goes at an angle inward, if my memory is correct. Like what Mr. Lord said, he been moving around in that around, certainly one would think that there are studies for sound impacts. Good questions were raised. It is interesting if...I would have to look...if the path is where it goes down below, there is like a ledge. If you are walking below the ledge, you are going to be a lot more safe than above, but if I remember correctly, that is mostly lava rock there. I will be interested to see a much clearer design information, like wherever it is at, because we do not want to spend a million dollars a mile or whatever it costs, if it is going to wash away again. I have confidence that Mr. Lord...he is quite good at what he does, that has been my experience, but we want to see that.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I am all for open space and access and the pathway has been something I can be proud of. I am cautious and would request that

rather than these types of benchmarks, like a right-of-entry, that we are involved a bit more as we move forward in the process. There is a lot of things at stake when we invest in this kind of project. I, too, do not have any doubt in Mr. Lord, he has taken them into consideration, but with the short presentation as such, I think it is difficult and so we come presumptuous on what those outcomes are. They are (inaudible .156 1:13:22). The stakeholders investment, I encountered a lot of calls from fishermen complaining about the lack of access due to the situation out there along the coast. I am not seeking punitive or enforcement action, I am seeking protocols in a way that we can deal with everyone's concern; from our houseless community and certainly the sea level rise issue. How do we maintain it? These are questions that I think this Council is going to continue to answer, because we have been invested in a lot of miles in our pathway, but we cannot just think about building a pathway without considering the larger impacts and relations to the bigger system. Thank you.

Councilmember Cowden: I have a follow-up to him. Are you suggesting that we defer this until we get more information?

Councilmember Chock: No.

Councilmember Cowden: So, if we approved this today, what would that mean?

Council Chair Kaneshiro: It is just a right-of-entry.

Councilmember Cowden: Right-of-entry means we can go in there?

Councilmember Chock: It is a legal document that needs the process of the Council. My suggestion is that the Council pays attention to the process a little bit more as it goes along. As you heard, 2024 will come and construction will begin. I would hate to see construction start without some of the questions being answered here today. I would suggest the Council request in the future an update to these problems.

Council Chair Kaneshiro: Is there any further discussion?
Councilmember DeCosta.

Councilmember DeCosta: Council Vice Chair Chock brings up good points. The fishermen access with the federal airport there, we have to make sure we take care our access for our fishermen, that is key. I do not want to see that cutoff now because we were not paying attention.

Council Chair Kaneshiro: Is there anyone else? This is preliminary. It is a right-of-entry to get on the State property to pinpoint where they are going to put

the path. I hear everyone's concerns around the table and those items will have to get addressed. There are homeless people near the end, at the lighthouse. I heard that it is hard to enforce anything along the path from police officers, even in the Kapa'a area. Once you put a path through, you are going to create a lot more energy through the area. Do we have plans to improve the area? There is a bigger picture to it and I am sure as we take steps forward to get there, those things will come to light and there will have to be major discussions on: what do you do, how do you mitigate, how are you going to watch the area, keeping it safe for everyone, etcetera. Those will come up as it moves forward. This is just a right-of-entry for now. Good comments from all the Members. Is there anyone else?

The motion to approve C 2022-273 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. We are at 10:25 a.m., let us take a ten-minute caption break and when we come back, we will be able to take the Adopt-A-Park Agreement without having to break in between.

There being no objections, the Council recessed at 10:25 a.m.

The Council reconvened at 10:35 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We are on page 4, C 2022-274.

C 2022-274 Communication (11/09/2022) from the Director of Parks & Recreation, recommending Council approval of an Adopt-A-Park Agreement for stewardship of Kane-I-Olu-Uma Heiau Complex Po'ipū Beach Mauka Preserve, Tax Map Key (TMK) (4) 2-8-17:13, 14, 23, and 24, to include additional lands situated at TMK (4) 2-8-017:011 (por.) into the portions of the Kane-I-Olu-Uma Heiau Complex.

- Adopt-A-Park Agreement Amendment II

Councilmember Kualii moved to approve C 2022-274, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: With that, I will let Councilmember Chock talk about the item.

Councilmember Chock: Thank you, Chair. A little unorthodox. I will leave the technical aspects for the Director of Parks & Recreation. I have taken point on this for the last one-year-and-one-half, in partnership with the Department of Parks & Recreation and Hui Mālama O Kane-I-Olu-Uma, to update the agreement under former Mayor Carvalho. The complex was formed with a stewardship agreement that was written by Mauna Kea Trask. He was a former County Attorney and has been helping with the updated version that includes and expansion of the

park area to Manaokalanipō Park. Today, we have the update to present to the Council. Here today is the *po'o* Rupert Rowe and *kahu* for the area Peleke Flores.

Council Chair Kaneshiro: I will suspend the rules. Pat, did you want to say anything?

There being no objections, the rules were suspended:

PAT PORTER, Director of Parks & Recreation (*via remote technology*): Good morning. I do not have much to add to Councilmember Chock. We are basically amending the agreement to include an additional County portion where there is culturally sensitive sites and to put it under the stewardship of Kane-I-Olu-Uma, where they can better take care of the area. It is within their expertise, and we are excited.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: If this is going to come up later, you can tell me that you are going to explain it later. A few meetings ago, Uncle Rupert expressed distress where there is rubbish from Hurricane 'Iniki and some of the flooding problems in that area, is this stewardship agreement overlapping those problematic parts of the parcel?

Mr. Porter: The exact locations where debris is located, is partially under this amendment, and there are other parts that is under the existing amendment.

Councilmember Cowden: Since there is clean-up required, where does that funding come from? Does the County still fund the clean-up?

Mr. Porter: There was the original agreement, the first amendment that extended the date, and now, the second amendment. All of the terms from the first agreement are still in place, which the County is a partner in the clean-up effort with the *hui*.

Councilmember Cowden: Okay. They might be directing it, but we are helping with equipment and potential funding.

Mr. Porter: Exactly. We can coordinate with this group for large clean-ups, assist with green waste removal, et cetera.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions? If not, is there anyone in the audience wishing to testify? Mauna Kea. You are going to be the stewards so, there might be questions after.

MAUNA KEA TRASK: Aloha, Chair and Honorable Councilmembers. For the record, Mauna Kea Trask. I want to make it clear that I am not the *hui*'s attorney. I do not get paid by them, I serve Uncle Rupert, and I do what he tells me to do. I want to take this opportunity to *mahalo* Mayor Kawakami, Mr. Porter, Mr. Rezentes, Department of Parks & Recreation, Ms. Libo, State Preservation Division, and Ms. McMahan from the Parks Department—state or county? As a body, thank you for maintaining County's stewardship program for the protection and preservation of Native Hawaiian cultural resources that are located on County property.

Briefly, this specific County-level program was the first of its kind in the State. It began with Kane-I-Olu-Uma. Former Mayor Carvalho's groundbreaking vision in 2010 was to simply work with Hawaiians, Uncle Rupert Rowe, and Billy Kaohelaui'i to *mālama* a historical site that they have been trying to do so for years. Like how I do with what Uncle Rupert tells me to do so now; I did what Uncle Bernard told me to do then. Now, Kaua'i has at least one (1) stewardship agreement in every *moku*, except Nā Pali which is State, and Ko'olau because I do not think we have any on County property.

That is all I have to say. I want to make another point for the public, but specifically Native Hawaiian people. It is not only up to the *hui*, State, or the County to *malama* these sites that are within the County Stewardship Program. We the commoners, *makaainana*, we need to show up and do our part. There are a lot of chiefs out there and we hear from them every day. There is simply not enough servants. In the Hawaiian culture, serving our chiefs was an honor. I urge all Hawaiians to serve your local stewardship chiefs. Culturally, we owe them our labor. Please show up to cut guinea grass, *haole koa*, help stack rocks, and serve. *Mahalo*.

Council Chair Kaneshiro: Thank you. Rupert, did you want to say anything?

RUPERT ROWE: Oh, of course. Rupert Rowe, and this is Peleke Flores. He will be playing a very important role in Kane-I-Olu-Uma. To prepare him to be in this role, we sent him and Kaina Makua away to get culturally certified from the cultural practioners, so that the State of Hawai'i recognize the quality of his work.

Getting back to what is taking place at Kane-I-Olu-Uma. We had to take the *ki'i*'s down because the termites attacked them. I am fixing it right now and we are getting ready to put them back up. We have been down there for twenty-four (24)

years, cleaning quietly, and without the public or anyone knowing. In the last fourteen (14) years, we opened it up to the general public. I believe the past is the future, and the future is the present. It is also economically based, restoring a historical cultural site. For airlines flying into Hawai'i, there are articles about our group and the preservation work we are doing. We have universities that come out to the area. For example, Stanford University comes out every year to talk to us and we let them know about cultural functions. Kane-I-Olu-Uma is well known to Rapa Nui, New Zealand, and areas in the triangle. We reached across different parts of the world. However, right now, we are focusing on restoring the area back to how it originally was done by Henry Kekahuna. He is a very gifted *kanaka* that seen the future. He is the only archeologist that did not go to college to get an archeology degree. I want it to be known that he is a real archeologist, where you are not trained by going to school. With his vision of the past...

Council Chair Kaneshiro: Rupert, that is your first three (3) minutes. You are the stewards of the area. I am not going to put the timer on. If you want to tell us what you foresee the future of the area being included, go ahead. After you are done, we will open it up for public testimony.

Mr. Rowe: I was getting there. The word is *ho'omanawanui*, it means to take it easy, do not jump ahead of the arrow. I am very thankful to the Administration, Council, and the community, to see the vision of what we can do with our cultural resources and how important it is to stand behind us in order to move forward. I do not have anything further to say, unless you have any questions.

Council Chair Kaneshiro: Peleke, did you want to say anything?

PELEKE FLORES: *Aloha mai kākou*, Peleke Flores. I am here to represent Kane-I-Olu-Uma. *Mahalo* for the time, for listening, and for putting this on the agenda. Playing off on future vision and planting seeds in your vision, once we are able to restore the area, share more with the community, and having functions in the area. We do not want to it to look like a museum piece. Like the fishpond, bringing the use back. That place was used for *makahiki*. We wanted to tie that area with the community. Not only within the arena game wise, but also food wise. We cannot forget the food function of *makahiki*. Within that space, there was spots were they measured food and challenges who had the best *kalo*, *ʻuʻala*, et cetera. The specific point of doing that was not for who had the best food. It was to share data with each other, so everyone has a chance to better their food crops the following year. Ultimately, that would feed the community. We are trying to bring that mindset back to our community. Better that functionality beyond just the games. This area originally had *loʻi*, *kalo*, and *loko iʻa*. It is actually way bigger than it is, but we are starting off with that space to help manifest those intentions and show proof of how

kūpuna managed this area. We look forward to restoring resources to feed our community, not only that space. *Mahalo*.

Council Chair Kaneshiro: Thank you for that. Councilmember Cowden, did you have a question?

Councilmember Cowden: Yes. Uncle Rupert, I know a few years ago, I learned that *pōhaku* was being removed to make walling for homes and being stolen at night. Is that still an issue? It looks like it to me as I drive by.

Mr. Rowe: Yes. A lot of theft in that area happened at night. Contractors or people who buy property that want to make rock walls, it is similar to gold. If anyone has a rock wall, your property looks beautiful, it is about Hawai'i. At night, they used to come and rob the place. We caught a few people. For the ones who took the rocks, it was easier for them to bring it back before the police were called. I went over to their house and that was it. Everything is back to normal. As long as you keep it maintained and watch the area, it is easier than having it all overgrown. Those precautions were important on how we main the place.

Councilmember Cowden: Okay. I have another question. I remember that there was a challenge with the waterflow. It is not getting water in its natural flow. I am guessing that part of the reason is because of drought. That was an issue a few years ago. How is your waterflow to that property? I remember that there was a water problem.

Mr. Rowe: It is not really a water problem. There is a drainage problem. There is no river from the fire station all the way to Māhā'ulepū. Everything is this particular area, there is a drainage problem. It is something that is part of the planning process and my answer may not be suited to the question. There is a serious problem and that is all I can say. Did I answer your question?

Councilmember Cowden: Yes, I guess. At one time, I know water flowed through there. My last question is, I hear you saying that you have gratitude for this agreement and it is working for you. Is there anything that you would like different, is there any way that the Council can make a correction at this point or be aware of, or are you good? Do you need something from us while you have this opportunity and in front of us?

Mr. Rowe: Yes. That we all work as a team and we focus our energy. We have a vision and a plan. In order to implement that, working with the government, community, and culture, everything has to function as one. You cannot have an "I," because that is where the problem begins. It must be a "We," because if "We" can do it, we all can do it. If there is an "I," you will never get to the "We." Did I make sense? I am talking *kanaka* right now.

Council Chair Kaneshiro: Are there any further questions? I have been up there to help. I know you are always looking for help with cleaning and maintaining the area. Is there a particular day or a contact if people have time and want to come out to help? I know it is a lot to manage when there is a lot of people who come out and they do not know what they are doing. If people want to come out and help to clear some of the brush or do whatever is needed, is there a good contact number, Email, or phone number they can call? Is there a certain day that you folks are out there?

Mr. Rowe: We are out there the second week of every month. During the Summer, we are out there from 6:30 a.m. The reason we go early in the morning during Summer, is because by 10:00 a.m., you need to leave because the *pōhaku* comes very hot. You have to use what nature tells you to do in a timeframe.

Councilmember Cowden: Is that every day of the second week?

Council Chair Kaneshiro: It is the second weekend.

Mr. Rowe: Every month of the second week.

Councilmember Cowden: Second weekend or every day of the second week?

Mr. Rowe: It is the second weekend, on Sunday. You can see us when we are there.

Council Chair Kaneshiro: Are there any further questions for Rupert? If not, thank you. While the rules are still suspended, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: For the record, Lonnie Sykos. I would like to start with thanking Councilmember Chock for the many years that he has put into promoting this project. It is truly a good thing to see it coming to fruition. I lived in east Maui for twenty-five (25) years. Going back about thirty (30) years ago, when they started Pi'ilani Heiau, the largest *heiau* built in the State of Hawai'i. It was donated by various families that owned interest in the *ahupua'a* to a national botanical garden, who failed in their stewardship. Primarily the Lono family and Senisy family took it upon themselves to begin clearing the *heiau*. Today, it is fully cleared, it is restored, it is awesome. It is an awe-inspiring experience to witness this cleaned grounds from the jungle that I remembered when I was young. What they are accomplishing on the Westside is truly amazing. My question for the Council and Administration is, have we been in touch with the Federal Senators and is there Federal money that we can use for the clean-up? The debris from Hurricane 'Iniki

would qualify for the Federal programs to clean up toxic waste sites. All the mud and everything that is stuck in there is all toxic. It is possible that there is Federal money available. That would dramatically speed up the timeframe it would take to not only clean the area, but we have to dispose of everything that comes out of it which will get shipped off-island and end up in Idaho or somewhere. It is a big expense to clean this up and I encourage everyone to get Federal money to help us. The tip of the hat to the gentlemen, especially this young man, who will be leading this for many decades. When I return to my ancestors, you will still be in charge. Good fortune to you young man. Thank you very much. This is an awesome project. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else? Is there anyone on Zoom? State your name for the record.

KIARA LORENZO: *Aloha mai kakou.* My name is Kiara Lorenzo Drake, for the record. I want to testify and say that I thank the Board for having this project on their agenda. It is great to see everyone taking interest into protecting cultural spaces. I want to thank everyone involved. I hope this is the tip of the spear when it comes to protecting sacred *wahipana*. *Mahalo*.

Council Chair Kaneshiro: Thank you, Kiara. Is there anyone else on Zoom? 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? Councilmember Carvalho.

Councilmember Carvalho: I wanted to *mahalo* Rupert for allowing me to be involved from day one. The word stewardship. It is not about who is doing more than the other. Everyone is working together from the government to the community, laying out the responsibility to *mālama* this particular area which is very important. I remember when the University of Hawai'i football team came, that kind of partnership and bringing people together to *mālama* this area which is very sacred and important. I am very happy that we continue to move forward. I know there have been issues along the way. It is not about who is supposed to clean this and not that. It is "we" clean it together. We all have a role and the others will come. Stewardship is a big part of this. It is not about money. Money is important, but I want to ensure these projects continue and that there is support from the government, businesses, community, and volunteers. That is the magic of getting it done. I think that is what makes it flourish. I wanted to mention that, the purpose, how it started, and it continues for other parts of the island. *Mahalo* to the team. We will continue to work closely together and do what we need to support Kane-I-Olu-

Uma and other projects on the island. It is very important because it is culturally connected every step of the way. I wanted to mention that. *Mahalo*.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you. I want to thank the *hui*, Rupert, Peleke, and Mauna Kea who are here today. The bigger volunteer groups who meet monthly. Wally, Pat, Susan Nibo, and Nancy McMahon. We were able to meet recently and recognize that it is everyone's *kuleana*. There is shared input, communication, and resources that we have to continue to work together on this. Particularly as we look at the expansion on this and when we talk about expansion in this area, we are talking about the entire region. The complex is much bigger than the footprint we are talking about now. There is so many things we can invest our time and effort on. This is something we can direct energy in a positive way that can get us to the outcomes we are trying to seek, because there is a lack of capacity. To answer Lonnie's question, there is a lot of Federal, State, and County funds. As we look at coastal access, open space, I urge our current or future Councilmembers to look at this funding. It is really important to anyone out there that can help and contribute to this, while those funds are available, we do not have a grant writer. We need those types of resources to come to the table and take us to the next step, so we do not have to worry about protection rather than restoration, that can put us in the right direction. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Three (3) things resonated with me today. I am not a *kanaka maoli*. I married a Native Hawaiian, so I have a stewardship to my family. Mauna Kea, you told us today that you listen to Uncle Rupert. In our Portuguese ancestry, we have the same mindset. The elders, they know everything. If we listen to them...I remember my grandfather telling us, "Listen to me, because I made many mistakes, but if you listen to me, you will make none. I will guide you." It is a good lesson for all of us as politicians here today. Uncle Rupert said another very important thing, the only archeologist that did not go to college. At times, we sit here with our four-year bachelor's degree, five-year master's degree, and even doctorates degree. Even with degrees, we think universities taught us everything we need to know. I believe our elders, Hawaiians say, "*kūpuna*," teaches us even more. The restoration of this project is only a small fraction of our stewardship across our island. We have natural resources that flow in the river. The (inaudible), some of you do not even know what that is. We need to take our natural resources, stewardship of our *āina*. This is an example that all cultures can learn. I am honored to have heard the *mana'o* that you shared today. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I *mahalo* you and Uncle Billy for what you both have done. The *ki'i*, I asked where they were. It is a great beacon in Po'ipu. I think it is what we need to be honoring and creating that entire area by restoring the Kōloa field system. It was an amazing legacy that should not be erased. Thank you. I am fully behind in whatever way I can help. Please let me know because I will be there for you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Similar to some of my colleagues here. Thank you Uncle Rupert Peleke, Mauna Kea, Councilmember Chock, and Pat in the Department of Parks & Recreation for making this happen. It has been really inspiring to see the progress on that site over the years. I did not know it even existed and all of a sudden it seems like you folks uncovered and restored this magical area. It is such a contrast to what is across the street. You have an overcrowded beach park, and then you have this place of quiet sanctity. What you are showing everyday is that we can bring back, restore, and improve these areas. They are not lost. As Uncle Rupert said about the drainage, once you start doing that, it opens up bigger and bigger projects. In order to not have that area to get flooded, it forces us to look *mauka* of that. How can we continue to restore and improve this area, so that previous decisions that is led towards water getting diverted into this area and flooding it, it forces us to improve the entire *ahupua'a*. Step-by-step, if we uncover it, we have to continue to move *mauka* in order to restore the entire area. Thank you for the work you are doing. I think what MaunaKea said is important that it is not only on you folks, it is on all of us to put the work in in our community. I always think of what Malama Hule'ia did, stick by stick, clearing these areas of a monumental task. Some crazy visionaries looked at this and said, "Yes, we can clear this area," and they did it with an army of volunteers. We need to do that in every single community and for our special places. Thank you folks for the work that you do.

Council Chair Kaneshiro: Councilmember Kualii'i.

Councilmember Kualii'i: I wanted to say *mahalo nui loa* from my myself, my *'ohana*, our *kūpuna*, and from our descendants yet to come. *Mahalo*.

Council Chair Kaneshiro: I am in full support of this. To see have the place from the start where it was a bunch of bushes, you could not even tell what was under it. They cleaned the vegetation. People started stealing rocks. They put up a beautiful rock wall, which I hope helped from people trying to take everything. They improved the place beautifully. I am in total support of this. I know they are going to do a job taking care of the area across the street that is being added to this agreement. If anyone is interested in giving or helping, they have a website that you can donate to. They are a 501(c)(3) nonprofit organization. I think money is good for

them, but time. As they mentioned, the second Sunday of every month is when they clean. They can always use more bodies. It is definitely a place to be cherished. It is a place passed by a lot of people. As beautiful as it is, people still pass by and do not know what it is. It is an awesome place of education. If anyone has time to be out there when Peleke or Uncle Rupert are there, I am sure they will learn a lot more than going on the website, they will get a lot of knowledge if they go. I think they are good stewards of that area and I am glad that they are getting the expansion. Is there anyone else?

The motion to approve C 2022-274 was then put, and unanimously carried.

CLAIMS:

C 2022-275 Communication (10/24/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by DB Insurance Co. Ltd., for damage to personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2022-276 Communication (10/28/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Patricia Darmody, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kuali'i moved to refer C 2022-275 and C 2022-276 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 in the audience wishing to testify? I will suspend the rules. Lonnie.

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

Mr. Sykos: For the record, Lonnie Sykos. For the public, these are new items brought to the Council's attention. They have no idea what the details are. They will get informed. The Council and Office of the County Attorney will figure out what the appropriate thing to do. We will see an agenda item in the future where this will be resolved. Thank you very much for your due diligence. To the public, that is why this is just flash and go. We will be back. *Aloha*.

Council Chair Kaneshiro: Thank you. Is there anyone else? Is there anyone on Zoom. 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?

The motion to refer C 2022-275 and C 2022-276 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: Next item.

COMMITTEE REPORT:

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE

A report (No. CR-HIR 2022-04) submitted by the Housing & Intergovernmental Relations Committee, recommended that the following be Approved on second and final reading:

“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 Carvalho moved for approval of the report, seconded by Councilmember Carvalho.

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

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

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

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

Council Chair Kaneshiro: Next item. Resolutions.

RESOLUTIONS:

Resolution No. 2022-54 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE POLICE COMMISSION (*Laurie Yoshida*)

Councilmember Kualii moved for adoption of Resolution No. 2022-54, seconded by Councilmember Cowden.

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

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

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

Councilmember Cowden: I want to appreciate her and that she has a lot of experience. The Police Commission is always a challenging Commission with a lot of responsibility. It is not a small ask to be on this Commission. I want to acknowledge with gratitude what that means.

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

The motion for adoption of Resolution No. 2022-54 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. 2022-55 – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*William Kinney – Anahola – Hā'ena*)

Councilmember Kualii moved for adoption of Resolution No. 2022-55, seconded by Councilmember Carvahlo.

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

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

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

Councilmember Cowden: I want to appreciate Billy. It is a great choice and a great person for this.

Council Chair Kaneshiro: Roll call vote.

The motion for adoption of Resolution No. 2022-55 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualī'i, 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. 2022-56 – RESOLUTION APPROVING PROPOSALS FOR
INCLUSION IN THE 2023 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE

Councilmember Kualī'i moved for adoption of Resolution No. 2022-56,
seconded by Councilmember Carvahlo.

Council Chair Kaneshiro: With that, Councilmember Chock, if you want
to go through each item or give a quick summary.

Councilmember Chock: Thank you. Let me mention the process that
we went through. As all of you know, every year, we come up with a package for the
State Legislative session. These are the Bills that have emerged. Kaua'i and the
City and County of Honolulu did not submit any Bills this year. The Bills go through
their own Councils, to the Executive Committee for review to vote on, and back to the
Councils as a whole package. I will say that I am happier with this years package
than last year's, in terms of the Board being diligent in looking at the package items.
I think three (3) items did not make it through to the Executive Committee, and this
is the result. There are a few items from Maui and Hawai'i Island. The summary
came from our Executive Director that outlines each item and the priorities. The
priorities are a new addition to how we look at the session. They are a bit broader in
nature, in terms of items that we have interests in, in general, and we will be
following. If you have any questions for John Okudara or our Executive Director
Nahelani Parsons, they are on the call. In general, the only other thing I would say
to everyone is and I have said this in the past, the process evolves throughout the
sessions. If you have interest in any of items and want to see changes and/or
additions to them, I think it is an opportune to work with John and others to insert
it. Oftentimes, they go into it and there are multiple Bills around one (1)
subject-matter, we can work towards getting the ideas and needs that you think are
important. I wanted to mention that because this is not in "stone" so to speak. We
can always make changes. We can take any questions.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am wanting clarity relative to the National
Pollution Discharge Elimination System (NPDES). I think that is important. Can

you speak to the injection wells and give us the general direction. Are we looking to eliminate or increasing injection wells? They make me nervous.

JOHN OKUDARA (*via remote technology*): What we are doing is introducing a Resolution because the Department of Health (DOH) has to adopt rules to define the functional discharge equivalent to pollutants source. It will include injection wells, agricultural runoff, et cetera. EPA is requiring the DOH who administers the Clean Water Act, to adopt rules to define the discharge of pollutants, the functional equivalent of pollutant discharge. It is things that you have input to during the course of the rule making. My advice would be to get your clean water people to raise their concerns as far as non-point source, and to come up with their definition specific to the County of Kaua'i.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: I have a clarifying question. I am trying to figure out if this is going to make it harder or easier? I know Maui was having major issues with their injection wells. On one end, there are groups that want to make it more difficult or making you have to jump through more hoops to be able to do certain types of things with NPDES. For me, I am trying to understand what the impetus for this change?

Mr. Okudara: They are required by Federal law to come up with further definitions of what each jurisdiction would consider functional equivalent of a nonpoint source discharge. The thing would be to stay involved so that you could identify and have input on those situations that are unique to your County. For example, Maui County and the non-point source close to the shoreline, as far as their injection wells.

Councilmember Chock: Maybe I can shed a little light on that. To clarify, this is not trying to address the exact same issue that Maui had in the past, but it affects all of us. To answer your question further, I think it is both. It is trying to provide clarity or asking, this is not a Bill, this is Resolution. They are asking DOH to take the next steps to try and create the guidelines, so that we are clear about the parameters rather than trying to figure it out and having lawsuits that drive us in different directions and stall everything. That is where we are at. John's request is, now is the time. If DOH can accept this *kuleana*, we need to be active in that process.

Council Chair Kaneshiro: Okay. Are there any further questions on this item from the Members? If not, Councilmember Cowden.

Councilmember Cowden: The Bill For An Act Relating To Traffic Fines. Giving the County's authority to designate areas that can give higher fines. I think

if we see there is need for that in many places. The last sentence in the description says, language that fifty percent (50%) of the surcharge will be dispersed. I do not know what dispersed means. What I am hopeful for is, is that some of that can go back to the area that is underburden. If we collect an extra one hundred dollars (\$100) or two hundred dollars (\$200) on something of what I would call a crisis point, that we are able to address it with some of the money that we raise. Is that what dispersed means? What is the language that fifty percent (50%) of the surcharge will be dispersed?

Mr. Okudara: In 2018, the Legislature passed Act 215. Primarily to address the problem that was occurring on Kaua'i. Up until then, the counties have always addressed a Bill relating to unadjudicated traffic fines, so they could get a portion of the fines that are not adjudicated. We always run into people like the judiciary and the traffic violations bureau who say, "You have no idea what is involved in administering this." They divide it up to essentially say, "It cost us so much money to administer this, you do not really get anything out of it." Act 215 addressed the problem like what was occurring on Kaua'i. This will allow you to designate areas that you have difficulties in terms of parking and other traffic violations. It is already part of that law. All we did was amend that law, that the District Court will say, you get fifty percent (50%) of the fines because we designated the area.

Councilmember Cowden: "You" means the counties? The counties get fifty percent (50%) of that fine.

Mr. Okudara: Right. I do not know if you want to specify a list of departments, but you can. When there was a similar Bill introduced this past session, the Hawai'i County Police Department said, "We do not want to make it look like we are lining our pockets by taking the money." So, fifty percent (50%) goes to the counties and the counties will be able to use that money, and it has to be related to traffic litigation.

Councilmember Cowden: Okay, thank you. That is what I would like. If we get the money, but we do not take that money to solve the problem, it is not quite as strong.

Councilmember Chock: Let me add to that. To clarify, the fifty percent (50%) is to the County's police department. Most current and as you mentioned, this Bill came out of a few sessions and in the effort by Representative Nakamura. It is already moving; it has moved far. What this looks to do is combine some of what Honolulu's interest was from the previous Bill in the last session, that looks at getting funding towards the County. In this case, it is specific to the police department.

Councilmember Cowden: I have another question.

Council Chair Kaneshiro: Is it for the same item or a different item?

Councilmember Cowden: Different item.

Council Chair Kaneshiro: Does anyone else have questions on the traffic find item? If not, Councilmember Cowden.

Councilmember Cowden: I think the House Bill 103 is really important and I asked for help for a solid year. We were turned down forcefully in this room that I think has only become more evident each month that passes. It is important that emergency proclamation powers be held into accountability. Council Vice Chair Chock you said, even if it did not get into here, which it did not, that we would be able to continue to have the support of our lobbyist. I wanted to get a confirmation on that. It is not in here.

Councilmember Chock: Let me double-check on that. I think what happened is, every year the opportunity for new priorities arises. I think this reflects the new priorities. There may be passed priorities. For it to move forward on the list, I think it would require a check-in or update on it. I am not sure where that has gone or how it has gone. I would ask that you follow-up with our Executive Director Nahe and John to put something together that can clearly define for the Board what it is they are wanting to support or not support.

Councilmember Cowden: Okay, so you have another two (2) weeks. Can you help me with that, so I make sure I do it the right way.

Councilmember Chock: Sure.

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

Mr. Sykos: For the record, Lonnie Sykos. It is interesting that this is presented as a package and not each one of these individually to be approved or disapproved. I am strongly in support of moving forward with having the State define a non-point and point pollutants. I am probably more familiar than most of you because I lived on Maui for so long, about the injection well issue and this is what it absolutely boils down to is where are pollutants allowed, because they are not specifically illegal at that point. Thus, because it is not illegal, you can pollute things until the law changes. Thus, the pollutant got into the ground water, it travelled through the ground water into the reef, and negatively impacted the reef. The lawsuit was all about whether or not the movement of the water, the damage to

the reef was related, it was crazy. It ruled against the county and yes, indeed, no matter where the pollutants started from, you are responsible of wherever it ends up. We do not have in the State the language that protects the public and our public resources from pollutants, and thus the Department of Health needs to get to work and to write all of this technical language, which is what needs to be done. I am fully in support of this. We cannot control pollution without language. Because of that, I encourage you to pass this, but I want to give you a cautionary note about the traffic fines. I am sixty-eight (68) years old. I can remember being a child sitting in my family car driving through towns in which on a state highway, the speed limit was seventeen-and-a-half miles an hour. We had four (4) traffic lights. In early 1960s, you have to come up with one hundred dollars (\$100) cash, that is probably one thousand dollars (\$1,000) or more today, if you get caught traveling through two (2) green lights. This unfortunately is fraud with the encouraging of the police department to use fines as a revenue source. This is just a historic problem, in which the resolution is do not let the police department benefit from the fines that get collected otherwise you give them an incentive to write tickets.

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

Mr. Sykos: And my last three (3) minutes. Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify on this?
Is there anyone on Zoom? Are there further questions from the Members?

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

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

The motion for adoption of Resolution No. 2022-56 was then put, and carried by the following vote:

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

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2891) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tax Credit Residential Investor*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2891) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 14, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: I will let the introducers, Councilmember Evslin and Council Vice Chair Chock, give us a briefing on the item. They are both pointing at each other.

Councilmember Evslin: I can start, and Council Vice Chair Chock can fill in what I missed, if it gets too confusing. There is kind of a fair amount of back story. Just to refresh our memories, in January 2021, this Council unanimously approved the change in the Residential Investor definition, which moved the threshold from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). As we all know the Residential Investor rate is intended for homes that are vacant, non-long-term rented, non-home-exemption. When we changed that rate from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000), more homes were captured by that change. At the time, we discussed here a number of possible issues with that change and issues with the fact that there is a threshold there. One of the big ones being that people on the threshold—there is no way to know that you are in the rate until you get your notice of assessment on December 1st saying that you are now classified in this Residential Investor rate, because the value of your home appreciated and cross the threshold. You can have a house that is valued at one million dollars (\$1,000,000), lots of high-end homes are selling near you, so all of a sudden, the value of your home crosses the one million three hundred thousand dollars (\$1,300,000) threshold, you find out December 1st in your notice of assessment. At that point, it is too late to change it, because based on the current law, you had to file a long-term lease agreement with the Real Property Tax Division by September 30th or a homeowner's exemption. We have this issue where the filing deadline is September 30th, you find out on December 1st whether you are in the class or not, and then at that point you cannot change it. You have people falling into the class inadvertently or outside of the intended scope of Residential Investor, right—long-term rental who did not know and also people who just newly purchased a home or they just built a home or for whatever reason they were unaware that they had to file a homeowner's exemption, in order to get the Homestead rate. In the past, if they failed to file a homeowner's exemption, then their rate would go to Residential, which would be a one hundred percent (100%) increase. With the Residential Investor tax, they failed to file the homeowner's exemption and their tax goes up by three hundred percent (300%). This issue got compounded in that lots of people pay their property taxes through their mortgage; when you get billed for your mortgage, you are also paying for property taxes monthly based on that. Unfortunately, the mortgage companies, many of them, did not inform people that their taxes had gone up until October 15th. You get this double whammy of an issue in that people did not know for the 2022 tax year, that they were in this rate, and then they get informed this last October that they are in

it and now it is too late to get out of it for the next year. The deadline is September 30th, and they get informed October 15th, and now they are in the Residential Investor for two (2) consecutive years. I want to give credit to the Real Property Tax Division. We talked about this as an issue, we were all aware of this as a possibility. Everyone at the table here was committed to getting the word out to people as much as possible, "Hey, get your lease agreements in, get your homeowners exemption in, otherwise you can fall into this rate." The Real Property Tax Division did send out something like three (3) mailers, they told us about...but for whatever reason there were still people who fell through the cracks. What the intent of the bill today is two-fold. One, it creates a tax credit for 2022 tax year. Essentially, if they can show that they were living in the house or otherwise eligible for the homeowner's exemption and they did not file it as of September 30th of last year, or that they have a long-term lease agreement from that time period, they can show that the house was occupied and should not have been Residential Investor, if they filed the correct paperwork, then they will get a tax credit on their next tax bill based on the difference between Residential Investor and Residential. For those who failed to file homeowner's exemption, it does not make them totally whole—if they filed homeowner's exemption, it would be at the Homestead rate at three dollars and five cents (\$3.05). This is going to give you a credit based on if you were at the Residential rate of six dollars five cents (\$6.05), so there is still a penalty for these people who failed to file the paperwork, but it is at least it is as if the Residential Investor bill had not gone into effect. It is what they would have been absent the Residential Investor bill. I know that is confusing. Another thing it does is that it changes the definition of Residential Investor slightly, so that instead of saying it is applied to properties that do not qualify for the home exemption, it applies to properties that are not eligible for the home exemption. Based on the current definition, if someone appeals their rate, they find out December 1st, they appealed the rate before the December 31st appeal deadline, the Real Property Tax Division essentially based on the current definition has to reject that appeal. Based on the definition, currently it says, "Do not qualify," those people did not turn in their paperwork, so they were not qualified for homeowner's exemption. Therefore, they were based on the definition placed into the correct class, which is the Residential Investor class, because they did not qualify for it. What this does is it changes it to—instead of "Do not qualify," it changes it to "Are not eligible for the homeowner exemption." Even if they did not submit their paperwork, the Real Property Tax Division can ask, "Were you eligible for the homeowner exemption," meaning were you living in the house. If the determination is "yes" they were eligible for it, then the Real Property Tax Division can successfully rule on the homeowner's behalf, if they appeal. It helps address the problem for 2022, which has already passed and in going forward, it helps address the problem in that it allowed for successful appeals for people to get out of a tax class (inaudible). I know there is a lot to that, I know there are probably a lot of questions, Council Vice Chair Chock, if you can fill in anything I missed?

Councilmember Chock: I do not know if I can follow that. Our tax system is very convoluted and complex. I am sure all of you have received emails. I know Councilmember Cowden exhaustively has in other areas related to our tax code. No system is perfect. When we as a body, and when the Administration tried to correct inequities in a system that is limited in capacity and in their process, we run into challenges. That will happen every single time we try and create some tax

reform. In this case, we felt that it was worth looking into, in a way that we can address the gap, because now we make mistakes based on the market. Whoever's fault it is, we are talking about a huge number that can potentially put people out of their homes. That is certainly goes against what the interest is of this body. I would say we work exhaustively with Mike Hubbard, Reiko, Matt, Steve, and the entire team at the tax office to look at solutions here, and there are no easy solutions. There is no one-quick fix. You see these two (2) bills that are before you as sort of a Band-Aid in my mind towards the opportunity for us and you folks as the new council to continue the discussion and changes that are necessary. This is the first step. That is what you have before you.

Councilmember Evslin: To sum up my big confusing ramble.

Councilmember Kualifi: It was not confusing.

Councilmember Evslin: Thank you. The main intention is to ensure the Residential Investor tax rate is being applied to the greatest extent possible only to make (inaudible). It is giving people an opportunity, once they find out that they are in the rate as of December 1st it is giving them an opportunity to get out of the rate. Show that you do not qualify for it and then these people can rule in their favor.

Council Chair Kaneshiro: With that, I will open it up for questions from Members.

Councilmember Cowden: I have a lot. Does anyone else want to go first?

Councilmember DeCosta: Yes.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Who do I properly address my questions to?

Council Chair Kaneshiro: Either one. You can ask the question and whoever wants to answer it. We can also suspend the rules and ask the Administration a question too.

Councilmember DeCosta: Did you talk about the unintended consequences that can happen to these people after the December 1st date after you introduced the bill, so they would not get their notice. From what I understand when you introduce this language, right now, you said the date was posted after it imposes the tax drop from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000).

Councilmember Evslin: I am not totally sure that I understand the question, but the dates are all set. The December 1st notice of assessment is set already. This is not changing any of that.

Councilmember DeCosta: I am talking about your first bill. You seemed to have caught a lot of people, because they were not notified of the December 1st date.

Councilmember Evslin: What bill are you referring to?

Council Chair Kaneshiro: I think that bill was originally introduced by the Administration.

Councilmember DeCosta: Yes, but did Councilmember Evslin and Councilmember Chock not work with the Administration on that bill?

Councilmember Evslin: Yes, sorry, just to clarify. There is confusion because the tiers bill was after that. The one million three hundred thousand dollars (\$1,300,000) was last year, the Administration's bill to lower to one million three hundred thousand dollars (\$1,300,000), "tiers" which is the bill we worked on, came after that. That does not go into effect for two (2) years, so all of this is regardless of the tiers bill, which we did work on extensively.

Councilmember Chock: The Residential Investor came prior to that.

Councilmember Evslin: Yes.

Councilmember DeCosta: I understand that, but the question that I am asking you is, did you work with the Finance Department on that dropping from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). Did you introduce that?

Councilmember Evslin: I introduced it by request, yes.

Councilmember DeCosta: Correct, when you introduce something, do you not check with their language to see if everything is okay, or did you trust that it was okay?

Councilmember Evslin: We discussed this very issue on the floor, and I stated on the floor at that time, that one of my big concerns was the potential of people not knowing that they are in the rate until after December 1st. That was something we discussed as a body on the floor. The Real Property Tax Division said they were going to send out all these mailers, which they did. Most potential affected people got the mailers realized what they had to do and got out of it, but there were people for whatever reasons fell through the cracks. Some of them did not build their home until after the mailing went out, they built the home and they just did not know, they brought the home after-the-fact, or there was a case where she was on the mainland with her ailing father. There were issues that people did not get the mailers, they fell through the cracks, and this is intended to address that.

Councilmember DeCosta: My second question was, did you say they were going to get a credit?

Councilmember Evslin: 2022 year would get a credit because the deadline for appeal would have been last year, and then going forward, they can appeal.

Councilmember DeCosta: So, the answer is yes, they are going to get a credit.

Councilmember Evslin: If they successfully can show that they were living in the house or had a long-term renter.

Councilmember DeCosta: Where are we going to get this money to give them a credit? Did we or did we not spend this money that we received already?

Councilmember Evslin: It would be in the next budget.

Councilmember DeCosta: I understand that, but where are we going to get the money? How do we give them a credit?

Councilmember Evslin: The Residential Investor rate raises something like fifteen million dollars (\$15,000,000). It is not a money bill, it is going to be budgeted for—they must apply for the credit within sixty (60) days of passage, so we will know how many people have applied for the credit, then it gets budgeted for like everything else we do.

Councilmember DeCosta: I understand.

Councilmember Evslin: It can be paid for by money that is raised by the Residential Investor rate. It is estimated to be somewhere I believe five hundred thousand dollars (\$500,000), based on the amount of calls the Real Property Tax Division has gotten from people who are in the rate.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I made slides to help my questions be clear. If I can have my first slide to look at Ordinance No. 1130 and I highlighted the purpose of the bill. This will be for the Finance Department if it is them that put it in. It says, "The purpose of this bill is to amend the Residential Investor and Vacation Rental tax rate classifications to incentivize long-term rentals and to shift some of the financial burden of funding government services to those more capable of paying. Amendments to these tax rate classifications are intended to address the housing crisis by encouraging owners to turn their vacation homes and vacant homes into long-term rental thus qualifying for the lower residential tax class rate." My background is in private industry. When I would have a purpose like this, I would have a metric to see if I am hitting my goal. I do not recall there being a metric built into this ordinance, but can I ask the Finance Department if there was a metric that took to track?

Councilmember Evslin: I want to clarify that language from the Finding and Purpose was from the tiers bill, which is not effect. That goes into effect next year, right? I just wanted to clarify we are talking about...

Councilmember Cowden: But when we did the Residential Investor and Vacation Rental class, the whole point was to burden the people...let us look here, I have it right in this...the Residential Investor tax class is to help incentivize property owners to long-term rent their property. Taxing occupied homes at the higher Residential Investor tax class is counter to the purpose okay...this is where you are making the change, but it was to get long-term. Can I ask the Finance Department, did you have a metric to check if you hit your goal?

There being no objections, the rules were suspended.

STEVE HUNT, Executive Assistant to the Mayor (*via remote technology*):

Steve Hunt, Executive Assistant to the Mayor, speaking on behalf of the Finance Department. There is a difficulty in measuring the change between Residential Investor and Residential class because you have multiple things occurring on an annual basis, and that is the first point. We do not get to look at the changes annually, everything else is sort of work in progress as we get new surveys that come in as we get new applications for homeowner exemptions as properties sell and new owners take occupancy or create new uses. That is an annual change that occurs. Obviously there are two (2) other things that make up the difference in one there is legislative changes, which could include lowering the threshold, which changes again the number of potential people in that class or raising it, which could kick people out of that class. And then you have a market dynamic, which essentially are either appreciation or change in the lowering of the value from a year-to-year basis. Unless you are tracking one individual property with its value change, the threshold change, the ownership change, and the exemption change throughout history or year to year, it is very difficult to determine whether a tax policy has influenced providing additional housing.

Councilmember Cowden: Thank you. I would say the short answer is no. And that was the issue I brought up heavily. I was very resistant to this bill when it came out in 2019, my early time of being on the Council. Boy, did I learn something. I voted in support, because it was easier to go 7:0 than 6:1 and just lose. When I was making those points, I am going to want to have my second slide, I said, one million three hundred thousand dollars (\$1,300,000), I asked to regionalize it. To put it in different zones. I said, "that is a shack in Hanalei." Now, this is a house that is my example here, it is behind some of the trees. If we have the next slide, please. We will see the details. I am not calling this disrespectfully a shack...but the next slide, we will see that it was built in 1950, the same year as my house. I am not sure how well you can see.

Council Chair Kaneshiro: You might have to read the numbers for us.

Councilmember Cowden: One of the houses is three hundred and twelve (312) square feet and one is one thousand two hundred six (1,206) square feet, built in 1950. At the bottom there, you will see the tax rate. This is in Wainiha. It is on a large piece of property, but the tax rate in 2021 was nine thousand nine hundred sixty-four dollars (\$9,964), so it was roughly ten thousand dollars (\$10,000). In 2022, it went up to one hundred two thousand five hundred nineteen dollars (\$102,519), and you can see this tax classification of this house that I have experience with

multiple generations of this family as students, surf team members, and employees. Very humbled house, Residential Investor, I happen to know they pay one hundred dollars (\$100) per month tax on this. Getting back to Mr. Hunt, this house, which is a very humbled house in the zone of Hanalei, happens to be Wainiha, when they have been charged and I can see that they already paid half of it, fifty-one thousand dollars (\$51,000). Now, they can just tear that house down and resolved this problem more easily, how do we intend to spread that one hundred two thousand dollars (\$102,000) out? I mean I would imagine this could go as a long-term affordable rental. This house has been lived in by the same family since it was built. Can you address this? This was a fear that I had. This is an extreme example, but it is one of many examples. How are we going to handle these people?

Mr. Hunt: Can you clarify, is this owner-occupied within a tenant for the two (2) homes or are these both tenanted?

Councilmember Cowden: They are both tenanted. One family that lives on this property, they manage the power plant for the owner of the land. It is a large piece of land, but it has a little humbled house. It is basically conservation land with a little humbled house, multi-generational keystone family in our community and this has been basically free housing for probably twenty-five plus (25+) people over the years. They have gone from ten thousand dollars (\$10,000) to one hundred two thousand dollars (\$102,000). What are we going to do for them that this Bill is going to help?

Mr. Hunt: It is not in my position to give legal advice. There are many opportunities for the landowner to cure some of this. I am just going to speak hypothetically, they could condominium property regime (CPR) the property and create a site for the two (2) homes, put them in an LTL program. It sounds like the bulk of the value is in the land, because it is over four thousand (4,000) acres. That could potentially go back to its zoning for that remaining CPR, that is one way they want to trade it. If they want to create an LTL, rent and submit the rent rules for the two (2) homes on a yearly lease, they can apply for that. There are a lot of venues and we will be happy to talk to the landowner about those. It is hard for me to tell them what to do. The choices are theirs and we are here to help and consult, but we are not here to give legal advice.

Councilmember Cowden: Okay. I think this has come before your department. It is in process, but that is an example of a problem that I was definitely anticipating and definitely upset about.

Council Chair Kaneshiro: In some of these instances, it might be better to E-mail them for an answer rather than them going off the fly trying to answer the questions.

Councilmember Cowden: I have sent all of this. Next slide. This is from the presentation. I will go to some of the questions that are being asked. For people that are looking, there is one hundred fifty-nine (159) new residential investor properties. It happened in Zone 5 where I live, there are four hundred thirty-seven (437). I sent all these questions in advance. It shows the zones.

We can go back to Steve. I am not scolding you, Steve. This has been one of the hardest things for me since I have been a Councilmember and I deal with this daily. In the last one-year-and-one-half, I cringe when I go grocery shopping or funerals because I run into these people. Not just that household, there are many.

My first question that I sent over. Residential Investor Real Property tax increase after two million dollars (\$2,000,000), dropped to one million three hundred thousand dollars (\$1,300,000). We had and we were shown at our budget meeting. It increased to seventeen million dollars (\$17,000,000). The residential investor total came up to thirty-three million dollars (\$33,000,000). We more than doubled it, and we added eight hundred fifty-nine (859) properties. How much of that seventeen million dollars (\$17,000,000) was attributed to the eight hundred fifty-nine (859) properties that are below two million dollars (\$2,000,000)? Did you get these questions?

Mr. Hunt: I got all the questions. I do not have access to all the information, I deferred the first two (2) questions to Mike and his staff. This is the time they are pulling the assessments for 2023 to the print vendor, so I know Mike and his staff has been under a lot of pressure to deal with the immediate concern to get the next assessments out. I do not know if he had a chance to get to the first two (2) bullets, he is on the call, and I will let him respond.

Councilmember Cowden: I will ask nicely and in approximates. Mike, we got seventeen million dollars (\$17,000,000). Out of memory, I think we had one thousand two hundred thirty-five (1,235) houses that were in that class. I remember these numbers because they were burned into me when we were doing this in budget. I was floored. Would you say one-half of this money is in the eight hundred fifty-nine (859) properties, or would it be a quarter? I would think some of that money came from the increase in value of the highest residential and more than two million dollars (\$2,000,000).

MIKE HUBBARD (*via remote technology*): For the record, Mike Hubbard, Tax Manager. As Steve alluded to earlier, there is multiple things going on. I have not had a chance to dive-in to isolate the 2022 new residential investors to calculate for you their combined tax bill. It is something I can work towards probably in the next week or two as we come off of our crunch deadline time.

Councilmember Cowden: Okay. I will read my second question and acknowledge that this is a lot to ask. How many houses have identified as appealing to the Board of Review as being in mistaken tax class, and are there likely to be more? You might not know that and I think you said that.

Mr. Hubbard: At this point and time, I do not have that count for you. I know that one of those has gone to State Tax Court trying to get a favorable position. As Councilmember Evslin stated on the definition, hampered that individual, so we are hoping this Bill will help alleviate some of those concerns.

Councilmember Cowden: Okay. My third question. How does Bill No. 2891, which is this correction, address clouded title from long unaddressed

deceased landowners. I have a handful here. When your grandfather died thirty (30) or forty (40) years ago, and there is ninety (90) heirs, there are a number of those along the coastline...I do not mean to be ethic, but very often, they are Hawaiian. Is that fair to say? It is true. The last house they put up was Hawaiian family. They have long unaddressed deceased grandparents that own the land. Will any of this correction in Bill No. 2891 help them? They do not have anyone to write the lease too, it is unclear who owns the land, and it is the nebulous family. How can they correct it?

Mr. Hubbard: There was an Ordinance that was passed a few years ago that helped address the definition of owner for the exact same situation you are speaking about. It is not in the Bill that is front of you, but it is in a Bill that has already been established by the Council.

Councilmember Cowden: Can you tell me the name of that so I can help those people? I feel like a social worker with the outcome of this.

Mr. Hubbard: Sure.

Councilmember Cowden: Do you remember the name of it?

Mr. Hubbard: That would be to apply for an exemption under the expanded definition of owner.

Councilmember Cowden: Okay. How about separated families unable or unprepared to legally divorce? These are real situations. There are times where people are medically incapacitated, the family does not live together, but they are not divorced. They would lose their health insurance, retirement, et cetera. They do not want to hurt that person. This person has to pay residential investor tax because they stay married, but they no longer live together. We have a handful of divorced situations. Will Bill No. 2891 address that problem?

Mr. Hunt: Bill No. 2891 does not speak to this. If you have a separated couple and one has the exemption, the exemption has not changed unless the spouse goes and applies for another exemption elsewhere. We need the divorce decree in order for the remaining spouse that lives there to retain that exemption. There are exemption rules in place that would be considered. Ultimately, we are looking at the occupancy of the dwelling itself and if they are under the new expanded. Whether they are eligible not necessarily qualified, because qualified means they have applied on time. That affects the people who are living there, but every other requirement of the exemption did not apply. I guess it is whether you are applying or retaining that exemption, there are rules in place for that.

Councilmember Cowden: Yes, not good rules. I would say that this is a short answer, "No". Unless they get divorced, both will not be able to have an appropriate house. One of them will be considered a residential investor. Another one...

Council Chair Kaneshiro: Wait. I did not hear that in the answer.

Councilmember Cowden: Well, he said you need to get divorced, or they need to figure something out. Here you have people...these circumstances are so profound. When we are forcing people to move from two million dollars (\$2,000,000) to one million dollars (\$1,000,000)...and we have inflationary and market pressures, just a house hits this criteria at least in Zone 5 and possibly Zone 4. Zone 4 is Anahola and 'Aliomanu.

Council Chair Kaneshiro: Councilmember Cowden, I respect your list and your individual situations. We are on first reading. I know that this Bill is supposed to somewhat help the people who should have qualified for homestead or a different tax class, but got stuck in residential investor. This may eventually help them. I think when it comes to the individual cases, it might be better to...and I know you sent it to them.

Councilmember Cowden: I have met with them, so I have a point here. I will read my other elements.

Councilmember Cowden: We are in question and answer.

Councilmember Cowden: I know. These are questions, they can answer it later. Owners dealing with a complication of serious disease. Housing transitions from a current resident moving into a freshly purchased next home requiring serious repair. We have met on these things. Building permit delays. Problematic permitting for tenant provision. Meaning, they have tenants in the house, but if there is something wrong with the kitchen, that house cannot qualify. As well as, an inability to correctly interpret complicated tax policy. All of these are what I see...except when you are saying there is ownership. I am trying to work with some of these people. When we change the definition of owner, maybe I can help them fix that. That was a question, and I have another one. Can we place incremental payments overtime for a mistake and overcharge to spread out over the next years without penalty to absorb the mistake. In the example I gave, the inaccurate tax amount was ten-times what it should have been. Can they have ten (10) years to pay it, so they can pay for it each year. I am giving them these ideas too, because I have amendments for the Committee. I want them and all of us to be aware. Our goal when we are here is to do the work. This is a very important Bill. A Bill, by the way, almost cost me my election with the way the paper interprets these things wrong. It was bad.

Council Chair Kaneshiro: Let us get back to the question and answer.

Councilmember Cowden: Okay, well you stopped me one that.

Council Chair Kaneshiro: You have a lot of discussion, but now is the time for question and answer.

Councilmember Cowden: Can we place the incremental payments overtime? Can we think about that, and is that something we can look at? If someone

has to come up with one hundred thousand dollars (\$100,000), and they are supposed to pay ten thousand dollars (\$10,000) a year.

Mr. Hunt: The correct answer is, yes. We can workout payment plans. I believe if they were misclassified, which is what the question states, they will be eligible for the credit, which will make them whole, and they would not have to have a payment overtime.

Councilmember Cowden: Okay, help me with that. When it makes them whole, in this example, will they no longer owe one hundred thousand dollars (\$100,000), they would only owe ten thousand dollars (\$10,000). Is that what this means?

Mr. Hunt: On that extreme example you gave of the one hundred thousand dollars (\$100,000) verses the ten thousand dollars (\$10,000) for the prior year, that is obviously not due to the residential investor class. The difference between the conservation tax rate, residential rate, and the residential investor, is not that multiplier. Clearly, this is an evaluation issue. I am assuming that there were probably multiple conversation large tracks of land that drove the land value up. This is primarily an valuation issue which they should have filed an appeal if they did not agree that the land was not as valuable as it was assessed at. The tax rate did not create that extreme tax in that situation.

Councilmember Cowden: I will give a simpler example. I am using a simple example. Let us say it was five thousand (5,000) and not it is two thousand five hundred (2,500). There is a rental house in Hā'ena on the *makai* side of the road that fits that criteria. They have to fix a few things, it is a longterm rental with a kitchen. Can they push that out, or do they have to find a way to borrow the money?

Mr. Hunt: Again, five thousand (5,000) to two thousand five hundred (2,500), still does not make sense. That is a fivefold increase. At most, you are looking at the difference between residential and residential investor tax rate. That is a three dollars and thirty-five cents (\$3.35) difference. This is a valuation issue that the values increase.

Councilmember Cowden: That is right. The valuation goes up and that is correct. There is a valuation issue on top of the tax rate. This is becoming more extreme. If a house on one side is a vacation rental and the house on the other is a second home and they both sell, that house in the middle has that valuation pressure. We are openly stating our goal is to sell those houses, or repurpose those houses which means to sell. Okay. I am going to go to the next question. Do we have records of the number of properties that have been forced into sale or significant change of use. How many Transient Vacation Rentals (TVRs) or second homes have become homes for our residential population? I think you already said that you are not tracking that.

Mr. Hunt: We can track the counts of changes in properties as a whole and tell you how many are within each category. We cannot tell you moved specifically from one class to another class. It could have moved from

residential investor to TVR. It could have been sold as a rental and it is now an owner occupant who comes in and has an exemption for the following year. There is not an accurate way to track and individual property other than going to that one property. On a holistic count, all we can do is provide the gross numbers to you.

Councilmember Cowden: Okay. I will leave my follow up to that to the discussion. Are we trying our success of stated goal of forcing of second homes? I guess that is clear that the answer is the same. Do we have an estimated valuation increase on our housing supply? This is important. How much is the increase on how we assess these houses. In general, across our housing supply, is going up ten percent (10%) over the last two (2) years, one hundred percent (100%), or seventy-five percent (75%). I would like to have that number at the Committee Meeting. When we look at the market value of one million three hundred thousand dollars (\$1,300,000) in 2023 and what are market rate would be today, I would like to see us take our lowest threshold and bring it up to a number like that. When we made this decision in 2019, none of us anticipated the COVID-19 experience and the trillions of dollars that have been dumped into the economy that deeply amplified the values of all these houses. The goalpost moved profoundly. I do not believe that our goal was to tear the middleclass out of stability.

Council Chair Kaneshiro: Councilmember Cowden, I think you are getting into discussion again. I think your question specifically was, what was the increase for a residential house.

Councilmember Cowden: Housing, yes. So, have you figured that out?

Council Chair Kaneshiro: I think we can leave it at that. I know during budget, they usually provide us with average increases. I have a number in my head, but I cannot remember if it was the TVR increases, or the residential investor increases. I will not say the number, but I am sure they are able to come up with last years average assessed value.

Councilmember Cowden: Okay. Do you have a stab at that? I think that would be Mike.

Mr. Hubbard: I think Steve may have the number.

Mr. Hunt: We do not provide a number. It has been the Department of Finances policy not to release estimates. One, they are not uniformed. There are certain areas of the market that become hotter than others. Those properties appreciate disproportionately. For us to come up and give a blanket number to say this is what the value should increase. People are going to use that as a benchmark to compare theirs to say, "How come mine did not go up, or how come mine went up more?" It is also a function of the anticipation of tax increases which is not always the case. You do not have the ability to change tax rates. If the assessments go up a certain percentage, you can offset that by a decrease tax rate. We do not want people think necessarily that value in taxes are tied. Of course, a lot of the properties are subject to the three percent (3%) cap whether they are homeowner or whether they are in the longterm affordable rental. Those percentages

are not the same percentage that they will actually see on their assessment notices. The answer to the question is, no. We do not have a number we can say what the appreciation of a consistent across the board value a property went up.

Councilmember Cowden: Okay. I will save the rest of my comments for the discussion. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members on this Bill? It is first reading. I would highly suggest providing the questions. Thank you for providing the questions early. Steve and Mike, it would be helpful for the Councilmembers if you can get the answers back prior to the Committee Meeting. Once this gets into Committee, I think it is when you will see proposed changes or a lot of discussion on it. If possible, if you could get the answers back for Councilmember Cowden's questions. Are there any further questions on this Bill from the Members? If not, while the rules are still suspended, I will open it up for public testimony. Lonnie, followed by Tyler.

Mr. Sykos: For the record, Lonnie Sykos. Council Chair Kaneshiro, I would like to address the comments made by one of the Councilmembers. He alluded that all seven (7) of you were in lockstep agreement to this which is factually incorrect. I encourage him to go review the public record. Unless I call him a "liar." You had tremendous pushback against doing this at the time over the unintended consequences. You had two (2) Councilmembers who spoke against this. Councilmember Cowden spent considerable time addressing the exact issues that you are trying to correct today. The original Bill you are trying to correct is a horror story. Quite frankly, your callous indifference to the harm you cause to the public is repugnant.

Council Chair Kaneshiro: Keep your comments towards me.

Mr. Sykos: Absolutely repugnant. Absolutely. You intentionally harmed people in the public by ignoring the unintended consequences that you were told would arise and then did. Now, you think you can fool the public that you are going to make a harmed parties whole, which you cannot do. Some of them will likely lose their properties. They will reach the personal decision that they cannot afford the increase in taxes. They will sell their property and they will be forced to do anything but sell their property to highest bidder, which will probably take it out of the affordable rental market. Number two, how many of the one million three hundred thousand dollar (\$1,300,000) mansions owned by investors who "we," spent our money attracting from all over the world. The Office of Economic Development has spent millions of dollars in the last twenty (20) years attracting investors to buy our real estate. Now, when they come and buy our real estate, you get your panties all in a hitch because they came and did what you enticed them to come and do. The original Bill was a mistake and this is just as bad. Let us say that I had to come up with an extra twenty thousand dollars (\$20,000). In two (2) years, my taxes come back to the original rate. How long is it going to take me to recover the difference between my twenty thousand dollars (\$20,000) tax bill from what my original bill was.

Council Chair Kaneshiro: Lonnie, that is your first three (3) minutes. I have Tyler who wants to speak too. Tyler, state your full name for the record. You will have three (3) minutes to speak. The light will turn green, it will turn yellow when you have thirty (30) seconds, and it will turn red when your three (3) minutes is up. If you need more time, everyone will get another three (3) minutes.

TYLER RODIGHIERO: For the record, my name is Tyler Rodighiero. Thank you. I agree with the first Bill that went through. I got entrapped with the tax increase. I did not find out until I got a crazy high mortgage payment. It was ridiculous and it was almost doubled. The taxes go in, they put it into an escrow account and by the time the escrow hits, they have already paid paid forward. It is not divvied up over twelve (12) months, it is divvied up over eight (8) or nine (9) months. The tax increase is pretty heavy. When I first got the bill, I thought, "Wow, how are normal people going to be able to do this?" I fortunately have a little bit of means to be able to make it happen, but it is a big hit when I saw it. It is unfortunate. My biggest thought was how are we going to be able to go through it. I was able to talk to Councilmember Evslin and Councilmember Chock about it. I was really happy that they are working on a Bill to fix it. I talked to a bunch of people that got in this mix. They are not one million three hundred thousand dollar (\$1,300,000) mansions. Let us be clear that in Kalāheo, the median house price on the hill is over a million dollars. It is a median house. We are not talking mansions, we are talking normal people. Normal people buy houses that are crazy expensive these days. I just wanted to say that it does hit home. In my testimony, I made an incorrect statement. I said it was a vacation rental, but it was for a vacant property. If you read that, I had that wrong. I am in favor in their Bill. There is a lot of people that have to come up with this money that do not have it. I know someone that was at fifteen thousand dollars (\$15,000). Their bill was a little worse, it was three thousand fifteen dollars (\$3,015). That was because of a circumstance. Still, this is a lot of money for normal people just doing their thing. By the way, the notice was not that clear. I read the notice and I had no idea I was going to get a double tax bill. If I knew it was going to be a double tax bill and I needed to an exemption, I would have. I (inaudible 1:45) for the government affairs committee for the Chamber of Commerce, I am a general contractor, developer, and I do all kinds of things for the public. I did not know about it, I got entrapped in it, and I am paying the taxes. I think of normal folks that do not have even what I have. The means within the government that I have. I know all of you personally. Most people do not and they would have never known any of this. They are paying a big change in their bill. A lot of them just found out, I found out two (2) weeks ago. That is kind of where it is. I really appreciate your time. I appreciate both of you for putting an amendment in. I fully support it. If you need any help on my side, I am there. I think of all the other people in the County that are having this problem and trying to make ends meet and were not ever intended to be stuck in this. Thank you so much for your time.

Council Chair Kaneshiro: Thank you, Tyler. Is there anyone else wanting to testify for a first time. Matt, long time no see.

MATT BERNABE: For the record, Matt Bernabe. Hi everyone, it has been a while. I was listening to your discussion on my way here. I have not read the Bill yet. I do know a little bit about our tax codes. I wanted to point out and

Councilmember Chock pointed out that we have a very confusing and complexed system. The last time I checked it was thirty-five thousand TMK parcels. We had one thousand five hundred (1,500) different ways of figuring out the taxes. That is pretty complexed. To start at this point. I love the essence of what you folks are trying to do with disincentivize and incentivize. I get all of that and I like all of that. You folks are starting with a very broken system that you should have revamped. You should have took that opportunity when you blocked us all out from coming to voice our manao in here. I think during the Declaration of Emergency none of this business should have taken place. You should have only been dealing with Declaration of Emergency business and budgetary items that was already existing. We will not get into that. I get it, it is only first reading and I am able to catch up. The other thing that I was listening to that concerned me and my other point of worry is, you already based the budget and now we are going to retract funds. Am I wrong and is that what you are saying? You are saying, of this tax revenue, you are going to have a projected budget for the future already set? No? Maybe I am wrong and I heard you wrong. Maybe you folks talk so good that I do not understand what you are saying. The other thing I was worried about was that my daughter and their generation, they would not even think about coming back. The ninth island is the ninth island because of the kind of things you are doing right here. Yes, at one point it is trying to target a certain group from coming in and purchasing all of these homes. I get it. It also makes hurdles for the regular Joe from here to fill out this or that. I was listening and was like "Wow." I am going to go back to what I said in the beginning. You should have used that opportunity to create a new tax system and a better one. Instead of a past practice, we use a best practice. I have said this before, best practice versus past practice. You have all heard that. It is not a foreign concept. Certain departments already have to conform because of their higher ethic codes that supersede the County. Someone who has a Commercial Driver's License (CDL) for a truck license, has to adhere to that CDL (inaudible) not yours.

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

Mr. Bernabe: I will come back.

Council Chair Kaneshiro: I know Lonnie wants to speak again.

Mr. Bernabe: I know, I am rusty.

Mr. Sykos: For the record, Lonnie Sykos. Actually I will not use much of my three (3) minutes because Mr. Bernabe is here to speak for me. Thank you very much, Matt. I will simply reiterate that the piece of legislation that you are now talking about passing legislation to correct never should have been passed in the first place because of all these problems that exist. Either you learn from that or you do not. It is that simple. How many times do you want to have the public come beat you up for passing legislation that harms the public? It is just that simple, right. This could have been handled in a different way. You could have given the public more notice, you could have given the public better notice. The one million three hundred thousand dollars (\$1,300,000) is idiotic. It is hard to buy any house that is not filled with the fumes from someone's methamphetamine laboratory and to buy a house less than a million dollars. I do not come from your background. People

of wealth do not buy one million three hundred dollar (\$1,300,000) houses on Kaua'i. They do not buy a one million five hundred dollar (1,500,000) house. Investors do not buy middleclass houses unless they are middleclass house investors. The people you are talking about want mansions. They want houses that are so expensive that you cannot rent it out affordably, unless the owner of the house is going to eat a larger amount of money than they collect in rent. This whole idea that you are going to force someone with a five million dollar (\$5,000,000) to rent it out is absurd. They do not need to rent it out. You cannot economically force them to rent it out. What you really do not want to do is upset that class of people and have them if you want economic war with us, we will have economic war with you. Now you want to have a war with billionaires? Do you think you are going to win? You need to spend a lot more time thinking about the unintended consequences about your legislation before you pass it. It is just that simple. That piece of legislation was a disaster. It is proven that it is a disaster by the today's conversation and this Bill to correct all the errors that were made in the past. I do not know how you are going to make people whole, and you are not. You have a bunch of harmed members of the public and you are not going to get any thanks.

Council Chair Kaneshiro: Is there anyone else for a second time? Tyler.

Mr. Rodighiero: For the record, Tyler Rodighiero. Just to be clear, this is different from the homestead deduction that you can give which is twenty percent (20%). This is a one hundred percent (100%) increase on the tax. When people say you did not apply for it and you should not be able to get it, this is different. It did not say on the little notice that your taxes will double. It did not say if you do not act your taxes will double. When you are in homestead, you are already in that category and it would be a twenty percent (20%) decrease not increase if you did not apply for it. In this situation, if you do not apply for it, you get a one hundred percent (100%) increase. It sounds like a lot of average people did not apply for it. I wanted to bring that up so you can understand. For some people that I talked to compared it the homestead. Homestead is different because if you apply, you get a discount. For this, if you do not apply, you will be charged double. I wanted to clarify that for you to understand. I know people compare it to the homestead, but it should not be comparable to the homestead for that reason. Homestead is a reduction versus this, if you do not apply you get a one hundred percent (100%). Thank you so much. I wanted to make that point before I leave.

Council Chair Kaneshiro: Thank you. Tyler, he has a clarifying question for you.

Councilmember DeCosta: I want to understand this clearly. You said when they got the notice in the mail, the notice did not tell them that their taxes was going to double. Is that what you are saying?

Mr. Rodighiero: It did not. There is a little square box and all it says is, we were taxed as residential and now you are at residential investor. That is it. It is not clear and it is insane. They should have given an example and said, "Hey, if you do not act, if you were paying "X" now you will be paying "Y". It does not have any of that. The way it goes is, here is how much, here is your classification. You need to be savvy on these things to understand it, find the Bill, look at the Bill,

read the Bill, and understand that you need to do this thing. It is not a straightforward kind of thing. I fully support this Bill they are putting through and I think it is going to fix everything for all the people.

Council Chair Kaneshiro: Clarifying question. Councilmember Cowden.

Councilmember Cowden: Yes, everything for all the people. Did you hear my questions?

Mr. Rodighiero: For all the people that got stuck into this. Your stuff was about other stuff.

Councilmember Cowden: No, no. These are the ones that got stuck in the same thing and for different reasons.

Council Chair Kaneshiro: Let us not argue about it. It is a clarifying question. I know Tyler was speaking specifically to...

Councilmember Cowden: To his situation. I wanted to make sure that it was not misunderstood.

Mr. Rodighiero: Thank you so much for the time.

Council Chair Kaneshiro: Thank you, Tyler. Matt. You have three (3) minutes left.

Mr. Bernabe: I might not even use it all. This is first reading, so I guess I have a lot of time to come back. For today, I would like to put out there that most of us know, even if you do not want to admit it, even if the big machine does not want to admit it. For thirty-plus to forty (40) years, Kaua'i was always going to transition from sugar farming, plantation, economics, and tourism to money revenue from real estate. That is not a secret. If you were to deny that, you would lose credibility. It is played out that way and we all know that was what it was always about. I will go back to my first testimony. As a public member, homeowner, and a voter, I think this is an opportunity to say, maybe we should scratch this and look at it holistically. This is first reading and we have not invested that much time and money. I am a public member that talks to other public members and we are saying to come up with a better system. Take this moment right now. Why wait, why push this down, why keep band aiding, why do you keep putting bandages. Humpty Dumpty fell down a long time ago. It started in Princeville. The plantation knew they were exiting way before the public did. In 1982, they lobbied for the County to take control of the revenue from property tax. It was in 1981 or 1982, that is when we got control of this. They knew all of this. Why? When they sold themselves from Alexander & Baldwin (A&B) to Grove Farm, from sugar to development. Whatever it may be, they already knew this was the plan. They were going to selloff and make their money that way. At the same time, they are going to be able to keep huge fallow and lots of land locked in at fifty dollars (\$50) an acre. No matter what tax rate you folks give them, they paid peanuts. When I ran, I remember

two (2) cousins from Kalāheo. One of them was by McBride and one was up on the hill. When their family died, they both got ten (10) acres. The one cousin on the hill had to sell half to retain five (5) acres, while the other one was locked into some ridiculously low rate. It was amazing. That is what got me to look at it and it was really confusing. As a public member, make a better system, they exist. This is the springboard. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? Are there any further questions from the Members? It is first reading. If not, we can do final discussion and vote on it. I want to finish this item before we take our lunch break. If there are no further questions, I will call the meeting back to order.

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

Is there any final discussion from the Members? Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I want to address some of the testimony. Starting with the testimony which inferred that I was lying. I think that there is a misunderstanding here, the timing, and what this is addressing. The residential investor tax rate was passed twelve (12) to fifteen (15) years ago which set out what it actually does. Essentially making homes over two million dollars (\$2,000,000). January 2021, the threshold for that went from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). That is what I was referring to that passed unanimously. I have the minutes in front of me, I went back through the minutes yesterday. I normally do not want to say he said she said to try and prove a point. But, because some of the comments were made, I feel that it is important to clarify for the record what was said at that meeting. From Councilmember Cowden's final discussion, "If it encourages people to have someone in their house when they are not here, I support that. We need roofs over heads. I feel comfortable and that the RPT assessment division said that they are going to reach out to people affected, and assurances, and there are difficulties, but I support this choice." I said at that time, "I have some concerns that this Bill could lead to some issues because people in the one million three hundred thousand dollar (\$1,300,000) margin will not know their rate until the assessment notices come out." I went on to pitch both tiers at the Committee Meeting and pitching of full vacancy tax, which people would know the rate in advance. That Bill passed unanimously. With some discussion around some of the tradeoffs, recognition of working through the tradeoffs, which is what we are doing right now.

Tiers, which is what passed a few months ago, is what there was significant disagreement about. I am not sure what that final vote ended up being, but the purpose of tiers was also partially to address the issues around the threshold. The primary issue about the threshold that we are talking about intensively is that when you cross that threshold, your taxes can go up from the Residential rate to the Residential Investor rate, a fifty percent (50%) increase. The tiers and the reason why it is supposed to address it is because when you cross that threshold, all you are getting taxed on is the amount over the threshold. When you find out you are over

the threshold, you are paying five percent (5%) to ten percent (10%) more. You can fix it the next year instead of all of a sudden being whammed with this fifty percent (50%) bill. The big important point is that tiers does not go into affect until 2024. Is it not that we are trying to fix the issues caused by tiers.

We are trying to address some of the broader issues with the Residential Investor rate, which we have been talking about here for years in some sense. As far as the fact that somebody is not going to be able to recover the difference in what they paid, that is what the point of this Bill is. It is a tax credit to get the difference between the Residential and the Residential Investor rate. So, yes, they will be credited in the next budget cycle for that difference and they will recover it. The reason why it is not coming out of this year's budget is because, if this passes, it passes sometime in February. People will have sixty (60) days to apply. The amount we are going to pay back will be known before budget, we budget for it, and it is not coming out of this current budget. Lastly, the reason in my mind why the Residential Investor rate itself is important and why a differential rate for vacant homes is important, is because as we have gone over many times before. One (1) in five (5) homes on Kaua'i is a TVR or totally vacant. Part of the reason we have so many vacant homes is because people from overseas can purchase property here, pay relatively little property taxes on it, they can have a vacation home for when they come, they can have an investment home, they know the home will value and appreciate every single year, and the property tax (inaudible) are going to pay. It makes a lot of sense for rich people to buy housing stock on Kaua'i and it is usually vacant. The purpose of a higher tax rate is two-fold. One, it is to encourage rentals in these units. Two, it is to recover funding. If you are keeping a house vacant, you should be paying more to help pay for an affordable home for someone else. As we have this rate, we are going to have difficulties like this. Our job here at this table is to recognize the problems and work towards solutions to those problems. This Bill is not going to solve everything, but it is meant as a partial solution. What Councilmember Cowden was talking about, (inaudible) title. We did that. Bill No. 2756 was introduced by Councilmember Chock and I, when there is issues of (inaudible) title, there is no owner for property tax purposes. Heirs can be classified as an owner so they do not fall into the Residential Investor rate. What our job is, there is a problem like you mentioned of (inaudible) title and nonowners, figure out a solution. There is a problem here. People cannot successfully appeal, people have already paid the difference for 2022. All we are trying to do is figure out a solution. I am hopeful we can pass this out of first reading. I was not expecting it to be this contentious. It is meant to be a partial solution. Thank you for the discussion.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I fully intend to vote yes for this. This is a partial solution. It helps people like one of our testifiers. I want to help them. There are so many more that are impacted. Can I have my final slide. One of the testifiers said that it is one hundred percent (100%) or close to one hundred percent (100%) rate increase. It is a lot more than that because we had this economic devastation of the two (2) years of COVID-19, and we had this valuation increase. We got seventeen million dollars (\$17,000,000). Some of it is not from the eight hundred fifty-nine (859) houses or properties, but a good portion of it is. When we look at two percent (2%)

which we want to give, two percent (2%) of seventeen million dollars (\$17,000,000) is three hundred forty thousand dollars (\$340,000). It is not even one (1) house that we are funding when we pulled hundreds of people out of stability. Thank you for working on something to start the correction. When that came up in 2021, that was the end of it. As I said the beginning here, I capitulated, because I could not have it be separated by zones. I did not want to be the North Shore person who does not go with it for us. How shame am I? What we see is over half of these are right in my own area. We have these powerful problems. This is a good start, but it is not even close to enough. I am in agreement with the testifier who took on my case. We need to repeal this whole effort. It is a wrong effort. There are some people who use housing on Kaua'i as a financial instrument. We need to think of how to direct to them specifically. So many of these people who maybe do not live here fulltime, this type of thing turns them into a less time of them being able to be here. That is who gives us the Boys & Girls Club, who pays all these scholarships to the Lions Club, who gives us the pier. We are hurting our part-time residents and we are devastating some of what I would call our struggling middle class. I made a point to myself somewhere about the tenants. When people have to raise the rates on the tenants. I was upset here about looking at the people who are freshly moved into the parks. They are moved out of their house and the landlords raised the rates because the tax went up excessively. The fallout is profound. I believe we need to completely repeal the whole action that took place. In terms of this Bill today, yes, I will move it on, but expect more in second reading because this is an inadequate fix.

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

Councilmember DeCosta: I want to thank our two (2) testifiers. Our job here is not to only make policies. Our job here is not to meet with the different departments by ourselves in Committee. That is our job being out there and they come with great ideas. We need to listen to them sometimes. I told Lonnie a few times and I have argued with him. I think he even called me a name one time. I stand here and I will say, our job is to listen to these people. Mr. Bernabe has an excellent idea. He said, "Did you folks really do your homework?" I am going to ask Councilmember Evslin and Councilmember Chock, is this a band-aid or did you do your homework? Mr. Bernabe is saying scrap this and get something really good in writing where we do not have to workout more amendments or languages in the Committee. Did we do enough homework? If you tell me, yes, you can sway my vote today. If you tell me that you just winged it to help a few people. There is probably a lot of other people out there. Remember, they said the County sent the notice in the mail and the print was so small. It did not even say how much their tax bill was going to go up. Is this a chance we can scrap this, have better language, and work on it with the Department of Finance. Or, do you folks think we have the capability in Committee to do the right thing. I would like to learn more about that. When I voted on this in 2021, I was here only one (1) month as a Councilmember. I was inexperienced, I did not know what I was voting on, and I was going with the group. I tell you one thing, when I voted against the contractors bill that Administration put forward in first reading, I was the only person who voted against it. It was 6:1. Do you know why? I could see the flaws in that Bill. I see flaws in this right now. What

do you folks think? Help me to convince my vote. Do you think we can solve this in Committee?

Council Chair Kaneshiro: Are you asking a question?

Councilmember DeCosta: I am asking you and the two (2) introducers. If we can fix this in Committee, I am willing to vote on it. If you tell me that you winged this and put it together, I am a little worried. That is all.

Council Chair Kaneshiro: The fix would be in Committee.
Councilmember Evslin.

Council Chair Kaneshiro: I am sorry Councilmember Chock.

Councilmember Chock: You should be. You said we "winged" this.

Councilmember DeCosta: You used the term "band-aid." What does band aid mean? Is that the same term as winged it?

Councilmember Chock: It is because you are not going to solve all the challenges. All the challenges that Councilmember Cowden mentioned, are not going to be solved with this Bill. I would expect new bill's to be introduced. If you look at the system and you talk to our Administrators, you will see how complexed this is, and answer some of the questions that you have.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Councilmember DeCosta, when you say that there are issues with this Bill and that we need to work through it in Committee. Can I ask you, what do you see the issues are with this Bill in front of you.

Councilmember DeCosta: How are we going to notify all of these people as a County? I want to know how we are going to notify all the community members who may fall into this category. How are we going to get the money to pay this credit back? We are going to have to budget and cut corners somewhere else. We are going to have to come up with four hundred seventy thousand dollars (\$470,000), five hundred thousand dollars (\$500,000), or a bit more. Those are my two (2) concerns with this Bill.

Councilmember Evslin: As far as where the money comes from. The change from two million three hundred thousand dollars (\$2,300,000) to one million three hundred thousand dollars (\$1,300,000) gendered an extra seventeen million dollars (\$17,000,000). If we are discussing a possible repeal of the one million three hundred thousand dollars (\$1,300,000) and going back to two million dollars (\$2,000,000), we have a seventeen million dollar (\$17,000,000) hole. All this does is, it does not change the threshold. The threshold is still there. Of that seventeen million dollars (\$17,000,000) new coming into our budget, five hundred thousand dollars (\$500,000) paying for a credit for homes that by the definition of it, not necessarily have been in a class. As far as the revenue shortfall, it is not going to

money. We got a lot more money coming with residential investor because of the threshold change.

As far as ratification, RPT can speak more to it. My understanding is that assessment notices go out December 1st. Following that notice, they are going to send out a separate mailer, I believe it will be to tell everyone in the Residential rate. A separate mailer with a single piece of paper so it is very clear. It will say, "If you are in this rate and you do not think you should be in this rate, if you can show that you lived in the house before September 30th or that it was long-term rented, appeal it by December 31st. Based on pending Council legislation, if that legislation passes, we can successfully grant your appeal." Something vaguely along those lines. They said that they are going to send out the mailer and they are preparing for it already, which will be pending passage of this Bill. Are there further concerns that we can answer?

Councilmember DeCosta: That is all I wanted, was clarification. Thank you.

Councilmember Evslin: Thank you for asking.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to say how I see this Bill being fixed. Can I answer his question?

Council Chair Kaneshiro: It can be part of your discussion.

Councilmember Cowden: It is part of my discussion. We can fix this. Not only for the narrow piece, but for almost all of those by looking at what was two million dollars (\$2,000,000) at the time it was passed. We take that and move it to today's prices to go back to the amount...we can pretend it was two million seven hundred thousand dollars (\$2,700,000), and bring it back up to that threshold. What happens is, those people who are injured or getting divorced, we would not sweep all those people into it. Everyone of us stated this time we were running, when we running the last time, and when we were all together, our number one (1) goal was to keep our people on the island and keep them safely housed. When we saw eight hundred fifty-nine (859) houses impacted by this and the two percent (2%) out of the seventeen million dollars (\$17,000,000), that is three hundred forty thousand dollars (\$340,000). We are not hitting our goal. How much it cost to keep people in their houses is so much more profound than what we are getting taxing them out of their houses for. We should not be taxing out these people. If you are under two million dollars (\$2,000,000), that is not a rich house. We have other ways to sit their limit for vacation rentals. I have been looking at what it is in San Diego. There is different places. We need to limit, fine some sort of speculative tax, or something else. We need to go after the population that we are really looking at, rather than this broad spectrum smack. We are fixing an egregious problem that hurt a lot of people. I have cried on this floor four (4) times and it has been over these layers of displacement. It is always going after the taxation and the blurring and lack of understanding of categories. Whether we call it vacation rental or residential investor, it gets blurred. I look at how many people who have been badly impacted.

I feel like I have failed more profoundly on that and the number one stated goal of keeping people in their houses. All these houses that we have been able to put through with Adam where people do not own their houses. We are making the problem much worse than we are solving. A little two percent (2%) or seventeen million dollars (\$17,000,000) is not enough. We need to keep those people in their houses. That is how I see it. We need to bring that number, that threshold back up.

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

Councilmember Evslin: I think as far as we are circling this around to solve everything, no. As long as we have a tax which taxes vacant homes differently. We do not have a magic wand where we can determine exactly which homes are vacant. We spent a lot of times with the Department of Finance looking at different ways to do it. Can we look at electricity usage, can we look at water usage. What it comes down to at the end of the day, is that there really is no way to do without relying on the homeowner to come to the County and show us that it is occupied. As long as we are relying on the homeowner to do that, no matter what we do here legislatively, people are going to fall through the cracks. Yes, I think we can do whatever we can to help mitigate that, which this Bill is intended for. Does it solve everything? No, we are not going to solve everything. That is based on the fact of vacancy tax. Maybe there is room for further discussions around if we should have a vacancy tax or not. If not, where is the thirty million dollars (\$30,000,000) going to come from? No, it does not solve everything. Yes, it is a discussion that is urged.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I appreciate what Matt and Lonnie brought to the table. Having been involved before, this is the first reading, okay fine. I like the discussion and think there is a lot more work to incorporate and set into these next steps. At the end of the day, it is keeping our people home and in their homes. That is the bottom line. We can go up, down, and all over the place. I like the starting part of it and we have a lot more discussion in incorporating some of the things we heard today. Not making any final decisions, but having healthy discussions. I think we are at the right point now. It is not going to be the best. I think we need to incorporate all of that at the same time and to make it a final product. Today is only first reading. Again, I know there is a lot of shifting back and forth, going up and down, all the different rates, et cetera. At the end of the day, how do we keep our people home in the house. That is it and we go from there. I am really to do what I need to do to bring that to the table, have separate discussions, or meet with our Administrators and Department of Finance. I like where we are at right now. I think we are moving in the right direction and let us keep going. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I can be very brief. First and foremost I want to thank Councilmember Chock and Councilmember Evslin for putting this Bill for. I think it is important and I think it is important when we hear concerns from our residents, we try to respond. The way for each of us to respond, if we hear excellent

testimony from the public that makes sense, is to formulate that into a Bill and put it forward. We all have the power to vote. Vote 6:1 if that is how you feel, do not give in. We got our vote. We also have the ability to put Bill's forward. I thank them because they did it. The put this Bill forward to try and address these issues we just heard from testifiers not to long ago. We are doing our job here. It is first reading and I am happy to support it.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I see this as a fix to bad policy that had unintended consequences. We need to make sure when we do policies, we see past the unintended and bad consequences that can happen. That is why I believe sitting here today, is the reason why Councilmember Chock and Councilmember Evslin introduced this. We passed a bad policy. I am glad that we are going to make it right. I do not know if there should be more amendments or clearer language. I hope we can do it in Committee. I plan to do my homework with the Department of Finance to see if we can incorporate better language. Thank you.

Council Chair Kaneshiro: Is there any further discussion? I will say Councilmember Chock and I will not be here for Committee to add any amendments or our comments. This is a small solution to try and fix what happened. A lot of it had to do with communication. People not recognizing what was going to happen with their taxes. Here is a small solution to it. I will leave it at that. It is up to the next Council to adjust it. To add a new Bill or amendments if it is necessary. As Councilmembers, you will have the purview to see if what I want to do fits into this this Bill, or do I propose a new one to raise the amount back to two million dollars (\$2,000,000) or another amount. Does what I have proposes an amendment to this Bill to catch more people in the net to be able to resolve their situations. Again, it will be up to the new Council to decide that, to provide the amendments, and to get their questions answered. Councilmember Cowden, I think we made the point to the Administration to get your questions answered before Committee. We know that is really important to move forward, they type of legislation you want to propose, or what type of legislation you might want to amend. I will be voting it forward. It is not up to me or Councilmember Chock to make the decision here to approve or vote it down. It will have to go through its process and it will be up to the next Council. With that, I will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2891) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 14, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Motion passes. With that, we need to take our lunch break. One-hour lunch break, and we will be back at 2:00 p.m.

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

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

Council Chair Rapozo: Welcome back. We are on page 5.

Proposed Draft Bill (No. 2892) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 12.7(b) AND ADDING A NEW SECTION 12.15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES, APPEALS SETTLED BY DIRECTOR

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2892) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 14, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: With that, Councilmember Chock or Councilmember Evslin.

Councilmember Chock: Thank you, Chair. This Bill, throughout our process and looking for remedies, the appeals process came into question. With working with Matt our County Attorney, this is what emerged. I would pass any questions onto Matt, who has in debt knowledge on what needs to happen.

Council Chair Kaneshiro: I will suspend the rules. Matt is here. Are there any questions for Matt? Matt, do you want to briefly go over this Bill to where we are at.

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: To provide a background, it would be good to start with a little history. The County got exclusive taxing authority over RPT in the 1980s. Prior to that, the State had exclusive control, but the counties got the funds. The State would do the taxing, in conjunction with the counties a little bit, they would take their administrative costs, and the county would get the funding to operate the County. That proved problematic, and that is why in the 1980s there was a constitutional change and then we got exclusive taxing authority. When that occurred...what all the counties essentially did is we took all of the state tax laws and we codified them into our ordinances. When you look at all the different ordinances from all the counties—for the tax ordinances, they are really similar, almost identical, except for certain things that change over the years; tax classes being one of those. If you look at the rest of the ordinances, all the counties

are very similar. With that as the background, we inherited their laws and somewhat their practices, too. That goes with stipulation. Just to provide a background on what stipulations are—our Real Property Assessment office does mass assessments. How that differs from appraisal—usually when you have an appraisal done, the appraiser will come to your house, measure your property, they will look at the interior and see what furnishing you have, looks at your flooring, get a real in-depth view of what the property is and you get an appraised value based on that. This is different from what our Assessment's office works. They do mass appraisals, they work off general information available. They have the square footage, but a lot less information than what an appraiser would typically have. What occurs is, they do these mass assessments and then people disagree with those assessments and appeal those assessments. When that occurs, generally, the Assessment's Office will take a closer look at that property. Sometimes property owners will allow them onto the property, and then they can see that the roof is deteriorating, so it really should not be valued this high. They will in turn to stipulations, lowering people's tax assessed values. This occurs fairly frequently. If you look at the Board of Review's agenda, there are lots of stipulations, almost every meeting they have stipulations that they enter into. When we were looking at the last bill and potentially solving multiple issues, one of them would be the ability for the Director of Finance to review stipulations that have those specific Residential Investor problems and then if they met the new criteria, then they could settle them. This is an opportunity to fix two (2) problems in the code, because when you look at the Kaua'i County Code 1987, As Amended, there is not a direct authorization authority to the Director of Finance to enter into these stipulations. What we did was we looked at all the rest of the counties and we talked to the rest of the counties, corporation counsels to see how they were handling this situation, because our county codes are all very similar in these aspects. The City and County of Honolulu had adopted an ordinance, which is really similar to what is in front of you today, to fix that problem. When we were talking to the other islands, we highlighted a problem for them, and so now, for instance, Hawai'i County is now looking at potentially doing something similar to fix this problem of no express authority from the county code. This Bill would codify current practices, but also add in a reporting requirement, which means every year they would have to report all the stipulations they enter with you all. This really does codify current practices. Now, as the County Attorney, I am the legal advisor, so I never really advocate for or against any bill, right? I review them for legality, as long as they are legal, I do not step in. With all of that being said, Council does not have to adopt this Bill. If you do not—well, I wanted to present the problem and a solution for you, because the problem is if you do not, then you will have to start reviewing all these stipulations. All these stipulations will go in front of the Board of Review, but before they get to the Board of Review, they will have to come to Council. In my opinion, it would somewhat congest your agendas, because you will be adding a lot of tax things into them. This does solve that potential problem of it congesting your agenda. For the time being, I think the first time will bring a tax case in front of you will probable be the second meeting in December, December 14th. Other than that, depending what

you do with this Bill, it may solve the problem, but if not, then these will just be presented to you similar to other Executive Sessions, where we will be bringing massive amounts of information to you. The problem is too, with the stipulations that hit the Board of Review, the Office of the County Attorney does not naturally review any of those, we do not actually get involved in the case, until Tax Court. Everything up to that stage would be handled by the Real Property Assessment's office. The Finance Department can probably provide better information of the amount of the appeals and how often they happen and that sort of information. The Office of the County Attorney does not usually get involved until it gets to Tax Court.

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

Councilmember Cowden: I do not understand. This, first of all, has nothing to do with the last bill that we just talked about? When I first read it, I thought it had to do with that bill and if there were a big overload coming to them from all these mistakes, it would go to the Director of Finance, but it is not that?

Mr. Bracken: What it does in connection with the last Bill is, the last Bill is a tax credit for one-year. What it does not touch is that second year, the year we are coming into now. This would touch that second year, because it would give the Director of Finance the ability to settle those appeals.

Councilmember Cowden: Okay, that is what I thought it was. So, they would settle it without having to congest the Board of Review's agenda. If they looked at it and it is pretty clear these people live in this house, they can make the call, and then we do not have to wait every month for the Board of Review. They can wholesale, so a lot, and then they could come and tell us, is that what this is saying?

Mr. Bracken: It is, except for it would still be reviewed by the Board of Review. It is reviewed by the Board of Review, because it sets it up so they can stipulate the stipulations are then reviewed by the Board of Review, but it does speed up the process, like you said, and then it would result in one report to the Council.

Councilmember Cowden: Forgive me—I even went to some law school, but stipulate, you are saying it is something like a legal opinion where they are saying...can you define stipulation in this case?

Mr. Bracken: The best example would be we assess the property at one million dollars (\$1,000,000), they come in and say, "My house is depilated, my roof is falling, it is sixty (60) years old, there are termites everywhere, and it is only worth seven hundred thousand dollars (\$700,000)," the Real Property Assessment's Office takes a look at it and say it is worth seven hundred fifty thousand

dollars (\$750,000), both parties agree to it...when you at the stipulations they send to the Board of Review, it has a small synopsis that say, "there was an appeal, this is their value what they thought it was, this is our assessment, and this is what we have come to, and the reason why."

Councilmember Cowden: This is speeding it up for the Board of Review, and this ninety (90) days?

Mr. Bracken: The ninety (90) days is the report.

Councilmember Cowden: The report—so it goes to the County Clerk, who then puts it on an item and we can look at it and it goes on our agenda typically?

Mr. Bracken: Yes, and so the tax year...it does reference the tax year, the tax year is the fiscal year, so it would fall in the fiscal year. It follows the fiscal year and ninety (90) days after, then you get the report.

Councilmember Cowden: Okay. Did you see any downsides in this?

Mr. Bracken: It really codifies current practices. No, I do not see any downsides, because this is how the County already operates and this is how all the counties operate. All the counties do it this way. None of the counties actually present these stipulations to the county councils. It has never been a practice in any of the counties.

Councilmember Cowden: Okay.

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

Mr. Sykos: For the record, Lonnie Sykos. I am going to channel my neighbor Mr. Bernabe now. The question that this raises—and I thank our County Attorney for his excellent representation of the pros and cons, which as for me, I never went to law school and I am not a lawyer, but I understand the gist of all of this. This raises the issue of why are there so many stipulations? The reason there is so many stipulations is because of the methodology that the County chooses to use in administering property taxes. The way that we are set up, because we inherent all of these State practices, would be considered in many parts of the country unimaginable bazaar because it is so complicated. As Mr. Bernabe pointed out earlier, the County right now is at a place where it would be reasonable to look at the methodology that we use for property taxes and change some of our practices, so that for instance, this block appraisals—I live in Wailua Houselots, so there is a family owns a fourteen-acre parcel that is not part of Houselots, it is surrounded by it, which is in agricultural, but they get taxed as if it was Residential property and now they

are forced to build houses on it, because they cannot afford the property taxes, given the income that they get from raising livestock on the property. How do we change our tax systems, so we do not end up with all of these stipulations, which eats up the time of all these different entities in the County government, not to mention the stress that it puts on the members of our community, who have to deal with these issues. In the bigger picture, how do we get rid of all these stipulations? Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify?

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

Council Chair Kaneshiro: Are there any further questions from the Members on this item? If not, is there any final discussion on this item, it is first reading. Councilmember Cowden.

Councilmember Cowden: I am just commenting on the testifier. I get that our tax policy is enormously complexed, and it is probably due for an overhaul. This seems like a simple piece right now that it is not the place to be doing the entire overhaul. I do not see a problem with moving this forward right now.

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

The motion for passage of Proposed Draft Bill (No. 2892) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 14, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

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

BILL FOR SECOND READING:

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 to approve Bill No. 2888 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: Do we have any questions from the Members on this item? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: I want to direct my question to Council Vice Chair Chock, because it is your last day. When we were hearing from Brian Hirai, what I felt that I heard from him is that our main objective and why we were doing this is the two percent (2%) ordinance, was that it would be put in the Housing Revolving Fund in a way where we could do something more special with it, then if it was just there in this binding resolution to hold two percent (2%). I thought that we were going to have more capacity out of that money, but it sounds like we are not. Did you hear the same thing?

Councilmember Chock: I think the answer is yes. To be clear, we all asked the same questions when we all went to the different iterations of this two percent (2%). We were all told that it was going produce what we wanted. That is on the record. There are always varying opinions, this one seems to be one of those. You can hear from (inaudible) who was the advocate for Maui plan, who speaks a little bit differently. When we dive deep into it, there is truth on both sides of what is being said. I do not know if that answers your question completely, but that is how I interpreted it, so I would say yes.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I know the question was not directed at me, but if I can answer also. Yes, certainly one of the three stated intents was to use the revenue derived from the two percent (2%) to fund a revenue bond. As Brian said, that is not going to be possible, but I think as Ken has said at the meeting and as Brian's backed up, that there is other bond mechanisms that can be utilized when you have a regular flow of capital to the Housing Development Fund, such as project-by-project revenue bonds, which is how they are normally used. A developer tries to get a project, the County can help quickly float a revenue bond when they got the liquidity to do so. Having that regular flow of capital to the Housing Development Fund helps assure developers that the Housing Agency has the liquidity and the possibility to quickly float these revenue bonds on a project basis, it does not hurt the County's bond rating, because revenue bonds, as I understand, does not hurt the County's bond rating. It helps to get these projects to pencil out and then hopefully get access to other State and Federal funds. As Ken was saying there is still value to having that regular flow of money even if the two percent (2%) directly is not used to fund the development bond. As I heard Brian was largely agreeing with that type of usage for those types of bonds. Also, the ability to put the Housing Agency to go after a general obligation bond, which is I think the avenue that Maui County is potentially going to be pursuing. The County can do it as a whole and as Ken has said when the County goes after GO Bond, there is going to be lots of demands for that money; the

Housing Agency goes after it based on a regular flow of money, then they can more directly use that towards housing. Whether that even happens as Adam said, maybe or maybe not, it is certainly (inaudible .890 20:42). The initial intent—it was never simply to get revenue bonds, right. It was always three-fold. Having a floor of money going to the Housing Development Fund and to ensuring the ability to do long-term planning knowing that the money was going to be regularly going there.

Councilmember Cowden: I want to direct my next question at Councilmember Carvalho, honestly because you were mayor. You helped to set up the Reserve Fund, were you a part of that too? When we have that binding reserve fund, did you see any difference between having the ordinance and the binding reserve fund, the two percent (2%) in that? You folks brought that bill up.

Councilmember Carvalho: Right.

Councilmember Cowden: Is it double masking or does it make any difference? What is your experience with this?

Councilmember Carvalho: At that time it was specific for us to be able to have funding available should there need be. The process that we went through...and this one that we have, to me, it is similar, but at the same time we have more flexibility to decide what you want to do. That is all I have to say.

Councilmember Cowden: Okay. I want to ask my next question to you and then I will pause and let other Councilmembers ask questions, is that okay? When I look up from the County and I look at the world, it seems like we are flirting with war. It also seems like when we look at the BRICS (Brazil, Russia, India, China, and South Africa) Nations, as we are having all these other countries are wanting to join them economically and move away from the petrodollar, you are a finance person...

Council Chair Kaneshiro: Councilmember Cowden, are you sure this is a question for me?

Councilmember Cowden: Maybe not, but when I look at that I think the ability for us to have financial instability in the next couple of years, who knows what is going to happen. Just as two (2) years ago we did not know what we were going to go through. Sometimes there is wisdom in flexibility. Have you been following the world, the macroeconomics?

Council Chair Kaneshiro: I do not follow the world economics, but when I look at our county budget, I think our budget provides us flexibility. The Reserve Fund policy that we set up that says we are not going to use our savings to balance our budget is a mechanism that we did, so that we are stable, so that we do have a reserve for times that are bad. At the end of the day, we might have to make hard decisions too, because as the Council, you have the flexibility to adjust property tax rates. You have other mechanisms. We are not going to sit here and let the boat sink. There are ways to adjust to what is going around in the world, but I do know the reserve fund policy in the past, we were using our Reserve Fund to balance the

budget, which is not sustainable at all. If you chip off two million dollars (\$2,000,000) every year, in the next ten (10) years, you spent down twenty million dollars (\$20,000,000) of your reserve. I do not even think that big counties like Maui County and Hawai'i County had a twenty-million-dollar reserve in their budget and their budgets are way bigger than ours. It was really important at that time to say we want to have some money available if things happen. It is not smart to be budgeting and using our savings. If we are going to do a budget, then we would pass a balanced budget.

Councilmember Cowden: I guess I need someone to convince me why we need an ordinance when it does not give us what I thought? The last time I was expecting him to give me a completely different answer and I was solid and happy about it, and then I wondered "what is the difference between the Reserve Fund and that?" I feel very fuzzy, like it does not seem like it adds anything additional.

Councilmember Evslin: To answer the question, I believe what you are referring to is the two percent (2%) resolution that...

Councilmember Cowden: Yes.

Councilmember Evslin: ...Councilmember Carvalho and Councilmember DeCosta introduced in the past. As we discussed at the time, similar to the Balanced Budget Resolution, I think there is a reason that the Balanced Budget Resolution is a "done-deal" ordinance, because you want some flexibility around that. It is meant to be a general guideline, in general, we want to have a balanced budget, but you need the flexibility to use the reserve when you need to. Therefore, you would not want to have it via ordinance saying you need to have x amount in the Reserve Fund, because it would not give you that flexibility. There is a lot of value and rationale for the balanced budget to be via resolution. For the two percent (2%), as we discussed at the time, given that the two percent (2%) is via resolution, it is a general guiding principle, but it means that at budget time there is nothing actually holding the Council to follow it, it is a non-binding two percent (2%). It is a general guideline, but the Council during the budget would not have to follow the resolution. Whereas the ordinance gives more teeth to allocating the two percent (2%). We started a charter, which is largely unchangeable other than having the voters change it, the Charter Amendment, and now we are at an ordinance, which still could be changed by Council in the future, it just would take a process to change it. In some ways halfway between the resolution and the Charter Amendment, not as locked in as a Charter Amendment and unchangeable, it is saying here it is, you have to follow it during budget. If things get totally crazy and the Council has to change it up or down, then the Council could change this following the process of introducing or passing a bill over a lengthy period. In my mind, it is halfway between the resolution and the Charter Amendment, and it is going to be a personal choice for all of us whether we want to lock that into the County Code.

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

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

Mr. Sykos: For the record, Lonnie Sykos. I am just endlessly amazed at the variety of political opinion that exists within our country. First, you are not supposed to pass laws in the most generic comment in which the thesis of the law does not exist. That is what you are doing right now. We, the public, listen to all of this, you want to get this two percent (2%) and so, hey, I wonder what Mel Rapozo thinks about the fact that you want to tell him what the future Council's budget is going to be, because that is what you are doing right now. You want to tie the hands of the next Council and make them do what your agenda is today. That does not turn out well understanding the history of American politics. Do not know why you are trying to tie the hands as you are going out of office. Granted you will be back, but it will not be this Council, it will be the next Council. We already had all the arguments about what this two percent (2%) is going to do. What it is not going to do is what we were told repeatedly, as Council Vice Chair Chock pointed out, our county experts told us over again that this money would allow us to pretend that we had a revenue stream, but it does not meet what the definition of a revenue stream is thus the type of bond that this entire thing was predicated upon us getting is an illusion that we have no access to. Now, I sat through hours and hours here during former Chair Furfaro listening to discussion about our bond rating and why it is that we have a Reserve Fund and it exist to protect our bond rating. Our Reserve Fund, off the top of my head is like twenty percent (20%) or something of our operating budget or something like that. What that does is it protects our bond rating and it is not available for us to spend unless we want to damage our bond rating. That is its point. We have an emergency fund for hurricanes and things and there is only a rational size that we would build that up to because of the limit of our budget. All the rest of our money basically goes into a savings account.

Council Chair Kaneshiro: That is your first three (3) minutes. You are the only testifier here, so you can have your next three (3) minutes.

Mr. Sykos: Thank you. Again, going back to all the hours I sat out here when former Council Chair Furfaro was talking about our bond rating and this was during the collapse of the real estate market in 2008, it does not matter where the money goes within our accounting system as long as we save it. We can put it in the Open Space Fund, we can build our hurricane fund up to one hundred million dollars (\$100,000,000), we can do whatever we want as long as we save the money, we have a good bond rating and we can sell bonds and get a good deal out of it. Thus, it does not matter where we save the money because you just transfer the money to the Housing Agency when it comes time to build housing. There is no advantage to having a two percent (2%) dedication to the Housing Agency when you starting out saying, "if we have a hurricane, we are not going to spend it, if we have a tsunami, it is not going to housing, it is going to hurricane/tsunami storm damage." The predication that we are locking this money into housing is false and thus you should not pass a bill based on a false premise. This is Civics 101. This is what they taught me in elementary school. You cannot pass a bill if the premise of the bill is not true. This is not going to address the problem. This is just a Band-Aid or a "paint over" termite damage. It does not matter where we save the money. What matters is that the County Council raises enough taxes that you can have money that you can set aside to put into housing. I would also encourage the County to give up on the language of "dogging" the people, who are fortunate enough to buy properties here

and rather than looking at them as a threat and treating them like they are *moe lepo* that you should reach out to them, introduce them to this community, and make them a welcome part of it. Low and behold the same people that repaired the pier in Hanalei, the same people do umpteen wonderful things for our community that you talk stink about would do a thousand times more and they have experience in solving all the problems that come before you. This is not a new experiment. Between my mother and my father there is seven hundred (700) years of local government experience in their communities. On this island, you have half the population that can help you...

Council Chair Kaneshiro: Lonnie, that is your full six (6) minutes. Is there anyone on Zoom wishing to testify? No. I will call this meeting back to order.

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

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

Councilmember DeCosta: I want to address and clarify something that Mr. Sykos said that I think he might have misunderstood. Mr. Sykos mentioned that the Reserve Fund that Councilmember Carvalho and I introduced, it was not a two percent (2%). The language we amended was the language that you, Council Chair Kaneshiro and Council Vice Chair Chock put in that it could be used for emergency situations and all we did was add housing as part of an emergency. What I understood is the resolution that Councilmember Carvalho and myself had introduced was now we are amending that language to allow affordable housing to be part of a critical entity to the County. If we needed a revenue stream of two percent (2%), three million seven hundred thousand dollars (\$3,700,000) or more...ten million dollars (\$10,000,000) if a project that Housing Director Roversi would need, we had curtail that with our resolution. It is fixed now. We need money, the Housing Agency goes to the Mayor and says, "We have a project, we need ten million dollars (\$10,000,000) from the County," and what we did with our language fixed that. What I understood, what Councilmember Evslin and Council Vice Chair Chock did was they wanted to do a two percent (2%) increase of real property tax going to housing, so we could float revenue bonds, and that would be the stream of revenue. That was under the impression I had, but that was not the impression. It is still a good idea to always have money in housing. I believe in our budget, we always put money into housing. The Mayor has always committed money into housing and if Housing Director Roversi came and asked the Council for money, we would have added more money. I do not see this two percent (2%) as fixing our problem. I was misguided when I first voted and thinking that the two percent (2%) was going to be a revenue stream to borrow for revenue bonds. I believe the mechanism that we have in place now, with the resolution that Councilmember Carvalho and myself introduced gives that big option to housing. I think we already solved the problem. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I want to address what Mr. Sykos said about do we want to tie the hands of the next Council. Part of the answer is that we do that in some ways all the time. We added two (2) positions to the Department of Parks & Recreation to maintain the Rice Street area, in the last budget. Those two (2) new positions are binding the hands of the future Council to continue to fund those two (2) positions. When we go out to build a landfill, we are saying it is critical for the County to have a new landfill, it is, and we are going to spend one hundred fifty million dollars (\$150,000,000) to take in that depth to build a new landfill. When we do it, future Councils for the next thirty (30) years are going to be obligated to find the funding to pay that off. When we build a new road, we had a CIP for a road addition by the Kaua'i Police Department, we build a new road, then we are obligated through three (3) Councils to ensure that there is the funding to repair and resurface that road over time. By doing this in my mind, all we are really doing is putting the Housing Agency on a similar platform for this relatively small three million seven hundred thousand dollars (\$3,700,000) to say, "We are going to ensure that the Housing Agency has this regular flow of money, so they can plan into the future saying we are going to make these infrastructure improvements in the future and developers, you will have the consistency"—if we can set the mechanism to do it, come in for a revenue bond, which we can do on a project-by-project basis and help these projects pencil out. It is part of why—again, if we look at the Maui County Affordable Housing Plan, a dedicated source of revenue to the Housing Agency to give more flexibility over bonds is still their number one priority. This largely came from that for relatively similar rationale. Is it going to solve it? No. With all due respect, is your ability to tap into the Reserve Fund, is that going to solve it? No, also. All these things are steps in the right direction giving the Housing Agency hopefully more flexibility, more continuity, and more funding. None of us are going to solve it, but I think it will help. Lastly, Mr. Sykos made a good point saying, "Why are we doing this, if we can get rid of it at any point?" It is like waving a magic hand, saying "We are going to solve it and get rid of it if we need to," but getting rid of an ordinance is hard. Part of the reason to do this is that the only time a future Council would get rid of it is if we are in an incredibly dire situation. It is not going to be political popular to do and it is going to lead to defunding the Housing Agency in some part, so it is going to take something relatively dire for a future Council to move in the direction of repealing. I do not think it is just something that more show than anything. I think it will have some significant practical guidance. I am hopeful that we can pass it.

Council Chair Kaneshiro: Is there anyone else?

Councilmember DeCosta: I wanted to chime in. I remember former Fire Chief Goble was sitting here and telling us about these two (2) fire engines that were in dire need of being replaced. I remembered that the two (2) fire engines might come into our budget request this next term. I think a fire engine is expensive. What will happen when they come to us and ask for two (2) fire engines. Do we pick building twelve (12) affordable houses that year versus two (2) fire engines that can save the safety of our community? This is where the argument piece goes. Do we fund that excess money to affordable housing, which is just an agency, it is not our department, it is not even in the Charter. Our job is to make sure we follow the Charter Amendment. When I introduced that resolution with Councilmember Carvalho, we gave the Administration and the Council the flexibility to actually access deeper

funding than the two percent (2%) going bring in. The mechanism is there now to solve this problem and we owe public safety and our community what we intend to do with the Charter, which is provide safety and public amenities first.

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

Councilmember Evslin: I do not think that is an accurate trade off. It is not as if we are deciding whether to fund housing or fund the Kaua'i Fire Department. We have seventeen million dollars (\$17,000,000) additional from just that change in threshold for Residential Investor. We have the potential for five million dollars (\$5,000,000) more by raising the TVR tax by one dollar (\$1) to where every other county essentially has it. To borrow a line from (inaudible) she said it is like we are in Texas sitting on a massive oil reserve, saying we have all these problems, where are we going to get the funding, but we have incredible sources of revenue on Kaua'i through vacation rentals, through vacant homes, and we can fund with these things. We can replace fire engines at the same time as we fund two percent (2%) towards affordable housing.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: My follow-up on that is that you just pulled me out of supporting this. When I look at what we have just done where we got the seventeen million dollars (\$17,000,000), so much of it came—I did not get an exact number, because they cannot even figure it out, but a significant amount of it came from where it should not have come from. If we sit here and decide to go even heavier on that, we are pulling more people out of their housing. They cannot even differentiate and make sure they are hitting their target. We cannot figure out a bill, you are trying to write a bill, and it is not solving all the problems to not hit those targets. So many of them—(inaudible .890 42:35) is the one we went through first reading today, it is not going to solve the problem for most of those people. If we do solve that problem, we are not going to have that seventeen million dollars (\$17,000,000), we will have nine million dollars (\$9,000,000) or whatever else. Each time you force atypical properties from housing, forces them into sale, it raises everyone's rates up. You get the collateral damage that is so profound, it really does not work, so we have to sit there and look at the entire picture of what we are doing.

Council Chair Kaneshiro: Is there anyone else? For me, I think I spoke on this exhaustively. From the two percent (2%) Charter, all the way through. I definitely feel like the budget is the way to go on these type of items. In this case, it is not as bad as a Charter Amendment. I will go to my grave and say I do not think we should be budgeting through the Charter of two percent (2%). With this one, I am okay with it, but at the end of the day this does not do anything more than what we did in the budget, because if you look at the last budget we did and you calculated what the two percent (2%) of our real property taxes were, it equaled three million seven hundred thousand dollars (\$3,700,000) and that is how much we had in the Housing Development Fund without even having an ordinance. In that two percent (2%), we have five hundred thousand dollars (\$500,000) that we are paying as interest expense for a thirteen million dollars (\$13,000,000) Disaster Relief Funding (DRF) loan for Lima Ola. We are going out and leverage money with the money that we

have. I am sure in the budget process, if the Housing Director comes and says, "I need"—like he said at the last meeting, I hope if this passes and I need six million dollars (\$6,000,000), the Council is not going to give me six million dollars (\$6,000,000)." The budget is the exact time he should come in and ask for six million dollars (\$6,000,000) and the money will do x , y , and z for us, are you in favor of that? That is where we make the decision. Yes, let us fund the six million dollars (\$6,000,000) if we have it. A lot of times we have been going through this and it seems like this is money on top of what is already in there and it is not. It equals the exact amount that is in there. For me, I can count votes. I am like it has gone through. It is almost like being in a budget, because it can be changed with four (4) votes. If it went to the Charter Amendment, it is never getting changed ever. In this situation, throughout the year, through the budget, this ordinance can come back up, someone can amend the amount to one percent (1%), they can make it three percent (3%); it will take four (4) votes, just like the budget. Maybe even easier than the budget, because I think the budget sometimes take five (5) votes to do. It can be adjusted and that is where I feel safer on it. I feel safer that it is not an amount that is very excessive. If we said four percent (4%), five percent (5%), which is double of what we are putting into the Housing Development Fund already, I would have heartburn on it, but this just gets us to where we are at anyways and we have been funding the Housing Development Fund every year. I guess I can pick my battles and pick my wars. I feel like I picked the war with the Charter, I am happy with that, this battle, I can survive another day. I am willing to vote in favor of it. I think it is going to pass no matter what, but at the end of the day I am comforted that there is still the ability of the Council to adjust the number if needed. The number is set at a spot where it is not any different than what we put in the Revolving Fund already. We all know housing is important, we are putting money towards it, this is the same exact money. I will be voting in favor of it. Again, I do think the budget is where all of this should happen and if you look at our past budget, I said it before, we have had twenty-two million dollars (\$22,000,000) of new CIP General Fund money. That is money that we are not even borrowing, we are not using it to get a bond, we are not using it—that is twenty-two million dollars (\$2,000,000) of cash that we decided we are going to put into projects. That money could have been tapped easily for one million dollars (\$1,000,000), two million dollars (\$2,000,000), three million dollars (\$3,000,000)—we cut maybe some Informational Technology (IT) projects or something that would take years, and we could leverage that money in the Housing Development Fund. It never came up prior to our decision-making that the Housing Agency needed more money to leverage. I just hope in the future budgets, I am not going to be here, that people are more transparent when it comes to the budget and if they need the money, they need it. Again, every Department is going to be fighting for money. We cannot always be giving money to whomever we want. If the Housing Agency needs the money, they have to make the case for it, prior to the budget decision-making. At the budget decision-making, it is going to be very difficult to sway anyone on it. That is my plead. If the departments need money, they should be making that plea prior to decision-making. They should not be making it...taking to Members of the Council ahead of decision-making saying, "We wish we had this money, we could do more with the money," and it would give everyone a better foot on what we need to do to get there. Councilmember Cowden.

Councilmember Cowden: It is so uncomfortable. This is a powerless ordinance. There is no real leveraging of this money. This is one or more of these things that feels like that awful thing I said yes to—on moving it to the one million three hundred thousand dollars (\$1,300,000). The paper will write it in a way where it is terrible if someone stands up to it and say this is bad policy. What this is to me, what I am hearing, is empty policy with very little bend. We already have a good space for it and now we just end up having the opinion pieces in the paper and the facts without context written in the paper. It feels awful to vote yes, the way it was even with that tiered bill that did not address the problem. It just avoided it.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I want to reference the comment. I do not see it the way you do, honestly. It is not going to fix housing, but if we are trying to fix everything with one (1) bill, you will never accomplish that. That is the message that we have been hearing all day today. This is one (1) tool in the tool-box that does not exist right now. It is stronger than the resolution, because it takes the politics out of it and it ensures that it occurs regardless of who is at the table. If we agree that this is where we want to invest in and if it is a priority of ours, than it will accumulate over time without question. Does it take away flexibility? Yes. But this is the halfway mark, as Council Chair Kaneshiro has said between the Charter Amendment and resolution. I think it is probably where all lines meet, actually. I do not know—I disagree.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I want to direct a question to you, Council Chair Kaneshiro. Council Vice Chair Chock made a comment about the resolution. The question I am asking you is does the resolution that Councilmember Carvalho and myself introduced, does that resolution have teeth where the administration, if called upon, could use the reserve account for housing?

Council Chair Kaneshiro: It is a policy. We have been following the policy. Does it have teeth? That would be a question for County Attorney Bracken than for me. If you look at it, there is always several swings you can take at funding something like this. After our audit at the end of the year, they come in and say, "This is how much money has lapse," and at that time we make decisions on where should that money go. A lot of it, in the past, went towards pandemic type issues. Maybe this next audit that comes up with this past year end, you might say that you want to put that money into housing or into infrastructure. There is lots of options on it. Taking from the reserve is one (1) option. Automatically putting two percent (2%) from real property taxes is another option. I guess those are the different tools in the tool bag.

Councilmember DeCosta: I asked that question. Sometimes we ask questions or we make comments and there is a giggle or a chuckle and it seems like what ask or say does not make sense. Everything I heard in this discussion makes

sense. Everyone has great points, so I just wanted to ask you if our resolution has some type of binding teeth.

Council Chair Kaneshiro: It does. It makes a change in the reserve policy that allows you to take the money for housing. In the past, it did not have that, so it would not even been an option on the table.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I voted for the resolution because it is another great tool. We need options. It is not about less or which one, it is about more. I hope our argument is not about what is the best here. We have options and we should support them. Thank you.

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

The motion to approve Bill No. 2888 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: With that, next up, can you read us into Executive Session, which we will take after the Committee Meetings?

EXECUTIVE SESSION:

ES-1084 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and decision making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.

ES-1085 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and decision making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.

ES-1086 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing and request for settlement authority in the matter of Charles Rapozo vs. County of Kaua'i et al., Civil No. 5CC171000136, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Carvalho moved to convene into Executive Session for ES-1084, ES-1085, and ES-1086 seconded by Councilmember Chock.

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

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

Mr. Sykos: For the record, Lonnie Sykos. Of the most distasteful times that I spent sitting in front of county governments, I spent here in this room watching the abuse of Chuck Rapozo. The Mayor at the time, the head of Human Resources at time, and his department head at the time all had their representatives here or they, themselves, and our employee was forced to be in a parking lot as his place of employment for fourteen (14) months. This was in the front page of the newspaper twice. Number one, you who are retiring, I would encourage you to kick this down on the road to the next Council. But to the County Council, if Chuck Rapozo thinks that your offer is less than the fact that we put his family and every single person that was every in his house at risk of dying from asbestos, that Chuck himself is highly at risk of dying from the fact that he worked for this County. The fact that thousands and thousands of people went through that center and were exposed to asbestos, and his department head sat right here and lied about whether or not there was asbestos. If you want to call me on whether or not Lenny Rapozo's a liar, I will quote our chairman of the Council at the time. I would suggest to you that one million dollars (\$1,000,000) is a very small amount of money to be offering to Mr. Rapozo's family, as well as his full retirement and lifetime medical for every person who was every in his house. The reason they do not have asbestos brake pads any longer is because both the manufactures and the places that applied brakes in

specifically Midas Muffler, had been sued and lost because their employees killed their families bringing home asbestos dust. This is a very serious case. If Chucky decides to turn this down, I personally will come back, use this to crowd source and attorney, and we will go to federal court and resolve this at trial. God willing that Chuck chooses to do that, but that is his option. The County does not want to nor can go to trial.

Council Chair Kaneshiro: You can have three (3) more minutes, if you needed.

Mr. Sykos: And the reason you cannot go to trial is the county has an indefensible defense. You can ask your attorney what that means, but I know what it means, because I have been watching this county things, I watched governors go to jail, I watched all types of politicians go to jail in the course of my life. Yes, you can really screw up badly running a county and in regards to Chuck Rapozo, that is a textbook. Find yourself in federal court over the conspiracy to violate federal labor law and his civil rights. If his got violated, mine got violated, and you can probably look forward to a class action lawsuit after his—for all the tenth of thousands of us that potentially were poisoned by asbestos in the County's facility. Ask your County Attorney whether the County has liability in this. Give Chucky a ton of money or I hope he takes you to trial.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? I will call the meeting back to order.

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

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

The motion to convene into Executive Session for ES-1084, ES-1085, and ES-1086 was then put, and carried by the following vote:

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

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

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

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:58 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a large, stylized initial 'J' and a long horizontal flourish extending to the right.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:ks