

COUNCIL MEETING

MAY 31, 2023

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, May 31, 2023, at 8:32 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.
Honorable Felicia Cowden
Honorable Bill DeCosta
Honorable Ross Kagawa
Honorable KipuKai Kuali'i
Honorable Mel Rapozo

Excused: Honorable Addison Bulosan

APPROVAL OF AGENDA.

Councilmember Carvalho moved for approval of the agenda, as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none.

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

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Next item, please.

MINUTES of the following meetings of the Council:

May 10, 2023 Public Hearing re: Resolution No. 2023-33, Bill No. 2896, and Bill No. 2897
May 15, 2023 Special Council Meeting

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

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none.

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

The motion to approve the Minutes, as circulated, was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Next item, please.

CONSENT CALENDAR:

C 2023-119 Communication (04/20/2023) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Kevin P. McGinnis to the Board of Ethics – Term ending 12/31/2025.

C 2023-120 Communication (04/27/2023) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Tyler R. Rodighiero to the Cost Control Commission – Term ending 12/31/2024.

C 2023-121 Communication (05/01/2023) from the Director of Human Resources, transmitting for Council information, the May 1, 2023 Human Resources Report (Vacancy Report and Recruitment Status Report), pursuant to Section 24 of Ordinance No. B-2022-886, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2022-2023.

C 2023-122 Communication (05/02/2023) from the Director of Finance, transmitting for Council information, Period 7 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of January 31, 2023, pursuant to Section 21 of Ordinance No. B-2022-886, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2022-2023.

C 2023-123 Communication (05/08/2023) from the Director of Finance, transmitting for Council information, Period 8 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of February 28, 2023, pursuant to Section 21 of Ordinance No. B-2022-886, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2022-2023.

C 2023-125 Communication (05/16/2023) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of February 9, 2023.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: There is a request to take C 2023-124 off the Consent Calendar.

Councilmember Kualii moved to receive C 2023-119, C 2023-120, C 2023-121, C 2023-122, C 2023-123, and C 2023-125 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: The motion is to receive all items on the Consent Calendar except for C 2023-124. Is there any discussion or public testimony? Seeing none.

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

The motion to receive C 2023-119, C 2023-120, C 2023-121, C 2023-122, C 2023-123, and C 2023-125 for the record, was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Next item, please.

COMMUNICATIONS:

C 2023-124 Communication (05/09/2023) from the Director of Finance, transmitting for Council information, Period 9 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of March 31, 2023, pursuant to Section 21 of Ordinance No. B-2022-886, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2022-2023.

Councilmember Kualifi moved to receive C 2023-124 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: With that, I will suspend the rules. Reiko.

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance: Good morning.

Councilmember Cowden: Thank you, Reiko, for the great job that you do. I know we do not normally pull items off the Consent Calendar, but I want to appreciate that we are looking at the audited financial report, which is last year, we are looking at the budget, which is next year, so when we look at this financial report, that is this year. Thank you for the work that you do there. I appreciated that you responded to some of my questions. What is important to me when we are looking at how we spend money is...like, you called it the “burn rate.” I like that term. When I look through the report, for example, I see on page 31 Human Resources (HR), we have estimates, maybe seven thousand or some odd percent or six thousand and some odd percent of what is expected. I appreciate that you gave me a written response, but I would like it in the future if we can have that at the top of these reports.

Ms. Matsuyama: Reiko Matsuyama, Finance Director. These reports are current year, so Fiscal Year 2023, we closed them as we get things in from the departments, we are able to close periods. Periods correlate to the months, so right now you see Periods 7, 8, and 9 in front of you, so that is January, February, and March of 2023. Yes, if you go through Period 9, you would expect the “burn rate” to be approximately seventy-five percent (75%), because you are three quarters of the

way through the year. That being said, you have these abnormalities, obviously there are expenditures that come, initially like in the beginning of the year or vice versa that come in the latter half of the year, so you might not be every month you spend exactly the same amount. For the ones you are talking about, HR and Accounting, I think are the two (2) that have these real big abnormalities where...I think the one you are talking about is...

Councilmember Cowden: HR.

Ms. Matsuyama: HR covers everything, so they will pay for everything up front and then they will do an adjusting journal entry at the end of the year to charge back all the departments. It will look heavy on HR, but it should be spread across everything. Overall, the burn rate for Period 9 was seventy-three point something percent, so it is kind of on track on the overall grand scheme of things.

Councilmember Cowden: How do we get that burn rate to be put on this report? That would be easier, it is like looking through the entire budget, it takes a lot of work to go through these reports. I focus mostly on Period 9, because that was March, the other two (2) would roll into that, but I feel like it is our job to be looking at: "Are we spending what we are supposed to be spending?" Throughout the budget there are areas where it is higher than normal, so it is important for us to be able to anticipate ahead of time. If we had a burn rate and maybe a sentence or two that if there is some sort of anomaly, it would be easier to interpret it. The amount of time it takes to look at it is a lot. While I have faith that you are doing a good job, it is my responsibility to be looking, noticing, and anticipating a problem ahead of time. I picked HR because that was extreme, but there are variations throughout...and there was no burn rate written there, so that would have helped. Can we have that?

Ms. Matsuyama: Yes, we can put it in the transmittal. I cannot take credit for any of the period closing, it is these folks behind me, they are sitting behind me for the Annual Comprehensive Financial Report (ACFR) presentation, but they are the ones who put it together.

Councilmember Cowden: I appreciate all of you. I like to not waste your time by having a bunch of questions, but I am trying to do my best job by paying attention, so thank you.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: You mentioned about not taking credit, you brought two (2) of your workers, I would like to know who we have there and I would like to personally thank them for a good job.

Ms. Matsuyama: Sherri Silva is our Fiscal Control Analyst, so she is the one who actually is responsible for closing the periods. If there is a delay, it is not her fault. These are inputs from other departments that usually hold up the period closings, so you will see Period 10 come forward next agenda, so she was able to close a bunch. Marisa Bettencourt is our Accountant IV, who is sitting back there as well.

Councilmember DeCosta: I would like to thank Sherri and Marisa for all your hard work. Thank you for helping our County be where we are today.

Council Chair Rapozo: Are there any further questions? If not, thank you, Reiko.

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

The motion to receive C 2023-124 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: I do not see our auditors here yet, so we can move to the next item.

C 2023-118 Communication (05/06/2023) from the Mayor, submitting his Supplemental Budget Communication for Fiscal Year 2023-2024 and Proposed Amendments to the Budget Bills, pursuant to Section 19.02A of the Kaua'i County Charter.

Councilmember Kualii moved to receive C 2023-118 for the record, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion or public testimony?

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

The motion to receive C 2023-118 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

C 2023-126 Communication (05/16/2023) from the Director of Liquor Control, requesting Council approval to accept a donation from the Hawai'i State Department of Health, Alcohol and Drug Abuse Division, of two hundred forty (240) NARCAN Nasal Spray Units (NALOXONE), valued at \$30,000.00, to be offered to liquor licensees upon successful completion of the manufacture training and acknowledgement from the licensee of training completion.

Councilmember Carvalho moved to approve C 2023-126 with a thank-you letter to follow, seconded by Councilmember DeCosta.

Council Chair Rapozo: Did anyone have questions? I will suspend the rules. Can you introduce yourself?

There being no objections, the rules were suspended.

LEO SANDOVAL, Director of Liquor Control: Good morning, Chair and Members of the Council. Leo Sandoval, Director of Liquor Control. I am open to any questions that you may have.

Council Chair Rapozo: Can you provide the Council with a brief...this is awesome, maybe you can explain how this came about and what the plan is.

Mr. Sandoval: The Liquor Department—obviously we have been a little more proactive trying to find resources for the community that will help our licensees and also the community members who frequent these locations. With the situation of the opioid overdose going on throughout the entire State and the world, this was an additional resource that was brought to our attention through the State Department of Health (DOH), Alcohol and Drug Abuse Division. They reached out to the counties and asked us if they would like to distribute these types of NARCAN devices through the Liquor Department. Seeing that there is a high probability of people that may have this type of circumstance that happen, we wanted to provide our licensees with that type of resource so that way they can act and possibly save a life in the meantime before emergency services is able to respond to those locations. That is kind of the things we were trying to do for our Department and for our licensees. It was at no-cost to the Department and no-cost to our licensees, so there was no reason why we could not offer this up as a beneficial service to them.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I am happy with this. How would your licensees that would typically be bars and restaurants, and maybe liquor stores, how would they know that this is available to them? Do you give them a handout or do they come in; do you bring it there?

Mr. Sandoval: Right now, the plan is we are receiving the merchandise at the Department. We are going to be sending out a communication to all our licensees to advise them that this product is available for them. They can come to our office at the time we begin the distribution and upon the release of...we have a release of liability waiver that is being provided to us by the Office of the County Attorney, so they can release the County from any liability. Once they come to us, we will have to provide them with the training that also has been provided to us, so we are going to have an acknowledgement that they received training of how to use this product, and then the liability waiver, and then we will give it to them after they have signed off all those acknowledgements. It is not going to be delivered by the Department, it will be completely voluntarily on their part. If they would like the product, they can come to our office and receive the product from us.

Councilmember Cowden: Thank you.

Council Chair Rapozo: Thank you. Councilmember DeCosta.

Councilmember DeCosta: How much training are we giving these people who are going to be in control of these NARCAN sprays?

Mr. Sandoval: The training itself is a video that is provided by the manufacturer. It is hardly any training that is required, it is more of an informational video and it is about ten (10) to fifteen (15) minutes. It is the same

training that is provided to all the police departments, it is an equivalent of a Nasonex spray; any person can use it on the street.

Councilmember DeCosta: Thank you for that.

Council Chair Rapozo: Are there any further questions? If not, thank you very much. That is good stuff. Is there any public testimony?

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

Council Chair Rapozo: Is there any further discussion? Go ahead.

Councilmember Cowden: I want to appreciate this effort and very often with places where there is congregating for celebrations with alcohol and different things, might be typically an area where people who have other substance issues, this is for fentanyl and opioid overdoses, there can be overlap in those communities, so I thank the Department of Health and I thank our Liquor Department for the effort.

Council Chair Rapozo: Is there any further discussion? If not, thank you for that. I will put a plug in for Mālama Pono, because they also offer free NARCAN sprays for the public. Everyone should always have a NARCAN in their possession. This thing has saved many lives.

The motion to approve C 2023-126 with a thank-you letter to follow was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Next item, please.

Ms. Fountain-Tanigawa: Chair, the next agenda item is C 2023-127, but we have to convene in Executive Session, so if we can move to C 2023-128.

There being no objections, C 2023-128 was taken out of order.

C 2023-128 Communication (05/17/2023) from the County Engineer, requesting Council approval of indemnification language as noted on Invitation For Bid (IFB) 3863 and IFB 3871 for equipment rental for island-wide use for the Department of Public Works.

Councilmember Kualii moved to approve C 2023-128, seconded by Councilmember Cowden.

Council Chair Rapozo: With that, I will suspend the rules. Mr. Tanigawa.

There being no objections, the rules were suspended.

TROY K. TANIGAWA, County Engineer: Troy Tanigawa, for the record.

Council Chair Rapozo: Why do we need to rent equipment?

Mr. Tanigawa: These contracts are put out for equipment rentals, various types of equipment for the Roads Division and the Solid Waste Division. The need comes about for equipment rentals because operational needs require certain specialty equipment, so for example the Roads Division does certain road construction. They require anything from rollers to various types of equipment to do the work that they do not typically do not have in inventory currently or the equipment that they do have is in repair. To allow work to proceed as scheduled, the rentals help us keep the workflow going. The indemnity provision is required by the vendors. A joint inspection is done by the representative of the County in the department or the division that is doing the rental and the rental company. After the joint inspection and the equipment is cleared for the County to receive it, being in good working order, it is turned over to the County. The vendors do not want to retain the liability that is associated with the work being done with their equipment...the work being done by the County, per se. That indemnity provision pretty much frees them of that liability when the County is using their equipment.

Council Chair Rapozo: So, is this as-needed?

Mr. Tanigawa: As-needed, correct.

Council Chair Rapozo: We do not rely on these rentals to perform work that...we should buy these types of equipment if we use it on an ongoing basis. This is specifically for if a need arises, we do not have the equipment for whatever reason, we do not have to go out to a bid, this is all done, the approvals are here in this contract?

Mr. Tanigawa: Correct, and it is for equipment that we do have on inventory, but it is down for repairs.

Council Chair Rapozo: Right, but it is as-needed.

Mr. Tanigawa: As-needed.

Council Chair Rapozo: We are not relying on this to do our daily operations, that is the question.

Mr. Tanigawa: Not on an ongoing basis, but if we see a good span of work or if we will have similar type of work or work requiring that similar type equipment, we will actually come during budget and propose a purchase.

Council Chair Rapozo: The funds for these rentals are already appropriated and secured?

Mr. Tanigawa: That is correct.

Council Chair Rapozo: Okay. The crane by Wailua Bridge, I know that is a State project, but that crane has been there for months and months and not being used. I am assuming that the State is paying a rental fee for that crane.

Mr. Tanigawa: I am not sure what the arrangement is.

Council Chair Rapozo: I cannot believe the rental company is letting the State park their equipment there and...I guess that is what I am trying to avoid, where we do not want to rent equipment for the sake of renting equipment and not using it. That is why I asked the question about the "as-needed."

Mr. Tanigawa: Thank you. When we rent equipment, typically we are in active use of that equipment.

Council Chair Rapozo: Are there any further questions?
Councilmember Cowden.

Councilmember Cowden: I believe they are waiting on a bit, I asked about that. They do not have the right bit for what they are trying to do...when I look at all these, like twenty-five (25) different pieces of equipment, is it the same company or would we get bids for several...as need we might use it from one company or another.

Mr. Tanigawa: Based on the bid, the company who has the low bid, fully-qualified bid, they will be a contract drawn up...

Councilmember Cowden: For all these pieces.

Mr. Tanigawa: For the pieces that, I believe that it is awarded by group, so each company might have a certain amount of equipment in a certain group. There will be contracts drawn up and they will be based on which company has the lowest bid.

Councilmember Cowden: So, these seem like important pieces of equipment and I do not remember us having done this any time while we have been in office. Do we put a bid like this out every few years? Does this last for several years? This is not familiar to me. Is it largely for the landfill?

Mr. Tanigawa: It is equipment for the landfill, it is also equipment for the Roads Division operations. Allison, you might want to speak to the term of the agreement.

ALLISON FRALEY, Acting Environmental Services Manager: Good morning, Council. Sorry that we are late. Allison Fraley, for the record, Solid Waste Division. We put out this contract for long-term rentals and it is for the Department of Public Works, so it is for roads and landfill equipment, if we need to rent equipment for longer than a very short period for a special project. That we have equipment ready to rent. The last contract that we had for the landfill was for a three-year

period when we took over the landfill, and then the Roads Division had a three-year contract that we are going out for new equipment now.

Councilmember Cowden: I remember when Waste Management was doing it and they left, all that equipment left the island, right?

Ms. Fraley: Yes.

Councilmember Cowden: We were days away from that. I want to make sure that something like that does not happen again. This is our contract, no one will take our equipment. We have control over it. But that equipment that had been rented in the past was what we used to run the landfill, is that basically what is happening again? This equipment might be used for a couple of years at a time.

Ms. Fraley: Yes, correct. Originally when we took over the landfill, we did not own any heavy equipment and so we did have to rent it. Since then, we purchased all the heavy equipment and we own all the landfill equipment, except for one (1) piece right now that we are looking to rent. Most of the need for this contract is for the Roads Division at this point, but yes, if something went down, then that is when we would rent equipment. This is regarding the landfill need for that.

Councilmember Cowden: Does the Roads Division own most of their equipment also?

Ms. Fraley: I believe they do.

Mr. Tanigawa: Sorry, Councilmember, could you...

Councilmember Cowden: The Roads Division...I was a little nervous because we had almost lost our rental equipment before, that would have been a very difficult situation. When we are using this for the Roads Division, like she just said, we own most of our heavy equipment for the landfill now, do we own or lease most of the equipment for our roads?

Mr. Tanigawa: We own most of the equipment that we use on a regular basis. Specialty equipment that we do not regularly use, that is typically what we are going to be renting.

Councilmember Cowden: Okay. Those are my questions.

Council Chair Rapozo: Councilmember DeCosta and then Councilmember Carvalho.

Councilmember DeCosta: I want to thank the Department Head for corresponding with me on this, because we talk a lot but do not mention it on the floor, but I want to you folks to know that this equipment that our Department of Public Works need to rent, it is almost like running your yard with your lawnmower and weedeater. Most of the time we buy a lawnmower and we buy a weedeater, but we do not buy the one with the blade, because we do not have a lot of thick grass in

our yard. Why would you want to buy a piece of equipment that is going to sit on the shelf, if you are only going to use it once or twice a year. I support them with their insight...

Council Chair Rapozo: There is a question tied into this somewhere, right?

Councilmember DeCosta: Yes, I am going to do it now.

Council Chair Rapozo: Just checking.

Councilmember DeCosta: I am explaining for the people out there, my constituents who like the way I use common sense in my explanation. We do not want to buy equipment that we are not going to use, it is a specialty equipment. I would like to support this when they need it, they can go out and rent it. The question I have for you is—are we giving them upfront money for that rental to be available? We pay as we rent, am I correct?

Mr. Tanigawa: That is correct.

Councilmember DeCosta: If we use it, we pay, if we do not use it, then we do not pay, and when our equipment is being fixed and we rent this equipment, if our equipment comes back from the shop, can we return the equipment without getting any field penalty?

Mr. Tanigawa: The rental is for a certain duration. Once the duration is up, we return it.

Councilmember DeCosta: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Years back, I remember having some claims from the rental companies against us for returning equipment damaged, how is that going on right now? Is that rare or is that something that is regular and how are we addressing those users, so that we can reduce those numbers of...

Mr. Tanigawa: Damaged rentals? To my knowledge, I have not heard of any problems. I would think if there were, that was an isolated case.

Councilmember Kagawa: Okay.

Mr. Tanigawa: We do inspections—a pre-operating inspection and a post-operating inspection, as our standard procedures. All damages are supposed to be reported, whether it is a rental or whether it is equipment that we have and own. To that point, I have not heard of any problems.

Councilmember Kagawa: It was maybe before your time as County Engineer, but I recall having one (1) case that came up that we had to pay for the

damages. I am just wondering if that was something that occurs a lot, that would tell me that maybe we perhaps are not having the proper people on that specific machine with the proper training. If that is not happening, then it is all good.

Mr. Tanigawa: If I can clarify, recently I have not heard of any problems, but if I recall, previously, years ago, that there were damaged trucks that the County ended up having to get into a settlement with the rental company.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Yes, there have been a few, and the one I remember that sticks out was a lot of money was attributed to not using the equipment properly, something to do with the teeth or something on the buckets. I would believe that the operators that we have are qualified in that equipment that we rent, because these are not equipment that we have in inventory, so they are not using these types of equipment on a regular basis, so when we do rent one of these, are we making sure that these people have the right certifications to operate that specific...

Mr. Tanigawa: That is correct, yes, we do.

Council Chair Rapozo: Thank you. Is there anyone in the audience wishing to testify? Seeing none.

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

Council Chair Rapozo: Is there any further discussion? Seeing none.

The motion to approve C 2023-128 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Motion carried. The auditors are here, we have two (2) items that should not take long, just so we can get rid of these two (2) items, so these folks can get back to work. Next item, C 2023-129.

C 2023-129 Communication (05/18/2023) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$962,172.00, from the Bureau of Justice Assistance (BJA) Fiscal Year (FY) 2023 Second Chance Act Pay for Success Program. These funds will be awarded to start the E Ho'i I Ka Piko (Returning to the Center) Program and will fund a 1.0 Full-Time Employee (FTE) Social Worker IV position, fringe benefits, a modular unit to house the Life's Choices staff, and the E Ho'i I Ka Piko Program, office equipment and supplies. The proposed project period is October 2, 2023 to April 1, 2028.

Councilmember Kualii moved to approve C 2023-129, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion? We can suspend the rules.

Councilmember Cowden: I am very thankful that we have this almost one million dollars (\$1,000,000) to be working for E Ho'i I Ka Piko (Returning to the Center) Program, Second Chance Act Pay for Success Program, can you tell us a little bit of what this is and where it is going to be? This is for people coming out of prison, right?

There being no objections, the rules were suspended.

MICHAEL MIRANDA, Prevention Services Coordinator: Good morning, Council Chair Rapozo and Councilmembers. Mike Miranda, Life's Choices Coordinator, for the record. The program would be to provide permanent funding for a mini grant that we were awarded last year to deal with reentry for inmates. Basically, what we found was a full-time coordinator for this would be beneficial for people who are released from Kaua'i Community Correctional Center (KCCC) or released from court. The timing of the entire thing was kind of abrupt, I guess the Department of Justice announced this back in March and there was a nine-day window to apply after the announcement, so we had to quickly turn around and get this in.

Councilmember Cowden: Good job. It help us reduce recidivism and gives people hope. Do we know where this little building is going to be or any idea...is it right near KCCC, it is near the Courthouse, where would it be?

Mr. Miranda: It would be in front of the Kaua'i Police Department (KPD) and the Office of the Prosecuting Attorney complex on Ka'ana Street.

Councilmember Cowden: Would we be able to help them get out of that translucent paper suit, so they do not leave naked?

Mr. Miranda: Correct.

Councilmember Cowden: That would be great. I want to thank you. I know we have a short period of time, is there anything else like...I think this is so important, is there anything else that you feel like is essential to share with us now to the public? When will this start?

Mr. Miranda: July or August of this year if we are awarded the contract.

Councilmember Cowden: Okay, we are just asking for the money. Okay, "apply, receive, and expend"—we do not have the money yet?

KEOLA SIU, First Deputy Prosecuting Attorney: The "go-pack" program itself has already started, as of February.

Councilmember Cowden: I am just wondering if it is larger than just the simple "go-pack." Does it pay for plane tickets home if someone is really incarcerated here when they were not from here? Sometimes that happens. They come over here, they commit a crime, they go to jail, sometimes it is good to send them back to wherever they came from. Would it have that much capacity?

Mr. Miranda: That I am not sure. The contract language was vague. Because of the short window, it allows us to establish those parameters in the first eighteen (18) months.

Councilmember Cowden: Can I make a comment?

Council Chair Rapozo: When we are done with the questioning.

Councilmember DeCosta: Can you explain permanent funding? You were asking for a grant but hopefully it leads to permanent funding. Are we as a County going to permanently be funding this position, building, or this program? Is that your wish?

Mr. Miranda: The contract would be good for up to five (5) years.

Councilmember DeCosta: After the five (5) years, where does this funding come from? Would we discuss that later with a new set of Councilmembers?

Mr. Miranda: Yes. The grant would be good for five (5) years and then we hope to find ways to make it permanent as we go along.

Council Chair Rapozo: They just have to make it successful, so the Council in five (5) years will say, "We will fund it." It is a good program. Are there any further questions? Thank you. Is there anyone in the audience wishing to testify?

BRUCE HART: For the record, Bruce Hart. What I would like to speak to the Council about is not directly related to this grant request or the OPA. In the recent past I spoke about the fact that some of the documentation that the OPA gave, eighty percent (80%) of all crime on Kaua'i is drug-related. I said at that time that I felt that it was a spiritual battle. I said that the church must accept some "blame." I would like to change that to "responsibility." I think we all must accept some responsibility for what is happening in our community, whether it is this or other issues. In the past some Councilmembers were here and some were not, I brought up a similar issue and asked the Council to look into faith-based organizations in order that they might be able to participate. I feel that with the comments I made that representing the church, here at Council that I am asking the Council once again to investigate the issue of faith-based organizations having access to programs like this. I look at the attachments to this grant request and I see one, two, three, four, five organizations that they are going to work with. I do not know for sure but it does not look to me like any of them are faith-based. We had faith-based organizations come into the Council several times and offer themselves for service, so

would you please consider, Council, looking into this? See if we can get faith-based organizations included. Thank you.

Council Chair Rapozo:

Thank you. Hang on, Alice.

JILL LOWRY: Good morning, Council. Jill Lowry. I did not even know this was on the agenda, but I spent part of my career in an adult detention facility working there and it was hands down was one of the best jobs I ever had. I learned so much about humanity and the brokenness of humanity, and so I strongly encourage this Council to support not only this program, but any others that might present itself and look at preparing to absorb this at the County-level ongoing. It is a huge responsibility for our County and so I just randomly encourage you to support this today. Thank you.

Council Chair Rapozo:

Thank you. Ms. Parker.

ALICE PARKER: Alice Parker. I heartily discourage combining State and religion, because once one religion gets in there, they say, "It is only my way or the highway," so please keep it "State and government" and not religion. Thank you.

Council Chair Rapozo:

Thank you. Is there anyone else?

SHERRI CUMMINGS: Sherri Cummings, Mālama Anahola, for the record. Same here, I did not know this was going to be on the agenda, but I wanted to say Bruce brought up a point regarding churches, but also nonprofits, church, or anyone, recidivism, unfortunately, Native Hawaiians are that high population. The only thing that I ask for consideration is when you have these types of nonprofits, the rehabilitation is with cultural-based and I am happy to say, if she did not say it sooner, that my girlfriend, Malia Rosa-Kerr, has been appointed the individual who will be running that facility that the County is going to be opening very shortly. She indicated to me that the ask was for some type of cultural type of rehabilitation, which I think is really good for us because, like I said, around seventy-five percent (75%) to eighty percent (80%) of the population is local, so please take that into consideration. *Mahalo*.

Council Chair Rapozo:
none.

Thank you. Is there anyone else? Seeing

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

Council Chair Rapozo:
Councilmember Cowden.

Is there any further discussion?

Councilmember Cowden: I want to make the comment of the serendipity of when we came back from Utah, the week before last, sitting next to me on the airplane was a man who had committed a crime in Utah, spent fifteen (15) years in jail there, and it was his first time in an airport, first time on a plane,

terrified, came from a disadvantaged immigrant mother, and it was a learning process for me to sit and listen to him. He got released two (2) days earlier in one of those transparent suits. It was a church that gave him clothes and a plane ticket. We have very vulnerable people leaving. He had been working during his incarceration in the solar industry, so he had been set up by a church, set up for a job, when he was returning home to Texas. It was very interesting to listen to maybe what worked well there and what we might be able to do here, and just the experience someone had, so I got to keep him calm on that plane flight. Thank you for what you are doing.

Council Chair Rapozo: Thank you. Is there anyone else?

Councilmember Kualifi: I think this is critically important, I support it immensely. I think our State DOH needs help. I knew of one (1) individual who has been in jail, comes out, has mental health issues, goes back in jail, comes out. There needs to be more social services, a kind of handholding, if you will, to help some of these folks. The biggest benefit to the community is crime prevention. If they are rehabilitated and helped, then they are not creating more crimes. I think this is important. Like what one of the testifiers said, humanitarian rights is a compassionate thing to do.

Council Chair Rapozo: Is there anyone else?

Councilmember Carvalho: I just want to say how important this is and I am totally in support of it. It involves all, even churches, I believe that overall, and I think we need to continue to reach out and bring whatever resources back and then have people get second and third chances, that is the bottom line. I totally support this program and looking forward to more opportunities to really reach out and bring in, and have everyone go back into our community and be part of our island. I just wanted to say that. *Mahalo*.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I am going to be supporting this. I often ask the tough questions, because your tax dollars go towards programs like this. When I ask my questions, it is not that I do not support the program, it is just being fiscally responsible to every individual on Kaua'i who pays taxes. There is a lot of times that the ones who pay the taxes have no programs going on for them. I am going to be supporting this. I did want to clarify one thing, I believe Ms. Cummings said something about culture, and I am a strong believer in culture. My wife is a Kamehameha Schools graduate, so culture is embedded in her entire educational and upbringing system, but I would like to clarify something about culture, because as I look out into the audience, I see a very diverse group of cultural people. I do not only see our native Hawaiian people, I see Asian culture, the Western culture, so the point I am trying to make is Hawai'i is a melting pot of a very diverse group of ethnicity. It is the cultures that came during the plantation days that shaped the culture that we believe exist today, so I just wanted to clarify that and give a shout out to all ethnicities out there who have contributed to our culture on Kaua'i and in Hawai'i.

Councilmember Cowden: I want to acknowledge how OPA has many reoccurring grants that they bring in every three (3) or four (4) years, so you folks have a lot of success at continuous funding through these other vectors. I am happy that it is five (5) years. I think we would know we either have success or no success by that time and so in agreement with Council Vice Chair Kualii, really the commitment to the community with this funding is having a healthier population and making better choices and contributing in functionable ways.

Council Chair Rapozo: Thank you. I just want to thank OPA for hopefully getting this grant, because we are just applying, but this program is simply one that will provide resources to inmates that are released from prison, that the state has identified as being vulnerable and suffering from drug addiction. It provides them with the resources like the taxi fares and the bus passes, and NARCAN, believe it or not, I read it in the proposal, so these folks will not just be kicked out of the jail walking with the white suit and nowhere to go. This will give them a taxi ride to where they need to go with some clothes, and the most important part, the bulk of this funding is a staff person, a social worker that is going to work with these people and connect them to the resources that we currently have from the State to give these folks a chance to succeed. I appreciate it. It is almost one million dollars (\$1,000,000) that is coming from the federal government.

The motion to approve C 2023-129 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Motion carried, next item.

C 2023-130 Communication (05/18/2023) from the County Engineer, requesting Council approval to apply for, receive, and expend State funds in the amount of \$348,055.56, from the State of Hawai'i Department of Health (DOH), and to indemnify the State DOH for the Fiscal Year 2024 grant cycle, for the HI-5 Deposit Beverage Container program to be used to fund two (2) HI-5 Recycling Specialist positions and support mobile redemption center operations in Kekaha and Kōloa, and approval to apply for, receive, and expend State recycling grant funds in the amount of \$45,000.00, to be used by the Department of Public Works, Solid Waste Division, to support Electronic Waste (eWaste) Recycling for Fiscal Year 2024.

Councilmember Kualii moved to approve C 2023-130, seconded by Councilmember Carvalho.

Council Chair Rapozo: With that, I will suspend the rules. Again, welcome back.

There being no objections, the rules were suspended.

Ms. Fraley: Thank you. Good morning, Councilmembers. We do not have a presentation, we are here to answer any questions you have about the grants that we are seeking approval for.

Council Chair Rapozo: Okay. The application process is quite intense, so thank you for that. Councilmember Kagawa.

Councilmember Kagawa: Currently, Reynolds Recycling does the HI-5.

Ms. Fraley: Yes, and another agency has HI-5 redemption, which is Kaua'i Community Recycling Services.

Councilmember Kagawa: Where is that at?

Ms. Fraley: They have four (4) locations: Kapa'a, Kōloa, Kekaha, and Kīlauea.

Councilmember Kagawa: And then Reynolds has Līhu'e.

Ms. Fraley: Reynolds is in Līhu'e at the Kaua'i Resource Center.

Councilmember Kagawa: So, hiring two (2) of these positions will be working with all the private vendors?

Ms. Fraley: Yes, so what the two (2) positions do is they monitor the redemption centers for the State, they also monitor the distributors of the beverage containers to make sure that they are properly labeled and that the fee is properly charged.

Councilmember Kagawa: And then the Electronic Waste (e-waste) Coordinator, is that what it is going to be? E-waste is like computers, televisions, etcetera?

KEOLA AKI, Acting Solid Waste Program Development Coordinator: *Aloha*, Councilmembers. Yes, our e-waste grant from the State is only for promotion, there is a small portion for administration and that goes to the Recycling Coordinator, that is going to oversee the grant program, that used to be my job. I used to oversee the grant. It pays for the promotion for the e-waste, so that is computers, televisions, accessories that go to computers. Overall, it is very focused on just the technology side.

Councilmember Kagawa: Our e-waste strategy is we offer dates periodically across the island that we say, "This is e-waste day"?

Mr. Aki: The only place that can accept e-waste that is permitted is Puhi Metals and they are open every day except Sunday. We do not have regional locations for drop off. We are looking towards expanding. We are permitted in Kekaha right now to accept, but we have to get the contract going for that, so we are working on expanding right now, but for right now, it is only at Puhi Metals.

Councilmember Kagawa: So, none at the transfer stations.

Mr. Aki: Not currently.

Councilmember Kagawa: So, if people do not see it, they just throw away recyclables inside their regular rubbish?

Mr. Aki: We are working with the attendants to get them educated so they can encourage the public to bring it to Puhi Metals during the period. It is all free for commercials, as well as residents, so it is a big push, so that is why we want to promote it to the island.

Councilmember Kagawa: What is the value of...I know there is value in cardboard, you can turn it back into usable source. Plastic, there is some good plastic that can turn it into another usable source. What is the value of e-waste?

Mr. Aki: E-waste has multiple...you do not want to get it into the landfill because it does contain heavy metals, and if we can divert it, and it goes to a processor that can take it all apart, sometimes they can reuse some of the parts and put into new products and refurbish it or they can disassemble it completely, take out some of the gold, silver, aluminum, all the precious metals, and everything else they shred up and broken down for the landfill.

Councilmember Kagawa: If we are going in that direction of having people sort it and we only have Puhi Metals, then we must do the prevention at the transfer stations, is my idea where we are trying to monitor and I do not really see it. I think a lot of times, the attendants are just too busy to do it, to me, you are either in or you are out. Right now, it looks like we are halfway whether we are in or we are out on that. It is just my observation.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: Just for confirmation, these people are already hired and working, this is not new hires, this is continuous, so continuation of funding.

Ms. Fraley: Correct.

Councilmember Cowden: And when there is a little extra money here just because we are paying everyone a little bit extra.

Ms. Fraley: Correct.

Councilmember Cowden: I appreciate that you sent me an answer last night, but when we talk about retail recycling with these same people go to the big stores that take the bottles and cans back.

Ms. Fraley: Correct, so we have two (2) HI-5 Recycling Specialists who are employed with the State funding for the HI-5 grant and they have the obligation to monitor the retailers, like I said before...and retailers can be big box stores, grocery stores, mom and pops, even just small restaurants and food trucks, all

of those sell the beverage container, so they are going to all of those locations throughout the island on a random basis to just audit to just make sure that the charges proper. There are some funky beverages that have milk products or a little bit of milk or a little bit of alcohol that can be improperly labeled through no fault of anyone, but it is confusing sometimes. They are there to monitor that, report back to the State, and make sure everything is properly labeled.

Councilmember Cowden: Those retailers, especially big box retailers or any retailer that has a recycle bin, and gratitude to even the small food trucks that have recycling bins right outside their places, how does that make it to the recycle center? Do we have a truck that picks those things up? Do they drive it themselves?

Ms. Fraley: They drive it in. Part of our program is we do offer those retailer bins for free to the retailers through the State program that we use State funds to buy those bins, so they can have a place where people can recycle the items. Since they have a value, they make it back to the redemption centers where they can get redeemed.

Councilmember Cowden: Okay. Those little restaurants will get the money for those...

Ms. Fraley: Yes.

Councilmember Cowden: Okay.

Councilmember Kualii: I imagine you thought about it and it is a problem, when you said the staff at the transfer station would encourage the public to take it to Puhi Metals, so if someone showed up with a big old-fashioned television and they did not want to take it to Puhi Metals, you would take it right?

Mr. Aki: Yes, there is no ordinance or statute that we can say, "No, we are not going to take it."

Councilmember Kualii: So, there are some big items that they put off to the side, like refrigerators and things like that. Do we, as the County, then dispose of that differently, so we are not set up to take the big television off to the side and then we take it to Puhi Metals if the people do not do it, so it ends up in the landfill, right?

Mr. Aki: We do not have a program for "We" to haul it out ourselves.

Councilmember Kualii: Being that it is an ongoing problem, should we think of a program? Should we come up with something?

Ms. Fraley: Yes, yes, and thank you for that. First, commercially-generated monitors and computers are banned from the landfill, so we are not getting businesses, it is just residents that is not banned currently. However, that is something we could do. As Mr. Aki mentioned, we are working on it. We have

permits at our transfer stations that are very specific about what we can take and how we take it; this is a special waste where it needs to be properly handled, and as you mentioned the attendants are busy, so managing this type of equipment is difficult. We have put it in our permit application to the state that we would have a placeholder to be able to do e-waste recycling at the transfer stations.

Councilmember Kuali'i: Yes, signage, education...

Ms. Fraley: Yes, we do have signage and now we are working as a team with our operational side to...and we have a new Recycling Coordinator, he is not here, but he has gone out to the transfer station, met with all the attendants, talked to them about this, he is making a binder and education for them to be able to really know what to say to customers if they do not, but a lot of them do, and to encourage them. We did a waste characterization study where we looked at it, and that was in 2016, where they hand sorted the waste at the landfill, and at that time there was very little e-waste at the landfill. We are lucky that we have a place that is open six (6) days a week—other islands have periodic collections that are not open that often. Those electronics, believe it or not, are one of those types of waste that people put aside, they do not just take it with their trash, that is what the studies have found and what we have seen. When people have an electronic, they just set it aside and then they call us, we have a hotline, we have five (5) people who answer it every workday, and we get a lot of calls on e-waste and we tell people where to take it. We are not seeing a lot of this at the transfer stations, but we definitely do not want to let it slip by, so we are working on a program to make sure...

Councilmember Kuali'i: And you do have these e-waste events and locations other than Līhu'e on a regular basis.

Ms. Fraley: We used to. We had those and they were very poorly attended, and we were spending a lot of money for something that the public was not using. There is just a better value in educating people about going to the one (1) location where it is accepted every day, six (6) days a week.

Councilmember Kuali'i: Figuring something out at the transfer station is the answer.

Ms. Fraley: Instead of a periodic event that people have to schedule, remember, and go to a different place. That is what we were doing with these...by monthly events.

Councilmember Kuali'i: Thank you.

Council Chair Rapozo: Are there any further questions?

Councilmember DeCosta: How difficult would it be for us as a County to have a container there that our residents...I know the commercial is banned from throwing away televisions and computers, but how much of a burden would it be for us to contract a container from, let us say, Garden Island Disposal and have it sit there, and when it fills up, you call them to pick up the container? We are giving our

residents of Kauaʻi one more opportunity to recycle, because it seems like we know a lot of people know about recycling, the education part is out there right now, our attendants, our people, the folks in the audience know about recycling. We have to make it easier for people to recycle, that is the bottom line. Let us solution-base right now. Did you know mattresses are not allowed in the transfer stations, you have to drive out to Kekaha? If that person came from Kōloa, Kalāheo, or Puhi, and they cannot dump the mattress in Hanapēpē, they have to drive all the way out to Kekaha or Mānā to dump the mattress? We have to make it easier for our people to have these bins to dump trash. Thank you.

Council Chair Rapozo: He did ask a question about putting a container out there.

Ms. Fraley: Yes.

Council Chair Rapozo: Is that something that...I heard you mentioned earlier about a placeholder and I am assuming...

Ms. Fraley: Right, there is a placeholder.

Mr. Aki: We have started...we have containers at the Kauaʻi Resource Center and in Kekaha already staged and ready to go. Kekaha is permitted, so during the next Fiscal Year, we are going to look where we can get the funding to start hauling out of there and contract out that service. We are working on the permit now for the Kauaʻi Resource Center in Līhuʻe and once that is approved, then we hope to get that contract done as well. I believe the other locations, we probably need to work on the construction first before we can start looking at placement of new containers.

Council Chair Rapozo: So, we need a permit to put an empty container out there for people to throw their televisions and things in, and that is a DOH permit?

Mr. Aki: Yes, to accept it.

Council Chair Rapozo: Okay. Thank you.

Councilmember Carvalho: Is this specific to Kekaha and Kōloa?

Ms. Fraley: The redemption centers that are funded, yes. Originally when the program started in 2006, this is for HI-5, redemption centers sprung up in some places, and then others, there were not any, so the County stepped in and used grant funding to fund those locations where no one came in from the private sector.

Councilmember Carvalho: So, overall, we covered all the other areas.

Ms. Fraley: Yes.

Councilmember Carvalho: Thank you.

Council Chair Rapozo: Are there any further questions for the Administration? If not, thank you.

Ms. Fraley: Thank you.

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

Ms. Cummings: I will introduce myself. Sherri Cummings. For Councilmember Billy DeCosta, I thought we introduced ourselves when we first talked, so I am going to explain myself again, Sherri Cummings. I am very much Irish, French from the Cummings side, my Pia side is Hawaiian, Chinese, I am also a Charmon, who is also from Kōloa, he is Hawaiian, English, I am also a Sinclair, who is very much English. I can go further, but I choose not to. When I talk about *kanaka* and I talk about native, I do not just talk about Hawaiian. I also come from Kamehameha Schools, my family, my children, they also graduated from Kamehameha Schools, so I am very partial to that, but I support public education. When you speak to my lingo in regards to talking about Hawaiian and Native Hawaiian, just for clarification for the people behind me, I own all of my *mo'okū'auhau*. I own all of my culture. I do not reference people in this place as less than. Just for context purposes, so FYI (for your information) on that. Now, I am going to speak on this here, so you did mention, which is very true about opportunities for us to throw our *'ōpala* because unfortunately Anahola was a landfill also during Hurricane 'Iniki, 1991. That place was *pilau* just as much as Waimea, there was no lining, that place was there forever, and now we are trying to say we are going to raise *mala* in that place. If people in the back do not know what *mala* is, go figure it out. But just FYI on that. Our lands are dumping grounds in Anahola, so my brother folks are cleaning up four hundred (400) acres on the shoreline and up on our side where we are trying to take care of, you have metal galore up there, out of sight, out of mind, so no one has any idea what is in the back of Anahola by the monument and Anahola down by where the water source is. It pains me to see everything being on the emphasis on the Westside, Kekaha and Kōloa, where you have that opportunity to be near those landfill areas, when our rural side has nothing. We talk about being responsible and the population of the Hawaiian people and the Hawaiian is more than just *kanaka*. They have the Chinese and everything, not just native beneficiaries of the trust, who has fifty percent (50%) Hawaiian or more does not make them pure. I can only think of two (2) families, besides my Ni'ihau family who has one hundred percent (100%) Hawaiian. I take that very seriously when we allude to the fact of what I am talking about *kanaka* being just Hawaiian. We have to do more for the Eastside and the North Shore. *Mahalo*.

Council Chair Rapozo: Thank you. Is there anyone else?

Councilmember DeCosta: I had a clarifying question.

Council Chair Rapozo: Well, she did not...the topic on the agenda is HI-5.

Councilmember DeCosta: Okay.

Council Chair Rapozo: I am being very lenient with some of our...and that is going to change real soon. We need to stick to the agenda, so I am not going to allow any debates about Hawaiian culture on a matter that is related to HI-5. With that, any further discussion?

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

Councilmember Kagawa: I want to thank Allison and Mr. Aki and the Department of Public Works, I think overall Kaua'i does a great job of having our transfer stations, having our landfill accessibility, but when you talk about the e-waste, more and more we see electronics, if we can improve in every area, then we are reducing contamination, we are extending the life of our landfill. If we are going to improve, then let us make some commonsense decisions. Perhaps the e-waste bin, have one (1) on the North Shore, have one (1) in Hanapēpē. With gas being over five dollars (\$5) a gallon, you are going to have some people that are just going to continue to store it and then when they get frustrated, it is going to get thrown in the transfer station where no one sees. Puhi is great, no doubt, so Puhi should cover Līhu'e, Hanamā'ulu, Kōloa, possibly. But again, having the different areas, and Kapa'a is close enough to Puhi. The Kapa'a people shop at Costco. Just being realistic, having a bin is not hard for e-waste, maybe North Shore, Hanapēpē, you folks know where the e-waste demand is, but I think that would help. Like I said, if we just keep doing the same thing and do not make changes, then we will end up with the same results. The same results going be more unnecessary e-waste going into the landfill on a daily basis. Thank you.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I wanted to thank our recycling team for what they do. I want to acknowledge Anaina Hou in the room, Kīlauea, thank you so much for being one of those nonprofits that help with it, and I am in supportive of considering expanding the e-waste. My e-waste is mostly in my garage or up on the shelves and some of those things have been sitting there for five (5) or six (6) years. I come to Līhu'e every day. I need to figure that out and get everything down here. I do not throw them away, but it clutters my world.

Council Chair Rapozo: Is there anyone else?

The motion to approve C 2023-130 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Motion carried. We have one (1) more item before the audit. It is a communication for the zoning bill that comes up later, so let us take the communication, receive the communication, and we will have comments, questions, and testimony at the bill. With that, next item.

C 2023-131 Communication (05/19/2023) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to approve Chapter 8, Kaua'i County Code 1987, as amended, relating to Zoning designation in Puhī, Kaua'i (*University of Hawai'i Community Colleges, Kaua'i Community College, Applicant*)

Councilmember Carvalho moved to receive C 2023-131 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: I need to ask for public testimony on this item. If you cannot stay for the bill, I will take your testimony now.

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

The motion to receive C 2023-131 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Next item, please.

C 2023-132 Communication (05/23/2023) from Council Chair Rapozo, requesting the presence of the Managing Director, Director of Finance, and representatives from N&K CPAs, Inc., to discuss the Annual Comprehensive Financial Report (ACFR), Single Audit Reports, and Management Advisory Report for the Fiscal Year Ended June 30, 2022.

Councilmember Kualii moved to receive C 2023-132 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: With that, I am going to suspend the rules and have the Auditors come up. Sorry about the delay.

BLAKE ISOBE, Principal, N&K CPAs, Inc.: Good morning, Blake Isobe, Principal at N&K CPAs, I am the Engagement Principal on the audit for the County of Kaua'i. This is John Bautista. He is the principal in charge of the audit for the County. I will turn it over to him and he will go over some highlights from the ACFR and some of the findings that we have.

JOHN PAUL BAUTISTA, Principal, N&K CPAs, Inc.: While they set up the slides, I will go over the Summary of Audit. We issued three (3) separate reports for the Fiscal Year 2022. The first is your ACFR, that is the thick book that you have in front of you. These are the financial statements of the County. We also issued a Single Audit Report, which is a report on Federal funds that are expended by the County. Finally, we also issued a Management Advisory Report, on an additional recommendation that we came across during this year's audit.

Council Chair Rapozo: Are you going to start with the Single Audit Report?

Mr. Bautista: I will start off with the ACFR.

Council Chair Rapozo: The big one.

Mr. Bautista: Yes. Starting off on page 11 of the ACFR, you will see the Certificate of Achievement for Excellence in Financial Reporting. This is issued by the Government Finance Officers Association (GFOA), otherwise known as the GFOA. This is based off of their review of the prior year ACFR. This is the twenty-ninth (29th) consecutive year that the County received this certificate. Going on to the different sections of the ACFR, there is an introductory section, which contains a transmittal from the Department of Finance along with the management discussion and analysis of this year's results. If you flip to page 14, that is our Independent Auditor's Report. In the second paragraph, we state that we issued an unmodified opinion on the County's ACFR and that it is presented fairly, which is also known as a clean opinion. We then go over our basis for our opinion which is a new paragraph that clarifies our responsibilities for the audit and that is on page 15. For an audit, we obtain reasonable assurance that the ACFR is free from material misstating.

The ACFR is comprised of the Government-Wide Financial Statements, your Individual Fund Financial Statements, your Disclosure Notes, Other Required Supplementary Information, and then finally your Unaudited Statistical Section. We will go over noted items on each of these sections on the next couple of slides.

Starting with the County's Statement of Net Position, and this is on page 31. This represents the balance sheet of the County, so during the current year the County implemented the Governmental Accounting Standards Board (GASB) 87, relating to "Leases." This guidance requires the recognition of assets and liabilities that were previously recognized as operating leases. Payments of the leases are now recognized as deferred inflows or outflows based on the payment provisions of the lease contract. We also wanted to point out some fluctuations on the balance sheet. There were increases through your ending cash and investments of twenty-seven million three hundred thousand dollars (\$27,300,000) and a large portion of this was attributable to your new transient accommodations tax (TAT) revenues coming in.

Councilmember Cowden: Our new transient accommodations tax?

Mr. Bautista: Yes. During this FY, and then there was also year-to-year increases in real property taxes based on your assessed values. If you look below that, as part of your GASB 87 implementation, there is a new line item titled "Intangible assets," or otherwise known as right-to-use assets. This is totaling nine hundred thousand dollars (\$900,000) and these are the lease assets I mentioned earlier. Below that, moving on to your non-current liabilities, there was an increase of around fourteen million dollars (\$14,000,000), and a part of the increase is recording the new lease liabilities, related to GASB 87, but there was also a large increase in your estimate of your landfill liability closure and post-closer costs that I will go over on a later slide. There was also a large decrease in your pension and Other Post-Employment Benefits (OPEB) liabilities of around one hundred eight million dollars (\$108,000,000). A large reduction of both liabilities was primarily due

to investment earnings that reduced the overall liability, and this was purely based off of third-party actuary reports.

If you flip to page 32, this is your Statement of Activities. Within the statement, you will see your expenses by function on the top left, and your general revenues at the bottom of the page. Going over your general revenues, there was a real property tax increase of three million dollars (\$3,000,000) from increasing growth and billable assessed values, including new residential developments. Assessed values also increased seven hundred million dollars (\$700,000,000) to twenty-six billion dollars (\$26,500,000,000) in the current year. The County's TAT was also enforced and implemented in the current year beginning in the fall of 2021. This resulted in a new revenue stream and sixteen million dollars (\$16,000,000) were received this FY. This number should increase in the following year, 2023, because it would be for a full year of collections. There were also decreases in your government-wide expense of twenty-one million five hundred thousand dollars (\$21,500,000) and this was attributable to prior year non-recurring expenditures for your Coronavirus Aid, Relief, and Economic Security Act (CARES) relief moneys expended and disaster relief projects related to infrastructure repairs for projects that were completed in the prior year.

If you flip to page 34, this is your Governmental Fund Financial Statements. This presents each individual funds balance sheet and income statement. Going over some notable fund balance fluctuations in the current year, starting on the left side of the page is your General Fund column.

(Councilmember Kagawa was noted as not present.)

Mr. Bautista: This had an overall increase of eight million five hundred thousand dollars (\$8,500,000) and again, this overall increase is attributable to revenues coming in from your County TAT and then also increases in the real property tax collections. Directly to the right of that column you will notice a new fund that is being presented and that is the County's General Excise (G.E.) Tax fund, which is now required to be presented as a major fund, under GASB 34 Basic Financial Statements Guidance. This is purely based on the amount sitting in the fund as a percentage of your government-wide and enterprise funds. This fund accumulates the County's half-percent (0.5%) surcharge on the State's General Excise and Use Tax. The County uses it to fund transportation, operational, and capital costs. As a result of the movement of this major fund, the overall fund balance in your Other Governmental Funds, all the way to the right of the page, also correspondingly decreased. Meanwhile, all the other major funds presented on this page have comparable year-to-year net changes in their fund balances.

Moving on to your disclosure Notes to the Financial Statements, this begins on page 51. I will just go over some notable disclosure notes or changes to your prior year notes. If you go to page 73, this is your detailed note on your Capital Assets. If you look towards the bottom of the page, you will see those lease assets that have been adjusted for as of the beginning of the FY, July 1, 2021. Therefore, your net value of nine hundred thousand dollars (\$900,000) that shows up on that page, is shown on your Statement of Net position as an asset, that was one of the line items that I went

over on the first page, page 31. If you flip to page 78, we have another note. In the prior year, this note was titled...well it was for your capital leases, so GASB 87 revised that description to call it Finance Purchases Upon Implementation. In addition, the total liability recorded for all your Right-To-Use Leases is shown here by year of required payment, and this totals approximately nine hundred thousand dollars (\$900,000).

From page 92 to 105, the County's Net Pension and OPEB liabilities are described in detail. There are no major changes year-to-year in the measurement of both liabilities and there were only fluctuations in your overall liability. A lot was due to your net plan investment earnings that I mentioned earlier, in addition to expected projections, recognition to contributions, benefit payment, and administrative expenses, which are calculated by actuaries. Overall, your contributions for both plans remain comparable year-to-year for both liabilities.

Moving on to the County's landfill liability, which is stated on pages 106 and 107 of your ACFR. The main increase year-to-year is based on an update of the County's estimate of liability. This was due to a new closure and post-closure cost estimate report for the landfill that was completed during November 2021. In the prior years, the most recent report being used was from May 2016, and that was just updated annually by the County based on projected inflation costs and also the usage of the landfill. Another change you will note is that the percentage decreased and the capacity decreased due to a vertical expansion that added capacity to the landfill during 2022.

Finally on page 114, this Note details one (1) prior period restatement that resulted in three million four hundred thousand dollars (\$3,400,000) that increased your beginning net position. This was related to pension contributions that were made after June 30, 2021, but it was for FY 2021. This should have been recorded as deferred outflows as an asset in the prior year until the County's pension liability recognized it, at which time it would reduce the overall liability, but instead it was expensed and instead reduced the County's net position. Due to the amount of the adjustment, there was a prior period restatement and this was reported as a finding in the current year, which will be covered in one of the following slides. That concludes the first report.

Council Chair Rapozo: Are there any questions?

Councilmember Cowden: When you use deferred inflows and deferred outflows, you are talking about credit debit, right? Is that what you mean by that?

Mr. Bautista: Yes.

Councilmember Cowden: Because that was a little confusing for me. On page 18, can you please explain the accounting change, I did not quite understand that. Under Government Activities on page 18, I did not quite get that.

(Councilmember Carvalho was noted as not present.)

Mr. Isobe: Is that under Financial Highlights, the second paragraph about adopting GASB?

Councilmember Cowden: No. It is under Governmental Activities, where it says "the assets and deferred outflows of the government activities exceeded its liabilities and deferred inflows," I think I struggled a little bit with those terms. At the close of the fiscal year, it is saying that there is an accounting change and I did...it said, "The accounting change is why this happened," and I did not understand. Where did we change our accounting change?

(Councilmember Kagawa was noted as present.)

Councilmember Cowden: Am I not understanding, maybe it...I got that basically you are saying most of these things are fine, I am just was trying to...

Mr. Isobe: Reiko.

Councilmember Cowden: I can wait and ask Reiko a few questions later, I guess.

Mr. Isobe: Sure, so the management discussion and analysis that starts on page 18 is actually "management," so that is the Finance Department section of the ACFR explaining their different highlights that they want to highlight to the public.

Councilmember Cowden: Are we going to defer questions for Reiko for later?

(Councilmember Carvalho was noted as present.)

Council Chair Rapozo: I am trying to understand the question.

Councilmember Cowden: This is a lot to digest, I am sure it is a lot to create, so thank you. I had questions, Reiko, about just the leases, the right-to-use leases where it is talking about...I do not know if those are soft assets like vehicles or hard assets like land. He just went over right-to-use leases.

Council Chair Rapozo: Let us focus on page 18.

Councilmember Kagawa: What page is this?

Councilmember Cowden: It just says, "there is an accounting change," and I am trying to understand how it changed.

Ms. Matsuyama: I am trying to look for where it says, "Accounting change" in this paragraph.

Council Chair Rapozo: Which paragraph on page 18?

Ms. Matsuyama: I think it is the one right under Governmental Activities.

Councilmember Cowden: Yes, I am looking at that and I think it referenced it in the opening...the summary, I thought was excellent, who wrote that summary? It has your name at the bottom.

Ms. Matsuyama: Yes. I will take credit for that. It was Renee Yadao.

Councilmember Cowden: Extraordinary job. It was just a real incredible one and so she references different pages, so when I was reading it, I was jumping to the different pages, so it just referenced an accounting change and I read that and I did not understand.

Ms. Matsuyama: I think major accounting changes that were implemented this year was GASB 87, which they talked about that has everything to do with leases.

Councilmember Cowden: Okay. And so all these leases that we have, I know for a while we were leasing big pieces of equipment instead of buying outright, we were leasing things and now that we have an increase change, we are buying rather than leasing. I consider those soft assets, if they are done five (5) to ten (10) years, are all these leases basically equipment?

Ms. Matsuyama: Yes, like a lot of them are copying machines that are across the County, we have to reflect all of those differently than we did in the prior year.

Councilmember Cowden: Okay, because it seemed like leases were what was creating these changes and this is a lot of grasp this way of GASB. When we are looking at the pension liabilities and OPEB, again, that is challenging for me. It seemed like it was significant, the amount of the OPEB is extraordinary and can anyone speak to that? Why it is so much, not everyone must have all of these...

Mr. Isobe: Correct, so a few years back...many, many years back, GASB did recognize that a lot of the governments across the nation have both pension and post-employment liabilities out there that used to only be disclosed in the notes. Amounts would only be reflected as these footnotes in the back and not reflected as part of the County's or the State's or whatever municipality's financial statements. At some point, I want to say maybe six (6) or seven (7) years ago, they required the states and the governments to start recognizing the unfunded portion of that liability on the financial statements. The year after that, they required the recognition of the post-employment or your health benefits that are provided to your employees as a liability on the books offset by your funded assets, or planned assets, which continue to grow based on the investments. It is a very complicated disclosure and a very complicated calculation that is done. Your OPEB is smaller, you folks do have your own pool of planned assets, but on the pension, side is where you are funding to the State of Hawai'i Employees Retirement System (ERS) and it is a

combined liability out there. I believe it is in the billions, right, that all participating municipalities and the State owe its retirees, it is a big number that goes on the books. It is complex, I understand, but what the disclosure is trying to do is at least let the public and the users know what that liability is out there that you are going to have to continue to fund in the future and pay as people retire.

Councilmember Cowden: Okay, it is daunting. On page 84, when we have these conduit debt obligations, I know some when it is a special district fund, that does not go onto the taxpayer, but when I am looking at some of these things, like I am seeing the bond is issued four (4) years ago and we still owe the same amount, are we doing interest only payments? There are a few of those where I am seeing years are going by and I am expecting the debt obligation to drop as we are paying annually, and so are we doing interest only payments? Why are we not seeing this debt service lower our original obligations?

Ms. Matsuyama: For the most recent facilities district, it starts off as interest only and then on the second or third year, it starts as principal and interest. For our general obligation (G.O.) bonds, we do not have any that are just interest only. Once a year we make principal payments and then twice a year we make interest payments. That is how it works.

Councilmember Cowden: That is an unusual way. This year, when we talked in our budget that we were going to be pushing down, I think principal, we were looking at how to defer some of this...avoid interest, is that when we would be making the payment twice a year type of thing? I am in the middle of the budget; I am looking at this...

Ms. Matsuyama: Our G.O. bonds, the rates are set, right, so we would not necessarily be taking advantage of...or trying to reduce future increase rates by paying down our G.O. debt. In the budget, we do not have any additional payments to the G.O. debt. We do have a little bit in there for OPEB, as Blake was saying. OPEB is our single pot, whereas ERS is the big, combined pot, so any additional payments we put in that, we do not get credit for. If we put money to OPEB, that will specifically reduce our County of Kaua'i liability.

Councilmember Cowden: Okay. Page 19, please explain the inflation, the increase relative to the real property tax, but maybe we do not need to go there. I think I get that one.

Council Chair Rapozo: Yes, let us focus on the audit report and then we will have the discussion with the Administration after.

Councilmember Cowden: Okay.

Council Chair Rapozo: Possibly in a committee meeting, so we can have a thorough discussion on the County's actions, but I do want to get through the audits. Councilmember Kagawa.

Councilmember Kagawa: On page 3 of your slide, can you help clarify what this means—the “Notable fluctuations on the Statement of Net Position,” similar to what Councilmember Cowden asked. The increase in Net Pension and OPEB liability, it says, “Decrease of one hundred eight million dollars (\$108,000,000),” so I am confused.

Mr. Bautista: No, that should be decrease.

Councilmember Kagawa: So, it decreased in net pension and should be...

Mr. Bautista: Yes.

Councilmember Kagawa: Okay, because the other way was like...it is going up, but it is going down.

Mr. Bautista: Sorry, it was a typographical (typo) error.

Councilmember Kagawa: Okay, thank you.

Council Chair Rapozo: Are there any further questions on the ACFR? There is a lot to digest, but these folks are available at any time, if you have questions.

Mr. Bautista: Let us move on to the Single Audit Report. Starting on page 6. This is your report on Internal Control over Financial Reporting and on Compliance with other matters. This is a required report to be issued. Whenever we complete audits under government auditing standards. During the current year, we noted three (3) deficiencies in Internal Control, which we will cover in the next couple of slides. Moving on to pages 9 through 11, this is a report on compliance for each major federal program and internal control over compliance. This report is required to be issued whenever you expend federal money. If you look at the top of page 9, we state that the County complies with all material respects to the compliance requirements for each of this major federal programs. This means that we did not note any findings on the major federal programs audited this year. Below that, we state that we conducted our audit and our basis for our opinion is in compliance with generally accepted auditing standards, government auditing standards (GAAS) and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). If you flip to page 11, this is a report on Internal Control over compliance where we state that we did not identify any deficiencies. We also state on page 12, a report on your Scheduled Expenditures of Federal Awards, otherwise known as the “SEFA,” and we state that it is fairly stated and provides a clean opinion. If you go to page 23, this is the Summary of the Audit Results for both the ACFR and the Single Audit. At the top states that for the Financial Statements the type of auditors issued is unmodified, otherwise known as a clean opinion. We did note that there were some material weaknesses and a significant deficiency identified in the current year, but we did not note any material noncompliance. Below that on the federal awards section, we noted that there were no material weaknesses, significant deficiencies or other findings and issued an unmodified opinion on compliance. We also state on this page the five (5)

major federal programs that we audited in the current year. We also note that the County did not qualify as a low-risk auditee purely based due to the prior year material weakness findings that were reported.

This slide goes over the different types of findings. Based on materiality calculated in the current year, this is based off your amount in your financial statements. A finding may be material which we state as a deficiency which is not prevent or detect a material mistake in the ACFR or Single Audit. A significant deficiency is less severe but important enough to note and bring to the County's attention and report authored. Other reportable findings are just instances of noncompliance that we are reported to report based on the uniform guidelines, appliance supplement, or other abuse.

In the current year we only identified deficiencies in the Financial Statement Report, which we will go over in the next couple of slides. Starting with the first finding, which begins on page 24. We noted that there is a material weakness related to the County's pension contributions. This was already touched upon in the restatement note in the ACFR that I had gone over. Again, this was related to the County's contributions for the prior year that should have been recorded as a deferred outflow asset rather than being expensed and reduced your net position.

On page 25, we noted a finding related to...

Council Chair Rapozo: On page 24, can you expand? I can read it here, but was that a reporting error?

Mr. Bautista: Yes.

Council Chair Rapozo: And you are saying that the reconciliation was not performed, so it is not reflected in this financial statement?

Mr. Bautista: It is reflected as a restatement here beginning net position.

Council Chair Rapozo: Okay.

Mr. Bautista: Moving on to page 25, we noted a finding related to federal drawdown. During the current year we noted that the County initially spent one million three hundred thousand dollars (\$1,300,000) in County or State funds for its various active projects. The County subsequently submitted these expenditures for available federal funding, however when the federal funding was received, it was not recorded and reconciled to the County project that it was submitted for. So, this one is just basically when the funds were received, it was not recorded either in the correct fund to offset those expenditures or a new project code was opened and the moneys sat there instead of being recorded against the existing expenditures.

Council Chair Rapozo: Are you able to say which grant or which Department?

Mr. Bautista: The departments are in the Management Advisory Report.

Ms. Matsuyama: Pages 31 and 32, I think.

Mr. Bautista: The responses to the findings are in the back.

Council Chair Rapozo: Okay. Thank you. We will get to that.

Mr. Bautista: And finally on page 26, we have a finding related to amounts due to the County. During the current year, we noted that the County recorded two million five hundred thousand dollars (\$2,500,000) of transient accommodations tax (TAT) receivables at fiscal year end, however, during our audit through our procedures, we noted an additional six hundred twenty-three thousand dollars (\$623,000) in TAT revenue that was available to the County, that should have been recorded as part of the receivable balance, as it was received within sixty (60) days of the end of the fiscal year. This is just making sure that the receivables are completed at year end, that is recorded as part of the receivables.

This slide follows up on the prior year's findings. These are stated on the beginning of page 35 of the Single Audit Report. The findings are all related to prior year adjustments related to construction and progress, SRF loan drawdowns, or cash available to the County related to conduit debt. During the current year, we noted that the County implemented procedures to address each deficiency, such as quarterly reviews of expenses or transactions, and that these findings did not repeat in the current year from our audit worked performed. So, we consider all three (3) as accomplished. That was it for the Single Audit.

Councilmember Cowden: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: On your Single Audit Summary, you put, "Did not qualify as a low-risk auditee in the current year due to prior year material weakness findings." Was the prior year two (2) years ago, 2021? I do not remember if we did this last year.

Mr. Bautista: Yes, that was 2021 and these were the findings that we noted.

Councilmember Cowden: I noticed in multiple places actually in here, you mentioned that it is a lot easier to find a mistake, and it sounds like most of these material weaknesses are just accounting mistakes, not that the money was lost, it just did not get in the right place. So, there is no foul play, right?

Mr. Bautista: Yes.

Councilmember Cowden: I know the one before that we had found that the Treasury Division was behind on nightly deposits and a few things like that, and

so that again was an enduring mistake. This says you cannot really find fraud with much ease. I am not suggesting that we have fraud, but can you just explain that. When you look for mistakes, if someone wanted to find fraud, how do they find that?

Mr. Isobe: Part of the audit—we design procedures to keep things different every year whether it be looking at different amounts of things that we look at, or where we assess risk, normally risk is going to be where...let us say changes in accounting policy, so GASB 87 being implemented, risks will be high that there might be a misstatement there just due to how new that pronouncement is and having to implement something like that. We also will target areas that we noted errors in the past, so if there are errors in the past and they have not addressed whether implementing a new control, implementing a new procedure, we will target that area too to make sure that process is working and are those numbers that it affects still correct. You are correct, some of these items are...I think there are more timing issues, like the three-million-dollar prior period adjustment for the contribution being recorded in the prior year, it is a complex accounting for the pensions as to how that contribution is recorded as a deferred outflow in the prior year and then offsets in the current year, 2022. A lot of this is timing, it is just pure accounting literature that they need to follow and it has been getting more and more complex with how GASB has been constantly issuing different things for them to follow.

Councilmember Cowden: Thank you. It is a lot of work and you do a great job. I am pleased with what we are doing. It is just when I put all this energy into it, it is not easy, even just to follow.

Council Chair Rapozo: Are there any further questions? Go ahead.

Councilmember DeCosta: On page 26, I want you to explain your findings and how does that relate to where that additional six hundred twenty-three thousand three hundred thirty-one dollars (\$623,331) is sitting today. You told me in your explanation, it is a lot to digest especially for the people watching today, you said that we brought in two million four hundred ninety-nine thousand seven hundred seventy-six dollars (\$2,499,776) from the TAT, but an additional six hundred twenty-three thousand dollars (\$623,000) was not recorded as part of the receivable balance. Receivable balance—does that mean that funding was never received in that certain balance account, it went into another account...let us know, because I do not want to have preconceived notions of how to read this. I want you to tell me.

Mr. Bautista: The additional receivables were recorded in your General Fund. Any connections within sixty (60) days of your fiscal year-end should be recorded as part of your revenues because it is measurable and available. We noted that collections of up to a certain point in August or July was already recorded by the County as part of its unadjusted trial balance, but during our audit procedure performed, we noted just an additional amount that should have been recorded and therefore it was recorded as part of that ACFR.

Councilmember DeCosta: But that money was recorded, right?

Mr. Bautista: Yes.

Councilmember DeCosta: It is not that it is in any place and we cannot find that money or that money was not spent, right?

Mr. Bautista: Just recording.

Councilmember DeCosta: Okay. Thank you for that.

Council Chair Rapozo: Any further questions on the Single Audit Report? If not, we can move to the Management Advisory Report.

Mr. Bautista: Going on to the final report. This is your Management Advisory Report. On page 3, we noted an opportunity for strengthening internal controls and operating efficiency that we just wanted to bring to your attention and communication. That is on page 4. During the current year we noted four (4) instances where an employee's total vacation or sick leave hours records did not tie to that particular department's summary leave reports for all employees. This issue and finding comes up from time to time purely based on how the County records their leaves. They do it on a manual process. In 2023, we did note that the County implemented a new time tracking Human Resources Management system, and I believe everything should be electronic now and entered into the system itself. This issue should be resolved in the following FY 2023.

Council Chair Rapozo: This is not the first time.

Mr. Bautista: No, it is not.

Council Chair Rapozo: This is one that comes up every audit and I am not sure...I am glad we went electronic now. I do not know what to say. This is one that happens every audit and I am not sure how that happens, supervision, none, the employee takes off and does not do the paperwork, and it is allowed, so hopefully this will fix that. Thank you.

Mr. Bautista: Finally on page 9, we followed up on the prior year's Management Advisory Report comments related to timely grant reimbursement and timely set up of project codes. During the current year, we noted that the County implemented procedures and processes to ensure that drawdowns are continuously monitoring and that the County-wide correspondence is sent periodically to set up project codes for the various projects. We noted these two (2) as also accomplished.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: Thank you for the good job you do and I know it is complicated, so when I ask questions, there is no implications in those...we had on one of these pages here the thirteen (13) instances totally roughly one million three hundred thousand dollars (\$1,300,000) where the County obtained reimbursement of

eligible grant expenditures from federal sources, do you know which years those were and which types of grants?

Ms. Matsuyama: I do not know the years, some were old.

Councilmember Cowden: If I can be specific, because Reiko, four (4) years ago, we did an audit on our emergency 2018, our flood, I do not think we ever received that audit yet.

Ms. Matsuyama: We have not.

Councilmember Cowden: And I do not understand why, we are four and a half years after-the-fact that we have not received that audit. Are any of these from that problem?

Ms. Matsuyama: No. These would be separate. On page 31, of the Management Advisory Report, you will see the departments that were responsible and you will see their responses.

Councilmember Cowden: I do not see page 31.

Ms. Matsuyama: On the Single Audit, I apologize.

Councilmember Cowden: Okay. These are where they were?

Ms. Matsuyama: Yes, so the thirteen (13) instances were in these four (4) departments.

Councilmember Cowden: Kaua'i Emergency Management Agency (KEMA) right here, and that is why I was wondering about Parks, KEMA, those would have all been things that could potentially have had FEMA grants from the flood, but we did not have any failures on that?

Ms. Matsuyama: No, this is completely outside of the scope of that 2018...

Councilmember Cowden: Are any CARES Act or...when would we find this out?

Council Chair Rapozo: For which one?

Councilmember Cowden: Like when we had eleven (11) instances where the County received approvals to request reimbursement of grants, oh, okay...but the project was not set up until the moneys were received...

Ms. Matsuyama: That is 2021 finding, so that one the auditors were saying that we have accomplished that and it is done, so this is a separate finding for 2022 audit.

Councilmember Cowden: Okay, so what did we do wrong in 2022? What was our failure?

Ms. Matsuyama: Basically what happens is we have to spend money before we get reimbursed for it, so we spend money in a certain project or a certain fund, and then when we get the reimbursement in...the expenses are here and they are flowing someplace else, so they are not matching up. It is not offsetting to a zero balance. They are reflected in separate parts, like the revenue is coming in and the expense is somewhere here, and so it is not reflecting the same project.

Councilmember Cowden: Okay, and why was it not?

Ms. Matsuyama: It is just an accounting thing.

Councilmember Cowden: It is just an accounting thing; it is not that we used the money for something different than we asked for.

Ms. Matsuyama: Yes, correct.

Councilmember Cowden: Okay, that was the question.

Council Chair Rapozo: Are there any further questions? I want to address the FEMA thing, only because it was brought up. I had shared that with you, they are working on the audit as we speak, and when that is complete, it will be here.

Councilmember Cowden: And when will it be complete?

Council Chair Rapozo: I do not bring that up because that is not on the agenda, but I did share that it was in process.

Ms. Matsuyama: The deliverables on us right now, so I know that...

Council Chair Rapozo: As soon as that is complete, it will be here, just like we are doing this one. Are there any other questions for the auditors on the Management Advisory Report? Being that there were only a couple findings, which is a good thing, are there any questions for Reiko on the findings pertaining to this audit? If not, thank you all.

Mr. Isobe: On behalf of N&K, we want to thank you folks for giving us a chance to come and present the audit and for the Finance Department for their time and labor to help us pull the information and get ready for the County's audit. Thank you.

Council Chair Rapozo: Thank you. Is there anyone in the audience wishing to testify on the audit?

Ms. Parker: Alice Parker, for the record. Just a quick question on lexicon, GAAP is generally accepted accounting principles, GASB is generally accepted...government standards of government, I do not understand. Thank you.

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

Council Chair Rapozo: Is there any further discussion?

The motion to receive C 2023-132 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: At this time, we will take a caption break...let us take the claims first.

CLAIMS:

C 2023-133 Communication (05/04/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Erin M. Sharpe, for bodily injury and loss of income, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2023-134 Communication (05/15/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Brandy Dias-Christian, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2023-135 Communication (05/15/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Tina M. Soberano, for vehicle damage, personal injury, and medical bills, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2023-133, C 2023-134, and C 2023-135, to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none.

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

The motion to refer C 2023-133, C 2023-134, and C 2023-135 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo:
the Committee Reports.

We still have five (5) minutes. Let us move to

COMMITTEE REPORTS:

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2023-04) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2023-02 – Communication (05/17/2023) from Committee Chair Rapozo, transmitting the proposed increases to, deductions from, and other proposed amendments (plus/minus sheets) to the Mayor’s Fiscal Year 2023-2024 Annual Operating and Capital Improvement Projects Budgets,”

A report (No. CR-COW 2023-05) submitted by the Committee of the Whole, recommending that the following be Approved as Amended:

“Resolution No. 2023-33 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 FOR THE COUNTY OF KAUAI,”

A report (No. CR-COW 2023-06) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2896 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 Operating Budget*)”

A report (No. CR-COW 2023-07) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2897 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 CIP Budget*)”

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

Council Chair Rapozo:
Seeing none.

Is there any discussion or public testimony?

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

The motion for approval of the reports was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Now, we will take our caption break.

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

The Council reconvened at 10:39 a.m., and proceeded as follows:

Council Chair Rapozo: The meeting is called back to order. I do not normally do this, but I am going to take a moment of personal privilege, because I forgot to do it this morning, this is for the public. I found out that some “clowns” went and burned the Kapa’a Pop Warner storage locker this morning between 3:00 a.m. and 4:00 a.m. The fire destroyed everything—helmets, shoulder pads, pants, jerseys, cheer equipment, etcetera, to the ground. Again, it is frustrating when we hear stories like this. These jerks that have no respect for anything, while we sit here today talking about respect...I just think it is ridiculous and for the community out there, you have the ability, I am sure you will be seeing and hearing about it, and a GoFundMe campaign will be started, if you can please help. The season starts on August 1st and there is no way that an association will be able to survive without the community’s help. I do not know if this is ethically proper, but it is what it is. It is terrible and we hope the community can get behind...there is going to be a reward. My interest is catching the clowns that did it and prosecuting them. The equipment can be replaced, but these people need to be taught a lesson. With that, thank you for indulging me. Next item, please.

RESOLUTIONS:

Resolution No. 2023-33, Draft 1 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 FOR THE COUNTY OF KAUAI

Councilmember Kualii moved for adoption of Resolution No. 2023-33, Draft 1, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony? Seeing none. Members, we will have an opportunity to have our budget messages at the end of the day when we do our final bill.

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

The motion for adoption of Resolution No. 2023-33, Draft 1 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes and one (1) excused.

Council Chair Rapozo: Thank you. Next item, please.

Resolution No. 2023-44, Draft 1 – RESOLUTION URGING THE STATE OF HAWAII BOARD OF LAND AND NATURAL RESOURCES TO CONSIDER PUBLIC ACCESS, USES, AND PURPOSES FOR STATE PARCELS AT WAILUA

Councilmember Kuali'i moved for adoption of Resolution No. 2023-44, Draft 1, seconded by Councilmember Cowden.

Council Chair Rapozo: This is a deferral from two (2) weeks ago, when we had a lot of discussion and there were concerns about the contents of the Resolution. I will ask the introducers if they want to make any statements before we open it up for public testimony.

Councilmember Cowden: We removed a few elements in here that had to do with history where people were concerned about the migration of the *ali'i* from one area to another or where it references either Queen Kapule or King Kaumuali'i. We had all the spellings looked at that was of concern about Hawaiian history. It was looked at and verified and I think what is really important for people to be aware of is this is to this portion that opens it up. It is just honoring that there was roughly one thousand (1,000) years of very significant history in this area that we are aware of. The essence of this Resolution is that there are three (3) State parcels that have been tied to private interests for longer than thirty (30) years and that what we are asking the State to do, that is going to be considering this at an upcoming Board of Land and Natural Resources meeting, is to have this be directly available to the public, that it would be for public use. It is a parking lot, it is a little piece of the beach that is on either side of Wailua Beach Park, because the previous parking has basically been taken away by the ocean, and then the larger 14.83-acre piece in the middle, for the State to consider that for public use or at least to be reconsidered for how it would be assigned. It is all in Wailua, right there at the beach area at Kuamo'o Road and Kūhiō Highway. Do you have anything you would like to say, Vice Chair?

Council Chair Rapozo: Councilmember Kuali'i.

Councilmember Kuali'i: Yes. What I will add is we are not saying we are the experts on what Wailua was all about and if there is any whereas that states something about the area that is inaccurate and someone opposes it, it is not necessary for the essence of the Resolution, which is primarily about those public lands. Obviously, this is not a decision that this body is making. This is just a Resolution supporting that the public lands provide access to the public, the most obvious one (1) being that front corner that can now...and has in the past as well,

provide parking to access the Wailua Beach Park across the highway. Before we continue, I do have a short, simple amendment that I want to put forward.

Council Chair Rapozo: Go ahead.

Councilmember Kualii moved to amend Resolution 2023-44, Draft 1, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Councilmember Kualii: This amendment basically clears up the last three (3)...well, it does not do anything to the middle. There are three (3) WHEREAS clauses at in the end of the Resolution that talk about the three (3) different properties. The middle WHEREAS clause, which talks about the property on the *makai* side of the highway in the corner where the restaurant was is unchanged. It remains. Let us go through it. The first WHEREAS clause, the third to the last WHEREAS clause removes "offer the public a valuable opportunity to regain" and replaces it with "once again be appropriate for parking access to the County of Kauai." The next WHEREAS, which talks about, like I mentioned, the restaurant there remains unchanged. It still says "which could also be appropriate for public access to and use of the ocean." The last WHEREAS clause talks about the coconut grove. It removes "offers access to a historical and natural resource" and continues "includes the longstanding coconut grove, which could once again be appropriate for public access to and use of the coconut grove." It is more semantics but it is putting the three (3) whereas' using the same language.

Council Chair Rapozo: Is there any discussion on the amendment?
Go ahead.

Councilmember DeCosta: In the amendment, you mentioned the beach access...

Councilmember Kualii: That is not being amended. That is the second to the last WHEREAS clause. I just mentioned it because the phrasing is the same. The third to the last and the last.

Council Chair Rapozo: Just the middle TMK is not...

Councilmember DeCosta: The middle TMK, the use of the coconut grove.

Council Chair Rapozo: That is the third.

Councilmember Kualii: The final.

Councilmember DeCosta: You folks are asking for public access to use the coconut grove, right?

Councilmember Kualii: It is public lands that has been under the control of the entity running Coco Palms.

- Councilmember DeCosta: I am just trying to clarify it.
- Councilmember Kualii: They have maintained it as well.
- Councilmember DeCosta: Who maintained it?
- Councilmember Kualii: It is the agreement between, I imagine, the Board of Land and Natural Resources (BLNR) and the entity.
- Councilmember DeCosta: Correct, but that entity since Hurricane Iniki has not existed.
- Councilmember Kualii: It has changed, right? There are different owners.
- Councilmember DeCosta: Correct, it has changed. Were our Kauai people not allowed in the coconut grove up until now? I am just trying to figure out why would someone not...
- Councilmember Kualii: If it is in construction...I do not know.
- Council Chair Rapozo: There are private property signs.
- Councilmember DeCosta: The place where the native Hawaiians are planting taro is not on these fourteen (14) acres, right, the coconut grove?
- Councilmember Kualii: It is in the back.
- Councilmember DeCosta: It is in the back.
- Councilmember Kualii: Further back.
- Councilmember Cowden: On private property.
- Councilmember DeCosta: On State private property?
- Councilmember Cowden: No, on private property.
- Councilmember DeCosta: A private property.
- Council Chair Rapozo: A fee simple property.
- Councilmember DeCosta: I am just wondering, because there were a lot of people on this property even with the trespassing signs. I do not know if they were legally allowed there or not, but there were quite a bit of people on the property.
- Councilmember Cowden: Can I respond?
- Council Chair Rapozo: Sure.

Councilmember Cowden: We definitely had a cluster of people that were on the revocable permit property where the lease belongs to the County. That is right there near Haleilio. There has been a cluster of people there. Also, there is an area behind the coconut grove where people were living and some are still living. That is a private piece of property. It appears like it is part of the coconut grove, but there is a fence there and people did not cross into the State parcel. They were not living in the State parcel, to the best of my knowledge.

Councilmember DeCosta: Okay. I am just trying to understand.

Councilmember Cowden: I was there regularly and they were on the private property in the back.

Councilmember DeCosta: I am just trying to understand why we are asking for the use of this coconut grove now when this place has not been used since Hurricane Iniki. I am wondering why we are only now introducing this.

Councilmember Cowden: I could answer that. Basically, that parcel that is fourteen point eight three (14.83) acres has been assigned to a private entity for more than thirty (30) years, but it is basically tied to that private entity that keeps it from being available for the rest of the public to decide a use for it, to decide on that. A coconut grove is not a place where we really want people walking through, it is dangerous. His amendment is a little different from how we once had it simply describing it as a parcel that includes a longstanding coconut grove.

Councilmember Kualii: You took out the description.

Councilmember Cowden: Okay. What you did add was "could once again be appropriate" for public access. Whoever is maintaining that for public access, that particular parcel would need a lot of management because a coconut grove is not a place to play.

Councilmember DeCosta: What I am understanding is it actually was a good thing that the private entity had this lease from the State, so the public could not go in and get hurt. Because if they went in the coconut grove and a coconut fell, the State would be liable.

Councilmember Cowden: Well, the State could have it. Basically, the lease of this parcel has probably been what has created value for the forward piece of property. I do not know, but the community would like that piece back. It a known place of burial, a known place of a lot of elements, and there has been a strident call from the community to not have that be commercialized.

Councilmember DeCosta: Thank you for the clarification.

Council Chair Rapozo: Is there any other discussion on the amendment? Is there anyone from the public wishing to testify on the amendment? You will be able to testify when we get to the Resolution, but if you want to testify on this specific amendment, you are welcome to do so.

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

Council Chair Rapozo: Did you see the amendment?

SHERRI CUMMINGS: I was just paying attention to what happened right now.

Councilmember Kualii: Can I please read it in its entirety.

Council Chair Rapozo: She is going to hand it out. I just want to make sure that we are testifying...

Councilmember Kualii: I still would like to for the public.

Council Chair Rapozo: Go ahead.

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

Council Chair Kualii: The first WHEREAS clause is, "WHEREAS, TMK (4)" the number "(Revocable Permit 7444) (0.842 acres) is a parcel with hardened surfaces immediately *mauka* of Kūhiō Highway at the intersection of Kuamo'o Road, which could once again be appropriate for parking access to the County of Kaua'i Wailua Beach Park, especially due to the increasing erosion at Wailua Beach, which has completely eliminated the once-plentiful beach-adjacent parking area." The other WHEREAS clause is, "WHEREAS, TMK" the TMK number "(General Lease No. 4878) (14.83 acres) is a parcel that includes the longstanding 'coconut grove,' which could once again be appropriate for public access to and use of the 'coconut grove'; now, therefore."

Council Chair Rapozo: Go ahead, Ms. Cummings.

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

Ms. Cummings: Sherri Cummings, just as a private individual and a person whose family grew up at Coco Palms. First, I was blessed that Aunty Liberta Albao walked through here because Aunty Liberta was Coco Palms. That is number one (1). Regarding the Resolution and what you folks have here regarding parking access and whatnot through erosion, erosion will not stop, and it is no fault of the developer. We were privileged as *Kanaloa kanaka* to always use that Wailua area. Up until day present, we used that for parking access, though limited. Canoe—we still use that access over there. I speak more towards amendment number two (2) of the Resolution and I kind of take offense to Councilmember Cowden, when she says that the coconut groves were of high value and of the care. Because the care of the coconut trees, number one, were planted in 1896. I will talk about that resolution afterwards when we bring it up the next time. When we talk about 1896, it is important to remember there was no war back then, so when you write your Resolution and you talk about wars and things like that, that was not. The only coconut trees was Holoholokū that had the prestigiousness of coconut grove.

Not this. This was 1896 planted all the way to Makaiwa. When those things grew, they were small. They were not for consumption. To talk about us not having opportunities to be in there, you bet we were in there. Coco Palms took care of us families. We had all our Easters there, we had our Christmases there, we had our Thanksgivings there. Local families that grew up in Coco Palms. To say that we never have opportunities and give it back to the people, the people had it. Where can you go in a hotel and actually drive into the property? The zoo was where we grew up.

Council Chair Rapozo: Sherri, we got to stick to the amendment, please.

Ms. Cummings: This is the coconut grove. You got to pass the coconut grove to get to the zoo that was behind there. No one stopped us. No one stopped us. They manicured that place. I told you folks. The historical value was when all of the people that came in there that used the place of high prestige that planted those coconut trees in there. To talk about *iwi kūpuna*, we got to understand one (1) thing. We buried in our own place. You bet that was all *kuleana* land in there. We will find *iwi kūpuna* in there because that was a place where we stayed.

Council Chair Rapozo: Thank you.

Councilmember DeCosta: I have a clarifying question. Sherri, you mentioned the coconut grove was 1896.

Ms. Cummings: Correct.

Councilmember DeCosta: Can you educate me on who planted those trees?

Ms. Cummings: I will give you all of the information that you need to know. He was a German man. He planted that. They are Samoan coconuts.

Councilmember DeCosta: Thank you for that. It was not planted by our *kānaka* people?

Ms. Cummings: No, absolutely not.

Councilmember DeCosta: This is the last thing. You mentioned...and I like the history. I want to be educated by people like you folks that have that *kuleana* of a place you were raised or brought up. You said that they allowed you folks to celebrate Easters...

Ms. Cummings: Of course. The Guslanders were the best to us.

Councilmember DeCosta: This is during the time when the hotel was operating?

Ms. Cummings: Of course. We could drive in there. We could drive all the way back. The monkeys were our friends.

Councilmember DeCosta: Okay.

Ms. Cummings: We used to go in there and have all of those opportunities.

Councilmember DeCosta: Thank you for that. It is good for us to know.

Council Chair Rapozo: What was the monkey's name?

Ms. Cummings: Do not tell me that. Be quiet.

Council Chair Rapozo: No, really. What was the monkey's name?

Ms. Cummings: Go figure it out.

Council Chair Rapozo: Pilikia. The monkey's name was Pilikia.

Councilmember Kualii: I have a clarifying question.

Council Chair Rapozo: You have another question, Sherri. Please come up.

Councilmember Kualii: Because you did not really say it, but based on your comments, you support this amendment which says, "the longstanding coconut grove which could once again be appropriate for public access to and use of the coconut grove"?

Ms. Cummings: To be honest with you, I would not even put that in there because...

Councilmember Kualii: Do you support it or not?

Ms. Cummings: I have the privilege to say why I would not say that, that it should be in there, because it was just the *kuleana* of the developer at that time. It was something that they just did. A lot of things we are doing is we are just adding all on these types of regulations and restrictions that should not be, because that was the *kuleana*, they did that. They took care of that place immaculately. He was right, but where the coconut had fall down on my uncle's head was actually when they drove in because he worked for Gray Line. He stopped, he went ahead and went off to the side. One (1) of the trees, not in the grove...I cannot tell you when a coconut fell on someone's head. That is how immaculate they kept it. But he was off to the side standing up, my Uncle Bernard Mahuiki. That coconut fell on his head. He never worked a day in his life after that. They were amazing at what they did. My mother was a head housekeeper. All of our families grew up on there. We were local.

Council Chair Rapozo: Thank you, Sherri. Is there anyone else wishing to testify on the amendment? On the amendment only.

VIVIAN DAVENPORT: Hello. Vivian Davenport. I definitely support this amendment and I understand the reasons that it is good for both the *kānaka* and all of the other people of Hawai'i to be able to access this and to not have it in control of hotel owners in the future. I wanted to add something that may "sweeten it" for the State, which is that land could be used for Park and Ride, which is popular all over the mainland, especially California, for heavily trafficked areas where people can park and take a special ride into Līhu'e, etcetera. I know we have already started something like that in Hanalei, I believe for the tourists. But Wailua does not have enough access and egress, or it does not have enough exits in the case of an emergency. We all know that. That would be a place that the State could stage evacuations, etcetera. I just think there is so many reasons for this amendment to go through. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify? Seeing none.

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

Council Chair Rapozo: Is there any further discussion on the amendment? Seeing none.

The motion to amend Resolution 2023-44, Draft 1, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: We are back to the main Resolution, as amended. Is there anyone in the audience wishing to testify?

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

Council Chair Rapozo: We have one (1) registered speaker. Who is the registered speaker?

Ms. Fountain-Tanigawa: Mauna Kea Trask.

Council Chair Rapozo: Mauna Kea, do you want to come up? I am not sure who pulled the trigger, but we received a ton of emails regarding eminent domain. That is not on the agenda. I am not going to allow testimony on eminent domain. We are talking about a Resolution of three (3) parcels that the State controls that the introducers of the Resolution would like to see turned back for public use. I am just giving you warning now. No discussion on the County's purchase of this land. No discussions of eminent domain. We are on the Resolution and I appreciate your consideration. Thank you. Mr. Mauna Kea.

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

MAUNA KEA TRASK: Aloha Chair, Councilmembers. Thank you. Mauna Kea Trask, for the record, on behalf of Reef Capital Partners. Reef Capital foreclosed on the controlling interest in Coco Palms and affiliated owner entities roughly one (1) year ago, after the developer defaulted on its loan. We have listened to the community and our elected leaders, and we have learned that much of the opposition to restoring Coco Palms is driven by mistrust and skepticism stemming from thirty (30) years of broken promises by previous owners. Thank you for the opportunity today to correct some misstatements. Unlike previous owners, Reef Capital has the financial strength and resources to complete the development of Coco Palms responsibly and in a manner that balances the needs and concerns of the community. We have met with many community leaders and County officials, and we seek opportunities to work together. However, we cannot support this Resolution because it remains historically inaccurate and paints a false picture of the actual development and uses of the RPs. Wailua was not the site of numerous *loko i'a* in the traditional sense. The fishing grounds of Wailua were abundant, and that was the source of fish. Further, Weuweu and Kawaiiki are no longer there. All of the archaeological studies clearly show that the fishponds were extensively modified in the 20th century and all that remains are components of the fishponds, which form a small part of the existing lagoon. The remaining coconut groves here and in Wailua were not historically or culturally significant to the native Hawaiian people. This one was planted by Mr. Lindemann, and the one by Coconut Marketplace was built by a gentleman named Edward Broadbent. Mahunapu'uone and the *heiau* throughout Wailua have nothing to do with public access to these RPs. Currently, a fifty-stall parking lot with twenty (20) stalls dedicated to public use will be developed and maintained by the hotel at a cost of one million one hundred forty-five thousand dollars (\$1,145,000). Thus, the hotel is the funding mechanism for public use. Also, the hotel will develop a bathroom and comfort station for public use all at private expense. Neither the State, County, nor any nonprofit has the financial ability to do this. The Seashell Restaurant RP is *mauka* of a series of three (3) County coastal park parcels totaling nine (9) acres that provides public access to the north bank of Wailua River all the way to Makaiwa Resort lots, along Aleka Loop. Public access is not affected by this RP, not will it be enhanced by canceling this RP. The approximate cost to maintain the coconut grove is about four hundred thousand dollars (\$400,000) a year. Neither the County, State, nor any nonprofit has the financial means to take care of this property. The current RP is for landscaping and maintenance for aesthetic park and recreational purposes. The hotel guests and the public will be able to access this area for their enjoyment all at the hotel's cost and with no liability to the State or County. We kindly request the County refrain from subtly trying to influence the outcome of what is supposed to be a fair and unbiased process that is governed by State law and Administrative rule. Taking away these RPs will not stop this development. It will just make these areas a public expense. Thank you.

Councilmember Cowden: Would that improvement that you are speaking of, of the parking lot and the bathrooms, would that trigger a requirement from the Environmental Assessment?

Mr. Trask: No, it is already in the existing County permit. It has gone all through reviews, environmental reviews, six-year reviews back in 2014, 2015.

Councilmember Cowden: Just out of curiosity, when you are talking about economic capacity, I have not seen...is there something that has been given, a financial report, that shows the economic capacity of the current people wanting to have this RP?

Council Chair Rapozo: Again...

Councilmember Cowden: Is that not a question?

Council Chair Rapozo: Yes, totally out...this is not about Coco Palms or the developer. I understand what he said, but we are talking about three (3) parcels of land that are owned by the State, that are managed by the Board of Land and Natural Resources, that again, this Resolution is urging them to turn that back. This has absolutely nothing to do with hotel operations. Nothing to do with anything else other than three (3) parcels of land. We had the discussion on the hotel two (2) weeks ago.

Mr. Trask: Correct, and like Ms. Cummings said, the coconut grove has been under lease to private entities since the kingdom. We are talking 1890s. That was before the Territory. Back then it was a commercial endeavor. The RPs have always been attended to Coco Palms, whoever owned it, since going back to the '50s at least. The government has always found it appropriate for the hotel to maintain those areas for the benefit of its customers and the public at their expense, because that is the money. Better a private company do it than the public. That has always been the reasoning, to my understanding.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: My questions will only be targeted to the three (3) parcels. You made a comment that these three (3) parcels will make an impact on the developer, but you did say that you folks will still move forward with the development even if you do not have access to these three (3) parcels. Am I correct?

Mr. Trask: It will not affect the fee simple properties, correct, and the current valid permits per what Planning Director Ka'aina Hull said last week or so.

Councilmember DeCosta: Correct. If we support this Resolution and remove these three (3) parcels, so we can provide public access uses and purposes, which is what the Resolution states, are the County permits that you folks have to build the resort now in effect now?

Mr. Trask: No. In fact, we would enjoy it at the public expense. That is the thing. The Resolution, I think, inappropriately assumes that the public will not benefit from the hotel's development and maintenance of these areas. They absolutely will. I just want to clarify that.

Councilmember DeCosta: You mentioned the comfort station and the twenty (20) parking stalls. Currently, I work in Kapa'a, there are some bricks not allowing anyone to use that. Tell me about that. What are you folks going to do with that parking area. How does it benefit? You mentioned the twenty (20) stalls and the bathroom, but tell me a little bit about the traffic that will be either rerouted through those three (3) parcels, or do the three (3) parcels affect the traffic of that development?

Mr. Trask: Currently, the State Department of Transportation (DOT) has a right-of-entry (ROE) to that corner lot on Kuamo'o and Kūhiō Highway that they use as a staging area for the Kūhiō Highway road improvements. That is what it is used for. That ROE is on top of a RP that is currently issued to Coco Palms Hui, LLC, which we currently control. Once the State is done with that and assuming the RP stays within the control and use and maintenance of the hotel, it will then be developed as part of the hotel at private cost for the use of the guests and twenty (20) stalls dedicated to the public along with the comfort station, but the comfort station is not going to be on that lot. My understanding is it is going to be on the neighboring fee simple lot, but it will be accessed just like the facilities at Shipwreck's Beach.

Councilmember DeCosta: That other parcel by the beach, by the Seashell restaurant, are you folks going to take away the access of the community that wants to access the beach that are accessing the beach now?

Mr. Trask: No. When the County, back in 2009, wanted to install the "bike path" in that area, it acquired via Executive Order (E.O.), I believe, a series of lots from the north bank of Wailua River all the way to Makaiwa, behind Coconut Marketplace. A total of nine (9) acres, three (3) lots, and that is the coastal access area. The Seashell Restaurant RP is *mauka* of that and so it does not benefit or inhibit public access in that area. That is County land right now. Anyone can walk all the way.

Councilmember DeCosta: What about the small parcel in the back? The one that is a forty (40) by ten (10) or something. There is a small parcel in the back.

Mr. Trask: That is another RP and that is part of the traffic plan that is extensively studied and submitted as part of the County permits that keeps the flow going so it lessens the impact of traffic.

Councilmember DeCosta: You folks did a traffic study done on those three (3) parcels and how it is going to affect your development?

Mr. Trask: Correct.

Councilmember DeCosta: Which means, and I am just clarifying this, if we encourage the State to take away those three (3) parcels, it is going to impact the traffic that you folks can still develop your resort and put into our traffic system?

Mr. Trask: Correct.

Councilmember DeCosta: Last question. Did you offer some time to work with our people?

Mr. Trask: Yes, we met and we had some discussions, correct.

Councilmember DeCosta: I met with you, but did you meet with our people who introduced this Resolution?

Mr. Trask: Yes, they were very pleasant meetings, correct.

Councilmember DeCosta: I am just making sure you are doing your due diligence.

Mr. Trask: I try, definitely.

Council Chair Rapozo: Are there any further questions for Mauna Kea? Go ahead, Councilmember Kualii.

Councilmember Kualii: When you spoke in opposition, you said it was because it remains historically inaccurate and you talked about fishponds. The WHEREAS clause that is listed in the Resolution, the second WHEREAS clause, that mentioned this fishpond says, "WHEREAS, Wailua is the site of numerous ancient *loko i'a* (fishponds), including two (2) known as Weuweu and Kawaiiki estimated to be at least six hundred (600) to eight hundred (800) years old or more, integral to a *pu'uone* coastal wetland drainage system." Are you saying that this is inaccurate, this particular statement?

Mr. Trask: Yes.

Councilmember Kualii: What is inaccurate?

Mr. Trask: When you say "numerous ancient *loko i'a*," when that is read by the public and native Hawaiians who understand this, when I think of numerous *loko i'a*, I think of the southern coast of Moloka'i, where they had small little fishponds that literally dot the whole coast. I think about Kāne'ohe. Areas where there are shallow estuaries that native Hawaiians used as incubating zones to increase the fishing resources and the fishing grounds *makai* of them in the reefs. Everyone knows Wailua. If you know that beach, you know the river is too deep and runs too fast. You do not make fishponds in the river. It is impossible. The coast right there is windward. It is extremely rough. The sand is constantly shifting. The sand has always shifted. Now it is mostly underneath the bridge. It does move back. It moves back and forth. You cannot build a fishpond there and Lydgate is not fishponds, obviously. Those are 20th century creations. There were not numerous *loko i'a* in the area. But the fishing areas were extremely...before the tucanaré, tilapia, Tahitian prawn, and everything that ate it all. But the *mauka* lands where the *kalo* was, right? That was rice patty, and before that, it was taro. 'O'opu were in there. All the fish were in there. There is mullet, everything, in the river. The *ahi*,

the *ulua* holes, everything in the ocean, that is what was productive. Weuweu and Kawaiiki, yes, they were royal fishponds. Deborah Kapule claimed them later in the mid-19th century, but it did not dot the area, right? I think that is not a correct statement. Then when you say integral to a *pu'uone* coastal wetland drainage system, I am not a native Hawaiian drainage expert, but *pu'uone* is sand. The whole area is so wet and it drains the way it does. That is what made it sacred. It was the productivity. The amazing resource you could grow there, that is what made it sacred. It was not magic, so it was sacred. It was productive, so it was sacred. That is why there were *heiau* everywhere. That is why everyone lived there. Then when you look at the idea Deborah Kapule's house lot was on Coco Palms, it was not. Deborah Kapule's *konohiki* land were on Alani and 'Ohana Street is, by Holoholokū, more up. The *maka'āinana*, like me, we lived along the coast. If you read the reports, the *kuleana* there were Pula, Land Commission Award 3406:2, Makaiki, LCAW 3303:2, Nawai, Kelani. These people are ignored in history. Those are the people that lived there. Kapule is up. She had the fishponds, yes, but the *maka'āinana* could not use those fish. It is for *ali'i*.

Council Chair Rapozo: Mauna Kea, I am sorry to interrupt, but I have a question. Weuweu and Kawaiiki are where?

Mr. Trask: They do not exist anymore, but where the lagoon is now, was where they were. Throughout the 20th century, because Lindemann controlled it and then Mills controlled it, and then later the Coco Palms controlled it, it got dredged, and dug, and joined. It is a lagoon now. That thing was extensively pumped.

Council Chair Rapozo: Those fishponds were where the lagoon is today?

Mr. Trask: But if you read the preservation plan, it makes it clear. We are not preserving the fishponds, we are preserving the lagoon, which contains components of the fishpond that was extensively modified in the 20th century, the extent to which is unknown, basically.

Council Chair Rapozo: Go ahead.

Councilmember DeCosta: I remember reading something in literature that said they did some concrete work in the pond. Is that true?

Mr. Trask: Correct.

Councilmember DeCosta: I want to ask you, and I do not want you to think I am badgering you, but I have to get this off my chest. I am sitting next to two (2) individuals who are *kanaka*, who went to Kamehameha. You are held at a high standard. You have a lawyer's degree. Did you folks decide to talk a little bit prior to this Resolution, so we could make this *pono*, make this right like you *kānaka* say? I am wondering where the collaboration took place.

Mr. Trask: When I spoke with...

Councilmember Cowden: Can I ask a point of order?

Council Chair Rapozo: Go ahead.

Councilmember DeCosta: I am asking...

Council Chair Rapozo: Hold on.

Councilmember Cowden: Point of order: He is getting an incredible amount of time. He is getting more than most people would get. These things have been reviewed with different Hawaiian history historians who live in the area and everything. I do not quite understand. We are talking about a parking lot, so we are debating little nuances. We have a whole bunch of different fishponds that were in there. This does not seem germane to the conversation. We took out a number of the pieces that he is complaining about. I do not quite understand why we are going this deep down this alley.

Council Chair Rapozo: Are you suggesting that I limit questions from Councilmembers?

Councilmember Cowden: What I am just noticing is how unusual it is that one (1) testifier gets this kind of time when he is the paid attorney for the client.

Council Chair Rapozo: He is responding to questions. The questions are about inaccuracies that he is...I am not approving an inaccurate Resolution, so if you want me to end it, we can end it, but I can tell you my vote will change because I am very concerned.

Councilmember Cowden: I am just curious because we have had this approved by Hawaiian history professors that are...

Council Chair Rapozo: I will just say our policy here is to allow Councilmembers to ask questions.

Councilmember Cowden: Okay, we will let our attorney for the client continue.

Council Chair Rapozo: Continue.

Mr. Trask: To answer your question, first off, I did meet with Councilmember Kualii. We talked about this and I have great respect for him. Ultimately the choice he makes...he is an elected official, I am not. On the second point, you are right. I did go to Kamehameha Schools and I have numerous aunties and uncles, and I just want to make it clear that I work for the developer, yes, but the reason why I get hired is to help them do the right thing. I am not a hired gun and I do not do things, no matter what, because I am more concerned about what Auntie Liberta, my aunties and uncles will think about me if I do the wrong thing than getting paid. I can get paid by anyone. I just want to state that for the record.

Council Chair Rapozo: He answered the question. Are there any other questions for Mauna Kea? If not, thank you.

Mr. Trask: Thank you.

Council Chair Rapozo: I will just say it. Bernard and I went to a Portuguese documentary not long ago...

Councilmember Kualii: I went, too.

Council Chair Rapozo: And KipuKai. They said there were different versions of history by the historian that tells the story. No one here can tell us exactly what happened back then. No one. We rely on our stories. Hawaiian culture was all verbal. Majority of it was oral, so I appreciate differences in recollections of our Hawaiian history, because I do not know. You can go to the library right now and pick two (2) different books on history and find conflicting information. That is just the way it is. Before I say "Aye" to this Resolution, I am going to make sure the information is accurate. It is not "just" a Resolution. I know that term gets tossed around. It is just a Resolution, it has no weight. Well, it definitely does have an impact on people. With that, is there anyone else in the audience wishing to testify on the Resolution, not eminent domain or anything else?

Ms. Cummings: Sherri Cummings, lineal descendant of Wailuanuiahoano, Wailua Kai, especially, Hauola Hikinaakalā. I just want to read one (1) thing before I get into the testimony, and I found this off of a song that speaks about this. "I pray you will be our eyes and watch us where we go and help us to be wise in times we do not know. Let this be our prayer when we lose our way. Lead us to a place, guide us with your grace, to a place where we will be safe." That thing resonated with me because who got to be safe is Hawaiians. Our culture. And you are right, this is not just a Resolution. It has more implications than most people can imagine. For people like us that own our *kānaka*, this is hurtful. It was not Mauna Kea that went to KipuKai. It was me who went to KipuKai, me who sat down with Mauna Kea many times and tried to find a resolution, and then this resolution I did state that I never supported it. We can talk about going into books and finding out history, we can be who we are today because of our history and this is my history. This is my place, as well as other family members' place, so this is my *mo'okū'auhau*. This is my place, my *wahi*. This is wrong for many reasons. You folks already touched on the coconut grove. You folks already touched about the *heiau*, and things like that. You talked about royal residences for the *ali'i* and their courts. There were not royal residents. Mauna Kea said it straight. Where the *ali'i* live, the *maka'āinana* got to live. They were not sacrilegious or this is *kapu* area, so I am glad when I said what I said back then had kind of temper this Resolution because it was off back then. But where you found the *ali'i*, you found the *maka'āinana* more than the *ali'i* because they had to govern people. And they were only as good as their *maka'āinana* said, because they were the ones in control, the *konohiki*. When we talk about this kind of thing, we need to be real careful. Wailua, if you look back in pictures, in history, you would be surprised if you could swim from one (1) side of the river to the other. That is how much water came down from that place.

Council Chair Rapozo: Sherri, hang on real quick. How many others are going to testify today? Is that it, just four (4) more?

Councilmember Kualii: Five (5).

Ms. Cummings: I can step back if you want.

Council Chair Rapozo: Yes, let us just go and you can come back on your second round. Thank you, Sherri. Next speaker.

Mr. Hart: For the record, Bruce Hart. First, I did not testify the first time this came up. Basically, my position...first, I want to say something. I experienced Coco Palms when I first came to Kaua'i, when I first set foot on the island, and I found it to be captivating. It was a great experience. As the years went by, I went back and I appreciated what the hotel was doing then to honor the Hawaiian people, the culture. I am just a *haole* boy from the mainland. It was a whole new experience for me and I got to learn, I got to see some of what the history had been. It was 1971, so I was on the short end, but I have never forgotten. I remember I was young, I wanted to harvest coconuts. I went to see the general manager (GM). He was such a nice guy and he talked to me about the liabilities and he could not let me do it, but I never felt that I was not welcome. I was just a member of the public. I was not staying there. What Sherri says, I agree with. If the developer is willing to make every attempt to bring that back and if they are going to pay for it...

Council Chair Rapozo: Bruce, again, we are moving into the subject of the hotel. This is about the Resolution and three (3) parcels, so please keep your testimony to the item on the Resolution.

Mr. Hart: Then basically, I agree with Mauna Kea and Sherri. Thank you very much.

Council Chair Rapozo: Thank you. I am sorry I have to do that, but otherwise we will be...

Mr. Hart: It is okay.

FERN HOLLAND: *Aloha.* Fern Ānuenue Holland, for the record, on behalf of myself. Thank you very much. I support this Resolution strongly because I support public access to this entire area strongly in a form that protects that in perpetuity. I want to address a few things that have been said related to the conversation about the fishponds. I am not a Hawaiian practitioner. I am not a historian. My background is ecology. I am an ecologist, an environmental scientist that specializes in the restoration of ecosystems and native environmental systems, but over the last three (3) years, I have been working on this project through I Ola Wailuanui to try to better understand the history that I learned so much about, being born and raised on Kaua'i, born and raised on the Eastside. I have learned so much in the last three (3) years and one (1) of the things is about the uniqueness of this fishpond system. To Mauna Kea's point, there are places throughout Hawai'i that

have different types of fishponds that you commonly think of, but that does not mean that those are the only types of fishponds entirely that existed. This *pu'unoë* fishpond is unique because of its inland structure. The fish were corralled in the ocean and moved up Kawaiiki 'auwai, into the first ponds that were brackish water and then they were moved slowly into fresh water for fattening in a really incredible system. Those fishponds absolutely are still there. Actually, our fishpond practitioners that we have been working with to try to do restoration work throughout the entire Hawai'i, they say that it is restorable, that you can fix anything that was done, and in actuality some of that system might be better preserved than any of the other fishponds that were fixed throughout Hawai'i that were very, very broken down and decayed. I think that it is important to understand that there were modifications, but this fishpond was utilized up until the 1930s by Alfred Hills who last stocked that fishpond. That fishpond is absolutely still able to be restored and is very much still there. There was concrete that was applied, there were changes that turned it into a lagoon. All of that can be done. Our fishpond practitioners were recently denied access by the developers and Mauna Kea to be able to go and look at the fishpond and see what could be done to reserve it. I recently walked the State Kawaiiki 'auwai which extends still to this day from the river through up the middle of the fishpond system and it is incredibly well-structured. The rocks are still there. Even in the part that was broken down, there are still rock structures from the original 'auwai. I wanted to talk about that, but really I want to say also our group has applied for these RPs, so I am here in support of this as a collective vision, but we are also working to acquire these parcels and working with the Department of Land and Natural Resources (DLNR). We have already submitted the applications for these RPs and we want to work in conjunction with the County, with other partners, with stakeholders across the board. I will come back.

Council Chair Rapozo:

Thank you, Fern. Next speaker.

TERESA TICO: Good morning. It is almost afternoon. Thank you for allowing us to testify on this very important Resolution. I had intended to submit written testimony, but time got away from me, so I will read what I had intended to submit. I am testifying in support of Resolution No. 20...

Councilmember Cowden:

State your name.

Ms. Tico: Sorry. Teresa Tico. I am testifying in support of Resolution No. 2023-44 urging the BLNR to consider public access uses and purposes for State parcels at Wailua. The parcels owned by the State, which means those parcels are owned by "we," the people, are in the Public Trust. This is what I wanted to talk about today—the Public Trust. The Public Trust is a legal doctrine establishing that certain natural and cultural resources are preserved for public use. Natural resources held in trust include land, waters, ocean. The public is considered, that is us, we are considered to be the owners of these resources and the government is obligated to protect and maintain these resources for the public's use. We should have access to Public Trust lands and this is all this Resolution is stating. Our State has a long history of preserving and protecting public access through our statutory laws, our general plan, the County Charter, and numerous, numerous Hawai'i Supreme Court decisions handed down over the years. Hawai'i Revised

Statutes (HRS) specifically preserve the public's right to access beaches and shorelines. Our own updated Kaua'i County General Plan ensures access to and along shorelines, waterways, and mountains for all. If you have not read the General Plan lately, go back and read it. I had not read it since 2018 when it was updated. It is a beautiful document. It is highly aspirational. I would like to read Policy #15 in your Kaua'i County General Plan. It specifically addresses Hawaiian rights to "perpetuate traditional Native Hawaiian rights and protect public trust resources and cultural sites in all land use development and activities. Policy #16: Protect access to Kaua'i's treasured places. Protect access to and customary use of shoreline areas, trails, and places of religious and cultural observances, fishing, gathering, hunting, and recreational activities, such as hiking and surfing." These parcels we are addressing in the Resolution are in the public trust. We own them. We deserve public access and this should be acknowledged by you in the Resolution that was drafted here. It should be acknowledged by you and strongly communicated to the BLNR. Thank you.

Council Chair Rapozo:
testify?

Thank you. Is there anyone else wishing to

RICK COOPER Good day, Councilmembers. My name is Rick Cooper. I am testifying in favor of the Resolution you have before you. I want to expand the conversation a little bit in that what you are proposing is to set a precedent. These parcels under question have long been held by the owners of the fee simple property on which the Coco Palms hotel has previously existed. That means that your vote today will make a change to that. The owners of that property have long had access to and control of these properties. As we have not had a hotel, anything functioning there, for thirty (30) years, we have not had access to it any way or the other—the public, the community. I am imploring you to think in terms of the limitations of the access that we have not had, but also to the fact that how, and recently we can look at the history, how those parcels have been treated by those that have now recently been in charge of those parcels. The over disrespect of those parcels, as we heard in the hearing recently when the Chair of the BLNR was here, and the actions that the BLNR has had to take against the owners of that parcel is at play as we look at, as you look at, making an unprecedented change in modern history to take back the control of those parcels due to, in part, not only what Ms. Tico was talking about which is the Hawaiians should have access to these important and special places, but because the stewards have not proven themselves to be doing something that is in the best interest of the people, nor in the guides of what is expected of someone who has the responsibility to steward State lands. To this gentleman over here, myself, I went to the Coco Palms as a child. I remember it fondly. Many people do. That will never go away, but that ship has sailed. For these parcels...

Council Chair Rapozo:

I will have to stop you.

Mr. Cooper:

Sure. Thank you very much.

Council Chair Rapozo: You can come back in the second round.
Thank you. Is there anyone else wishing to testify for the first time?

HAUNANI ROSSI: Haunani Rossi. I live in the Wailua Houselots and I also own property that borders Koki Road where they were doing the dumping. I pass that every day to go to my parcel of land and I think what these developers were doing was not right—the desecration, the dumping of rubbish. I even stopped some of these unmarked trucks and asked these drivers what they were doing. I understand John Gibbs was their employer and I told them that they need to stop. You should see how it is. There are all kinds of debris back there. I am in favor of stopping all of this because I do not think that the developer did any justice for those parcels that are back there. I humbly ask you folks to please stop this. It is terrible back there, what we see. Thank you,

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify? Come up.

HOPE KALLAI: Good morning. Hope Kallai. I would like to address public access and the need for this parking lot, but first, a little clarification on fishponds. You cannot compare freshwater fishponds with open ocean fishponds at all. It is a whole different view. A whole different set of eyeballs have to look at them. A whole different operating set. I worked freshwater fishponds for twenty-five (25) years and am pretty confident on what it would take to get this one back happening. I would not put myself in an open ocean fishpond and say that. I know how to manage freshwater fishponds. This one is totally reclaimable and I was not there, but the people in the 1850s when they commented on their LCAs on their *kuleana*, they self-described five (5) other freshwater fishponds in the Wailua Kai area. They were all in the lower part of Wailua Kai. One (1) of them was on the eighteen (18) acres that is currently a dumpsite. If you look at the little machine running around, you can tell that soil was a *lo'i*. They have not cracked that *lo'i*, yet. It is hydric soil. Just looking at it, it fits the classic definition of a wetland. That mess needs to be cleaned up now. I do not know why we are sitting on it. There is battery acid leaking into that wetland right now. It needs to be done. But back to public access, it is a parking lot. We are only talking about a parking lot, not who chopped down the Hawaiian coconut trees and planted Samoans, because there were always coconuts there. The need for public access in that particular spot, this County could reclaim the historic trail right there. The parking lot is on the *alanui* and the *ala loa*. The *ala loa* and the *alanui* were together like this, coterminous, right in that point right to the Seashell Restaurant where the *ala loa* cuts to the *heiau*. I submitted written testimony. There are some maps in there. It is a really exciting chance for the County to acquire these historic trails that are important not only for beach access but mountain access also. The two (2) *kuleana* holders that Mauna Kea was talking about, Pula and Makaiki, in their land quarter warrants, they described the boundary of their *pāhale kuleana* right there as being bordered by the *alanui*. We have a historic trail, we also have a historic railroad. People talk about the cane haul trains that were at 3:00 a.m. at Coco Palms. That was the biggest complaint about Coco Palms—the 3:00 a.m. cane haul trains that went right through there.

Council Chair Rapozo: I need to stop you there. You can come back for your second round.

Ms. Kallai: I will be back. Thank you.

Council Chair Rapozo: Is there anyone else wishing to testify on their first time? If not, Mauna Kea. We will go in the order of your first testimonies.

Mr. Trask: Aloha Chair, Councilmembers. Thank you. I just want to address some of the further misstatements that were made today. I read the General Plan every day. Every day I read it. The General Plan, as you all know, puts every single resort land use designation along the coast. Coco Palms is in the General Plan right now. It is in pink. If you look at the East Kaua'i Land Use designation map, it is in pink for a resort. To talk about public trust lands and public trust resources, a copra farm planted in 1896 is not a public trust resource. Yes, it is public land, but it is not a public trust resource. That is a commercial operation. You cannot go to the Kalepa lands, onto any rancher's lease from the State and claim public trust. That is agriculture. That is the State support. The State leases property and has every legal right and duty and does for commercial use. This is not for commercial use, though. This is park use and the hotel has always maintained that park. We are not denying access. We are building a parking lot partially for the public. We are not denying public access to the coastal lands. The coastal access is protected in perpetuity because the County owns the coastal access along that road. Councilmember Carvalho knows. Councilmember Kagawa knows. Council Chair Rapozo knows. Councilmember Kualii knows. We were going to run the bike path *makai* on that parcel to and until the local residents in the area said, "No, we want it back along Papaloa Road." That is why the bike path is there now. These are not public trust resources. I think it is disrespectful to say misstatements and enrage the public for no good reason other than for self-aggrandizement. We are clearing this area up. The truth is that if this Resolution passes, it is not accurate. To say that we are "dirtying" the conservation lands, we were cleaning it out. I have receipts that show we have deposited seventy-nine (79) derelict vehicles to Resource Recovery Solutions (RRS) out here in Puhi. My client towed that all out. We disposed of it. We had to stop, because we were the target of false allegations regarding grading and grubbing. We were removing cars. You do not have that information. I would love to provide it to you because obviously no one knows about it, or they refuse to acknowledge it. Do not put your thumbs on the scale. Let this process play out before the appropriate authority, which is the Board of Land and Natural Resources, and let us respond to these allegations. The only thing that makes Coco Palms a viable as a resort is the fact that it is like how it used to be. That is the only character of it. Thank you.

Council Chair Rapozo: Thank you. Councilmember Cowden.

Councilmember Cowden: You said for the past thirty (30) years that the resort has taken care of the coconut palm fourteen point eight three (14.83) acres, which resort was that?

Mr. Trask: If I said thirty (30) years, I misspoke. I am going back to 1950, so let us say eighty (80) years.

Councilmember Cowden: I am asking for the last thirty (30) years, which resort was maintaining the coconut grove?

Mr. Trask: It is hard for me to specifically say which one, but I know that Uncle Larry Rivera was running those tours back there up until, I think, approximately 2010 or something like that and it was maintained. I remember it being mowed. My wife actually did the Blue Hawai'i anniversary thing. She got her picture taken up there with them. I am not sure. I do not want to speak inaccurately. I want to make sure I am accurate, so I am going to have to find out that information.

Councilmember Cowden: Accuracy would be important. I think you are meaning Bob Jasper has done those tours, not Larry Rivera. He plays, but Bob Jasper...there has been some clearing, but to say that that is maintained...You are suggesting that other people were not accurate, so I think it is important to look for accuracy, because you said for the past thirty (30) years the resort has fixed it. Please check and find that accuracy.

Mr. Trask: I one hundred percent (100%) agree on accuracy, I apologize for making a misstatement, and I will acknowledge that.

Council Chair Rapozo: Are there any other questions for Mauna Kea?
Councilmember DeCosta.

Councilmember DeCosta: You talk about park maintenance. That park under the new owner, the individual has been doing their due diligence to take care of that park? Am I correct? Are they?

Mr. Trask: Correct.

Councilmember DeCosta: The derelict vehicles, because one of the other testifiers mentioned battery acid, so she must agree with you folks that there were some cars in that area. Do you folks lease that from the State? It is your *kuleana* to care for that property?

Mr. Trask: No. What I believe that was being talked about was is the private fee simple lot that is in the Conservation District that it was alleged that we were illegally grading and grubbing in it when it had been graded and grubbed by houseless people who were staying there and were stockpiling numerous vehicles. My client was the only one, as Noa Mau testified to at the last meeting, out of all the owners, the current owner is the only one that worked with him to clean it up. He is the witness. He is not here right now. He knows. You talk about maintenance and park maintenance, that is true. My concern is I was part of this County when we entered the stewardship agreement with Uncle Rupert Rowe and Uncle Billy for Kānei'olouma. Look what happens when it is not supported. After great expense to the County, it immediately goes to weed. This is going to be even worse because Wailua is much more wet than Kōloa. If this is not maintained at great expense by a private hotel, it is going to be maintained by you or it will not be maintained.

Council Chair Rapozo: Let me just say it will not be done by us because the State is going to take the land, not the County. This is a State parcel. If

the BLNR decides to give that back to the public...it is their land. I share your concern, but it is not the County. It is the State.

Councilmember DeCosta: Since we are talking about whether the State is going to absorb this piece of property or not. The State likes to lease properties because they cannot take care of it themselves, that is why they do that. They do not want derelict vehicles and, I am going to say it, homeless and people trashing the lands. The State cannot take care of their lands, so they lease it to you folks. That is how it usually works.

Mr. Trask: Article 11, Section 1 is the public trust doctrine, that is true. If you look at other sister sections, specifically Article 11, Section 3, for example...

(Councilmember Kagawa was noted as not present.)

Mr. Trask: You talk about agricultural leases. It also says in the same breath, "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and ensure the availability of agriculturally suitable lands." They say the same thing for houses. The State is one of the largest landowners on this island. The State does lease land. That is the whole point. We know that most ranchers have State-leased land. To assume then that the State public trust resources are being denied, that is just a misstatement. It is just not true. Thank you for the opportunity to correct that.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I appreciate how you have spoken that the people who currently hold the lease have an intention moving forward to stewarding it in the best of ways relative to the public and to be sharing with the public. I believe both privately in our conversation, and you have said that now. Has your client that is the leaseholder or is hopeful to be the leaseholder, I do not think their name is right on it yet, but do they have any intention of selling or have they ever offered to sell in the last year?

Mr. Trask: I have no idea.

Councilmember Cowden: You do not have any idea? Were you here two (2) weeks ago when we were talking about if we had twenty-two million dollars (\$22,000,000), we could buy it?

Mr. Trask: You are referring to that?

Councilmember Cowden: Yes.

Mr. Trask: Yes, I was there. I said it.

Councilmember Cowden: You were there. You said it.

Mr. Trask: But I do not think that that was a formal offer to sale. It was just a notification to the Chair regarding the topic he brought up.

Councilmember Cowden: Okay, and I believe it came up in the Planning Commission meeting as well. I appreciate that there is good intention and maybe a good history with the ownership of the ownership, the staff elements in there, but we have to think about long-term if there is ever movement. Anyway, I am starting to get into dialogue.

(Councilmember Kagawa was noted as present.)

Mr. Trask: Councilmember Cowden, on that point. You just recently came back from the National Association of Counties (NACo) Western Interstate Region (WIR) Conference, and that was in Utah. You saw the Black Desert Resort project that Reef Capital is doing.

Councilmember Cowden: It is a very nice project.

Mr. Trask: You know that they spent hundreds of millions to ensure that the environmental laws were followed and that the environment was taken care of, especially the black lava rock in the area. You know that.

Councilmember Cowden: You heard me bring that up to him. I brought that up and I saw that they did a good and responsible job. I brought that up.

Mr. Trask: And so I just say that they are going to do the same job here.

Council Chair Rapozo: I am trying to find the Black River Rock Resort on this Resolution, but I do not see it.

Councilmember Cowden: Alright, I will stop.

Council Chair Rapozo: Thank you.

Mr. Trask: Thank you.

Council Chair Rapozo: Are there any other questions for Mauna Kea regarding the Resolution? If not, thank you, Mauna Kea. Sherri.

Ms. Cummings: Sherri Cummings. I will state not my lineal line relative to Wailuanuiahoano. I am just going to say for you folks "no be scared," and I say this because there are so many laws that protect native Hawaiian rights. When you talk about trying to create this fight for those three (3) parcels, we look at the parcel by the restaurant. Why? Ask ourselves why, when directly on the back side of that is where we go all the time because that was a *heiau* there. And the *ala loa*? Hope is right. That gives us the access. That is already our God-given right and it is not only because we are native Hawaiian, because these laws were codified in

1840. True law, Hawaiian kingdom law, 1840, by the third King, brought back, redefined, codified again, 1978 Section 12, that gives us those rights to access. For anyone to come up here and say we want to access, we want to assure, the assurance is there. We got to be careful when we try to place all these types of regulations on top of us or different entities, because these are laws that are accessible to us. If we do not talk about it and educate people on it, then we go and add something upon something else. That is one. When we talk about the *loko i'a*, Hope is correct. You did have freshwater, you did have ocean. My *tūtū* Wahinealoha Keo, who was there, he ended up moving to Hanamā'ulu, that is where we have our lands today, because why? That railroad took us from Hauola and brought us into Hanamā'ulu. He was written about many times. He was the Robin Hood during the days of the Great Māhele. You will find him, Wahinealoha Keo, dividing, segregating for the right reasons, because we knew how to steward correctly. When you talk about the *loko i'a*, it was only a definition of that place we use. We were experts in what we did. I can tell you there are *loko i'a* up Kalepa, but do you think someone is going to believe me? Absolutely not, but you will find mullet right in Kalepa on the mountain, that if you do not know, our people should know, but if we do not know, then you let people like this try to decide our culture. Do not ride on the backs of us. That is why I am getting into the industry of film and documentary. Because it is so important for our stories to be told to protect us when you have other people that take our stories and make it become something for them, for betterment of themselves. We have our own rights and it is about time people figure it out.

Council Chair Rapozo:

Thank you, Sherri. I am sorry, hang on.

Councilmember DeCosta: I have a clarifying question. I so appreciate your *mana'o*. I could listen to this kind of thing all day. Tell me, Sherri, I would like to know about your families. Are you telling me that your family was from this area for generations? I have been hearing one generation, I have been hearing twenty-five (25) years on the island. You are talking about your family being there. Tell me a little bit about why you know so much.

Ms. Cummings: My mother's Hawaiian name is Kawai'ula'iliahī. If you know the name Kawai'ula'iliahī, it comes from Makaweli. Makaweli, he split the river. One (1) of the rivers is my mom's name, but it is *pilina* to the place of Waimea. She was born in the valley of Waimea, 1934. My *tūtū*, 1906. My *tūtū* before that, 1849, and then it goes on to Kapuaiki, who was the chief of Ko'olau. We do not talk about our families much, but we know our *mo'okū'auhau* and we know our *'āina*.

Councilmember DeCosta:

How does that tie into Wailua?

Ms. Cummings: What happened is my mother, her *'ohana*, the Naumu *'ohana*, came from Wailua because my grandma, on the Taniguchi side, was from Waimea Valley. My *tūtū* Pia took my grandmother and brought her to the lands of Hanamā'ulu. My mother was raised there, but she would swim and learn in Wailua. Why? Because that was my *tūtū* man's place. My *tūtū* man was born in Niulolo, but they came out and Hauola was there place and they had reason to be there. Hauola was where my *tūtū* man's siblings, Kaulona, Oliwa, Manu were all

born. Even if my grandmother and my mom's grandparents took my *tūtū* man back in Hanamā'ulu, they would come Wailua because that was his place where he was raised. That is why we *pilina* the place over there. That was our place and our relationship to the *mo'i* is very real because that was our *kuleana*. Not everyone was a fisherman, not everyone was from the other area.

Councilmember DeCosta: Thank you for that, Sherri. I understand now.

Council Chair Rapozo: Thank you, Sherri. Bruce, did you want to come back up for a second time?

Mr. Hart: Again, for the record, Bruce Hart. Listening to Sherri is fascinating in that I hope she can be a part of whatever happens to that land. One of the questions I have is if it reverts back to the public, if the DLNR denies the leases, and as you said, Chair, it will go back to the State, and as Councilmember DeCosta said, the State does not have the money, who is going to pay for the development there, this public access? Who is going to do this? I have not heard anyone say who is going to do this. I still would like to see the leaseholder be held responsible. I am not talking about, "Well, we just give it to them and just hope." I am talking about they have to be held responsible. Someone has to be held accountable. Then bring it back to a compromise that everyone can appreciate. I want to see the history, I want to hear about it. Mauna Kea said that that hotel never did have anything that would attract tourists to it except the culture. That is what I appreciated when I went there. Just to finish this, I ate at the Seashell Restaurant. My mom and my stepdad took me there. I am not going to forget that either, and no, that is not a ship that passed. Thank you.

Ms. Holland: I have so much that I want to say. Fern Holland, for the record, round two. Really quickly; I am trying to take notes here. First of all, go ahead and read the descriptions yourselves from the letters of people who stayed with Queen Kapule and they talk about the abundance of rocked fishponds behind her property and the Kōloa ducks and the incredible wetland that was there. We are not just talking about the preservation of this place—put a gate around it, call it a day. We are talking about restoring this incredibly ancient agricultural system—fixing it, rebuilding it, restoring it—not just preserving it and putting a fence around it. That entire area is sacred, not just because of what was mentioned about the waterflow and the movement of water in that area. Yes, that is a huge part of what makes Wailua important, but Wailuanuiahoano really translates to the "Great Sacred Wailua." A lot of those *heiau* are not associated necessarily with the fishponds. They are associated with the rising of the heavens and the stars and the astronomy and the navigation that was tracked from that area from what I have read and learned. That whole area is special and should be for the public good. It should be, because of the importance of this entire area, a place that serves the people. Our efforts really have been based on honoring the rich history of this place, for the benefit of Kaua'i and the community, and particularly the advancement of Hawaiians and Hawaiian culture. The proposed development does not even look like Coco Palms, so people's nostalgia about his hotel will likely be hugely disappointed when they see this much larger hotel, but the restoration of the system—the floodplain, the special place of for the people, these RPs that we are discussing, and the restoration

of that entire area for the benefit of environment and culture is something that everyone will benefit from. The whole point of restoring this place is community use, is collaboration, and these State lands that are being utilized as part of a private development, if that is the goal, then yes, show your environment thing, do an Environmental Impact Statement (EIS). Do an Environmental Impact Assessment on the use of these State lands which is triggered by Hawai'i Revised Statutes Chapter 343. The vision of the restoration of this whole area is a collective vision of the community working together to create a cultural and educational center. Imagine something like the success of Waipā, like the success of Limahuli Gardens, like the success of Mālama Hulē'ia's efforts combined into an incredible cultural center and park that serves...like every kid, we went with David Boynton up in Kōke'e to learn about Kōke'e when we were young. Every child in third grade, fourth grade, whenever it is, would go to this place and learn about the rich culture, would learn about the amazing things that Sherri and others are sharing. This cultural educational place for people to learn and connect is the entire point of the restoration of this entire area. Thank you very much.

Council Chair Rapozo: Thank you. Hang on, Fern.

Councilmember DeCosta: I have some questions.

Ms. Holland: Thank you, Uncle Billy.

Councilmember DeCosta: You seem very animated to speak, so I want to make sure you have enough time to clarify what you said. Number one, you talk about fixing that area, that stewardship fix it, and in your first testimony mentioned that you are part of I Ola Wailuanui. Did I say it correctly?

Ms. Holland: Correct.

Councilmember DeCosta: You are part of that nonprofit?

Ms. Holland: Yes.

Councilmember DeCosta: Would you benefit from this nonprofit absorbance area, if not the hotel, but that State lease? Would your nonprofit benefit?

Ms. Holland: Would our nonprofit benefit? Possibly, yes. We would be part of the facilitation of the stewardship groups, but not personally. I am not paid. I am a volunteer board member.

Councilmember DeCosta: I am not talking about that. I am just asking about the benefits of I Ola Wailuanui.

Ms. Holland: We applied for RPs because it is part of the larger restoration of the vision.

Councilmember DeCosta: Since you folks are interested, do you folks have funding available right now to take stewardship of this place?

Ms. Holland: We have some funding. We have raised, I believe, it is over two hundred thousand dollars (\$200,000) in pledges in just a couple of months of reaching for small donors, but we have also been working on really large grants in excess of millions of dollars that would be for the actual stewardship. There are many different avenues. We have been working with legislators on all levels of government, federal and State funding. There is a lot of support for the restoration work. The problem has been this weird position that the properties have been in.

Councilmember DeCosta: The reason why I am saying I get it is because I am a government leader, so I know exactly the congressional people you are talking to and the interest, it is an interest right now, no one is clawing at the bank account to put funding in. I remember you folks went out there to try and raise some millions of dollars and none of that went into it. Two hundred thousand dollars (\$200,000), just to give you a reference, I think the parking lot is going to cost one million four hundred thousand dollars (\$1,400,000). Just the parking lot.

Ms. Holland: That is what they say.

Councilmember DeCosta: In reference, for you folks to understand what it is going to take to restore this area.

Ms. Holland: Again, we have been looking at grants that are in excess of millions of dollars for the restoration.

Councilmember DeCosta: The last thing I wanted to ask you, since you mentioned Dave Boynton. Tell me the one thing you learned up in Kōke'e. I am interested to know. What was a big thing you learned?

Ms. Holland: I actually missed that. I was on the Big Island that year and I missed the trip, but I was very close with his family. My mom was very close with David.

Councilmember DeCosta: You referenced Dave Boynton and Kōke'e, and you did not even go?

Ms. Holland: I did not get to go, but I always think about that because everyone goes at a certain age and gets that experience, and all my friends still talk about it. I was lucky enough to know Dave personally.

Councilmember DeCosta: I am done. Thank you.

Council Chair Rapozo: Are there any other questions for Fern? If not, thank you, Fern. Is Teri Tico still here? Is there anyone else wishing to testify? What is that noise? Hang on. I think I know who it is.

Mr. Cooper: Can you dance to it? That is the question. Again, my name is Rick Cooper. What I did not make clear earlier is that I am a homeowner in Wailuanui. I think one of the questions it comes down to is, as I was alluding to earlier, who can be trusted. Who can be trusted with these treasured

parcels that we are talking about? I think as I try to paint the picture, I do not think the developers can be trusted. There are groups, as Fern has mentioned, that are able to apply for the stewardship of the revocable permits and the group that I am honored to be a part of, I Ola Wailuanui, has done such. It may be the County, it may be a group like ours that can do that. I will say in response to what Councilmember DeCosta was saying about budget and being able to afford parking lots and things like that, there are partnerships that are being discussed with larger organizations. I would think that if the County takes control of these parcels or tries to get them into public access that there would be partnerships with that, too. The eminent domain, which we are not discussing here, is about partnerships. That is what the community wants, I believe, with this. I want to also just briefly mention the maintenance issue that has come up. I think Bruce mentioned about maintenance. Who is going to take care of that? I have been working with I Ola Wailuanui for three (3) years now. I am honored to be a member of the Board. It is a Hawaiian-led, majority organization, and we are doing great work. In looking at budget issues, which we very seriously have, two (2) years ago, I reached out to my neighbor and my friend, George Costa, and I asked him, as he had been with Coco Palms, general manager down there for many years, I reached out to him and asked him about that particular question. What would it take to maintain that coconut grove. He gave us numbers and we have been working with those numbers ever since. This is not something we take lightly, nor should any organization take it lightly. It is a responsibility that is important. I will add finally, Chair Rapozo, in the last meeting, your indignation with having been fooled before by the developers, I ask to quote the old Who song, "I encourage you not to be fooled again."

Council Chair Rapozo:

Thank you. Is there anyone else wishing to testify?

Ms. Davenport:

Hello. Vivian Davenport. I am not sure I made it clear the first time that I am definitely for this Resolution. I think often in life we are given a choice between the lesser of two (2) evils, shall we say...I wish there were three (3) choices here today. The three (3) easy choices: the royal patent owners get it, the State gets it, or the hotel gets it, but we do not have the first choice. We have the second two (2), the State or the hotel owners. It is, as the previous gentleman said, a matter of trust. *Kānaka* have been injured, lied to, deceived by both, but hotels have shown no trust. Really, you are going to be in the songs of your grandchildren. Do you want to be in the one, "the beaches they sell to build their hotels," or do you want to be in the one, "keep Hawaiian lands in Hawaiian hands"? If we go with the State, there is still a chance for litigation, it goes on constantly between *kānaka* and the State. If we go with the private hotel, the owner of the land is encumbered. Encumbered land is far more difficult to get back for the royal Hawaiians. I just want to bring that up because I feel there are many *kānaka* that are against this, because they feel it should go back to the ancestors, that the ancestral right should be honored. That is more likely to happen with the State than a private hotel owner and I think we all know that. Thank you.

Council Chair Rapozo:

Thank you. Hang on, we have a question.

Councilmember DeCosta: Since you mentioned *kānaka*, out of all our speakers, I think we had two (2) *kānaka* speak.

Ms. Davenport: Yes.

Councilmember DeCosta: They were not supportive. How many *kānaka* that spoke today were supportive of this Resolution?

Ms. Davenport: That was what I said, sir, that I realize that these *kānaka* are not in support of it, but I believe the reason is because they want the royal patents. They want the lands back in Hawaiian hands, but that is not a choice, right? That is not a choice here today. The choice is the State or private landowners.

Council Chair Rapozo: Thank you.

Ms. Davenport: I am for the State. Thank you.

Council Chair Rapozo: Ma'am, you are done. I am sorry.

Ms. Davenport: That is alright. Is there anything else not clear?

Council Chair Rapozo: No. Next speaker, please.

Ms. Davenport: By the way, Mel, I know we are not supposed to talk about it but thank you for the eminent domain idea. I know it was yours.

Council Chair Rapozo: Ma'am.

Ms. Davenport: I know it was yours.

Council Chair Rapozo: I do not want to go to jail for violating the Sunshine Law.

Ms. Kallai: Chair Rapozo, thank you. Hope Kallai. I would like to focus on the parking lot and the need for the twenty (20) stalls now. Mauna Kea admitted that we have a public right for twenty (20) parking places there. I do not care who holds the RP. We need those twenty (20) parking places now. Let us open it up. If they need to fence off their part of this RP that would be for the hotel, give us our twenty (20) places now. We need them. It has been in the Planning Director's reports since 2014 that there are twenty (20) public parking places in a paved parking lot. It has been occupied by trailers, by the project architect's office, and by tiny home sales. None of these were authorized under this permit, but there are trailers there now. There is a trailer with a big old deck on it. I do not think it has got building permits for the deck. How did the County let this happen? We need the twenty (20) public parking places right now, but I really want to talk about the bathroom. The bathroom that was promised to the public was a comfort station with

several toilets for each sex and a shower, a cold-water shower, so you could shower the sand off your kids before you put them in the car. We have lost our shower over at the beach park, it eroded into the ocean. We do not have a cold-water pipe to hose your kids off and we need it. The public comfort station has been eliminated from the building plans. Building plan number twenty (20) covers the bathroom. It is a one-seater per sex. Two (2) bathrooms, two (2) toilets, total, no shower and it is now a keycard entry. It is not public. It is right in the valet parking place. There is a twenty-seven (27) stall valet parking planned and this bathroom is attached right to it. The public cannot use a keycard bathroom and a one-toilet seat bathroom does not accommodate families. It is not adequate for this beach park parking lot. We need those twenty (20) stalls now. The parking lot is in a way better state than our parking lot was across *makai* and it could be opened up right away. There is no reason for it to be occupied by job site work trailers, especially when they have twelve (12) acres. They could just move that trailer right over to the project site. The project site trailer should not be on a public parking place. Whatever we can do to open up those public parking places as soon as possible—it is only zero point eight (0.8) of an acre, I do not think there is room for seventy (70) parking places in the first place. I do not think the State has ever admitted that these folks can harden that much of this floodplain area, cover the whole entire eight (8) acres.

Council Chair Rapozo: Thank you.

Ms. Kallai: Thank you.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: When you are talking about building twenty (20) stalls and you are describing the bathrooms, you got that from the 2015 Director's report?

Ms. Kallai: I got that from the building plans.

Councilmember Cowden: From the building plans, and do you know the date on that? That is the building plans relating to what was permitted for the 2015 Director's report?

Ms. Kallai: Yes. I can get the plan number and send it to you.

Councilmember Cowden: Okay. I know that you have sent some really...

Ms. Kallai: I think it was 2015 for that plan.

Councilmember Cowden: And on that plan, does it show how much of that point eight five (0.85) acres is currently hardened or is only a portion of it hardened?

Ms. Kallai: No, because the plan is actually for the bathroom and it is on the private property. It is not on the State land. And actually, the bathroom is fifteen (15) feet up in the air, but the building that it is attached to, the Shell building, is only eleven (11) feet in the air, so the people are going to be sleeping lower than this new bathroom.

Councilmember Cowden: On the State land, the revocable permit, when I look at it, I see part of it is paved and part of it is growth, vegetation.

Ms. Kallai: Part of it is the historic coconut grove. It is an extension.

Councilmember Cowden: Okay, that is what it looks like from the air. I know you do deep research. Did you notice how many stalls are on the existing amount of hardened surface could be there?

Ms. Kallai: It looks like twenty (20) now.

Councilmember Cowden: Okay. Maybe a little more, but okay. Thank you.

Council Chair Rapozo: Thank you. Are there any other questions for Hope? If not, thank you, Hope. Is there anyone else wishing to testify that has not already testified? Seeing none.

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

Council Chair Rapozo: Is there any further discussion? We have the motion on the floor. It is to approve as amended. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. In my nine (9) years, I have never introduced a resolution telling the State or Federal government what they should do. I have trouble supporting resolutions doing the same because I feel like there is a lot of value in working with our legislators, working with our governors, working with the departments. As an individual Councilmember, I think passing these types of resolutions tends to create a lot of drama here with no teeth. Who is to say they are going to listen? I think a lot of the time they get irritated when we send these resolutions over from the County. They would rather see us work through Senate President Kouchi and work through the legislative chairs who oversee the BLNR to tell them, "You should perhaps look closer at these thirty (30) years that went by. What was the status? What happened in those thirty (30) years? Have investigations been done? Are there pictures to show?" It is more embarrassing if they have not even done anything and continue to do nothing about the permits or problems with access. I feel like we do not have enough. I have problems with Mauna Kea and Sherri opposing it as well. I think Mauna Kea has been an admirable County Attorney for Mayor Carvalho in the past and guiding the Council. Today, when I sat here and listened to Mauna, I tried to judge whether he is saying things to just represent his client or is he truly telling us how he feels as a native Hawaiian, a

Kaua'i resident. I feel like he has not been just speaking on behalf of his client for a paycheck. I think he honestly has faith that some of these things that we are asking to be done but there is progress with these folks. Yes, I wish these developers were here in 2013 when we had Tyler and Chad who turned out to be very disappointing in following their word. At this point I do not feel I can support this Resolution. I just think it is the BLNR's job. It is their job. We already made it clear to the head that she needs to look into some of the allegations being made and I think she got the message loud and clear. I do not think we need the Resolution to tell her to look at these parcels again because she heard loud and clear, thirty (30) years have gone by, the public is very disappointed with what has gone on at Coco Palms, and we need to find a solution going forward. I think they already got that message. I do not want to continue to try and pass resolutions that will just create drama. I have not seen resolutions be an effective way of telling the State or Federal government what to do. I have not seen it. Thank you, Chair.

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

Councilmember DeCosta: I am going to state my point before I state my position, but I do want to clarify something first. I appreciate the fact that we have a young adult in our Chambers who is not an 18-year-old who could have come here by herself or himself. I am impressed that they are learning the ways of our system. Her father spoke and her aunty spoke, and I believe they spoke from a very historical and ancestral informational piece. I did not say it lightly when I said I enjoyed listening to Ms. Cummings, even though sometimes I think you and I might disagree, but this time, this Portuguese Spaniard learned a lot today. I believe it is from the people who came before us. All the degrees in the world, all the stewardship, nonprofit statuses and getting the bulk of the money from different entities that can help...remember this, people from before us came here a long time ago. My forefathers came five (5) generations ago, but the two (2) people that spoke today, Mauna Kea and Sherri, their families came on the canoes a thousand (1,000) years ago. I am sitting down with two (2) people here—Councilmember Kualii, because that is how we address our Council, it is Councilmember Kualii, Councilmember Carvalho—their families came on those same canoes, and they came here, so when they speak, they hold a lot more weight than we do. I am sorry. That is what I believe. I am going to let you folks know something. I look at this nonprofit, it is...I am going to say it correctly because I think I said it before...it is I Ola Wailuanui. Am I saying it correctly? I heard two (2) Board members speak today. Yes, I believe I did some homework myself and I think this nonprofit is also wanting the RPs, so you folks have a special interest. Whether your interest is good for the community and whether you folks are going to restore it, but you are using this platform to benefit your own nonprofit. I did talk to one (1) of the nonprofit Board members. Actually, I texted him this morning and he and I had a conversation. Two hundred thousand dollars (\$200,000) is what you folks have in that account, with the possibility of interest of other congressional leaders thinking about supporting you folks. It is hard to make a decision based on two hundred thousand dollars (\$200,000). It costs a lot more money to manage that place. Maybe that is why the State leased it out, because the State, themselves, cannot manage those lands. I have State-leased land and I tell you, when they put it in a lease, they put it because they cannot maintain it and

they do not want trash and they do not want people accessing the property. If we do not honor these leases, whether it is a nonprofit or the developer, those lands will be trashed again. It happens. That is why all of the lands are locked off today. In looking at my notes here, I am going to let you folks know that a lot of the historical things that were talked about, names like Alfred Hills, 1930s was the fishponds, and the coconut grove by the Russian guy...I even forgot his name because it was not worth my time. Those are not historical *ali'i* family names that we talked about. Those are Western names that were mentioned there today. In defense of Dawn Chang, she is the big boss of the State and DLNR, who are we to tell her and her entity what to do? We just had our budget. Do you know how many people in the State Government would love to come and tell us in their resolution and criticize how we did our budget? Did they? I did not see one (1) because they know better. We run this County, let the State folks run the State and then we will see what happens. I am not supporting this.

Council Chair Rapozo;

Councilmember Cowden.

Councilmember Cowden: Thank you all for your testimony. I am going to stick with the intention of the Resolution. Just to be clear, this Resolution does not say to give it to a nonprofit. This Resolution does not say for them what they have to do with it. This Resolution says to give consideration for the public access and what we saw with Dawn Chang when she was here is these properties have had a long history of not paying their taxes, not renewing their leases, not having even currently the accurate name on the lease for the company. We do not see a legacy of making sure there is no trash. We do not see a legacy of good stewardship. What we and this Resolution would be asking for is basically an open time to be looking at who does in fact get the next permit. It could easily be the developer that wants it. They could apply. They could reapply with the correct name. At that time, that allows the State to consider who is going to do the best job. It becomes competitive. It becomes people being able to show their capacity to have the right stewardship. I appreciate the *mana'o* that has been shared, but I will also recognize when someone is a paid representative of the developer. As that paid representative mentioned, the developer himself, who is here...thank you so much for being in the room, does have, at least I did see a history of a development that was responsibly done, but that is where the State would be able to be really looking at it. That is where those commitments could be laid out heavily because when we hear nostalgia for what happened with the Guslanders, that is the past, that is not the present. When we see how many properties are sold, and I even want to look at one (1) that has not been sold, Hanalei Bay Resort, run by, we heard a reference to, George Costa. It is not his fault, but the new board shut off fifty-plus (50+) years of beach access through it. Shut it off, held no public hearing, and because it predates when we had rules on it, they are just able to sit there and shut all these people out of being able to go to the beach. You can have a new board. You could have a new owner. There are all kinds of changes that could happen. If a permit or a lease is structured again, let us give these people the benefit of the doubt. If it goes with the people who want to have it from this room for commercial purpose, and they have a very great plan that goes with the run of the land, that is up to the Board of Land and Natural Resources to see it. The difference of having one (1) person write a letter and having a resolution is it shows a united front. As a united group we say this is such an important area

that is at the nexus of where we have heavy erosion on the beach, we have high congestion on the highways, and we have an overwhelming amount of environmental factors that are creating extra flooding. It was flooding fifty (50) years ago right there. It is no longer in alignment. We could never build this now and what we have seen, is even some of the buildings being suggested came down in Hurricane Iwa. There is no "Iwa Ordinance" or "Iwa exemption" from the buildings. We are thirty (30) years beyond Hurricane 'Iniki and we have to be sitting there thinking about how do we make sure whoever might hold onto these State parcels has a commitment to the public of how they will be allowed to be there. Passing this does not preclude the current people who want it the most from being able to use it. It just might absolutely force them and whoever else to open it up to the public. It could sell. It could sell before it is finished. It could sell before the end of the year.

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

Councilmember Kualii: Yes. I will just add that the Resolution is intended to focus on public access. That there is this background, there are different WHEREAS clauses with different statements like about the fishpond and about the *iwi kūpuna*. If anyone has concerns based on the varying testimony that they are not one hundred percent (100%) sure that it is accurate, this is not important to the Resolution. It can be taken out if we can gain your support that way. What is important is that we are just specifying what those parcels are and asking that when the BLNR make their decision, that they focus on our stating on behalf of our residents who have come to us, that they should keep the public's interest at the top of their mind. Yes, ultimately it will be BLNR's decision and even if they were to decide private entity versus State, at least in that decision, they would hopefully put in language, whether it is a lease or whatever, that guarantees the things that we are talking about—the public access, the parking, the bathrooms, etcetera. It is just our attempt to say not only as individual Councilmembers...yes, of course, we can write our letters and make our own phone calls, but we are saying we want to be a voice on behalf of the people who have come to us saying, "We want to make sure we have our public access." That is all that is. If any of this, and I wonder, too, when I hear Sherri and Mauna Kea and different people say things, because I am clearly no expert. I do not come from the area. My ancestors go back to Waipio Valley on the Big Island and on the Westside in Hanapēpē and Waimea. I do not think I have any connection to Wailua. I only know what we read and learn and staff has done an incredible job, and some of the testimony as well, giving us a lot of what we feel is good information, but that is just background. If that is the controversy to get us to the point to try and support a resolution just about public parcels and public access, it can be removed. I will very quickly throw an amendment forward to get rid of four (4) or five (5) of those WHEREAS clauses if we can get our support, but I already hear where we might be, so that is where I am.

Council Chair Rapozo: Councilmember Carvalho.

Councilmember Carvalho: I appreciate all of the discussion, from the Resolution to hearing everyone speak and having being involved from a while back, and then personally my grandmother and my family members working at Coco Palms. There is all this...everything happening all at once. While I am sitting here

as a Councilmember, trying to put everything together and understand the layout, and having worked with Mauna Kea in the past, and Auntie Liberta back there, and some of the key leaders in this area that is so important. Again, I totally appreciate the Resolution without getting into all the specifics, but knowing the heart and soul and the understanding of where we got to go for the next steps. It has been sitting here for all this time and everyone has tried. I like the *mana'o* and the healthy discussion that is happening here today. We just got to get out into our community. Again, having detailed conversations and in-depth conversations with everyone from the developer's side, Mauna Kea folks, as well as the other side. For me, at this point, the Resolution makes a good statement and that is pretty much what it is. It is well said, but for me, I just feel like I am right at this point where right now we just need to move forward. I appreciate all of the discussion, but I cannot support the Resolution. We just need to move forward and I think we are at that point. I have had healthy discussions, I appreciate all the work that has been done, but again, we need to get to the right places, to the right people who made that final decision and now the County is part of the process. The same goes for all of you folks. That is for me, Chair, and that is where I am at right now based upon all of the discussions we have had and understanding where we got to go for this particular part of the island. I live up Kuamo'o now, so I know the process and all of that, so that is where I am at.

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: I just have one more thing that I would like to say before we close. A lot of the homework was done also prior to this meeting. We have the abilities to reach out to you folks, to different entities and do our homework. The little bit of homework that I did was that I know that even if the State gives back these permits or revokes these permits, it has no standing on our County permits that the developers have. If the State pulls these permits and they do not get those three (3) parcels, the developer still can build their hotel. The problem with that is that those parcels that they are going to be leasing, it will help with the traffic flow, it will help with the maintenance of the coconut grove, it will help with the whole ambience of the place. If we as a County do not want these folks to develop that hotel, then we just need to pull those permits from them. When I spoke to the Planning Director and I asked him that, he said we have no grounds to pull those permits. We are going to end up in a lawsuit. It is easy to hear what we want us to tell you, right, and I want to tell you what you want to hear, but we cannot because we need to protect your tax dollars from being sued. That is my position also, which was not stated. Thank you.

Council Chair Rapozo:

Is there anyone else? Go ahead.

Councilmember Kualii: Can I try one last time? When I made the statement about the different WHEREAS clauses with the historical and cultural information, would an amendment to remove the second, third, fourth, sixth WHEREAS clause change any of the "No" votes at this point? If not...

Council Chair Rapozo: I do not know if we can poll all the members. I think that is not legal. We can try. Let me just try to make this easier. It is no secret, my position on this whole thing. I tried my best to divert the discussion today

away from Coco Palms, but I failed miserably. Everyone talked about Coco Palms. This Resolution was created, in my opinion and no offense to the introducers, really to affect Coco Palms. Whatever. Is it a strategy? That is cool. I made it very clear that I live in Wailua Houselots. I live the closest to that project right now. As it was stated earlier, we, not just me, but others here, have been fooled and I am not here to judge. I met with the developer or the owner yesterday for the first time. I was not on a field trip with Councilmember Cowden, so I do not know what projects they have in Utah, but this is not about that. When I look at this Resolution, for me it is very, very clear. We can dispute all the issues, but you would never get to an agreement on what this thing says. I look at Councilmember Kagawa and I just want to say resolutions have a purpose, because in many cases, and I have been doing this so long that a wonderful excuse that the State has for doing something that hurts our County is saying, "Well, we never heard from you folks. You folks never testified. We did not get anything." A resolution makes it clear to them that, "No, this is our statement." We can all agree to disagree. It is all cool. I think there is some value. I agree, though, we should not be telling them what to do, because we do not have that authority, but we can urge them to do something that we would want them to do. In this case here, the "be it resolved" to me is the most important thing. The first "be it resolved," not the second one where it goes to all those leaders, where it says we are urging the BLNR "to act within its power to prioritize public access, uses, and purposes," and this is the most important part, "when considering requests for leases, licenses, permits, or other agreements relating to the above-mentioned properties." This, for me, and this message is out to the developer, if you folks have no problem with public access, then you should have no problem with this Resolution. You should not, because this is telling the BLNR, when you folks issue the permits, you make sure whether it is them or whoever else that wants to apply for these permits. BLNR better make sure that their priority is public access and if, in fact, the developer is serious about public access, then he or she will have absolutely no problem putting it in the permit or lease. This is the only mechanism we have to ensure public access going forward. Again, do not take this personally, because I do not know the current owners, personally, but I am not going to make that mistake again where we take people's word and then BLNR issues a weak permit or weak lease, and the next thing you know, whoops, there went the access. This just urges the BLNR that when you are crafting these leases with whoever is applying, make sure you focus on public access, perpetual public access. That is all this thing says. One of the most important topics talked about today was about the maintenance cost. I will tell you right now, if I am BLNR and I am reviewing everyone's applications, there is only one (1) entity as far as I can tell today that has the resources to take care of the grove. That is the developer. That is just the reality of life. It is not cheap. I do not know what we pay. What is our budget for coconut trees in the County, and we just do the golf course? It is hundreds and hundreds of thousands of dollars on a regular basis. The cost to build this parking lot and maintain the parking lot is a lot of money. I am not advocating for the developer or anything, I am just saying that we are asking BLNR to make the right decision. When you folks issue these leases and permits—and this should be

the case for all BLNR permits on public State land— make sure the lease defines the use and the assurances that we, as a community, have the right to use those lands, because no one should have the right. Mauna Kea made a valid point about all those Agricultural parcels that are being leased. We, as a community, lose access to those parcels to the commercial entity and some of them are not even farming or ranching. I am going to support the Resolution. It puts us in a tie, and it will come back again. Councilmember Bulosan is ill. I want to make that point. We call it “excused,” but he is actually physically sick. That is why he could not be here today. I am going to support this and we will wait for Councilmember Bulosan to come back in two (2) weeks and we will have the discussion again. We will have to do all this again. I cannot stop you folks, but I think everything has been discussed and it is really just a matter of seeing where Councilmember Bulosan is. You folks in the public all call Councilmember Bulosan. I will give you folks his cell number. It always happens when you miss a meeting, you get hammered. With that, roll call.

The motion for adoption of Resolution No. 2023-44, Draft 1 as amended to Resolution No. 2023-44, Draft 2 was then put, and carried by the following vote:

FOR ADOPTION:	Cowden, Kagawa, Kualī'i, Rapozo	TOTAL – 4,
AGAINST ADOPTION:	Carvalho, DeCosta	TOTAL – 2,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Note: During roll call, Councilmember Kagawa stated for the record, “I am not going through this again. Yes.”)

Council Chair Rapozo: With that, we will take a lunch break.

There being no objections, the meetings recessed at 12:45 p.m.

The meeting reconvened at 1:49 p.m., and proceeded as follows:

Council Chair Rapozo: Next item, Clerk.

Resolution No. 2023-45 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Kevin P. McGinnis*)

Councilmember Kualī'i moved for adoption of Resolution No. 2023-45, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none. Roll call.

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

The motion for adoption of Resolution No. 2023-45 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Next item.

Resolution No. 2023-46 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION (*Tyler R. Rodighiero*)

Councilmember Kuali'i moved for adoption of Resolution No. 2023-46, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none. Roll call.

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

The motion for adoption of Resolution No. 2023-46 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Next item, please

BILL FOR FIRST READING

Proposed Draft Bill (No. 2899) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION IN PUHI, KAUAI (*University of Hawai'i Community Colleges, Kaua'i Community College, Applicant*) (ZA-2023-3)

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2899) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 28, 2023, and that it be referred to the Planning Committee, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

Councilmember Cowden: Are we not talking to him?

Council Chair Rapozo: If you folks want to, we will suspend the rules.
Come on in.

Councilmember Cowden: I do not see any explanation in here. Is it in here?

Councilmember Kagawa: It is in the second packet.

Councilmember DeCosta: I move to amend as circulated.

Council Chair Rapozo: Hold on. We have a motion and a second, so we are on the Bill. I suspended the rules, and Planning is up there. You folks have an amendment? Who has an amendment?

Councilmember Kagawa: Councilmember DeCosta.

Councilmember DeCosta: Yes, I do.

Councilmember Kualifi: It is a housekeeping amendment.

Council Chair Rapozo: Hang on. Let me call the meeting back to order.

Councilmember DeCosta moved to amend Proposed Draft Bill (No. 2899), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Kagawa.

Councilmember DeCosta: This amendment inserts language that is consistent with our prior zoning bills and includes language for when the ordinance will take effect. It is just housekeeping.

Council Chair Rapozo: There was a second, right?

Councilmember Kualifi: Yes.

Council Chair Rapozo: Is there any discussion on the amendment?

Councilmember Cowden: Yes. I am trying to still look at it.

Council Chair Rapozo: I will suspend the rules and we can have the Planning Department give us an overview. Ka'āina, if you would.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: Thank you, Chair and Members of Council. Ka'āina Hull on behalf of the Planning Department. I have Alisha Summers with me, who is our Lead Planner on this proposal. This was actually initiated by the landowner, the applicant. I believe the applicant will be here for the Committee Meeting, but of course we are here to answer any questions. If you would like a brief summary of the proposal, Alisha can give you a brief summary.

Council Chair Rapozo: Are you the applicant?

Mr. Hull: No. Alisha Summers is our staff.

Council Chair Rapozo: Yes, because we asked him not to come today, because we had no clue where this agenda was going. He will be here in the Committee Meeting?

Mr. Hull: Yes, our understanding is the applicant will be here in the Committee Meeting. We will definitely be here in the Committee Meeting. As the reviewing agency, if you want us to answer any questions or if you want Alisha to do a brief summary...

Council Chair Rapozo: Yes, give us a brief summary at least.

Mr. Hull: I will turn it over to Alisha.

ALISHA SUMMERS, Project Research Assistant: Hi. Alisha Summers with the Planning Department. Basically, what this Ordinance is doing is that it is amending the Zoning Map ZM-P400 for Puhi to change the County zoning of a portion of the Kaua'i Community College (KCC) campus. This includes a portion, approximately fifteen (15) acres, of Tax Map Key (TMK) No. 3-4-007:001, as well as the entirety of the Tax Map Key parcels No. 3-4-007:002, as well as No. 3-4-007:003. What this would do is it would change the County zoning from Agriculture District and Open District to University District. The intent behind this zoning change to University District is to be able to bring the KCC campus more in alignment to a more appropriate and updated zoning category. Changing it to the University District will allow the campus to be able to appropriately grow and expand in accordance with the update of their long-range development plan, which is still an ongoing process. The area is entirely situated within the University Land Use District, that is in the Kaua'i General Plan, and both the Kaua'i General Plan as well as the Līhu'e Community Plan support the expansion of the Kaua'i Community College campus. That is the brief summary. I am open to any questions. *Mahalo.*

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I have a question. I believe you did not state it, but I did a little bit of the homework with the University of Hawai'i system...are you folks going to be wanting to promote teacher housing or instructor housing? Is that somewhat of the reason behind the different zone update and change of zone? Is that correct?

Ms. Summers: In their long-range development plan, they do have student housing. They have approximately nine hundred (900) something units that could potentially go in there, but as to whether it would be allocated for staff or students, I think the extent that is for staff versus students still needs to be determined.

Councilmember DeCosta: If we are going to be approving this zoning, I want something of a guarantee to know these whether these units are for student housing or teacher housing and that we have something in the language that protects the development to serve the students of the university system and/or teachers and professors of the university system.

Mr. Hull: To that, Councilmember, the University Zoning District that was adopted several years ago, outright allows for student and teacher rental housing where they are renting it, outright is permissible under this zoning district. If they wanted to, for example, do single-family dwelling or multi-family dwelling that could be for sale, while this district allows it, that has to go through a public hearing process with the Planning Commission, so it is not an outright permissible use, but when it is for teachers or the students for rental purposes, if this district is adopted by Council, under its own rules and regulations, outright permissible and good to go.

Councilmember DeCosta: The question I have, Planning Director Hull, is that I can apply at KCC and be a student for one (1) semester, flunk out, and all of a sudden, I am renting an apartment on campus and I am no longer a student of the university system. Where is the language that is going to protect that student, he or she, will be evicted, because they are not a student in the student housing? Second, a professor or teacher comes with a title, but you could be a substitute teacher and be a teacher. You can be a teacher of a preschool and not have a degree. You can be a teacher and quit the profession, then be a construction worker. How do we know that these units are going to be for the targeted audience that we are amending and providing an upgrade of permits from Agriculture to Residential or development of the area.

Mr. Hull: There is nothing in the zoning regulations that would require that. Through this Draft Bill, that can be put on as a condition of approval, but to that point, Councilmember DeCosta, there is nothing in the district that says it specifically has to be a student. Now, granted because it is for KCC, which is part of the University of Hawai'i system, that does not have any programs or anything that we are aware of where they are providing housing for non-students or non-teachers, we are not aware of that to be part of the University of Hawai'i (UH) system. But, if there are safeguards that this body would like to put in place, then it absolutely can be done through an amendment to the Draft Bill. I do not think we

have any objections. I think when the applicant is here, they can address some of those safeguards they have internally within the UH policy.

Councilmember DeCosta: Would that be done right now, or do we wait for it to go into Committee to amend it?

Council Chair Rapozo: Committee. The applicant will be here next week and he will be able to tell us. I am interested in what the use is for. I understand the University District. I was here, I think, when that was passed. It sounded like a good thing, but I also believe that we are giving the State an amazing, valuable asset and I get frustrated when we do not get the reciprocity from the State for their facilities here. All of that is going to be vetted out in this process, because I am not into the habit of giving the State something, like you said, who knows what they have plans for. It is like, "Here you go, we are giving you the zoning, but when we want to use your gym for a cheering competition, you charge us one thousand five hundred dollars (\$1,500)." No. This may come...I am curious to hear from the applicant. At the end of the day, it falls to us on whether or not we rezone this.

Councilmember DeCosta: I am sorry for being so shrewd in my thinking process, but I want to make sure we protect what we are going to be granting. We are granting student housing and teacher workforce housing, not some loophole where you can apply for college, rent the room, and quit school, or you can be a substitute teacher without any credentials, teach for a couple of months, quit, and you still have the rental unit. We need to be careful. Thank you for that.

Mr. Hull: Thank you.

Ms. Summers: Currently, they did outline in their long-range development plan, though it could change, that it would be three (3) pods that would provide ninety-six (96) beds.

Council Chair Rapozo: Like a dorm?

Ms. Summers: Yes, different pods with different units and beds.

Council Chair Rapozo: Perfect. Are there any other questions? Go ahead, Councilmember Kagawa.

Councilmember Kagawa: If possible, could you provide a better map? I like maps that show, for example, the Island School soccer field in relation to this property, and where the other landmarks are as we drive up, like the gym.

Mr. Hull: We can overlay those lines with the pictometry maps that have the actual layout of the structures as from a satellite imagery.

Councilmember Kagawa: Okay, thank you. This portion up here in orange, is that an unused bare area that now they perhaps want to use?

Mr. Hull: The top portion?

Councilmember Kagawa: Yes.

Mr. Hull: Correct me if I am wrong, Alisha. That is part of KCC's land that is not part of the rezoning action. They would still keep it in Agriculture District.

Councilmember Kagawa: The orange part will stay in Agricultural?

Mr. Hull: Yes.

Council Chair Rapozo: This encompasses the entire KCC complex? I cannot tell by this map? Is it the entire campus?

Mr. Hull: There is about fifty (50) acres that are being left in Agricultural, of the 200-acre campus. Of all the built-out campus that we consider the campus now where you are walking, going to classes, and attending events, it includes all of the built-in environment.

Council Chair Rapozo: That is already University zoned?

Mr. Hull: No.

Council Chair Rapozo: Nothing? We passed that University zoning and no one ever used it?

Mr. Hull: They went for their State Land Use District designation in 2017. They needed to get the Urban designation first because the County passed the University Zoning District when KCC was still within the State Land Use Agriculture District and the County Agriculture District. In 2017, they went before the State Land Use Commission and redesignated about one hundred forty (140) acres of their campus from State Land Use Agriculture to State Land Use Urban. That happened in 2017 and now, five (5) years later, are here to actually get the County designation rezoned.

Council Chair Rapozo: We created that University Zone in 2018.

Mr. Hull: I think it was before that. The University Zone, I believe, was in 2015. We can double-check on that. It was a while and ultimately it took a lot of nudging to the UH system to say, "The zone was created for you folks. If you are looking at any expansion, you really need to come in and do the zoning."

Council Chair Rapozo: I remember voting for that, but I thought it was readied for them to do it in the near future.

Mr. Hull: That is what we had hoped, and it was some time before they actually came with an application. Ironically, Island School came in

quicker than KCC for their amendments to get the University District. Right now, Island School enjoys University District Zoning, but they came in quicker than KCC.

Council Chair Rapozo: Okay. Councilmember DeCosta.

Councilmember DeCosta: There is a charter school, I believe, on the property. Is that school protected by this upgrade of this zoning change or would they be forced to move?

Ms. Summers: No, they would not be forced to move. They are within the proximity of the zoning change, but are not within it.

Mr. Hull: They are near the zoning amendment, but they are not part of the zoning amendment.

Councilmember DeCosta: The little pods that you folks were talking about with the developers, have you folks talked about creating that plantation type of pods that you folks did at the historical Kaumakani camp. Would this not be appropriate for this type of area, since Puhi was a sugar plantation camp and I believe those tiny houses that KCC is building have that plantation look? Would that be something we could improvise in our Committee Meeting coming up?

Mr. Hull: It is something that the Department has no problem discussing with UH as an applicant for dormitory development. Right now, the Department is engaged with a number of landowners to see if we can do a historical analysis for the plantation camps, region by region to see what type of design standards those plantation camps had, so we could look at possibly proposing a design standard for plantation camps, region by region, because each region had different designs for their plantation camps. All of our research right now is currently...we finished up West Kaua'i, we are currently in Kalāheo and the South Kaua'i and Kōloa areas. Next, we are definitely open with looking at Puhi. I am going to be honest, we are not there yet, but we definitely could.

Council Chair Rapozo: Are there any other questions? If not, thank you.

Mr. Hull: Thank you.

Ms. Summers: Thank you.

Council Chair Rapozo: Is there anyone in the public wishing to testify? Seeing none.

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

Council Chair Rapozo: We are on the amendment. Does anyone have any discussion on the amendment? If not, we will take a vote on the amendment. The motion is to amend as circulated.

The motion to amend Proposed Draft Bill (No. 2899), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Now, we will get to the main motion, which is to go to public hearing. Is there any further discussion?

Councilmember Cowden: I have one (1) comment.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I really would like a very good map. This had more to do with Puhi Industrial, where if we saw the buildings and everything, but it sounds like the Ulu Farm and all of that is staying in Agriculture.

Council Chair Rapozo: Is there any other discussion? If not, again, the motion is to approve.

The motion for passage of Proposed Draft Bill (No. 2899) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 28, 2023, and that it thereafter be referred to the Planning Committee, was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Thank you. Next item, please.

BILLS FOR SECOND READING:

Bill No. 2896, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 Operating Budget*)

Councilmember Kuali'i moved to approve Bill No. 2896, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there anyone from the public wishing to testify? Seeing none.

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

Council Chair Rapozo: We will do our Budget messages on the next item. With that, if there is no discussion, roll call.

The motion to approve Bill No. 2896, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Thank you. The last item.

Bill No. 2897, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 CIP Budget*)

Councilmember Kualii moved to approve Bill No. 2897, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there anyone in the public wishing to testify?

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

Mr. Hart: I just want to take this opportunity to say how much I enjoyed being part of the budgeting process this year, and I want to thank you all for the attention you gave and questions that were asked. It showed me that you were paying attention. Okay? Thank you.

Council Chair Rapozo: Thank you.

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

Council Chair Rapozo: You folks know the drill. Ten (10) minutes each for your closing. This is it, the last day. I want to thank you folks for your patience. Who wants to start? Councilmember Kagawa.

Councilmember Kagawa: I just want to thank you, Chair, for running the budget. I think we had good discussions with all the departments. I want to thank the budget team—Reiko, Ken, our Mayor, and the Managing Director. We were fortunate. This is a weird budget. We had a surplus of money that we did not have before due to the Transient Accommodations Tax (TAT), General Excise

Tax (GET), and more revenue coming in from property taxes. I think it was an easy budget in the sense that we were not scrambling to get moneys for things that Council had as priority that the Mayor did not put in. I think we were able to work with our Mayor and get what we needed in the budget. Certainly, the budget is just the beginning. There are always money bills that can be done through my Committee, so if you folks have items do not think that the budget was our last chance to get it in. If we have something important coming from the Council end or the public end, your Councilmembers are there to help work through those oversights. Hopefully, we will have a smooth year and have the Administration carry out their all of plans well and continue to work with us. I think it is nice to have money, but let us make sure that we do not waste it as well. Thank you, Chair.

Council Chair Rapozo:

Thank you. Is there anyone else?

Councilmember Carvalho: Okay. Again, *mahalo* to our Finance team for always being here and answering all of our questions. Of course, the Mayor for being open to a lot of discussion. We all had discussions with the Administration, having gone through many budgets, but in this particular budget, I think we were all pretty level-headed. Everything was paced really well. The thing now is implementation and seeing it through. That is a big part. Just the whole process and our fellow Councilmembers and staff here, I think we did a good job with going through the Budget process. Not everything was perfect, but overall we got in what we had to say and do, so for me I think it was a good opportunity to really move things forward. I look forward to talking story and the implementation phase of our budget as we move forward. *Mahalo*.

Council Chair Rapozo:

Thank you. Councilmember Cowden.

Councilmember Cowden: I also would like to thank the Department of Finance and really every department for doing a good job on bringing forward what they needed and articulating it. I really am appreciative of the Office of the Mayor for being willing to work with us. I am glad that we were able to have a little back and forth on the vision, but without conflict or controversy, I think it was a good give and take. Even on things like the Reserve amount and sticking with the Mayor's vision on that, but appreciating how we were able to roll back taxes particularly for our most long-term committed crowd of homeowners, anyway. We were able to help them, so I am thankful for that. I really want to extend my appreciation to our staff. I really appreciate that Budget Comparison Report that we have in the books. It is like a cheat sheet from our side to be able to see where there is a difference. That is super valuable and all the efforts that were made. I think I have said a number of things on the different days, so I am extending gratitude and I know there is always more that is needed. I have one other thing I wanted to say. I was glad we were able to give people raises. A lot of that is with the bargaining agreements, but I believe everyone needs it. I think for all of us, every one of us is being confronted every time we go to the store, the gas pump, or anywhere else. Certainly, our team needs it and creating ways for people to be inspired and wanting to continue is important, so *mahalo*.

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: This will be real short and sweet. I am going to first off thank our staff. I think during budget, our County Clerk, the Deputy Clerk, and the staff, you all did an exceptional job with all of our requests and whatever we were moving forward. I am going to thank the different departments, but it is their job. It is their job to do the budget. They have a department to run, they better run it, and I am going to say it, they better run it efficiently. If not, this Council will (inaudible) them on it, and that is what this Council did. We (inaudible) a few of the department heads to make sure they are in alignment to being fiscally responsible. I want to thank everyone who went through the budget process, including my friend Bruce, because people like Bruce testifying keep us on our honest behavior. We appreciate that, Bruce. You are the voice of many people out there on Kaua'i who do not have the time to come here. I do not know how you have all the time to come, Bruce. I am wondering what job you have that allows you to come every Wednesday.

Mr. Hart: I am retired.

Council Chair Rapozo: I want that job. I am going to get you a new hat, too, Bruce. I think you need a new baseball hat. With that being said, thank you all so much and I appreciate the department heads working with us to be very fiscally responsible. Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: I, too, just primarily want to express my gratitude. *Mahalo nui loa* to the Administration's budget team, and of course to our own Council Services budget team, and everyone here that assisted them as well. It was their first budget without our former Deputy, who pretty much kept a lot of the budget work, so I know it was tough for them, but I think they did a great job. A special thank you to the Office of the Mayor for being willing to meet with us individually and met with us several times throughout the course of the budget. I think that back and forth was really helpful in ironing out some of the details that did not come to decision-making day, but we were able to resolve them ahead of time. I always appreciate the Vacancy Report. I appreciate that they ultimately did nine-month funding for a lot of the positions that we questioned. I also appreciate that we were able to do tax relief, especially for our folks in the Homestead classification, and then also recognizing that vote between the Council and the Administration, that we have more work to do as far as overhauling our real property tax system. Thank you, everyone.

Council Chair Rapozo: Thank you to my colleagues here. This is my fifteenth budget. I am old. But this is the first time I have actually chaired the budget, and it was kind of stressful at first. I want to thank the Mayor, the Administration, and the Finance team who educated me on several issues and I definitely appreciate that. Again, our staff. I think it is incredible what they have to go through. I cannot imagine what it would be like to have seven (7) crazy individuals tugging at your strings all day long, pulling you in different directions. It is actually more than seven (7) because you also have the administrative side that is calling and emailing. I want to thank our staff for getting us through this thing. As

Councilmember DeCosta said, the public, we have Bruce and others who were here, but we also have a lot of you who sent in emails, texts, messages, Facebook messages, phone calls and whatnot with concerns and questions. A lot of it had to do with the real property tax issues. Again, I am expecting the Administration to send over their property tax bill shortly, and then it is another cycle of a lot of hard work for us to hammer that thing out. A couple of the highlights is the fact that this year...and every time we have budget discussions, I look at former Mayor Carvalho because he did not have the luxury of these types of revenue. We did not have the TAT. We did not have the GET. We did not have increasing property assessments to the point where there is influx of cash. I see his, "if I wish, I wish," but some good things were done by the Administration. They paid down debt, and decided to purchase vehicles instead of leasing. A lot of things that are not immediate tangible results—it is not a product, but a mechanism to enjoy cost savings down the road, so that I appreciate. Of course, the Administration's willingness to not only give out the property tax relief for homeowners—Homestead and Residential, but when the Council wanted to increase it even more, there was no opposition. In fact, he did that as well so we do have even more property tax relief for the people that really need it. Again, I am looking forward to the property tax reform that will really allow us to target specific classes or categories of homeowners that actually need the relief. One (1) of the biggest highlights was the fact the Department of Motor Vehicles (DMV) hired someone to answer their phone. They created a position now, right, Reiko? Where is she? It is the little things in life. Some people might be excited about many of the big things we bought. To me, that is huge because so many people were impacted by that, including myself. Reiko, thank you for helping the constituents at the DMV. I was in line at the DMV, and everyone thinks Councilmembers can go right up to the counter. No, we get the number and we wait. There was a lady next to me and I asked, "How long have you been here for?" She goes, "Oh, man. I came...my paperwork was wrong so I had to go back, and when I came back I had to take a new number. I tried calling them, but they do not answer the phone." I said, "Still?" Then she needed to go to the bathroom, so she went to the bathroom, I took her papers, and then I hear, like magic, "Hey, Chair. I hope you are not waiting long." It was Reiko. I said, "Hi, Reiko. No, I am not waiting long and it is actually a pleasant experience, but there is a Portuguese lady that went to the bathroom that is not very happy, because she called and no one answered the phone." Reiko took care of her and got her serviced. I appreciate that. That to me, those little things...it is very to fill positions nowadays. In fact, I met the person that got that job or was he lying to me, Reiko?

Ms. Matsuyama: We have not hired anyone, yet.

Council Chair Rapozo: Okay, he lied to me, but anyway...

Councilmember Kualii: He is feeling hopeful.

Councilmember Cowden: He is feeling hopeful.

Council Chair Rapozo: The other big thing, and with this one I really wanted to...I am not ashamed to say that the Mayor provided us some funds for Council Services for Council assistance. Now our Councilmembers will have an

opportunity, should they choose to, to hire personal staff. I can defend that every day of the week, because we are the only County where our Councilmembers do not have a personal staff or a personal assistant. In fact, what you see in this room here and some that are outside, we all share our staff. Unlike any other municipality on the globe, we need to share staff. This was a concern that was shared with the Mayor by myself and other Councilmembers, and he agreed that it was time that Kaua'i start to provide Council Services the assistance that it needed. We also provided additional funding for the training of our staff to the tune of three hundred thousand dollars (\$300,000). I think with that we are in a good position now to move this office forward. That is all I have. I want to thank my colleagues, again. It was kind of interesting, it was fun for the most part, and now we just need to make all of these things happen in the next fiscal year, starting July 1. With that, thank you all. The motion is to approve. Roll call.

The motion to approve Bill No. 2897, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Thank you. Next item, please.

EXECUTIVE SESSION:

ES-1096 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session to provide a briefing on Special Counsel's continued services to represent the County of Kaua'i in County of Kaua'i vs. B&D Properties, LLC et al. (5CCCV-22-0000013). 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.

ES-1097 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(3), 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the County Council requests an Executive Session to deliberate on the acquisition of public property, specifically, properties identified by tax map keys: 4-1-003-004 and 4-1-003-007. 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 Kagawa moved to convene in Executive Session for ES-1096 and ES-1097, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none. Roll call.

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

The motion to convene in Executive Session for ES-1096 and ES-1097 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Let us reconvene in Executive Session in five (5) minutes.

There being no objections, the meeting recessed at 2:23 p.m.

The meeting reconvened at 2:24 p.m., and proceeded as follows:

Council Chair Rapozo: I apologize. We had the Communication. Clerk, if you could read the Communication that we bypassed initially.

C 2023-127 Communication (05/17/2023) from the County Attorney, requesting authorization to expend additional funds up to \$100,000.00 for Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters, specifically, in County of Kaua'i vs. B&D Properties, LLC et al. identified as case number 5CCCV-22-0000013.

Council Chair Rapozo: We will go into Executive Session, we will discuss the case, and we will come back into Open Session to vote on this matter.

Councilmember Kagawa: Can we just approve it? If we approve it and it goes bad in Executive Session, then it does not have approval to move forward, right?

Council Chair Rapozo: If you approve before the briefing...

Councilmember Kagawa: We are approving the money, but we are not approving him, the election.

Council Chair Rapozo: The agenda item is actually approving the authorization to spend the funds in this case.

Councilmember Kagawa: Okay.

Council Chair Rapozo: I do not have an issue either way. I can tell you how I am going to vote, because we need the funds to continue the case.

Councilmember Kagawa moved to approve C 2023-127, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any discussion?

Councilmember DeCosta: I feel like we are jumping the gun. We should have had our discussion. That is why we have a discussion.

Councilmember Cowden: Yes, I agree.

Council Chair Rapozo: Okay.

Councilmember DeCosta: Then we come out and we make the decision. We are making a decision now without discussing this.

Council Chair Rapozo: Okay. Let us go into Executive Session and then we will come back out and take the vote on this.

There being no objections, the meeting recessed at 2:26 p.m., to convene in Executive Session.

The meeting reconvened at 3:10 p.m., and proceeded as follows:

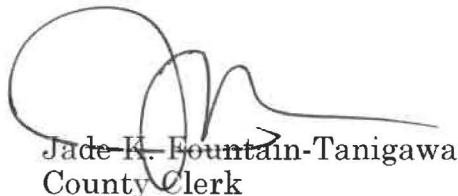
Council Chair Rapozo: There is a motion to approve. Is there any further discussion? Seeing none.

The motion to approve C 2023-127 was then put, and carried by a vote of 6:0:1 (*Councilmember Bulosan was excused*).

Council Chair Rapozo: Motion carried. That concludes today's meeting. Thank you.

There being no further business, the meeting adjourned at 3:11 p.m.

Respectfully submitted,



Jade K. Fountain-Tanigawa
County Clerk

:dmc_ss

(May 31, 2023)

FLOOR AMENDMENT

Resolution No. 2023-44, DRAFT 1, RESOLUTION URGING THE STATE OF HAWAII BOARD OF LAND AND NATURAL RESOURCES TO CONSIDER PUBLIC ACCESS, USES, AND PURPOSES FOR STATE PARCELS AT WAILUA

Introduced by: KIPUKAI KUALI'I, Councilmember

1. Amend Resolution No. 2023-44, Draft 1 in pertinent part to read as follows:

“WHEREAS, TMK (4) 4-1-003:017 (Revocable Permit 7444) (0.842 acres) is a parcel with hardened surfaces immediately *mauka* of Kūhiō Highway at the intersection of Kuamo‘o Road, which could [offer the public a valuable opportunity to regain] once again be appropriate for parking access to the County of Kaua‘i Wailua Beach Park, especially due to the increasing erosion at Wailua Beach, which has completely eliminated the once-plentiful beach-adjacent parking area; and”

2. Amend Resolution No. 2023-44, Draft 1 in pertinent part to read as follows:

“WHEREAS, TMK (4) 4-1-003:005 (General Lease No. 4878) (14.83 acres) is a parcel that includes the longstanding “coconut grove,” which [offers access to a historical and natural resource] could once again be appropriate for public access[;] to and use of the “coconut grove”; now, therefore,”

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

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(May 31, 2023)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2899), A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To Zoning Designation In Puhi, Kaua'i (*University of Hawai'i Community Colleges, Kaua'i Community College, Applicant*) (ZA-2023-3)

Introduced by: BILL DECOSTA, Councilmember

1. Amend Proposed Draft (Bill No. 2899), in its entirety, to read as follows:

“SECTION 1. Findings and Purpose. The University District (UNV) zoning aims to accommodate areas of land that are utilized for university and campus-related uses and facilities. Given the vital role that the Kaua'i Community College plays in providing Kaua'i's community with higher education, the 2018 Kaua'i General Plan designated the parcels owned by the Kaua'i Community College within the University District.

The purpose of this Ordinance is to amend the Zoning Map ZM-P400 to change the County zoning of the Kaua'i Community College Campus (Tax Map Key Nos. (4)-4-007:001 (Portion), (4) 3-4-007:002, and (4) 3-4-007:003) from “Open District (O)” and “Agriculture District (A)” to “University District (UNV).”

SECTION 2. The zoning designation for that certain area in Puhi, Kaua'i, identified as Tax Map Key Nos. (4) 3-4-007:001 (Portion), (4) 3-4-007:002, and (4) 3-4-007:003 as shown on the Zoning Map ZM-P400 and on the map [reflected in] attached hereto and incorporated herein as “Exhibit 1” and incorporating herein the metes and bounds description identified in “Exhibit 2,” is hereby amended from the County Zoned “Open District (O)” and “Agriculture District (A)” to “University District (UNV).”

SECTION 3. The Planning Department is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION [3.] 4. [Severability.] If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION [4.] 5. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 6. This Ordinance shall take effect upon its approval.”

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

V:\AMENDMENTS\2023\2023-291 PDB 2899 - (Kauai Community College ZA-2023-3) BD_AAO_mn.docx