

## COUNCIL MEETING

DECEMBER 20, 2023

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Vice Chair KipuKai Kuali'i at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, December 20, 2023, at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Addison Bulosan (*excused at 9:09 a.m.*)  
Honorable Bernard P. Carvalho, Jr.  
Honorable Felicia Cowden  
Honorable Bill DeCosta  
Honorable Ross Kagawa  
Honorable KipuKai Kuali'i

Excused: Honorable Mel Rapozo

(Note: No one from the public testified on any agenda item via oral testimony via the Zoom remote technology platform.)

### APPROVAL OF AGENDA.

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

Council Vice Chair Kuali'i: Do we have anyone wishing to testify?  
Members, is there any discussion?

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 (*Council Chair Rapozo was excused*).

Council Vice Chair Kuali'i: The motion carries.

### INTERVIEW:

#### LIQUOR CONTROL COMMISSION:

- Chad K. Pacheco – Term ending 12/31/2025

ELLEN CHING, Boards & Commissions Administrator: Good morning. Happy holidays. Boards & Commissions Administrator Ellen Ching. I am pleased today to introduce Chad Pacheco. Chad is a local guy, born and raised on Kaua'i. Following high school, Chad attended Kaua'i Community College (KCC) and earned an Associate's Degree in Culinary Arts. For the next two (2) to three (3) years, he worked in several restaurants until he landed a position in 2000 at the Princeville Hotel as a baker. He was responsible for their local favorite yummy bread pudding, as well as the wedding cakes, ice-creams, chiffon cakes, breads, desserts, and more. While still working at the Princeville Hotel in 2017, Chad was appointed as a temporary business agent of ILWU Local 142. In the following year 2018 Chad was full-time elected as the fulltime business agent of ILWU on Kaua'i, as such he manages the ILWU units at A&B fleet services, the Grand Hyatt Kaua'i Resort & Spa, Hawthorne Pacific Corporation, Kaua'i Coffee, Kukuilono Park and Golf Course, Liberty Dialysis, Midpac Auto Center, Pacific Service and Development, Servco Auto Kaua'i, and Wilcox Memorial Hospital. Both Chad and his wife cook, his specialty at home is braised short ribs. To say Chad has a sophisticated pallet is an understatement. His favorite restaurant is Nami Kaze Hawai'i, with Kaua'i's own Chef Jason Peel, who was recognized in 2023 as the Hale 'Aina Award winner and a semi-finalist for the prestigious James Beard Award for the Best New Restaurant. Chad has been a lifelong volunteer in the community, he currently serves as the Chair of the North Shore Fishing Tournament and a board member for Life's Bridges, which provides bereavement support, an (inaudible) grow which advocates for farms in urban settings. He is also a founding member of the Kaua'i Search and Rescue. In his free time Chad enjoys surfing and traveling. He has traveled to Japan, China, Taiwan, France, UK, Switzerland, Germany, Italy, Netherlands, Canada, and others. As someone who has had extensive experience in the restaurant industry, I welcome Chad's technical knowledge and appreciate his willingness to serve on the Liquor Control Commission.

Council Vice Chair Kualii: Mahalo, Chad. Would you like to add anything?

Mr. Pacheco: Chad Pacheco, for the record. My dad and my mom previously served on the Liquor Control Commission, so I had a little experience talking with them about it. This is an opportunity for me to give back to the community. I humbly ask for your blessing.

Council Vice Chair Kualii: Thank you. Members, are there any questions?

Councilmember Kagawa: Thank you for all you do for the Union and the community for the many years. I wholeheartedly support and thank you for applying and being willing to spend your time. Being born and raised in Hanapēpē, we were the original bar capitol of Kaua'i. There were seven (7) bars back in the 60s and 70s,

and no other town had more than Hanapēpē. I am proud to be from the place where there were the most bars.

Council Vice Chair Kualii: Councilmember Cowden.

Councilmember Cowden: I have known you since you were a child. I watched all these different phases of your life and I just have the highest opinion of you. It is easy for me to say "yes" to this. I appreciate the background you have with the ILWU—that is valuable relative to our visitor industry. You have done so much with that. I know the K-9 rescue, the dogs, and just I have seen you do more than it seems like you should be able to handle for a very long time. Not only that but doing it with a smile and even sometimes cleaning the sides of the road.

Mr. Pacheco: Yes.

Councilmember Cowden: When the grass gets too long along Kalihiwai, he is the type of person that when we have a problem, and you cannot see safely around the corner, who is out there with a weedwacker, fixing it? High-five to you on so many things. We are sort of neighbors, not directly, but walkable.

Mr. Pacheco: Yes.

Councilmember Cowden: High-five to Chad.

Council Vice Chair Kualii: Are there further questions?

Councilmember Carvalho: You have an obvious solid foundation from your *'ohana*, as you mentioned earlier. I have known you for a long time. Your background with leadership brings it all to the table and that is very important. You stepping to the plate and being part of this Commission is awesome. I totally support you and what you have done now and, in the future...more to come, right?

Mr. Pacheco: Yes.

Councilmember Carvalho: That solid foundation is what I see. Thank you for stepping up to the plate.

Mr. Pacheco: Thank you.

Council Vice Chair Kualii: Councilmember DeCosta.

Councilmember DeCosta: I am supporting you in one (1) area, but in another I do not. I support you on being Portuguese, Grandma Pacheco, out in Kekaha, that is my relative, so we are related. The thing I do not support you in is the bread pudding. That is not your signature dish, Chad. You know the Portuguese

sweetbread is, but you will not give out the family recipe, and I am impressed that the loyalty is mean, because you know you can make a lot of money on the sweetbread at the Princeville Hotel.

Mr. Pacheco:

No.

Councilmember DeCosta: Bless you, cousin. I am very impressed with you. You had me with the last name Pacheco.

Council Vice Chair Kuali'i:

Councilmember Bulosan.

Councilmember Bulosan: I want to echo everyone, but the most important is that your mom (inaudible) to our younger folks to learn how to serve the community in a way that makes a huge impact. Sometimes people forget that these boards are a big place that you can make a positive impact, so thank you for serving.

Council Vice Chair Kuali'i: We appreciate you so much. *Mahalo nui loa* for all you do for our working families and for our community. You absolutely represent that statement "The apple does not fall too far from the tree," because with parents like Uncle Gary and Auntie Haunani, who also dedicate their lives to community, it is only natural for you to do the same. Thank you so much for that. We appreciate you. Clerk, can you please read the next item?

#### CONSENT CALENDAR:

C 2023-258 Communication (10/30/2023) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointments to the various Boards and Commissions for the County of Kaua'i:

##### Board of Ethics

- Amber K. Mokuahi – Term ending 12/31/2025

##### Charter Review Commission

- Jan TenBruggencate – Term ending 12/31/2025

C 2023-259 Communication (11/03/2023) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Piikea Keyes-Saiki to the Civil Service Commission – Term ending 12/31/2026.

C 2023-260 Communication (11/17/2023) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Christopher A. White to the Board of Review – Term ending 12/31/2025.

C 2023-261 Communication (11/22/2023) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Jody H.K. Kjeldsen to the Board of Review – Term ending 12/31/2026.

C 2023-262 Communication (12/01/2023) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Appointing Bernard P. Carvalho, Jr. As Representative And Bill DeCosta As The Alternate To The Executive Committee Of The Hawai'i State Association Of Counties.

Councilmember Carvalho moved to receive C 2023-258, C 2023-259, C 2023-260, C 2023-261, and C 2023-262 for the record, seconded by Councilmember DeCosta.

Council Vice Chair Kualii: Is there discussion or public testimony? Seeing none.

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

The motion to receive C 2023-258, C 2023-259, C 2023-260, C 2023-261, and C 2023-262 for the record was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kualii: The motion carries. Clerk, could you read the next item?

#### COMMUNICATIONS:

C 2023-263 Communication (11/30/2023) from the Chief of Police and Paul N. Applegate, Acting Assistant Chief, requesting Council approval to accept a donation from Operation Underground Railroad (a nationally recognized nonprofit organization focused on assisting Law Enforcement with combating child sex trafficking and sexual exploitation) for a GrayShift® GrayKey, valued at \$11,734.60, and the indemnification included in the end user license terms, which will enable Kaua'i Police Department investigators to extract encrypted or otherwise inaccessible data from both iOS (Apple iPhones) and Android (Samsung, et cetera) devices.

Councilmember Cowden moved to approve C 2023-263 with a thank-you letter to follow, seconded by Councilmember Kagawa.

Council Vice Chair Kualii: Are there any questions?

Councilmember Cowden: Ah, sure.

There being no objections, the rules were suspended.

PAUL N. APPLGATE, Acting Assistant Chief: Good morning, Council Vice Chair and Councilmembers. For the record Paul Applegate, Acting Assistant Chief, Kaua'i Police Department.

Councilmember Cowden: What would you like to share about what your division is doing to deal with this child sex trafficking or the use of this product?

Mr. Applegate: We have a good opportunity right now with this nationally known organization, internationally known organization that helps combat sexual exploitation of children. They are willing to give us a trial, one-year free use of this software that after we obtain a search warrant for phone devices, we are able to go in and extract any information that might help in the prosecution of suspects to include photos or any other information. We are under no obligation in the end to continue to use this, if we feel that it does not help us in any way.

Councilmember Cowden: Will this power be used to target this topic or does it go to other investigations?

Mr. Applegate: We are not bound to just use it for this type of investigation. We are free to use it to help with other investigations that might help bring a speedy conclusion.

Councilmember Cowden: I receive a lot of calls from the community, but I think there is a national focus. How big of a problem is this on Kaua'i?

Mr. Applegate: We do not see any spiking of cases and we welcome the national attention to this problem because it makes people more aware. We always hear of instances at the airport in the mainland, a ticket agent saw something that they felt was unusual with a male and female subject, they reported it and in fact it was a traffic incident. We do welcome the national attention to bring people awareness on this issue.

Councilmember Cowden: I want to appreciate the training that I ended up receiving from the Kaua'i Police Department (KPD) and the hotels, with the Uber and taxi drivers, I think it was prior to COVID-19. Is there a resumption of that? We had a lot of training on how to recognize problematic behavior, it was Chris Calio leading that effort.

Mr. Applegate: We do not have a program that we implement, however through the internal meetings that we have, we do reach out with our Sexual Assault Nurse Examiner (SANE) nurses and go to career fairs, and they educate the public on that subject.

Councilmember Cowden: Thank you.

Council Vice Chair Kualii: Are there any further questions? This is a full donation; the value is almost twelve thousand dollars (\$12,000).

Mr. Applegate: Yes.

Council Vice Chair Kualii: A year goes by and it works out really well and you want it going forward, is that the amount it would cost?

Mr. Applegate: That would be the amount that they quoted us, yes.

Council Vice Chair Kualii: Is this a new technology? I am curious as to why we have not had it all along.

Mr. Applegate: For us it is, and to credit Detective Irimata, he is the detective that does these types of investigations, and he was searching for a new tool that we could use to do exactions. When he contacted the company, they said we have a program through the Underground Railroad and where they would give us this donation.

Council Vice Chair Kualii: Congratulations, and thank you. Members, are there any further questions? While the rules are still suspended, do we have anyone signed up to give public testimony? No. If not, is there anyone in the audience wishing to testify? Alice.

ALICE PARKER: Alice Parker, for the record. I wanted some clarification. Does this have anything to do with technology like computers? I worked for Elderly Affairs in 2006, Friends of Children's Justice Center. Background, my ex-husband molested probably our daughter and his stepdaughter and stepson, and my daughter suggested things on his computer. He was using an alias. I talked to the detective then, it was a Japanese person with the first letter "T" and he checked, but he could not find anything. I am hoping the computer system is more sophisticated now and can track. I did not have much data to give him, except I do not know what aliases he was using. I hope there has been progress there. Thank you.

Council Vice Chair Kualii: Thank you. Bruce.

BRUCE HART: For the record, Bruce Hart. I wanted to start out by saying that nothing that I am going to inform the Council about is disparaging to KPD or any of the officers, it is not about that. There are two (2) issues, there is the Operation Underground Railroad, I am not focused on that. That program is one that I am familiar with during the Trump presidency. The man that began this, Tim Ballard...you can investigate that on your own. What I am focused on is the device that is used to gain access mostly cell phones. The issue for me is that this device has been misused and it has been misused by all enforcement. The Federal Bureau of

Investigation (FBI) has famous cases. This device is infamous. It works by what they call brute force. You hook it up to a cell phone and it is like a battling ground to your passcode key. Once it gains access, it has access to everything that is on the phone. The issue for me is the Fourth Amendment. There must be serious probable cause and a proper warrant to be able to do this to someone's personal property. Again, I am not focused on whether someone at KPD or any law enforcement would abuse this, I am focused upon the issue. I want the Council to be aware and I want the public to be aware of what this device is, there is a whole lot of controversy around it. It can be useful, yes. When the bad folks...and you need to get to the information, then we are all for it, but again, the potential for abuse is huge. The Fourth Amendment and our right to our personal property, our papers, etcetera, is a very important issue. I just wanted to point that out. Thank you.

Council Vice Chair Kualii: Thank you. Is there anyone else in the audience wishing to testify? Do you have a clarifying question?

Councilmember Cowden: I wondered if I could call up KPD.

Council Vice Chair Kualii: Yes, when we are finished with testimony. Is there anyone else in the audience wishing to testify? Members, do you have any further questions for KPD?

Councilmember Cowden: Thank you for coming back up and I appreciate the testimony of Mr. Hart, because that is what went through my mind was the topic. I have a lot of confidence in our KPD, as does Mr. Hart. Can you answer that? What type of Fourth Amendment protection is there? Can it be used for something else? Anytime someone is pulled over or arrested, and their phone gets read, what protections are in place for that?

Mr. Applegate: Good question. We follow all laws in regard to search and seizure, and we would follow the same procedure with this device as we do with anything else, we would follow the laws and get the proper search warrant before extracting any information.

Councilmember Cowden: Therefore, there would have to be enough probable cause to get a warrant on the phone?

Mr. Applegate: Yes.

Councilmember Cowden: When you get someone who maybe is doing something like this, you pretty much have to hold them until you are able to get that warrant, right?

Mr. Applegate: Not necessarily. Every investigation is different.

Councilmember Cowden: So, if they get arrested and a warrant gets issued a week or two later, how long does it take to get a warrant? Is it immediately?

Mr. Applegate: Yes.

Councilmember Cowden: They could probably throw their phone away. It is a dynamic situation. How would that be handled?

Mr. Applegate: Every investigation is different. In the best-case scenario, if we were to get a warrant for someone's phone, they would have it on them at the time when we execute the warrant, or it would be in our possession in an arrest if we had probable cause at the time. We do our due diligence to try and not inconvenience anyone as much as possible to have access to their phone.

Councilmember Cowden: Is it something that we would be able to get in six (6) months after you use it to find out how many times this product has been used and on which cases?

Mr. Applegate: We would surely be able to provide information, whatever we could and not jeopardize any investigation, yes.

Councilmember Cowden: Okay, because we can get back to you later, but I have been asking for certain information for a solid year and I have not been able to get it, and I think you know what I am talking about, which is the depths of despair, I cannot see why it is so hard. I want to be able to get different information. I appreciate you folks and it is really hard to get what should be simple answers, so this is one that I would want to be seeing simple answers on because I do share Mr. Hart's concern that we are moving into a surveillance society, that is not on you folks, that is on our upstream national level. We want to stop this problem, that seems to be moving across the nation as well. Thank you.

Council Vice Chair Kualii: Are there further questions?

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

Council Vice Chair Kualii: Is there any final discussion? Councilmember Kagawa.

Councilmember Kagawa: I trust in our officers to not jeopardize any investigations and continue to do things through the proper channels. My trust is there. We have to use technology when it comes to things such as this where we are protecting minors from here and from elsewhere. The importance outweighs the risks. I feel like we have capable officers. Since 2012, I have not received any complaints

about KPD misusing things and maybe it just has not come to me, but I cannot say there is merit to KPD abusing their powers. Thank you.

Council Vice Chair Kualii: Councilmember Cowden.

Councilmember Cowden: I also want to say I have a lot of confidence in KPD and I appreciate the good work that you folks do. There is no hard intention in any way in that direction. Where I start to sometime worry about is the slippage of the laws that you folks are required to follow. Let us hope the Fourth Amendment stays strong. Alice, I (inaudible) in your family. I recognize how important it is and to answer it is primarily cell phones, but that would be, I am sure, it is cell phone technology, but they can find it in other ways. Mostly, people use it that way. I appreciate the effort of KPD to test this product.

Council Vice Chair Kualii: Councilmember DeCosta.

Councilmember DeCosta: I always live by simple rules by my grandfather to my dad to me. If you do nothing wrong, you have nothing to worry about. End of story. If you are doing something wrong, better cover all your tracks, and now your tracks can be revealed.

Council Vice Chair Kualii: Is there any further discussion? I think the beauty of this being a one-year trial is that we all get to see how it works.

The motion to approve C 2023-263 with a thank-you letter to follow was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

C 2023-264 Communication (12/05/2023) from the County Engineer, requesting Council approval of the indemnification provision in the General Conditions and Special Provisions of the Application to Operate or Transport Oversize and/or Overweight Vehicles and Loads Over State Highways, by and between the County of Kaua'i and the State of Hawai'i Department of Transportation Highways Division, which will allow the Department of Public Works to transport oversized and/or overweight vehicles and loads across State highways.

- Application to Operate or Transport Oversize and/or Overweight Vehicles and Loads Over State Highways

Councilmember Cowden moved to approve C 2023-264, seconded by Councilmember DeCosta.

Council Vice Chair Kualii: Are there any questions from the Department of Public Works? Councilmember Cowden.

Councilmember Cowden: Is this for the landfill?

TROY K. TANIGAWA, County Engineer: This includes the landfill. The Roads Division does a lot of hauling of equipment and other types of assets, including the landfill equipment. Whenever we have to move from a location at the landfill to an offsite area for daily cover, that would include landfill equipment, but other types of equipment for the Roads Division operations.

Councilmember Cowden: Okay, because I was confused. When I was reading this, a lot of it said, "One-time only," is that right?

Mr. Tanigawa: I apologize, could you repeat that again?

Councilmember Cowden: I was going through these different forms and some of them says "One-time only." Do I have that right? Is this just in general for all the time?

Mr. Tanigawa: That permit is good throughout the year for that particular piece of equipment or combination of equipment.

Councilmember Cowden: So, this is what we do every year for all year long?

Mr. Tanigawa: Correct.

Councilmember Cowden: Nothing exceptional, nothing new.

Mr. Tanigawa: No.

Councilmember Cowden: Okay, that was the question I sent over. Thank you. This is just a routine operation.

Mr. Tanigawa: Correct. It allows the Roads Division to support the Solid Waste Division and other agencies that need movement or transportation.

Councilmember Cowden: Okay. That was my question.

Council Vice Chair Kualii: Councilmember Kagawa.

Councilmember Kagawa: I want to make sure we use proper equipment to move, and not using a small truck to move a really big...

Mr. Tanigawa: Absolutely. This is for safety.

Councilmember Kagawa: There are sometimes complaints that we misuse our equipment, and the County is the one at fault when things break, I just want to make sure we continue to push that...

Mr. Tanigawa: Yes.

Councilmember Kagawa: Thank you.

Councilmember Cowden: When Councilmember Kagawa was talking about things breaking, do you mean bridges?

Councilmember Kagawa: No, I mean equipment. I am saying we should not take a little pick-up to move a big piece of equipment.

Councilmember Cowden: I understand now, because this is overweight things.

Councilmember Kagawa: There has been word sometimes that there have been tendencies for us to not use it as a private...because if you did it at a private company, you get fired, right? Sometimes with the County, they think they work for the County, they can do whatever they want with the equipment. I want to make sure that we reinforce to our people with heavy equipment that these things cost a lot of money and we need to use it wisely.

Councilmember Cowden: This is for oversized and overweight, so for our engineers, oversized and overweight, and I am assuming we could not have these go everywhere, all the time, but that this is not going to exceed the capacity of the bridges, so we are not breaking any bridges with this. That is your job to make sure the bridges are not broken, so I am sure you would not do that.

Mr. Tanigawa: That is correct. It is just a requirement, because the State has certain thresholds that are generally allowed on State highways, and when we have a need to transport items that exceed those thresholds, then these permits will come into effect.

Councilmember Cowden: Okay, thank you.

Council Vice Chair Kualii: Good catch, Councilmember Cowden, in taking your long discussion and making it a question to another councilmember's previous question. Thank you. Are there any further questions? While the rules are still suspended, do we have anyone signed up to give testimony? Is there anyone in the audience wishing to testify?

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

Council Vice Chair Kuali'i: Do we have final discussion?

The motion to approve C 2023-264 was then put, and carried by a vote of 6:0:1  
(*Council Chair Rapozo was excused*).

C 2023-265 Communication (12/07/2023) from the County Attorney, requesting Council approval of the indemnification provisions in the RISKWORLD 2024 Registration Terms and Conditions and End User License Agreement, the program will be used to educate the attorney and staff who have been assigned risk management responsibilities.

Councilmember Carvalho moved to approve C 2023-265, seconded by Councilmember DeCosta.

Council Vice Chair Kuali'i: Are there any questions for the Office of the County Attorney?

Councilmember Cowden: Sure, I cannot help it. I would like to know what we are talking about.

Council Vice Chair Kuali'i: Yes, of course. County Attorney, if you would come up and then we have questions from Councilmember Cowden.

Councilmember Cowden: I read through this, but can you give us a very brief description of what we are learning here. This is going to a conference, is that correct? I find when the Council attends conferences, it is worthwhile. What are you going to be learning in these conferences?

There being no objections, the rules were suspended.

Mr. Bracken: Matt Bracken, County Attorney. This is for the new position. We filled the position last month, so now we are creating a program from scratch. There will be a conference in May and the other portion of this is actually on-demand videos from the Risk Management Society, so that will cover the fundamentals of risk management, insurance, claims management, etcetera. There are two (2) pieces you are approving today, one (1) is the on-demand videos, so this new attorney can develop a program for the County, and the second is the conference. I have not previously attended a conference like this, so we are hoping to get a good overview so we can develop a good product for the County.

Councilmember Cowden: Who else is attending the conference?

Mr. Bracken: The attorney, just the attorney.

Councilmember Cowden: Just one (1) person.

Mr. Bracken: One (1) person.

Councilmember Cowden: And so he or she is going to come back and train the rest of you all?

Mr. Bracken: She is going to come back and develop a program for the County. The intent is that the Risk Manager would be one (1) position, but we have two (2) positions, because we have a supporting staff member who is helping. These two (2) will help manage the program for the entire County.

Councilmember Cowden: When we have risk management, is it like where we are analyzing things like how we must deal with all these potholes that we have? Help me understand which risks we are going to manage and how we are going to manage them.

Mr. Bracken: It is hard to say before we develop a program, but what I would expect is that we are going to look back at trends, which we do not currently do.

Councilmember Cowden: Okay.

Mr. Bracken: When we are talking about trends, we can talk about potholes, so you are tracking a pothole, you can track how long it takes us to repair the pothole, how long the repair lasts, those sorts of things; the areas that we tend to get them in. Really, you are tracking trends. Potentially, tracking lawsuits, lawsuits related to different activities, so really you are looking at trends to help provide guidance to avoid those, not necessarily faults, but accidents, claims that have occurred in the past.

Councilmember Cowden: Okay, and behaviors that we might have in our policy too, like that would maybe help the Council when we are asking on new policy, you might be able to say, "This is legal, but be careful in this direction."

Mr. Bracken: Yes, I would imagine as part of the program, we will likely create quite a few policies, but we will have to see as we dig into it.

Councilmember Cowden: Okay. Thank you.

Council Vice Chair Kualifi: Are there further questions? This is basically an approval of the indemnification provisions, so you already have the funds in your budget whether it is in personnel or training, correct?

Mr. Bracken: Correct. We have the funds in our training account.

Council Vice Chair Kuali'i: Okay. If there are no further questions, and while the rules are still suspended, do we have anyone signed up to provide testimony? If not, is there anyone in the audience wishing to testify?

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

Council Vice Chair Kuali'i: We are in final discussion. Councilmember Cowden.

Councilmember Cowden: I appreciate the effort made in this direction. I know that in many ways, we are somewhat self-insured and as we see in Executive Session after Executive Session, the County is often facing litigation for just a whole range of things. I think investing a little bit into seeing where our trends are coming from and trying to find ways to avoid them is an economically efficient choice.

Council Vice Chair Kuali'i: Is there any further discussion?

The motion to approve C 2023-265 was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

C 2023-266 Communication (12/13/2023) from the County Clerk, requesting Council approval to purchase a replacement vehicle (Ford Explorer), in the amount of approximately \$60,000, using funding from existing accounts, as the current vehicle is in disrepair and is approximately fifteen years old.

Councilmember Carvalho moved to approve C 2023-266, seconded by Councilmember DeCosta.

Council Vice Chair Kuali'i: Members, are there any questions from the Department of Public Works?

Councilmember Cowden: The Department of Public Works?

Councilmember Carvalho: It is for us.

Council Vice Chair Kuali'i: Oh! I am sorry.

Councilmember Cowden: Sure, would that be Eddie, or would that be the County Clerk?

Council Vice Chair Kuali'i: Do you have a question?

Councilmember Cowden: Yes, I do.

There being no objections, the rules were suspended.

*(Councilmember Bulosan was noted as excused.)*

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Good morning.

Councilmember Cowden: Thank you. I know our vehicle has gotten older and spread thin a little bit, is our vehicle fifteen (15) years old?

Ms. Fountain-Tanigawa: At least, yes.

Councilmember Cowden: And then the main thing that it is used for other than...I am in it when we are doing carpools, but the main thing the vehicle seems to be used for is especially for Elections, would that be right?

Ms. Fountain-Tanigawa: We use it for Elections, councilmembers also use it, yes.

Councilmember Cowden: Yes. Just for the public to know, we very much need a solid and safe vehicle, and especially as we have...when we go into the election season, we are lifting and moving all these pieces of election equipment, do we know what type of vehicle we are going to buy? We need a good-sized vehicle that can carry some weight, correct?

Ms. Fountain-Tanigawa: This one is a Ford Explorer; it is like what we have now.

Councilmember Cowden: Okay, so I just wanted people to know why we picked that size, other than we got a big council and we need a good-sized, for our tall members, but it is moving that equipment around for putting in boxes at the different locations. I just wanted to make sure people know why we need a car. Is there anything else you would like to share?

Council Vice Chair Kualii: Are there any further questions?

Councilmember Cowden: Thank you.

Council Vice Chair Kualii: Thank you, County Clerk. While the rules are still suspended, do we have anyone signed up for public testimony? Is there anyone in the audience wishing to testify?

Ms. Parker: Alice Parker, for the record. I found different brands have different repair records, and the name you have in question, I have had problems with it every time I turned around, but perhaps that model is better. Consumer Reports is a good background for reliability, but I am sure the County has done that. Thank you.

Council Vice Chair Kuali'i: Is there anyone else in the audience wishing to testify? Members, final discussion.

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

Councilmember DeCosta: This was our request as the Council, and so I just wanted to appreciate our County Clerk. Her many responsibilities with holding the entire office together, you do not have to be put on the "hotseat," so thank you to our County Clerk for everything you do for us.

Council Vice Chair Kuali'i: Thank you.

Councilmember Cowden: I have a follow-up.

Council Vice Chair Kuali'i: Councilmember Cowden.

Councilmember Cowden: I appreciate our County Clerk's job too, there was no intention to put anyone on the "hotseat," and I also want to acknowledge our staff member, who tends to run the Elections and they are always driving people as a volunteer service, so there needs to be more (inaudible) people in the car.

The motion to approve C 2023-266 was then put, and carried by a vote of 5:0:2 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

#### LEGAL DOCUMENT:

C 2023-267 Communication (12/04/2023) from the County Engineer, recommending Council approval of a Quitclaim Deed involving Tax Map Keys (TMKs) (4) 5-2-19:Road (por.) and (4) 5-2-09:Road (por.), to grant County property to the State of Hawai'i Department of Transportation to construct a new one-lane roundabout in Kīlauea Town at the intersection of Kūhiō Highway and Kolo Road and Kalamania Road, to improve safety and alleviate congestion.

- Quitclaim Deed

Councilmember Carvalho moved to approve C 2023-267, seconded by Councilmember DeCosta.

Council Vice Chair Kuali'i: Are there questions? Councilmember Cowden.

Councilmember Cowden: Okay. I am very excited about this. How long will it take to get this Quitclaim Deed to help us have a roundabout going into Kīlauea? Every time I drive in and around Kīlauea, my strategies are around this

need. This is a life-threatening problem right there. How long does it take to get a Quitclaim Deed?

Mr. Tanigawa: This Quitclaim Deed was executed. The last signature would be County Clerk after the County Council approves, then it is provided to the Department of Transportation, and they will be recording it with the Bureau of Conveyances. Once they have it, that will meet their needs as far as acquiring the County's property for the project. The project is already out to bid. I believe based on discussions with the State of Hawai'i Department of Transportation (HDOT) personnel, they will start construction in March 2024. That is the anticipated timeline right now.

Councilmember Cowden: That would be wonderful. It is something that comes up in our Kilauea Neighborhood Association meetings regularly and our community has lost a handful of people over the last twenty (20) years right there, but it is always a little bit of a dangerous turn. I am really happy that this is underway. Thank you.

Council Vice Chair Kualii: Are there further questions? Councilmember DeCosta.

Councilmember DeCosta: Would the Quitclaim Deed work on some of the roads-in-limbo that we have between the State and the County? If there was a road that needed to be addressed for whatever reason, could this same process be where if the County wanted the road, and I know we do not want the road, but if we needed to take the road for our constituent services or care, could the same process be used with a road-in-limbo?

Mr. Tanigawa: We have a question in with the Office of the County Attorney now. They are preparing a process document that will tell us the proper procedure to transfer property or acquire property in different circumstances involving roads, etcetera. I cannot answer that now, but if you put it in writing, I can respond.

Councilmember DeCosta: Thank you for that.

Council Vice Chair Kualii: Councilmember Cowden.

Councilmember Cowden: This was easy to happen, is that correct, that it was because the land was owned by C. Brewer & Co. that does not even function anymore, this was just a remnant piece of land. Is that why a Quitclaim Deed was needed instead of eminent domain?

Mr. Tanigawa: This is a County right-of-way that is being transferred.

Councilmember Cowden: Oh, okay.

Mr. Tanigawa: It is part of the process to transfer County property.

Councilmember Cowden: County property, okay. There was some issue with C. Brewer & Co. having some of those pieces, but maybe that already got resolved. Okay.

Council Vice Chair Kualii: Councilmember DeCosta.

Councilmember DeCosta: For clarification of the Council, County and State, correct? No private person involved, correct?

Mr. Tanigawa: Correct.

Councilmember DeCosta: Thank you.

Council Vice Chair Kualii: If there are no further questions, while the rules are still suspended, do we have anyone signed up to provide testimony? No. Is there anyone in the audience wishing to testify? Is there any final discussion? Councilmember Cowden.

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

Councilmember Cowden: Because it is difficult for me to have a head shaking at me and comments made, in the Kilauea Neighborhood Association, we have been working on this for quite a number of years, and so I am just finding out...

Council Vice Chair Kualii: Address your comments to me, please.

Councilmember Cowden: My final discussion is that a lot has been worked on between the neighborhood association and the different layers of government to resolve a very dangerous intersection in our community, life-threatening intersection.

Council Vice Chair Kualii: Is there any further discussion? Thank you for this. I think it is important for us to move forward, it is a safety issue for sure.

The motion to approve C 2023-267 was then put, and carried by a vote of 5:0:2 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

CLAIM:

C 2023-268 Communication (12/01/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jas. W. Glover Ltd., for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kagawa moved to refer C 2023-268 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

Council Vice Chair Kualii: Is there anyone from the public wishing to testify? Is there any discussion? Seeing none

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

The motion to refer C 2023-268 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 5:0:2 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

Council Vice Chair Kualii: The motion is carried. Next item, please.

COMMITTEE REPORTS:PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2023-04) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

"PWVS 2023-04 – Communication (11/14/2023) from Committee Chair DeCosta, requesting the presence of the County Engineer, the Planning Director, the Department of Water Manager & Chief Engineer, and the State Department of Health Wastewater Branch, to provide an informational briefing regarding the residential building permit process,"

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

Council Vice Chair Kualii: Is there any discussion or public testimony? Come forward, Bruce.

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

Mr. Hart: For the record, Bruce Hart. I just want to thank Councilmember DeCosta. It has been quite a number of years since we essentially had a review like that. I have been through them before. They are very informative, gives us a chance to catch up, and it gives those in the public that do not know the process, a chance to learn the process, and it can be very helpful to them. So, thank you.

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

The motion for approval of the report was then put, carried by a vote of 5:0:2 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

Council Vice Chair Kualii: Clerk, could you read the next item, please?

#### **PARKS & RECREATION / TRANSPORTATION COMMITTEE:**

A report (No. CR-PRT 2023-06) submitted by the Parks & Recreation / Transportation Committee, recommending that the following be Received for the Record:

"PRT 2023-04 – Communication (11/22/2023) from Councilmember Kagawa, requesting the presence of the Director of Parks & Recreation, to provide an update on the status of the Hanapēpē Soccer Field and of the Tennis & Pickle Ball Courts islandwide, to include but not be limited to, the status of the wind screens, surface repair, and any temporary improvements."

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

Council Vice Chair Kualii: 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 report was then put, and carried by a vote of 5:0:1 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

Council Vice Chair Kualii: Clerk, could you read the next item, please?

#### **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:**

A report (No. CR-PSHS 2023-05) submitted by the Public Safety & Human Services Committee, recommending that the following be Received for the Record:

“PSHS 2023-04 – Communication (11/22/2023) from Committee Chair Cowden, requesting the presence of Robert Lau, Manager of the Emergency Medical Services & Injury Prevention System Branch, to provide a briefing regarding parameters of the emerging new Request For Proposals (RFP) for ambulance service for Kaua‘i, priorities of the State Department of Health, and priorities of the County for the provision of Emergency Medical Services (ambulance services) on island,”

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

Council Vice Chair Kuali‘i: Is there any discussion or public testimony?  
Seeing none.

Ms. Fountain-Tanigawa: We have one (1) registered speaker. Alice Parker.

Council Vice Chair Kuali‘i: Alice, were you wanting to speak on this item?

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

Ms. Parker: Alice Parker, for the record. They are terrific, from personal experience. We need this company or someone who is equally good. Thank you.

Council Vice Chair Kuali‘i: Thank you, Alice. Is there any further testimony? Is there any final discussion?

The motion for approval of the report was then put, and carried by a vote of 5:0:2 (*Councilmember Bulosan and Council Chair Rapozo were excused*).

Council Vice Chair Kuali‘i: Clerk, could you read the next item, please?

#### RESOLUTIONS:

Resolution No. 2023-82 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Amber K. Mokuahi*)

Councilmember Carvalho moved for adoption of Resolution No. 2023-82, seconded by Councilmember DeCosta.

Council Vice Chair Kuali‘i: Are there any questions? Is there anyone in the audience wishing to testify? Roll call.

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

The motion for adoption of Resolution No. 2023-82 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes and two (2) excused.

Council Vice Chair Kuali'i: Madam Clerk, could you read the next item?

Resolution No. 2023-83 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Jan TenBruggencate*)

Councilmember Carvalho moved for adoption of Resolution No. 2023-83, seconded by Councilmember DeCosta.

Council Vice Chair Kuali'i: Are there any questions? Is there anyone in the audience wishing to testify? Final discussion, Councilmember Cowden.

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

Council Vice Chair Kuali'i: Councilmember Cowden.

Councilmember Cowden: Because we have this commission member and we have another one in the audience, I just want to say thank you to all of them for being willing to serve. I acknowledge the effort and *mahalo*.

Council Vice Chair Kuali'i: Is there anyone else? Yes, absolutely, as we always say during our interviews and any chance we get, *mahalo nui loa* for your willingness to serve, and some of you again and again. Roll call.

The motion for adoption of Resolution No. 2023-83 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,

EXCUSED & NOT VOTING: Bulosan, Rapozo  
RECUSED & NOT VOTING: None

TOTAL – 2,  
TOTAL – 0.

Resolution No. 2023-84 – RESOLUTION CONFIRMING MAYORAL  
APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Piikea Keyes-Saiki*)

Councilmember Carvalho moved for adoption of Resolution No. 2023-84,  
seconded by Councilmember Kagawa.

Council Vice Chair Kualii: Are there any questions? Is there anyone in  
the audience wishing to testify? Roll call.

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

The motion for adoption of Resolution No. 2023-84 was then put, and carried  
by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kualii,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes and two (2) excused.

Council Vice Chair Kualii: Madam Clerk, could you read the next item?

Resolution No. 2023-85 – RESOLUTION CONFIRMING MAYORAL  
APPOINTMENT TO THE BOARD OF REVIEW (*Christopher A. White*)

Councilmember Carvalho moved for adoption of Resolution No. 2023-85,  
seconded by Councilmember Cowden.

Council Vice Chair Kualii: Are there any questions? Is there anyone in  
the audience wishing to testify? Roll call.

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

The motion for adoption of Resolution No. 2023-85 was then put, and carried  
by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kualii,	TOTAL – 5,
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AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Bulosan, Rapozo	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Ms. Fountain-Tanigawa: Five (5) ayes and two (2) excused.

Council Vice Chair Kualii: Madam Clerk, could you read the next item?

Resolution No. 2023-86 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF REVIEW (*Jody H.K. Kjeldsen*)

Councilmember Carvalho moved for adoption of Resolution No. 2023-86, seconded by Councilmember DeCosta.

Council Vice Chair Kualii: Are there any questions? Is there anyone in the audience wishing to testify? Roll call.

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

The motion for adoption of Resolution No. 2023-86 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kualii,	TOTAL - 5,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Bulosan, Rapozo	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Ms. Fountain-Tanigawa: Five (5) ayes and two (2) excused.

Council Vice Chair Kualii: Madam Clerk, could you read the next item?

Resolution No. 2023-87 – RESOLUTION APPOINTING BERNARD P. CARVALHO, JR. AS REPRESENTATIVE AND BILL DECOSTA AS THE ALTERNATE TO THE EXECUTIVE COMMITTEE OF THE HAWAII STATE ASSOCIATION OF COUNTIES

Councilmember Kagawa moved for adoption of Resolution No. 2023-87, seconded by Councilmember Carvalho.

Council Vice Chair Kualii: Are there any questions? Is there anyone in the audience wishing to testify? Is there any final discussion? Councilmember DeCosta.

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

Councilmember DeCosta: I would like to comment how well HSAC went this year, especially with the annual conference we had on Kaua'i, and I would like to thank HSAC President Carvalho, working very closely and thank you Council Vice Chair Kuali'i, and thank our Chair of the Council Mel Rapozo, who is not here with us today, he is in Oregon with his grandson, but just working very collaboratively together—our staff was great, the people on the outside that came to Kaua'i really enjoyed themselves. It was not just me and Councilmember Carvalho, it was all of the councilmembers here on the table that came together and assisted us from the planning, cleaning, our staff was amazing with all what they did outside of your normal role. For the Kaua'i community members who attended and fellowshipped with us, the reviews were great. So, thank you. Thank you for our two (2) performers, we had local...Aunty Kapu and Leinaala, they were amazing. Just the entire ambiance of showing our NACo, people from the all over, what we are all about.

Councilmember Cowden: I appreciate the job that our HSAC President Carvalho did, I appreciate that. I thought we did a good conference too.

Councilmember Kagawa: I want to compliment Councilmember Carvalho and alternate Councilmember DeCosta on the job that they did for us and will continue to do. I know we have a lot of issues before us this coming legislative session, and I hope to be more active in trying to suggest some of the things that we can do as a State that would make our legislative priorities more visible. A lot of work ahead.

Councilmember Carvalho: Mahalo to all my fellow councilmembers, and working closely with Councilmember DeCosta, and Allison back here. Just everyone working. We took on the responsibility as a team. I want to emphasize that. We needed to reach out, bring back, and make the decisions we had to make collectively, and I look forward to working closely with my fellow councilmembers, spreading that decision-making all needs to happen statewide as we continue to move forward to address issues. We need to take care of Kaua'i, but we have our fellow team members statewide as well, and making the connections back from NACo too, which is all the effort being placed together. Homegrown, our staff here, again, Alli worked really hard, Jade, and all the team members here, I am just so appreciative. I look forward to continuing and whatever we can do to assure that we have that connection and that bridge so information will flow back and forth, so we can get the support we to continue to move forward to serve our people.

Council Vice Chair Kuali'i: Yes, absolutely, big *mahalo nui loa* to Councilmember Carvalho and Councilmember DeCosta for being our leaders there with HSAC, and also Chair Rapozo for supporting them, as he had done the job before as well. It was a big year for us having both the presidency of HSAC and then hosting

the Annual Conference. There was a lot of extra work involved and we especially have to thank our staff—all of them, but especially to Alli and Jade who supported our HSAC representatives every step of the way. We do not get the work done without the staff behind us. Thank you.

The motion for adoption of Resolution No. 2023-87 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Cowden, DeCosta, Kagawa, Kuali'i,	TOTAL – 5*
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Bulosan, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Cowden was noted as silent, but shall be recorded as an affirmative for the motion.)*

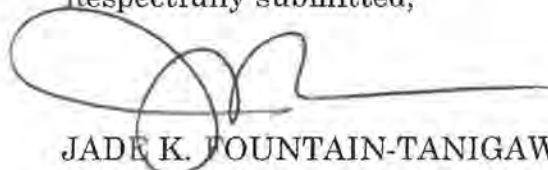
Ms. Fountain-Tanigawa: Five (5) ayes and two (2) excused.

Council Vice Chair Kuali'i: Thank you so much. With that, this meeting is adjourned.

#### ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 9:29 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:dmc