

MINUTES

PLANNING COMMITTEE

October 6, 2021

A meeting of the Planning Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Mason K. Chock, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 6, 2021, at 11:31 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.
Honorable Bill DeCosta
Honorable Luke A. Evslin
Honorable KipuKai Kualii
Honorable Mason K. Chock
Honorable Felicia Cowden, Ex-Officio Member
Honorable Arryl Kaneshiro, Ex-Officio Member

The Committee proceeded on its agenda item as follows:

Bill No. 2831 A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, AS AMENDED BY ORDINANCE NO. PM-2009-394, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUA'I (*Tower Kaua'i Lagoons Sub 1, LLC; 2014 Kaua'i Lagoons Golf, LLC; Tower Kaua'i Lagoons Land, LLC; Tower Kaua'i Lagoons Sub 7, LLC, Applicant*) (ZA-2021-3) (This item was Deferred to November 3, 2021.)

Councilmember Kualii moved to approve Bill No. 28231, seconded by Councilmember Carvalho.

Committee Chair Chock: Members, before we get into this Bill, I wanted to give you an update. Based on the questions that surfaced at first reading, there was a request to look at accesses for the property connected to this permit. We received an updated map that was generated by Kaua'i Lagoons. There are subsequent questions that are arising, which has generated an internal investigation by the Planning Department. I will be requesting a one-month deferral on this Bill. Prior to doing so, I would like to open it up for any questions or for clarification. Most of the questions were generated by Committee Vice Chair Evslin. Councilmember Evslin, if you would like to start us off, I will suspend the rules.

Councilmember Evslin: Thank you, Committee Chair Chock. Are the applicants here?

Committee Chair Chock: They are here.

Councilmember Evslin: Thank you, Gary and Michael for being here. Thank you for providing that lengthy memorandum; it was a wealth of information. I was pulling my hair out for a few days trying to go through old records. There has been so many changes and iterations of the original zoning amendment. The memorandum helped to clarify history of this and what is required. I have a few questions and follow up to questions that I asked the last time.

We previously talked about the bathrooms and potential lack of bathrooms. Currently, there are two (2) portable bathrooms. As of seven (7) weeks ago, the bathrooms were locked with signage stating not for public use. Sunday was the first time I have been back to this area and saw that the signage was still there saying it is not a public restroom. I am wondering if you had a status update on the portable bathrooms.

There being no objections, the rules were suspended.

GARY SIRACUSA (*via remote technology*): Good morning, Councilmembers. We are sitting around our conference table with Max W.J. Graham, Michael J. Belles, and Rebecca Candilasa. It is the same team that has been representing us on the previous meetings. Currently, there are no stickers or signs on the portable bathrooms. They were removed when we first talked. They were locked as we acknowledged. Somehow, those stickers came back, but have been removed. There are no stickers, and we are implementing new procedures to make sure there are no stickers placed on it again. We did not place them there directly as Timbers Kaua'i – Ocean Club & Residence, Hōkūala Kaua'i, but ultimately I take full responsibility for that and sincerely apologize. It has been rectified and should not happen again.

(Councilmember Carvalho was noted as not present.)

Councilmember Evslin: Thank you, Gary. I really appreciate that answer. Condition No. 7 requires a Passive Park and picnic tables behind Running Waters. I may have been missed them, but I have never seen any picnic tables in this area. Are they there and are there plans to put picnic tables in the area?

Mr. Siracusa: The audio is a little choppy on our end, but I think you are asking about picnic tables at the pavilions?

Councilmember Evslin: Yes.

Mr. Siracusa: There are picnic tables that have been installed at both pavilions. There are a couple of picnic tables at each of the pavilions.

Councilmember Evslin: The last time I went I did not see them, but that is good to know that they are there. It also calls for a Passive Park behind Running

Waters. Unfortunately, it does not ever define what a Passive Park is. In your interpretation, what is a Passive Park?

MAX W.J. GRAHAM (*via remote technology*): Councilmember Evslin, Max W.J. Graham, representing the applicant. In going through the Ordinance, I was trying to figure out what was intended by the Council through this whole process. My best response is that entire complex of access into Running Waters, Running Waters Beach, and the facilities and service at Running Waters constitutes the idea of a Passive Park in that area. It is an undeveloped public access area that is primarily a beach park. I looked at it last night. It seems to be functioning in that manner and the public uses it for beach purposes.

(Councilmember Carvalho was noted as 5p resent.)

Councilmember Evslin: Thank you. I certainly use the area for beach access purposes. I use the access down to the beach. I was never aware that there was supposed to be a Passive Park in the area until reading these conditions. My concern is that the area behind Running Waters looks like a golf course. In the "Passive Park" idea, is it okay for families to utilize that bluff area on the golf course for picnics and/or hanging out, or is it only meant for underneath the pavilions?

Mr. Graham: I think at this point it is restricted to the pavilions and the beach area itself. I cannot imagine that the owner would want people picnicking on the golf course. I think it is restricted to the beach area.

Councilmember Evslin: Good to know. A part of the reason I am asking all these questions is because going back through the original ordinance and the amendments to it, there was not a ton of discussion around these things, which would have helped clarify for folks and for us to say what is required in a Passive Park. It is good to get it into the record what your intention is or what the Planning Department intends a Passive Park to look like. One of my own concerns is that it sounded like this Passive Park was supposed to run laterally between Fashion Landing and the other side. This was the reason why I kept thinking that lateral access was on your property with a Passive Park around it? Clearly, it is not how it looks on the ground and based on your last map that you provided to us and some of the answers at first reading, that is not the intention there. I have another question as it relates to the lateral access. You folks clearly said it is along the beach. In Figure 1, Exhibit 4, that you recently drew up, shows it along the beach. From the previous discussions I went through and in looking at as many maps that I could find including Figure 9 that you provided in the application, to me, it looks like lateral access was supposed to be on property or it was not clearly defined. The reason I thought it was on your property is because Figure 9 in the memorandum received from you and in the original application shows access coded in various colors. It uses green for public access on your property, blue for public access over State land, and that lateral access along the beach was coded in green. To

me, that implied that it was lateral access on your property and not necessarily on the beach. So, the question really is...do you folks have any previous documentation showing that the lateral access was intended to be along the beach and not on your property?

MICHAEL J. BELLES (*via remote technology*): This is Michael J. Belles, for the record. Thank you for asking the question. As we indicated when we had our first series of meetings back in mid-August with each of you individually, then subsequently on the first reading in September, and the Public Hearing...since that time, we had the opportunity to go through all the documentations. In response to many of your questions and that of other Councilmembers, our answer was not satisfactory in the sense that we said, "we do not know." We needed the opportunity to research this issue more in-depth and report back to Council. That is the reason you got the memorandum last week Friday that was disseminated to all Councilmembers from the County Clerk that included a carbon copy (cc) to the Planning Department. This is the result of Max Graham's research and investigation. In our firm and perhaps in the State of Hawai'i, he is probably one of the more experienced and knowledgeable attorney's dealing with conveyancing and title questions. He has done that most of his professional career which is going on half a century right now. I am at forty-five (45) years, so I am close. It is a matter of having done this a great deal. He is far more knowledgeable than I am having done it a great deal more. That was the reason why I asked that he prepare on behalf of the client the memorandum. That is why when you see the memorandum, it is addressed to the client, Mr. Siracusa. We wanted it that way to show you that we are giving you all the information that we have.

The current owner of Hōkūala Kaua'i only came into possession of the property between 2014-2015. We have had many predecessors in interest. There was even some question when we had discussions on the first reading about whether there had ever been a conveyance of any easement from Kapule Highway 101 and 102. Only recently did we discover that based on the 1988 conveyance there was an easement that created, established, and accomplished that. During first reading, we did not know that. We are still uncovering various records and documents, and communication with the Planning Department between our predecessors in interest. We are learning that there has been several where we are learning more about consultations with the County's Public Works or the Planning Department. There was not much with the Council, because nothing ever raised that level. It was largely annual reports to the Planning Commission based on status of ordinances and Special Management Area (SMA) permits. Whenever any developments were contemplated at least during the tenure of Mr. Siracusa and Hōkūala Kaua'i, there has always been a close working relationship with the County.

Nothing has been done sleight of hand or smoke and mirrors. It has always been a case of consultation first to see if what is being proposed and whether it is being built, renovated, or revised to see if it was in keeping with the entitlements and ordinance as

interpreted by the Planning Department. It does not mean that we always got it right, but I think what it really demonstrates is a good faith effort on the part of the landowner and the County working closely together throughout the history of this project. There is so much of the project we do not know. There is a void from the time Hemmeter first developed beyond the Kaua'i Surf that was developed in 1960. In 1986, when he got the permits to develop the property and the conveyances made in 1988, we really do not know or have access to many of the records showing what was the level of communication between Mr. Hemmeter, the Hemmeter organization, and the County of Kaua'i.

We do know that our immediate predecessor Marriott (or Mori as it is often referred to in the documentation) appears to have kept in close contact with the Planning Department. We are fortunate that the primary people that were responsible for doing a lot of the documentation and a lot of the report keeping was Wilson Okamoto and Associates and that has been continued through majority of this project. We need to remember that this project has been in existence for thirty-five (35) years. That is a long time. Admitted, things were not always well-documented, monitored, investigated, inspected, or reported in days past. The reality is, we have no record of any public complaints about this project. I do not know if there is the "coconut wireless" campaign or if there is something that we are not aware of, but if anything, the client has received nothing but praise for having full and unbridled access to the roadways as required by the conditions of the ordinances and SMA permits. The trailway system...The golf course has obviously been closed for liability reasons. Following our last discussion on first reading, both Mr. Graham and I independently went to the Wailua Golf Course and saw that there are prominently posted no trespassing signs, as well as no loitering signs in and around the registration shack. When I talked to the staff at the golf course, they indicated that the public was not allowed on the Wailua Golf Course. Subsequently, our Golf Pro and other members of the staff consulted with other golf courses on Kaua'i and learned that the golf courses do not allow the public on there simply for liability reasons. It is a hazardous condition, and it is exposing the landowner and potentially the County to liability. For those reasons, the golf course most notably is exclusive in terms of excluding the public.

All other portions of the project's roadways, path system, shoreline access, two (2) pavilions, and the temporary portable bathrooms, we do not know how long it will be temporary, in place of what was formerly below the landing which used to house Sharkey's and later Whalers Brewery.

Again, there has been a great deal of credit given to the Developer for being open, welcoming, and being very generous in allowing the public to use the resources and the land that exists here without interfering with private interest on the property. That would be the position. I understand that based on the opening comments of Committee Chair Chock that there will be approximately a month before we circle back together again. In that time, I would assume that we would work closely with both the Office of

the County Attorney and the Planning Department to see what all the applicable conditions are of SMA permits, other related entitlements, ordinances, and reviewing the work that was done by Mr. Graham in terms of the title and conveyancing issues. I would agree that having this be a work in progress to make sure that we have a meeting of the minds or at least a better understanding of historically what has happened. Not that we can necessarily resurrect one hundred percent (100%) of all documentations, all agreements, and all understandings, because in the early days and recently, not everything is memorialized. Again, there has not been any question about any level of deceit, dishonesty, or trying to cover anything up. That is just the opposite of trying to fully cooperate with the County and community in making this site more community appropriate, living up to our commitments and obligations under all prior ordinances, laws, rules, and regulations. I hope that was responsive, Councilmember.

Councilmember Evslin: Yes. I have two (2) follow-up questions. I would like to clarify that my reason for going through this level of detail here and this line of questioning is because we have all seen a steady loss of access to what were at one point public spaces. I totally respect the current landowner. I use this property very regularly. I never had any issues, access issues, or otherwise. As I have said to you folks and in first reading, this property is a total gem for Līhu'e. At some point in our lifetime, the property is going to turn over. I think that it is the natural state that you will have a property owner who is going to try and use the law to their advantage. Especially when you have a bunch of new residents living in the area that might not be happy with local families walking around and they are going to say, "Hey, how much flexibility do we have here to close off access to these places?" To all our benefit, I want to do my best here to ensure that it is very clear on what is required now and into the future so that does not happen. Please do not see my line of questioning as targeting you folks in any real capacity. It is ensuring that this can stay a gem for Līhu'e. I have two (2) questions. I am sorry, did you want to respond?

Mr. Belles: I would like to comment. We are supposed to mute here otherwise we get feedback and I guess we disrupt the entire system. We apologize for doing that early on. I apologize to Mr. Sato who manages this whole process. We have been a source of extreme madness this morning for him. I appreciate his understanding and his support. I thank you for the kind words. What I would like to offer in terms of what I believe is the legal safety net for the County of Kaua'i should a subsequent landowner come over and take the property, they are still subject to all of the laws, rules, and regulations that run with the property. All the significant conveyances, entitlements, easements are a matter of public record. They are recorded with the Bureau of Conveyances. In the event a successor in interest to the property who may decide based on residents or other people internally to start excluding the public...I believe that as you questioned the County Attorney at our last meeting, should that ever happen, you always have the right to an Order To Show Cause, which would be first considered by the Planning Commission who would do their investigation by the Department, make the recommendations to the Commission, and in turn report

to the Council. We believe that those safeguards are there, but most importantly the conditions relating to the easement from Kapule Highway to Lot 102, we believe that those are securely identified and protected as can possibly be, as well as the easements along the shoreline for the shoreline access. Beyond that, the Ordinances and the SMA permits are very clear that all roadways and trail system shall be open to the public. Should any future landowner or successor in interest to this property, if there is one, if they go contrary to that, they could be taken to task lawfully. I believe you have an adequate remedy from that standpoint. That is my only comment in response to the comments you made Councilmember.

Councilmember Evslin: Thank you. I appreciate that answer. Again, when we are talking about things like lateral access...When I go back into all the records that we have on this side, it is not clear if that is State or your land. The Passive Park, what does this mean? Ten (10) miles of pathways, existing pathways inside of the complex, what exactly are those pathways? My concern is that a lot of this seems somewhat gray. I am trying to have it be concrete: here is what the requirement is, here is what it is not, for now and into the future. Again, that is my only angle.

Mr. Belles: I would say that in response to that is I do not disagree with that. As we have in the past, I think there are ways for us to work with the County developing a master plan identifying the approximate ten (10) miles of roadways and pathways that are available to the public. We can do it in that fashion without going through too draconian a process for all sides. I believe that with the relationship that we have enjoyed historically, we can continue doing that and come up with a process that is mutually agreeable to not only define what exists on October 6, 2021, but at anytime in the future. Perhaps we can have it be part of our annual SMA report as well: any rights-of-way, any master plans for paths and roadways that may have been mutually agreed to revise, modify, relocate for whatever reason based on understandings or agreements with the Planning Department and the landowner, that there is transparency and review by the Commission on behalf of the community.

Committee Chair Chock: Thank you. Do you have more questions?

Councilmember Evslin: As you alluded to, my biggest concern is those ten (10) miles of pathways. In Exhibit 4 of the memorandum that you gave us, I think you produced a really good map, which highlights what those...I do not know if they are exactly ten (10) miles, but it highlights a lot of interior pathways that were not necessarily included in Figure 9 previously. It makes reference to those that they are codified in the ordinance in some capacity. I just wanted to ask you, are you willing to meet in the next few weeks to try and figure out a way to codify those pathways into the ordinance by referencing Exhibit 4 or expanding on Exhibit 4 to make it clear where those paths are and where they are not?

Mr. Belles: We are always willing to talk, but I cannot guarantee a resolution, because I do not know where those talks would lead. I do not want to be presumptuous to think that I understand the positions of the Planning

Department or the Planning Commission. On behalf of the client, I think it is fair to offer that we will meet and consult with the Planning Department in furtherance of this and try to come to a mutual understanding that will ultimately satisfy all the stakeholders involved in this. By stakeholders, I mean the County of Kaua'i and the landowner.

Councilmember Evslin: Thank you, Michael. I appreciate that.

Committee Chair Chock: Councilmember DeCosta has a question as well.

Councilmember DeCosta: I had a couple of questions actually and I will make sure to save my discussion points for the final discussion.

Committee Chair Chock: Thank you.

Councilmember DeCosta: You used the word "let" our public use the access trail and the beach resources. You can pull back on that access and the beach, or what was the definition of the word "let," because you did use that in your comment? It is not Gary or Max. I am talking to the other gentleman that I forgot his name.

Councilmember Cowden: Mike.

Councilmember DeCosta: Mike, can you clarify your definition of the word "let" that you used?

Mr. Belles: I apologize as I may have misspoke. I did not intend to limit anything that I was attempting to explain. I apologize if I misspoke.

Councilmember DeCosta: So, the public can use this if it is in your ordinance and they have the right to access the beach on the ten-mile path, correct?

Mr. Belles: Absolutely. Wilson Okamoto Corporation did a follow-up study and when we said approximately ten (10) miles, as it turns out it is approximately nine and eight tenths (9.8) miles, so it is pretty close to the ten (10) miles. It is not just "spitting in the wind," guessing, or sticking our finger up after licking it to see which direction the wind was going in. It was a very accurate estimation in terms of the total miles of trails and roadways.

Councilmember DeCosta: I am fine with that answer. I do not need to know if it was nine and eight tenths (9.8) versus ten (10) miles. I just wanted you to clarify the word "let." I have a question for Max. Max, please give me your definition or the legal definition of Passive Park. I just Googled it right now and I have my definition of a Passive Park and I wanted to know your interpretation of a Passive Park.

Mr. Graham: The best I can answer, and it is not really a legal term, is that it is a recreational area that does not have improvements.

Councilmember DeCosta: I agree. In my definition it says here, "it is a landscaped area for open space, informal gathering, relaxation, and play." Can we relax in a pavilion? I would say yes. Can we normally play? Possibly not. Is there an area around the pavilion that our people can use or are they limited to only what is under the roof? I am confused right now as to why we would use the term Passive Park if it were not a legal term. We do not want to give our community the misconception that they have a place to gather and now when they go to the beach, they cannot use it. Educate me. I have never been there, but I would like to actually. Educate me and the people watching today.

Mr. Graham: I think as applied to Running Waters, "Passive Park" means the entire area that does not have any particular improvements. It is an open space area that is available to the public. In accordance with the ordinances, the landowner has provided easements, trail easements, and road easements from Kapule Highway all the way to Running Waters. Then Running Waters, itself and that whole area, which the shoreline is owned by the State and above the shoreline is a part of the Hōkūala property, that whole area is a passive recreational area. That is where the public goes primarily for beach activities. You do not have any improvements down in that area and you do not have any facilities in that area. It is just open space that is used for recreational purposes. You do have improvements further up which are the showers, bathrooms, and recreational pavilion.

Councilmember DeCosta: I just wanted to make sure...

Mr. Belles: Councilmember DeCosta, I just wanted to add, as I was the County Attorney back in 1988. I went into private practice in 1990...

Councilmember DeCosta: Hang on. With that being said, talk to me as a person in a language that I can understand. Do not talk to me as if I am a lawyer. Talk to me in layman's terms so that I can understand.

Mr. Belles: From 1986 to 1988, when Hemmeter first developed the property beyond the Kaua'i Surf, which was the only significant resort development down here, there was a cry from the community, primarily from fishermen and people who used the beach, that they wanted to keep things in a natural condition. They specifically said, "We do not want buses coming here. We do not want the residents of the project coming down here. Just to be perfectly blunt, we want this to be a place for local people to come and congregate as they always have before." If you come to the property and walk along the shoreline, you frequently will see a number of boogie boarders and people in the water. In my experience having observed them, they appear to be local families and local people. You have families that are picnicking down there that are locals, some of which that I recognize and some of which I know. The pavilions that you referenced earlier, the intent is not to just have the people engage in recreation under the roof, it is in the area around it, because it is all open space. It is a combination of sand and lava. The intent was to keep it very rustic, very rough, and the best word probably is "natural." They did not want to have improvements like sidewalks down there. They then felt that would destroy the experience that had been historically enjoyed by local people who went

down there before there was a resort, other than Kaua'i Surf, which existed since 1960, but it did not extend beyond the point Ninini that you have right now. I can say that my own father-in-law Koon Ye Ching, he used to regularly fish along that shoreline. I know it all too well from family lore about him wanting to go down and the kids not necessarily wanting to go with him. They preferred to play tennis, play the piano, do things that they were interested in. It was for the local people to go down and do what they had historically done on that beachfront property.

Councilmember DeCosta: Thank you for that.

Committee Chair Chock: We have a follow-up question from Councilmember Evslin.

Councilmember Evslin: Just a follow-up on the Passive Park issue again. In reading the ordinance it says that "The applicant shall provide a passive beach park to include public parking, public restrooms, shower facility, weather shelters, and picnic tables along the lateral shoreline access." For me, when reading that, it seems like there is supposed to be some recreational shelters with area to recreate outside of the shelter, as Councilmember DeCosta was alluding to. Whereas, from what I am understanding is that your interpretation is there is the shelter itself, which is actually surrounded by golf course, so there is no recreating possible because of the golf course. Then the pathway to the beach itself. So, the Passive Park is actually just the beach. Am I understanding that correctly?

Mr. Graham: Yes.

Councilmember Evslin: I think that is something that at least for me, I need to further get some clarity on. Thank you.

Committee Chair Chock: Are there any further questions?

Mr. Belles: If you go to the property today, you will frequently see pick-up trucks in the public parking stalls on both the eastern and western portions of the property. That is usually a good indication of families that are going there with their coolers, other things, fishing poles, and fishing paraphernalia, and they are going down to the beach to fish. I know when I have been on the site overlooking the shoreline access area, I have seen any number of young men and women with their boogie boards having a great time out in the ocean while families are out on the lava rock or in the pavilions with barbecues or things that they would normally do along shorelines throughout this entire island.

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

Committee Chair Chock: Thank you. If there are no further questions, I am going to make a request for a one-month deferral, which takes us to November 3, 2021. I want to recognize the legitimate request for this ordinance and thank you as the applicants for being willing to work through some of the concerns that have emerged since this Bill has hit the floor. It is apparent that there needs more clarity

in interpretation. Your willingness to work with our Planning Department to define what those things are for the community. As you know, our role is to protect the public Trust. I think the way things sort of transition over time can be problematic from the standpoint of lack of clarity and not knowing what the original intent is. My hope is that we can dig up as much information from the past as possible. We have already begun that process. I hope that we can also come back to the table within this next month and really more clearly articulate what the public trust interests are, so that we can move forward with this. With that, I will ask for a motion to defer.

Councilmember Kualii moved to defer Bill No. 2831 to November 3, 2021.

Committee Chair Chock: Hold on, there was a motion made. Either I get a second or...do you have more to talk about?

Councilmember DeCosta: I thought we would have time for discussion.

Councilmember Kualii withdrew the motion to defer Bill No. 2831 to November 3, 2021.

Councilmember DeCosta: I had something else to say. This is more of a discussion question. Again, I am kind of bothered right now. You gentlemen, the guy with the black shirt with bamboo leaves, I forgot your name. Mike, you allude to say that you see local people fishing, using the beach, picnicking, et cetera. You are telling me something that our people have the right to do. Do not try to sell that you are trying to do good things down there. The people are going to go down there and do those things. That is what we local people do or even tourist people do. You do not need to sell me on that. We know that is what they are doing. I want to thank Gary for apologizing for the bathrooms. I think Councilmember Evslin was very subtle in his way of asking about the lock and stickers. Thank you, Gary for apologizing and making it right. The last one I am going to talk to is Max. I want a better a definition of a Passive Park, if you are going to use this in this area. I do not think a Passive Park is underneath a lien-to pavilion surrounded by a golf course. It happens like that, and it seems like we come up with these fancy legal terms or words and it is not clear. Our people believe that they are getting something that they are not.

There being no objections, the rules were suspended.

Mr. Belles: Could I make one (1) comment, please?

Committee Chair Chock: Go ahead, Mike.

Mr. Belles: I was simply wanted to say, Councilmember DeCosta, I respect your comments immensely. The reason that I made the statements that I did about having local people continue to use the natural resources that we are blessed with on this island is that there have been developments historically on Kauai that have blocked or interfered with public access to historically public resources. I just wanted to indicate that was clearly not the case with the developers of this property. In fact, if anything, we would like to think that we have

enhanced the experience by allowing for showers and restrooms for beachgoers that otherwise would not have the benefit of those added amenities without interfering with the natural experience of a historically used property. That was my only intent by what I said and the way I said it. I apologize if it sounded as though I was offering something that the public had every right to use. I agree with you completely on that.

Councilmember DeCosta: Thank you, Mike.

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

Committee Chair Chock: Thank you. Councilmember Cowden.

Councilmember Cowden: I just want to finish with a simple comment. Because this has been on our agenda, I have gone over there now four (4) times. I have really walked most of all those ten (10) miles or nine and eight tenths (9.8) miles. It is really nice. I was like, "Wow, how did I miss this before?" I know I get deeply attached to the areas that are in places where I routinely go, so I thank you Councilmember Evslin for your diligence on this. I do not have a before and after. I have a, "Wow, what a beautiful place with so many people enjoying it." I did see the body boarders and the children getting their reef rash, wash the blood off their legs in the pavilion that you are talking about. I appreciate that we are looking at this diligently. I have not asked so many questions because I do not have a "before." The present for me is really a present. It is quite nice and is a beautiful place. It is a really good and nice walk. I am appreciative of the decades that have gone in to ensuring that we have this access and honoring how important it is. Gratitude to whoever did it in the past to make sure that we had it. Yes, let us make sure it continues. It is really nice, and I appreciated the *aloha* that I received when I was there with Gary on one of those times. You took about an hour of time with me, and I appreciated that too.

Committee Chair Chock: Thank you. Is there any last discussion before I call for the deferral? Councilmember Kualii.

Councilmember Kualii: I think that this is a beautiful and wonderful example of how, if it was done right all over the island, you would have this kind of access everywhere. I grew up in Puhi and I have known about Running Waters since I was young. That is my brother's favorite bodysurfing spot. I think my brother in high school bodysurfed with Mayor Kawakami. I appreciate Councilmember Evslin's concern, because yes, we do have good owners now. We had good owners in the past that have been very supportive of the public having full access, but we want to just make sure that for future owners that that would continue. Whether they do it from a good place with *aloha* or not, that they would be required to do it. That is the only thing I wanted to say. I thank you all for what we have today. Thank you.

Committee Chair Chock: Thank you. Does anyone else have anything to add?

Councilmember Carvalho moved to defer Bill No. 2831 to November 3, 2021, seconded by Councilmember Kualii, and carried by the following vote:

FOR DEFERRAL:	Carvalho, DeCosta, Evslin	
	Kualii, Chock	TOTAL - 5,
AGAINST DEFERRAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Committee Chair Chock: Motion passes.

There being no further business, the meeting was adjourned at 12:18 p.m.

Respectfully submitted,



KarLyn Sukehira
Council Services Assistant I

APPROVED at the Committee Meeting held on October 20, 2021:



MASON K. CHOCK
Chair, PL Committee