



Council Chair Kaneshiro: Janine, in regards to the bonus, can you explain how that came about? I read the arbitration and it said it was to match police bonus. I have read the police arbitration, which they received the bonus based on a four-year contract. Can you explain the process on the bonus payment?

Ms. Rapozo: The decision on the award is really up to the individual arbitrator. In the State of Hawai'i Organization of Police Officers (SHOPO) contract and arbitration, the arbitrator stated that he felt there was a need for the bonus or some extra award because of the four-year contract that we have entered into with SHOPO. In this particular case with the firefighters, he put in the bonus to say "like SHOPO." I cannot think for the arbitrator as to why he did it that way.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Janine, can you explain the proposed fire contract? It has two percent (2%) increases...

Ms. Rapozo: It is a two-year contract starting July 1, 2019. It is a two percent (2%) increase across the board on July 1, 2019 and July 1, 2020. If the individual qualifies for it, they will also receive step movements. In addition, the step movement award would equate to about one point two percent (1.2%) and the bonus is between one thousand eight hundred dollars (\$1,800) and two thousand dollars (\$2,000) depending on how long a firefighter has been in service. That would equate to another two percent (2%).

Councilmember Kagawa: So the total annual percent increase is two percent (2%), plus one point two percent (1.2%), plus two percent (2%)?

Ms. Rapozo: Yes, roughly. That is correct.

Councilmember Kagawa: So you are talking about five point two percent (5.2%)?

Ms. Rapozo: That is correct.

Councilmember Kagawa: Is that per year?

Ms. Rapozo: Yes.

Councilmember Kagawa: Thank you.

Ms. Rapozo: However, the bonuses will not compound. It is a one-time award. Across the board will...

Councilmember Kagawa: Basically, you are saying that it is five point two percent (5.2%) for the first year and three point two percent (3.2%) for the second year?

Ms. Rapozo: It will be five point two percent (5.2%), but the bonuses will not carry beyond that.

Councilmember Kagawa: Is this a one-year bonus?

Ms. Rapozo: Yes, that is correct, for each year.

Council Chair Kaneshiro: The bonus is for two (2) years?

Councilmember Kagawa: Two (2) years, so it is five point two percent (5.2%)...

Ms. Rapozo: Two (2) years, but it will not go onto the third or fourth year whereas across the board increases will continue.

Councilmember Kagawa: The third or fourth year has not been negotiated yet?

Ms. Rapozo: Correct. But the two percent (2%) will remain because it is already built into the salary scale.

Council Chair Kaneshiro: Is there any other questions from the members? Councilmember Evslin.

Councilmember Evslin: Could you walk me through that math again and how we got to five percent (5%)?

Ms. Rapozo: Two percent (2%) is across the board. The salary scale will increase by two percent (2%) depending on whatever it is at right now. All firefighters are entitled to a step movement. I believe it is every three (3) years. Our State's budget and finance personnel equated the step movement to about a one point two percent (1.2%) increase per year. Not every firefighter will receive the award, but when they do get it, it will equate to about three percent (3%) to four percent (4%). The bonus will come in on July 1<sup>st</sup> of each year. It is between one thousand eight hundred dollars (\$1,800) and two thousand dollars (\$2,000), which equates to about two percent (2%), but that will not compound moving forward.

Councilmember Evslin: How is the bonus calculated in their pension?

Ms. Rapozo: If they were hired before July 2012, it will be included.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Are there any further questions from the members? If not, thank you. We will take public testimony. Is there anyone that has signed up?

KARLYN SUKEHIRA, Council Services Assistant I: We have three (3) registered speakers, first is Bobby Lee, followed Bryan Doo.

Council Chair Kaneshiro: Mr. Lee, you will have three (3) minutes. The light will turn green when your time starts, it will turn yellow when you have thirty (30) seconds, and it will turn red when the three (3) minutes is up. We will

take testimony from everyone that is wanting to speak for the first time. Once everyone is finished, if you still have more testimony that you would like to provide, you will have another three (3) minutes.

BOBBY LEE, Hawai'i Fire Fighters Association, President: Okay, great, thank you. Good morning, my name is Bobby Lee. I am the President of the Hawai'i Fire Fighters Association. I have been the president for about twenty-one (21) years and I am also a firefighter for about thirty-six (36) years. I submitted written testimony, I know that you have it, so I am not going to read it. I wanted to point out a couple of things. As far as the award goes, it is a final binding legal award, which is defined in the law. There seems to be some kind of misunderstanding with people saying that should this award be rejected, that will automatically send us back to the negotiation table. First of all, it would not automatically send us; however, that would be an option. I can tell you right now, that would not be an option we would consider. Having a final and binding award, if we were to go back to the negotiation table, we would basically be giving up collective bargaining. Not only for us, but for all the other bargaining units that have final and binding arbitration process. Therefore, you are talking about a number of other bargaining units that represent tens of thousands of County workers across the State. It is not an option to go back to the negotiation table. After going through this year plus process, we are able to come back here, and if that interpretation was correct, you folks are able to turn around and say, "No, I reject it and come back." You are not going to approve our award until we come with a contract of zero (0) raises. If we go to Maui, Maui Council can turn around and say, "No, that is not good enough for us. When you give up ten percent (10%), you can come back and we will sign off on this." Then we will go to Hawai'i Island, and they will say, "No, we are hurting even more because of the volcano and we are not going to sign off until you folks take a twenty percent (20%) cut." It is an unrealistic interpretation of the law when you are able to disregard a legal and binding award. Interpretation of the law is supposed to be reasonable and it is not reasonable when you interpret the law in a way that interpretation will actually eliminate the law. That is why I am saying to go back to the negotiation table will not be an option. We would be stuck having to go through other means to address this problem. That is basically my testimony. I am hoping we can count on you folks to support our award. I will be available after the meeting for any questions. Thank you.

Council Chair Kaneshiro: Thank you. Next Speaker.

Ms. Sukehira: Bryan Doo, followed by Gary Hudson and Jason Ornellas.

BRYAN DOO, Fire Captain: Good morning Chair and Councilmembers. For the record, Bryan Doo. I am here to support Bill No. 2748. We are currently the only county that is still seeking approval for this bill. I am not sure if you folks are aware but, yesterday Hawai'i Island voted unanimously to move this bill forward by a vote of 8:0. I wanted to point out that the folks you see behind me and the folks that are out there working today, they go to work every day to protect the public and environment from all sorts of hazards. They are professional and take pride in being a part of this community. The bill before you today is fair, it is reasonable, and it is consistent with other public safety employees here on Kaua'i and across the State of Hawai'i. We have followed Hawai'i Revised Statutes (HRS) 89-11

with regards to the resolution of disputes and in good faith collective bargaining for this agreement. Which again, was voted in favor unanimously by the arbitration panel. A no-vote or disagreement would be disheartening to hear from you folks, especially for our members and the community. This is an investment in our community and we do believe this is very fair. Please support this bill. Thank you.

Council Chair Kaneshiro: Gary Hudson. Are you folks speaking together or are you going to take your three (3) minutes after?

GARY HUDSON, Battalion Chief: Good morning Councilmembers and constituents, my name is Gary Hudson and I am a Battalion Chief with the County of Kaua'i Fire Department. I was not planning on speaking today, but I was compelled by the unity and support by the folks back there. Like all of you, we are here for the community. We are all working and serving the community. Firefighters work fifty-six (56) hour work weeks, holidays, special occasions, they miss a lot, and they work a lot while doing the job. Technically, I am not even in the union; in our positions, we are no longer in the union. I am here for them. These folks are here for their families. By looking at this contract, I think it is a very fair contract. The two percent (2%) across the board keeps up with the inflation. The step movements is something that happens as you hit anniversary dates throughout your career; they increase just one more. I would like to go on record and say that I am in support of this bill. Like I said, I was not planning on speaking so I just want to say I support the bill and support the folks back there. Thank you.

JASON ORNELLAS, Battalion Chief: Good morning Council, Battalion Chief Jason Ornellas. Like Battalion Chief Hudson, I was not planning on speaking, but we did want to come up here and show support for the contract and for the people behind us. I have over thirty (30) years in the Fire Department, and in that time, the fire service has really evolved. We have always provided the highest level of care throughout those years to the residents and visitors of our community. We have continued to evolve, we are upping our game, and we are going to continue to do so into the future even after I retire. I would like to thank you folks and I hope you will support the bill. We will be doing the best job that we are able to do for you folk now and into the future. Thank you very much.

Council Chair Kaneshiro: Do we have any other registered speakers?

Ms. Sukehira: We have no further registered speakers.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Is there anyone wanting to speak a second time?

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

Councilmember Evslin: Can I ask Councilmember Chock's questions?

Council Chair Kaneshiro: Yes, is that for Janine? If so, I will suspend the rules?

Councilmember Evslin: Councilmember Chock who is not here, has asked me to ask some questions of the union. I am not sure if Captain Doo, Bobby Lee, or the both of you would like to come up for a couple of questions?

Council Chair Kaneshiro: I am not sure if Mr. Lee is able to make every single meeting so...

Councilmember Evslin: These are Councilmember Chock's questions, who is not here, but he will be at the next meeting. Please explain the deliberation process, who is involved, how decisions are made, and who makes the final calls?

Mr. Lee: For the entire negotiation process? When you start the negotiation process, it is all defined by law. Everything is in Chapter 89. Between us and the employer, we follow the law closely. If there is a reason that we are not able, because of time constraints et cetera, we will mutually agree to adjust time issues. For the most part, it is all spelled out in Chapter 89. The process starts about one year and a half (1½) before the contract ends. First, we will go through a process of negotiation for a period of time. If we are not able to settle the issues, we will declare impasse and go through mediation. If that does not work, we will go through arbitration and an arbitration process selecting a neutral arbitrator. If we are able do it mutually, that is fine. If not, we will get a list of five (5) names from the American Arbitration Association and strike off names until we get a neutral arbitrator. The panel is made up of three (3) people. A neutral arbitrator, a union representative, and a representative selected by the employer. The panel is who conducts the arbitration hearing. At the end of the hearing, as defined by law, the arbitration panel has certain rules that they have to follow, along with certain criteria they have to use in coming up with a final and binding award.

Councilmember Evslin: Councilmember Chock's second question is, as it relates to the contracting question, how did the decision to approve the bonus occur and what is the reasoning behind those?

Mr. Lee: We did not make a proposal for bonuses. We had a proposal in our contract to address our hazard duty concerns. To make a long story short, as we were trying to address our hazardous duty issues with the employer, they were not inclined to work with us over our hazard duty issue. As a counter proposal, the bonuses were brought up from the employer's side and through the arbitration panel. Our hazard duty proposal was much more costly than what the bonuses are. It was there to address the firefighters' issues of increased cancer, long-term issues of cancer not only through our job that we are subjected to, but also when our career is over, with issues of shortening firefighters' lives, issues with post-traumatic stress disorder (PTSD), and firefighter suicide. As you know or may not know, firefighter suicide nationwide has reached a point where we have more firefighters dying from suicide versus fire deaths. It has become a much bigger issue for us. We were looking at a hazardous duty differential to convert our current hazard duty section in our contract to something that was much more meaningful for us. Unfortunately it cost more, therefore, the employers came up with a bonus not to copy SHOPO, but similar. We do not know or begin to profess why they got a bonus, but the arbitration panel felt that it was a reasonable compromise to do the bonus. Another factor is that the hazardous duty proposal would have been a monthly differential that would be added into the pay, which would be reoccurring yearly and

would be impacting retirement and everything else. Because of these factors, they thought that the bonus was a reasonable compromise.

Council Chair Kaneshiro: May I ask how much the hazard duty differential was?

Mr. Lee: Excuse me?

Council Chair Kaneshiro: The monthly duty hazard differential, what kind of numbers were they talking about?

Mr. Lee: It was a dollar amount, I do not remember the exact dollar, but it was a graduated scale for two (2) years. It would have been something similar to the police standard of conduct. It cost more than what the bonus is.

Councilmember Evslin: I have one final question from Councilmember Chock. What is the union's formula in generating what is a reasonable request and how is the County's budget taken into consideration.

Mr. Lee: As far as reasonable request, we ask for all of the State and City and County Comprehensive Annual Financial Reports (CAFRs). We hire a Certified Public Accounting (CPA) firm to go through everyone's books and to look at the financial stability of each county. We also look at the inflation rate, the cost of living, et cetera. We then come up with what we believe is fair and what the jurisdictions can afford. We do not just pull numbers out of the sky. Understandably, asking for something that a county cannot afford is a lost caused deal.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: By looking at what each county can afford, does the entire State have the same contract?

Mr. Lee: Yes. We are a Statewide contract, which basically means the weakest link controls what...it does not matter how much a county can afford or even with the State. The State Crash Firefighters, their money comes from a special fund, the airports fund, which we do not even want to go into how much money is in there. They do not even show up to address the ability to pay, because it comes from the State fund. It is really based on what is the weakest county.

Council Chair Kaneshiro: I guess my follow-up question or comment, when it comes to ability to pay, I think that is, for me, I get a little heartburn. If you look at total compensation including all the differentials, I think the total compensation increase that Fire gets is at least ten percent (10%) year-after-year. When you look at what the County has to pay in Employees' Retirement System (ERS), which is increasing, ERS has increased from twenty-eight percent (28%) to thirty-one percent (31%) to thirty-six percent (36%) and is going to increase to forty-one percent (41%). Those are costs solely borne by the County. It is a three percent (3%) increase, a five percent (5%) increase, and another five percent (5%) increase over the next three (3) years. When it comes to the County looking at how much we are able to afford, we see our costs rolling on. The questions is, do we have

the availability to pay? I would think we would always have the ability to pay. If we do not, we would raise taxes on people or we would take money from other departments. It is difficult on our side. It is a losing situation when it is ability to pay for a County.

Mr. Lee: I totally understand where you are coming from. We are kind of in the same boat, too. We have members across the State that have bills to pay, cost of goods go up, childcare goes up...we are stuck in the same boat as you and our members also expect us to try our best to take care of them. Somewhere along the line, we need to find that balance in working with you folks, every County, on how we cooperatively make things work.

Council Chair Kaneshiro: Do you know if the arbitrators take our County's total cost into consideration when it comes to the actual employees? The total compensation a fire employee gets, is going to be more than a two percent (2%) increase, a step, and a bonus. There is overtime, night differentials, et cetera. The total compensation and the total increase year-after-year is over five percent (5%). Between 2016-2017 and 2017-2018, it averages almost a ten percent (10%) increase year-after-year. Our ERS is increasing, which we have no control over that, which is to pay for retirees, pension, spiking was really big coming out of fire, and these are costs that the County bears. Do the arbitration look at those costs?

Mr. Lee: Absolutely. As we went through an arbitration hearing, it is basically a hearing, and there are witnesses from both sides including the employers that will identify all of what you are talking about. There is witnesses that will go through the material that you folks provide to us, which includes the County CAFRs which tries to identify the case for pay raises on our end. All of the County costs, overtime, ERS cost, are discussed and put into the record for the arbitration case. The arbitrator or arbitration panel is bound to look and consider that by law.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: This is my own question and not Councilmember Chock's. Can you walk me through the step movement plan and how that works?

Mr. Lee: Our firefighters start off at SR-15, probation of one year. After oneyear probation, they move to SR-17. Every three (3) years, they will receive a step movement. As Janine mentioned, the step movement will amount to about four percent (4%). Throughout their career up to step L5, which is twenty-five (25) years. In this award, we were able to add an L6, which is twenty-eight (28) years of service. Regardless of age, if you are on the old plan, you can retire at twenty-five (25) years; the newer recruits have age and years of service before they are able to retire.

Councilmember Evslin: As far as pay goes, when someone is moving from Firefighter I to Firefighter II, how does that interact with the step movement plan?



Mr. Lee: In that case, they would move to a different salary range, SR-17 to SR-19 would be a Firefighter II or SR-21 to a Firefighter III, and move up through the salary ranges.

Councilmember Evslin: Maybe this is a question for Janine, but you may know—what other County employees have similar step movement?

Mr. Lee: I know police have step movements, I am not sure...I thought United Public Workers (UPW) may have step movements, but I am not one hundred percent (100%) sure. I know for sure police, but I am not sure about the other bargaining units.

Councilmember Evslin: It is my understanding that the one point five percent (1.5%) in the contract for UPW is supposed to be the equivalent?

Councilmember Kagawa: Janine stated at the last meeting that UPW is the only union that does not have step movements.

Mr. Lee: Oh, that does not have?

Councilmember Kagawa: Hawai'i Government Employees Association (HGEA) and Hawai'i State Teachers Association (HSTA) all have step movements.

Councilmember Evslin: That is all my questions, thank you.

Council Chair Kaneshiro: Are there any further questions from the members? If not, thank you.

Mr. Lee: Thank you.

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

Council Chair Kaneshiro: Is there any discussion from the members? My suggestion would be to defer. We only have four (4) members here. Councilmember Kagawa.

Councilmember Kagawa: I agree. It is Councilmember Cowden's first time ratifying the contract, Councilmember Chock had questions, and Councilmember Kualii is also not here. This is an important decision and I think that everyone is torn as far as the bonus. It is not about the step movement and it is not about the two percent (2%). Because we set the precedence, this is the first contract, UPW is coming in at three point two percent (3.2%), which equates to the two percent (2%) plus the step movement. I am pretty certain that HGEA and HSTA will follow the same process. If you approve this, does HGEA, HSTA, and UPW change their contract to reflect something closer to five percent (5%) per year or is that not going to happen because fire is different from those units? At the end of the day, for me, it is important that all seven (7) Councilmembers vote on this bill. We have received calls, you have received calls from Hawai'i Island telling us, "Do what they could not do." At the end of the day, I believe it will pass here as well. Let us go through the process with all seven (7) Councilmembers, because this is a very

important decision that affects not only this contract, but it sets the tone for the rest. By vetting this item and having our concerns put out, hopefully, we will get into the years of the arbitration panels for the next units; we are struggling, we do not have money. Moving forward, let us negotiate something that we can afford without raising taxes. I know Honolulu City and County just came up with a fifty cent (\$0.50) increase for Homestead and one dollar (\$1.00) increase for Hotel. They said if they do not approve that, they will be sixteen million dollars (\$16,000,000) short in this year's budget. They obviously are struggling with their finances and with their rail fiasco. I believe we should defer this bill, have all seven (7) Councilmembers vote on it, and that way we will not have a tie vote, which will leave folks here frustrated. Let us wait until the next Committee Meeting.

Council Chair Kaneshiro: Are there any other comments from the members? Councilmember Evslin.

Councilmember Evslin: I agree with the decision to defer. For me, this process has been helpful in understanding what we are dealing with. Councilmember Kagawa has done a lot of good work with talking about spiking in previous discussions and through the budget. For me, to educate me on how detrimental that is to our County finances, to taxpayers on Kaua'i, and how we need to do to control that. I agree with what Council Chair Kaneshiro is saying regarding our binding arbitration process that is based on the County's ability to pay can be seen as a...we get punished for good financial behavior, which is not a good way to make decisions. I am not concerned with our ability to pay this year, next year, or the year after, the concern is our ability to pay in twenty (20) years. With slowing of population growth, aging population, and the Counties across the country are dealing with this sort of "Fiscal Ice Age," I am concerned about that in the long-run. As it relates this, Social Security Administration has said, "The cost of living increase for 2019 is two point eight percent (2.8%)." We know that the average wage increase in Hawai'i last year was two point three percent (2.3%). Most of the County employees are getting similar increases. I do not think that it is out of line and I think that the risks of us overturning this decision is pretty profound on the way that it impacts public-sector unions. As a private-sector employer, with non-unionized employees, I value the role of private and public sector unions. I think that in places that have higher rates of union membership have lower levels of inequality, not to mention, protection from minorities and women, and all of things unions have done in the past. By rejecting this bill, in my mind, is the nuclear option. It is clearly specified in state law that for a negotiating agreement, if we reject it, it will go back to the bargaining table. If we are binding an arbitration agreement, it is not clearly specified. It says, "subject to our approval," but it does not say what happens next. In my mind, it is like the nuclear option, you do it and upends existing norms with unforeseen consequences, and I think clearly it would lead to a lawsuit. In my mind, that lawsuit if we win it and we have the veto power over their contract and they do not...they cannot go on strike, so they do not have the same power as we do, it is like flipping the negotiation table upside-down. It really does profound damage to the ability of public-sector unions to negotiate. I am not willing to go down that route. If we lose a lawsuit, what is the point here? I do think if it was terribly out of line, then maybe that nuclear option could be something that we think about, but I am not willing to go down the road for this right now but, I do agree with the option to defer today. Thank you.

Council Chair Kaneshiro: Is there any other comments from the members? Councilmember Kagawa.

Councilmember Kagawa: I have presentation in two (2) weeks to justify where I am at. Like I said, I did not want to waste the public's time, because we have three (3) other members on the committee and I would also like to show them my presentation. I do not know if Council Chair Kaneshiro has the same?

Council Chair Kaneshiro: I am going to show the information on total compensation and the increases. We all know that the cost of living increases and estimated about three percent (3%), which may be a little high. When we are seeing total compensation that exceeds ten percent (10%) every year, then the question is, is it too high or too low, can the county afford it, and what is the rationale? Ultimately, we are responsible for the county's money. If the arbitration went through and they said, "Council cannot vote it down," then they should have made it where we do not have a choice in voting. But we do, we need to vote on it here, which means there is a choice that we can make here on this table—to say we agree or not, it may hurt the county in the future and I think that is the discussion that we are going to have. I believe what Councilmember Kagawa and I have will show the trend of our costs. Ultimately, are we able to continue to pay money like this in the future? Is there any further comments from the members?

Councilmember Kagawa: The last point is the Līhu'e Airport Fire Department, you see when you pay your ticket how much of the fees go to the State. It is not a funding issue for the Līhu'e Airport Fire Department, they have a lot of money. I think for Kaua'i and Hawai'i Island, we are the two (2) counties that do not have money. This is why it is not an easy decision. If we were Maui and we had the revenue stream that they have—they have a lot of user fees in their budget. I think it would be a lot easier. For Kaua'i, "If you pay for this, then you are able to fix that" or "you raise taxes." All of the Councilmembers preach when we run for Council that "taxes is going to be our last resort." We struggled to balance this year's budget without the increases. Good luck next year, I only have one year left, so it will be your problem soon.

Council Chair Kaneshiro: Can I get a motion to defer to the June 19<sup>th</sup> Committee Meeting.

Councilmember Brun moved to defer Bill No. 2748 to the June 19, 2019 Committee Meeting, seconded by Councilmember Kagawa, and carried by a vote of 4:0:3 (*Councilmembers Chock, Cowden and Kualii were excused*).

Council Chair Kaneshiro: Motion is carried. With that, we are done for today. That concludes our Committee of the Whole Meeting.

There being no further business, the meeting was adjourned at 9:54 a.m.

Respectfully submitted,



KarLyn Sukehira  
Council Services Assistant I

APPROVED at the Committee Meeting held on July 10, 2019:



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ARRYL KANESHIRO  
Chair, COW Committee