

COUNCIL MEETING

FEBRUARY 8, 2017

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, February 8, 2017 at 8:33 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun
Honorable Mason K. Chock
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable Derek S.K. Kawakami (*present at 8:35 a.m.*)
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Yukimura moved for approval of the agenda as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 6:0:1 (*Councilmember Kawakami was excused*).

INTERVIEW:

FIRE COMMISSION:

- Alfredo C. Garces – Term ending 12/31/2018

Council Chair Rapozo: Thank you. With that, Mr. Garces, if you would like to take the hot seat.

ALFREDO C. GARCES: Sure. Actually, this is my first time to the Council Chambers.

Council Chair Rapozo: Yes.

Mr. Garces: *Aloha* and good morning, Council Chair Rapozo, Vice Chair Kagawa, and Members of the Council. My name is Alfredo Garces and people call me Al. It is very short and sweet. I was born and raised here on the island of Kaua'i. I love it here. Also, I had the opportunity to work at various resorts on Kaua'i. I have been in the hospitality industry for over twenty-five (25) plus years. I believe that safety is everybody's responsibility. Just to give you a background of what I did this past year at the resort that I worked at, I was involved in the safety committee with an associate, and there were various managers. What we did was we went to various sectors and did safety inspections. It is just a good opportunity for a manager and a line employee to see various areas of the property. It is fifty (50) acres.

There are a lot of areas that can be overlooked, but it is just a good look with fresh eyes. Other than that, that is all I have. Are there any questions for me?

Council Chair Rapozo: We will find out. Thank you very much. Are there any questions for Mr. Garces? Councilmember Yukimura.

(Councilmember Kawakami was noted as present.)

Councilmember Yukimura: Hi, good morning.

Mr. Garces: Good morning.

Councilmember Yukimura: Your application says that you work for the Grand Hyatt Kaua'i Report and Spa...

Mr. Garces: That is correct.

Councilmember Yukimura: ...since 1991, so you have been there a while?

Mr. Garces: Actually, twenty-five (25) years plus, yes.

Councilmember Yukimura: Yes. You live in Kapa'a, so do you commute every day?

Mr. Garces: Yes, but it is a different kind of commute where...

Councilmember Yukimura: Yes, you are going against...

Mr. Garces: Yes. You feel the traffic on the west side coming in, but the only area again as mentioned is in Kapa'a, especially this morning. I was at the Wailua Golf Course, and I was like "wow, this is the farthest I have been..."

Councilmember Yukimura: Backed up?

Mr. Garces: Backed up, yes.

Councilmember Yukimura: I see that you have served on the Kapa'a High School Foundation.

Mr. Garces: That is correct.

Councilmember Yukimura: Does that mean you are a Kapa'a High School graduate?

Mr. Garces: That is correct.

Councilmember Yukimura: Okay. You are being appointed to the Fire Commission, which does involve a lot of safety. Do you have any ideas about what you want to do or are you...

Mr. Garces: Well, you have to go in there open-minded. I am sure there are opportunities to review and see. Again, I feel safety is everybody's responsibility.

Councilmember Yukimura: I think that is a very good theme.

Mr. Garces: Yes.

Councilmember Yukimura: Recently, our firefighters have started working with the Office of Elderly Affairs to go into homes of the elderly to look for fall prevention.

Mr. Garces: Right.

Councilmember Yukimura: So, inspections are a part of the work that they are doing.

Mr. Garces: In the workforce, too, there are more baby boomers at this time.

Councilmember Yukimura: Baby boomers who are ageing right now?

Mr. Garces: Ageing, yes.

Councilmember Yukimura: That is correct.

Mr. Garces: That includes me.

Councilmember Yukimura: Yes, in fact, our statistics show that we are going to get to thirty percent (30%). Those over the age of sixty (60) will become thirty percent (30%) of the population...

Mr. Garces: Correct.

Councilmember Yukimura: ...over the next ten (10) or twenty (20) years.

Mr. Garces: Yes.

Councilmember Yukimura: Thank you very much.

Mr. Garces: Thank you.

Council Chair Rapozo: Thank you. Are there any other questions for Mr. Garces? If not, thank you very much, sir.

Mr. Garces: Thank you.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: I appreciate your service. With that, staff, can we have the next item, please? We will be taking C 2017-49 next, which is the briefing from the State of Hawai'i Employees' Retirement System (ERS).

CONSENT CALENDAR:

C 2017-46 Communication (01/10/2017) from the Director of Finance, transmitting for Council information, the Second Quarter Statement of Equipment Purchases for Fiscal Year 2016-2017, pursuant to Section 17 of Ordinance No. B-2016-812, the Operating Budget of the County of Kaua'i for Fiscal Year 2016-2017.

C 2017-47 Communication (01/30/2017) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Adopting Rules of the Council of the County of Kaua'i for Investigations Conducted Pursuant to Section 3.17 of the Charter of the County of Kaua'i and Repealing Resolution No. 2005-25, Draft 1.

Councilmember Kagawa moved to receive C 2017-46 and C 2017-47 for the record, seconded by Councilmember Kaneshiro.

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

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

The motion to receive C 2017-46 and C 2017-47 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

There being no objections, C 2017-49 was taken out of order.

COMMUNICATIONS:

C 2017-49 Communication (01/27/2017) from Councilmember Kaneshiro, requesting the presence of the State of Hawai'i Employees' Retirement System (ERS) Executive Director, to provide a briefing on the State of Hawai'i Employees' Retirement System and the financial implications to the County of Kaua'i: Councilmember Kagawa moved to receive C 2017-49 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. With that, sir, thank you for being here today. I see that you have a briefing for us. If you could start with your name for our captioner, and then you can proceed.

There being no objections, the rules were suspended.

THOMAS WILLIAMS, State of Hawai'i Employees' Retirement System Executive Director: Indeed. Good morning, Council Chair Rapozo, Vice Chair Kagawa, and Members of the Council. My name is Thomas Williams and I am the Executive Director of the State of Hawai'i Employees' Retirement System. I have been in that role since November of 2015. Let me say that I really appreciate the invitation to be here to speak with you to provide an update as it relates to the fiscal status of the Employees' Retirement System. I hope I will have an opportunity to respond to any related questions that you might have about the system. I have prepared a brief introduction to the system as well as some information that relates specifically to the contribution increase that is being requested in the current Legislature, and we will talk about the implications of that for the County of Kaua'i in particular. I had the occasion just a number of weeks ago to meet with your fiscal officers to brief them as to the likelihood of this impending increase. I have also visited all of the other employer units on the neighbor islands in an effort to communicate in advance what we saw as a very substantial increase in the contributions, and we will talk in some detail as to why that was about. Let me also acknowledge Sheri Kunioka-Volt, who is here. She is with our Kaua'i Office of the Employees' Retirement System just across the way. She has hosted me and provided transportation from the airport. I would also like to acknowledge Ken Kimura, who assists Sheri in the ERS office here. I would encourage questions throughout the process, if you choose. We will certainly make some time at the conclusion to address anything that you might choose.

Before you, you have a printed copy of the materials that are being telecast there. That is just the agenda, but it is not intended to be exclusive or all inclusive. For example, we are going to talk about a number of basic issues, membership, benefits, contributions, unfunded liability, and the like.

(Councilmember Kagawa was noted as not present.)

Mr. Williams: It is most important that we address any of the concerns that may arise that are not presented or discussed specifically in the context of this presentation. You are all probably familiar with the basic membership of the ERS, the full-time employees of the City, County, and the State of Hawai'i. We have about one hundred twenty thousand (120,000) members in the system that is comprised of about sixty-seven thousand (67,000) active employees, forty-five thousand (45,000) retirees and beneficiaries, seven thousand seven hundred (7,700) inactive members, and there is probably another twelve thousand (12,000) or so members who have some level of service with the ERS, but are not vested. So these numbers represent individuals who, in fact, are entitled to some level of benefit from the system.

Just giving you a sense of how the membership has grown over the years, this shows from 2003 through 2016, getting us up to the one hundred twenty thousand (120,000) members that we talked about. You can see back in 2003, there were about ninety-eight thousand (98,000) members. In 2010, we had achieved about one hundred twelve thousand (112,000) members, and it has grown steadily to where

we are at today at about one hundred twenty thousand (120,000) members. I think the actual membership understates the impact, obviously, of the system because these members support families, spouses, and others. While we represent about eight percent (8%) of the entire state population, I think the impact extends significantly more broadly.

We have retirees and beneficiaries there, which we just discussed. Next, in the context of retirement, it seems like we had a banner year back in 2010. That shows you we have about almost two thousand five hundred (2,500) people to retire, it declined somewhat in subsequent years, but it is on the rise again. In a moment, I have a slide that illustrates that. We have about fourteen thousand (14,000) individuals who can retire today. In other words, they have the necessary years of service to actually retire. So rather apropos when we are talking about the baby boomers and their impact in society, the economy, and the impact that they are having on ERS because the expected retirements are increasing and again, with this fourteen thousand (14,000) who are eligible as we speak, we are going to be under a significant demand for counseling services. It also actually represents a drain on the assets of a system. It is probably important for you to know that, and this is mentioned elsewhere in the slides, but we at present, we payout about one billion two hundred fifty million dollars (\$1,250,000,000) in benefits on an annual basis, but we only receive about nine thousand fifty million (\$950,000,000) in contributions. It is viewed as a mature system with a negative net cash flow. With the contribution increases that are being contemplated, we may find ourselves in a neutral cash flow position. That particular slide also indicated that over the next twenty (20) to thirty (30) years, that the one billion two hundred fifty million dollars (\$1,250,000,000) we pay now is going to increase to about three billion five million dollars (\$3,500,000,000), and of course that is leveraged throughout the economy four (4) or five (5) times.

The assets as of June 30, 2016, the actuarial value of the system was fifteen billion dollars (\$15,000,000,000). The market value was fourteen billion dollars (\$14,000,000,000). One of the things I would like to just sort of observe or caution about is we look at the investment performance of the fund sometimes on a very frequent basis. We look at one endpoint and measure the performance of the fund as of that date. For example, June 30, 2016, I think the year prior, we had a negative one point two percent (-1.2%) yield, in fact, at budget hearings, we were severely criticized for that. It was not a result of any particular missteps and, in fact, there were none as it relates to the ERS investment program, but the global investment environment was muted. It was negative. Most public pension funds and endowments had returns in maybe the positive one percent (+1%) area down to a negative two percent (-2%). It is unfortunate that we are right in the middle of the pack at negative, but if we were to look at that same return or measure it as of September 30th or for example, December 31st, you would find a significantly different number. For example, for the twelve (12) month period ending December 31, 2016, the fund is up seven point nine percent (7.9%). If we were to look through the end of January, it would be up over fourteen percent (14%). We are not significantly focused on these short-term movements as the earnings of the fund overtime. You see here that there is a return on the actuarial value that was positive five point six percent (+5.6%) and the market value was a negative one point two percent (-1.2%) that I

alluded to. The actuarial value, you may understand as this so-called “smooth value” where they take twenty-five percent (25%) of investment gains or losses each year and credit them over that four (4) year period so as to avoid dramatic spikes in the required contributions. It also shows an exceptive return of seven percent (7%) there. That is a more recent decision/assumption that was adopted by the Board of Trustees at its meeting on January 9th. It has had some significant implications for the unfunded liability and the contribution levels that are being required. It is one of the primary factors that we will talk about in more detail, but there are other factors as well; mortality, which relates to our longevity of the people in the State of Hawai‘i. You are all blessed to have the highest longevity of any State in the Nation. Now, that is a great thing. You are not going to complain about that, but it does mean that we have to end up paying benefits longer than any of our public pension fund peers around the Nation. If you were to compare the life expectancy at retirement here, it is a huge contrast. If you see Mississippi, they are so far to the right and on the far left margin is the highest, which is us and then Minnesota. I believe it was maybe an eighty-one point two (81.2) year average life expectancy. Now, I would like to caution you and say that while this is not a chart I have here, but I have seen these, it talks about life expectancy and looks at life expectancy actually from birth. For our life expectancy, we tend to look at it from date of retirement because from birth, you find life expectancy is actually understated because it includes all of the people who die as a result of influenza, drug overdoses, and all of these things, which tends to have a lesser impact later in life, the more mature you are. So, we measure life expectancy from retirement because that is what is meaningful to us in the context of how long we are going to have to pay benefits. The funded status of the...

Council Chair Rapozo: Can I ask one (1) clarification question?

Mr. Williams: Yes.

Council Chair Rapozo: Regarding the values and returns...

Mr. Williams: Yes.

Council Chair Rapozo: ...this is all of June 30th. I am assuming that it is the last fiscal year. Is it a one (1) year snapshot?

Mr. Williams: It is a one (1) year snapshot.

Council Chair Rapozo: Okay.

Mr. Williams: That is actually right, and this valuation is done on an annual basis. I think this is the 91st actuarial valuation that the system has performed, but it is from July 1st through June 30th of each year. It is typically presented to the Board in a draft form in December, final form in January, and that is when the Board adopted this officially.

Actuarial accrued liabilities. This is the sum of all of the benefits that we are obligated to pay, twenty-seven billion four hundred forty million dollars (\$27,440,000,000) and to pay the assets, they are just about fifteen billion

dollars (\$15,000,000,000). Ideally what you would want is a match between your assets and your liabilities or at least for there not to be such a significant disparity as we see here. There are a number of reasons why the disparity is as large as it is. Some related to the fact that for thirty-seven (37) years, contributions to the retirement system were reduced by excess earnings and I think the excess contributions, or what would have been excess contributions, were diverted to the State's General Fund, which was to the tune of about one billion seven hundred million dollars (\$1,700,000,000). Some studies have been performed that suggest that had that diversion not occurred, we would be near one hundred percent (100%) funding today, but that is not the reality of it all. So the disparity in what we owe in benefits; twenty-seven billion dollars (\$27,000,000,000), fifteen billion dollars (\$15,000,000,000) in assets and twelve billion four hundred four million dollars (\$12,440,000,000). Based on the current contribution level, that is the level in effect today, seventeen percent (17%) for general employees and twenty-five percent (25%) for police and fire, it would take sixty-six (66) years to fully fund those benefits. The sixty-six (66) year period is important because there is a statute in effect as we speak that says that any time the funding of the system extends beyond thirty (30) years, that we need to come back and suggest alterations/changes in benefits or contributions to get it back to thirty (30) years. The thirty (30) years is the period that the Society of Actuaries (SOA) typically suggests is the longest period you ought to be measuring these liabilities over because there is an effort to pay for the benefits that are being accrued by the current generation, in the context of their working career and not to shift those liabilities to a subsequent cohort. The problem is that we are shifting our liabilities to subsequent cohorts by having this twelve billion four hundred four million dollars (\$12,440,000,000) unfunded liability, in fact, the recent change in the program, this was in 2012, introduced a new tier of benefits for new employees. Approximately fifty percent (50%) of every dollar that is contributed for a new employee goes towards paying the unfunded liability for individuals who accrued service prior.

Let us see, moving on. The funding ratio is the ratio of the assets to the liabilities. It is now at fifty-four point seven percent (54.7%). I am not proud to say that that puts us in the bottom quartile of public pension funds in the Nation. It is not to be terribly worrisome so long as we have a plan to elevate that funded ratio and the contribution increases that are being contemplated are just intended to do that, but having a funded ratio of about half the money that you need, puts you in somewhat perilous position. You not in a position to endure dramatic swings in the investment markets. They pose more risks to a fund that is less well-funded than they would if a plan were fully funded. In others word, you have a bit of a cushion that we do not have. We can talk later about some of the steps we are talking to try to inoculate or insulate the fund from some of the market risks, that is something called "crisis risk offset" that we are imploring that should mitigate the downside risk to the fund.

Here, we have a projection of funded ratio from the June 30th valuation of last year, and we compared that to the 2015 valuation. The 2015 valuation, the one for

the year prior, is the green line. What it shows is that we were at sixty-two point two percent (62.2%) funded level, but in about twenty-five (25) years, approximately 2041 or 2042, we were scheduled to get to about one hundred percent (100%) fully funded. That was a reasonable track, but based on the mortality and the long-term muted investment expectations, it appears as though it will take us almost sixty-six (66) years to get to full funding, that is the red line, but assumes no contribution changes are made.

Moving on, the unfunded liability. Again, we basically touched on that. This is the difference between the value of the benefits that are earned, the liability, and the funds that we have available to meet those obligations. It says here that the unfunded liability grew primarily because of the change in our investment return rate assumption. It had been seven point seven five percent (7.75%) actually and was voted to go down incrementally to seven point five percent (7.5%), but based on the recommendations of investment consultants, actuaries, and economists, we have taken the step to move to seven percent (7%) expected long-term return. We can talk as to the validity of that. Obviously, no one knows exactly what is going to be produced, but we want to be more conservative than less so. Having a lower assumed investment return requires more contributions earlier on, but it actually saves money long-term because we will show you a slide that suggests by deferring contribution increases, in fact, you pay more money. It is just your long-term obligations grow. It is like a mortgage. If you pay less than your mortgage payment, the liability mushrooms. For example, if we were to look at the slide prior, the difference between the green line and the red line is about two hundred twenty-five billion dollars (\$225,000,000,000) of additional contributions that the fund will make if it does not increase the contributions at present.

Magnitude of individual assumptions. We mentioned the investment return assumption is having the biggest impact. This is just a relative view of how these various components impact the funding period. Investment returns by far and away are the largest followed closely by life expectancy. Those are the two (2) things that have worked against us in the current year. Also, payroll growth has exceeded expectations as well as individual salary increases. Retirement behavior, whether people retire earlier or later, or whether they terminate employment, or otherwise become disabled, has an impact, but a relatively minor one in relation to the investment return and life expectancy.

Yields on the market value of assets. This shows the kind of volatility that the fund has experienced over the last ten (10) years. It looks like this is illustrating the returns of the fund from 2001 through 2016. The blue line shows where we are hoping the fund will average out over the period going forward, which is the seven percent (7%). It shows the green line there, which is five point three percent (5.3%) return over the last ten (10) years. It shows below that, that we had six point two percent (6.2%) over the five (5) year period and five point seven percent (5.7%) over the fifteen (15) year period. What that suggests, to me, is that we have earned over a fairly long period of time, considerably less than was forecast. We had seven point seven five percent (7.75%) going to seven point five percent (7.5%), and now we are at seven percent (7%). But over that fifteen (15) year period, we have not been able to achieve that assumed level of return. I think there are a number of reasons why I

think it is largely related to the market, but I also think that we have to spend a little bit more time investing in our investment capabilities, quite frankly. It is one (1) of the few areas remaining where we can leverage our investment. About two-thirds (2/3) of every dollar that is paid in retirement results from investment earnings and the other one-third (1/3) comes from the contributions, but it is the investment and the compounding of earnings on those contributions that has the biggest impact. We are already proposing increases in contributions, pardon me. I do not know that we can reasonably recommend significantly more because there comes a point when the benefits begin to crowd out other important goals and needs in the community. So, I am hopeful that we can get some additional resources related to our investment capabilities.

Improvements in life expectancy. This chart shows in comparison the improvements in life expectancy of ages sixty (60), sixty-five (65), and seventy (70) from 2000 to 2005 versus 2010 to 2015. Just looking at the far left for teachers, general employees, and fire and police, the dark line shows for each of those groups how the life expectancy has extended over that period from 2005 to 2015. For example, if you just look at the far left column, which is related to teachers, it shows that a teacher in 2005 who was sixty (60) years old probably had a life expectancy of just under twenty-five (25) years after retirement. That has grown by one point (1.4) years as of 2015. Similarly, a one point eight (1.8) year improvement in longevity for general employees, and two point three (2.3) years for police and fire. Interestingly, while their overall life expectancy may be lesser, but the kind of improvements they are experiencing in equipment, safety, and healthcare has resulted in a more significant increase in their longevity as compared to other employee groups. This is for males. If we were to look at females, it would be comparable, but a little bit better, quite frankly.

This shows the next impact that relates to payroll growth. Again, this shows you how the payrolls have grown and salaries how their salaries have actually changed from 2006 to 2015 for police, fire, teachers, and general employees. You can make your own observations there. Police and fire are doing reasonably well and I am sure they earned it. It also shows general employees and teachers. These increased levels exceed the assumptions in the program and that is why the liability has increased more significantly than otherwise forecasted.

We have been asked to provide a history of the contribution rates and this shows for both pre-July 2012 and post-June 30, 2012 with a new tier of benefits. This shows what the employee contributions are for each plan, and you have got a copy of that so you can peruse that later, if you choose.

The next slide shows corresponding information for employer contribution rates for both police and fire and all others, and July 1, 2015 shows where we are at now; twenty-five percent (25%) contribution for police and fire, and seventeen percent (17%) for all other employees, general employees. The employee contributions for that fiscal year equals to about seven hundred fifty million dollars (\$750,000,000). There is another two hundred million dollars (\$200,000,000) that comes from the employee.

We were asked to provide a sample retirement benefit calculation. I will not go over this in detail, but this is a person who was in the system prior to July 1, 2012 with thirty (30) years of service. They would be receiving about thirty-six thousand dollars (\$36,000) a year or three thousand (\$3,000) a month in benefits. If you look at the life expectancy of about twenty-seven (27) years, that will be close to one million dollars (\$1,000,000) that we would pay over their lifetime; some more obviously, some less. It shows that the employee would have contributed three thousand six hundred dollars (\$3,600) and the employer would contribute ten thousand two hundred dollars (\$10,200) annually.

Impact of higher contributions. Again, the red line at the bottom shows what will happen to the fund if we do not increase the contributions. It shows that the funding ratio that is now at fifty-four point seven percent (54.7%), is going to decline and go down near forty percent (40%), but never increasing much above forty percent (40%), and result in significantly higher contributions and risks to the fund. The blue line above shows the track if contributions are increased, and it would put it back on track to get it fully funded in twenty-five (25) or thirty (30) years; 2040 or thereabouts.

Impact of contributions rates. Well, you know it all too well. It increases the dollars that you have to contribute on an annual basis. The pension payroll for Fiscal Year 2018 Statewide is about three billion eight hundred million dollars (\$3,800,000,000) for all other employees and four hundred ninety-three million dollars (\$493,000,000) million for police and fire. We know that police and fire, in particular, impacts the counties more directly than the State. They have a relatively lesser exposure to police and fire employees. So combined, the payroll is about four billion three hundred forty million dollars (\$4,340,000,000). This one percent (1%) increase, just a single one percent (1%) increase in contributions for all other employees represents about thirty-eight million six hundred thousand dollars (\$38,600,000), four million nine hundred thousand dollars (\$4,900,000) for police and fire, which is a combined amount of forty-three million five hundred thousand dollars (\$43,500,000). That is a number we developed for the Legislature so that they could sort of get a sense for each one percent (1%) of increase in the contribution rate, this is the kind of multiplier effect, the forty-three million five hundred thousand dollars (\$43,500,000). In total, if we went immediately to the twenty-four point seven five percent (24.75%) that is recommend for general employees and the forty-two point five percent (42.5%) that is recommended for police and fire, it would result in about three hundred eighty-five million dollars (\$385,000,000) in additional contributions per year, and that is shared about between two hundred nine and three hundred by the State and the balance by the cities and counties.

This slide shows the contribution recommendations, which are not what is going to be actually implemented. It shows the unfunded accrued liability for first, police and fire and all other employees, to the twelve point four percent (12.4%) that I talked about, the fifty-four point seven (54.7%) funded ratio, and the sixty-six (66) year funding period. The bottom horizontal line shows twenty-five (25) year funding period. That is what the Board looked at because the plan was on track to be fully funded in twenty-five (25) years. They did not want to lose ground in that regard and

they recommended based on the actuarial recommendations, an increase in police and fire raised to forty-two point five percent (42.5%) and to twenty-four point seven five percent (24.75%) for all other employees. Now, the Board did that recognizing full well that it would be difficult if not near impossible to absorb that in a single year. But the Board's responsibility is to make the recommendations that reflect its fiduciary obligation to make decisions in the best interest of the members and the plan. Subsequently, we have been working with the Legislature to develop alternative phase-in possibilities.

The next slide is Kaua'i-specific and this first slide excludes the Department of Water. It shows what your 2016 payroll is for other employees, police, and fire under the current contribution rates. Your total contributions this year for the last fiscal year were about fourteen million six hundred thousand dollars (\$14,600,000). Then, the section sort of immediately below assumes, based on the very same payroll, if we increased the contributions to twenty-four point seven five percent (24.75%) for general employees and forty-two point five percent (42.5%), that those contributions would increase by the numbers shown, which is about eight million two hundred thousand dollars (\$8,200,000) million or a fifty-seven percent (57%) increase over the year prior. I know that is tough to swallow. We have also indicated below what each one percent (1%) increase is, which is about four hundred sixty-eight thousand dollars (\$468,000) for all others and two hundred sixty-six thousand dollars (\$266,000) for police and fire because there will be some phase-in increases that are likely to be adopted. The difference between the seventeen percent (17%) and twenty-four point seven five percent (24.75%) is seven point seven five percent (7.75%). If you wanted to know what the cost would be if we went directly to the seven point seven five percent (7.75%), it would be seven point seven five percent (7.75%) times four hundred sixty-eight thousand dollars (\$468,000) for all employees, and then the same for police and fire. It would actually be seventeen point five percent (17.5%) times because their numbers would have gone from twenty-five percent (25%) to forty-two point five percent (42.5%).

The next slide illustrates the Kaua'i Department of Water only. It has similar numbers as to what the contributions were in 2016 and what they would increase under the new contribution schedule for all other employees. I do not believe any police and fire are included in the Department of Water. The illustration is here.

Next, are some legislative proposals that we can talk about if you want. There are actually five (5) that ERS has submitted and probably thirty (30) more that impact the ERS in one way or another. So I have been spending a goodly amount of time over the last week or so, yesterday, tomorrow, and pretty much all day at the Legislature testifying as it relates to these bills. House Bill (H.B.) 1061 has a companion bill in the Senate, and that is the one with the employer contribution rates. We have recommended that for police and fire, there would be a phased-in four (4) year increase of four percent (4%) a year. That would bring the police and fire rate up to forty-one percent (41%), slightly below the forty-two point five percent (42.5%) that we were recommending, but that is in an effort to, again, ease the phase-in. It will cost a little bit more, but it still keeps the plan on track for full funding in about thirty (30) years. The phased-in increase for all other employees is shown, or at least in the bill, at two percent (2%) a year for four (4) years, and it gets

it up to twenty-five percent (25%). That keeps that, too, on a thirty (30) year funding track. We have provided a whole host of alternative assumptions to the Legislature; half a percent (0.5%) increase in the first year, followed by three percent (3%) increases, and one percent (1%) each year, followed by six percent (6%). A whole range of those. From an actuarial perspective, we think this is what is being proposed by the Board; however, the Board has no control over the contributions. That is the Legislature's full prerogative.

Unclaimed property. We are asking there. It is pretty minor. I think between five hundred thousand dollars (\$500,000) and one million dollars (\$1,000,000) a year, we find ourselves not being able to pay out because we cannot locate the people, they move, and do not let us know where they are. Right now, those moneys escheat to the Unclaimed Property Fund or to other States. We want to preserve the rights of people to claim those moneys, but would like to keep them in the fund until they are claimed so that we can earn more money on them because they earn less than a quarter of a percent (0.25%) in the State's treasury versus the hope for a seven percent (7%) or more in the ERS.

The next one here, there is this separation of public employees. This sort of accrued out of Maui separation of the Maui hospitals where there was a proposal to transfer about one thousand five hundred (1,500) employees from the State employer to the Kaiser Hospital system. It seems like a good thing to do, I guess, from an economic perspective, but it has a negative impact on the retirement system because the retirement system is deemed to run into perpetuity and it expects contributions from these members. The lost contributions for those one thousand five hundred (1,500) members would total two hundred thirty million dollars (\$230,000,000), so most public pension funds do not allow employer units to withdraw from the fund. They are required to be in the fund, but those that do, generally have sort of a charge to make them pay their portion of the unfunded liability because that is the unfunded liability increase that they would be causing if they are allowed to leave, which we do not control. The Legislature controls that. That means that it leaves that gap for the remaining employers to pay, so the unfunded liability does not go down. It just gets spread against fewer employers and employees.

Then, there is House Bill 1067. This is trying to get the two (2) investment specialists that we currently employ to be exempt from civil service. We are trying to retain them and compensate them a little better. H.B. 1070 "Housekeeping," may be of interest to you because the first bullet point relates to something pretty esoteric. We actually allowed a six (6) month period to finalize benefits. We try to pay people immediately based on estimated benefits, but it takes some time for employers to provide us final information as it relates to vacation, sick leave, and all of that. Then, we make adjustments to their final pay. We have six (6) months to finalize those. If we do not, we pay interest at four point five percent (4.5%). This is measured from the month of retirement. We have six (6) calendar months from retirement. It is really minor, but it costs us money. People in December can retire on the 1st or 31st. The vast majority retire on the 31st and we actually end up with practically five (5) months before we are paying interest on them. That is trying to address that little disparity. The second bullet point relates to spiking for overtime payments for

individuals who inflate their final average compensation resulting from increased overtime. Right now, we bill the employer units in the year after their retirement. A number of employers have suggested to us that they would like that bill to be payable in the subsequent year rather than in the current year because they have not budgeted for it. We are asking the Legislature to allow us to issue the bill for the current year, but it will not be payable until the subsequent year, and again, that is at the request of employer units. The third and final bullet point there relates to the fact that we are trying to improve the disability determination process. It really is inordinately cumbersome and long. We hope to have ordinary disability completed within six (6) months, service connected disabilities. The objective is within two (2) years. I find the two (2) year objective as unacceptable, personally, because if you had to be without pay and without benefits for two (2) years, most of us could not endure that. So we are trying to improve that by looking at alternatives to the Medical Board as well as giving the Executive Director the authority to approve the recommendations that come from the Medical Board as opposed to requiring that they go to the Board for approval. The Board is in large measure, a rubber-stamp for the recommendation of the Medical Board and adds another month or two (2) to the process, but with no appreciable benefit. That probably represents the bulk of what I wanted to say in terms of the overview and where we are at in terms of contribution increases. I would be more than pleased to respond to any questions that you may have.

Council Chair Rapozo: Thank you very much. I am sure there are some questions. Are there any questions? If we could just start from the beginning of the presentation and work our way through. Are there any questions?
Councilmember Kaneshiro.

Councilmember Kaneshiro: I have some, but they are all over the place.

Council Chair Rapozo: Okay. It does not sound there is too much interest, so go ahead. I have some, but why do you not go first?

Councilmember Kaneshiro: It is just a general question. Is the ERS rate the percentage of the total salary? For example, when we say forty-one percent (41%), forty-two percent (42%), or seventeen percent (17%) contribution?

Mr. Williams: That is correct.

Councilmember Kaneshiro: So for every fire and police, we are going to anticipate paying almost forty-two percent (42%) of their salary into the ERS each year?

(Councilmember Kawakami was noted as not present.)

Mr. Williams: That is correct, over time. I mentioned that there is some proposed phase-in. But that is absolutely correct, and of course that does not include other fringe benefits.

Councilmember Kaneshiro: It is just ERS?

Mr. Williams: It is just ERS.

Councilmember Kaneshiro: Why is in there a difference between police and fire and all other employees?

Mr. Williams: Actually, that is the only group that we actually separate from mortality and accounting perspective. The police and fire have historically been deemed to have different career patterns, so they have a benefit plan that allows them to typically retire at age fifty-five (55) as opposed to waiting to sixty-two (62) or sixty-five (65). If you go back twenty-five (25) to thirty (30) years, because of the dangers that firemen and policemen face in their occupations, tend not to live as long as the general population, so they had a separate plan and were accounted for separately. That is the primary difference. Their benefit formula is higher than the general employee recognized in the shorter service horizon they typically have. But as I suggested a little earlier, the mortality for police and fire is improving dramatically because they have better equipment. I know a couple of firemen who told me in past that they would wear their uniforms for years and years and that there were badges of honor to have smoke, asbestos, and all of that on them. Now, they get new uniforms, equipment for breathing, and everything. It is primarily a whole different benefit structure, life expectancy, and retirement pattern.

Council Chair Rapozo: So it is not because the State has less police and fire employees than the County?

Mr. Williams: No, I do not think so.

Council Chair Rapozo: Do not take this personally, but as I look at it, I think the State has very little police and fire employees.

Mr. Williams: That is right.

Council Chair Rapozo: The counties have them all.

Mr. Williams: That is right.

Council Chair Rapozo: So we get hit with higher percentage of contributions and the State has a small percentage. I am assuming that is not the case because as we all know, the mortality rates today for police and fire, as you stated, are much improved. Is there an opportunity where we are going to revisit these contribution levels?

Mr. Williams: Well, the contribution levels are certainly being reviewed. Let me also add that it is not unusual for lots of public plans to make a distinction between police and fire, but they also look at teachers, they sometimes look at the judiciary, and the legislature all separately if they are large enough groups of people to have some reliable data on, if you will. But our program is a so-called "cost-sharing" plan where they put all of the groups together, apart from police and fire. We look at those two (2) different segments. It would be difficult now to pull

them apart because you would have to portion the benefits and the liabilities to each of those subsegments.

Council Chair Rapozo: Right.

Mr. Williams: And it is sort of like forensic accounting, figuring how many people achieved benefits and died. It would be difficult to unravel it going forward. But there has been no concerted effort to disaggregate those things, at least to my knowledge. A couple of employers have said that they would like to be treated separately because they think they have experience that is better than the broad pool, but there is no move afoot as I am aware that would deconstruct the present plan.

Council Chair Rapozo: It would be interesting to see what the percentages would be if they did the figures today. Councilmember Yukimura, do you have a follow-up as well?

Councilmember Yukimura: Yes. The top slide on page 8, Mortality Improvement Hawai'i, it does show the difference in mortality, I guess...

Council Chair Rapozo: That would be slide 15, sir.

Mr. Williams: Okay, slide 15. Thank you.

Councilmember Yukimura: Number 15.

Council Chair Rapozo: He does not have his broken down like us.

Councilmember Yukimura: Sorry.

Mr. Williams: Yes, I have that.

Councilmember Yukimura: You say the mortality is due to the fact that policing has gotten safer because of the attention to safety, uniforms, equipment, et cetera. How much is it due to that, or is this chart due in part to gender composition of these groups? For example, teachers are mainly women and women just have a longer life expectancy, and the police force and fire departments tend to be male.

Mr. Williams: Well, I think that the increase in life expectancy is probably due to a number of factors. Certainly, as it relates to police and fire, I would continue to refer to those kind of environmental enhancements, equipment, and the like, but there has also been significant advances in medical care across the board. As it relates to gender differences, the table here is actually looking only at the males.

Councilmember Yukimura: Yes, I just noticed that. I am sorry.

Mr. Williams: So, these would be male teachers who compare to male firemen...

Councilmember Yukimura: Okay.

Mr. Williams: ...and other general employees. So there is not a gender bias reflected in this particular chart.

Councilmember Yukimura: Right. I know it states right there, but I just noticed it. Thank you.

Mr. Williams: No problem.

Councilmember Yukimura: I have other questions, but it is not a follow-up to Councilmember Kaneshiro.

Councilmember Kaneshiro: I am still trying to wrap my head around it as far as the bucket of money. Are we sharing the same bucket as the State or does Kaua'i County have its own bucket, but we are in the same investment?

Mr. Williams: You are in the same bucket as the rest of the State in the context of contributions. Your assets and liabilities are not able to be pulled out. I mean, we have a sense of what your payroll is and what your membership is, so we can look at that for purposes of sharing with you the impact of a contribution increase, but once those contributions are in the pot, they are used to generate benefits for any employee in the system. So all assets are available to pay all liabilities regardless of where those assets or liabilities were generated.

Councilmember Kaneshiro: But fire and police...I guess it is a little confusing. When I think of it, if everybody is all in the same pot, I would expect everybody to pay the same contributions throughout the year. If the investment does well or bad, you increase the contribution. But when you start splitting police and fire, it has me thinking that the bucket is split now because only the counties pay police and fire. So, somehow you are tracking where police and fire is and their contribution needs to be higher than the other employees.

Mr. Williams: That is right. Again, the moneys are all aggregated, the police and fire money with the other general employees, and they are all invested the same. The police and fire are looked at from an actuarial perspective separately because we can look at that group and say how many are disabled, how many are retired, how many died, and how long their life expectancy is. We only do that based on the design of the program that Legislature enacted for police and fire. We do not do that for other subgroups. The other groups we look at—well, teachers we can look at and general employees, but then we do not try to cost those differently. It is just the police and fire that are deemed to have such a substantial career trajectory, life expectancy, and mortality that they were carved out. That is a historic factor. As I understand it, it has been the way it has been for decades, if not, from the inception. I do not know.

Councilmember Kaneshiro: I am still confused because if their life expectancy and everything is shorter, then you would expect their contributions to be less, but they have always had a higher contribution rate.

Mr. Williams: Yes, but their salaries and benefits are higher. So maybe they live shorter periods, but if they get more money over that short period, it is mathematically determined.

Councilmember Kaneshiro: For me, say we are taking out ten percent (10%) of everyone's salary, it does not matter how high their salary is because if you have a higher salary, you are still taking out ten percent (10%) of that salary, so their contributions are going to be higher. I cannot wrap my head around why we would have to almost double the contribution for fire and police.

Council Chair Rapozo: I think those questions should really be asked of the Legislature because they are the ones that set that number. I appreciate you being here today. I do not want you to leave upset.

Mr. Williams: No, I do not take it personally, at least I try not to.

Council Chair Rapozo: I can tell you that this is probably the first time we have had a discussion like this in a very long time that clearly explains in a way that normal people like myself can understand. I share exactly what Councilmember Kaneshiro is saying. As I am going through your slides, for some reason it clicked today. I am thinking the counties are getting the short-end because collectively, the counties are paying a much bigger percentage for employer contributions because we have police and fire. I would think that as the Legislature look at that, are saying, "Hey, do you know what? Let us keep theirs high. Let the counties pay. They have more."

Mr. Williams: Council Chair Rapozo, let me just say that I appreciate and want to offer that I am more than willing to return to talk on a regular basis with the Council. As I said, over the last several months, I have visited each of the neighbor islands to meet with their finance officers to talk about these particular factors and have returned to Maui, for example, to meet with their Council last year and will be invited back again this year. If this is something that you would like to have on a periodic basis, the system is committed to enhance communication.

Council Chair Rapozo: Well, I will say that I asked Councilmember Kaneshiro to see if we could get this on the agenda and the response that you would be here was immediate, so I appreciate that.

Mr. Williams: Thank you.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Again, it is almost the same question. Is the forty-two percent (42%) what you folks are recommending or it is part of a contract?

Mr. Williams: That is the actuarial calculation. We hire consultants and there is this professional group or service and it is all mathematically-based. They look at these mortalities and follow this in intimate detail.

(Council Chair Rapozo was noted as not present.)

Council Chair Rapozo, the presiding officer, relinquished Chairmanship to Councilmember Kaneshiro.

Mr. Williams: The actuarial valuation, which is available to anyone here, is online at the ERS website. It has intimate details about the salary increase and the longevity of all of our various classes including police and fire. That is not what ERS has developed. It is what the actuaries say is the contribution level required to fund the police and fire benefits within a thirty (30) year timeframe to pay off the unfunded liability. So it is not just providing for current benefits, it is paying off the unfunded liability that has accrued for those individuals over the last...I do not know, twenty (20) or more years.

(Councilmember Kagawa was noted as present.)

Councilmember Kaneshiro, the presiding officer, relinquished Chairmanship to Councilmember Kagawa.

Mr. Williams: It is one of the things that is a real concern for the ERS, that if there had been greater discipline in making contributions, we would not likely have this unfunded liability. There is a statute in place that says that there can be no benefit enhancements until the plan is one hundred percent (100%) fully funded. The Legislature constantly ignores that. For example, as it relates to—and I am not criticizing them, I am just telling you the reality of it. As it relates to the Maui hospital group, they were offered special retirement benefits, special severance benefits, and there was no funding was provided to pay for those benefits. It would have further increased the unfunded liability. So the bill, even though the statute is in place that says you cannot give benefits that you do not pay for, it is says “irrespective of the statute, we are giving the benefits.” So there are bills in the Legislature today that will provide additional special retirement benefits without provision for any funding. So as long as that happens, the unfunded liability will increase.

Councilmember Brun: Also for the study in talking about the dangers and longevity, I just think police have a higher risk than firemen, so why do we not separate that?

Mr. Williams: I would imagine some would argue that. I do not know. Some plans do separate police and fire, and there are some similarities, obviously, too. I think they face very different dangers...

(Council Chair Rapozo was noted as present.)

Councilmember Kagawa returned Chairmanship to Council Chair Rapozo.

Mr. Williams: ...police and fire, in terms of violence and the like, but then there are some commonalities as it relates to showing up at scenes of fires and accidents. For example, there are provisions in both police and fire benefits that, for example, cancer presumptions that we were exposed to carcinogens because we came to burning cars and inhaled things. Cancer as it relates to the respiratory and digestive systems, heart, and lungs, apply across the board for both police and fire even though the risks that they face are somewhat different.

Councilmember Brun: Okay.

Councilmember Yukimura: Can you further explain about the statutory restriction that the Legislature constantly ignores?

Mr. Williams: Did I say that?

Council Chair Rapozo: I do not think you said it in those words.

Mr. Williams: Not exactly those words.

Council Chair Rapozo: I want to make sure he does not lose his job after that.

Mr. Williams: That is right. Thank you.

Councilmember Yukimura: Can you give me another interpretation of what you said?

Mr. Williams: Well, unfortunately I do not have the statute reference right now, but it exists.

Councilmember Yukimura: Okay.

Mr. Williams: It is referred to in all of our testimony.

Councilmember Yukimura: It basically says that there shall be no benefit enhancements...

Mr. Williams: To the ERS until the fund is one hundred percent (100%) fully funded, that there is no unfunded liability.

Councilmember Yukimura: Until the fund is fully funded?

Mr. Williams: That is right.

Councilmember Yukimura: Okay. Does it say you cannot take moneys from the gains in the ERS funds for the General Fund?

Mr. Williams: Oh, yes. That was a practice, I believe that was stopped. I am not sure, but I think it was 2000. It was stopped legislatively. They cannot do that any longer, but that did occur for several decades. So that practice is no longer permitted.

Councilmember Yukimura: Okay.

Mr. Williams: I mean actually, the laws are written, they can be overridden, but I think everyone realizes that caused great harm to the system and we could not afford any further dilution...

(Councilmember Kawakami was noted as present.)

Mr. Williams: ...particularly at the fifty-four percent (54%) funded level we are now.

Councilmember Yukimura: Yes, the people who voted it should be the ones paying for the liability now.

(Councilmember Brun was noted as not present.)

Councilmember Yukimura: That is all for follow-up.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. Thank you for the presentation. I appreciate your time today. It looks to me, that one (1) of the areas that we have to also look at since we are banging our head in one (1) direction is the opportunity for better investment strategies. I was not sure, but I know we have much more flexibility in this arena than from the State guidelines. I was wondering if there are other progressive tools that you are looking at in terms of how it is we might increase returns to catch up to where we need to.

Mr. Williams: Thank you for the question. I had suggested that increasing our investment capability expertise, if you will, would be one (1) opportunity for improving investment returns. I do not have the exact history here, but I think it was probably only eight (8) or nine (9) years ago that the fund actually hired its first professional investment consultant. Up until that period, I think the Executive Directors were responsible for interfacing with the Investment Managers and making investment decisions. I will not criticize that, but I do not know that they were best-suited to guide those kind of impactful choices. The fund now has three (3) Investment Officers, a Chief Investment Officer, and two (2) Investment Specialists. I would tell you for a fund of our size of fifteen billion dollars (\$15,000,000,000) and the complexity of the fund with real estate investments, private equity, all kinds of alternative investments, infrastructure, and global bonds...

Councilmember Chock: It is complicated.

Mr. Williams: ...in order to optimize those relationships with those managers, you have to have people with kind of comparable knowledge and capabilities to understand the recommendations to negotiate better fees.

(Councilmember Brun was noted as present.)

Mr. Williams: We have been negotiating with managers to lower fees and we have been successful in a number of instances. We have also introduced more indexing strategies because some of the active management has actually underperformed the markets and they charge higher fees. So we moved towards indexing where appropriate, such as those more efficient areas of the markets like large cap stocks. We can index that and not pay active management fees. We have also negotiated with one of our larger managers, BlackRock, to be provided a risk assessment tool. It is one of the best risk assessment tools in the Nation, quite frankly. Generally, it requires annual outlays of over one million dollars (\$1,000,000) as part of our service agreement with them. We are one of the first to negotiate that they will provide us that risk assessment tool, which we are now employing to better understand where the exposures are and then to mitigate those exposures. When I mentioned earlier that we have this sort of crisis risk offset structure that is being mandated largely by the fact that we just cannot afford risk to the degree that a more fully funded fund would. At the same time, we cannot avoid risk because that is the only way we earn the kind of returns that are necessary to fund this program. So we are trying to achieve this delicate balance between risk and return, but we have tools that help us to do that well. So through this crisis risk offset structure, what we are attempting to do is to create a segment of the portfolio that is consistent of three (3) different strategies as principal protection, trend following, and alternative premium, and they act differently than the market. If the market is down, these particular strategies should be static or go up. There is a lot of science, math, and history that supports this. What we are trying to do is not have the kind of volatility up-and-down because geometrically, we will have a better return by having more levelized returns than getting the same return like this. If we had an average seven percent (7%) return steady, you will end up larger corpus at the end than if you had seven percent (7%) return going like that. We are implementing that as we speak in our program, but I think we can use more professional staff. Ultimately, we have to compensate people because they end up having alternatives outside of State employment, quite frankly, and they can work for investment managers and others. If we are going to compete in that arena, which we have to, then I think we have to recognize that we need staff comparable to those that we sort of interface with.

Councilmember Chock: Council Chair Rapozo, I have one (1) more question.

Council Chair Rapozo: I kind of just wanted help to understand how the whole ERS works. Obviously, you are the ERS Executive Director, right?

Mr. Williams: Sometimes. Today, yes, I am.

Council Chair Rapozo: And then you have a Board?

Mr. Williams: That is correct.

Council Chair Rapozo: Is this a State agency?

Mr. Williams: Yes, it is. It is an attached agency to budget and finance.

Council Chair Rapozo: Okay. So, you have the Board of Directors, and how many are on the Board?

Mr. Williams: Eight (8).

Council Chair Rapozo: Then, the managing of the funds are done by three (3) people. Are they three (3) members of the Board?

Mr. Williams: No, the investment decisions are made by the full Board. There is a so-called "Investment Committee" that makes recommendations to the full Board. We have three (3) consulting firms that are investment consultant firms. We have a so-called "general consultant;" then we have private equity consultant, Hamilton Lain; a real estate consultant, Courtland Partners, Ltd.; and the general consultant is Pension Consulting Alliance (PCA). They are all well-certified and well-accomplished consultants that provide us advice.

Council Chair Rapozo: Okay.

Mr. Williams: But we also have others as well.

Council Chair Rapozo: Are any of the Board members in the investment field?

Mr. Williams: Yes, we have several. I do not think there is a requirement, but that one (1) of the members be familiar and represent the banking industry and have some familiarity with investments or financing more broadly, but we have a couple of members. Just immediately past Chairman was the Senior Executive at one of the largest banks in the state. We have a gentleman who is well-known across the state who owns a large Hawai'i-based insurance company who is well-versed in finance. There are several members who are elected, one (1) by the teachers and one (1) by the retired employees. For example, the teacher representative is actually an Economist at the University of Hawai'i.

Council Chair Rapozo: Okay.

Mr. Williams: There is no statutory requirement that they all be, but I think that the recommendations tend to be around people who can contribute to the decision-making, quite frankly, particularly as the complexity has grown.

Council Chair Rapozo: Is that typical in most municipalities where you have a Board making those final investment decisions, or is it more where a firm is contracted out, one of these big, major companies?

Mr. Williams: Generally, I think it is the Boards that make those decisions, but with advice from external counsel because at the end of the day, the Board is the ultimate fiduciary.

Council Chair Rapozo: Right.

Mr. Williams: So it is not atypical. There are many Boards that require different mixes as it relates to investment expertise. You may see three (3) members or four (4) members, but it is typical that the Board makes those decisions.

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Okay. Thank you. Councilmember Yukimura.

Councilmember Yukimura: It was good to understand how you are structured. I want to go back to Councilmember Kaneshiro's question about how the whole fund is structured.

Mr. Williams: Yes.

Councilmember Yukimura: Basically, all State and County employees are eligible for this fund as their interest vests?

Mr. Williams: That is correct.

Councilmember Yukimura: And so their employer, which is the State and County, pays in contributions. They, as individuals, pay in contributions. These moneys are invested and the rules are set ideally so that the contributions will cover the out payments, right? Are the contribution levels based on the actuarial?

Mr. Williams: That is correct.

Councilmember Yukimura: Is the actuarial apparently separated by these categories that you showed us; police and fire, and then the rest?

Mr. Williams: That is correct.

Councilmember Yukimura: Some of the employers are paying fully like Kaua'i County. We are funding our—pardon me...completely, whereas some others are not?

Mr. Williams: Well, I could not say that they are not. There is an unfunded liability, and I do not know which portion of that unfunded liability

relates specifically to Kaua'i County because it is never disaggregated. The unfunded liability is assessed to the entire organization and you all pay the same contribution levels. I do not know how to answer the question of whether you are fully funded. You are making the full contribution that is being asked of you, as are other members of the system, but this unfunded liability is, again, aggregated and then spread across everyone.

Councilmember Yukimura: May we have our Director of Finance join the conversation?

Council Chair Rapozo: Later. He can come up, Ken, if you want to come up. We are on a follow-up from Councilmember Chock, and I want to get back to him. Why do you not go ahead?

Councilmember Yukimura: Was I a follow-up to Councilmember Chock?

KEN M. SHIMONISHI, Director of Finance: Ken Shimonishi, Director of Finance. Councilmember Yukimura, I believe you are referring to is our Other Post-Employment Benefit (OPEB) contribution, which is separate and aside from the retirement.

Councilmember Yukimura: Okay. Thank you for the clarification.

Mr. Shimonishi: OPEB relates to the medical plans, and that is where the County of Kaua'i has always paid one hundred percent (100%) of its annual required contributions even though the law did not specifically mandate that until recently. It is on a twenty percent (20%) incremental. I believe, next year 2019, is when all entities are required to make the one hundred percent (100%) contribution and if we did not, then the State would withhold it from our Transient Accommodations Tax (TAT). As far as ERS, everybody pays the same percentage across the board and contributions based on their payroll.

Councilmember Yukimura: So we are making our payments completely annually, but we still have this huge unfunded portion...

Mr. Shimonishi: Exactly.

Councilmember Yukimura: ...with respect to the ERS?

Mr. Shimonishi: And OPEB, unfortunately.

Councilmember Yukimura: What?

Mr. Shimonishi: Unfunded liability also extends to the OPEB plan as well.

Councilmember Yukimura: There is an unfunded liability in the OPEB fund?

Mr. Shimonishi: Correct.

Council Chair Rapozo: Statewide.

Mr. Shimonishi: Statewide.

(Councilmember Kagawa was noted as present.)

Councilmember Yukimura: Okay. I was trying to find out how you protect the counties that do pay in full from any of the consequences, but that is a separate fund.

Mr. Shimonishi: Right, unlike the ERS, OPEB or Employer-Union Health Benefits Trust Fund (EUTF) is actually segregated out by employers, so we are contributing towards our own liability, funding ratings, et cetera.

Councilmember Yukimura: Okay. Alright. Thank you. Just one (1) more question, Mr. Williams has said that the ERS is forty-two percent (42%) of salary. That is the draw based on salary, right?

Mr. Williams: Well, that was a contribution rate that was being recommended for police and fire going forward.

Councilmember Yukimura: Right.

Mr. Williams: It is presently at twenty-five percent (25%) for police and fire. This new actuarial valuation/experience study recommended that it go to forty-two point five percent (42.5%) in order to fully fund the plan, that is the so-called "normal cost" and unfunded liability. So from an actuarial perspective, the contributions are totaled such as you have just announced, but they are made up of two (2) pieces; one is the normal cost, which is the cost of one (1) year's benefit accrual, and then there is the contribution toward the unfunded liability. You put those two (2) together to get to the full contribution, which is forty-two point five percent (42.5%) for police and fire, and twenty-four point seven five percent (24.75%) for general employees. What is going to be required is determined by the Legislature, whether they want to go up to that level or leave it where it is. But if they leave it where it is, the funding trajectory is going to decline, the cost is going to go up, and eventually it will create problems for the cities and counties because there are these governmental accounting standards board requirements that Ken knows about, that has the net pension liability showing up on your financial statements. If you are not moving towards funding the plan properly, they require that you use different and lower earnings assumptions that inflates the liability and that then reflects on your sheet. There is an incentive and a fundamental necessity that we move towards addressing this funding requirement.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: I just want to make sure, without the recommended increases of the contributions, the unfunded liability, I think you said is currently sixty-six (66) years.

Mr. Williams: Correct.

Council Chair Rapozo: And if we go with the increase, then it brings it down to thirty (30) years?

Mr. Williams: That is correct. The numbers that I just enumerated would actually get us down to twenty-five (25) years...

Council Chair Rapozo: Okay.

Mr. Williams: ...because that is where we were last year in 2015, and the Board thought we should maintain that funding path. If it is over thirty (30) years, the Legislature says we have to come in and make a recommendation. So the contributions that the Legislature are looking at, which are the ones we talked about, but they want to implement them in a way that maybe gets it down thirty (30) rather than go all the way to twenty-five (25) years, means a slightly lower contribution.

Council Chair Rapozo: And they are looking at a phased-in plan?

Mr. Williams: That is correct. Over a period of four (4) or five (5) years.

Council Chair Rapozo: Okay. Back to Councilmember Chock.

Councilmember Chock: Actually, I think my question was answered. It was in regards to the unfunded liability and how we are all contributing to it and where it connected to OPEB. Outside of this scaffolding plan that is being proposed, the question is, have there been any other discussions in these terms of incentivizing how we want to move forward? For instance, when I look at the County's share and our focus on fire and police and what we have to put in there, is that the same? I know we are all in the same bucket basically, but is it in State's interest to move on that rather than more in the County's interest? How can we ensure that we are offering everything we can to get to that goal?

Mr. Williams: Well, it is a good question and a fairly complicated one. The unfunded liability is what we already owe and it just increases to the extent we do not pay it. The only way to mitigate or address the unfunded liability in any meaningful way is to reduce benefits for individuals sort of retroactively or for people who are already in the system. For example, there are a lot of ways to do that. You could change the benefit formula for existing employees for future service. Say all of your old service, you are in a plan that says three percent (3%) multiplier and you have that, but going forward, it will be a two percent (2%) multiplier. Some states have done that. There has been some litigation and members have sued and said, "Well, you cannot lower my benefits." Some courts

have said that you can lower them going forward, you cannot lower backwards. Benefits here are constitutionally protected. There is a post-retirement adjustment that people receive before 2012. I think it is two point five percent (2.5%) non-compounded, they get that increase every year. It is a very costly benefit. If we did not have that benefit, the unfunded liability would go down dramatically. Many states have taken steps to reduce or eliminate cost of living. We do not call ours cost of living, but it is sort of like a cost of living one. But that, too, has been untouchable here. So what the State did was create a new tier of benefits for new employees, but the new employees will not have a meaningful effect until you have more of them in the new tier and right now, they are heavily outweighed by prior generations of employees who continue to accrue benefits at that former level. So without structural change, and that comes from the Legislature, and I am told that some of those things were floated when the tiers were changed in 2011, but they elected not to go that way. They elected to make the changes applicable only to new hires.

Councilmember Chock: When you talk about the cost of benefits, is that why there is disparity when we look why fire and police are separate in the amount that we are looking at in contributions?

Mr. Williams: That is correct. The cost of the benefits to provide the police and fire their benefits is more expensive than a comparable general employee because the benefits are generally higher.

Councilmember Chock: Are you saying that is where we should be looking at first to make the most cost-effective decisions?

Mr. Williams: No, I guess I am not just saying just look at the police and fire, but the only way to change the cost of those benefits is to change the benefit plan itself, to say the multiplier is not three percent (3%) or two point five percent (2.5%), it two percent (2%) or one percent (1%), but those are sensitive changes. In some states, municipalities have made them because they do not have a fiscal choice and the courts have is allowed it in the event of a fiscal emergency because the states, as I understand, cannot declare bankruptcies. Cities can in some instances. I think the City of Detroit had and the benefits were reduced by the courts and said, "You are only getting seventy percent (70%) of what are owed." That changes your unfunded liability really quickly, but neither of those things are likely or on the table here in Hawai'i.

Council Chair Rapozo: We are getting to the point where we will not have a fiscal choice, and I think that is what the people have to understand. It is like going to lake every day to get your fish, and at some point, there is no fish in the pond.

(Councilmember Chock was noted as not present.)

Council Chair Rapozo: We are heading down that road. Councilmember Yukimura, then Councilmember Kawakami, and then Councilmember Kagawa. These are all the follow-ups now.

Councilmember Yukimura: Yes. Is one (1) of the benefits that was recently curtailed for future employees the issue of spiking?

Mr. Williams: That is correct.

Councilmember Yukimura: Correct me if I am wrong, "spiking" describes the situation where overtime is included in calculating retirement benefits, and there are efforts made to secure high overtime in the last three (3) years of your employment?

Mr. Williams: Yes, that is one (1) example.

Councilmember Yukimura: Is that accurate?

Mr. Williams: Yes.

Councilmember Yukimura: So a few years ago, the Legislature stopped that practice, that is, disallows the use of overtime in calculating pension. Is that correct?

Mr. Williams: Only for new employees.

Councilmember Yukimura: Right. My question is, to what extent is spiking contributing to the County's share of the ERS contribution increase?

Mr. Williams: We do a spiking calculation for each County and we send them a bill. I do not have it with me, but we could tell you what we have billed the County of Kaua'i for spiking because there is a formula that looks at what normal contractual increases were and then when final compensation is mushroomed, we assume that it applies to spiking, and then there is a charge, actuarially determined, that is supposed to offset that additional liability or cost.

Councilmember Yukimura: So you actually have calculations that can tell us what that spiking cost is annually?

Mr. Williams: That is right, for each employer for each County.

Council Chair Rapozo: I think Ken has it because he has to write the check, but what I would like to see is the comparison across the State, the four (4) counties, where we rank percentagewise.

Councilmember Yukimura: And that information is available, right? We could get that?

Mr. Williams: I believe so.

Councilmember Yukimura: That is public record.

Mr. Shimonishi: Any spiking cost to the County, obviously would depend on the number of retirees occurring within that year or prior year, who would have met the test that is done by the ERS to determine if, in fact, there was spiking. But just for reference, at the end of June 30, 2015 and this was for employees that retired 2014 and prior, and it may not include all employees from what I understand, but the bill to the County was one million one hundred thousand dollars (\$1,100,000) of which the Department of Water was one hundred seventy-one thousand dollars (\$171,000). Basically, the County had a bill of about nine hundred eighty-three thousand dollars (\$983,000), I believe it was. The bulk of that was in police and fire. Police was four hundred ninety-three thousand dollars (\$493,000). Fire was three hundred six thousand dollars (\$306,000). We came before the Council with a money bill to fund that, and then the rest was in Parks & Recreation, Public Works, and so on.

Council Chair Rapozo: But again, that is using the higher percentage for police and fire, and a lower percentage for the general employee?

Mr. Shimonishi: It is using, and this is just a general description, our contributions made over the last ten (10) years of their employment against their high three (3) year test, so that would have been against whatever contribution rates were in effect at that time. To be clear, the spiking cost is separate and aside from the increasing contributions being asked.

Council Chair Rapozo: Right, but the spiking cost is based on that same percentage, right? In other words, whatever that employee's spiking or spiked salary was, or spiked income, we would pay that percentage, correct, whatever that percentage at that time or was it just a lump sum and we paid it all?

Mr. Williams: I will have to actually go back and look at the details of that because that actually preceded me. I do not know the exact details of the computation. It is an effort to make the plan actuarially equal.

Council Chair Rapozo: Right.

Mr. Williams: Now, whether it translates into the twenty-five percent (25%) or not, I am not prepared to...

Council Chair Rapozo: I cannot imagine why we would have been paying more than we would have paid, if we had paid at that time. Do you know what I am saying? I am hoping the counties are not being tasked with helping us catch up by paying one hundred percent (100%) of the liability in that year that it had been received, would have been a twenty-five percent (25%) or forty-two percent (42%). That would be worth looking in to.

Mr. Williams: Yes, we will look into that. I do not believe that is in fact the case.

Council Chair Rapozo: I think somebody would have probably appealed it if that happened.

Mr. Williams: Oh, yes. I do not think that.

Council Chair Rapozo: Ken, do you just get a bill?

Mr. Shimonishi: That is correct. We did ask for details on a few of the employees to at least try to check on the payroll numbers, and we sent those out to the Fire Department and said, "Hey, can you folks look at this and see if at least the payroll numbers reported appeared correct," and they were. Again, whether that correlates to the exact twenty-five percent (25%) contributions, I think, is where the ERS would have to look at because we are looking the contributions being made over this period versus what they are calculating retirement to be. If that test is out of sync, I think that is where we get the bill for the difference.

Council Chair Rapozo: Okay. I just wanted to make sure it is what we owe.

Councilmember Yukimura: You said our total spiking allocation, so to speak, was one million one hundred thousand dollars (\$1,100,000), we take out the Department of Water because we are separate budgets was one hundred seventy-one thousand dollars (\$171,000), so that left the County of Kaua'i's budget of nine hundred eighty-three thousand dollars (\$983,000).

Mr. Williams: Correct, roughly.

Councilmember Yukimura: Of that, four hundred ninety-three thousand dollars (\$493,000) was police and three hundred six thousand dollars (\$306,000) was fire?

Mr. Shimonishi: Yes.

Councilmember Yukimura: Okay, and that is in one (1) year allocation that we are paying for a practice that we have stopped, but only as applied to new employees as of the date of that law?

Mr. Shimonishi: Correct. So again, this was based on employees that had retired...

Councilmember Yukimura: In the previous year?

Mr. Shimonishi: ...2014 and prior. I am not certain that all of the retirees were captured in that segment, but as employees retire going forward, we would expect this similar type of analysis to be done for the next twenty-five (25) years or so until we get to these employees who were hired after 2012 to start retiring.

Mr. Williams: That is accurate and of course, some counties are beginning to impact the spiking by reducing the level of overtime that they are actually allowed to accrue.

Councilmember Yukimura: We did that to a certain extent.

Mr. Williams: Sure, but I think the benefit formula itself allows the compensation for purposes of benefit calculation include overtime for people hired before July of 2012 or 2011. I am not sure of the exact date. The sense is that you cannot change their formula because that is what they were hire under and accrue benefits under, but the new tier of benefits exclude overtime from the calculation of their benefits.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: I think rather than coming up and get General Fund—not surplus, but...surplus money, Countywide anyway, you force the department to take it out of their existing budget. That is how you address the problem. Do you know what I am saying? Going forward. The one million one hundred thousand dollars (\$1,100,000), just so that we understand, that is not just for one (1) year of retirees. It was pretty much a catch-up. So I do not want the public to think it was one million one hundred thousand dollars (\$1,100,000) because of that year. It was that year and prior. We may not have caught them all, but that is not just one (1) year worth of benefits, correct?

Mr. Shimonishi: There were employee retirements date of 2014 and 2013.

Council Chair Rapozo: So two (2) years?

Mr. Williams: That is what it appears to be.

Council Chair Rapozo: Okay. You make me nervous when you say “appears to be.”

Mr. Williams: Well, I am not completely sure, one hundred percent (100%) certain, that all of the retirees in 2014 were on this list.

Council Chair Rapozo: Well, maybe we can find out. Maybe we can work with ERS and find out exactly what we paid for and what we may getting billed for. I think it would be neat if we would know before budget if we are going to be getting a bill?

Mr. Williams: That is right, and that was the nature of one (1) of those housekeeping bills that we had in the Legislature so as to allow you to get the bill before it in fact was due.

Council Chair Rapozo: I think for those departments that utilize overtime, they need to be held accountable. Either they get it passed in the budget year and convince the Council that they need that money, or take it out of their existing budget. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair Rapozo. I am really troubled with the amount, forty-two percent (42%) that you are saying. When did we realize this difference? When did we realize that police and fire employees are not to

be, I guess, equally accounted for with twenty-five percent (25%), that it is actually forty-two percent (42%), and why did it only come up now?

Mr. Williams: That is a very good question. The reason it has come up now is that I mentioned that on an annual basis, we do the so-called "actuarial valuation" that sort of compares assets to liabilities, but this year also, was the year in which we did the so-called "experience study." The practice has been and the statute requires that every five (5) years, we look back in detail at the actual experience of the plan. So we have assumed experience about all of the inputs into the system; mortality, life, death, retirement ages, disabilities, salary increases, and contribution levels. We look back over that full five (5) year period and say, "Was that right?" You are going to be right about some of those assumptions and wrong about some of those assumptions. What it told us is that as it relates to the salary growth, that we were wrong and that salary actually grew at a faster rate than the plan assumed. It looked back and said, "As it relates to mortality, people are living longer and it is continuing to increase, and there are new, more dynamic mortality tables that reflect that this increase is not going to not be ad infinitum, but that it will continue for some number of years. So there are mortality tables that are incorporating this increase, so that there will not be a catch up such as there was.

(Councilmember Chock was noted as present.)

Mr. Williams: They also looked at investment earnings and assumed that we are going to make six point seven five percent (6.75%) of seven point six five percent (7.65%) for a given year, and compared that to actual earnings. Then, they also decided what are we expecting going forward? When you put all of the true-ups in regards to mortality, actual salary increases, and lower than anticipated investment returns, that is what they result in.

Councilmember Kagawa: Are you telling me that this experience study is done only every five (5) years and all of the five (5) years in the past going back twenty-five (25) years or whatever, they never uncovered that police and fire was different in comparison to a typical regular State employee like a teacher, plumber, engineer, or whatever? They only uncovered that police and fire have a significant difference in their actuarial rate now?

Mr. Williams: If I misled or if I have stated it is only now that they discovered that, that was a mistake on my behalf because I believe they have been treating police and fire differently than all other employees for a number of years, probably for decades.

Councilmember Kagawa: Decades, but we never took out the money from the counties? The counties have always been paying the twenty-five percent (25%)?

Mr. Williams: Well, I had a...

Councilmember Kagawa: We knew there was a difference, but we never told the counties, "You folks need to take out more for police and fire," we are only asking that now?

Mr. Williams: I think we told the counties what the rate was and they took it out based on what we informed them, but it turns out in retrospect, that it was probably too low.

Councilmember Kagawa: Okay. So advice was given to the counties over time that we knew there was a problem, but then perhaps we did not know it was such a large problem. A seventeen percent (17%) difference is huge.

Mr. Williams: It is huge.

Councilmember Kagawa: Those people are the highest paid people, by far in the County. If you read the CAFR, page 22, part of our major problem (inaudible), we made seven million five hundred thousand dollars (\$7,500,000) more in revenue last year from real property taxes, but four million two hundred thousand dollars (\$4,200,000) increase in public safety was one (1) of the major reasons why we are still broke. Then now, we are going to get seventeen percent (17%) added on. Today, I feel depressed. We have people crying for roads and this and that, and we are just going broke by the minute. The bad news that we are getting is just unbelievable. So I do not know. I am stuck. Thank you for your honesty.

Mr. Williams: I wish I were not the bearer of bad news, but I do not have any choice.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Director. Can you explain for my personal knowledge, the difference between a 401(k) program and our ERS public pension program?

Mr. Williams: I will certainly attempt to do so. First starting with the ERS, the ERS is a so-called "defined benefit retirement plan." It is typical in the public sector where the benefits are determined by a formula. An example might be for every year you work full-time, you get two percent (2%) of some pay, and it is defined here as the average final compensation. So if you worked for thirty (30) years at two percent (2%), you would get sixty percent (60%) of that final average compensation. So, the actual benefits are defined by the plan. Now, the cost of the plan is determined by these actuarial formulas; life expectancy and investment return assumptions. Those are all determined by the actuary. Under a defined benefit plan, you are guaranteed the benefits, you define the benefits, and you pay whatever it costs to fund those benefits. You try, of course, to be efficient and lower that cost by institutional investments, lower fees, and all of that. I am sure there are some other differences, but they are minor as it compares to a 401(k) plan. A 401(k) is a program that the public sector generally uses. It is a defined contribution plan. Under defined contributions, the contributions are defined, but the benefits are not. So under a defined benefit plan, the risk is borne by the sponsor because they are

responsible for the cost. Under a defined contribution plan such as a 401(k), the contribution is defined and says “We are going to give you ten percent (10%) of your pay. We put ten percent (10%) of your pay into an account in your name and either the sponsor invests it or you get an opportunity to invest it, but what you get is determined by how well your investments do. So the risk in a defined contribution plan is borne by the employee as opposed to in a defined benefit plan, the risk is borne by the employer. Typically, defined contribution 401(k) type of plans are less generous, and they were initially designed to be supplement to a regular benefit plan. They have replaced most defined benefit plans, but they do not generate near a level of income adequate to support people in retirement.

Councilmember Kawakami: So, the biggest difference in the 401(k) plan, is the employee and maybe the employer bears the burden of funding that plan, that safety net, that nest egg, and then a public pension fund such as ERS, the taxpayer funds the retirement for public workers, correct?

Mr. Williams: That is one (1) way to look at it, sure.

Councilmember Kawakami: Is it the way to look at it?

Mr. Williams: It comes from State or County revenues, and the revenues come from taxpayers whether they are tourists or residents, yes.

Councilmember Kawakami: So that has become a spark point from state-to-state when taxpayers are slowly finding out that some of these taxpayers are not even funding their own nest egg, but they find out that they are funding public workers’ nest eggs. Have any of the states moved in the direction of going towards a 401(k) plan? This is a national problem. This is not just a Hawai’i problem. If you take a look state-by-state, the level of unfunded liability, we are not the only one in this boat. A lot of this has to do with population growth. So, it is a two-fold question. Are there any states moving towards a 401(k) type of program, and how reliant are we on population growth to fund this unfunded liability?

Mr. Williams: Well, to answer the first question of are there are any states moved toward 401(k) plans, there have been a couple who have moved toward what they really call “defined contribution plans.” It is kind of like a 401(k), but a 401(k) is actually generally for profit-making entities. There are other sections of the revenue code that apply, 403(b) and others, which relate to these defined contribution plans. A couple of states have done that for new employees. There are even a couple of states that have gone to defined contribution plans and have gone back to defined benefit plans. Defined benefit plans that they may more—well, structured differently. Maybe they are less generous because some of the defined benefit plans have grown to provide benefits at such a generous level that they are not affordable. So when states implement new defined benefit plans, they tend to have more modest benefit levels than the ones you see today. Most states do not go towards defined contribution plans because a defined benefit plan is considered to be more cost-effective if it is funded. If you fund it right from the beginning, you get economies of scale, lower fees, and better investment results than if you had an individual plan. The other reason that most people do not go to defined contribution

plans is that when you stop funding your defined benefit plan because you are now going to a defined contribution plan, immediately, the cost of the defined benefit plan goes up because the defined benefit plan exists based on this premise that new employees are going to come in, they are going to be contributing to the plan, and they will help to pay the unfunded liability or for the benefits of the people who are retired. As soon as you cut off those contributions to the plan, the liability goes up and the required contribution of the state goes up. If you have also at the same time, created a new plan, you have to fund that plan as well. So typically, a defined contribution plan requires a minimum, if it is a retirement plan, a minimum of ten percent (10%) of pay. I worked for twenty-five (25) years for TIAA-CREF for colleges and universities. It is a portable defined contribution plan. Minimum contribution is typically about ten percent (10%) of pay. If you froze your defined benefit plan, you have increased costs for it and you have the cost of the defined contribution plan, so most states are not doing it because they are kind of ham strung, quite frankly, because unless they reform the defined benefit plan, it is too costly to offer both or to freeze one and go to the other. I do not know that population growth plays as big of a role as the payroll growth in terms of the people in the system because the system contemplates that as people retire, they are being replaced. They are being replaced by younger ages, lower salaries, and lower benefits. As they work their way through the system, the new entrants to the system are actually contributing more than they have accrued in benefits because they have not vested in anything. The employer puts money in for them and under the current plan, new tiers, you have to be in the plan ten (10) years before you vest. In the past, I think it was maybe three (3) years for some, five (5) years for others, but now it is ten (10) years. So for all new employees who come in, employees contribute and employers contribute, but if that employee leaves, it is a gain to the system because we do not owe them any benefits and they have the opportunity to take merely their money out and the employer money stays. So population growth or plan growth is important because there is this sense that it is perpetual that new people will come in. When you stop that inflow, the cost balloons because there are no new people coming in to contribute.

Councilmember Kawakami: I do not want my next question to be construed in the wrong light, but sometimes we are just the mouthpiece of our constituents, and it has been raised before and I want to clarify that I appreciate the hard work that you and the trustees have done. You are clearly just playing the hand that was dealt to you, but in a poorly managed, poorly funded pension plan, are there any similarities to a Ponzi scheme?

Mr. Williams: No, I do not—well, let me tell you, if you do not fund the plan, it is going to run out of money. So the people who have not yet received benefits who retire after that point, there is no source of the funds. I do not think it is your classic Ponzi scheme because it is not intended to defraud anyone, but the reality is that if we do not contribute, the plan will go broke. It will go broke not for the people who are retired today, but it will go broke fifty (50) to sixty (60) years from now and those are the people getting promises today, that when they step up, it will not be there unless we fund it. That is the way it is always been, but the Legislature for whatever reasons, when the fund was earning more than what was forecast, it siphoned off excess earnings by reducing the contributions it made to the system. So if the system earned two hundred fifty million dollars (\$250,000,000) more than it

had assumed in a given year, the State would reduce its contribution by two hundred fifty million dollars (\$250,000,000). The result is that all of the cushion to avoid the downside was taken away and you have eliminated and reduced your upside potential because you do not have as much corpus to invest and to grow. So it is those decisions that have put this fund in the situation it is in, but I will tell you also, our program is probably one of the most generous that I have seen in the context of the benefit formulas for police and fire, for judiciary, and for the Legislature. I am not indicting anyone, but it is a generous plan. You cannot offer generous benefits without paying for them.

Council Chair Rapozo: Thank you. How much do we spend on the maintenance of this program, and I mean the fund fees? I am sure there is some activity year-round going on in these funds, and so we have to pay the commissions, our consultants, and everything, but the staff. Anything outside of our staff, what kind of fees are we paying to maintain our retirement?

Mr. Williams: I will have to actually explore what those are because there is a significant interest in that. Yes, I am sure we are paying tens of millions of dollars in fees that do not come out of the...well, it is out of investments, quite frankly. It reduces the earning.

Council Chair Rapozo: Right, it reduces the value of the portfolio, in essence, we pay for it.

Mr. Williams: Yes, and there is no way to avoid fees. You have to obviously negotiate them to as low as possible, and that is one (1) of our areas of focus. Let me say that in regards to the fees for the administration of the plan, we are probably one of the lowest-cost plans in the Nation because we have not invested in the plan, in the people, in the technology, and in the investment team things.

(Councilmember Chock was noted as not present.)

Mr. Williams: It is run—I would not run it the way—I am in charge of making recommendations and trying to change it, but I can tell you that historically, the program has been underfunded. We pay, I think, about ten (10) basis points of our assets in terms of the cost plan. I believe it is about eleven million dollars (\$11,000,000) a year to run the ERS, the salaries, it is all of the administration. The average plan pays between maybe twenty-five (25) to twenty-eight (28) basis points for administration of a plan our size, a fifteen billion dollar (\$15,000,000,000) plan. So the Legislature has chosen to cut corners and maybe I will just stop there.

Councilmember Kawakami: I have a question.

Council Chair Rapozo: Okay. Go ahead.

Councilmember Kawakami: In what year did the Legislature siphon off these—excuse me, these ERS funds?

Mr. Williams: I was not here, but I am told by the former Director that it was over a thirty-seven (37) year period that ended, I believe, in 2006. I could be wrong, but it was a long period and probably ended sometime around 2000.

Councilmember Kawakami: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura. I was going to the question about how much, but I will not waste any more time. We have to take a caption break in a couple of minutes, so right after Councilmember Yukimura's question, we have to take a ten (10) minute caption break for our captioner. Thank you.

Councilmember Yukimura: I really appreciated Councilmember Kawakami's question asking about the comparison between a defined benefit and a defined contribution, and your very clear explanation of it. Based on that, it does seem that the defined benefit plan is the better plan for both employees and employers, but you said it is more effective if funded. That is the problem we have seen and the Legislature's diverting of the moneys to the General Fund was clearly one (1) of the ways where we did not fund it. I mean, to say that they took the excess is really kind of a misnomer of that amount of money because it was not excess.

(Councilmember Chock was noted as present.)

Councilmember Yukimura: As you pointed out, it was to really offset the poorer downtimes.

Mr. Williams: Correct.

Councilmember Yukimura: But you also said payroll growth and the benefits package also affects the funds, and the payroll growth based on your slide 13, is the third most influential factor. In answer to Councilmember Kagawa's question about the forty-two percent (42%), you said in retrospect, I think, police pay has increased four percent (4%) compounded for the last four (4) years, I believe. So on the average, a beginning police officer makes the average compensation if you includes overtime is about eighty thousand dollars (\$80,000) a year. That is the beginning pay for a beginning officer, so that is part of the issue in terms of the funding problem.

Mr. Williams: Well, pardon me, there is a correlation between the pay and the benefits. So if pay is higher, the benefits will be higher.

Councilmember Yukimura: Yes.

Council Chair Rapozo: I am going to stop there and you will have the floor when you come back.

Councilmember Yukimura: Okay.

Council Chair Rapozo: It is 10:30 a.m. and we have to take a ten (10) minute caption break. We will be back in ten (10) minutes.

There being no objections, the meeting recessed at 10:31 a.m.

The meeting reconvened at 10:41 a.m., and proceeded as follows:

(Councilmembers Brun, Kawakami, and Yukimura were noted as not present.)

Council Chair Rapozo: I know we had Councilmember Yukimura—oh, she is coming in right now.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Councilmember Kagawa.

(Councilmember Yukimura was noted as present.)

Councilmember Kagawa: Thank you, Council Chair Kagawa. Does the forty-two percent (42%) include regular salaries plus overtime? Is it forty-two percent (42%) of the salaries plus the overtime per worker?

(Councilmember Kawakami was noted as present.)

Mr. Williams: It is my understanding that overtime might be included for prior tiers. I would have to look at specifically police and fire, quite frankly, but overtime was permitted for individuals hired before, I think, 2011. I do not know how police and fire, whether they got changed, but for general employees, overtime is not a part of their final compensation going forward. But if you were hired before, you are still have under the old rules and if overtime was permissible, you would still get overtime as part of our benefit calculation.

Councilmember Kagawa: Yes. I guess because last year I asked for all the top earners of overtime. I had the top thirty (30) earners of overtime and for fire I remember seeing the list. We had a Fire Captain making ninety thousand dollars (\$90,000) with sixty thousand dollars (\$60,000) of overtime, totaling to one hundred fifty thousand dollars (\$150,000). The reason why I ask that question, is because sixty thousand dollars (\$60,000) is a lot of money to multiply by forty-two percent (42%), whereas if you just multiplied ninety thousand dollars (\$90,000) times forty-two percent (42%), you are talking maybe thirty thousand dollars (\$30,000) or somewhat. If you are talking about one hundred fifty thousand dollars (\$150,000) times forty-two percent (42%), you are talking about forty thousand dollars (\$40,000) or fifty thousand dollars (\$50,000) more. It is crazy. So it is at least almost double of it. Does this employer portion include the salaries and overtime, or just the salary? Maybe you might know it, Ken. What is Kaua'i County going to pay based on their information?

Mr. Shimonishi: Again, my understanding is as Executive Director Williams said, employees hired—I believe it is July 1, 2012, employees hired

prior to that, the overtime and other premium pay would be inclusive of the forty-two point five percent (42.5%) being applied or the twenty-five percent (25%) being applied. Those that were hired after, would be excluded from the overtime provision. I am not sure, again, if some of police and fire is already built into the regular base that they have to work overtime or whatever, but I think in general, that is the concept. You are correct. So someone hired prior to that earning overtime, the County would be subject to those contributions.

Councilmember Kagawa: Thank you.

Mr. Williams: Council Chair Rapozo, would you indulge me to make a short statement?

Council Chair Rapozo: Sure.

Mr. Williams: I do not want my comments to be taken out of context to the extent that I think legislatures and other folks have a better understanding now of the impacts of some of these earlier decisions. I think when these plans were first developed, they were flushed with money because there was very little liability and there were pressures on behalf of members, like “we have extra money, let us increase the benefits” because the sense was that it would just continue to grow. But few people really saw that these plans go through a maturation phase and that the investment environment is like this. So decisions were made at the time that I think people thought were rational and reasonable, and it is only in hindsight that you know the impacts. So the legislators who made some of these decisions, I would imagine or I would hope, that they were doing the appropriate thing. But it is through this lens of hindsight that I can tell you that diverting moneys from the contributions had a negative impact. Did the people at the time know that? I would hope not, but I am here with the benefit of hindsight and so I do not want to indict the legislators for their past decisions because I presume they were made with the best information available then.

Council Chair Rapozo: There is a very close similarity to this County that not long ago when this County was flush with money, decisions were made with good intentions that had long-term costs. Today, when the County is not flushed with money, we are still paying for some of those costs. I can understand and appreciate the explanation. I would agree that I do not think any of those decisions were made with bad intentions, but I guess, we should have known better. We deal with the same thing. The State dealt with the fluctuating market. We deal with the fluctuating real estate values, right? When it is all good and high, and high property tax, we got all of this money. Wow, should we put it away or spend it? No, spend it. Then when the market goes down, oops, now what? I think there is very close similarity between the ERS and what we are experiencing at the County. I appreciate that explanation. I think it makes it a lot clearer.

Mr. Williams: Thank you.

Council Chair Rapozo: Are there any more questions? Mr. Williams does have a flight, so I would like to wrap him up if we can and get him out of here by 11:00 a.m. Councilmember Yukimura.

Councilmember Yukimura: Yes. In terms of protecting the fund, there was an issue that came up before the Legislature in the last session dealing with the severance for those employees that were involved with the Maui hospital. My understanding is that the Governor vetoed the severance package, correct me if I am wrong. But the Legislature overrode his veto, yet did not fund the package. So how are we dealing with that in terms of the ERS fund that involves so many people?

Mr. Williams: Thank you for the question. To sort of put it into context that I remember, there was an effort at so-called "privatization" of a group of workers at the Maui hospital systems. These were State employees who were, through an agreement, entered into the Hawai'i Health Systems Corporation, and the State transferred or scheduled to be transferred to Kaiser Permanente as a private operator. It was going to occur as July 1st of last year. I think it is expected to occur July 1, 2017 if everything goes forward. As part of the accommodation for employees who were affected by this transfer, the Legislature proposed package of benefits. There were two (2) benefits offered; one (1) was a severance benefit and one (1) was a special early retirement benefit. Both of those benefits took various forms and levels through the legislative session and negotiating whomever does those kind of things because the severance benefit had a number of different forms. It ultimately ended up being up to fifty percent (50%) of a person's then current salary. The special retirement benefit would have allowed certain individuals to retire even though, in fact, they had not fully vested, and there is a cost to providing these special retirement benefits. I think I mentioned earlier that, and I am testing my memory here, I believe that the special retirement benefits alone cost maybe forty million dollars (\$40,000,000), but the removal of those employees from the system had the impact of another two hundred thirty million dollars (\$230,000,000) on the unfunded liability. We asked that those costs be borne, that those be funded through the Legislature. Those costs were not funded. Now, the problem with the Legislature in itself was known as Act 1, in which it offered a choice to the affected members of either taking a severance benefit or a special retirement benefit. They could take the cash or they could get retirement benefits. In the Internal Revenue Service (IRS) parlance that is called a "CODA" or a "Cash or Deferred Arrangement". The IRS prohibits cash or deferred arrangement options in qualified retirement plans because the IRS presumption is if you could have gotten it in cash, you pay taxes on it, and you pay it now. We do not give you an opportunity to negotiate with your employer; do not pay me now, and pay me next year. I do not want to pay taxes this year. I will be in better position next year to pay it. So there is this sense of so-called "constructive receipt." If you were able to get it, you got it, and you are taxed on it. When you give people a choice of taking cash or deferring the taxes through a special retirement benefit, the IRS says "No." They said that violates the tax provisions or the tax qualification provisions of the plan. Because the program was being negotiated, we did not know what the final form would be, but late in the process, our outside tax attorney said, "There is a problem here. It jeopardizes the plan's tax status because it offers this impermissible choice." We communicated that to the Legislature. I am told that the Legislature had counsel that said it does not violate

the IRS because, in fact, a similar bill had been passed years prior, I think maybe in 2004. It turns out that we believe the most recent bill violates the Tax Code as well as the former one, but it just was not raised. Based on our belief that our tax exemption would be lost and would result in severe and dire consequences to all of our members who would be taxed on your contributions, the value of your benefits, in one (1) lump sum, we encouraged the Governor to veto the bill. The Governor vetoed the bill, the Legislature reconvened and came back in special session, and overrode the bill, so it became law. We, on advice of counsel, sued the State. We asked for preliminary injunction and was granted by the court indicating that they thought we were likely to prevail. We went back and filed for permanent injunction. That was granted to us in August of last year and the condition was that we were to go to the Internal Revenue Service and ask for a private letter ruling on an expedited basis, as to whether or not Act 1 violated our tax status. We did that in August. We have been in communication with the IRS since. Our Congressional Delegation and the Governor communicated and said that this was of urgency to the State and wanted them to rule in an expedited fashion. We expect a ruling within weeks or a couple of months. They have told us that it does, in fact, violate our tax status. They have drafted the ruling, it is being reviewed up the ladder in the IRS, and we are told we will get that. We think that post this ruling, we will have to go back to the courts, but the courts are likely to declare Act 1 unconstitutional and prevent it from being implemented.

Councilmember Yukimura: I was shocked by the action. There were consequences to the tax status, which you said would affect all retirees and everyone who are invested in the fund because it would affect, as you said, the taxability or the non-taxability of contributions as well as the out payments.

Mr. Williams: That is essentially correct. We do not know with great precision, the impacts, but it is clear. For example, the contributions that are made by the employer to the plan that are not taxed to the employee today, would be taxable not only in the current year, but when have they vest. So once that employee vests the entire value of employee contributions, it would become taxable in that year. Employee contributions are contributed on a so-called "tax deferred" or "pick-up basis." Employee contributions would be taxed in the current year, and so there is some potential that the earnings of the fund that are protected because they are tax-exempt would be subject to some level of taxation. Most programs, most public plans avoid any threat to the tax status at all costs because the consequences are so dire to the members and to the fund, that it would be broadly considered as disastrous. So our Board felt it had the fiduciary responsibility to try to enjoin the implementation of that act.

Councilmember Yukimura: But there were also huge—I mean we talk about funding the fund properly. There were also huge financial impacts to the fund.

Mr. Williams: Well, benefits that were being offered were not funded, so the special retirement benefits and the severance benefits themselves were not funded. We are not part of any negotiations with the affected unions, but it is my understanding that the Governor has been working with Hawai'i Government Employees' Association (HGEA) and United Public Workers (UPW) attempting to

resolve this impasse over what that is going to look like. The ERS would hope that it includes severance benefits of which we are not a part. Severance benefits do not affect us, and severance benefits would not be part of any benefit calculation. Special retirement benefits do affect us, and of course, there is a cost to providing those that the Legislature had made no provision for as of this date.

Councilmember Yukimura: So we say that those decisions to divert the income of the ERS fund to the General Fund were past decisions, and now in retrospect, they were unwise, to say the least. But this decision is a current decision that is affecting the fund that everyone needs to be accountable for who is making the decision.

Mr. Williams: Well, we think that the courts or the IRS is going to rule in our favor. We could have been wrong, but we had strong reason to believe otherwise and hopefully, we will work more collaboratively in the future and avoid this near-miss.

(Councilmember Brun was noted as present.)

Mr. Williams: But there are some bills that are proposed in the current session that would accomplish almost the same thing, so we are testifying that it would harm our tax status. They have two (2) bills; one (1) is almost identical to the one that is being looked at today offering the choice, and another relates to teachers and rehiring of teachers that also affects another very specific part of the Revenue Code that if that is violated, will result in a loss of tax status also. We are including that in our testimony.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: Sorry. Again, thank you for being here to answer all of the questions. My question goes back to fairness. Now that I had time to think about police, I think I have reasoned myself through why their contribution is probably higher. If you a firefighter or a police officer placing eighty thousand dollars (\$80,000) and another employee making eighty thousand dollars (\$80,000), but we have police and fire retiring at a certain age, which is quicker than the other employee, then that means that the contributions need to be higher. I know you had a slide where you showed that teachers' life expectancies were higher than other employees, and I am thinking, where do we get off separating them? We do not have any teachers in the County and their life expectancy is higher than our other employees, so that might affect the other employees' payment. When I look at the groups, I do not see separated teachers group. When it comes to fairness, I guess my question is on fairness. The higher life expectancy of teachers is going to make other employees' payments higher because they live longer. How do you break that out?

Mr. Williams: It is a difficult—the nature of these retirement plans is that it shares all of the risk and shares all of the risks as it relates to longevity and income. For example, there will be some teachers who will not live along and the

defined benefit plan takes the risk of trying to spread your income over that life expectancy. Defined contribution plans have that risk where I have one hundred thousand dollars (\$100,000) and I do not know how long I am going to live. Do I take five thousand dollars (\$5,000) a year or ten thousand dollars (\$10,000), and then run out of money? These defined benefit plans spread the risk so that nobody runs out of money, and that everybody is guaranteed benefits for their lifetime, some short, some medium, and some long. They just put all of the teachers and all of the other employees together. Is that fair? Some say "yes" and some say "no." A lot of plans do carve out teachers and many states have teacher retirement systems, and in other states, they put them together. In some states, they put them all in the same plan, but charge different contribution rates. It is just a matter of how the Legislature designed the plan, quite frankly. Is that fair? Some say "yes" and some say "no."

Councilmember Kaneshiro: It is hard because you are not only looking at fairness between the different departments, fire, teachers, and other employees, but you are looking at the fairness of the State money versus County money and how much the County has to put in for their employees. Are they paying more into the system to compensate for something that maybe State employees throw off the equation?

Mr. Williams: Admittedly, sir, it is a difficult balancing act because I am sure if you were to talk to police and fire and while they may be compensated differently, they will attest to different risks. They might say that they face certain hazards that teachers do not. I do not know how to balance that which is fair, quite frankly.

Councilmember Kaneshiro: I was almost thinking why they do not just split the County and State's responsibilities and then you have the shared ones also, so it is fair as far as how they are looking at each employee because of course, police and fire is pretty much all of us, so that is pretty fair. We are paying it and we see the higher contribution, but once you start lumping in a whole bunch of different State workers and County workers, I do not know.

Council Chair Rapozo: The police do not get social security either. They are not paying into the social security system.

Mr. Williams: That is right.

Council Chair Rapozo: I think people need to understand that.

Mr. Williams: Absolutely.

Council Chair Rapozo: Everybody keeps bashing police and fire, but they do not get social security. Their only sole source of retirement is from this system unless they are working part-time somewhere else.

Mr. Williams: Thank you, Council Chair Rapozo.

Council Chair Rapozo: I am trying to think about it. That is such a disparity. When you look at total active employees, sixty-seven thousand (67,000) people in the State, a very small percentage of that is police and fire, and yet, their outlay is so high. But I think it is part of the benefit, the justification for the higher annual percentage point would be the fact that they do not qualify for social security.

Mr. Williams: I think you are absolutely right. Council Chair Rapozo, I am glad you raised that point because that is why they typically have a higher multiplier because you are looking for they say generally, one-third (1/3) from your pension plan, one-third (1/3) from social security, and one-third (1/3) from private savings. Firemen and policemen do not have social security, so they have to look for the two-thirds (2/3) from the plan, so that generally accounts for why they may have...

Council Chair Rapozo: Well, I just wonder, when you look at the percentage of police and fire employees and beneficiaries Statewide, compared to the other employees general, teachers, whoever else, is that a fair proportion? Right now, is twenty-five percent (25%) versus seventeen percent (17%) and what is it?

Mr. Williams: Forty-two point five percent (42.5%).

Council Chair Rapozo: Does that equate to a proper ratio? I do not know.

Mr. Williams: Well, the actuaries think so, sir.

Council Chair Rapozo: I know it is not you. Like you said earlier, you gave me permission when you said, "I take nothing personal." I know it is all based on actuarial and I would assume they are doing it properly.

Mr. Williams: That it is accurate.

Councilmember Yukimura: I was not aware that police and fire do not pay into the social security system. I appreciate knowing that. Why is that the case? How did that come about?

Mr. Williams: I am uncertain, but the Federal laws have changed over time, such that there were groups who were allowed to be exempt. You could vote. Some states have police and fire in social security and others do not. I think probably over the last decade or so, they do not have choices because the social security system is underfunded as well, that most new employees no matter whether they are State or private, have to be in social security. I think there was a period when you could elect to be in or out of social security.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Social security is the same thing. The young ones today, who knows if that is even going to be around. That is all the constant threat. As Councilmember Kawakami said, it is not a Kaua'i problem, but it is a

nationwide problem with retirement systems and obviously, with social security. I just have a couple of questions before we wrap up. All of the assumptions of the actuaries, we have adjusted the return rate for the investments from seven point five percent (7.5%) or whatever it was to seven percent (7%).

Mr. Williams: Correct.

Council Chair Rapozo: And yet, in our recent five (5), ten (10) and fifteen (15) year, we have never even reached it. The highest we got was six point two percent (6.2%), right? What assurances or what makes us believe that we can actually achieve seven percent (7%) in these tough economic times? I do not know. Maybe now that Donald Trump is the President the markets are going to change. I do not see that happening. We have adjusted the assumptive return so we can accommodate the goal of thirty (30) years or twenty-five (25) years to pay off the unfunded liability, and if we do not achieve that seven percent (7%), that means we just have to do more contributions going forward.

Mr. Williams: Council Chair Rapozo, yes that would be the result if we do not earn the seven percent (7%). Fifteen (15) years is a pretty long period, but if we looked at longer periods, I know we have exceeded the expected return of even seven point five percent (7.5%) over twenty (20) to twenty-five (25) year periods.

Council Chair Rapozo: Okay.

Mr. Williams: But we do not want to rely on the past for the future. How they develop the seven percent (7%) for us in spite of the fact that we have earned less than that over the last five (5), ten (10), and fifteen (15) years is to look at the current portfolio allocation. They look at our portfolio, and we look at capital market assumptions for every piece of it. What is the real estate market supposed to yield over the next five (5) to ten (10) years? What is the international equity market, small cap, large cap, and the bond markets? They look at our portfolio and then add all of the pieces together and say, "What is the probability? What is your return going to be?" Our return based on that portfolio allocation, is between six point nine percent (6.9%) and seven point two (7.2%) if those forecasts are accurate. So we think it is on-target for our actual allocation.

Council Chair Rapozo: Okay, and we had that one (1) really bad year when the market crashed in 2008-2009.

Mr. Williams: Yes, sir.

Council Chair Rapozo: My last question is, at some point when you cannot control the market and the forces that really dictate the costs, is the reduction of our workforce statewide a possibility, that at some point reducing the actual number of employees help because we still have to basically pay them the benefits?

Mr. Williams: Obviously, that is above my paygrade. I am in a low paygrade about reducing the State workforce. My sense is that would not help our plan much because it lowers the people contributing into the plan.

Council Chair Rapozo: Unless they are not vested.

Mr. Williams: That is right.

Council Chair Rapozo: And typically when you do a reduction in force, the people that would be affected pretty much would be the ones that are not vested.

Mr. Williams: Often times, it is those and when it is those that are vested, then there is this corresponding experience in brain-drain that happens. You take all of the people who have all of the experience in administering and running the programs and they are the ones who can afford and elect to leave.

Council Chair Rapozo: Okay. Are there any more questions for Mr. Williams? If not, thank you very much, sir.

Mr. Williams: I thank each of you. I appreciate the invitation to be here very much.

Council Chair Rapozo: Maybe after the legislative session and the laws all pass or not pass, we will ask you to come back and give us an update and give us more good news.

Mr. Williams: I am always pleased to return to Kaua'i.

Council Chair Rapozo: Thank you, my friend.

Mr. Williams: Thank you.

Council Chair Rapozo: While the rules are suspended, is there anybody wishing to testify? Is anyone signed up?

LONNIE SYKOS: Good morning, Council. For the record, Lonnie Sykos. This conversation is really interesting to me because when I was a student at Leeward Community College in 1974, Representative Cayetano was running for his second term. This issue was his number one topic as well as Representative Abercrombie, who likewise, was running for his second term in the Legislature. I listened to dozens of political speeches from them at Leeward Community College in which they explained that the growth of the retirement expense for County and State employees would bankrupt this State between 2040 and 2050, that the actuarial studies done way back then showed that this problem has been known forever in political time. I would like to not thank Senator Kouchi, Senator Tokioka, and rest of our elected Honolulu Representatives and Senators for allowing and being part of foisting this disaster on the public. There is no surprise to this in any one who has been paying attention to the system. The resolution to this

has to be more efficiency in government. I am personally tired of listening to Councilmembers tell us that they are aware of millions of dollars being wasted by our managers and then taking no proactive actions to prevent the waste from occurring. This is real, right? Whoever is going to run for Mayor next term is looking at having a County with no money. We have a huge labor force. We have members of the Administration tell us that we are fully funding the County's retirement, but then we have other members of the Administration, Nadine being one (1) of them, many times has stated in public that, "Yes, we are funding the base pay side, but not funding the overtime added expense." So that this is all part of a much bigger issue, which is, how is the County going to deal with the changing economic environment? We not only have this, we have the Trump Administration...

Council Chair Rapozo: I have to stop you real quick.

Mr. Sykos: I will be back. Thank you.

Council Chair Rapozo: Next.

MATTHEW BERNABE: Good morning, Matt Bernabe, for the record. We are going to have to run more efficiently in all departments. This is a wake-up call that we, ourselves, need to have qualified people heading the departments. Mainly, we need somebody in Human Resources that can streamline and eliminate the waste, the repetition, and the redundancies that occur at every department, that I myself, and I know you are aware of, have uncovered in my last couple of years of being involved. I would like to thank the harsh words against spiking. When I found out what spiking was, it was crazy. I feel bad for our employees because I think we have really good employees and to be unaware—when I ran for Council this last term against all of you, some of them told me, "save our pensions" because I am the one talking about efficiency. If we are not running efficient, we are not going to have that cushion that the State has drained. If we are going to have to come up with a greater amount of it, we are going to have to find it somewhere, and if you folks do not run better, that means we, the public, are going to have to pay it. That is what it is looking like already. The thought that we can go for all of these projects that we have down the line and even some on the books for Federal money, I said this at a Planning Commission meeting the other day, "There is a new sheriff in town." The Federal funding that was so used to going for that always saves the day, just may not be there. That ladder will not be there and we are going to be stuck. Once again, I am going to use this opportunity, it is a little bit off-topic, but this is a wake-up call to run better. I view getting somebody in Human Resources as the number one step. You should all write a letter over to the Mayor and say, "Put a qualified person in that position" so that you folks can have your nerve center moving and you can save money because we need it so that you do not have to tax us.

Council Chair Rapozo: Anyone else wishing to testify for the first time? If not, Mr. Sykos.

Mr. Sykos: As a taxpayer, I sit here and wonder whether or not it was foolish to invest in buying a property and making my home on Kaua'i. I am sixty-two (62) years old. I do not have the opportunity to go back out into the

employment market and make hundreds of thousands of dollars a year to make up for the apparent dramatic increases in our taxes, which are going to be required to pay for this if we do not do it through efficiency and/or cutting back on non-essential services. I am no different than everybody else that works for a living or worked for a living and is retired, or on disability, or whatever their personal circumstance is. This is the number one issue facing the County. The Federal government has told us that they intend to dismantle that Federal government. Rick Perry, "I am going to eliminate the Department of Energy," who is now in charge of it. The entire Republican agenda has been "get the boot of the government's foot off of neck, and the way to do that is to diminish the government, which means all of the money that comes to us from the Federal government is at risk. The block grants and other specific grants, all of that Federal money that flows to us. The Administration is telling us that they intend to cut that off. Public schools, we are going to be funding more of our public school education out of our own pockets. Our roads, our highways, our harbors, our airports, police, fire, and everything else. Our bill is going to go up if the Administration follows through on what they have promised to do. This is not an issue that can get kicked down the road. Between now and the next budget cycle, this County Council has to figure out how to save a tremendous amount of money, millions. Ten million dollars (\$10,000,000) out of our budget has to not be spent in the wasteful ways that it is or we are going to end up bankrupt. Thank you.

Mr. Bernabe: Matt Bernabe, for the record. The other thing that I was pondering while I was sitting there listening was I am at a crossroads because on the one hand I understand the savings of putting on the table and floating the idea of moving to 401(k) plan. But I can tell you as somebody who has a family who has engaged in a 401(k) plan and watched and studied it well, if you do not know how to run your portfolio and if you do not manage your portfolio, a 401(k) can lose your money. Let us put that out there, too. My wife no longer gets a 401(k) because I showed her the math and did the timeline of how much money had we just taken the money and put it in the bank. We would have more money than what the 401(k) did because we did not manage it. We were ignorant and we did not follow it right, even when we made an attempt to. The market is run by computers. The thing switches on a dime. It is always changing. If you do not know how the game works, you lose. So to switch and give the liability to the employees sounds really great. We save thousands if not millions of dollars, guaranteed. We would save a lot of money. But at the end of the day, we might hurt some of these employees because in they are going to lose in the long-run. We no longer use the 401(k) plan because I proved it to be detrimental unless you live, breathe, and know the market intimately. I would like that on the record. Thank you.

Council Chair Rapozo: Thank you. Anyone else wishing to testify? If not, I will call the meet back to order.

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

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair Rapozo. I will keep it very short, but I have one (1) of the slides, slide number 9, that I want to put up. I think it just paints the picture of reality. You do not have to be a Certified Public Accountant (CPA) to see where we are at as a State. Whenever you are analyzing a corporation, you look at the assets and liabilities, and that slide paints the picture of the strength of the company. The assets are fifteen billion dollars (\$15,000,000,000) and we have liabilities of twenty-seven billion four hundred forty million dollars (\$27,440,000), so we basically have a deficit of twelve billion four hundred forty million dollars (\$12,440,000,000). That is all you have to look at. If you talk about we are going to be bankrupt, we are bankrupt. That shows that we are bankrupt. We are beyond bankrupt. Where do we go from here is the question. I thank Councilmember Kaneshiro for putting this on the agenda because I think in the budget, we need to realize that there may be some additional millions of dollars that may be owed this year in the coming budget. I do not know if the Administration is planning to include that in their budget, but the reality is that we have great workers out there; State and County. We throw celebrations for many of them when they retire and to think that we are not going to be responsible and at some point catch up this deficit, is unthinkable. People retire knowing that they are going to get something. You are not going to give them what they have earned. I think the reality is how do we cut our losses? How do we be more fiscally responsible going forward? One (1) of the obvious things that we need to do is that we need to cut unnecessary overtime. I am talking mainly with police and fire, unnecessary overtime. Read into those words, "unnecessary overtime." Overtime that perhaps could be turned into compensation time. Those kinds of innovative ways is what management needs to somehow solve. The fire station may have to go with three (3) instead of the five (5) that they want to go with all the time. We just have to cut the overtime down, that will cut down our liability and not a little bit, but a lot. We can no longer say, "Well, I am going to take a ninety thousand dollar (\$90,000) per year job because I know that I am actually going to make one hundred fifty thousand dollars (\$150,000)." No, I think those days are over. We are seeing these types of numbers that are showing us that we have to cut it out. We are not going survive as a County if we continue to just pay, pay, and pay. It is has to stop. I think Councilmember Kawakami asked the perfect question, "Were we operating like a Ponzi scheme for all of these years" because the numbers look worse than a Ponzi scheme. A Ponzi scheme takes about one million dollars (\$1,000,000) or two million dollars (\$2,000,000), and then they go to jail. Twelve billion four hundred forty million dollars (\$12,440,000,000). If you are a regular corporation with the Federal Communications Commissions (FCC), you would be thrown in jail for mismanagement or fraud because there is no way your stockholders would allow you to make decisions that you made with entities paying money and you go into the hole double of what your assets are. That is just unthinkable. Are there problems with ERS? Definitely. Did the Legislature or counties not pay their share? Who knows at this point? I think we have to go forward, but we definitely have to change our course, and that goes for the ERS, the State, and the County whether the State needs to raise the General Excise Tax (GET) to specifically attack this deficit. Something needs to be done. We need to protect the retirees and what they have, and we need to not pass this type of burden to our future generations or else we will never be able to buy another park, improve another road, or anything. We will just be paying these types of liabilities with whatever gains that we make from real property taxes. I think this coming budget will be the most critical

budget in history of County of Kaua'i, and we will have to make very tough decisions. I am saying that everything is on the table. This Council has to do it this year. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I would like to thank the presenters.

(Councilmember Kagawa was noted as not present.)

Councilmember Kawakami: In a large part, these Council Meetings are not just policymaking, but it is for the education of ourselves, the public at-large, and our constituents. I would say that this was part of the educational process. I would like to just clarify a few things while we have discussion. I think it would be extremely unfair to put the current situation on any specific individuals. I think this is a symptom of the shortcomings of the social fabric of government. We have made some assurances and promises through collective bargaining, and just through the process of how we have promised our public workers, often times you take less pay, but you get more benefits. I think we are starting to see the price tag of some of these promises. I do not think it would be fair to put blame on anything else except for the process, in general. Now, the point of pointing out the 401(k) plan and our public pension system was just to educate that the burden 401(k) plan is on the employee and the worker themselves, and the employer in situations. I think what has come up through discussions with some of our constituents is "if I am not contributing to my own retirement, why am I contributing to somebody else's retirement?" So that is the discussion at-large. It is not to debate which one is better. Like the presenter said, that would be above my paygrade whether a 401(k) plan is right for you and your family or for your current situation. I think at-large, the challenge that we face as policymakers is that this aging society, the baby boomers, the silver hurricane that we hear about is going to be a challenge that we need to address, and this is just the tip of the iceberg. The lack of assisted living facilities, and the lack of long-term care insurance and planning. When all of this falls on to our lap, it is going to be a situation that we are going to have to deal with. I really commend this body and our Budget & Finance Committee Chair for bringing this to the table because I think as the educational process, there was great value to today's discussion. Hopefully as we move forward, we will be able to grasp the challenges that lie ahead as we live longer, and how we are going to deal with that moving forward. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I appreciate Thomas for coming out. I know he was kind of in the hot seat, but it is not his fault for having to come here and answer the questions. Yes, we brought this on as a tool of education because we have our budget coming up. Every year we hear, "We need to cut the budget," but unfortunately, there are things like this where there is nothing that we can do about it. If legislation goes in for the forty-two percent (42%) increase and twenty-five

percent (25%) increase, then we are looking at an eight million dollar (\$8,000,000) tab next year. There is nothing that we can do about it. We cannot say, "No, we are not going to pay it because we want to cut the budget." It is something that is going to happen. Year after year, we hear, "Oh, the budget is increasing. The budget is increasing. It should not increase," but this is only one (1) small thing. This is the ERS. We have other things like OPEB. We have costs that go up every year and we do not really have control over it. It is was partially an educational tool. I wanted to learn a little bit more about the ERS, how much we are putting in, and how much an employee is putting in. It is also a good reality check to say, "Things increase and we need to move and make decisions." It is sad that it might come to this, but eight million dollars (\$8,000,000) is not easy to find. That is just the reality that we are going to have to deal with as we get into this next budget.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: This has been a good session even though it has been a hard session because the reality is so difficult to face. I think this eight million dollars (\$8,000,000) a year, if we have to go to the forty-two percent (42%), we have to do something because if we do not, it is like our one hundred million dollar (\$100,000,000) liability in road repair. If we do not, all that happens is that the liability keeps growing. At some point, we do suffer really dire consequences. We will not be able to pay our pensioners who deserve the pay, or we cut back on services so dramatically that it really hurts our community. We have to stem the bleeding somehow and fix this. I think it is very wise to look back and see what lessons we can learn from this. I do not think it is so much about waste as it is about making good decisions as policymakers. I think the main responsibility is Councils, Legislatures, Mayors, and the Governor. There are times where we need the wisdom and courage to look ahead and to make the tough decisions. When we lifted the real property tax cap, but also initiated many programs to help the real property tax owners who live on Kaua'i, the owner-occupants, we were taking responsibility and that is why our budget is in better shape today than it was going to be if we did not make those decisions. But you need to have public support for these decisions or else the policymakers will not make them. It is a two-way street and it is all of us who have responsibility.

I want to say that I believe the people in Human Resources are very qualified. They are doing an excellent job by all indications. If you look at their report in the last budget, their accomplishments were really remarkable, and it is not only Human Resources' *kuleana* to address waste. Waste is every County employees' *kuleana*. All of us have a responsibility to do our jobs without waste. I put special responsibility on Department Heads, management, and the Mayor because they are the ones who administer this County, and that is where you can especially stop waste. I agree with Council Vice Chair Kagawa that we definitely need to change our course and this year's budget. For many years, we are going to have to make tough decisions so that we can survive and thrive as a County, all of us together.

Council Chair Rapozo: Anyone else? If not, thank you. I know Mr. Williams had a flight to catch. I appreciate him coming down. I think it was very enlightening. Really, twenty-seven billion four hundred million

dollars (\$27,400,000,000) is basically the benefits that we pay out. Fifteen billion dollars (\$15,000,000,000) is what we have available to pay. I am trying to make this as positive as possible, and I am trying to use the analogy of a house. Your house might be worth five hundred thousand dollars (\$500,000). That is what you owe on your mortgage, and I do not know of us have two hundred fifty thousand dollars (\$250,000) sitting in the bank to pay that house. I am trying to make this palatable, but the reality, this is a beast that is not going to stop growing. It is just going to continue to grow as we get higher salaries. Again, our salaries and benefits make up almost ninety percent (90%) of our real property tax revenue leaving very little for the roads, the services, and the programs. I am not sure how long more we can sustain on that track. It will take sixty-six (66) years to pay the current liability and I think that is way too long. I am not sure. Again, it is above my paygrade as to what happened up until this point. How did we allow this thing to get so out of control? It is what it is and we are going to have to make adjustments at the County level as well as the State level to make sure we get a handle on this. When we go to our State or National conferences with the counties, I can tell you that this is a huge problem for many jurisdictions, in some cases where layoffs had to be made, services have to be eliminated, and fire departments had to go to volunteer fire departments. That is just the reality of this. I think we better have a twenty (20) year window outlook going forward to make sure we get a handle sooner than later. With that, the motion is to receive.

The motion to receive C 2017-49 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2017-48 Communication (01/23/2017) from the Chief of Police, requesting Council approval to receive and expend Federal funds for the Statewide Marijuana Eradication Task Force (SMETF), in the amount of \$40,757.00, and the Hawai'i Narcotics Task Force (HNTF), in the amount of \$31,433.00, which will be used to continue law enforcement efforts to reduce drug threats and drug related crimes through agency collaboration; and approval to indemnify the State of Hawai'i Department of Attorney General for the term commencing January 1, 2017 to December 31, 2017: Councilmember Kaneshiro moved to approve C 2017-48, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? I see the police officers. Are you here for that today? Were there any questions for the Kaua'i Police Department (KPD)? With that, is there any public testimony? I will suspend the rules.

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

Mr. Sykos: For the record, Lonnie Sykos. Going back to our previous agenda item, this is the problem, right? Some people might say approving this request is a no-brainer, but I would make the observation that you

need to use your brain. What I am not understanding is it says here “to reduce drug threats and drug related crimes through agency collaboration.” Can some Councilmember explain to me what that means? Council Chair Rapozo, I have a question for the Council.

Council Chair Rapozo: We can answer it after.

Mr. Sykos: After my testimony, could one (1) of Councilmembers explain to me what that means in the real world? What is this actually going to accomplish other than increasing the budget for the Police Department that we just got done talking about how we are in the hole to pay for benefits for their time? Going back to when Governor Waihe‘e in 1978 declared a state of emergency, and to a degree, I supported him. I lived in east Maui and I used to go pig hunting and run into literally, an acre of more of clear cut and it was planted with marijuana by somebody. It was a disaster in the forest reserve. That is not occurring today like it used to in the past. My question is, going back to 1978 with this marijuana eradication program, when is it going to be eradicated? Is this an open-ended deal that is going to run forever, or when it is going to be eradicated and how are they going to do it because that is what it says the money is for, eradication. When is the problem going to be eradicated? You can get a dictionary out and look the word up. My observation to the Council is, is this money going to be spent doing something that is worth the cost of the public for the value of the money? What is this actually going to accomplish by giving them this money, because it is tax money? It is not free. It is our tax money. Thank you.

Council Chair Rapozo: Thank you, anyone else? Let me just say that on the agenda, which is public record, attached is the entire grant application. It has a scope, the limitations, the money, and all of that is attached to the agenda if anybody wants to see exactly. We will call up the Police Department up after public testimony to come up and give whatever can be released. I would assume some of this might be confidential. But as far as the application of the funds, the scope, and all of that is attached. I think Councilmembers have had this for six (6) days now and the fact that we do not ask any questions does not mean that we have not read the agenda and the supporting documentation. I do not want the public to think we are just saying “yes.” We do read the material, and if we have questions after reading the application and the grant itself, then we ask the questions. Anyway, go ahead, Mr. Bernabe.

Mr. Bernabe: Matt Bernabe, for the record. I am opposed to continuous expansion and use of this program for a few reasons, but Mr. Sykos was alluding to one (1) of the things I was also about to say. With the social acceptance switching to not only medical, but recreational, we know longer have these big grow operations deep in the jungle. Instead, what I see the green harvest performing and not that they do not get some of these out in the forest, but most of what I see them doing is they are doing monthly, if not, every other month checks of people that have licenses. In my neighborhood in Wailua Houselots, they buzz right over all of the houses with the licenses. If there is a discrepancy or the number is not there, then they have a ground unit that comes in. I have seen this at my neighbor’s house. I do not have the plants in my yard and I do not grow, but I have seen this in other areas

right next to my house. They are buzzing not only over my neighbor's house, but they are literally shaking my house. They do not repel like the olden days. They have a car unit that shows up, they knock, and they are polite. My neighbors told me that they are polite. My question is, if a primary function is just to check licenses, which I know that is not the only thing, but it is a major component what they are using the chopper for today. They could do that with a car and a scheduled appointment or unscheduled appointment because they have the right to anyway. My point being is that I do not want them flying over my house anymore, not to mention all of the financial aspects of it. I am just opposed to it because it is a nuisance and it is not very effective. That is the other thing. How many years has this program been going on and not only has it not put a dent in it, but society is changing our view on marijuana. Unfortunately, the President did not take it off schedule 1, but do you know what? I do not think we should be perpetuating this program. We should send the message and say, "Do you know what? Use the money somewhere else. Use it on Methamphetamine (meth). Use it on a meth bust." I totally support two hundred thousand dollars (\$200,000) on a meth bust or whatever it takes to eradicate meth. But we are about to open our first clinic.

Council Chair Rapozo: Anyone else? If not, I will call up KPD while the rules are suspended. I am not going to entertain a debate on whether or not medical marijuana, marijuana, or any of that is good or bad or what. This is specific to the grant, and the grant has been requested and has been approved. So whatever you can divulge would be appreciated, but again, this is not going to be a debate about medical marijuana and whether it is good or not because I do not have enough time today. I have my own personal opinions, but that is not about this today. Today is about the grant and whatever you can discuss as far as how it is going to be used. I know you heard some concerns with the helicopter flying low. I do not know if you can address that. I have had complaints about that, so if you can address that in your presentation, I would appreciate it. I am sorry. Go ahead.

Councilmember Kaneshiro: Just before they start, I just want to say it was posted in the agenda and that we have almost one hundred twenty (120) pages of information on the grant. It has their indemnification by the State, a description of their project, their goals and objectives, project activities, and budget explanation. It is available for anyone to see prior to the meeting and that is what we have had, that is what we have been able to look over. A lot of questions could have been answered by looking at that. If there is a problem with a specific thing in here, then it would be a lot easier to answer.

Council Chair Rapozo: Yes, and I do not expect the public to go get that big stack of one hundred thirty (130) pages, which I think we charge for anyway. We do not charge? Okay. This is to my good friend in the back, Mr. Sykos, when he made the comment "use your brain," I took it as we did not read. We are just saying, "Okay." I just want to make it clear that Councilmembers are all given of this and we vote accordingly.

Councilmember Yukimura: It is attached.

Councilmember Kaneshiro: Also, you can go online to the Webcast Meetings and it is there for free.

Council Chair Rapozo: Anyway...

Councilmember Yukimura: All of the materials are there online, right?

Council Chair Rapozo: Councilmember Brun, did you have a question for the police?

Councilmember Brun: Apparently, I did not read through the whole thing, but to answer some of the questions, would it be used just for marijuana?

BRYSON PONCE, Assistant Chief: For the record, Assistant Chief Bryson Ponce, Kaua'i Police Department. I will let Sergeant Carvalho explain a little bit, but there are two (2) aspects to the grants; one is for the State Marijuana Eradication Task Force and the Hawai'i Narcotics Task Force. In essence when you look at both of them, it is ongoing efforts from the Attorney Generals, the Justice Assistance Grant (JAG) grants and the Kaua'i Police Department to always combat the illegal narcotics that we see on a daily and weekly basis. So it is not only marijuana.

Councilmember Brun: Okay.

Mr. Ponce: It is other illicit drugs, and I will let Sergeant Carvalho talk a little bit about the two (2) grants.

KENNETH CARVALHO, Police Sergeant: Thank you, Council Chair Rapozo. Sergeant Kenneth Carvalho, Kaua'i Police Department, for the record. These two (2) grants are not just for marijuana. One (1) of the grants is the Statewide Marijuana Eradication Task Force. That is not just for green harvest. That is also used because we only have certain ways that these illicit drugs end up on our island. It is either barge or air, either at the airports, people hand carrying it in their luggage, on them, or postal. Some of these funds are used for that interdiction also. So it is not just for us to go fly around be able to get our employees to these checkpoints. The other one is the HNTF, and that is specific for all other drugs besides marijuana. Yes, we do have problems with heroin and crystal methamphetamine. If we had more manpower, we would put it towards this, but it goes back to our budget. We only have a certain number of hours per day per employee and we only have so many employees. But we are working really hard at trying to cut the way these drugs are coming to our island. This is a very small amount of funding that we have acquired to try to help us on the war on drugs.

(Councilmember Kagawa was noted as present.)

Councilmember Brun: I guess it is no secret that I do not support any kind of drugs, and I will go on the record and say that I will not support medical marijuana. We are not going to get into that debate, but unless we are going put it in pharmacies where they are licensed to do it because we will end up with more

problems. I can tell you that and you folks will see it as our police force. As far as drugs, we have an issue over here and I wish we could put more money to it and more ways to control it. It starts from marijuana. Everybody is blaming this crystal meth or whatever it is. Nobody in high school wakes up in the morning and says, "Do you know what? I am going to go to school and do heroin today." They start small. They start with marijuana. They start with alcohol. So that is the start and that is where we have to put a lot of our resources too, is helping from marijuana on down. Everybody is like, "Oh, marijuana is going to be legal whatever." It is legal to the right people. I just hope we can continue to control it from the bottom. Maybe this is more of my comments, not question. Sorry about that.

Council Chair Rapozo: I was going to ask you if there was a question somewhere hidden in this.

Councilmember Brun: I just thought about it.

Council Chair Rapozo: You have an opportunity at the end to voice your opinions.

Councilmember Brun: Thank you.

Council Chair Rapozo: Are there any questions on the grant because that is what is on the agenda? Councilmember Yukimura.

Councilmember Yukimura: I like the objectives. I am reading the narcotics grant. The overall goal is to "disrupt the flow of narcotics via the apprehension of mid to high level distributors importing and distributing illegal narcotics into and within the State of Hawai'i" and is to decrease the number of drug trafficking organizations in the community. You have a very specific objective, which is to reduce the number of the drugs on the streets by seizing twenty (20) grams of cocaine, one hundred (100) grams of crystal meth, five (5) grams heroin, and one hundred (100) diverted pharmaceutical pills. I like having specific objectives to aim for. I just want to thank you, first of all. I want to ask, in this particular grant, is marijuana covered by this narcotics grant?

Mr. Ponce: No, it is not.

Councilmember Yukimura: It is not? Excuse me my ignorance, I probably should know. Is marijuana not considered a narcotic per se?

Mr. Carvalho: That is just how they broke the grants apart.

Councilmember Yukimura: Okay.

Mr. Carvalho: If we are doing an investigation on marijuana, we only can use the funding for that, and any other type of drugs is for the HNTF grant, which is all other drugs.

Councilmember Yukimura: These are both Federal funds, right, and they are going to two (2) separate task forces?

Mr. Carvalho: Correct.

Councilmember Yukimura: One is the Marijuana Task Force and the other is the Narcotics Task Force?

Mr. Carvalho: Yes.

Councilmember Yukimura: Who decides on the split of moneys?

Mr. Carvalho: We put in a proposal to the Attorney General's Office through the JAG grant...

Councilmember Yukimura: I see.

Mr. Carvalho: ...and we got cut in half. We asked for double of what we got, which is normal.

Councilmember Yukimura: In both cases?

Mr. Carvalho: Correct.

Councilmember Yukimura: So you must have asked for about—let us see. This is a total of seventy thousand dollars (\$70,000), so you must have asked for about one hundred forty thousand dollars (\$140,000) to one hundred fifty thousand dollars (\$150,000).

Mr. Carvalho: About there, yes.

Councilmember Yukimura: Did you ask for it in that kind of a split as well?

Mr. Carvalho: About. The way the funding is awarded is based upon all of the applications for the JAG grant. The more people who apply for the grant, the less money that they have to split to different organizations. We asked for what we think we could use the money for, and we got half of what we asked for.

Councilmember Yukimura: Okay. Alright. Thank you. Well, I just want to say that based on past news reports of the year, I think you folks have been doing a very good job. You closed down some networks and made some major busts. I think that helps our community feel that somebody is looking out for them.

Mr. Ponce: Thank you. The fruits of the labor from working these grants has been very successful over the years, and we definitely have a lot of numbers to show how important these grants have been to trying to balance the island and keep it safe because we have all types of illicit drugs coming from all different areas.

Councilmember Yukimura: Okay. Thank you.

Mr. Carvalho: Can I add one (1) more thing? You mentioned about the drug trafficking organizations, that is the major goal, not just knock on people's doors for marijuana. We want to take down the drug trafficking organizations, and the definition of a drug trafficking organization is someone that has at least five (5) levels, the street level and up to their supplier. That is our goal. These people do not work 7:45 a.m. to 4:30 p.m., so that is the times that we have to work into the night, into the morning, or into the next day because these people are not on the regular clock like the regular pay.

Councilmember Yukimura: Sure.

Mr. Carvalho: So that is where these fundings are used to be able to get—if we get a call saying the plane is to coming in with someone carrying two (2) pounds. We do not know for sure if it is going to be between 7:45 a.m. and 4:30 p.m. It might be the last flight at 10:30 p.m., and some people walk up and jump on the plane. We do not know that right away, so that is where some of these costs come in for us to try and stop these drugs from coming in. I cannot tell you if it is going to be today, tomorrow, the next day, or when it is actually coming in, but we have to be prepared. That is what these funds are used for.

Councilmember Yukimura: I like that you are prioritizing your efforts, especially on the really harder drugs because that is where the pain, suffering, and permanent damages comes in to our kids and others. Thank you.

Council Chair Rapozo: Are there any other questions? Do these funds go towards the medical marijuana enforcement? I know a member of the public talked about the helicopter buzzing. I think I live close to him because they buzz all the time. Sometimes, I think, it is lower than what the Federal Aviation Administration (FAA) says. I do not know if it is the cops or what, but it is low. Are any of these funds utilized for that as well?

Mr. Carvalho: One (1) of the grants is, the SMETF.

Council Chair Rapozo: What is the County's role in the medical marijuana program enforcement and what do we typically do?

Mr. Carvalho: Well, with this grant some of the funds are used to do the eradication. We cannot go and search every person. We do not know every person with a medical use permit. We do not have that information, for one. The Department of Health (DOH) holds all of that information and for us to look into that, we need to start some type of investigation. The helicopter flying over a house in Wailua Houselots, we do not know who has a medical use permit in there. We do not.

Council Chair Rapozo: They do not share that with the police?

Mr. Carvalho: We do not have that information unless we go and search it. Say there is one hundred (100) people in Wailua Houselots with medical use permits, we do not know that.

Council Chair Rapozo: Wow.

Mr. Carvalho: The other thing if we are flying over and see something, then we have to run a check. The person is compliant. We send a ground team and if they are compliant, we leave.

Council Chair Rapozo: So do you folks fly over and look for plants.

Mr. Carvalho: Well, if we find it, yes.

Mr. Ponce: It is not specifically targeted in people's backyards.

Mr. Carvalho: Right.

Mr. Ponce: It is public, private, and pretty much different sectors of the island at different times.

Council Chair Rapozo: No, but I am asking if your investigation actually gets triggered when the helicopter sees the plant in a yard?

Mr. Carvalho: Yes.

Mr. Ponce: It could, yes because at that time, we do not know if it is legal or not. Then from there, we have to do further investigation, find out if they have one (1) permit or more and how many plants they can have per permit. We have had a lot of times where they had way over the amount that they were allotted, which becomes illegal.

Council Chair Rapozo: I am not criticizing the effort. I have received a lot of calls about that and I just send them back to the Police Department for answers because I do not know. But now that you folks are here and it is part of the grant, I think that is pretty interesting.

Mr. Carvalho: If we do fly over, see plants, and we cannot land in a subdivision, we cannot long-line someone in the subdivision. So, that is when we need to send a ground team into there if we have one. We have to talk them into where the house is from the air. I do not have the addresses as to exactly where it is, so we have to walk them into the property where it is at.

Council Chair Rapozo: Wow. Okay, that is pretty interesting. Again, does it just start with the helicopter seeing some plants?

Mr. Ponce: Yes, and there is a threshold of how low we can fly and we are cognizant of the level, which is five hundred (500) feet. I know

some people think that “Wow, it is so close. We hear the buzzing,” but we are very aware of what that level is.

Council Chair Rapozo: Yes. I do not know what one I saw. I do not know, but I swear it was below five hundred (500) feet. I actually called the FAA because I was sleeping on the couch and it was like that person was on my roof. I was like, “What the heck?” I know for that incident, it was probably two (2) years ago and I did report it because that was way too low for anybody to be flying. Again, that was a long time. That did not happen since, so I would assume that has been corrected. Councilmember Yukimura.

Councilmember Yukimura: As this medical marijuana thing gets more established, it would seem that there should be communication from the Department of Health to you, or give you—in your database, you should be able to access it so at least you can tell by addresses who has a permit or not.

Mr. Carvalho: There is a database, but we need to be able to first, find where the plants are because we do not know where and then we need to send a ground team to get the address, and since they are there, they verify if they have a permit or not. A lot of times, they do and a lot of times they do not, but we do not know that unless we send an investigation team to go and follow-up.

Councilmember Yukimura: If you see something from the air, then that is an automatic knock on the door?

Mr. Carvalho: I would not say automatic. If we see seven (7) plants, we might continue going. If we see something that does not look right in terms of an investigation, yes, we will send a ground team.

Councilmember Yukimura: I am just trying to think how to avoid disturbing so many people.

Mr. Carvalho: It is not like we fly every day. We do not.

Councilmember Yukimura: No, I understand.

Mr. Carvalho: I do not know why that is coming up. It does not happen every day.

Councilmember Yukimura: No, I understand that. It has happened in my neighborhood maybe about once every six (6) months, but still, we have a lot of elderly and it is in the middle of the day. Anyway, if it can be avoided, you want to avoid it if you can still achieve your objectives without doing it. I am just wondering. Thank you.

Council Chair Rapozo: I do not know how else you are going to enforce it. Unfortunately, that is just the nature of the beast. It is unfortunate, but it is what it is. You cannot have your cake and eat it, too. Again, we have talked about a lot earlier, and Councilmember Brun mentioned it earlier, that this law has

really opened up some opportunities for abuse, major abuse. I do not know how we are going to get a grip on it. My comments are not intended to criticize the effort. It is just that I think the public's questions should be answered, and I appreciate the responses. Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. First and foremost, thank you to you folks and the whole Department for keeping our streets safe. I am glad we are here because it has identified a couple of areas where we can improve the whole process. One, the Department of Health not sharing the information, to me, is absolutely unreasonable. I think there may be some efforts on our part to at least reach out and say, "Hey, from the County's perspective, help us help you by identifying the black market, which is where the problem is, and in the meantime, let us avoid the invasion of privacy for everybody that is complying with the medicinal marijuana law." Now, the Department of Health now owns this program, previously, it was under the purview of the Department of Public Safety. Was there any difference between how the Department of Public Safety handled the medical marijuana procedures as far as communicating with you folks and now, the Department of Health? Were they making the information available when the Department of Public Safety had the program?

Mr. Ponce: That is a good question, and the answer to that is when that transition took over, the Department of Health really did not have an enforcement plan. It was just the administration of the permits. When Keith Kumita was there, we had more of an understanding about what types of persons would be applying for the permits. We also looked at the statistics where a lot of them were between twenty-five (25) to forty-five (45) years old. When that shifted to the Department of Health, you see an even greater spike in the amount of permits being issued to the point where we actually talked to the Department of Health. They are just overwhelmed in keeping up with processing applications and being able to transmit the information. The timing was not the best for the Department of Health to be ready to administer anything more than issuing of the permits. We even asked them, "Will you folks go and check if the permits issued to different people are in compliance and if everything is all legal?" They did not have any resources at the time, so a lot of the illegal activities based on something that is not permitted, will fall right back on us. So the transition is still something that is a work in progress with the Department of Health.

Mr. Carvalho: One (1) more thing, we are able to check online or by address, but we have to fax that into the Department of Health. We do not receive a list of everyone that has the medical use permit. We are able to check, but we need certain types of information to be able to run the checks.

Councilmember Kawakami: I think that in itself is a Department of Health problem and should not be yourselves because if they cannot even provide complete information, then it is almost like, do not provide any information because you are giving us bad information. In the meantime, we would like to help you folks do your job, so I think we can reach out to the Department of Health to see where we can be more efficient in this whole program. Thank you for the information.

Council Chair Rapozo: Right now, if you had a need to verify someone who had a card, you go to a regular domestic or theft call, and you see plants. Are you not able to get the information? You would have to fax something over to the Department of Health?

Mr. Carvalho: The fax is only if we want to check the address of where we think the plants may be at.

Council Chair Rapozo: No. Let us say that an officer shows up at a house and notices five (5) plants, which is legal if he had a card. For whatever reason, he does not have a card or his card looks fake, how hard is it for you to confirm whether or not that person is...

Mr. Carvalho: If you have a card, we can run the check.

Council Chair Rapozo: Okay. Let us say he does not have the card.

Mr. Carvalho: If he does not have a card, but we know who lives there?

Council Chair Rapozo: Yes.

Mr. Carvalho: We need a name and date of birth to be able to run it online...

Council Chair Rapozo: Okay.

Mr. Carvalho: ..or run it by address only. The only way to run it by address is by faxing it in.

Council Chair Rapozo: Okay.

Mr. Carvalho: That is kind of where we are stuck...

Council Chair Rapozo: I understand.

Mr. Carvalho: ...where, yes, you are there, but we cannot verify anything right away unless you have certain types of information.

Council Chair Rapozo: So you pull his plants, you arrest him, go in, check, and then say, "Oops, sorry?"

Mr. Carvalho: Well, we would not go that far. We would run the checks first.

Council Chair Rapozo: Okay. Alright. Councilmember Brun, did you have your hand up? No? Okay. Councilmember Kagawa.

Councilmember Kagawa: Just a quick question. When the medical marijuana dispensaries do become open, which I hope will be soon, will the people with the cards still be able to grow plants on their own because I was informed that was one (1) of the benefits of the dispensaries is that people would not be able to grow their own?

(Councilmember Kawakami was noted as not present.)

Councilmember Kagawa: Then, we will not have those problems, because I have some constituents that said they have neighbors that grow and they do not know how many plants that person has, but occasionally kids jump over, pull out plants and steal it. It is kind of chaotic because they come through these innocent people's yards and, I guess, it is easier to access the area where the plants are. I am wondering when dispensaries come on board, are the plants able to be grown still or are we not sure of that answer?

Mr. Carvalho: Year by year, the laws are changing, so I cannot say "yes" or "no."

Councilmember Kagawa: It might change?

Mr. Carvalho: It might change.

Councilmember Kagawa: Okay.

Mr. Carvalho: It just depends.

Councilmember Kagawa: Was that not one (1) of the goals?

Mr. Ponce: It was tiered.

Mr. Carvalho: Right.

Mr. Ponce: Not immediately.

Councilmember Kagawa: Oh, okay.

Mr. Ponce: The dispensaries will open, but you still could have a permit to grow in your yard, and then in x amount of years, that will phase-out.

Councilmember Kagawa: That was the plan?

Mr. Ponce: Yes.

Councilmember Kagawa: But it all might change.

Mr. Carvalho: It changes year to year.

Councilmember Kagawa: Who knows? Alright. Thank you, and thank you for the work that do you, too.

Council Chair Rapozo: Thank you. Are there any other questions for the officers? Thank you very much. Did you want to speak? Okay. Thank you very much. The rules are still suspended. If you could just state your name for the record, and then you can proceed.

SANDY COMBS: I am Sandy Combs. I hesitated to approach you folks and say anything right now because I have not come to a lot of meetings. But I do not want the government to give out the fact that I purchase insulin as medicine. I do not want anybody's blood pressure medicine to be public record or the addresses of everybody who gets OxyContin prescriptions. I would say that our OxyContin abuse on this island is far greater than marijuana and causing problems and law enforcement issues. So to target people who use medical marijuana seems overly zealous, and to mandate that those addresses be public record when for a lot of people, this is medicine. I understand that young people getting it and that kind of thing, but there are many, many uses that are being documented in many states having to do with the use of marijuana for medicine as in making it so that you do not have to take Attention-Deficit/Hyperactivity Disorder (ADHD) medication. Ritalin is readily available in high schools by kids who do not want to use it by kids who do, and it has far more detrimental effects than medical marijuana. I know you are not arguing about medical marijuana, but having to do with the address and the Department of Health publishing those for public records or not even public records, but even for law enforcement. I do not want the police to have access to my private medical information. Thus Health Insurance Portability and Accountability Act (HIPAA), that our private medical information is not public record, and it should not be, including medical marijuana. That is my opinion.

Council Chair Rapozo: Thank you. Mr. Sykos. I do not think anyone advocated or stated that they wanted this information to be public record. I think we were just surprised that the police officers were not able to get that information.

Mr. Sykos: For the record, Lonnie Sykos. I am astounded by what I heard. I have a medical marijuana license. I have talked to the Department of Health. I have talked to the State Attorney General's Office. KPD just sat here and explained to you that they believe they are authorized because they say they are to conduct warrantless searches and warrantless seizures of private property. They fly over in a helicopter, Councilmember Yukimura, you are shaking your head at me. They fly over in a helicopter, they look in the yard, they see a marijuana plant, and they send five (5) people that are heavily armed in body arm armor who tell you, "We do not need a warrant. We are doing an inspection for the Department of Health." That if fraud. That is impersonating the State official that the law says is the only one authorized to come to my house. When KPD gets the information about the address and the person with the permit, that is covered by HIPAA. The Honolulu Police Department (HPD) has signed the patient doctor confidentiality or whatever those documents are called for HIPAA, in order to get that information from the

Department of Health, right? So the mechanism of how they actually get the information from the Department of Health, I would agree that it is absurd if they have to use a fax to get one aspect of the information, but most of it is available online. The idea that "Oh, we see plants in somebody's yard, we do not know if it is legal, we are going to go look," how many constitutional violations is that? Search and seizure, securing my property, quiet enjoyment of my property, and on and on. Thank you to Dr. Combs for using the term "overly zealous," and right there is the County Attorney. You can ask him. Can the police go on somebody's property and seize a marijuana plant without a warrant? I mean, you are all American citizens. Can the police go in your house, threaten you because they have guns and Tasers, and there are five (5) of them, so there is an implied threat of not just force, but your death by gunfire if you resist, all because you are legally growing a marijuana plant? This is egregious and wrong. Thank you.

Council Chair Rapozo: Thank you. Go ahead.

Councilmember Yukimura: Lonnie, you said most of it available online. What are you talking about?

Mr. Sykos: The patient information, my name and address. According to the Department of Health, all of that is available to the police online, that they can sit in the squad car on the computer and find out whether or not there are one (1) or more permits to grow at that address and who it is that has permission to do it.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Thank you. With that, I will call the meeting back to order.

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

Council Chair Rapozo: Is there further discussion? Councilmember Brun.

Councilmember Brun: First of all, I want to thank KPD. Almost everybody knows my past and what is going on and how much I am against drugs. Medical marijuana license, my son has it. He is diabetic, he has a lot of pain, and he has a medical marijuana license. Do I support it? Absolutely not. He will find a way to get it. That is why I never supported this dispensary that we are trying to do. I do not believe it because there is too much underground work that going to come out of this and we are just going to put more pressure on our police force. From day one, I do not support it and now you can see it on record that I do not support it. If it is for my personal reasons, I would because of my son, but I will not because of our whole island and through past experiences. We hear about the helicopters flying over. But if somebody is doing drugs on the street over there, we are going to grumble about that, right? But we are also grumbling about the helicopter and they are trying to help us get drugs off if the streets. It is key for them to do their work and I am just

listening here and like “Wow, we grumble about drugs, but then we are trying to solve our drug problems or get a handle on it and we still grumble what we are doing.” I look at some of these officers in here and I can tell you for a fact, I know these people personally, and I know they take their job serious in regards to drug enforcement. So there is no problem with approving this grant, and I wish we could approve one million dollars (\$1,000,000) to clean up our drugs off our streets, but we do not have the money. To me, it starts from marijuana, pills, and everything from the ground up. Marijuana is not legal, so it is an illegal drug right now. Let us get after it and that is where it starts. If we all want to make a difference, get to the schools and working with the kids. I just put together a force where I am going to take people that are in jail or just got out of jail and we are going to go into the schools. I just met with the principals last week and talked about experiences in life to try to get these children in school, a chance in life before they get started on drugs. If we want to all make a difference, let us go do some of those things and give back to our community because we are pinpointing on seventy thousand dollars (\$70,000). I think we need way more than this. I am sorry. I am passionate about this and I think if we had more money, if I was a millionaire, I would have given you five hundred thousand dollars (\$500,000) to tackle this. I just think we need to do a lot more to get it off of our streets. Thank you very much.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: Thank you. I would like to thank KPD officers for all they did in getting this grant. This is beautiful grant. They do not have any matching requirement. I hear the concerns of Lonnie and Sandy, and I agree, we have got to be careful with privacy things. But I think when we tell KPD “work efficiently and work effectively,” it is about getting information so that they do not waste too much time doing things that with information, they would not be wasting their time. I think we can get the information to them via the Department of Health without it getting out to the public. I think that is what Councilmember Kawakami and Council Chair Rapozo was intending, that help us give the information because some of it is complaint-driven where like I mentioned that instance.

(Councilmember Kawakami was noted as present.)

Councilmember Kagawa: Think about the marijuana plant that is fully grown and fully budded, those are \$20 or \$100 bills just hanging. So if you are a kid and you know that the plant is there, I mean—I think KPD is doing a fabulous job in trying to make sure that if you have the card with so much plants, you are limited to that amount. I think that is great. We need to enforce that. Then secondly, we need to make sure people without a card are not growing it at all because that is less \$20 and \$100 bills hanging all over the communities because when you have those kind of things, life gets dangerous for residents. I am talking about residents that have no interest in having medical marijuana or any type of marijuana. Again, like Councilmember Brun said, it is a gateway drug, it is against the law, and applaud our police for attacking something that is against the law. I think they are doing their job. They are doing what the public expects them to do, but again, we have to listen to Lonnie and Sandy and do it responsibly so we do not put ourselves in liability

because there are situations where we may need to slow down and make sure that we do it right way instead of just going forward. Thank you everybody.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I was never advocating that this permit information be public information, though apparently, it might be, but that health information would be public. I think it should be available to the police for their law enforcement purposes. I think and I really do not know much about this area, but this discussion today is raising some issues that I think do need to be addressed. I think there needs to be a distinction between the regulation of those with medical marijuana permits and criminal enforcement against those without permits. I think the Department of Health would seem to be the more appropriate regulator if they are giving out the permits to make sure that the permit conditions are not exceeded, and the enforcement of those who do not have permits, would be rightly under the police to regulate. So I think there should be some real coordination between the two (2) agencies in dealing with this to protect privacy and all of those other issues that need to be paid attention to. I want to say that I believe medical marijuana needs to be available to those who need it. My mother's best friend who is age eighty plus (80+) who was dying and had terrible pain used it to alleviate her pain. So, there are purposes that I think are legitimate that need to be supported. How we do this is going to take very careful crafting, but I do believe there is a legitimate purpose to use marijuana medically. I commend our Police Department for their efforts. I hope that the concentration is on the more damaging drugs, which I hear about constantly from our community; the ice problem, the houses where ice is manufactured, heroin, and cocaine that put people in dangerous states who cause huge damage to our communities. I believe that is where our priorities need to be.

Council Chair Rapozo: Anyone else? Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I just wanted to mention that I like the discussion and sort of getting the nuances. We were about ready to pass it through without further introspection into it. As I read the grant, my understanding is that it is focused on the large trafficking aspects of what is coming into the island, and that is something that as they explained, has five (5) layers or tiers of which we should be approaching. I do not think we should be hindering on anyone's privacy in any way, shape, or form. I also would say that I would be very concerned if with what we are focusing on and putting our attention on are those cardholders who are utilizing it for medical purposes. I do not think it would take us too much time and effort and would probably cost us a lot less money if we were to do our own tracking. How many times do we have to fly over the same house to make that determination? Then, we can have our own record in order to save costs moving forward. That is my expectation. Other than that, I think the grant funding that this is focused on is very specific, that we should be looking at the narcotics and all other aspects that are harming our community. With that, I will be supportive of it. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, thank you for being here to the Police Department. Obviously, I will be supporting the grant. I

share some concerns from everyone. I do think we have to get a handle on it. I know there is a lot of concern about the medical information. I think people have to realize that it is still a Schedule 1 drug, that we kind of tend to forget, that, in fact, people really minimize the impacts of marijuana. Again, I am not going to get into that debate today because I just have a lot to say. I will say that I believe that the medical benefits for those that actually can benefit from it are very important, and I would support the medical use of marijuana for conditions that need it. Unfortunately, we all know whether you want to believe it or agree with me or not, we all know that the abuse with that medical marijuana system today is outrageous. We have people with those cards that should not have those cards. Chronic pain because of whatever is not one that I believe should qualify. If you have a sore back and you are twenty-one (21) years old, you probably worked for two (2) weeks for the first time in your life, have a sore back, and certain doctors just write the card. You pay the money, you write the card. There is no medical benefit for that. That is a legal way to high, and that is what I do not agree with. A person with multiple sclerosis (MS) or cancer—I know this firsthand. My brother has MS. He has a card and it benefits him. But there are way too many people that have that card that should not have that card, but that is for another discussion. With that, the motion is to approve.

The motion to approve C 2017-48 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Listen, it is 12:30 p.m. We have an opportunity to finish the agenda. Do we anticipate much discussion for D.R. Horton's bill? I think majority of the discussion was held in Committee. Then, we have the Resolution for the Rules for an investigation, which should not take much time. If we go through the agenda and that is going to create some discussion, we can move that to the Committee for next week.

Councilmember Kagawa: It sounds good.

Council Chair Rapozo: But I think looking at what we have, I think we can finish up before 1:00 p.m. Councilmember Yukimura.

Councilmember Yukimura: I have some concerns. First of all, I really appreciate of all these Rules for investigations are on the agenda and are being proposed because they were always a big question mark whenever we considered making investigations of how it would be done, et cetera. But I have some questions and it may even result in some amendments that I would like to prepare.

Council Chair Rapozo: Then I would suggest that when we get to that item, that we refer it to Committee next week.

Councilmember Yukimura: Yes. I would prefer that over a quick approval.

Council Chair Rapozo: Yes, I had anticipated a referral anyway.

Councilmember Yukimura: Okay, because I also think that the public needs more time to look at it.

Council Chair Rapozo: Okay, that is good. I am sorry, Councilmember Chock.

Councilmember Chock: Sorry, Council Chair Rapozo, I have a scheduled 12:30 p.m. meeting that I was going to have during lunch. I think I might be able to move it forward, if there is an agreement. I would need a short three (3) minute recess to confirm that.

Council Chair Rapozo: Okay. Let us take the three (3) minute recess really quick so he can make his phone call. Councilmember Kagawa.

Councilmember Kagawa: Yes, I would just say that we take the D.R. Horton first because she has been waiting here from the morning.

Council Chair Rapozo: That is my plan, to do D.R. Horton first.

Councilmember Kagawa: Let us get her out of there.

Council Chair Rapozo: With that, we will take a short three (3) minute recess.

There being no objections, the meeting recessed at 12:28 p.m.

The meeting reconvened at 12:32 p.m., and proceeded as follows:

Council Chair Rapozo: We have eleven (11) minutes of tape left, so if we cannot get it done in eleven (11) minutes, then we are going to take another caption break. I want to try to get through because we are supposed to give our staff a lunch break at 12:30 p.m., but they have been kind enough and nice enough to allow us to move forward. Next item, please.

There being no objections, Bill No. 2644, Draft 1 was taken out of order.

BILL FOR SECOND READING:

Bill No. 2644, Draft 1 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-94-82 RELATING TO ZONING DESIGNATION IN HANĀMA‘ULU, KAUA‘I: Councilmember Yukimura moved to approve Bill No. 2644, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

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

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

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

Council Chair Rapozo: Seeing none, the motion is to approve. I do want to thank D.R. Horton and all involved; the Office of the County Attorney and everybody who has worked together to make this thing work out. I am pleased at what—of course, it could always be better, but I am happy with the compromise and ready to move forward. Thank you for being patient today. With that, roll call.

The motion to approve Bill No. 2644, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

SCOTT K. SATO, Deputy County Clerk: Seven (7) ayes.

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

LEGAL DOCUMENT:

C 2017-50 Communication (01/17/2017) from the Mayor, recommending Council approval of a Grant of Pedestrian Access and Parking Easements from CIRI Land Development Company, conveying easements to the County of Kauaʻi: Easements AU-1, AU-2, AU-5, AU-6, and A-1 at Weliweli, Kōloa, Kauaʻi, Hawaiʻi, Tax Map Key (TMK) No. (4) 2-8-021:041, 044-068.

- Grant of Pedestrian Access and Parking Easements

Mr. Sato: We did receive a memorandum from the Office of the County Attorney requesting a deferral to March 8th.

Council Chair Rapozo: Thank you. Is there any discussion before I entertain the motion? A request came because they need to make some corrections on the map and the description. Is there any public testimony?

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

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

Council Chair Rapozo: Seeing none, can I get a motion to defer?

Councilmember Chock moved to defer C 2017-50 to the March 8, 2017 Council Meeting, seconded by Councilmember Yukimura, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

CLAIM:

C 2017-51 Communication (01/20/2017) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Darryl D. Perry, for reimbursement of attorney's fees/expenses, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kagawa moved to refer C 2017-51 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

(Councilmember Chock was noted as not present.)

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

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

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

The motion to refer C 2017-51 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative vote for the motion).*

Council Chair Rapozo: Motion carried. Next item, please.

(Councilmember Chock was noted as present.)

COMMITTEE REPORTS:

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2017-08) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2017-07 Communication (01/11/2017) from Council Chair Rapozo, requesting the presence of the Director of Parks & Recreation, to provide a briefing on the remediation plan to address the asbestos contained in the flooring at the Kaua'i War Memorial Convention Hall,”

A report (No. CR-PWPR 2017-09) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2017-06 Communication (01/10/2017) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide a briefing regarding the Administration’s plans for a Materials Recovery Facility (MRF),”

A report (No. CR-PWPR 2017-10) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2017-08 Communication (01/17/2017) from Council Chair Rapozo, requesting the presence of the Acting County Engineer and the Chief of Wastewater, to provide a briefing on island wide residential sewer issues, to include, but not be limited to:

- What are the various issues currently being experienced;
- The cause of the issue and corrective action taken;
- What is needed to improve the system; and
- How to expedite the process to resolve issues with residents,”

Councilmember Kaneshiro moved for approval of the reports, seconded by Councilmember Kagawa.

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

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

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

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

Council Chair Rapozo: Motion carried. Next item, please.

PLANNING COMMITTEE:

A report (No. CR-PL 2017-02) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2644 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-94-82 RELATING TO ZONING DESIGNATION IN HANĀMA‘ULU, KAUA‘I (*Amfac Property Development Corp.*) (ZA-2017-1),”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kaneshiro.

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

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

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

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

Council Chair Rapozo: Motion carried. Next item.

PUBLIC SAFETY & TRANSPORTATION COMMITTEE:

A report (No. CR-PST 2017-03) submitted by the Public Safety & Transportation Committee, recommending that the following be Received for the Record:

“PST 2017-01 Communication (12/08/2016) from the Executive on Transportation, requesting agenda time for the transportation consultants from Nelson Nygaard, to provide an update on the progress of the Transportation Agency’s Short-Range Transit Plan initiated in July 2016,”

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

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

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

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

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

Council Chair Rapozo: Motion carried. Next item.

RESOLUTIONS:

Resolution No. 2017-16 – RESOLUTION ADOPTING RULES OF THE COUNCIL OF THE COUNTY OF KAUAI FOR INVESTIGATIONS CONDUCTED PURSUANT TO SECTION 3.17 OF THE CHARTER OF THE COUNTY OF KAUAI AND REPEALING RESOLUTION NO. 2005-25, DRAFT 1: Councilmember Yukimura moved to refer Resolution No. 2017-16 to the February 15, 2017 Committee of the Whole Meeting, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. Is there any discussion?
Councilmember Kagawa.

Councilmember Kagawa: Yes. I want to thank Council Chair Rapozo who has been talking about conducting a 3.17 Investigation when we are dissatisfied with the results of performance by the County and are looking for clearer answers to justify to the public. For me, I am all for that, but the main question for me that I need answered as we get to any audit or vote on an audit is when we get the results, like we just got our Comprehensive Annual financial Report (CAFR) that tells us our financial situation and says that we have seven million dollars (\$7,000,000) in revenues; however, our Police and Fire Departments went up four million two hundred thousand dollars (\$4,200,000). The question that I need answered, just like the audit that came out on the CAFR, is what are we going to do about it? If we are just going to have the audit tell us what the problem is, identify the problem, and that is why we cannot pave roads and what have you because you cannot control your public safety, then there is no sense in doing the audit if we are going to find the answer, find the problem, find what the reasons were for the problem, but then we do not have anything to do in response, then why do it? That is what I am going to need in the end. Yes, okay, find the answers and where the breakdowns were, but also what are we going to do about it? That is what I need to know. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I also want to thank you, Council Chair Rapozo, because I think the laying out of the Rules helps Councilmembers and the public visualize and understand what the process will look like. It is a necessary step before we take on any particular subject matter for investigation. I do have a concern that where the Rules are silent, Rule 14, our present Rules do not allow questions of people who testify beyond restating and repeating and the whole purpose of investigation would be to ask people who come before you the questions. So that is why I wanted to have in Committee so we can discuss that issue.

Council Chair Rapozo: Again, this is just the start of the dialogue. I think as of recently, we have had some pretty serious incidents go on in this County and the Council has two (2) tools in our toolbox; we have the audit and the 3.17 Investigation. Also in response to Councilmember Kagawa's thing regarding the audits, you will see very soon or very shortly, some requests for follow-up audits on some prior audits where recommendations were made and now we need to find out if in fact the recommendations were followed. In the financial audit, we get that every year. We get the subsequent audit and it talks about the findings from the last audit. We do not have that from the audits that were done years ago, so I have asked the County Clerk to move that forward. Again, there is always—I am glad that is a great segway for me because I forgot to mention this when the police were here, but when we had the financial audit, one (1) of the purchasing card (P-card) violations they said was the Police Department. I was supposed to have brought this up last week, but because we were on this audit and investigation, I think that it is only fair—I did not see a press release come out. Maybe we should have done it. I am going to read this straight from Mr. Ernie Barreira, who is the Assistant Chief Procurement Officer.

“All six (6) findings were thoroughly investigated by Mr. Barreira after which time a comprehensive written response was provided to the auditor. In the case of Kaua'i Police Department, the violation occurred as a result of vendor error and not procedural or policy violation by the Police Department. The vendor incorrectly assessed the copier charges against the Police Department for charges that should have been assessed against another County department. All of this information was specifically addressed in the written response to the auditor.” That was not brought up at the audit meeting, so I think that was very unfair that, in fact, I was very concerned being that I thought the Police Department did a great job with their fiscal management and those comments really made them look bad. The reality is that was not the case, so I wanted to clarify that. I think Councilmember Kagawa brings up a great point. When we move forward with an audit, we have got to have the follow-up after the audit to make sure that the recommendations are being followed. Anyway, that is what this is. I am not expecting this to be done right way, but I want to have these tools in a position where when something comes up like transfer stations, recycling plants, or the Kaua'i Memorial Convention Hall, if the Council is not satisfied, the council will have an opportunity to conduct an investigation and not hear the same response, “Oh, we never did one. We do not know how to do one.” I want to get all of these things finalized. With that, the motion is to refer to the Committee. Roll call.

The motion to refer Resolution No. 2017-16 to the February 15, 2017 Committee of the Whole Meeting was then put, and carried by the following vote:

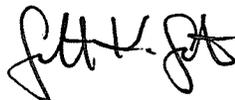
FOR REFERRAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST REFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: The roll call was done just so I could keep Scott on his toes. With that, there is no further business on the agenda. The meeting is adjourned.

ADJOURNMENT:

There being no further business, the Council Meeting adjourned at 12:41 p.m.

Respectfully submitted,



SCOTT K. SATO
Deputy County Clerk