

COUNCIL MEETING

FEBRUARY 21, 2018

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 21, 2018 at 8:30 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
Honorable JoAnn A. Yukimura (*present at 8:33 a.m.*)
Honorable Mel Rapozo

APPROVAL OF AGENDA.

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

MINUTES of the following meeting of the Council:

January 24, 2018 Council Meeting

Councilmember Kaneshiro moved to approve the Minutes as circulated, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or 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 approve the Minutes as circulated was then put, and carried by a vote of 6:0:1 (*Councilmember Yukimura was excused*).

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

INTERVIEW:

POLICE COMMISSION:

- Jonelle L. Jardin – Term ending 12/31/2020

Council Chair Rapozo: I see Leina‘ala. Is Jonelle a relative of yours?

JONELLE L. JARDIN: Yes.

Council Chair Rapozo: Okay.

Ms. Jardin: Actually, I am Jonelle Leina‘ala Pavao Jardin.

Council Chair Rapozo: Welcome, Jonelle Leina‘ala Pavao Jardin.

Ms. Jardin: Now everybody knows my English name.

Council Chair Rapozo: Thank you very much for being here today. You are being nominated or recommended for the Police Commission. So, if you would just give us a brief overview of yourself. I think everybody knows you, but if you would just like to take a few minutes to tell us about yourself, and then we will open it up for questions.

Ms. Jardin: *Aloha kakahiaka.* Good morning everyone. I am, as I said, I go by Leina‘ala Pavao Jardin. I am a *Kumu Hula* here on Kaua‘i. I am a proud mother of three (3) wonderful children and I am a proud native of this island. I love this island. I love our home as you all do. It is my new venture in life, well, it has always been my goal to give to our community and if in some way, shape, or form I can instill more *aloha* into our community and our children, especially. That is my goal in life and that is really my passion. This has come my way and I am honored by the nomination, if you want to call it that, to serve on our Police Commission. I, of course, have no history in the Police Department or anything like that.

(Councilmember Yukimura was noted as present.)

Ms. Jardin: Really, what I feel I would bring to the Commission, is a great sense of *aloha*, a great sense of commonsense, integrity, and just being able to listen. I am a huge supporter of our Police Department and I honor the men and women that protect our people. This is an honor in itself and I thank you all for allowing me to share a little bit.

Council Chair Rapozo: Thank you very much. Are there any questions for Leina‘ala? Councilmember Yukimura.

Ms. Jardin: Good morning. *Aloha.*

Councilmember Yukimura: *Aloha.* Good morning. I just wanted to know if you understand that one of the roles of the Commission is to select the Chief of Police if there is...

Ms. Jardin: Yes, correct. I have had the opportunity prior to today and again, I am reviewing it today, to what the duties are as a Police Commissioner. One of them is selecting a Chief of Police, possibly, and various other things as far as taking in complaints and whatever else.

Councilmember Yukimura: That is great, because choosing the leadership for basically the cabinet of the County is really critical. I am glad that your judgment and discernment will be part of the process if that happens.

Ms. Jardin: Thank you.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Are there any other questions?
Councilmember Kagawa.

Councilmember Kagawa: I just want to thank you for volunteering to serve on this Commission. It is very important to have somebody with your deep roots and knowledge of the island. I just want to thank you for stepping up.

Ms. Jardin: Thank you.

Councilmember Kagawa: I think a lot of times people are busy and people like you are hesitant. But I think that is why some of us decided to run, too. You can sit down on the couch and watch the meetings and say, "Wow, I think I could do better in making Kaua'i better." I think that is why some of us have stepped up. I want to thank you for doing your part.

Ms. Jardin: I think that is one of the most beautiful things, is by giving to your community, stepping up, and sometimes stretching our schedules a little bit makes our Kaua'i better. It really does. It takes people like you folks and leaders in our community that has shaped Kaua'i to what it is today. I look forward to Kaua'i just continuing on a great path whether it be the Police Department or just our community as a whole. This world has changed over the last few years and now more than ever, our Police Department needs to be *pa'ā*, needs to be *pono*, needs to be strong, and needs to serve our people to the best of their abilities. Our Commission and our County government needs to support our Police Department as well and give them what they need to serve our people.

Councilmember Kagawa: *Mahalo.*

Ms. Jardin: *Mahalo.*

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

Councilmember Kawakami: I do not have a question either. I just have to say *kumu*, thank you so much for your willingness to serve. It really excites me to see folks like you from the community step up and be willing to give your time once again. They say ten percent (10%) of the people do ninety percent (90%) of the work,

so thank you for your willingness to serve. I think Boards and Commissions and organizations need to be balanced and have that female presence and even more so, for the Police Commission. I think what you bring to the table is the cultural foundation that everything is rooted in *aloha* and that we do things differently in the State of Hawai'i on the island of Kaua'i. We do things differently and we are held to a different standard. I like the fact that you bring a mother's perspective. You bring that mother's perspective because you are a mother figure to hundreds of those little *keiki* that dance with you across the island. I think your worldly view, your ability to travel and see the world and see how other places are doing things correctly brings great value back to Kaua'i. Often times we hear, "Oh, we do not like to be like this place," or "We are not them," but that does not mean that we cannot take the very best aspects of people from folks all around the world and incorporate it into our community. Thank you for your willingness to serve. The only question is, does this impact any of your *hula* classes?

Ms. Jardin: No, it does not.

Councilmember Kawakami: Alright, then that is the main thing.

Ms. Jardin: No classes.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Thank you for your willingness to serve. I remember that smile you have. Let me know if you are still going to be smiling in two (2) years.

Ms. Jardin: Alright.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: *Mahalo*. I think I am going to echo some of what was said. I really do not have a question, but I think the concept of having diversity on any Commission is really important. Certainly, we need more powerful *mana-wahine* like you serving and stepping up. Someone could say, "Well, you do not have a police background," or "What knowledge do you have," but I think the flipside of that is that you come in with sort of a clean viewpoint. My only request would be that you walk in *maka'ala* and observe what is going on. I have had many indications, actually, just with the work that you have done with the Kamehameha Schools (KS) Board and coming on there, the thoughtfulness. Certainly, my niece certainly has a lot to say about how your standards are high, so I expect the same out of that. I think that if with you do that, we will get a lot out of your volunteerism. Thank you for stepping up.

Ms. Jardin: *Mahalo*.

Council Chair Rapozo: Anyone else? If not, thank you very much for agreeing to serve. I do not see any objections to your appointment. That will happen in a couple of weeks at the next Council Meeting. But I personally just want to say

thank you. The whole purpose of the Police Commission was to have that civilian oversight, so the fact that you do not have any experience in police is actually a positive.

Ms. Jardin: Right.

Council Chair Rapozo: It is not a negative. We need that civilian eye and we also need that support as well. I want to make sure that we are not going in there to go punish police officers.

Ms. Jardin: Right.

Council Chair Rapozo: To really be open-minded, and there is no question that you bring that to the table. Thank you.

Ms. Jardin: Thank you.

Council Chair Rapozo: I look forward to you serving.

Ms. Jardin: Thank you very much. I am honored. *Mahalo*.

Council Chair Rapozo: *Aloha*. With that, can we have the next item, please?

CONSENT CALENDAR:

C 2018-41 Communication (01/30/2018) from the Director of Finance, transmitting for Council information, the Periods 1 through 5 Financial Reports – Detailed Budget Reports, Statements of Revenues (Estimated and Actual), Statements of Expenditures and Encumbrances, and Revenue Reports as of November 30, 2017, pursuant to Section 21 of Ordinance No. B-2017-821, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2017-2018.

C 2018-42 Communication (02/05/2018) from Councilmember Yukimura, transmitting for Council consideration, a Resolution Amending Resolution No. 2017-02 And Resolution No. 2017-51, Relating To The Rules Of The Council Of The County Of Kaua'i For The Organization Of Committees And The Transaction Of Business.

C 2018-43 Communication (02/13/2018) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Opposing The Change Of Public, Education, And Governmental Programming Channel Numbers By Spectrum.

Councilmember Chock moved to receive C 2018-41, C 2018-42, and C 2018-43 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or 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:

(Councilmember Yukimura was noted as not present.)

The motion to receive C 2018-41, C 2018-42 and C 2018-43 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 Yukimura was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Motion carried. Next item.

COMMUNICATIONS:

C 2018-32 Communication (01/04/2018) from the Housing Director, requesting Council approval to decline the repurchase of property located at 5047 Kula Road, Kapa'a, Hawai'i, Tax Map Key (TMK) No. (4) 4-1-013-023, and grant the owner a one-year waiver of the buyback provision to allow for the market sale of the property by the owner.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Council Chair Rapozo, we do have a registered speaker for this item and also an Executive Session (ES) scheduled for later.

Council Chair Rapozo: Who is the speaker?

Ms. Fountain-Tanigawa: Ana Mo Des.

Council Chair Rapozo: Ana.

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

ANA MO DES: Thank you, Council. My name is Ana Mo Des. I am speaking on the Communication because last time, I was not able to speak on the entire agenda. I agree with Council Chair Rapozo and Councilmember Yukimura's opinions over disagreeing with the Housing Director's opinion on whether or not this should be kept in affordable housing. I feel that it is correct to go by whatever means to keep it even if it is in a leasehold, which would be more affordable, but there are many people in this situation that do need as much help as possible. Four hundred (400) people on the list to receive help seems like a daunting task, so I would encourage the Council to continue with its prerogative to keep this in affordable housing. Suggestions for helping out the families, since it is a sensitive issue would be a GoFundMe to help with whatever expenses they need.

(Councilmember Yukimura was noted as present)

Ms. Mo Des: As far as the community to step forward, maybe it could be promoted on your Facebook page and personally helped so that it is not such a heavy task on your heart to make this request. Being from the athletic

realm coming into with a positive stance, that it may possibly be accepted, would be a good way to go about it going in feeling like it is going to be denied and maybe is not the best perspective to move forward. I think this is disconnected.

Council Chair Rapozo: Thank you.

Ms. Mo Des: Okay. Thank you so much. I really appreciate you folks and all of the commentary to keep it in affordable housing for all of us to really be helped on this island, personally. I am not really sure, but I had a little bit more to say...

Council Chair Rapozo: We did not put the clock on.

Ms. Mo Des: How much more time to I have?

Council Chair Rapozo: We did not set it, but it is really close, so if you could wrap it up.

Ms. Mo Des: Alright. I also do not believe that it should be completely on the County to provide affordable housing for everyone on the island. Being that it is four hundred (400) people, it is going to be very difficult for them to be helped through the County's standards, so we should implement a way to actually have the affordability of all of the housing be in an equal way so that we can share in the experience of working on this island for those of us that actually have to work here to survive here, and being in balance with those who are able to purchase housing at a higher rate. I feel that we could reach a balance if we all have an honest conversation. Thank you so much.

Council Chair Rapozo: Thank you very much. Is there anyone else wishing to testify? If not, 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: Councilmember Kagawa.

Councilmember Kagawa: Not to rehash the whole thing, but for me, it is not that I do not want to keep it in affordable housing. It is just the plain fact that a request was made, the Housing Agency has supported this request made by the family, and the circumstances will be discussed in Executive Session. However, I am all for keeping this home in affordable housing. I am all for turning this affordable housing into a leasehold situation for three hundred thousand dollars (\$300,000) or what have you, that we heard from the Housing Director. But the fact of the matter is that it is not going to happen. The owner is not going to accept the County's offer with a forty thousand dollar (\$40,000) profit over ten (10) years. It is just simply not going to happen. Every property that I know of in ten (10) years, has appreciated much more than forty thousand dollars (\$40,000), and that includes some of the improvements that they may have made to the house, et cetera. To say that it is an option is really not being positive or negative. It does not matter. It is not going to

happen. I think going forward, the two (2) options are to deny the request, allow the homeowner to do whatever they want to do when July 2019 comes and they definitely will be selling it for more than a forty thousand dollar (\$40,000) profit, or to accept the request at the advice of the Housing Agency based on the results that we have in Executive Session. But as far as the Council deciding that we want to keep it in affordable housing beyond July 2019, it is just not going to happen because we already know based on the discussions that the Housing Agency has had with the owner, they have had those discussions, and the answer is "no." You cannot turn a "no" into a "yes" just because you are trying to be positive. It is not going to happen. They have already said "no." You can say "no" and you have to either accept "no" or have another option, and apparently, we do not have another option. Thank you, Council Chair Rapozo.

Council Chair Rapozo: (Inaudible) in Executive Session as well as it relates to somebody's medical condition. I do not know. I would like to know what exemption or what we are going to use and what information we are seeking that we can discuss that should not be out here.

There being no objections, the rules were suspended.

MAUNA KEA TRASK, County Attorney: *Aloha.* For the record Mauna Kea Trask, County Attorney. Under the Executive Session posting language, it specifically cites to provisions under Chapter 92 to talk to your County Attorney regarding the powers, duties, privileges, immunities, and/or liabilities relating to the matter as well as consideration of the issues, which are confidential under Federal or State law. There was some discussion about medical conditions, that is a matter of personal privacy under Chapter 92(f)14, I think, as well as, there is an overlay of Health Insurance Portability and Accountability Act (HIPAA), which is confidentiality regarding your medical records. To the extent that you want to discuss that, that needs to be done in Executive Session.

Council Chair Rapozo: But can it be discussed in Executive Session without that person's approval?

Mr. Trask: Well, I am not really sure of the circumstances, but if the male or female that communicated that to the Housing Agency, they have waived that. If they communicated that on their own accord, that can be communicated to you because this body, as the policy-making body, should consider that if that is a relevant consideration.

Council Chair Rapozo: Okay.

Mr. Trask: However, to the extent that you do not discuss that, the rest of the matters can be discussed on the floor.

Council Chair Rapozo: Okay. Thank you.

Mr. Trask: Thank you.

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

Council Chair Rapozo: We will move this to the end after the Execution Session, if there no objection. Next item.

Councilmember Chock: Council Chair Rapozo.

Council Chair Rapozo: I am sorry. Go ahead.

Councilmember Chock: I just have a consideration. I did not ask for this to be on the agenda first thing in the morning, but I know there are a few farmers here on the next proceeding, C 2018-45, so I just want to consider that it might be taken up as well.

Council Chair Rapozo: How many people are here to testify on the farming issue? Can you folks stay? Do you have to leave to go back to the farm? Okay. Why do we not do that? Let us take that out of order. What item is that?

Councilmember Chock: There is actually the police item, and it is this communication right there.

Councilmember Yukimura: They just need to testify.

Council Chair Rapozo: This one right here?

Councilmember Chock: Yes.

Council Chair Rapozo: Let us take C 2018-45.

There being no objections C 2018-45 was taken out of order.

C 2018-45 Communication (01/29/2018) from Michael A. Dahilig, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, Relating to the Comprehensive Zoning Ordinance, to provide a process for existing farm worker housing to obtain "farm worker housing use permits."

Ms. Fountain-Tanigawa: There is also Proposed Draft Bill (No. 2675). We do have two (2) registered speakers. The first registered speaker is Ana Mo Des, followed by Will Lydgate.

Councilmember Kagawa moved to receive C 2018-45 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you.

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

Ms. Mo Des: My name is Ana Mo Des. Thank you for having this agenda item. I think this is amazing for Kaua'i. Basically, the whole island should incorporate this, maybe not specifically to create farming for-profit as some of the farms need to. But this is something to establish, as a concept, for living on this island and having the luxury to have this sacred land beneath us. It should be something that we value, treasure, give to so that it can give back to us. Even the new developments that were approved that were on agricultural land should be cultivated in this concept as well to live and cultivate the Earth. I think this is a beautiful step forward to allow for farm worker housing permits and create easily structured homes for individuals and maybe small families that are able to work on the Earth and provide what we truly need for this island to sustain ourselves into the future. Thank you for this consideration. I appreciate all of you.

Council Chair Rapozo: Next speaker.

Ms. Fountain-Tanigawa: Will Lydgate.

WILL LYDGATE: *Aloha* Councilmembers. My name is Will Lydgate and I am the owner of Steel Grass Farms, soon to be Lydgate Farms. If anyone has dined at Verde Restaurant recently and got the churro fries, you tasted our chocolate. Thank you for letting me speak on this issue. I think that for working farms, farm worker housing could be a really great thing. I think the intent of the Bill was really wonderful. There was a date that was put in there, basically to avoid concerns about speculation, too many farm worker housing units going through. I think at this point, there has only been two (2) since the Bill was passed. I do not remember what the date was. But at this point, my situation is that we had an agricultural dedication for over ten (10) years due to a clerical lapse from my predecessor, the earlier manager of the farm. We missed our agricultural dedication for a period less than a year. There is a date in the Bill that falls during that lapse and if you folks remove that, basically, I will get to have farm worker housing units. That would benefit me and my farm. I employ six (6) people. I am growing here on Kaua'i. I am an agricultural professional. Additionally on the Bill, I think that farming can be a lifestyle and it supports the life of the land. Farming is also a business. I like the provisions in the Bill that say you need to show this much income from farming and that much income from farming. I think that is strong. In terms of policy, if you want to support people to actually create income from farming, then that is a good provision to have in there. It avoids potential issues of land use speculation, too much density, and things like that. Really, it is very simple. If you folks get the amendment that is on the floor passed, you would be helping me and also other farmers to come in the future.

Council Chair Rapozo: Thank you. Is there anyone else wishing to speak? I think we have two (2) farmers here.

Ms. Fountain-Tanigawa: We also have Josh Mori.

Council Chair Rapozo: Okay.

JOSH MORI: *Aloha kakahiaka. 'O ko'u inoa. I am a mahi 'ai from the moku of Kona, the ahupua'a of Kekaha—actually not Kekaha anymore, Kalāheo. Thank you for putting this on. Thank you for listening. This is critical. I am going to take a different route. I am representing my farm, Kuamo'o Farm, which is in Kalāheo. I have worked on five (5) farms in five (5) years. The hardest thing with farming on the west side and anywhere really, being from Moloka'i, is housing. It is critical that farmers live on their land. I have lost probably five thousand dollars (\$5,000) in personal equipment, et cetera, on farms that I was not able to live on because when I am not there at night time, something happens and someone goes on the property. We know the story. Safety is a huge part. I am going to speak from a *kanaka* perspective for farm worker housing, that this is nothing new. This is actually retribution of philosophy. This is how we used to live. Every farmer lived on their farm back in the day two hundred (200) years ago. It is critical. As a business, every single student who has worked on my farm would love to be a farmer. One of the big things is we have to make money. I am just breaking it down really easy as a business model. Why I say "students" is because I only hire *kanaka* and west side students. I am not a Willing Workers on Organic Farms (WWOOF). No offense to farmers who work with WWOOF. That is not our reality on the west side of Kaua'i. We do not have that infrastructure nor do I value the infrastructure. I want to build up our own kids. Every baseball player at Waimea High School has worked on one of my *māla* in the last four (4) years. Every track athlete and every football player has come and volunteered time. It is really about building our community. The big picture is if we can get this farm worker housing dialed, we can amend these two (2) little things, the thirty-five thousand dollars (\$35,000), which is a high number. I agree with the farmer before me that we need a number to make sure that we are actually working the land. Thirty-five thousand dollars (\$35,000) is hard, especially if we are trying to get new young farmers going, which is part of sustainability of where we are going. We want to build more economy and more local businesses. What helps with that is being able to live on your farm and having a structure that has been approved by the County that we can agree on that is not a gaudy house. One thousand (1,000) square feet is not a massive house. That is a two-bedroom, one-bath place that a family can live in. Then, the proposed date change, we have a similar situation as Mr. Lydgate, which we had a lapse of less than a year in our ten (10) year agricultural dedication and now we are on a twenty (20) year agricultural dedication. So, that is the biggest stipulation right now because our farm meets all of the other requirements. I want to share my last point, that this is not just for myself and my *'ohana*. I have six (6) interns from Ni'ihau coming this summer. The thing that I am working with them on is if we are able to pass this, we are trying to access more land with the vision of getting these kids post-high school, into a "go farm" program or a Kaua'i Community College (KCC) into a University of Hawai'i (UH) program where they can then see the vision that, "Hey, I can work on the farm. I could be a *mahi 'ai*. I have a future in business." Thank you for your time.*

Council Chair Rapozo: Thank you very much.

Councilmember Brun: I have a question. You said thirty-five thousand dollars (\$35,000) is too high. What do you think is a good number?

Mr. Mori: A good example is this, right now, everything I grow is already sold. I do not have any extra. I sell sixty (60) pounds of head lettuce a week, about thirty (30) pounds of watercress, seventy-five (75) pounds of tomatoes, and about the same in cucumbers. That goes to Captain Andy's, Kōke'e Lodge, and Puakea Golf Course. Those are my three (3) contacts. On top of that, I sell to the community, but everything is already there. I will be right at thirty-five thousand dollars (\$35,000) this year, which is a number. But to put it in perspective, I work by myself. I work, literally, eighty (80) hours because I own two (2) businesses. I go from 5:30 a.m. until 10:00 p.m. I am my *mala* all through the middle of the day. So just that number to push as a single farmer to make the business work, thirty-five thousand dollars (\$35,000) is a high number. But I think grading it up saying, "Your first year, right on. Let us see how we are going and see what we can get." Maybe ten thousand dollars (\$10,000). That means you are selling. The farmer's market system, as we have talked about, is difficult. But let us get those contracts. Maybe your next year we can ramp it up, just like everything has to be scaled to success and then after an x amount of time, thirty-five thousand dollars (\$35,000) is doable.

Council Chair Rapozo: Thank you. Did you have a question?

Councilmember Kagawa: Yes. You really answered the question that I had because I was thinking why we have this number that applies to big and small farms. Maybe perhaps a number based on square footage of farmable lots would be fairer. If you have a large parcel of farm, of course thirty-five thousand dollars (\$35,000) is achievable. But if your farmable land is small, then thirty-five thousand dollars (\$35,000) may be far-reaching.

Mr. Mori: Yes, and it is perfect for scalability because right now, I have a proposal in to purchase twenty (20) acres. I do aquaponic lettuce, so maybe I can do one thousand dollars (\$1,000), but that is going to take me three (3) years to get everything up-to-date. So thirty-five thousand dollars (\$35,000) in the first year is going to be hard. The second year, we are going to be slamming thirty-five thousand dollars (\$35,000). Hopefully, I will make that in a month. It is just that if that is the stipulation, I need helpers. If I amp up on a larger piece like you are saying, absolutely. I am going to need three (3) or four (4) full-time workers. What helps a farm grow is if we are not having to pay four thousand dollars (\$4,000) a month. We can give *hale*, they sign a contract, they live in a *hale* on-site, they work, and we can pay them a lower salary because they have housing. So that helps us grow as a farm. Absolutely, I agree.

Councilmember Kagawa: Thank you.

Mr. Mori: Thank you.

Council Chair Rapozo: Thank you. Councilmember Yukimura

Councilmember Yukimura: Thank you for being here. What is your name?

Mr. Mori: Josh.

Councilmember Yukimura: Josh. How much are you farming right now?

Mr. Mori: I have one point one three (1.13) acres.

Councilmember Yukimura: Do you farm it yourself with the help of interns?

Mr. Mori: Yes.

Councilmember Yukimura: Okay. As a person who drafted the first farm worker housing, one of the reasons we set it at thirty-five thousand dollars (\$35,000) is because it was working on Maui where there are a lot of farms. We were concerned that you would have these Country estates that go to the Sunshine Market sometimes. If you make it too low, it will allow them to say that they need farm worker housing. So that is the dilemma we were working with in setting the thirty-five thousand dollars (\$35,000). In a certain sense, it has worked because we have not had...I mean, all the realtors were watching this Bill when we were passing it through. I like the thought that you scale it, but I just want your *mana'o* in terms how we can prevent speculation.

Mr. Mori: That is critical. On one point, I can see why you did it and I am on the fence. As a farmer, I look at it and go, "Hey, these people are going to take advantage," and as a local and *kanaka*, I go, "These people are going to take advantage again." We do not want that. Absolutely, this has to be built into it. I think what works on Maui, works on Maui because Maui is way different. The plantation system ended their before it ended here. That is how I really look at it. It is the same thing on Moloka'i. On Kaua'i, we are a couple of years behind, and not in a judgement way, just in a fact of timeline way. We need more small farms. We need more locally-grown produce. Maui has a much larger economic base. They have of a much larger infrastructure and they have more *'aina*, right? Period. So for that, to go off Maui is, I understand why you did it because it was a model, I need a model, and that worked. Kaua'i, I think, we need a different model where this is scaled up and I think what we can do to stop speculation is require a really good business plan. I am up all night trying to get this business plan ready for this next twenty (20) acres because it has to be air-tight because I understand there is no wiggle room. If we have only two (2) who have been approved and we know that it is critical for farmers to live on their land, that we have to get this one right. I am not of the background to come up with a model. That is not my capability of what it should be, but I can tell you from my situation, we could show twenty thousand dollars (\$20,000). Now, could a new business...

Council Chair Rapozo: Josh, I am going to have to ask you to wrap it up.

Mr. Mori: Sorry.

Council Chair Rapozo: You went way beyond your time. I know Councilmember Yukimura asked you a question, but this is only the Communication. It is going to go to the Committee.

Mr. Mori: Okay.

Council Chair Rapozo: That is where we will have the discussion and the suggestions of how we are going to frame this.

Mr. Mori: Okay.

Council Chair Rapozo: I just want you to wrap it up really quickly.

Mr. Mori: Yes. How was that?

Councilmember Yukimura: Okay. I have one (1) more clarifying question. There has been discussion around the table that says young people do not want to farm. Is that your experience? Can you explain that to us?

Mr. Mori: That is not the case. Really quickly, numbers and statistics. I work with probably seventy (70) kids a year. Not every one of those kids wants to be a farmer. We want to look at another model. Look at *ma'o* farms on the west side O'ahu. What they have done in the last fifteen (15) years is build their community through agriculture, through hands-on farming. I do not pay these kids money. I pay them in education. I pay my students off of what they make for their college. I do not know if the kids that I have sold out and are in college right now are going to come back and be farmers, but they have an interest in the root of it. What I am seeing is that turnaround, and that is a proven model in *ma'o*, that they are able to keep on going. They are a million dollar farm now after fifteen (15) years on twenty (20) acres. The model is there. I cannot speak for anyone else, but in our little community, there is a ton of interest from the youth who want to farm.

Councilmember Yukimura: Thank you very much. That is really helpful information for us.

Mr. Mori: Absolutely. Thank you.

Council Chair Rapozo: Thank you very much.

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

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

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I just wanted to kind of shed some light. This is my proposed Bill with the current amendment on the specific dates that were mentioned in terms of agricultural dedication. I have not addressed the concern that was expressed in testimony regarding the thirty-five thousand dollar (\$35,000) limit. Of course if this body has an interest to do so, I would be happy to entertain it, but I do think as was mentioned, there are some issues around it. I believe this has already gone to the Planning

Commission, it has been passed, and so it will go to Committee. I just wanted to give the body a sense of what it is that I am proposing. We have had a total of two (2) or three (3) applications that have been successful. So that means that the Ordinance is pretty ironclad. I think it has done its job in terms of limiting any kind of speculation. This would just merely allow a few other farmers, who from what I have investigated are legitimate farmers, move through the process in order to achieve a more efficient business. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: As the introducer and writer of the first farm worker housing bill, I want to say that I am in support of this Bill that is in front of us because I think we were very concerned and there was this discussion about, oh, large land developers could develop these empty condominiums and then try to get dwelling units on it in the form of farm worker housing and that it would create a lot of sprawl without creating farms. So we were very cautious, but I think now that this law has been in operation for several years, it seems like our restrictions to prevent speculation have worked, and I think changing the date will be very good for enabling real farmers to get the farm worker housing permits that they need.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Thank you. Thank you, Councilmember Chock. I would be willing to work with you if we can kind of bring that number down if we can work with the Planning Department on the amount, the thirty-five thousand dollars (\$35,000). If we can try to work around that and introduce an amendment at the Committee Meeting to see if we can bring that number down, maybe work in stipulations, and add it. Like Josh said, it is moving them in a certain direction. They are moving them up. If we can work on that.

Councilmember Chock: Yes. Staff informed me that might be a significant change to this Bill, which is fine, but it would have to go back to the Planning Commission if that is the case. We might want to check with Mauna Kea about where that line is for us and if that would qualify as a significant change. I believe it would. I just wanted to let you know. Again, I am happy to work on this with anyone if there is interest by the body.

Council Chair Rapozo: Councilmember Kagawa, did you have your hand up?

Councilmember Kagawa: Yes. For me, I totally support the farmers that are trying to add housing to make their operations more successful. My concern is that what has happened to 'Aliomanu, Kīlauea, and all of these gentlemen estates, that it is truly a joke. It is not farming. They are high-end residential housing. I think the Planning Department and the Council needs to try and address those that are not farming that are just gentlemen estates worth millions of dollars, and we need to reclassify them into residential. We have to call it what it is and then we do not have to deal with all of this and determine what number makes a farm. Is it thirty-five thousand dollars (\$35,000) a year? Thirty-five thousand dollars (\$35,000)

a year is very unfair to the beginning farmer. You are going to lose a lot of money the first couple of years that you are putting in all of the improvements. This Bill is basically saying, "Well, after you operate for three (3), or four (4), or five (5) years and you are successful, then you will qualify." It is very difficult for the starting farmers. Those are the people who actually need the help, but they are not going to get it right off the start. It takes time to make thirty-five thousand dollars (\$35,000). I think there are ways to improve it, but if we can address these gentlemen estates, and reclassify them into residential, that would be the easiest way. Then, everybody else who is on agriculture are farmers. I do not know. Many Councils have skipped through that one. Look at those areas today and what has happened. That ruined agriculture for Kaua'i because they are not farms. They have a few fruit trees and what have you, they pay an agriculture tax, and they get the benefits of the agricultural people that are going to benefit here. That is not fair. I think we need to relook at it. The homework question I have for the Planning Department is, how do we reclassify those people that call themselves agriculture that we know are not agriculture and put them into the residential class? Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I support this amendment to the Ordinance because at the time I was on the Council when we passed this farm worker housing, you have to remember that the intent of the measure was to assist bona fide farmers, and that is why the thirty-five thousand dollars (\$35,000) was put in. We vetted the issue and we had instances where a new fruit orchard who may take five (5) or ten (10) years to start fruiting. But these were the parameters that were set because we wanted to ensure that bona fide farmers were allowed to have this tool to help with their operation. I think to lower it from thirty-five thousand dollars (\$35,000) requires a more in-depth discussion on what the unintended consequences are going to be because at the time, there were some farmers that were against this measure and there was a fear that this was going to proliferate into something bigger. But as Councilmembers and as legislators, we often times pilot. We create these little pilot projects, and this is what this was. This was a pilot project to say, "Hey, we are afraid of the unknown unintended consequences, so you have to have this dedication by this date." I think that it has proven itself through this pilot project, that is was responsible legislation, that it was not abused, and so to remove that date, I am okay with. Now, if we are going to be touching price points, that is another discussion. I agree that it is another agenda item. I have to tell you that my mom and her family grew up in Hulē'ia, born and raised, and were farmers. The only way that they could do it back then and what the testifier said is true. It is going back to how it was. The only way they could make it happen was to live, work, and play on the farm. Even today, there are reasons why we want to have people with a constant presence on the farm. Agricultural theft is a huge problem for farmers nowadays. When they are operating on a thin profit margin and often times they are making no money at all, to lose equipment that ranges in the price from fifty thousand dollars (\$50,000) to sometimes one hundred thousand dollars (\$100,000) worth of loss in theft. These are all of the reasons why we should be encouraging this. This farm worker housing thing will permeate into everything. We talk about farm worker housing, but this just opens up the discussion of school

teacher housing. We push to have housing on our Department of Education (DOE) campuses, but that is another discussion. For this purpose, I am in full favor because I remember the discussion and remember the concerns. Really, I think we achieved what we intended to achieve to show that this was responsible, that there was language set in there that it would not allow abuse, and that it has proven itself. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I agree with Council Vice Chair Kagawa that something needs to be done about these agriculture condominiums and Country estates, but I do not think we should make it residential because then they can re-subdivide into even smaller lots, and that is going to be a problem. I think prevention is more the issue and I would love it if somebody would start working on the problem. Council Vice Chair Kagawa, if you can introduce a bill, that would really help. I want to say that with respect to amending the price point, I would be really concerned unless we do it very carefully. But also, I do agree it is a significant change. I think we should probably pass this Bill because time is of the essence for the farmers that need it and then have another bill introduced with enough time to really think about the price point. Josh said a protection for lowering the price point would be a business plan, and that is how Kamehameha Schools is beginning to give out its agricultural lands. I think it is a great requirement or standard, but who judges the business plan? The Planning Department is not a farmer. For the farm dwelling units that are now required to be on Country estates, they often submit a plan to the Planning Department, and these plans are passed. That is not the kind of scrutiny of plans that we need. We need a more stringent plan that is evaluated by people who know farming and who know farming economics. It is a complicated issue and will need a lot of work. I would prefer if we pass this Bill and then start on another one to address the issue of price level.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I will be working on a solution and need the Planning Department's help, of course. I am not an expert in everything. You have been sitting here making decisions for more than thirty (30) years and if you see a problem, help me fix it. That is what we are here for.

Council Chair Rapozo: The mechanism is in place. The law is there. It is a matter of enforcement. That is all it is. We have to enforce the law. We have to go out and find these properties that are violating the law and then prosecute them. That is the answer. The people that are not farming that are getting the benefit of the agricultural tax rate are the people. The Planning Department has to go out and enforce. That is how you fix it. We do not need to make another law. If we make another law and we are not enforcing it, then it is meaningless. If they do not have the agricultural use, we can charge them back tax. I believe we can charge them at the rate that they should be for three (3) years. That is how you hurt them. But there is absolutely no desire in this County to prosecute them and that is the problem. We go after the farmer. Farmer, if you have some issues on your property, we will be down there to tell you that you cannot do that, but the big homes that Councilmember

Kagawa talked about in those areas, we let them go. We just pretend they do not exist. That is what the frustration is. We can pass any law that you want, but at the end of the day, we are not prosecuting. You cannot tell me those agricultural mansions—after Ksloko, I had the opportunity to go down to one of those properties in that area. I went into a barn. Like Councilmember Yukimura said, you come in with the plans and say, “Here is my house and here is my barn.” The barn is a castle. How do we allow that? How did the Building Division even approve all of that? It is not a barn. A barn is where you keep equipment and animals. That is what I think a barn is. My grandpa had a barn. You do not want to go in a barn. It stinks. It is dirty. No. This was a palace. That was their barn. It was three (3) times the size of my house. We let that happen. No pun intended, but the horses have already left the barn. We have to go and round them up. Councilmember Chock.

Councilmember Chock: I know this is the Communication, but I will just speak to it and forego on the first reading. I just wanted to also mention that the changes in this Bill has been vetted with the Farm Bureau. We also had a farm survey with some feedback. I think in addition to the thirty-five thousand dollars (\$35,000), which was one of the issues that came up, was also again, who evaluates the business plan? I think the business plan is that linchpin that, I think, can really validate whether or not we should be trusting these people to move onto their land. The need for some sort of group to review that, some legitimate group, to review those plans was also brought up. I just wanted to put those in the table as my last comment. I look forward to this going to Committee and of course, having a deeper conversation about some of these other issues. Thank you.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: For me, I am definitely in favor of the change we have here. I think the only change we have is taking out that date, which makes a lot of sense. I think at the time, we were trying to encourage people to get their land dedicated in order to take advantage of this. I can see instances where people did not need the farm worker housing; they were not farming on their agricultural land; they said, “I do not need the dedication;” and then now, there is a lot of interest in farming. People have probably approached landowners and said, “Hey, can I farm on this parcel,” the person says, “Yes,” and then it has never been dedicated from 2010. I could see where this would be a sticking point. I am in complete favor of this change. As far as looking at income levels, for me, I think it is reasonable to have an income level in the thirty-five thousand dollar (\$35,000) range. You want a farmer that is going to be able to farm, sell their produce, and still be able to survive on their own. I think by saying thirty-five thousand dollars (\$35,000) worth of sales will give you the confidence to know that the farmer is trying to push sales and trying to live off of that. I have seen instances where people have agricultural land, they have a house, they plant banana trees here, line the driveway with this, and then they try to dedicate it, and say, “Is this enough agriculture?” They are not really doing it for agriculture. They are just doing it for a dedication. You really want to keep people from saying, “Do I have enough agriculture on the property to put farm worker housing?” I think that is what that income level is for. I would be very hesitant in changing it because again, we are giving the people the ability to put a house on agricultural land. If they are going to put a house on agricultural land, you want to

be sure that they have a good business plan, and they are going to be in business for a long time. You do not them to put a house on the land and then go, "Now that I got the house, we will just plant for decoration, and then say we are a farm." If we are going to really look at that, I think it would be a much greater discussion. As far as farmers go, I can tell you—exactly what he said. The biggest complaints I hear from my farmers on Grove Farm is theft and animal damage. Pigs, birds, and theft. I have had a farmer that grew pineapples. Pineapples takes almost two (2) years to grow. As soon as it was ripe, someone harvested it and took everything. How does that damage a farmer? How much time, energy, and money he has put into it? I have had farmers who had all of their tools stolen. That is all a straight loss to a farmer. They are not going to be able to automatically snap their fingers, grow more produce, and sell it when someone steals all of their tools. Those are the big issues for farming; birds and pigs. Everybody is crying about the amount of damage birds and pigs do to their crops. As far as this Bill goes, I know there has not been a lot of people using this farm worker housing bill. I would be interested to hear if there is any other roadblocks in the way for legitimate farmers that want to put a house on and are saying, "We have the income, we have this, but this stipulation is really preventing us from doing it." That is the kind of conversation I would like to hear, too, eventually as this progresses. But as far as getting rid of the date, I think it makes complete sense. The date is outdated. It is a dedication from 2010. We are here in 2018, eight (8) years later. I think it makes all the sense in the world right now for the small change we have now.

Council Chair Rapozo: Anyone else? Councilmember Kawakami.

Councilmember Kawakami: I just one (1) more point that I want to point out. There are a lot of things in this current Ordinance that already provide checks and balances. As far as the thirty-five thousand dollar (\$35,000) threshold, if you cannot hit that threshold, the likelihood of you being able to finance a farm worker housing unit and getting a mortgage loan or some type of loan is very thin, in fact, nil to none. You could have whatever business plan you want, but at the end of the day to get the financing, you have to show they ways and means to pay. If you are not hitting the thirty-five thousand dollar (\$35,000) threshold, then all is moot. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else? If not, the motion is to receive.

The motion to receive C 2018-45 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item. Can we go back to C 2018-44?

C 2018-44 Communication (01/22/2018) from the Chief of Police, requesting Council approval to receive and expend Federal funds for the Sexual Assault Nurse Examiner (SANE) Exams and Supportive Funding and DNA Analysis programs, in the amount of \$48,462.00, which will be used to continue law enforcement efforts to assist in sexual assault investigations and crimes through agency collaboration, and

approval to indemnify the State of Hawai'i Department of Attorney General for the term commencing November 1, 2017 to June 30, 2018: Councilmember Brun moved to approve C 2018-44, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: The only question I have, and I do not need to have them up here is, the effective date on this is November of last year. Is that a problem, Mauna Kea? Do you know? Is that an issue? I thought we were supposed to approve these things before. I just want to make sure that it is okay.

There being no objections, the rules were suspended.

Councilmember Kagawa: Council Chair Rapozo.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: Are you questioning whether or not we can pay retroactive expense that are prior to our approval date, which is possibly today?

Council Chair Rapozo: Yes. I am just curious.

Councilmember Kagawa: Yes, that totally makes sense.

(Councilmember Kawakami was noted as not present.)

Council Chair Rapozo: Apparently, this program...

Councilmember Kagawa: You approve it and you allow the Administration to go and expend moneys towards that.

Council Chair Rapozo: Right.

Councilmember Kagawa: That is a great question. Thank you.

Mr. Trask: For the record, Mauna Kea Trask, County Attorney. It is probably well-advised if I take the time to research that. But if you ask me the question on the floor, I think the policy is it would be favored to get that permission prior to all of this. But I do know that there are provisions in the law for political bodies and governments because of things like timing, exogenous circumstances, there are acts which you can validate, if you have the power to do it, you can do it retroactively given whatever the circumstances are. It is a discussion about *ultra vires* acts. If you have this authority, you can adopt it now and ratify it in the past, but that is really going cold. If you want me to do an in-depth, I can look at it.

Council Chair Rapozo: Maybe we will just ask the Kaua'i Police Department (KPD). I am wondering how we paid these people if we did not have the money.

Mr. Trask: I do not know any of the facts or circumstances.

Council Chair Rapozo: Or did we get the money before we got the approval? That causes a problem.

Councilmember Yukimura: I have a question for Mauna Kea.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: This is a recurring grant that we have approved over and over. Does that have a bearing on the timetable?

Mr. Trask: The Code provision, I think it is 6-12 or something like that for general financing. It does not talk about recurring, but the fact that this body has done it numerous times in the past, does favor granting it again because you are familiar with it and everything like that. But to my recollection, it is not a specific provision of the Code.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: It was a County policy that we did years ago that we were not going to require recurring grants to come up. But when Ms. Wooton, I believe, the Grant Manager...

Councilmember Yukimura: Anne.

Council Chair Rapozo: Anne said that the cleanest way to do it is to have it up every time.

Mr. Trask: And that is true.

Council Chair Rapozo: I agree. It is probably better that way.

Mr. Trask: It is part of the legislative purse strings matter.

Council Chair Rapozo: Chief.

BRYSON PONCE, Assistant Chief: Good morning, Council Chair Rapozo and Councilmembers. Bryson Ponce, Assistant Chief, for the record. Even though we got the award back in November of last year, we knew that we needed Council approval, so we did not expend any of the funds regarding this recurring grant. I just wanted to clarify that part. Nothing has been spent on the current grant right now for approval.

Council Chair Rapozo: How are we paying?

Mr. Ponce: The previous year's grant.

Council Chair Rapozo: Oh.

Mr. Ponce: We were paying it from that.

Council Chair Rapozo: Does it overlap?

Mr. Ponce: Yes, it overlapped.

Council Chair Rapozo: Okay. Thank you. Go ahead.

Councilmember Kagawa: I just want to make sure since it is like Council Chair Rapozo stated, a little bit unusual that we are going to be approving funds perhaps to pay for services prior to this date, just check with Peter and yourself to make sure that when we do in fact cut those checks for services prior, that it is okay.

Mr. Trask: For the record, based on the representations as stated, I think the concern is avoided because they have not expended any of the money. If you read the statute, it is received, acquire, and/or expend or something like that. Given that none of the moneys spent...

Councilmember Yukimura: It is apply.

Mr. Trask: Apply. Thank you.

Council Chair Rapozo: Thank you.

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

Council Chair Rapozo: The motion is to approve. Go ahead,
Councilmember Yukimura.

Councilmember Yukimura: Yes. We are familiar with this grant because it has come up over and over again. I think one (1) year, you actually had the nurses who provide the service come and testify. This is money for Sexual Assault Nurse Examiner (SANE) examiners. SANE stands for Sexual Assault Nurse Examiners. They provide a really critical link in terms of evidence and proof, but also in terms of lowering the trauma level for victims because they are very experienced and they offer compassion and understanding as well as expertise. This is a critical piece of Kaua'i's defense against domestic and sexual violence, and very important to our efforts to prevent and enforce against sexual violence. I am in full support of it.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I never heard anyone say that this was not important. I am just saying to follow whatever process and please make sure that we do not get in trouble with the Federal government on this. Thank you.

Council Chair Rapozo: The motion is to approve.

The motion to approve C 2018-44 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

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

C 2018-46 Communication (01/31/2018) from the Executive on Aging, requesting Council approval to apply for, receive, and expend grant funding awarded by the Corporation for National and Community Service to the County of Kaua'i, Agency on Elderly Affairs, Kaua'i Retired and Senior Volunteer Program (RSVP) from April 1, 2018 to March 31, 2021, in the amount of \$62,847.00 with carry-over funds from the previous year of \$4,000.00 for a total of \$66,847.00, to assist Kaua'i RSVP in carrying out the national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. Chapter 22): Councilmember Brun moved to approve C 2018-46, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Is there any discussion or 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: Go ahead.

Councilmember Kagawa: I want to thank Kealoha and all of the Retired and Senior Volunteer Program (RSVP) volunteers. I think you have, no doubt, done a tremendous job. Our volunteers are healthy, active, and I think a lot of it is due to the help that you do in keeping them active, involved, and having fun. Thank you.

Council Chair Rapozo: Thank you. With that, go ahead.

Councilmember Yukimura: The RSVP program is one of the bright lights of County government. It utilizes the talents, expertise, and experience of volunteers and retired senior volunteers who bring such service to this community in addressing a lot of our issues. Kudos and thanks to the Agency on Elderly Affairs. Also, they are impeccable in their grant requests. I just want to recognize how they do their planning and execution of their programs.

Council Chair Rapozo: Anyone else?

The motion to approve C 2018-46 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: Next item, please.

C 2018-47 Communication (01/31/2018) from the Executive on Aging, requesting Council approval, to apply for, receive, and expend funds, in the amount of \$138,184.00, and to indemnify the State Executive Office on Aging for the Healthy Aging Contract for 2018, which will be used towards EnhanceFitness and Better Choices Better Health workshops, commencing January 2, 2018 through December 31, 2018: Councilmember Yukimura moved to approve C 2018-47, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Is there any discussion or 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 approve C 2018-47 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

C 2018-48 Communication (02/02/2018) from the Acting County Engineer, requesting Council approval, to apply for, receive, and expend State grant funds, in the amount of \$45,000.00, to be used by the Department of Public Works, Solid Waste Division, to support Electronic Waste Recycling for this Fiscal Year, approval is also requested to indemnify the State Department of Health: Councilmember Yukimura moved to approve C 2018-48, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Is there any discussion or 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 approve C 2018-48 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

C 2018-49 Communication (02/05/2018) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in

the amount of \$236,000.00, from the State of Hawai'i Department of Agriculture (HDOA), for the survey of irrigation pipeline easements, engineering and design, irrigation supplies, and installation of the irrigation system pipeline for the Kilauea Community Agriculture Center.

Council Chair Rapozo: The Administration is asking that we receive this item. They no longer need our approval. I just need a motion to receive.

Councilmember Chock moved to receive C 2018-49 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any discussion or 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 receive C 2018-49 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

C 2018-50 Communication (02/05/2018) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in the amount of \$25,000.00, from the State Department of Labor and Industrial Relations (DLIR), to work with the Department of Education (DOE) – Natural Resources Pathway and Future Farmers of America (FFA) programs at Kaua'i, Kapa'a, and Waimea High Schools in providing summer internship programs for students to work on Kaua'i farms, ranches, and agriculture-related businesses: Councilmember Chock moved to receive C 2018-50 for the record, seconded by Councilmember Kaneshiro.

Councilmember Yukimura: Council Chair Rapozo.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: This and the previous one do need our approval, but I think there needed to be some additional transmittals. So, they will be coming back.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Is there any discussion or 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 receive C 2018-50 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

C 2018-51 Communication (02/06/2018) from the Director of Finance, transmitting for Council consideration, proposed emergency ordinance amendments to the Fiscal Year 2017-2018 Operating and CIP Budgets, to increase funding to complete permanent repairs to the Pua Nani Street storm drain.

Ms. Fountain-Tanigawa: Council Chair Rapozo, we do have a registered speaker for this item.

Councilmember Kaneshiro moved to receive C 2018-51 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: I will suspend the rules.

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

Ms. Mo Des: *Aloha Council. Ana Mo Des, for the record. I would like to request that this be considered as an aspect that we are going to need more often on this island. If there could be budgeting to allow for funds for this emergency work to happen, it would be wise. The reason why there are funds right now is because the Department of Parks and Recreation is not going to do painting to improve the parks that are on the island currently, and that is the only way we can get this emergency work done. This would be something to consider for the Climate Action Plan, if we can pretend we have one. Let us just have that be the way we are moving forward in to creating a budget allocating moneys so that we have this capacity in the future. It will only increase. This is the beginning. I understand there are specific circumstances to why this particular drain has more rust than above. But let us just consider that this is something that we are going to have to throughout the entire island and create a budget for that. Thank you.*

Council Chair Rapozo: Thank you. Next speaker.

Ms. Fountain-Tanigawa: There are no further registered speakers.

Council Chair Rapozo: Oh, I thought you said we had two (2). Okay. Anybody else wishing to testify? Seeing none, I will call the meeting back to order.

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

Councilmember Yukimura: Was there a motion?

Council Chair Rapozo: The motion is to receive.

The motion to receive C 2018-51 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

C 2018-52 Communication (02/06/2018) from Council Chair Rapozo, transmitting for Council consideration, a proposal to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to additional dwelling units on other than residentially zoned lots: Councilmember Yukimura moved to receive C 2018-52 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Is any discussion or public testimony? With that, I will suspend the rules.

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

CHAD DEAL: Good morning, Council Chair Rapozo and Council Vice Chair Kagawa.

Council Chair Rapozo: Good morning.

Mr. Deal: I am Chad Deal, Government Affairs Director for the Kaua'i Board of Realtors (KBR). I would like to submit testimony for Proposed Draft Bill No. 2693. This Bill has come before us before. We worked very diligently about a year ago, I believe, to try and reach out to all of the property owners who had failed to recertification their Additional Dwelling Units (ADUs). I would like to suggest at this time, that you remove the sunset date on this Bill and be able to allow the people to go ahead and recertify at their leisure, rather than trying to force them to do it immediately.

(Councilmember Kawakami was noted as present.)

Mr. Deal: Thank you for the opportunity to testify.
Thank you very much.

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify? If not, 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 any discussion?

Councilmember Kagawa: Yes.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I think Jesse Fukushima, a former Councilmember, was the one who originally brought it up. He had a list of local people that had missed the deadline and I think we moved the deadline twice to get people that, again, missed the date for some reason or not. A lot of it is a lack of communication. We do not have an exact list of who to call, or sometimes people do not check their mail, or what have you. But this is the third time, I believe, that we are changing the date and hopefully at some point, Ka'āina will have the answer as to why that sunset date is needed. Again, we are proposing to move it to the end of 2018 and there must be a reason why the Planning Department wants to have a date to close the books on those that want to apply for it. There is a list that originally was made that those who qualified for it, and I think we will have that answer later from Ka'āina, as far as why the sunset date is needed. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. As the introducer, I did not expect to see an end-date. This only applies to the owners of these lots that have already received their Facilities Clearance forms. It is a finite number. It is a very limited number. It will not grow. This does not give anybody additional density. There is probably half a dozen or so people out there that at the time, they could not afford to build. The bottom-line was they could not afford it. This is going to go to the Planning Commission, so rather than ask staff to redraft it to remove the deadline dead of this year because by the time it comes back, it is going to be close to the deadline date, so it is going to give them even a smaller window. I would ask if someone could prepare an amendment and maybe put that date out five (5) years today so that we can get that done on today's draft so we can send it to the Planning Commission with that extended time. It may sit in the Planning Commission for months and then it will come back here and has to go through our process, so 2018 is way too short. We will be back here looking to extend it again. I think that I will submit testimony when it is at the Planning Commission to remove it, but I want them to work with something that is practicable. I think three (3) years or five (5) years, if someone can do that today, I would appreciate it.

Councilmember Kagawa: Well in baseball, they say three (3) strikes and you are out. This is going to be the third strike, but maybe perhaps extending it, because there must be an underlying reason. We can have that answered now if you prefer, as...

Council Chair Rapozo: Are they here?

Councilmember Kagawa: Ka'āina is here.

Council Chair Rapozo: Okay, I will suspend the rules.

Councilmember Kagawa: There must be a reason why a finite date is wanted. Do they want to have staff continue to track these for another five (5) years?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Deputy Planning Director: *Aloha* Council Chair Rapozo and Members of the Council. Ka'āina Hull on behalf of the Planning Department. Way back when, this was before my time in the County when the ADUs were allowed on agricultural lands, there ultimately was a sunset date installed because there was a desire to say that they can have some housing on agricultural lands, but in a way to somewhat stave off further sprawl into the agricultural areas, that date was ultimately put on. There was a desire to extend that subsequent and so that date just kept getting moved and moved. When there was the recertification process, the date was just slapped on their essentially to say, "You have this and by then," like you stated, "Let us just get this off the books and move on." I think there is a possibility to essentially remove the date as a whole for those people who have gotten the recertification already. We have not done that analysis in-house yet. I am not ready to comment in support or opposition, but that is a possibility that can be done in the Bill.

Councilmember Kagawa: Will you check with the Commission and the Department and get back to us?

Mr. Hull: Definitely.

Councilmember Kagawa: We are going to refer it to the Planning Commission and one of the recommendations is to eliminate the date. I guess the Planning Commission can decide at the time, whether it is a burden on staff to eliminate the date or what have you and just come back with your recommendation. At the end of the day, this Council can make it whatever we want, but we definitely do not want to micromanage what your staff goes through as well.

Mr. Hull: Thank you, Councilmember Kagawa.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Ka'āina, but the law allows them a non-conforming use. Is that correct?

Mr. Hull: It is not non-conforming use. It is just the law allowed for the potential for increased entitlements to an additional dwelling unit on agricultural land as well as open zoned lands. The law required for those that had not been constructed, to certify that they could get an ADU by a certain date. It was extended if they recertified it and so there is a list that Planning Department has of all of those that have recertified, but have not built, essentially. When we went through the past iteration where the deadline was extended, we did extensive amounts of outreach and the Council did appropriate funds specifically for that. We

literally tracked down everybody we had on the list and mailed, as well as attempted to call them if we could locate phone numbers, we did radio advertisements, and we were on social media. Ultimately, some still missed the window. Tentatively, I can say that the Department has no objection to opening and further extending it because it is already that group of individuals or property owners that already to a certain degree, have that entitlement. It is just that they missed that window deadline.

Councilmember Yukimura: There was a law that prohibited additional dwelling units on agricultural land in order to prevent sprawl from occurring or to prevent the scattering of development on agricultural lands, right? These people were grandfathered as people who already had subdivided their land and therefore, were entitled to additional dwelling units prior to the passage of the law prohibiting additional units. Were they not grandfathered?

Mr. Hull: No. You want to do the analysis somewhat in the alternative, Councilmember Yukimura. It is not it that there was a law prohibiting. For a period of the County of Kaua'i's time, there is a law that allowed ADUs.

Councilmember Yukimura: Correct.

Mr. Hull: So there is no specific prohibition of ADUs anywhere. It is just that at a certain point, they were entitled to have ADUs, property owners came in and got their permits for those ADUs, and some of them did not build. Grandfathering is where you are correct, if there was a prohibition passed and they were in operation prior to that prohibition. But it is not in the lens of a prohibition being passed. It was just that the entitlement was taken away, but they already had the permits in place.

Councilmember Yukimura: The law that took away the entitlement was essentially a prohibition because it did not allow any more ADUs on agricultural land, right?

Mr. Hull: It can be viewed that way, but like I said...

Councilmember Yukimura: So it was grandfathered. These people had lots that were entitled to ADUs at the time that the law was passed, right?

Mr. Hull: Not only did they have lots, the number that we are talking about today that is proposed in the draft bill is individuals that had lots that not only qualified for it, but actually came in and got the permits for it. So they are permit holders, in essence.

Councilmember Yukimura: Right.

Mr. Hull: They are permit holders. They have that permit in hand, but the law required them to recertify.

Councilmember Yukimura: Okay. If they build their unit, would that be a non-conforming use because it is no longer allowed by the law?

Mr. Hull: I will defer to the County Attorney.

Councilmember Yukimura: Okay. Alright. That is a question, I think, we need to ask in this discussion. Okay. Thank you for the clarification.

Council Chair Rapozo: Go ahead.

Councilmember Kawakami: Thank you, Council Chair Rapozo. How many lot owners are we talking about?

Mr. Hull: I am sorry, Councilmember Kawakami, I do not have that number off of the top of my head, but we can get you that figure. We have a ballpark number because the individuals that came in to recertify...

Councilmember Kawakami: What is the ballpark?

Mr. Hull: I do not have that on me.

Councilmember Kawakami: Oh, okay.

Mr. Hull: But we have that in-house. In theory, there are some people that may have come in and gotten the certification but never provided a copy to the Planning Department on recertification, and so there might be a few out there holding it, but for the most part, we have a ballpark figure in-house.

Councilmember Kawakami: I just ask that question because to the root of it, we need to get a grasp as to how this is going to look to the landscape when all of this is built out. Is there a significant cost with the recertification process? Are these people required to hire attorneys to come and represent them? Give me an idea of what that process is. What is the cost to these people who have these entitlements?

Mr. Hull: It is a two hundred fifty dollar (\$250) filing fee and aside from that, they have to come in with, at the very least, a plot plan and an elevation plan, which technically for zoning permits, can be done by a non-professional draftsman. Once they go to the building permit level, they have to hire an architect and draftsman. But just to recertify and the entitlements, they can do it pro se. They just have to be have those drawings in-hand, walk up to the Planning Department, circulate it to the various agencies for their stamp of approval, and that is really it.

Councilmember Kawakami: I get it. I get where these people are coming from. A lot of them are just moms and dads or grandpas and grandmas that want to pass something on to their kids to make sure they can stay on Kaua'i, and their kids are not ready to build yet. We have to take that into account as well. In fact, a lot of them that I have spoken to are in that situation where I have this piece of property, I would like my kids to be able to live on Kaua'i, affordable housing is at four hundred

ninety-nine thousand dollars (\$499,000), and so this is really the only option that I have. We should take that into account. I have no problem extending the date. With that being said, I would like know for my own personal edification, how much of these properties we are talking about. If there is a map, let us see where these lots are at, too. Thank you, Council Chair Rapozo.

Mr. Hull: Councilmember Kawakami, we can get you both, the map as well as the figure. I do have to agree that for the most part, the calls that we got are the folks that missed the deadline. Indeed, the large-scale property owners and individuals who have attorneys on-hand, they definitely got their paperwork in on time. It is the mom and pops that often...

Council Chair Rapozo: Like I said earlier, because the small time farmer is working so hard, they miss the deadline. That is why I think we have to look. What is the hassle of removing the deadline? What is the hassle because this is for the people that already got the permit? They, at one point back in the day, got the permits. To me, that is not a non-conforming use. That is different. It is completely different. These people had the ability, or the authority, or entitlement to build a second unit, and that was for family back then. That was the original intent. I mean, if I buy a residential lot without a house, I do not have to come in and recertify. I can build when I want because it is allowed. So these people bought the lot or had the lot, are allowed the extra unit. We are talking about an additional rental unit (ARU) which is going to stuff neighborhoods with little houses and we do not have no problem with that. I am saying the person already has the permit. It is a relatively small number of owners. I do not understand why we have to keep that control like, "No, you have to come in by December or and you lose that." Why? I do not get it. I do not. If you have the permit, build when you are ready because I think what Councilmember Kawakami is saying is exactly the case. The people I have heard from are the ones that are exactly that. They want their kid to have the lot. They want their kid to be able to do it one day. They cannot afford it right now, so they cannot come in with elevations and building permits because they are not ready. Maybe five (5) years or ten (10) years. I do not see the problem with that because they have that entitlement. So to me, all of the deadlines should go. If you have the permit that was obtained back, whenever you are ready to c build, you can build like any other landowner. I do not get it. I am not sure why we are putting additional stresses on these owners. It makes no sense.

Councilmember Kagawa: Ka'āina, I remember way back, maybe the second strike, we heard a number of about four hundred (400) total.

Mr. Hull: It could have been around there for that second round. The number could have gotten smaller since that time. I think that is a definite number that we all need to take a look at when analyzing the proposed draft bill, and we will get that number up to you folks as well when we submit our review.

Councilmember Kagawa: I know we are talking about a lot of them are mom and pop, but potentially, there are some that maybe mom and pop sold it to somebody from the mainland, and now they will benefit with the ADU. So having

the deadline, will close the books on that and that is probably why the deadline was in the first place, to have families that intend to build soon and they put a date on it. But now maybe the scope is changing. We see a housing crisis, so now maybe we can open up the date. Are those the options?

Mr. Hull: Yes.

Councilmember Kagawa: To either have a deadline to allow us to know for sure how many units will be added on these agricultural lots or open lots and then put an end to it, or else just leave it open and it will possibly be sold at much higher prices later, turning into maybe another gentleman estate. It could happen, right?

Mr. Hull: It could.

Councilmember Kagawa: Thank you.

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

Mr. Hull: Thank you.

Council Chair Rapozo: Anyone else wishing to testify from the public? Seeing none, I will call the meeting back to order.

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

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I sat on to for possibly two (2) strikes, maybe one (1). I know the balance was you put a date on it to prevent speculation or do you leave it open and then allow for the possibility of speculation? That is what we were dealing with at the time. We had a long conversation about can you make it specific to that landowner and if they get it and they sell it, then it is gone? But we heard an in-depth conversation from our Attorney that no, it stays with the land. So you cannot say if a landowner that has it now decides to sell it, that right is gone. We could not do that. I believe it was all based on how comfortable we are. There is a finite amount of permits out there, so it is not like if we get rid of the deadline, then one thousand (1,000) more permits are going to come in. As they build, the number of permits are going to go down. I think that is what we are weighing. We put in the deadline, I believe, to prevent that type of speculation. Okay, now the people are going to sell it and saying that you have the right to two (2). Again, I think with the finite number, I am fine either way; if we are going to extend the deadline or if we are going to take it away knowing that there may be some parcels that are speculated on that people that are going to resell. But the people that are really going to hold it for their kids also, are not going to have to be hassled with continually coming in and then us continually extending the date every couple of years. I am fine either way.

Council Chair Rapozo: Anyone else? If not, the motion is to receive.

The motion to receive C 2018-52 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please

C 2018-53 Communication (02/09/2018) from Councilmember Chock, requesting Council consideration, for the public release of the following County Attorney opinion relating to Tax Increment Financing:

- County Attorney Opinion dated February 2, 2018
(Tracking No. 18-0059)

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

Council Chair Rapozo: Can I get a motion, please?

Councilmember Kaneshiro moved to approve C 2018-53, seconded by Councilmember Chock.

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

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

Council Chair Rapozo: Do you want to hear Councilmember Chock first? Me too. With that, I will call the meeting back.

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

Councilmember Chock: Thank you, Council Chair Rapozo. I just wanted to shed some light on this. I had a few calls asking or inquiring about this particular tool. I looked into it a little bit. It did sound interesting. What it really amounts to is being able to borrow or float a bond on future equities, but it is limited to infrastructure on what they call "blighted neighborhoods." I just see it as a tool that we might need to look into and have further discussion on it. The request to have this released was really to be able to share whether or not, the question was...well, I guess we need to hold on the release, but to see if we can actually look into it, if the County has the purview to do so. So that is what this is about. If it passes, then I look forward to having that discussion. Thank you.

Councilmember Kagawa: I have a question for Councilmember Chock. Can you give me a hypothetical situation of how this would work?

Councilmember Chock: For instance, if there is a neighborhood on this island that we wanted to see either more housing, it could be affordable housing or it could be more economic development of some sort, but the County has seen an interest in developing, then what we could do is it would be a specifically zoned area

so we could actually borrow on future equity based on that zoned area in order to build up the infrastructure. So it has been around for a while. I believe we can utilize this tool. I just wanted to look into it further.

Councilmember Kagawa: It has been utilized in other municipalities?

Councilmember Chock: It has.

Councilmember Kagawa: In the mainland?

Councilmember Chock: Yes.

Councilmember Kagawa: Okay. Thank you. Thank you for your proposal, too.

Councilmember Yukimura: I appreciate Councilmember Chock's inquiry into innovative tools that we can use. As I understand it, if you were to designate a town area that has low economic activity but then you put in the infrastructure that really increases the economic activity, you would use the proceeds or the tax base or whatever that is increased to pay off the money for that infrastructure that you used in the first place to stimulate the economic growth. It is a good tool when it works and you have to be clear where there have been pitfalls or minefields that other places have experienced that we need to be aware of when we craft the legislation.

Councilmember Chock: Yes, that is exactly what I looked into. Thank you.

Council Chair Rapozo: Anyone else? If not, I will suspend the rules.

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

Ms. Mo Des: Thank you, Council. Ana Mo Des. I really appreciate this concept and thinking outside of the box on how we can leverage our capacity to tax on the County. Other Counties in the States have more freedom than we do and I have been educating myself on this concept. Being that Hawai'i is the last State to join the United States, I feel there were limitations placed on us as a County intentionally, that we can maneuver. So this concept and conversation is critical for elevating the economic standings of those who have been run over by this intentionally or unintentionally for, I have said it before and I am going to choose to say it again on the record, that capitalism is ethical.

(Councilmember Kagawa was noted as not present.)

Ms. Mo Des: There is a rule in capitalism that there is no profiting off exploitation allowed. So anything that we can do to level the playing field and increase the opportunities for the community that have not had these opportunities offered, creating their pathways to success, and implementing businesses that can be positive for the community because right now, all of the activities are for tourism and for the children of the island. We can use a lot more

small businesses catered to that reality to expand our sense of humanity here on the island. I really do appreciate this. I know it is a difficult task with the limitations placed by the State, and all of you that have connections in the State to have this be a reality for us on the County to be able to tax for any businesses operating and profiting off the land, air, sea, spring, or river so that the communities that were here before the Native Hawaiians and the plantation-era families have a funding to basically survive in their natural, native way enhanced by that, or choose to have careers that can provide for future success for themselves, the same way that CIRI Land Development offers for the Native Alaskans, I feel, is any way that we can move forward in that way for the community would be positive for everyone.

(Councilmember Kagawa was noted as present.)

Ms. Mo Des: We would start to see a decrease in homelessness, drug and alcohol abuse, domestic violence, and suicide. Thank you so much for your time, consideration, and all of your efforts behind the scenes.

Council Chair Rapozo: Thank you. Anyone else wishing to testify? Seeing none, 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 any further discussion?
Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. The only thing that I think we would have to do research on is if enabling legislation is already been granted by the Legislature. I think it may have been, but I am not sure. I think the key benefit of this type of innovative taxation is that it allows us to do infrastructure improvements that, I believe, are no cost to the taxpayer because basically, the property tax values are frozen at pre-development levels and then the increase in the property tax values post-development, is what goes back into paying back those infrastructure improvements. Realistically, this is, and the public needs to know that this taxation vehicle is based on development like Rice Street and like the revitalization of our main streets. This is key for people to understand that this addresses growth in a very smart way, it allows us to target certain sectors and zones for economic development and revitalization, and at the end of the day, it allows for a financing vehicle that is eventually a burden on the increase in property tax values for these revitalized areas. You may want to research a place called Grant Park. Grant Park is a good pilot project that used this type of taxing vehicle and at the time, I think they had a gas station and another business. Now, it is a thriving mixed-use live, work, and play community that utilized this specific sort of taxation. Thank you, Council Chair Rapozo.

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

Councilmember Chock: I was just trying to think of how to explain it better. I was thinking home equity loan is kind of how we would look at it, but I think the flipside of this is you can really, if not plan properly and utilized well, it can be also of use. But I think that we have some examples that have developed communities in a healthy manner to the benefit of the community.

Council Chair Rapozo: Anyone else? Seeing none, the motion is to approve. All those in favor, say aye—what did you say?

Councilmember Yukimura: I thought we were going into Executive Session. I am really okay about approving it. I just thought we had this process. Okay. Alright. Thank you. I am sorry.

Council Chair Rapozo: Go ahead.

Councilmember Chock: Let me just clarify. The question was really about whether or not this is within the County’s purview, and that is what we are releasing. That is what we are voting on.

Councilmember Yukimura: We are voting on releasing the County Attorney’s opinion. Okay, and the opinion actually answers the question about enabling legislation as well. Thank you. I am sorry.

Council Chair Rapozo: Okay. We need five (5) votes for this, so let us do a roll call.

The motion to approve C 2018-53 was then put, 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.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

CLAIMS:

C 2018-54 Communication (01/29/2018) from the County Clerk, transmitting a claim filed against the County of Kaua’i by Taytralyn Nuivo, for loss of wages and related personal expenses, pursuant to Section 23.06, Charter of the County of Kaua’i.

(Councilmember Chock was noted as not present.)

C 2018-55 Communication (02/08/2018) from the County Clerk, transmitting a claim filed against the County of Kaua’i by GEICO Insurance as

subrogee for Amanda Mixon, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kauaʻi.

Councilmember Kagawa moved to refer C 2018-54 and C 2018-55 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or 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 2018-54 and C 2018-55 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 Kauaʻi, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

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

COMMITTEE REPORTS:

COMMUNITY ASSISTANCE & VETERANS SERVICES COMMITTEE:

A report (No. CR-CAVS 2018-01) submitted by the Community Assistance & Veterans Services Committee, recommending that the following be Referred to the February 21, 2018 Council Meeting with an Executive Session briefing:

“C 2018-32 Communication (01/04/2018) from the Housing Director, requesting Council approval to decline the repurchase of property located at 5047 Kula Road, Kapaʻa, Hawaiʻi, Tax Map Key (TMK) No. (4) 4-1-013-023, and grant the owner a one-year waiver of the buyback provision to allow for the market sale of the property by the owner,”

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

Council Chair Rapozo: Is there any discussion or 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 (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi,*

Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion).

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2018-09) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2684 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Maluhia, Kōloa, and Olohena Collector Roads (Operating Budget)*),”

A report (No. CR-BF 2018-10) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2685 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND-CIP (*Maluhia, Kōloa, and Olohena Collector Roads (CIP Budget)*),”

A report (No. CR-BF 2018-11) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2682 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Parks & Recreation Improvements (Operating Budget)*),”

A report (No. CR-BF 2018-12) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2683 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND-CIP (*Parks & Recreation Improvements (CIP Budget)*),”

Ms. Fountain-Tanigawa: We have a registered speaker.

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

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

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

Ms. Fountain-Tanigawa: The registered speaker is Ana Mo Des for CR-BF 2018-11.

Council Chair Rapozo: Ana.

Ms. Mo Des: *Aloha*, Ana Mo Des. Thank you, Council. The reason why I want to speak on this Bill is because I do approve the capital budgeting and all of that. But since it is for operating budgets, I would like you to consider diving in to the human resources aspect and the employee morale of all of the employees in the Department of Parks and Recreation since they do have a vigorous labor that they need to do every day from the early morning however many hours, and to ensure that there is no other employee suffering from what was exposed a couple of weeks ago, to ensure that everybody feels really good about what they do, and that they are receiving all of the protection they need.

(Councilmember Chock was noted as present.)

Ms. Mo Des: There is homelessness in many parks, meaning that there is human feces that needs to be dealt with. Everyone needs to have the materials they need to do their job well to ensure that we have employees that are happy to go to work to provide the joy that we all receive from the parks that we enjoy as a community. I feel that the employees under the County need to have this tremendous respect and honor by all of us in the community. I appreciate the honesty at this table and the desire to truly do well and have a *pono* experience as the Administration. I understand that you do not have control over personnel dealings, but maybe there can be what you practice before the phone calls and memorandums, just to make sure that everyone is okay. I feel that having interviews with everyone in the Department since they are seeking operating budgets, so that everyone from the bottom all the way up, feels really good about going to work every day, has everything that they need to get their job done, and feels the support from the Council as the legislative body, that this is something that really is important and valuable to the island, not just the community members that use the parks, but the employees that maintain the parks and the Administration that maintains the employees. So if that could be something discussed either on the floor or behind the scenes, I would really be grateful. 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 any further discussion? The motion is to approve.

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

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

RESOLUTIONS:

Resolution No. 2018-07 – RESOLUTION AMENDING RESOLUTION NO. 2017-02 AND RESOLUTION NO. 2017-51, RELATING TO THE RULES OF THE COUNCIL OF THE COUNTY OF KAUAI FOR THE ORGANIZATION OF COMMITTEES AND THE TRANSACTION OF BUSINESS: Councilmember Yukimura moved for adoption of Resolution No. 2018-07, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. With that, Councilmember Yukimura.

Councilmember Yukimura: Thank you, Council Chair Rapozo. I am proposing in this Resolution that our Council Rules reflect how our meetings have been conducted over the past year. People with time constraints have been allowed to speak at the beginning of the meeting, Councilmembers have been allowed to ask clarifying questions of public testifiers, and Councilmembers have been able to speak more than twice on any issue in the final discussion. The Resolution would also amend the Rules to allow Councilmembers the right to speak for up to six (6) minutes instead of five (5) in the final discussion on the issue. I appreciate the opportunity to explain why I am proposing that these procedures be put in writing. One, these are reasonable rules that are supported by the basic premises of a democracy. The first relevant premise of a democracy says that input from “the people,” i.e., public input, is important in a government that is of the people, by the people, and for the people. Our Council Rules should therefore, facilitate public input as long as it does not disrupt the orderly progress of a meeting. More people are likely to come to testify, they have told me this, if they know that they can say their peace and leave. Putting it in the Rules will make everything more transparent. I want to say that in the Rules that Councilmember Kawakami and I did in a prior Council, we had this provision in our Rules. It was a slightly different version, but the same concept. Officially allowing Councilmembers to ask clarifying questions is also based on the importance of public input. If public input is important, the ability to ask clarifying questions will better enable us to understand the input. Asking clarifying questions is also based on the importance of good information in making complex and/or far-reaching decisions, which we often do on this table.

The second relevant premise of the democracy says that robust and inclusive discussion of issues that does not exclude or suppress dissent is the best way to make decisions. In fact, the Resolution by which we adopted our Rules on Inauguration Day says that the purpose of our Rules is to allow the minority to be heard, but the decision to be made by the majority. Allowing Councilmembers to speak more than twice allows for robust and open debate and discussion, and remember, there is still

the limit on the total number of the minutes a Councilmember can speak in final debate.

The last change would allow Councilmembers up to a total of six (6) minutes instead of five (5), to speak in the final discussion. On its face, that final proposed rule seems small, but I remember when Councilmember Kawakami recently exceeded the five (5) minute limit unintentionally. I am sure he could have finished all he wanted to say in another minute, so one (1) minute could make the difference. Usually, Councilmembers have been able to stay within or around the five (5) minute limit and that is why I am not proposing to greatly increase the five (5) minute limit. I do believe, however, that Councilmembers who have been elected through an election process to speak for thousands of people, should be able to speak at least as long as a member of the public who is presently allowed to speak for up to six (6) minutes. These proposed rule changes are important because the critical decisions we make on complex issues needs as much input as we can get and should be arrived at only after robust and inclusive debate and discussion. It is long past due to formalize what we are doing and what we stand for. It is one of the bedrock principles of our democracy that we are a Country of laws and not of man, that is our laws are written for all to see, rather than what our leaders decide are the rules on a case-by-case basis. It is a way of keeping all of us accountable and a way for us to make the best decisions we can on behalf of the people of Kaua'i. Thank you.

Council Chair Rapozo: Anyone else who wants to...

Councilmember Chock: Just a question for Councilmember Yukimura. I think I understand the reason is that you want clarity on the Rules that we are already practicing, but being that it is more than halfway through our term and things are working to your liking because you are supporting some of what is happening already, what was your reasoning for introducing it at this point of our term?

Councilmember Yukimura: Well for one thing, it was you who said on Inauguration Day that we would be reviewing the Rules in a few months, and we have not done that. I also said that on Inauguration Day, I did not want to disturb the festive nature, and so I would not be introducing amendments to the Rules. But at that point, the public had not had much input because we did not have the Rules at our Organizational Meeting and we did not want to have a discussion on it on Inauguration Day, so there had not really been much robust discussion about these Rules. It is more than a few months, but it is still about eight (8) months yet for us. If we are already doing it, then what problem do we have to put it in writing? So that is why I am introducing it, because I think it is so important to have clear, fair rules and they are not rules unless they are in writing. Our laws say you can challenge the rules or the decisions, but you have to point out what rule it is violating, so if we do not have rules in writing, then you cannot even point out that you are violating those rules.

Councilmember Chock: Thank you. Did we not have this vote after Inauguration? I thought we brought this up again. The rule change was introduced...

Council Chair Rapozo: This is déjà vu. Let me explain to you what I see the problem is. The fact that anyone can introduce anything, I have never denied anybody an opportunity for anything on the agenda, but what bothers me is if you read the E-mails that we receive, it is the information was portrayed to the public and that is what upsets me because the fact of the matter is we did not change the Rules. I enforce the rules. We started to enforce the rules. Every E-mail and I got some really harsh E-mails about how dare you. One E-mail says that we are going to cut the Council speaking time to three (3) minutes. The misinformation that went out, is what the problem is. I am not sure why Councilmember Yukimura wants to do it now. Again, we are heading to the end of our term. Councilmember Yukimura and I are off the Council. But this happened after the last term into the second year of our term, the same identical Resolution came out. It failed. In fact, it was received by seven (7) members. Even Councilmember Yukimura voted to receive it. I want to show something before we get started because I want the public to understand one thing, because I do not want the attempt to portray me as the evil villain that I have curbed the Council's time and that I cut everybody's opportunity to speak. I have to tell you, this is probably been one of the smoother—I am not taking credit for it. We have good members who follow the Rules. But it flows much better when we have rules and when we follow them. Scott, if you could put that up. These are the Rules from the term before I became the Council Chair because really honestly, I get offended when people come up and say, "How come you did that, Mel? Why did you cut the Councilmembers' times?" I did not cut the Councilmembers' times. This has been around longer than I was born. This is from the Rules before I became the Council Chair. It is very clear. "No member may speak longer than five minutes, nor may a member speak more than twice on the same question without the Presiding Officer, subject to the appeal of the body" and the maker of the item has twenty (20) minutes. That has been there forever. I did not change that, but the perception is that I did. As soon as I became the Council Chair, I cut everybody's time to five (5) minutes. I did not change the Rule and I cannot change the Rule without the vote of the body. What is the other one? This is again, from before. "Public hearings are held to receive testimony from the public and Councilmembers should reserve their opinions and arguments for the appropriate Council or Committee meetings." That was intended because the public needs to be able to come here and testify without being interrogated and cross-examined, which was what was happening. People would come up here and if they just happened to be on the opposite side of Councilmember Yukimura, she would drill them, and we would get the complaints. That is the reason for that Rule, to give the public an opportunity to come up here and have no fear that they could say what they wanted and not be bothered by Councilmembers. Our time is when it gets to the Committee. That is the Rule. We actually expanded that. We changed the Rule to allow for clarifying questions. So that is what we do, we allow clarifying questions. We have gone way beyond clarifying questions, if you ask me. To see this now a few months before we are done, it makes no sense. Today, you saw the farmers needed to testify and we accommodate anybody that comes to this Office and these Chambers to testify, we will accommodate. Never, I do not believe any Councilmember would object to allow someone to testify in the morning because they have to leave. We just take it out of order. I do not get it. I am not sure, again. The timing is kind of the suspect. It is the same timing as the last one. We went through this discussion a year ago or two (2) years ago, and it is the same thing. Again, I do not know why, but again, I am not

going to be hold anything back from the agenda. If you want it on, we will put it on, and we will have the discussion, but I am going to be honest and open how I feel. I get offended when this happens because to me, I think I run a fair ship. Everybody has the same. I have cut everybody off if they went beyond the time, but everybody seems to comply. I am not sure on the motivation. Councilmember Yukimura.

Councilmember Yukimura: May I have the amendment posted now? This is on page 4 of Resolution No. 2018-07. First of the all, I did nothing to publicize this to the people. This proposed Resolution just went on the agenda. I did not do any E-mails. I did not have any time. I had nothing to do with the input that is coming forth. I just had this posted. I did not do it to try to make Council Chair Rapozo look bad at all, because actually Council Chair Rapozo has been changing during this term. Perhaps it is because he is running for Mayor, but whatever it is, perhaps it has been a good change because I have stood up in silent protest during this year because I have not been allowed to speak more than two (2) times. So it has been enforced against dissent and discussion. To have it determined by the Chair's decision-making is not fair, and the fact is that Jay Furfaro did not enforce the two (2) time limit and allowed full discussion. It was only when Council Chair Rapozo came in as the Council Chair that it started to be enforced. If it is irrelevant, you have a rule that says you have to be relevant, but very relevant information could not be provided because of this arbitrary rule cutting off discussion after twice.

Council Chair Rapozo: Councilmember Yukimura, we are going to take a caption break because I do not want to interrupt you in the middle of your...

Councilmember Yukimura: But you are interrupting me right now.

Council Chair Rapozo: Okay. We are going to end at 10:30 a.m., so if you want to be interrupted in the middle of your presentation...I am trying to give you the opportunity to not be cut off with a caption break.

Councilmember Yukimura: I am sorry, but you are interrupting me right now.

Council Chair Rapozo: Go on.

Councilmember Yukimura: Usually, we allow another five (5) minutes beyond caption break would be fine or ten (10) minutes. We do that often. May I have the pointer? If you look at (f) no. I want the other one on page 4, Rule 10, please. Could I have a pointer?

(Councilmember Kagawa was noted as not present.)

Councilmember Yukimura: Is this my Resolution? Page 4, Rule No. 10. I do not see it yet. It is Rule No. 11(10). Okay. So you see here, "The Chair may allow Councilmembers to ask speakers to repeat or rephrase statements made during their testimony, but Councilmembers shall not ask questions that give the speaker a greater opportunity to testify than others. Councilmembers shall not ask speakers about the substance of their testimony, or comment on testimony or speakers during

the testimony period.” This is a new provision. I do not mind the previous provision that Council Chair Rapozo showed where we should not engage in long-term discussion, but asking clarifying questions, that is not allowed here. All you can do is ask speakers to repeat or rephrase statements. What good is that? We really want to know things behind what they are saying and we have been doing it here. But sometimes, it is not allowed and sometimes it is. “Councilmembers may ask clarifying questions that enable the Council to better understand the point or position of the speaker.” What is the problem with having that in the Rules? Also, as I mentioned, Jay Furfaro appointed a Rules Sub-Committee to improve the Rules. Councilmember Kawakami, myself, and Nadine Nakamura were on the sub-committee and we brought in the idea of allowing people to testify at the beginning of meetings if they had time constraints. We set up a fairly complicated process where they could only speak three (3) minutes, only eighteen (18) minutes taken upfront, and all of that. Instead now, and if I could show that amendment, instead, we are just making it much simpler, but it is in writing. Right now, our Rules have nothing about speaking upfront and if somebody new to this process checks our Rules, they will not know that we have been doing it as a matter of practice. What is wrong about putting that in the rules? Here is a very simple thing that we have been doing, “In signing up, any person with time constraints may indicate a need to speak at the beginning of the agenda, which shall be allowed.” That clarifies that is what our Rules are. That is how we operate our meetings. Those are the changes. If we have been doing it and it has been working well, why not put it in the Rules, because sometimes it does not work well. It would be go to have the Rules that make it clear about how we want to operate in this Council.

Council Chair Rapozo: Anyone else before we take our caption break? I just have to say that the times that Councilmember Yukimura has stood in protest came after a failed challenge of the Rules. Now, if somebody has a problem with the ruling, they make a challenge, they take a vote, and the Members decide, not the Council Chair. So out of frustration, she stood. That is her right. But everything comes down to the Rules and process, and there is a process in place that we follow. That is what has been done since I became the Council Chair. With that, we will take a ten (10) minute caption break. We will be back at 10:40 a.m.

There being no objections, the meeting recessed at 10:29 a.m.

The meeting reconvened at 10:42 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Is there anyone in the audience wishing to testify? I will suspend the rules.

There being objections, the rules were suspended to take public testimony.

Ms. Mo Des: Ana Mo Des. As a testifier, I would love to know that I have the ability to testify upfront. It would have been useful for me two (2) weeks ago. I do manage to say everything that I need to say eventually. That is the ability in our democracy, to be able to do that. I understand Councilmember

Yukimura's frustration. I have noticed that in her experiences having to get through walls sometimes. I will speak on the woman card. It is just that aspect right now, for all women needing to say what we need to say and sometimes going through a wall to have to get to say it. In defense to the Councilmembers, I believe that your questions are valuable and we do, as a community, receive a lot of information from your questions. When you ask more than once, it seems like hammering and that is where maybe people are coming forward feeling like it is just overwhelming because we do want people to be able to feel comfortable sitting in this chair, ask all the questions; we hear the answers and questions and we do receive the information. I want to acknowledge Council Chair Rapozo because I have noticed your behavior and your demeanor change, but it was not from running for Mayor.

(Councilmember Kagawa was noted as present.)

Ms. Mo Des: I feel it was when you went to go see the fish and wildlife perspective, you saw how the taro farmers, everything that is really changing, and you have a greater sense of what is the underlying current of what was going on. I feel that was a really beautiful change to see and the partnership. You have a lot of history together. You have gone through a lot with each other. I feel you have a sense of respect and appreciation for each other. You push each other and make each other better because iron sharpens iron. So, I am really grateful for the dynamic at this table and the continued respect, cooperation, and admiration for each other because as I have said before, you each bring individual gifts and I love it when you all step forward, speak your truth, and share your heart for the island and the work that you do for all of us. Thank you so much.

Council Chair Rapozo: Thank you.

BRUCE HART: For the record, Bruce Hart. I was reading an article in the editorial in The Garden Island by Mr. Hooser. Over the time that I have been here and sat in this chair, it has been called different acronyms, or terms, or titles such as "the hot chair" and others, but I never heard it called what I call it. It is the people's chair. I appreciate the fact that I am able to participate in government in this chair. But as I have said before in the past, this side of the banister is the public, the people, and that side is our elected representatives. Again, I appreciate the fact that we live in a constitutional republic where our democracy works through our elected representatives. So a matter like this, I believe, should be left up to the Council. The only thing I have to say is that I want as much efficiency out of the process as possible. There are time constraints, but we do get six (6) minutes, and that is a lot more than what a lot of other legislative bodies offer. I am satisfied that in the last two (2) years, well since this Council has sat, the system that is in place works and it seems to work pretty well. There is going to be a new Council and I believe that they can decide how they want to do it and what works for them and for the public. Alright, thank you.

Council Chair Rapozo: Anyone else? If not, 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 any further discussion?
Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to say that when I rather flippantly said that Council Chair Rapozo has changed because of the running for Mayor, I did not mean that in a derogatory way. All us actually, are changing our behavior because most of us are running for some office this year. It is good because we are being accountable. We are kind of trying to think. We are more attentive to people and we are listening. When we listen carefully, we cannot help, but we moved. I do appreciate what Ana said, because I remember that moment, too, when Council Chair Rapozo came back from listening at the fish and wildlife meeting about the lookout. It was very apparent to me that he was moved in a way that changed how he looked at things on this island. That is how we hope that the democratic process works, that we go out into the community and when we really listen, our world view changes because we are seeing anew and we are seeing it through the eyes of people who are out there. So, if running for office or for re-election makes us listen more carefully and changes how we are in a positive way, that is really good. I have so appreciated Council Chair Rapozo's way of allowing more discussion. I mean, I was all set to try to justify why I needed ten (10) minutes to speak on the General Plan amendment and he other understood that and allowed it. That was good use of discretion, and that will not go away with the Rules that I am proposing to put in writing because after whatever limits we set, six (6) minutes if it is or five (5) minutes, then the Council Chair's discretion triggers. Then, he has to decide whether he can allow us to go over the limit. So that discretion is still there and is needed, but there are certain basic like the arbitrariness of not being able to speak more than twice does not allow key information. In fact, I remember in the barking dogs discussion when Council Chair Rapozo said that I said this affirmative defense that had to be actually proven by the person who had the dog. I know this is kind of complicated, but the point was that he was technically wrong and I had already spoken twice, but I was trying to raise my hand to really make the point about this legal point, which I was correct on, and he almost did not allow me to speak. Thankfully he did, but there were other times where I was not allowed to speak. The points were relevant and important to the discussion. Two (2) times is arbitrary, and you still have the Rules whether it is relevant or whether you have spoken more than the total time allotted, so you already have constraints. But two (2) times is very arbitrary and limiting against having good information and debate. Lastly, I want to say there has been an attack on me in terms of me asking questions, battering questions, if you will, of people who testify. I have to say several years ago, I was too argumentative and I have tried to be much more concerned and considerate about that, but I am not the only one who has intimidated people who come to speak here. I know people who will not come because of another Councilmember who has treated them so poorly here, and there are two (2) or three (3) like that. I do not appreciate and I do believe it happens to women more often, that it is made something that I am responsible for. I think we have all had to watch ourselves and I think we have been doing a better job.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I think the first thing that we do when we are trying to dig ourselves out of a hole is to stop digging. Let me try to take some of the shovels away and let us focus on the merits of the Resolution. I am looking at the proposals and in my opinion, none of this is substantial because we are already allowed to do this anyway. I have gone over five (5) minutes and I have gone into six (6) minutes. I believe I have spoken more than twice on a measure. I think I have asked for clarifying questions from the speaker, which we should be able to. This should not be an open forum for people to come and speak mistruths or half-truths. We should have the ability and responsibility. We are responsible for holding people accountable whether it is us, Department Heads, or members of the public. This should not be a venue for people to just say whatever they want to say, so I agree with these things. These are all things that we are currently doing and so to spend a significant amount of time to debate this is, in my opinion, putting a shovel in everybody's hands. In a nutshell, I say that I am going to support this because I do not think it is any substantial change. I do not know the reasoning for having to do this. I can tell you that Rules are set forth at the Council Chair's discretion to be able to utilize these tools to keep everybody marching between the lines. Council Chair Rapozo has been able to give us some leeway; it has not been a dictatorship. I do not see a substantial change and so these reasons and I have no problem supporting this. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. Thank you, Councilmember Kawakami, for actually looking at this objectively and that is how we should be looking at everything that comes in front of us, of course. When I first looked at this, I actually had the feeling as well, and my feelings were somewhat of anger because in my recollection, we had looked at this at Inauguration and we moved on it. Regardless of where the votes stood, the decision was made to act on the Rules. My belief is that once those are in place and the agreements are set, that we should follow them through. My recollection is also that we look at this a second time, and while I may not have that on record because I am still looking for it, we have had time to talk about it a second time. I know that much. I think in these two (2) times, I have supported Councilmember Yukimura's move in this direction to help clarify and strengthen the Rules so that it is more inclusive and also, so that it brings not only transparency, but accountability to us. I am a huge advocate of open dialogue, especially for the public in order for us to make good decisions. Here is where I have some issues, over my time at the Council, I have come to understand that Members abuse this Rule and they use it to make their arguments rather than listen, clarify how people feel, or what their opinions are and because some Members lack self-control, testifiers have felt attacked and undermined in that process. Now, what I really like is that some of this would have the Council Chair's discretion, because a good Council Chair will manage the objectivity and the clarity with flexibility without negative impacts. The current Rules do allow for the Council Chair's discretion and that is what you have seen occur within this term, from my perspective. What it does also, is it keeps Members from going too far in one direction, which is why I think the Rules for this Council as has been applied, have worked for this Council. So each time, I have supported the clarification and to this day, even as presented, I do

support what Councilmember Yukimura is trying to accomplish because I think when we are clear about it, we just have something to do back to. I want to thank Council Chair Rapozo for allowing this fairness without allowing one (1) Member to take over or to abuse members in the public. I think it is also important that we vote on the Rules regardless of how we feel about the outcome and that we follow through on how they are administered or it does undermine the process. This is what I think has happened in the past, actually. I have seen this affect engagement for the community and for this body. I have seen it affect productivity and effectiveness as a whole. Time is of the essence. We are here to make solid and hard decision. When we can curb ourselves or when we can have self-control, which I believe some on this Council may lack some of in terms of the maturity, and it is not a personal bash. It is just that this is where we are and what this body can accomplish. We need the best Rules to affect that. But when we can conflict in a healthy manner, the proposed amendment would work. I am clear on all of it, and particularly what I am speaking about is Rule 11(c)(10). I think I would need more time to look at that further in order to support it. I support all of the other amendments. I think would need more time and discussion on Rule 11(c)(10). But what I want to say is that it is much more complex than just rules when you get down to what is actually occurring on the floor. I will be voting, if the body is willing, to take in seriatim. If not, I have still have some questions on Rule 11(c)(10). Thank you.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: I will not be voting for this Resolution. I am almost sure we know what the Rules are now; five (5) minutes, two (2) times talking. I am also positive that we are going to see that Rule be broken right now. Councilmember Yukimura has used all of her five (5) minutes. For me, we come in knowing the Rules. Five (5) minutes. Is five (5) minutes enough time for us to make our point? Well, we better put what we are going to say together really well, say our points upfront, and put our speech together well. We have all of this time to go through the information. There is a lot of information that we get. It does not necessarily mean that we get the information here. We talk to the Administration, we get questions, and when we come here, we should be prepared to answer and state why we are doing it. I think five (5) minutes is more than enough time to state what your position is and why you are voting it a certain way. If we are going to go off on tangents and talk talking other ways, then yes, five (5) minutes is not enough. But we are here to make the decision and state why we are making the decision. You come in, you say, "I am going to vote this way because of this, this, this, and that is my decision." For me, I have not seen a problem with the five (5) minutes. I think I usually do not even use maybe two (2) minutes of the time. We state our position and we take the vote. As far as talking two (2) times, again, it is strategic. You use your time wisely. If you want to talk and you know people are going to counter you, then maybe wait. Let everybody say what they are going to say, you take notes, and at the very end, you use your time and say, "This is why I disagree with these positions." But if you have one (1) person talk and counter them and then other person talk and counter them and then another person talk and say, "I want to talk again," then you are not following the Rules. The Rules are five (5) minutes and two (2) times. Use it wisely. The Rules are there. That is what you do. You use it strategically. If you have a lot to say, then maybe wait until the end and say everything you want all at

one (1) time. As far as my opinion goes, I think that we have given Council Chair Rapozo the ability to run the meetings that he feels it needs to be run. I think he has run them very well. I have not seen any problems. Council Chair Rapozo has used his discretion when the discretion was made. For example, with our General Plan, he gave everybody ten (10) minutes. The General Plan was a four (4) month process. I think that was more than fair. Again, I was prepared to talk in five (5) minutes and say what I needed to say. He gave ten (10) and you can use ten (10). It was whatever Council Chair Rapozo wanted and was on his discretion. Again, for me, I think the Rules are fair. I have seen people try and influence the public testifier on their opinion. If a public testifier comes up, they should know what they are talking about, too. They should know what the agenda item is and state if they are in support or against it and their reason. If they come in and they do not state their case clearly, it is not for to us to guide them in the way that we want them to go and start asking questions like, "Do you not think this" or "Do you not think that?" It is the public testifier's right to come up and say what they want on the agenda item without us interfering and trying to influence them. Again, I think this does not prevent us asking the Administration all of the questions in the world that we want. This does not prevent us from a lot thing. It just makes it a lot cleaner, and for me, I am okay with the Rules. These Rules have been in place the entire time I have been on Council, and I do not see a problem with it.

Council Chair Rapozo:

Thank you. Councilmember Kagawa.

Councilmember Kagawa: First of all, I want to thank you, Council Chair Rapozo. In all of your years leading this Council, it has led to tremendous improvement in the flow of the meetings. Council Chair Furfaro was a great leader as well. He was the first Council Chair when I first started. I would not say that I am surprised that we have this Rule change proposed, because even during Council Chair Furfaro's time we had the same type of changes being proposed. To be honest, Council Chair Furfaro was not happy. He felt like that was an attack on his personal leadership because he was very open to bending the Rules for certain Councilmembers. During Bill No. 2491, that really struck me as a time when we should have rules and we should enforce the rules because at that time, there were a lot of the testifiers, there was a lot of badgering of people that testified, and it was clear to me that we needed to avoid having debates with people that were testifying because after that, it was brought to my attention that they did not want to testify. They felt like they were trying to be made to look stupid. That is why we have those Rules in place, to make people feel comfortable and you come and say what you want. I think if you are saying a lie or something, I think it should be corrected. I do not think we are deserving of having lies told about Councilmembers without Councilmembers being allowed to clarify, if they are being lied upon, because I think not being able to clarify or correct that lie is almost saying that you agree with it. I think in those cases, it deserves to be corrected. However, like I said, I have seen much improvement in the flow of the meetings. I think the primary issue that we are still having is we are having discussion being made during questions of the Administration or questions of personnel that are professionals on the agenda item. I do not think it is the time to have your discussion, or your knowledge, or your micromanaging of their decision to be done during that time. That should be done during your discussion time. I think we frequently see that and, for me, that is not

fair because we have other Members who are not doing that at the time. They are saving it for the discussion time and following the Rules. In every sport and every profession, there are rules. You have to work eight (8) hours a day and get paid eight (8) hours a day. You play by the rules, they are equal for both sides, and you abide by the rules. The rules are not meant to be broken. I think in some cases, yes, this is a body that serves the people and we need to sometimes be flexible, as Council Chair Furfaro and Council Chair Rapozo have been. However, we cannot constantly be changing the Rules just because somebody is not happy. It is redundant and it is unnecessary. I think I understand Councilmember Kawakami and Councilmember Chock's willingness to go with some of the amendments, however, I think your willingness to go with some of the amendments will lead to more amendments coming next week. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Thank you, Council Chair Rapozo. Yes, I will also not be supporting this. This is my first term. We talked about it when I first came in. It is just Rules that were already in place and that was going to be enforced. I do not think we had any issues with people coming up here and trying to come on early and being denied. I think it is working well with just asking clarifying questions and you still ask questions, but no person has been badgered up here and we have seen that. Councilmember Kagawa brought it up with Bill No. 2491. People were just being badgered. If you are on their side, they will ask you questions so you can extend your six (6) minutes to twenty-five (25) minutes. But if you are not on their side, they would just drill you until they get the answer that they wanted to hear. We saw that and I want to thank Council Chair Rapozo for enforcing this and moving forward. Again, the five (5) minutes, we already spoke for twenty (20) minutes before. In your final discussion is just five (5) minutes, but you already spoke for twenty (20) minutes before, so five (5) minutes is not an issue. I should stay at five (5) minutes. We talked about six the (6) minutes for the public, but if we have a lot of people with a strong agenda, the public is only allowed three (3) minutes. That is also the discretion of the Chair. It is not all the time that they do get six (6) minutes. Sometimes, it is just three (3). It depends on how many people we have. If they have time, they are allowed a lot more. I think Council Chair Rapozo has been pretty flexible in giving extra time to everybody. Even today, her five (5) minutes turned into six (6) because the red light was flashing, but Council Chair Rapozo was not paying attention, so it turns into six (6) minutes anyway. I do not see an issue and will not be supporting the entire Resolution. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I would like to know what Councilmember Chock's concern is about Rule 11(c)(10) is. I am presuming that you are talking about Rule 11(c)(10).

Councilmember Chock: The issue comes up for me in terms of how it is those clarifying questions are managed, because there comes a point that I have witnessed where those questions actually become attacks. I think there needs to be further explanation as to what it is, if we are going to get into details of providing

rules, to be able to identify when that happens and not. I think that it should be the Council Chair's discretion. I think that is what we have seen, that when those clarifying questions turn into a discussion that leads towards a Member trying to actually change a person's mind based on what their perspectives are, then that might be an issue. I am a little hesitant to move on such an amendment because of it.

Councilmember Yukimura: Okay. But do you have a problem with asking clarifying questions?

Councilmember Chock: I do not and I believe that does occur at the time.

Councilmember Yukimura: But the Rules do not say anything about that.

Councilmember Chock: I understand that. I understand.

Councilmember Yukimura: All this is doing is formalizing what we already do, but right now, the Rules have nothing about clarifying questions. It says that you can "ask speakers to repeat or rephrase statements made during their testimony." Repeat or rephrase. It does not allow you to really ask clarifying questions. What is the objection?

Councilmember Chock: I think I just stated that I do agree with the clarifying questions. What I do not agree with is that it needs more discretion in terms of when or detail a specificity on when it is taken out of that context.

Councilmember Yukimura: But right now, we are doing it without any clarification and it is the Council Chair's discretion. So this would still allow the Chair's discretion in determining what is clarifying or not, so it would not be any change. It does not limit the Council Chair's discretion.

Councilmember Chock: I see your point, and I am just saying that I would like more details on that if I was to support it, and that is what I was referring to.

Councilmember Yukimura: Do you have any problems, because the Council Chair's discretion is not changed? The Council Chair's exercise of discretion is not changed.

Councilmember Chock: For me, it would be more detail in the terms of defining a line when that clarifying question becomes...

Council Chair Rapozo: This exactly what we are talking about. He had made his point and you disagree. Let us move on.

Councilmember Yukimura: Council Chair Rapozo?

Council Chair Rapozo: Yes.

Councilmember Yukimura: The reason why I am asking the question is because we might have some amendments that actually address his concerns, and that is the process. We are problem-solving here.

Council Chair Rapozo: Well, it may be that he does not believe a change needs to be made.

Councilmember Yukimura: No. He just told me he believes a change needs to be made if this clarifying question is adopted.

Council Chair Rapozo: Hang on. Do you want to do an amendment? If we are going waste time on an amendment, let us do it. I do not want to hear this back and forth. I do not and these people do not. They are here for Ho'ike Kauai Community Television (Ho'ike), which is much important than this. They are here for many other important things. This is a waste of time.

Councilmember Yukimura: Why is it a waste of time?

Council Chair Rapozo: If you want to do the amendment, let us work on an amendment. But I do not want to hear her trying to convince you that you are wrong. I do not want to hear that anymore.

Councilmember Yukimura: I am not trying to convincing him that he is wrong. I am trying to understand what...

Councilmember Chock: Let me make this easy, Councilmember Yukimura.

Councilmember Yukimura: Yes.

Councilmember Chock: If you believe that it is already in the Council Chair's discretion, I can vote on this whole thing if you would like right now in support of you.

Councilmember Yukimura: Okay.

Councilmember Chock: Alright?

Councilmember Kagawa: I have a question.

Councilmember Yukimura: Then, I have a question for Councilmember Kaneshiro, because you were talking about how we can ask clarifying questions, right? What is the problem with just saying that in the Rules?

Councilmember Kawakami: If I may.

Council Chair Rapozo: Councilmember Kawakami, please.

Councilmember Kawakami: At this level of public service, we should not be trying to legislate civility and statesmanship. At this point, let us take a vote on the merits of the Resolution. In my opinion, the discussion has been robust and let us let the constituents and voters of Kaua'i judge us on the merits of our actions and the way that we conduct business around this table. That being said, I would like to eventually get to a point where we can vote on the measure because I think we all have it in our minds where we are going to go with this. It is a good example of having the ability to agree to disagree with some level of civility. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Anybody else? Thank you. I just wanted to clarify some things because I heard a couple of people talk about why I made the change. I heard it was because of Hanalei lookout or something that I went to. I heard that it is because I am running for Mayor. Maybe somebody should have thought to ask me because I think there is a reason. When I had solicited support for being the Council Chair not this term, but the last term, there were two (2) commitments that I made. Number one, I would allow anybody to put whatever they want, provided it was legal, on the agenda. I would not stop any. I would not put a one hundred twenty (120) day requirement. I mean, if you wanted it on, it would go on. I lived up to that every single time. The other thing was that I promised that we would start enforcing the Rules because I did not like the 8:00 p.m., 9:00 p.m., or 10:00 p.m. meetings. We have staff that have young kids. We pay overtime. That was the second commitment. After my first term as the Council Chair as we with were doing Organizational Meetings, there was some concern that I was too stringent, that I could be more flexible. That is the reason for the change, because I heard it from all of you, Councilmember Chock especially. That was the reason for the change. It was not Hanalei. It was not because I am running for Mayor. I think that is where I get the frustration, because ask. I am right here. Two (2) things came up today and the perception is because I am the Council Chair—the discretion of the Council Chair came up a lot. Arbitrariness of the speaker speaking only twice. That Rule was way back before I was around. I got elected in 2002 and that Rule was already in place. The arbitrary five (5) minutes was in place before I got elected to the Council. That Rule was not created by Mel Rapozo. It was not created by my—I do not know what they call it, my minions or whatever the people want to call us. That Rule was already in the books. Asking clarifying questions, it is in there right now. You can ask a question. You can ask to restate or rephrase. It is semantics. Today, it was not even clarifying questions. The reason for the limiting time, and it is not about the Councilmember having more time, the reason for that Rule is to prevent the testifier from having more time to extend his or her testimony. It has nothing to do with the Councilmember. It is not about us. We forget about that. We think it is about us, that my view is more important than yours and I should have extra time. Well, that is not the case. I am sorry to tell you. That Rule was specifically put in there to prevent people from coming up and having more time than the other member of the public. It is not about the Councilmembers. We forget why we are here. So I think we have to remember that these Rules are really to provide order and decorum, but that Rule has nothing to do with the Councilmember because I believe I have more important things to say. I have heard that comment made, "Well, I have something important to say." Well, we all do. When that light turns red, you are done. I can tell you, or ask the staff. I am not going put them on the spot, but ask them when

you leave today. Ask them, "Is it better now," that they can go home and see their family at 4:30 p.m. and not at 10:00 p.m. because we were going around in circles like we just experienced right now on a matter? I am sorry, sometime we disagree and we just have to accept that. But again, these Rules were discussed in detail when we did the Organizational Meeting. These Rules were voted on by the body and they were accepted by the body. Sometimes you have to accept it. This happened again two (2) years ago, same time, same words, and same thing. It failed and we are trying it again. It is frustrating. But we have to remember these Rules is not for us. It is really for the process, for everyone, for the public. But you can see if I had a member of the public coming up to testify on something that I agreed with, I could let them sit up there for twenty (20) or thirty (30) minutes by asking them questions. Is that fair? It is not fair. Everybody has the same amount of time. Like Councilmember Kaneshiro said, if you cannot get it done in five (5), then you are not really prepared. We are not here to debate in your discussion. You are here to justify or let the public know why you are not voting the way you are voting. If you are cannot do that in five (5) minutes, then maybe you need a different career. With that, roll call.

The motion for adoption of Resolution No. 2018-07 was then put, and failed by the following vote:

FOR ADOPTION:	Chock, Kawakami, Yukimura	TOTAL – 3,
AGAINST ADOPTION:	Brun, Kagawa, Kaneshiro, Rapozo	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Motion fails.

Council Chair Rapozo: Next item, please.

Councilmember Kagawa moved to receive Resolution No. 2018-07 for the record, seconded by Councilmember Kaneshiro, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item.

Resolution No. 2018-08 – RESOLUTION OPPOSING THE CHANGE OF PUBLIC, EDUCATION, AND GOVERNMENTAL PROGRAMMING CHANNEL NUMBERS BY SPECTRUM: Councilmember Kaneshiro moved for adoption of Resolution No. 2018-08, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. With that, let us have someone from Ho'ike. I will suspend the rules. Maybe Jay, you can give us an overview, or whoever wants to come up, please. We have three (3) microphones and three (3) seats up there. I think I read Russell Da Rooster's letter today. Thank you for forwarding that. He did send it to us, but know you sent it over to us as well. I think his was quite informative to the point. I do not know how you folks want to split it up, but if you can inform us and the public of what is going on.

There being no objections, the rules were suspended.

JAY ROBERTSON, Managing Director, Ho'ike Kaua'i Community Television: Thank you, Council Chair Rapozo, Councilmembers, and staff. I want to acknowledge them because they rarely are.

Council Chair Rapozo:

You have to state your name.

Mr. Robertson: Jay Robertson, for the record. I am the Managing Director for Ho'ike Kaua'i Community Television. I want to preface my remarks with first saying that the people who work for Spectrum on Kaua'i are some of the most outstanding people I have ever had any relationship professionally with at all. I know them back in the derby cable days, the Kaua'i cable days, and then it became Oceanic Time Warner Cable. Now, Charter Communications, a cable conglomerate, has purchased Oceanic Time Warner Cable and so they are our new owners under the guise of Spectrum. They are using Spectrum as their name. They have proposed to convert the entire cable Spectrum, which is now made up of analog, digital, and high-definition programming; they are going to capture the analog channels and convert that into a digital spectrum. The advantage to that for the people of Kaua'i is the cable operator will hopefully now be able to increase our broadband speeds for everybody. They will be able to add more high-definition channels on their lineup. They will be able to add more pay-per-view channels on their lineup as well as more video on-demand. That is a wonderful technological achievement, and moving into the digital realm is certainly where the world is. The issue that I have and with my compatriots, is that they want to move the local channels into a place that we call "digital Siberia" rather than allow us to continue to be on the same platform and channel numbers that we have been on for over twenty (20) years. In some instances, particularly with Channel 6, the local origination channel, some of the programs have been on this much longer. We would like to ask and we have been asking Spectrum, not to move our channels. We are the only people being affected. The broadcast channels are not touched. Public Broadcasting Service (PBS) is not touched.

Spectrum did, at a very recent Cable Advisory Commission meeting, make a big pitch that they are being severely impacted as well when they were pressed for specifics. They want to move Ho'ike from our current Channel 53 and Channel 54 location to Channel 185 and Channel 186. There are no neighbors in the 170s channels. There is nothing in the 190s channels. We are going to be floating with no one around us. Above us at Channel 200 is the paid cable sports channel, so you have to pay a premium charge to get to that. They are moving us away from basic service. What they are going to do is take our channels in those lucrative locations and sometimes triplicate or quadruplicate current programming. British Broadcasting Corporation (BBC) will have four (4) channels, Headline News will have three (3) channels, and Fox News will have three (3) channels. OC16 is the premiere product for Spectrum right now through Oceanic Time Warner Cable, and quite frankly, I have to credit these people with the formation of that. At the time, Oceanic Time Warner Cable knew that local origination programming was very beneficial and was lucrative revenue source. They started copying what these people were doing. I do believe Russell Da Rooster was on OC16 as part of their lineup, and so they are very aware of the success and value of these programs. They want to move them as well and dislocate them. OC16 will be moved and he was very emphatic about that. They

will be impacted. They are going to move OC16 from the current Channel 12 and they are going to be forced to put them on Channel 16. Most of this was supposed to be by genre, so we have to move where you belong. The news goes with news and sports with sports. However, Ho'ike is sports and entertainment, arts and entertainment, and religious and inspirational programming. We have senior citizen programs. We are so eclectic, it is unbelievable. But the real value is that it is one hundred percent (100%) about Kaua'i and for Kaua'i. Last year, we produced over one thousand five hundred (1,500) hours of local original programming. That is a remarkable amount of content created by Kaua'i residents, and it is stories about Kaua'i. It is stories about Coco Palms. It is stories about Hanalei. It is stories about what goes on in our reefs. It is stories about how we save our ocean and how we save our kids. A lot of important programs are directed towards seniors; different scams that are going on, different end-of-life services that are available, and what you do and how you provide care for somebody.

As I want to make an impassioned pitch to keep us where we are, and it may seem that I am speaking specifically about the people who produce the content because they have invested many years in branding and locating their product. Everybody knows where to go to watch the County Council Meetings, but there may be a day and it will come very shortly, that channel is going to be moved and will be put in a location where very few people will be able to find it. We have a significant senior population here. First of all, they are going to have to get a digital box and they are going to have to figure out to how to use that box. Then, they are going to have to refigure out how to program their remote, if the remote will even do that. We are denied access to the electronic programming guide, so you cannot scroll through that and find out where it is. It just says "public access, government access." It does not tell anything more about where it is. Spectrum will not let us into the electronic programming guide, which would be a big benefit. We just want to stay where we are currently. We think it is important, particularly for the viewers. I am concerned that the folks who are homebound that depend upon us for access to their church service, to watch their kids play in a Pop Warner game that might be televised, to look at a Ho'ike *hālau* that is going on out there, or to enjoy some of the cultural events that are on this island. I think to relocate us would be a tremendous disservice. There is currently a Senate Bill, and it will be held tomorrow in front of the Consumer Protection Committee (CPC). I will be going over to testify for that. They are going to try to make a law that will prevent the cable operator from moving public channels. They think that there is a public benefit and a public interest at play here, and we want to make sure that the public interest is paramount to everybody's decision-making. So far, this is nothing more than a run on enhanced revenue.

The franchise agreement between the cable operator and the local organization, our County per se, they are making extreme profits off of access to our public right-of-ways, things that we have invested million and millions and millions of dollars in over the years. They make, in turn, a tremendous profit every single year off of using that, which is fine. The deal is they provide channel space and they provide revenue. The channel space on the analog spectrum what we have, let us say is equivalent to a seven (7) acre park because one (1) analog channel can be converted into seven (7) digital channels. Say you have a seven (7) acre park, well, what they want to do, and that seven (7) acre park happens to be their rent payment to Kaua'i.

They want take the seven (7) acres, let you keep one (1) acre, we are going to take six (6) acres back, and we are going to create a tremendous revenue source for ourselves. Well, that is diminishing the rent that they owe us, but it is also a tremendous disservice to our people and not just the people who are putting out the stories, but the people who are receiving the stories. We have no idea, as we were speaking earlier and I heard you talking about unintended consequences. When you talk about cancer treatments, or health treatments, or cultural practices, or sports techniques, you do not know the person who is watching, how that benefits them, how that changes their life, or how it impacts them. That is really critical. If we move these channels, I think we are going to take that away from a lot of people, and I do not think that is right.

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Thank you for that overview. So that is the Resolution. Basically, I am introducing the Resolution to urge these people to not do that. Whether or not this will work, I do not know. Like you said, I know the Legislature is working on some bills that can possibly stop this, but the value of the local programming is just too important for us to sit back and not do anything.

Mr. Robertson: I think one thing important to add that is there is tremendous political effort behind our move right now. We have letters from four (4) Mayors, all of the State is behind us. Four (4) Mayors have written letters appealing, do not make this move. We have twenty-two (22) out of twenty-five (25) Senators who have signed on a petition at the State Capitol asking not to make this move. We have over thirty-six (36) Representatives from the House who have sign on that petition asking not to make the move. There have been public comments, public testimony, and Charter Communications has told us, "We do not care. We are going to do what we want to do." The will of the people is ignored. I would hope that somewhere and quite frankly, the only people that can really stand up to this is the Department of Commerce and Consumer Affairs (DCCA), the franchising authority, and the Governor of the State. But we are hoping that if we can codify this and get a State law, that would help us out in some regard. This Resolution is really helpful to us.

Council Chair Rapozo: This Resolution will be going to the DCCA.

Mr. Robertson: Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Thank you for your testimony. I would like to restate that the DCCA is the franchise authority. For the people watching, five percent (5%) of gross revenues from cable operators are appropriated for public use. Three percent (3%) goes to the public, education, and governmental (PEG), which is Ho'ike, Akakū Maui Community Media (Akakū), and 'Ōlelo Community Media ('Ōlelo). What is Big Island?

Mr. Robertson: Nā Leo 'O Hawai'i (Nā Leo).

- Councilmember Kawakami: Nā Leo. One percent (1%) goes to PBS.
- Mr. Robertson: Correct.
- Councilmember Kawakami: Does that channel change? Are they moving them?
- Mr. Robertson: No. It will not impact PBS.
- Councilmember Kawakami: PBS does not change?
- Mr. Robertson: They will stay the same.
- Councilmember Kawakami: Okay. One percent (1%) goes to PBS and one percent (1%) goes to DCCA.
- Mr. Robertson: Correct, that is Statewide.
- Councilmember Kawakami: Or point six four percent (0.64%) or something like that?
- Mr. Robertson: Yes. Actually, they took the full percent recently.
- Councilmember Kawakami: Yes, so one percent (1%) goes to DCCA.
- Mr. Robertson: Yes.
- Councilmember Kawakami: In 2004, DCCA commissioned the plan on franchising authority. At the time, one of the options was to give Counties franchising authorities. What happened in 2004? Were the Counties floated the proposal to be the franchising authority? Did we push it away? What happened in 2004 that did not allow the Counties to be the franchising authority?
- Mr. Robertson: The overture was made to the County. At that time, the Administration said they had no interest in it. They did not want to become the franchising authority.
- Councilmember Kawakami: The County Administration...
- Mr. Robertson: Yes.
- Councilmember Kawakami: ...did not wish to the franchising authority?
- Mr. Robertson: Correct.
- Councilmember Kawakami: I think we should take a look at the pros and cons. I would like to learn more about what it would entail because I know that money came with it. Thirty thousand dollars (\$30,000) from DCCA was floated to

propose in 2004, if the Counties took the responsibility to control our domain as a franchising authority over cable operators. At the time, thirty thousand dollars (\$30,000) was appropriated. I know that much.

Mr. Robertson: Right.

Councilmember Kawakami: I would like to learn more about why we denied that. The other thing that I would like to know is the move to require digital cable, from analog to digital, was that mandated by DCCA in the franchising agreement?

Mr. Robertson: It actually became a part of O'ahu's franchise/refranchise agreement. But when they did O'ahu, they applied it to the entire State. Our franchise has not been renewed yet.

Councilmember Kawakami: Because 'Ōlelo has been pushing for digital presence. They wanted to move, right, from analog to digital? So part of the agreement was okay. If you want digital, then you need this digital box, which is what I believe at the time, correct?

Mr. Robertson: Right, that is correct.

Councilmember Kawakami: So from our standpoint, we are not actually requesting to have a digital presence. Are we okay with staying on analog?

Mr. Robertson: Actually, no. What they did when Spectrum or Charter Communications purchased Oceanic Time Warner Cable, part of the agreement was we will convert our entire system, statewide, into an all-digital presence.

(Councilmember Kagawa was noted as present.)

Mr. Robertson: That is part of the O'ahu franchise that will be rolled out to each of the other islands.

Councilmember Kawakami: Okay. The digitization side is a completely separate issue.

Mr. Robertson: Yes.

Councilmember Kawakami: What we are focusing on today is keep our presence on Channel 53?

Mr. Robertson: Yes.

Councilmember Kawakami: I think I can agree to that. We should be making this convenient. First off, I want to thank the PEGS; Ho'ike, Akakū, 'Ōlelo, and Nā Leo for providing this venue for the public to get their stories out. It is like Kua'i Community Radio (KKCR) for the radio dial. Ho'ike and the PEGS are the

only vehicle that we have where people from the public can learn about production and get their messages, stories, and government out to the people. What happens at this very table, whether it is the Planning Commission, the Police Commission, or this body, this is the vehicle. So to keep at Channel 53, I understand the merit and importance of it. But what I would like to dig more into is the rule of this and what would be a good thing or a bad thing if the Counties were the franchising authority. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Thank you for a really good discussion. I think we have taken community television (TV) for granted. When you described the richness and the importance of it, it is pretty helpful. The question, is the decision made by DCCA?

Mr. Robertson: Actually, no. The cable operator makes the decision and the DCCA grants them.

Councilmember Yukimura: Who gave the cable operator the power to make that decision?

Mr. Robertson: Everything comes through the Department of Commerce and Consumer Affairs through their franchise agreement.

Councilmember Yukimura: So DCCA does a franchise agreement with Spectrum?

Mr. Robertson: Correct.

Councilmember Yukimura: And that franchise agreement has given Spectrum the power to freely determine the channels and the accessibility of those channels?

Mr. Robertson: Within Federal constraints. There are Federal laws, but exactly, they can do what they want to do.

Councilmember Yukimura: I think there has been some undesirable developments at the Federal-level. But if the key is the DCCA franchising agreement or contract, how long does that last?

Mr. Robertson: There are different years. I believe the current franchise is fifteen (15) years. Kaua'i, specifically, though is in the refranchising process. So the outlook would be for a fifteen (15) year agreement.

Councilmember Yukimura: So, the refranchising effort right now is going on between DCCA and who?

Mr. Robertson: Charter Communications.

Councilmember Yukimura: Charter Communications, which is Spectrum.

Mr. Robertson: Yes.

Councilmember Yukimura: Is this a very pivotal time if they are now just developing this new franchise agreement?

Mr. Robertson: Well, actually when they purchased Oceanic Time Warner Cable, they bought all of those existing franchises. 'Ōlelo was the first up. It has been renewed prior to the purchase. Then, the Big Island was done shortly after the purchase was made. Akakū or Maui, basically, is still up for refranchising. Then, Kaua'i has yet to be refranchised.

Councilmember Yukimura: Theoretically, DCCA has the power to restrict Spectrum's ability to freely move things around?

Mr. Robertson: If they should choose to, yes.

Councilmember Yukimura: Has anyone spoken to DCCA?

Mr. Robertson: Extensively, yes.

Councilmember Yukimura: Where are they headed?

Mr. Robertson: They sympathize with the situation. They would like us to remain where we are, but I believe legally, technically, they are powerless to enforce their will.

Councilmember Yukimura: Because of Federal?

Mr. Robertson: No, because of the way the franchise agreement was structured, the current written contract with the cable operator.

Councilmember Yukimura: And that is not changing? I mean, there is not an opportunity to change that basic...

Mr. Robertson: We could for ourselves. For the island of Kaua'i, we could work on that. I appreciate Councilmember Kawakami's comment that we could. There was a window in the past. I do not know it was ever closed or not, but the County of Kaua'i could become the franchising authority. So that cable revenue and I would hate to say this, but the PEG money is basically referred to, federally, as "pothole money." You could take that sum and use it for any purpose that you would want, so you could build homes, you could fix roads, or you could do all kinds of things with that revenue.

Councilmember Yukimura: But we would have to have a management entity created?

Mr. Robertson: Yes you would. That probably was part of the problem, managing it and then staffing, equipment, and everything else that goes with it. There is a tremendous service of Ho'ike compartmentalizing everything and putting all together, you get better return on your dollar investment.

Councilmember Yukimura: It does seem worthwhile looking at that, because as we found from Kaua'i Island Utility Cooperative (KIUC), local control could be better. We would have to be good managers, but it does bring many advantages to ensure that the local community is served well.

Mr. Robertson: I think in that regard, too, you could also include education in that and how well we could work with communication skills with our students in the various schools and connectivity. There is a lot of great potential in this.

Councilmember Yukimura: Has there been any discussion with the County Administration about this?

Mr. Robertson: No.

Councilmember Yukimura: Should we add something in the Resolution that the County Administration explore the potential of...

Mr. Robertson: I think that would be up to you folks to do.

Councilmember Yukimura: ...acquiring the franchise?

Mr. Robertson: I think that would be your decision to make and not really mine to suggest.

Councilmember Yukimura: I mean, this would just be exploratory because we do not know all that we need to know. Would you think that it could be good and give us more control over what you are talking about, the channels?

Mr. Robertson: Honestly, I would think it would be very problematic only because Charter Communications is so huge that they would fight this every single bit. Right now, we have State franchising and the State is the franchise authority. Whether they are willing to give that authority up, which they were in the past, that is a question that I am really not in a position to answer.

Councilmember Yukimura: Okay. The State could, like Hawaiian Electric, apply to all of the other Counties and then the County of Kaua'i could possibly just take on their part?

Mr. Robertson: Yes.

Councilmember Yukimura: Alright. Thank you.

Council Chair Rapozo: Councilmember Kawakami and then Councilmember Kagawa.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Like many other things in this unique State, the State has jurisdiction over the cable operators as the franchise authority. Are we in the minority, nationwide, meaning are most of the franchise authorities delegated powers to the Cities and Counties, or to the State because I believe that a major of the franchise authorities that are floating around the United States of America, most of those franchise authorities lies within the jurisdiction of the City and the County. Is that a correct statement?

Mr. Robertson: I would think that is correct. The recent trend has been to go to statewide franchising, as California has done, but the preponderance of franchises out there are individually managed by their local municipality. There is a local Public Utilities Commission (PUC), or somebody, or even the City Council can make those determinations.

Councilmember Kawakami: I do not think we need to send a Resolution to ourselves to go and study this, but I do definitely think we should look at the pros and cons because there are cons that come with this.

Mr. Robertson: Yes.

Councilmember Kawakami: We have four (4) different Counties. Could you imagine the confusion if we had four (4) different agreements floating around? I think that is what we have to do that we are tasked with, trying to improve ourselves and fine-tune this. I think we need a broader discussion with DCCA, yourself, and Spectrum. We just have to get everybody to the table, Council Chair Rapozo, on this type of thing. We cannot have these walls and lines in the sand saying, "We are doing this now." What needs to happen is we need to stop looking at things in silos and you playing in your sandbox and I play in my sandbox. What needs to happen in this discussion is we need to get all the players involved, let us sit down on this matter, let us be adults about it, and let us talk about what is really underlying this issue. I think that is the first step with this Resolution. Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Jay, I just want to get clear on the ramifications of changing the stations to higher numbers. I would say a majority of the homes on Kaua'i have one (1) box in the living room or whatever where they catch all of the stations. They have separate TVs in the bedroom, family room, or whatever that does not have the box because they do not want to pay the cost of two (2) boxes. Do those TVs have lower number stations?

Mr. Robertson: Correct.

Councilmember Kagawa: And the one with the box catches the lower numbers and the higher number channels. If Grandma in the bedroom wants to watch the County Council Meeting instead of Winter Olympics, she can watch

Channel 53 in the bedroom without the box. If this change happens, Grandma will have to watch only in the living room, that is the only place she will catch County Council Meetings?

Mr. Robertson: Well, currently there is a plan and a suggestion, although it has not been widely announced, that one (1) free box would be given to each home originally, initially. After a short period of time, maybe a year, then you would be charged for that box. If Grandma wants to stay in bedroom and watch her program, she is going to have to pay that extra fee every month.

Councilmember Kagawa: Theoretically, if we keep it on the lower number, we are still going to get...

Mr. Robertson: No, everything is going to change. You are going to need a digital box no matter what.

Councilmember Kagawa: For everything?

Mr. Robertson: For everything.

Councilmember Kagawa: Wow.

Mr. Robertson: They are changing the system.

Councilmember Kagawa: I am just amazed. I just bumped into my classmate and the benefit. I want to thank you folks since we are the County Council. Thank you for broadcasting for all of these years and the continued professionalism that you folks do. There are a lot of people that watch County Council Meetings and you would not even that these people would think about wasting their time watching this. I just want to thank you folks. We have to do whatever we can do to make it easy to watch Wala'au and Russell Da Rooster.

Mr. Robertson: One other point I want to make when you talk about an economic impact, for us, we do not measure things in dollars and cents, so to speak. But the commercial aspect of this, the local origination channels, Wala'au with Dickie Chang; Russell Da Rooster; Shining Stars, which Sean Doi produces for the Department of Education, are remarkable awarding winning programs and great shows. We are non-commercial, but because they are commercial, if you can move them to a channel that nobody can find, you diminish their ability to raise money and it also gives an unfair economic advantage to the cable operator because they put their channels in the prime spot and they are taking advantage of the revenue source for advertising. You can ask these people how it is going to impact them. It is going to be a tough fight, and it is already a tough fight.

ROBERT ZELKOVSKY: If I might say something, I am Robert Zelkovsky representing Storybook Theatre of Hawai'i. We have produced Russell Da Rooster for the past twenty (20) years. We have been on Channel 6 for twenty plus (20+) years along with Wala'au. Mark and I were on Moloka'i last month and after we did my work, I went to the hotel room. I said, "Oh, let us see what the local

programming is. Let us see what is on Channel 6.” QVC was on Channel 6. So that is the kind of programming that they want to replace us with, the moneymakers and the mainland shows. We have children of children watching our show now who are used going to Channel 6. It easy to watch and easy to plug in. We will be up, according to them, on Channel 128. It may not be the end of the world, but it is a real inconvenience after twenty (20) years.

DICKIE CHANG: Good morning. Dickie Chang, for the record. Wala’au. Bruce and I, my first and still one of the few employees. Let me just correct this humbly, this is not a lucrative business. I am sorry. I cannot tell you the last time we made money. I would be the first to tell the people that called me, if you want to find out my revenue, I will be transparent. I will give my revenue compared to what it costs in terms of the labor to get this going. We have been doing this for twenty-four (24) years. That is fifty-two (52) weeks a year, a different episode. You count them, we did it. I am not sure, but I would like to say that I am at least the second oldest locally-produced television show perhaps in the State. When I got the call from Spectrum, I had guests at my house, and it is very uncanny. I know it is hard to believe, but I was actually on phone for one (1) hour trying to educate the person from New York. He said, “It is already a forgone conclusion, this is how it is, you are done.” I said, “You just put the nail in the coffin. You just did it. You just ended local television.” What did they call that? Digital Siberia or what have you. People cannot find it. I said, “If they cannot find it, then we are done.” Not necessarily as a businessman, but why try to put yourself on YouTube and everything else, because it is expensive to do production. I am not speaking on behalf of everybody else, but we are not young bucks. We put in our time and that is from compassion and love. I get it, but if we put up a white flag that I am thinking that what is happening. We celebrated our twenty-fourth anniversary in 2014. It was a little pause in the cause. Bruce came up to me and said, “So what, five (5) more years?” Five (5) more years means twenty-five (25) year anniversary; which by way, will be next year. I said, “Okay, this is the deal. Heaven forbid, you die, then we are done. I die, then we are done. End of conversation, we are done.” But I kind of would like to see twenty-five (25) years, greedily on my terms, to call it quits when it is ready to call quits because once it gets to where it is at, I cannot tell the few advertisers in all honesty, “Do not worry, people are still going to watch,” because as Councilmember Kagawa was saying, unless you are in the living room with that one (1) digital box, people cannot find it. At Channel 6, they can find it. All I am saying is that I have pretty much come to the foregone conclusion that is how it changes. This is corporate America, but the one thing I could tell you that I spent a lot of time trying to talk to this person about is, Hawai’i, Kaua’i is a totally locally different ballgame in Hawai’i. At one point in time, Dr. Rob could probably clarify, which by the way, Rob was with me in 1994 also along with Bruce. But we have had a consistent flow of locally-produced television shows on Kaua’i that was unparalleled to the other neighbor islands itself as far as local origination is concerned. We have been everywhere. If you noticed, a lot of things that we have done, has been for not-for-profits that said, “Hey, you folks can help. Can you folks help us out?” It was never really about what the budget is or what the funding is. People have concerns and we are there. A lot of power and beauty of what we do is when we shoot on location up at Kōke’e, or the west side, or the north shore, on the beach, in the forest, or wherever. It is on location, so it is taking the people to beautiful places that they

are seeing. Everybody wants to figure out what the background is, what kind of fruit that is, or what kind of tree that is. I hear that all the time. I do. I hear that all of the time. Sometimes we just think when people say, "Oh, I watched this show, I watch your show," and I ask them, "What did you see?" They say, "Boom, boom, boom, boom." Bruce is the cameraman/editor. People even go up to him and say, "Hey, I see your folks' show all the time," because Bruce is a well-known person on Kaua'i. By the way, just for fun, it is his birthday today, so I dragged him out of his house to come here. Anyway, it has been a good time, everything comes to a closure, but it would be sad that the people of Kaua'i cannot see the shows which many people have seen for many years.

Councilmember Yukimura: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Jay, this is an issue of using public access ways, right, which are basically created by the Federal government?

Mr. Robertson: Well, there is Cable Act of the 1984, which allows the franchising authority to create these articles and opportunities. In Hawai'i, we are very unique. We have Hawai'i Revised Statutes (HRS) Chapter 440G, which is a State law that creates public education and government access throughout the entire State, and it provides for the funding mechanisms. So there is actually a State law that creates us, but the DCCA is responsible for creating the contract and implementing the services.

Councilmember Yukimura: It seems to me there should be Federal requirements for public use of public access ways and the charging of the for-profit sector to enable, allow, and support the public use. But that is or is not done by the Federal law?

Mr. Robertson: Not specifically, no.

Councilmember Yukimura: It was more the State law that ensured public access?

Mr. Robertson: Correct.

Councilmember Yukimura: So the Legislature could impact this issue as well?

Mr. Robertson: Absolutely.

Councilmember Yukimura: Okay. Is there a Bill?

Mr. Robertson: Yes, it is Senate Bill 36.

Councilmember Yukimura: Does it address this problem?

Mr. Robertson: Specifically.

Councilmember Yukimura: If it passes, then will it then solve this problem?

Mr. Robertson: Yes, it will. It does not mean that the cable operator could never move the channel. Through mutual agreement, we could.

Councilmember Yukimura: Right.

Mr. Robertson: But it requires all parties to come to the table and come to that agreement, and that is what this Senate Bill is addressing.

Councilmember Yukimura: Okay. So we should, at minimum, also support this Bill?

Mr. Robertson: Please.

Councilmember Yukimura: But that would effectively create the solution?

Mr. Robertson: Yes.

Councilmember Yukimura: It would guide DCCA in how it does its franchising?

Mr. Robertson: Exactly.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Rapozo: Real quick, how many people in the audience are going to testify on this? We are just trying to plan our afternoon. Just two (2)? Okay. Are there any other questions? Councilmember Kaneshiro.

Councilmember Kaneshiro: I just have a quick clarifying question. In regards to what is happening, you are saying that no matter what, if you want to watch TV, you are going to need a digital box. Are the days of the just plugging your TV into another outlet gone?

Mr. Robertson: Long gone.

Councilmember Kaneshiro: No matter what.

Mr. Robertson: Long gone.

Councilmember Kaneshiro: Okay.

Mr. Robertson: They are projecting rolling out in O'ahu late March, and they anticipate we will probably be doing that in the summertime or September.

Councilmember Kaneshiro: So the only thing we have left is to say, “Do not move the channel to digital Siberia and leave it at a channel that everybody knows where to find it at”?

Mr. Robertson: Good luck, we thank you for increasing our broadband speed and bringing in more paid content, but leave the access channels alone.

Councilmember Kaneshiro: Okay. Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I am sorry I have so many questions, but this is an interesting topic. I know some of it from my time at the Legislature. Are all of the channels moving from analog to digital, every single one?

Mr. Robertson: Yes.

Councilmember Kawakami: What role do the PEGs have at the negotiating table? Does ‘Ōlelo negotiate on our behalf because they are the lion’s share of the franchise fee appropriations? Is that how it works?

Mr. Robertson: Actually, the four (4) PEG entities have really worked very well together in collaboration over the last many years on different issues. We are specifically, for this thing, joined in force. The four (4) of us are acting as one (1). So we have started a number of things that we are trying to do to influence the decision-making. So far, they have failed miserably.

Councilmember Kawakami: Okay, that is the main thing, which is typical when we have Honolulu negotiating on our behalf without accounting for any type of unintentional consequences. So, that is good to know. Are the four (4) PEGs in it together as far as negotiating on these terms?

Mr. Robertson: Absolutely.

Councilmember Kawakami: Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: In this day of high technology, is there the technology to actually have one (1) digital box that allows different channels on other boxes in a house?

Mr. Robertson: Not to my knowledge. It is better to rent four (4) boxes to you than to give you one (1) box that serves all.

Councilmember Yukimura: Because?

Mr. Robertson: It is economics. I do not know that the technology is there that they could have a box that would send a signal to four (4) different units to be able to independently control them.

Councilmember Yukimura: How does the actual cost of these boxes compare to the actual charges for the boxes?

Mr. Robertson: I have no idea.

Councilmember Yukimura: Could a public interest operation actually address that issue?

Mr. Robertson: Yes.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Are there any other questions? Thank you.

Mr. Zelkovsky: Thank you very much.

Mr. Chang: Council Chair Rapozo, I am sorry, but can we let Bruce say something?

BRUCE SMALLING: I have nothing to say. I think you said it all. Good job.

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

Mr. Hart: Bruce Hart, for the record. Sometimes, I get a real opportunity to be able to just give kudos. I am familiar with Ho'ike and I know Jay just from Ho'ike. It is an underutilized opportunity for people on this island. It is just incredible. You can get certified and learn how to use the cameras. It is like a library. You can go down there and you can check out the cameras and go out and make your own production. Then, you have a platform from which to air it. They have all the equipment. They are very helpful. It is just really something. The whole gamut of things that you can think of that you would want on film, you cannot afford the equipment. If you are going to be in production on a regular basis, yes, you go out and buy the equipment yourself. But just to do something like a birthday party or something like that, it is really a wonderful thing. So I just wanted this opportunity to say that. Thank you.

(Councilmember Brun was noted as not present.)

Council Chair Rapozo: Thank you. Anyone else?

PHIL WORWA: Aloha. My name is Phil Worwa and I am one of the board members at Storybook Theatre of Hawai'i as well as, I do Friday nights with Santa on a regular basis. Moving stations and that is really generational. If I

am watching KPBS, I know that I am going to see Sesame Street on Channel 11 every day. I am going to tell my grandkids and I am going to tell my kids, "This is the way it is." I think that these organizations have built that reputation and that is something really special because it is generational and it is Kaua'i. I feel that changing these kinds of stations and moving that just gets everybody messed up, as well as the income potential what these companies try to bring such great productions to us. I am proud to be part of Storybook Theatre of Hawai'i. We do some really wonderful things out there. Hopefully, you folks will not change the stations. Push it through that way. I think it is really important that we have stability, especially for our kids these days that they know that they can get on TV, even the parents, can get on and say, "Here, you are going to learn something off of Sesame Street. You are going to learn something about Hawai'i from Storybook Theatre of Hawai'i." It is just a really phenomenal thing that we have here, so let us keep the treasures here and keep control of that. Thank you very much. It is nice to see all of you folks. *Aloha.*

Council Chair Rapozo:

Thank you. Anyone else?

Ms. Mo Des: Ana Mo Des. Thank you, Council. This is an outrage; complete, utter outrage. There are so many people that do not have the capacity to pay for cable and they need it for their health, for receiving information on emergencies. I can do on and on about this. I do not think we have to sell the value of the production of our local channels. I mean, everyone is amazing. All of the channel are amazing, innovative, creative, inspiring for the youth, and an outlet for the creative people that can produce something of quality. The fact that the cable company, the one (1) cable company, so we have no other option here in order to receive media. One (1) cable company. We do not even have analog any more. This is beyond measure at this point. We need to go all in and do everything that with we can in order to have control over this. We can discuss how it is unequal to what is going on the mainland for many reasons, the economic disparity on the island, and how this is a health hazard. This should be illegal. I understand the concept of corporate America, but there are laws that need to be followed, ethics, ethical practices, and everyone needs to take into account what the culture and life on this island is, and what is happening economically, which is a humanitarian crisis. So I understand you all know the multi-level situation that this is. I am outraged. Please keep moving forward to get this accomplished so that we do not get overrun this way as a community. It is unacceptable. We need to have access to free information over the television for all of the reasons that you already know. Did I make it clear, because I have more time? Alright. Thank you.

Council Chair Rapozo:

Thank you. Anyone else?

JOE ROSA: Television is something that these companies did not pay anything to the United States government to put the satellite in orbit up in space. It was something that was put in by the government and people have seen an easy way to make money that they keep buying all of the other companies that are around to have a monopolization right here in the State of Hawai'i. Why do the oriental groups; the Japanese, the Koreans, and the Filipinos have to pay extra five dollars (\$5) for the box? I know some families that say, "Oh, we only have one (1) TV in my home and it is in the living room. But sometimes when I am ill or I am sick, I

want to watch TV.” If I want to put another line, there is another fee to put that extra line to get the TV in the bedroom, and then, yes, with the box. That is discrimination. Why discriminate the Filipinos, the Japanese, and the Koreans? Why do they have to get a box? That is something that we should look into because in the olden days when they had sumo, the Japanese people used to have to get an extra box. To me, that is not right. The government should look into this or the American Civil liberty. People should look into that as a form of discrimination. That is something that you could use to have a clout. Another thing, I see Spectrum. They come on and everything is “N/A,” not available, not available. Before, you could see more spots. Today, you look and at least all of the spots are “N/A.” You look Hawaiian Telcom, Inc. (HT). They have all of the different changes. My sister in Honolulu said, “Oh, it is wonderful.” I said, “Gee, maybe I should wait until Hawaiian Telecom Company, Inc. comes here to Kaua’i and see what can be done with free enterprise where I can get more channels and enjoy myself.” So those are the kinds of the things that I said. I have been sitting quiet, but I am always here for the people. To me, they have been discriminated by paying an extra five dollars (\$5) for a box. Why do they not just put in your bill already and get it so you can use it on any channel in your house? Why do you need to get a separate box for every bedroom if you have two (2) bedrooms and a living room or something? Those are things that show that monopolization is controlling and I do not believe in that. I think the County should go along and back up our Kaua’i Ho’ike, Mr. Robertson and Ho’ike. I have watched good Ho’ike programs such as the J.K. Show. He died and his program is gone. Dickie Chang is still around.

Council Chair Rapozo: I have to stop you there, Mr. Rosa.

Mr. Rosa: Help Mr. Chang. Thank you.

Council Chair Rapozo: Thank you. Anyone else?

Mr. Chang: Thank you. Dickie Chang, for the record. Being around from 1994, Councilmember Yukimura was the Mayor, if you can recall being the Mayor. That was a very difficult time when we started our business because that was post-hurricane, insurance money all washed up, and everybody got their new cars, truck, roofs, gutters, and everything that they needed. But if I am not mistaken, in 1994, about eighty (80) to ninety (90) businesses went out of business. I applied to get a license to do a business, and I think I am the only business in 1994 with the same name, with the same owner, and that took a long time of perseverance. I understand progress. I understand they are a free enterprise. I understand they want to get us off of Channel 6, because when you think about it, there are only a few of us producers left. That channel could be deemed as wasted. However, if you look when our shows are not on, you have all of the community public things that are going on, just things that benefit the seniors or benefits the community that tells people what they can do and what they can do for free. Now, if I am not mistaken, a lot of the other cultural events or a lot of the other people that want to advertise, they might not be able to afford radio spots or newspaper spots. But I remember at one time, it was seventy-five dollars (\$75) a month to have their fundraisers going on and it was twenty-four/seven (24/7) or whatever, maybe one (1) spot an hour or what have you. It was an affordable way for people to get their message out. Again, I understand the

progress. I know that there needs to be public education. I do not know yet if Channel 128 or what have you that we are supposed to be at, I am not sure if that is a premium channel. But if it is a premium channel, then of course people are going have to pay even if we would educate them and say, "Hey look, can you at least help us let the people know where to find us?" But as Jay Robertson was saying, you do need other digital boxes, you need to know how to program what you are looking at, and it is not like it is scrolled down like you can just scroll and figure out where you are at and then hit "enter" and hit it on there. Anyway, I want to say thank you, because the voices can make a difference. But I think it is going to be a real pity shame because I think it is the end of an era for many of us. I am not asking for sympathy, but I am not going to hang around if people are not going to be able to see the show and yet, I am paying to be on TV, then I do not think it is a smart decision for me to hang around. It really is not. Nonetheless, thank you Council Chair Rapozo, for putting this on, and thank you for this healthy discussion.

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: This is where we are at, it is 12:10 p.m. I want to get through the two (2) Emergency Bills before lunch, so just a head's up. Is there any discussion? Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I want to thank everyone who came out to testify. I thank the work from our PEGs. I am definitely in support of this Resolution. I do think that there is some language in this Resolution that requires more discussion. I really do not know how much it would cost to maintain obsolete technology. Being on an analog channel that is obsolete, kind of puts us in the same boat of what KIUC was at. When we were moving towards smart meters, those old meters had a cost associated with it to maintain that obsolete technology. So when people decided to opt-out of moving to this new technology that was being deployed, I believe that they were, and I am not sure, but they were assessed a fee to maintain that obsolete technology. Now in this case, it is totally opposite. It seems like we are moving towards new technology, the next evolution, but we are being assessed a charge for it. I get it. It is business. It costs money to maintain the system. I understand it. I can hear where they are coming from. But I want to know more information about can we sustain two (2) different channels of getting our TV media? Can we maintain analog and digital? These are all questions that I would like to get more information on. I think I will reach out to you offline to get more informed about that. I can say that if we can support current measure, Senate Bill 36, and one the good things about that measure is the majority leader of the Senate has introduced that measure. So it does have, I guess, a weight of authority behind it. I think we should get behind that measure. It does seem like it is low-hanging fruit. So if people can throw their testimony behind Senate Bill 36 moving to the Legislature, I think that would be the path of least resistance. But I think this is a good discussion to further explore once again, the County's role as far as controlling our domain. I know that there is some fear factor out there because as

Jay has said, technically, if the Counties were able to get this franchising authority, that money could be appropriated for potholes and housing. We would have the authority. But I could say that rest assured, we understand the intent of this franchise fee. The legislative intent was always for public education, government services, PBS, and to fund the authority that maintains the jurisdictional control over cable operators. So, good Resolution. Keep it on Channel 53 and 54, keep it on Channel 6, and keep the public channels intact. Let us not send them out to sit in the corner in digital Siberia where poor old Grandma and Grandpa cannot find them anymore. Thank you, Council Chair Rapozo.

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

Councilmember Yukimura: I want to thank you, Council Chair Rapozo, for introducing this Resolution because I can see it is a very important issue for this island, pivotal, in fact. I want to thank the speakers today for being so articulate in what is happening and helping us to understand what is at stake here. I think that community-based media is so important to the future of this island, and if we are going to talk about how to spend the moneys, we could spend it on our creative technology center, which would dovetail with this whole idea of carrying on the legacy of Dickie and the talk-story or Storybook Theatre group that have been doing this amazing work of covering our community and our events and helping to educate our residents and visitors. We could continue it with this new generation of young people as well as old people who are developing the coverage of our island. Sean Doi's program is a remarkable example of that. I think we definitely should explore how we might have more community control over this public right-of-way, actually, and I am fully in support of this Resolution. I think that we need to use the momentum that this gives us to find a way to actually move us. I do not know exactly how it will be, but we certainly did it with KIUC, and maybe there is a way we can do it with public access cable.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: Certainly, I will be supporting this Resolution. Thank you, Council Chair Rapozo, for the Resolution. Whenever you change something, and this TV is one of the most important tools and uses of recreation in our lives, it is a fact. When you change something so big, it is a big deal. I think we have to try and see if we can get our Legislators from Kaua'i and the Governor to see how much this is going to impact us. When I think about Honolulu like my sister, I do not know how much they really watch public TV, but as I said earlier, on Kaua'i, it is a big deal. We have Wala'au, the popular shows, the County Council Meetings, and the Planning Commission Meetings. If we make that less accessible, it will impact lives and it will impact the knowledge that the public has regarding what is going on with their elected officials and their government. I think this is a biggie. This is something that we all need to try and send that message to DCCA in whatever way we can, that we want to keep things as much as possible, the same. We do not change our important public TVs on Kaua'i. I have a meeting at the Legislature next week and I am going to try to get appointments with the Governor as well as with Senate President Kouchi, and Representatives Nakamura,

Tokioka, and Morikawa to see how they can help out as well and get more involved in this subject because we do not want to be reacting later when it is already down the shoot. It will be too late. Now is the time. I think even know is a little late, but certainly the faster, the better. Let us all get on it in whatever way we can as a body and individually, try to do more besides just this Resolution. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else? If not, thank you very much. The hearing is tomorrow in the Senate at 9:30 a.m. Hopefully, we keep our fingers crossed that they do the right thing. It is frustrating. I met with Charter Communications when they came down. They did a courtesy visit with me and they told me how much they were into the community. I am kind of disappointment in them right now. This is not something that they need to do for them to survive. This is just something that they are doing because they can, and that is not cool. We will see. Thank you very much for being here, and thank you for what you do, all of you. Thank you. The motion is to approve, roll call.

The motion for adoption of Resolution No. 2018-08 was then put, and carried by the following vote:

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

(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua‘i, Councilmember Brun was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)

(Councilmember Kawakami was noted as not present.)

Ms. Fountain-Tanigawa: Seven (7) ayes. Thank you.

Council Chair Rapozo: Let us take the Emergency Bills before lunch.

EMERGENCY BILLS:

Proposed Draft Bill (No. 2691) – AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA‘I, STATE OF HAWAI‘I, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND HIGHWAY FUND (*Pua Nani Road Drain Repair – Operating Budget*): Councilmember Kaneshiro moved to approve Proposed Draft Bill (No. 2691) pursuant to Kaua‘i County Charter Section 4.02K, and that it be transmitted to the Mayor for his approval; seconded by Councilmember Yukimura.

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

Councilmember Kagawa: I have three (3) questions.

Council Chair Rapozo: For us or for the Administration?

Councilmember Kagawa: For the Administration.

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

There being no objections, the rules were suspended.

Councilmember Kagawa: The first question, total cost and estimated costs of the sinkhole project. The second question, how many times has this sinkhole reappeared, and what are the different approximate dates that this sinkhole has reappeared? I have heard five (5) times that this sinkhole has reappeared.

LYLE TABATA, Acting County Engineer: Lyle Tabata, Acting County Engineer. The total cost of the project is approximately one million six hundred thousand dollars (\$1,600,000).

Councilmember Kagawa: Okay.

Mr. Tabata: How many times...

Councilmember Kagawa: That the sinkhole appeared.

Mr. Tabata: I do not have the exact number and dates.

Councilmember Kagawa: We do not have the numbers?

Mr. Tabata: I do not have it off the top of my head, but we can get it for you.

Councilmember Kagawa: A resident that lives right by the sinkhole said five (5) times. Is that accurate?

Mr. Tabata: Pretty accurate, yes.

Councilmember Kagawa: I am sorry for being harsh last week, and even the residents said, but how many more strikes do you folks need on this project? Do we have it this time?

Mr. Tabata: This is it.

Councilmember Kagawa: Are we confident that we are not going to need six (6) strikes?

Mr. Tabata: This is it.

(Councilmember Kawakami was noted as present.)

Councilmember Kagawa: This is it? I think Councilmember Yukimura lives near there, too. Do we know that it is the drain and not something larger?

Mr. Tabata: Yes.

Councilmember Kagawa: My question is, and maybe it is a stupid question, but when that leaks, obviously a lot of dirt and gravel is running away.

(Councilmember Chock was noted as not present.)

Councilmember Kagawa: Where is all of that gravel and dirt going?

Mr. Tabata: Down to the stream.

Councilmember Kagawa: It is going down to the stream? Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: In the times before, you did not propose such a permanent fix, is that correct? You were trying to just fix it?

Mr. Tabata: We were trying to look for solution that would not dig up the entire street. So with digging up the street, because this culvert does not straddle but traverses crisscrossing the street at, I believe, two (2) different locations and running down the edge of the street, we would have to dig up the whole street and impose bypassing sections through people's yards removing the entire domestic line, and having the Department of Water install a temporary line. Then, when the culvert has been replaced, have everything reinstalled.

Councilmember Yukimura: Okay. Is that what you will be doing in this project?

Mr. Tabata: No.

Councilmember Yukimura: No. Okay. Oh, you are doing that line?

Mr. Tabata: No, we are doing a centrifugally cast liner, which is going to be fiberglass reinforced concrete.

Councilmember Yukimura: Okay. After studying the issue and after trying to address it sort of piecemeal, you have really problem-solved and now you have...

Mr. Tabata: I believe we have come to the best solution for the problem presented.

(Councilmember Chock was noted as present.)

Councilmember Yukimura: And it is not going to require that kind of disruption that you just described?

Mr. Tabata: Exactly.

Councilmember Yukimura: Okay. Good luck. I mean, we all are really supporting you on finding the solution.

Mr. Tabata: Thank you.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: Just out of curiosity, do you have a rough date of when the sinkhole first appeared or what year? Was it ten (10) years ago?

Mr. Tabata: No.

Councilmember Kagawa: Less?

Mr. Tabata: I believe between twelve (12) and thirteen (13).

Councilmember Kagawa: Oh, a little bit longer? Okay. Thank you.

Council Chair Rapozo: I only have one (1) question. This technology or this spin casting that we are using, has this been used anywhere?

Mr. Tabata: Yes.

Council Chair Rapozo: Here?

Mr. Tabata: Not on Kaua'i.

Council Chair Rapozo: Honolulu?

Mr. Tabata: Actually, the mainland. It has been used in the mainland. There are many project testimonies. We can send you a link, so you can view what the process is. I will have it sent to all of the Members.

Council Chair Rapozo: As long as we have made sure that we checked the references and made sure that the spin casting works.

Mr. Tabata: Yes.

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

Mr. Tabata: Thank you.

Council Chair Rapozo: Is there anybody in the audience wishing to testify? Seeing none, I will call the meeting back to order.

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

Council Chair Rapozo: We are on Proposed Draft Bill (No. 2691). There is a companion Bill to this. Is there any further discussion on Proposed Draft Bill (No. 2691)? If not, roll call.

The motion to approve Proposed Draft Bill (No. 2691) pursuant to Kaua'i County Charter Section 4.02K, and that it be transmitted to the Mayor for his approval was then put, 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.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Brun was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. With that, we will take Proposed Draft Bill (No. 2692).

Proposed Draft Bill (No. 2692) – AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND-CIP (*Pua Nani Road Drain Repair – CIP Budget*): Councilmember Yukimura moved to approve Proposed Draft Bill (No. 2692) pursuant to Kaua'i County Charter Section 4.02K, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or 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, roll call—oh, I am sorry. Go ahead.

Councilmember Kagawa: I just wanted to finally comment on this subject and put it to rest. I hope that this has been a learning experience as well. The public is saying, "This appeared five (5) times," and I hope that in the future, we can maybe grasp what the problem is sooner so that we do not have one million six hundred thousand dollars (\$1,600,000) worth of work twelve (12) years down the line. I think it is always hard to fix somebody else's problem, but when you have the job beforehand and you know that it has been happening over and over again, I think it is just more efficient if we address it earlier and do it better the first time, and not come up with a big bill at the end. Thank you.

Council Chair Rapozo: Thank you. Is there any more discussion? If not, roll call.

The motion to approve Proposed Draft Bill (No. 2692) pursuant to Kaua'i County Charter Section 4.02K, and that it be transmitted to the Mayor for his approval was then put, 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.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Brun was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain- Tanigawa: Seven (7) ayes.

Council Chair Rapozo: With that, we will break for lunch at this point. We will be back at 1:30 p.m. We have a public hearing at 1:30 p.m., and then we will complete the agenda right after that. Thank you.

There being no objections, the meeting recessed at 12:27 p.m.

The meeting reconvened at 2:20 p.m., and proceeded as follows:

(Councilmember Brun was noted as present.)

Council Chair Rapozo: We are on page 7. Can we have Proposed Draft Bill (No. 2675), please?

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2675) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE

COMPREHENSIVE ZONING ORDINANCE (*Farm Worker Housing Use Permits*): Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2675) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 28, 2018, and referred to the Planning Committee, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. 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: Is there any further discussion? If not, roll call.

The motion for adoption of Proposed Draft Bill (No. 2675) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 28, 2018, and referred to the Planning Committee was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2693) – A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-15.1(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS: Councilmember Kagawa moved to refer Proposed Draft Bill (No. 2693) to the Planning Commission, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Is there any discussion or 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, roll call.

Councilmember Chock: I think we have an amendment.

Council Chair Rapozo: Who is introducing it? Can someone introduce it?

Councilmember Chock moved to amend Proposed Draft Bill (No. 2693) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: That is what we talked about earlier, changing the date to 2021, it is three (3) more years. Then, we can have the discussion on removing the date entirely. So there is a motion and a second on the amendment. Is there any discussion on the amendment?

Councilmember Kagawa: Yes.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: I already talked to Ka'āina—thank you, Ka'āina—about some of my concerns, because again, this is the third time that we are changing the date because of a request by the community that they missed the deadline. I think the reason why we kept setting a date was because it was in the best interest of the Planning Department. I want to make sure that they go back and find out what the reason was why they needed that date to end, because there must have been an underlined reason to set a date and have whoever is interested, once and for all, come in and do the paperwork and make their payment, as indicated in the Bill. I just wanted to make sure that we get the reasoning. I want to thank Council Chair Rapozo for taking it. This is going to be the third time that I introduced this same type of bill, and finally this third time, I received a call from a constituent and I referred him over to Council Chair Rapozo because I said, "Well, I already did this twice in working with the Planning Department, so let us pass it on to another Councilmember to do the third strike." Thank you for that.

Council Chair Rapozo: You are welcome. Is there any other discussion? Councilmember Yukimura.

Councilmember Yukimura: I would like to ask the Planning Department to give us the history, even prior to this recertification process. I think the Bill to allow ADUs on agricultural land passed when I was Mayor, I think against the recommendations of the Planning Department, which eventually came forward with a bill to remove that Bill and disallow it, but to grandfather in those who were already qualified for an additional dwelling unit.

(Councilmember Kawakami was noted as not present.)

Councilmember Yukimura: I think whatever deadline was set for building of houses on the lots was also changed several times before the recertification started

the three (3) times that have now happened. So it has at least been a twenty-year process. I would like to have that history if we could. Thank you.

The motion to amend Proposed Draft Bill (No. 2693) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 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 Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: We are back to the main motion of sending it back to the Planning Commission. Roll call.

The motion to refer Proposed Draft Bill (No. 2693), as amended, to the Planning Commission 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.

(**Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

BILLS FOR SECOND READING:

Bill No. 2682, Draft 1 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Parks & Recreation Improvements (Operating Budget)*): Councilmember Yukimura moved to approve Bill No. 2682, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

(*Councilmember Kawakami was noted as present.*)

Council Chair Rapozo: Is there any discussion or 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, roll call.

The motion to approve Bill No. 2682, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	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.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Bill No. 2683 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND-CIP (*Parks & Recreation Improvements (CIP Budget)*): Councilmember Kagawa moved to approve Bill No. 2683 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or 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, roll call.

The motion to approve Bill No. 2683 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	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.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Bill No. 2684 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Maluhia, Kōloa, and Olohena Collector Roads (Operating Budget)*): Councilmember Kagawa moved to approve Bill No. 2684 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Ms. Fountain-Tanigawa: Council Chair Rapozo, we do have registered speakers on this matter.

Council Chair Rapozo: With that, I will suspend the rules. Can we get the first speaker?

Ms. Fountain-Tanigawa: The first registered speaker is Glenn Mickens, followed by Joe Rosa.

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

Mr. Mickens: For the record, Glenn Mickens. This is for both Bill No. 2684 and Bill No. 2685 because it is basically about Olohena Road. At the last Committee Meeting, I believe that Councilmember Kagawa wisely said that when we had a fifty million dollar (\$50,000,000) surplus, we failed to properly pave our roads, so why should the taxpayers believe that another twenty-five million dollars (\$25,000,000) from a new excise tax will solve the condition that our roads are in? Councilmember Yukimura said that under Larry and Lyle, they did not have the fifty million dollar (\$50,000,000) surplus, so it could not properly do all the paving necessary. This is true, but the point is missed—our weight, fuel, and utility taxes that were supposed to go mainly for paving our roads has been raised over the years, but corrective results did not happen. Again, why are the taxpayers going to believe that this new excise tax will go to repaving our roads? Obviously, I want to see all three hundred (300) miles of our roads properly paved, as Councilmember Kagawa was pointing out that road over there in Waimea, forty (40) years or whatever it has been is ridiculous. My primary concern is the Olohena Road, which is on this Bill now. It is a five-mile major artery and services thousands of vehicles every day. On the spreadsheet, I think you all had this spreadsheet because somebody gave it to me here. This spreadsheet shows the total cost of repaving this road to be seven million five hundred thousand dollars (\$7,500,000). But as Lyle said, only from Ka'apuni Road to Kamalu Road, a three-mile section. The other two-mile section in horrible condition is not even on the sheet, but as Councilmember Kagawa said, it would have been a lot wiser to factor in the entire road, rather than piecemeal it. This project is not scheduled until 2020 or 2021, and by then, the public claims for vehicle damage could be staggering. We need a serious audit with the use of Charter Section 3.17 to find out what is going on and where funds designated for roads are going. The magic bullet of just raising taxes to bury disappearing money...mistakes will certainly not fly when the public, particularly at election time. You paid our late Auditor big bucks to uncover the waste in this issue, but what has been done to correct these faults? Absolutely nothing. I really hope you folks take a good look at this spreadsheet, page 3 of 5, where it has the Kawaihau

District. It has a "4" by it, meaning then when it should be done I guess. The number "5" is the most and "4" is next. Resurfacing/Widening/Reshoulder/Alignment – Ka'apuni to (inaudible), three (3) miles. It gives seven hundred fifty thousand dollars (\$750,000)...Federal is going to give us six million dollars (\$6,000,000) of it and we have to come up with another one million five hundred thousand dollars (\$1,500,000).

Council Chair Rapozo: Hang on, Glenn. Is there anyone else wishing to testify? Do you have more to say?

Mr. Mickens: Do you folks have a copy of that spreadsheet? Okay. A little interesting side note from this thing...I know it is not on the agenda, but one hundred forty-four million five hundred fifty thousand dollars (\$144,550,000) for that bike path. That is about six million dollars (\$6,000,000) for that path.

Council Chair Rapozo: That is not on the agenda.

Mr. Mickens: I know. I just had to sneak it in. Thank you very much.

Council Chair Rapozo: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Joe Rosa.

Council Chair Rapozo: He is not here. Anyone else?

TESSIE KINNAMAN: *Aloha* Councilmembers. Tessie Kinnaman, for the record. First off, I would like to thank Public Works / Parks & Recreation Committee Chair Kagawa for forwarding my road concerns to Acting County Engineer Lyle Tabata, and thank you to Lyle Tabata, for responding so quickly. I just want to keep the momentum going with the improvements on Kōloa Road, as far as the questions I was concerned with, with the roundabout and the connector. I did not quite get the...if Lyle Tabata got together with the Harbors Division with the State for the connector road. Hopefully with the upcoming budget, they can include that in Public Works. Also, I spoke with Tom Shigemoto last week, and as far as the connector road, everything is good as far as the National Pollutant Discharge Elimination System (NPDES) study. So he said that all of the plans and everything that they did for the connector road is in the Engineering Division. We can move on. Thank you very much.

Council Chair Rapozo: Thank you very much. Anyone else? Seeing none, I will call the meeting back to order. Is there any further discussion? Councilmember Yukimura.

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

Councilmember Yukimura: I want to thank the Department of Public Works for getting these projects going. They have already done a lot of the basic

foundational work that will enable this repaving, so they have been working on this for quite a while. The repaving of Maluhia, Kōloa, and Olohena collector roads are much needed and long overdue, so it will be great to see them actually repaved. If Olohena is scheduled for 2019 or the 2020 fiscal year, that may allow us to add moneys from the General Excise Tax (GET) revenues, which will start to come in 2019 and extend the Olohena project, as Glenn would like it to, because that will be County moneys then. Kudos and thanks and we cannot wait to see the road actually repaved.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I want to agree with Councilmember Yukimura, if you can write that down. The 80/20 program, you cannot find that in Las Vegas, so it is an awesome job by the Department of Public Works and I want to commend them for doing that on these major roads that are really going to benefit the most with the least County funds and utilizing the Federal money. It takes work to go and get that money. I fear that under this Trump Administration that the way he is increasing budgets in all of his departments, I fear that this program may not be as enticing as it is now. I am glad that we are getting whatever we can now, because who knows where the Federal budget is headed? Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else? Seeing none, the motion is to approve. Roll call.

The motion to approve Bill No. 2684 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	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.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Let us go to the Executive Session items, please.

Ms. Fountain-Tanigawa: On page 8, we have one (1) more bill.

Council Chair Rapozo: I am sorry. Can we go to that Bill, please?

Bill No. 2685 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND-CIP (*Maluhia, Kōloa, and Olohena Collector Roads (CIP Budget)*): Councilmember Yukimura motion to approve Bill No. 2685 on second and final reading,

and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Is there any discussion or 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, roll call.

The motion to approve Bill No. 2685 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	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.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. Now we can go to the Executive Session items.

EXECUTIVE SESSION:

ES-939 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-942 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) & (8), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council requests an executive session to provide a briefing on the Communication dated January 4, 2018, from the Housing Director, requesting Council approval to decline the repurchase of property located at 5047 Kula Road, Kapa'a, Hawai'i, Tax Map Key (TMK) No. (4) 4-1-013-023, and grant the owner a one-year waiver of the buyback provision to allow for the market sale of the property by the owner, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item; and or to deliberate or make a decision upon

a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law.

Councilmember Chock moved to convene into Executive Session for ES-939 and ES-942, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Is there any discussion or 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, roll call.

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

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. With that, we will reconvene in Executive Session in five (5) minutes, and then we will be out to take the final vote. Thank you.

There being no objections, the meeting recessed at 2:37 p.m.

The meeting reconvened at 2:59 p.m. and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Can we have the last item, please?

There being no objections, C 2018-32 was taken out of order.

C 2018-32 Communication (01/04/2018) from the Housing Director, requesting Council approval to decline the repurchase of property located at 5047 Kula Road, Kapa‘a, Hawai‘i, Tax Map Key (TMK) No. (4) 4-1-013-023, and grant the owner a one-year waiver of the buyback provision to allow for the market sale of the property by the owner: Councilmember Kaneshiro moved to receive C 2018-32 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Would that be the appropriate motion? Would it be a motion to reject or deny?

Ms. Fountain-Tanigawa: Decline.

Council Chair Rapozo: The motion would be to decline.

Councilmember Kaneshiro moved to not approve the Housing Agency's request to decline the repurchase of the unit, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion?

The motion to not approve the Housing Agency's request to decline the repurchase of the unit 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 for the motion*).

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

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 3:03 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:aa

(February 21, 2018)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2693), Relating to Additional Dwelling Unit on Other than Residentially Zoned Lots

Introduced by: Council Chair Mel Rapozo

Amend Proposed Draft Bill (No. 2693) by amending the re-certification deadline date in Subsection 8-15.1(d)(7) to read as follows:

“(7) The applicant shall obtain a re-certification from the Planning Department certifying that applicant has met the requirements set forth in Sec. 8-15.1(d)(6). A regulatory fee of Two Hundred Fifty Dollars (\$250.00) shall be charged upon registration for a re-certification. If the applicant fails to obtain a re-certification by [February 15, 2015,] December 31, 2021, the entitlement to the additional dwelling unit shall be deemed terminated and no building permit shall be issued for the additional dwelling unit. The Planning Director shall notify the applicant in writing that the entitlement to the additional dwelling unit has been terminated. The applicant may appeal the termination to the Planning Commission in accordance with the Rules of Practice and Procedure of the Planning Commission.”

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