

## COUNCIL MEETING

MARCH 28, 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, March 28, 2018 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 8:32 a.m.*)  
Honorable Mason K. Chock (*excused at 1:35 p.m.*)  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable Derek S.K. Kawakami (*present 8:33 a.m.; excused 1:50 p.m.*)  
Honorable JoAnn A. Yukimura (*present at 8:32 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 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Can someone turn off their phone or whatever that is? Is that an alarm? Is that a phone? Thank you.

### MINUTES of the following meeting of the Council:

February 21, 2018 Council Meeting  
March 14, 2018 Public Hearing re: Bill No. 2688 and Bill No. 2689

Councilmember Kaneshiro moved to approve the Minutes as circulated, 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:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

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

Councilmember Kagawa: Council Chair Rapozo.

Council Chair Rapozo: Oh, I am sorry.

Councilmember Kagawa: I have a process question.

Council Chair Rapozo: Yes.

Councilmember Kagawa: By any chance, could we take the taxicab item early so that they can get back to work if they have calls and whatnot? I do not think they will be too long. There are a couple of them that might want to say a few words.

Council Chair Rapozo: Okay. How many of you are going to testify on the taxicab item? Just one (1)? Okay. We will go ahead and do that. With that, next item.

#### INTERVIEW:

#### PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION:

- Erica Jolie Anuheia Taniguchi (*Anahola – Hā'ena*) – Term ending 12/31/2020

Council Chair Rapozo: Erica, you can come up right up here, please. You look nervous. First of all, thank you for being here. You are being recommended for Public Access, Open Space, Natural Resources Preservation Fund Commission (Open Space Commission), and we all have copies of your application.

*(Councilmember Brun was noted as present.)*

Council Chair Rapozo: So if you could just take a few minutes and start off by saying your name for our captioner, then give us a brief overview of yourself, and then we will open up for questions.

*(Councilmember Yukimura was noted as present.)*

ERICA JOLIE ANUHEA TANIGUCHI: Good morning. Thank you for having me. My name is Erica Taniguchi. I was born and raised on Kaua'i. I grew up in Wailua Homsteads and I have been living in Anahola for about twenty (20) years. I met Mr. Blake just at a fishing community meeting in Hā'ena and got to talking. I had a lot of questions. It is something that I am interested in and he recommended that I think about volunteering to be part of the Commission. I thought about it and I feel like for myself and for my children, the subject of open spaces, beach accesses, and watershed management are all things that are really important to me. I just now have the opportunity in my personal life and schedule to be able to participate a little more, so I thought this would be a good place to start.

*(Councilmember Kawakami was noted as present.)*

Council Chair Rapozo: Okay. Thank you. Just for the Members, this is a Council nomination. Councilmember Chock has nominated Ms. Taniguchi for the Commission. With that, I will actually start with you, Councilmember Chock.

Councilmember Chock: Thank you very much, Council Chair Rapozo. Thank you, Anuhea, for being here. Thank you for your interest in serving. I had the chance to talk to her by phone and see her interests. I think she will be a great candidate. I know we have been having some quorum issues at the Open Space Commission, so we need newer and younger energy to the Commission. It came highly recommended from those from Anahola community as well. You represent that area and that region well. I just thank you for your chance to learn about our process, which is what I heard, and that is what really got me excited, to hear that you are just wanting to serve and wanting to learn more about how you can get active. I think the system is complex and understanding it. You fully have my support.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Erica, for being interested. I grew up with a lot of Taniguchi's from Waimea.

Ms. Taniguchi: From the west side.

Councilmember Kagawa: Yes. Did you graduate from Kapa'a?

Ms. Taniguchi: From Kapa'a, yes.

Councilmember Kagawa: Okay.

Ms. Taniguchi: We are all family. My grandpa used to work on Princeville Ranch, so my dad folks all grew up on the east side.

Councilmember Kagawa: Okay. I just had a question. Do you think the open space should be spread out equally? We are considering buying the Black Pot Beach area. It came out in the paper and some inaccurate things were maybe printed. That is why we tend to stay away from doing the discussion with The Garden Island prior to having it here. I think they should just wait until we discuss it here. It just comes out like gossip news. Anyway, what happened is we are proposing these Open Space Commission funds for that. It will basically clean out the Open Space Commission fund balance. The request is that large, because it is the Hanalei boating area property. Do you think it is fair that the north shore gets majority of those funds, or do you think we should look to equally distribute it out? You may not have an opinion. It may be that sometimes that piece is so valuable that we spend it there and later on, maybe we catch up in other areas. I do not know what your thoughts are. We have one (1) person from Po'ipū that is not happy that we are doing it, but as I recall, we spent a lot of money for open space in Po'ipū. I do not think we spent any for the far west side and Līhu'e area. I do not know what your feelings are on that.

Ms. Taniguchi: Well, I am going to say that I do not personally know the history of the spending, the requests, and everything that has been addressed in the last few years. Last night was the first time I read about the request for buying that parcel on Black Pot. What I read in the newspaper article was that it was for five million six hundred thousand dollars (\$5,600,000) and that you have six million dollar (\$6,000,000) budget right now, so that is going to wipe you folks out. If you spent all of that, how many years would it take to reestablish a fund? Off the top of my head, I feel like I am sure there is more than one (1) area that the Council is trying to look at on the island. My initial response would be that to spend everything all in one place does not really seem very balanced, but the Black Pot Beach area is pretty important and it does get a lot of use. It gets a lot of local use. It gets a lot of visitor use. It is at capacity. I do feel like that is a really valuable area to the overall general public population, maybe more so than a location that I, myself, might be more interested in that is harder to access or less popular. But I think the fact that they are asking a price that is above market value does not sound right. I think there is definitely a lot more to consider there. I would have to learn more about what other projects have been considered. If I recall the E-mail I read, it said that there are five (5) other projects that you folks are looking at. I guess based on the importance of those areas, those specific projects to the public, and the price of them, initially, I would say that it does not sound quite right to me. The price has to come down or that is going to set you folks back for years; three (3) or two (2) years. How many years is it going to take to be able to build up your resources again? Myself, personally, I use that area a lot. My kids use that area, so it does matter to me and I do see a lot of visitors and a lot of local people that use that area. It is kind of tricky. Initially, I would say more time.

Councilmember Kagawa: I want to thank you for your response. I think the questions you have in your mind will have more clarity today when we discuss and fully talk about the subject with Mauna Kea. I think your questions based on the reading of the newspaper article make me want to support you. I think you are asking the right types of questions that should be asked and you have that long-term vision for the whole public access. You are not "ready, fire, aim." I like that you will be sitting on that Commission. Thank you.

Ms. Taniguchi: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Good morning.

Ms. Taniguchi: Good morning.

Councilmember Yukimura: I thought your answers were very thoughtful and I appreciate the way you are able to look at different pieces of a puzzle. Thank you very much. Just for your information, I think point five percent (0.5%), which is what we put aside, of real property taxes is about three hundred sixty thousand dollars (\$360,000) a year.

Ms. Taniguchi: Okay.

Councilmember Yukimura: But when this Council, not me, not even this Council, but the County Council back a while voted to reduce the percentage from one point five percent (1.5%) to point five percent (0.5%). The discussion on the floor was, "we do not have to limit ourselves to the moneys in the pot." If there is a good project, it can come forward and we can appropriate from the overall budget. If we think it is the high priority, we can appropriate that money. So we are not limited to what is in the fund. That is something to remember. If the Council, in its policy decision, also wants to increase the percentage set aside every year, that is something we can do by ordinance. The Open Space Commission actually testified not to lower it from one point five percent (1.5%) to point five percent (0.5%), but the council at that time, made the decision, which is why the increase is lower. My question to you is, how do you see the importance of public open space, which is the mission of the Commission? You may be familiar with the mission; it says the open space can be used for recreational, for habitat, for cultural sites, et cetera, so there is a broad spectrum. But in your thinking, how is it important to this community?

Ms. Taniguchi: Do you want the long answer or the short answer? I think it is actually really important. For me growing up, now that I am a mother, I look back and realize that we were so fortunate that we had all of this open space because we were outside all of the time. We were in the mountains, we were at the beaches, we were camping, we were fishing, and it was an amazing way to grow up. Now that I am raising two (2) boys, I love having all of the resources that we have here. That is one of the things that I think makes us all really fortunate to live here, versus other places in the mainland or even O'ahu. I think that Kaua'i is changing really quickly and if we do not make a conscious effort to really think about our planning choices, our priorities, and establish what we think are at the top of the list for holding on to and preserving, things can just kind of slip away really quickly. Once they are gone, they are gone. My vision for the future is that my children can raise their children this way and take them to the places that they have become attached to and that those places continue to be accessible. For myself personally, in the areas that we frequent most often, I see beach accesses being blocked by private landowners that, to my knowledge, were public beach accesses. Now, there are large gates. There are guards that are six (6) feet and three (3) inches. They are going to tell you, "You cannot be here. You have to leave." As a public beach-goer, I am like, "Wait, this is County property. How is this blocked?" To me, watershed is one of the most important. It is at the top of the list. It is all connected. I feel like in terms of economy, we cannot really deny the visitor industry is huge. In the time I spent working in the visitor industry, one of the things that I heard most frequently from tourists was that they come here because of our open spaces.

*(Councilmember Kagawa was noted as not present.)*

Ms. Taniguchi: They come here because of the public accesses and because of the all of the activities that they are able to do. They stopped going to O'ahu because it is too busy. They stopped going to Maui because it has lost that rural feel. I think it is important for us to protect that, just from an economic standpoint. I think, too, that having open places for the public to be, encourages young people to stay active, stay healthy, stay connected to their environment, and actually care about the island. It would encourage them to participate in the

decision-making process later when it is something that they have a connection to. When you lose these places, you lose that connection. Kids are not as active. They are not keeping themselves busy and I think that leaves a lot of space for other problems to come in; for drug use or for addictions. I think being active and outdoors is a great prevention.

Councilmember Yukimura: That is a very comprehensive answer.

Ms. Taniguchi: For me, I think it is really important.

Councilmember Yukimura: It is, and you have very articulately said why it is important. I appreciate that very much and it is very clear to me that you are an excellent candidate for the Open Space Commission. Thank you very much.

Council Chair Rapozo: Anyone else? Councilmember Kawakami.

Councilmember Kawakami: I do not have a question. I just want to thank you for your willingness to serve. I just recently drove around the island with a friend who has been away since high school. It was heartbreaking because as we drove around, a lot of the places where we used to spend time was lost. It was blocked off. He made the comment that in a sense, it is like he is not coming home to the home he once knew. This Commission is so very important, because often times, we have one (1) opportunity to acquire this *wahi pana*. I want to just thank you for your willingness to serve. I have no questions on your ability. I think you did a great job. Thank you.

Council Chair Rapozo: Anyone else? Thank you very much for being here. I am not sure what your schedule is like today, but we are having the north shore discussion. It will be sometime this morning, actually. Mauna Kea Trask will be doing a presentation that, I think, will show the chronology. It might be worth your while. Again, I am not sure what your schedule is like, but if you can, I would suggest you stay.

Ms. Taniguchi: Okay.

Council Chair Rapozo: It sounds like you have the support of the body for your appointment, so if you have some time.

Ms. Taniguchi: Okay.

Council Chair Rapozo: Thank you very much.

Ms. Taniguchi: Thank you.

Council Chair Rapozo: With that, next item, please.

CONSENT CALENDAR:

C 2018-82 Communication (02/12/2018) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Charles P. Stack to the Charter Review Commission – Partial Term ending 12/31/2019.

Councilmember Chock moved to receive C 2018-82 for the record, 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:

The motion to receive C 2018-82 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

Council Chair Rapozo: Motion carried. We have an attorney from O'ahu that is here. I do want to take up items C 2018-86, C 2018-89, and ES-944. As far as the taxicabs, we do have a Communication on the Bill. If someone wants to testify because they have to leave, I will allow that to happen now. Okay. With that, I will suspend the rules.

There being no objections, C 2018-85 was taken out of order.

C 2018-85 Communication (03/21/2018) from Council Chair Rapozo, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 23, Kaua'i County Code 1987, As Amended, Relating To Taxicabs.

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

Council Chair Rapozo: Thank you. With that, if you could just state your name for our captioner, and then proceed. You will have three (3) minutes. The light will go green; when you have thirty (30) seconds, it will go yellow; and when it is red, your time is up.

GREG DISILVESTRI: Okay. Good morning. My name is Greg Disilvestri. I am the owner of 635 Taxi. I have been so eighteen (18) years or so. I am also the licensed installer from the Department of Agriculture for meters, and I have been for about eighteen (18) years, also. I just got wind of this, this morning of this increase changes. I am a little disturbed by some things, but I will start at the top. It says it wants to do an initial meter actuation of three dollars and seventy-five cents (\$3.75). I guess that is fair. It is on par with O'ahu. O'ahu is three dollars and sixty cents (\$3.60), but the mileage rate does not change. I am not sure why or who

proposed this. I am not sure why that is changing. In O'ahu, it is three dollars and sixty cents (\$3.60) a mile. Our rates have not changed, I believe since 2006 or 2008, somewhere around there. Everything else has changed, but our rates have not. It is time for a raise. The baggage thing is an optional fee, and I guess that is fine. One dollar (\$1) is fine, because it is optional. The tour rate has not changed. This initial meter actuation of twenty dollars (\$20) at the airport is the thing that has me a little disturbed. The reason I assume that this was proposed is because of Uber. Uber cannot pick up at the airport, but there is nothing to stop people from taking a taxi to Wal-Mart or even to the courthouse to catch an Uber. I am still not sure why Uber is allowed to operate. They are a transportation company without transportation permits. That, to me, seems like a lawsuit waiting to happen. They take people from A to B and they receive compensation for it, so that is transportation. The rooftop sign and windshield sign, the windshield sign is not necessary to me. I know some places in Europe use it for Mercedes Benz services or Rolls-Royce services. It is like a special kind of luxury service. If we are going to make a special luxury service, that would be great, but the vehicles have to be in accordance with this luxury kind of inside windshield...it is almost like a limousine type of service. But I think we do need a raise. It has been a long time. Actually, I have been in Japan for a couple of years. I just happen to be on-island now. I do go back and forth, so I can take care of meters and whatnot. A raise is due, but not like this.

Council Chair Rapozo: Thank you. I am obviously going to consider you as a resource person because you are a taxi operator and installer. If it is not like this, how should it be?

Mr. Disilvestri: More on par with say, O'ahu. The three dollars and seventy-five cents (\$3.75) drop is fine. In O'ahu, they do three dollars and sixty cents (\$3.60) drop, and then it is three dollars and sixty cents (\$3.60) a mile in O'ahu. Right now, it is only three dollars (\$3) on Kaua'i and it has been that way, I believe since 2008, 2006, or 2009. I am really not sure, but it has been a while. So the mileage rate should increase.

Council Chair Rapozo: To?

Mr. Disilvestri: A fifty cent (\$0.50) increase on the drop, the mileage rate should increase to at least three dollars and sixty cents (\$3.60) or three dollars and fifty cents (\$3.50) a mile, you can add that extra baggage charge, and that will offset the people trying to catch their Uber at Wal-Mart, because then, you could say, "Do you know what? You have to pay or for your bags. I am sorry." It is an optional fee that the driver can charge or not charge. The Rate 3 for an airport rate will not work, because there are honest people just trying to get to the courthouse, just trying to get to Wal-Mart, or just trying to go home down the street.

*(Councilmember Kawakami was noted as not present.)*

Council Chair Rapozo: That is an optional rate as well.

Mr. Disilvestri: Rate 3?

Council Chair Rapozo: Right. The taxi operator can hit the standard rate if he or she wants. It is not mandatory. It gives them that option.

Mr. Disilvestri: If it is an option, well, options are great. We can even add more options, too.

Council Chair Rapozo: We welcome your input, because this is the first day. We still have to go to public hearing and then Committee. We are expecting to do a lot of work. I got your E-mail this morning.

Mr. Disilvestri: No, not my E-mail.

Council Chair Rapozo: What is your last name?

Mr. Disilvestri: Disilvestri.

Council Chair Rapozo: Okay. I got someone's.

Mr. Disilvestri: You got an E-mail from Smolinski.

Council Chair Rapozo: Oh, okay.

Mr. Disilvestri: It is a different part of Europe there. She sent me a copy of that E-mail also. She is very disturbed because the other installer on the island...

Council Chair Rapozo: Yes, I got that. I thought that was you, but that is okay.

Mr. Disilvestri: The other installer is...

Council Chair Rapozo: And that is a concern as well.

Mr. Disilvestri: ...somewhat of a terrorist.

Council Chair Rapozo: Okay. Thank you.

Mr. Disilvestri: Options are great. If you want to make a Rate 3, you can. I think twenty dollars (\$20) is a little bit high.

*(Councilmember Kawakami was noted as present.)*

Mr. Disilvestri: But if it is optional for the driver to use, how do you manage that at the airport?

Council Chair Rapozo: That is going to be up to the driver.

Mr. Disilvestri: Up to the driver.

Council Chair Rapozo: Yes. If you have a customer coming in that you know is one of our *kupuna* that just needs to get home, you hit the regular rate. If it is a visitor coming asking to go to the courthouse or Wal-Mart, you kind of figure it is an Uber ride.

Mr. Disilvestri: But say that same person, the *kupuna*, wants to go to Palai right up the road and lives there, but the driver decides to charge him Rate 3. The *kupuna* says, "No. I do not want Rate 3. I want another driver who is going to charge me Rate 2." It is going to make friction.

Council Chair Rapozo: That is something that they are going to have to deal with. We are going to have the discussion on whether this is the right thing to do not. Nothing has been decided yet, so I am expecting in the Committee, that we will have all of the pros and all of the cons, and then this body will make a decision of what we think is best. I appreciate your input, absolutely. Councilmember Yukimura has a question.

Councilmember Yukimura: Thank you for coming to testify. I am going start with the last point you made about windshield signs, that is an either/or. It will be equipped with a rooftop or a windshield sign, so it is not a requirement. Is that objectionable? I do not understand actually, how the initial meter is optional. It is not written, at least as I read it, but the windshield is clearly optional by the fact that it is an "or."

Mr. Disilvestri: Like I said, the only other place that I know that uses inside taxi domes or lights is in Europe. Actually, I may be wrong. They do the same thing some places in Hong Kong. It is because it is a different level of service. It is a higher standard of service. People know this little inside thing says taxi, and like I said, it is usually a Mercedes, or some fancy Lexus, or some other luxury vehicle.

Councilmember Yukimura: So it is a communication or a signal to potential or actual customers as to what type of the service they are waving down or they are asking for?

Mr. Disilvestri: Right, and the fares is also more in those vehicles.

Councilmember Yukimura: Right. Okay. With the same respect, even though the initial meter fee might be optional, people may not know that unless the driver tells them that, so there may be people who just feel they have to pay.

*(Councilmember Kagawa was noted as present.)*

Mr. Disilvestri: Optional for who? Is optional the driver's choice or the passenger's choice?

Councilmember Yukimura: Well, it does not matter if the person has to go through several cabs to get what they need, right, if it is optional to the customer?

Somebody fresh from who does not know the rules, they come to the airport, they get a cab, and the cab says, "Twenty dollars (\$20) initial fee," and does not tell them it is optional. Then what?

Mr. Disilvestri: Then, that is the operator's choice on how they want to do that. I think the options thing....

Councilmember Yukimura: What about customer protection?

Mr. Disilvestri: That is exactly what I was saying. I think the optional thing to change the rate as you like will enter into an area where you are going to have a lot of confrontation.

Councilmember Yukimura: It is not going to be optional to the customer. It is apparently the driver's choice whether to charge it or not.

Mr. Disilvestri: For the operator, it is optional; not the customer. So the *kupuna* trying to go back home to Līhu'e is going to get charged twenty dollars (\$20) plus the mileage, so it is going to be twenty-five dollars (\$25) to go down the street.

Councilmember Yukimura: Right.

Mr. Disilvestri: That is going to make problems.

Councilmember Yukimura: Yes.

Mr. Disilvestri: That is why you just increase the mileage rate, add the baggage charge, and you can do away with the Rate 3, an appropriate Rate 3, an airport rate, that all operators from the airport should use. It should not be optional. If you are picking up at the airport, it should be the rate. It could be something like a five dollar (\$5) drop or an eight dollar (\$8) drop like some airports do. They charge you an airport fee and then it continues with the normal mileage rates after the initial drop. But an initial drop of twenty dollars (\$20) just seems very extreme. Again, being an option will create problems, just like you said.

Councilmember Yukimura: Okay. If this is designed to address the Uber situation, then the real solution is regulation of Uber.

Mr. Disilvestri: Well, I think that is why this twenty dollar (\$20) charge came up because of the Uber thing that is going on. Yes, regulation, absolutely.

Councilmember Yukimura: The question is whether the twenty dollars (\$20) is the best way to address Uber, right?

Mr. Disilvestri: I cannot say right or wrong.

Councilmember Yukimura: Okay.

Mr. Disilvestri: But I have to say that is most likely one of the reasons.

Councilmember Yukimura: Okay.

Mr. Disilvestri: Now just for Uber’s standpoint and having been in Japan the last few years, Uber is allowed to operate in Japan, but they really do not because they cannot. The Japanese government said, “You are a transportation company. You charge to go from A to B. You have to have the necessary requirements. You need the taxi permits, the proper insurance, and everything else like every other transportation providers has.” In doing so, they cannot offer somebody something for ten dollars (\$10) that everybody else is charging twenty dollars (\$20) because they have to pay these fees and they have to have drivers that are licensed drivers. I understand it is people’s choice if they want to use a service like Uber, but I think it is the government’s responsibility to say, “Look, you folks have no transportation permits. How can you take someone from A to B and receive money for it?”

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Are there any other questions? If not, thank you very much. Do you have a question?

Councilmember Brun: No.

Council Chair Rapozo: Okay. Thank you

Councilmember Brun: Can I make a motion to receive?

Council Chair Rapozo: Yes. Hang on. Anyone else wishing to testify on this? 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: Go ahead.

Councilmember Brun moved to receive C 2018-85 for the record, seconded by Councilmember Kagawa.

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

The motion to receive C 2018-85 for the record was then put, and unanimously carried.

Council Chair Rapozo: At this point, I would like to take C 2018-86 out of order.

C 2018-86 Communication (03/21/2018) from the Office of the County Attorney, on behalf of the Council, requests authority to approve settlement regarding the claim filed by Troy K. Tanigawa, Department of Public Works, and related matters.

SCOTT K. SATO, Deputy County Clerk: We have one (1) registered speaker.

Council Chair Rapozo: Okay. We do have an Executive Session item that we are going to go into, but at this time, I do want to open it up for any public testimony. I know we have an attorney from O'ahu. With that, I will suspend the rules. Sir. If you could just read his name.

Mr. Sato: The first speaker Eric Seeleman representing Troy Tanigawa.

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

ERIC SEELEMAN: Council Chair Rapozo, Council Vice Chair Kagawa, and Honorable Councilmembers, my name is Eric Seeleman. I am an attorney with the law firm of Deeley King Pang & Van Etten, LLP in Honolulu. I represent County employee Troy Tanigawa with respect to the County's attempt to demote him in February 2017 based upon an incomplete and flawed investigation into the State Department of Health's 2016 Notice of Violation and Order, or NOVO. Mr. Tanigawa has submitted a claim for reimbursement of his attorney's fees and costs incurred in order for the County to rescind the demotion action and provide him with a comparable position. Ultimately, the Managing Director's decision to demote Mr. Tanigawa based on a flawed investigative report caused Mr. Tanigawa to incur substantial attorney's fees and costs, stress, and a loss of reputation, all of which should have been avoided if the County had afforded Mr. Tanigawa with his due process rights. But the County did not warn him that the investigation could lead to an adverse employment action. The County did not allow him to fully respond or rebut adverse factual allegations made by other witnesses during the investigation. For example, if Mr. Tanigawa could have responded to Acting County Engineer Lyle Tabata's claim that he never received critical information regarding the NOVO, Mr. Tanigawa could have provided specific E-mails to contradict Mr. Tabata's testimony, and he later did when he was finally given the opportunity. Without performing this crucial investigative follow-up, the investigator erroneously concluded that Mr. Tanigawa was the primary causal factor in the NOVO while downplaying other causal factors, which were also identified in his report. As a result of the County's reliance on this incomplete investigation, Mr. Tanigawa's demotion was improper and violated his due process rights. The County has ostensibly admitted as much through the offer the settlement, which placed him a comparable position and specifically allowed him to make the instant claim for his reimbursement. Now, Mr. Tanigawa respectfully asks the Council to exercise its discretion pursuant to Sections 23.05 and/or 23.06 of the Charter to reimburse him

for attorneys' fees and costs, which were necessitated by County's own actions. I am now willing to answer any questions that you may have at this time or in Executive Session. Thank you for your time.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: What is the total amount, again?

Mr. Seeleman: Councilmember Kagawa, we are requesting approximately fifty thousand dollars (\$50,000).

Council Chair Rapozo: I believe it is forty-five thousand dollars (\$45,000) and some change, or something like that.

Mr. Seeleman: Well, it was...

Council Chair Rapozo: Oh, there is probably an addition.

Councilmember Kagawa: He has an original bill, I think.

Mr. Seeleman: Yes, you are correct. The original bill during the time that this was going on was forty-five thousand five hundred sixty-eight dollars and ninety-nine cents (\$45,568.99). That was incurred between February 6<sup>th</sup> and December 6<sup>th</sup> of 2017, and then we have estimated an additional five thousand dollars (\$5,000) for the claim process.

Councilmember Kagawa: What is the total bill as close as possible, again?

Mr. Seeleman: I am sorry. The claim amount is fifty thousand five hundred sixty-eight dollars and ninety-nine cents (\$50,568.99).

Councilmember Kagawa: If we are going talk about it in open session, I think the public should know exactly how much we are going to settle for. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Mr. Seeleman, by your appearance here, is Mr. Tanigawa waiving his rights to privacy?

Mr. Seeleman: To the issues that we are discussing today, yes.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Are there any other questions?

Councilmember Yukimura: No. Thank You.

Council Chair Rapozo: For anyone? Will you be here if there are any questions in Executive Session?

Mr. Seeleman: Yes.

Council Chair Rapozo: There may be some questions. Are there any other questions of Mr. Seeleman? If not, thank you very much.

Mr. Seeleman: Thank you.

Council Chair Rapozo: All members were provided the investigation and the follow-up investigation that was done. They are all marked "Confidential," so we obviously cannot discuss that, but I would hope that you all read those investigations before we get into Executive Session, if possible. Councilmember Chock.

Councilmember Chock: Council Chair Rapozo, my only request is that perhaps we do have Lyle Tabata and Ernie Barreira available for Executive Session.

Council Chair Rapozo: Yes, if you can make that call. We are going to go into Executive Session following this here.

Councilmember Yukimura: I think we need the Managing Director as well.

Council Chair Rapozo: Whoever you want there to ask questions of, we can definitely summons them. Councilmember Kagawa.

Councilmember Kagawa: I have a process question again. Is there any way to take the police item while we wait for them to come over so we can get them back to work?

Council Chair Rapozo: We can do that. That is not a problem.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Is there any further discussion on this? If not, we will delay action on this until after.

#### COMMUNICATIONS:

C 2018-83 Communication (02/22/2018) from the Chief of Police, requesting Council approval to accept Hawai'i High Intensity Drug Trafficking Area (HIDTA) discretionary funding from the Office of National Drug Control Policy, in the amount of \$147,000.00, to be used in obtaining technical communication/wireless equipment: Councilmember Kawakami moved to approve C 2018-83, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion? Councilmember Yukimura.

Councilmember Yukimura: Yes. I have been briefed individually, which I very much appreciated, but that means that nothing is on the record. The matter before us involves drug enforcement, which is a sensitive matter when discussed publicly because if too much is revealed, it can jeopardize our enforcement efforts. I would like to discuss the protocol safeguards that would protect against abuse, but I think it would be inappropriate to do so in an open meeting. I would like to request that we go into Executive Session, if that is appropriate.

Council Chair Rapozo: Members, I had the briefing as well. I am prepared to vote. I think I had asked my questions of my concerns as well on the safeguards. I am satisfied, but if any of you feel you need that to make your decision to vote, then I will definitely have an Executive Session.

Councilmember Yukimura: Council Chair Rapozo, I am satisfied with the explanations about the safeguards as well, but I think it is important to put on the record in Executive Session, what those safeguards are.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Yukimura: I want to ask the County Attorney to make sure that it is appropriate to go into Executive Session, but it is a matter of just putting things on the record in Executive Session.

Council Chair Rapozo: We do not need the attorney. It is definitely appropriate because of the sensitive nature of what this is about.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I had similar concerns. My understanding is that there are safeguards against abuse. They need to get certain things. It is in place where they have safeguards. It is being done nationwide and it will curb illegal drugs. I think they know what they have to do and officers will be fully aware of what they need to do and curb abuse. I think I am fine with that. I do not think we can micromanage that from here. I have similar concerns, but we will hear the same answers.

Council Chair Rapozo: Hang on, let me ask one (1) question and all I need is a nod. Is this time-sensitive? Is two (2) weeks going to destroy our attempt to get the funding? Okay. That is all I need to know, because I have no problem. I think actually getting it finalized or on the record is not a problem.

Councilmember Yukimura: Thank you, Council Chair Rapozo.

Council Chair Rapozo: Mauna Kea, you are looking like you want to tell me something.

There being no objections, the rules were suspended.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask, County Attorney. Thank you, Council Chair Rapozo. I just spoke with Councilmember Yukimura yesterday about this. It was the first time it came to my attention and I do think that there is an ability today, to go into Executive Session because it was anticipated. I myself, I write the requests on behalf of the Council. I was only notified about this yesterday, it was unanticipated, and I believe just for the record, under Chapter 92-7(a), "The Council may, when deemed necessary hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to Chapter 92-4 and 92-5(a)." In this case...

Council Chair Rapozo: Are you talking about going into Executive Session today?

Mr. Trask: Yes.

Council Chair Rapozo: I am not suggesting that.

Mr. Trask: That is fine.

Council Chair Rapozo: No. We are not going to do that. We will do it in two (2) weeks at the next Council Meeting.

Mr. Trask: Okay.

Council Chair Rapozo: Thank you, though.

Mr. Trask: That is fine.

Council Chair Rapozo: I know we have that ability, but that is for some life-threatening—I do not want to take advantage of the Sunshine Law like that. This does not rise to that level, in my opinion. Anyone else? Thank you very much.

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

Council Chair Rapozo: Go ahead, Councilmember Kagawa.

Councilmember Kagawa: To me, the question is, is there a majority number of votes that feel that we should approve it. We get that briefing in Committee or something based on the police ensuring us that they have the appropriate safeguards in Executive Session. Like I said, for me, it is a no-brainer. Do we need better technology to battle illegal drugs? I think the answer is

undoubtedly, yes. I trust that they have the management and the safeguards in there to follow what other Counties and other nations are doing.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I agree. I am ready to approve the request and we can come back and talk about safeguards. I had a lengthy discussion on the policy and procedure, and I have no problem approving this today to help them get the tools that they need for one of the things that most of our people out there are complaining about: drug abuse. With that, Council Chair Rapozo, I am ready to move and approve today.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Yes. I have no problem with the request either. I want to make that clear. Because this is an extraordinary measure that we are approving, I believe that we need to have on the record what the safeguards are. If there is a way for the police to send to us a confidential memorandum that will be put as part of the record here and Mauna Kea, I may need your advice on that. If there is a way to get from the police in writing what those safeguards are and their commitment to that safeguard process, that would be okay with me as long as there is somewhere in the record that this approval was given with the understanding of those safeguards.

Council Chair Rapozo: Thank you. Councilmember Brun.

Councilmember Brun: For me, I am ready to vote today with no Executive Session.

Council Chair Rapozo: Okay. The motion is to approve. Go ahead.

Councilmember Yukimura: Can I get some assurances that we will have that kind of...

Council Chair Rapozo: We are going to post an Executive Session for the next meeting.

Councilmember Yukimura: Okay.

Council Chair Rapozo: So we can have it on the record.

Councilmember Yukimura: Alright. Will this discussion will refer to that Executive Session so there is a trail?

Council Chair Rapozo: I think the record is very clear right now.

Councilmember Yukimura: Very good. Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Do the questions that we have for safeguards warrant Executive Session, because I surely do not want to discuss all of their...

Council Chair Rapozo: No it has to be.

Councilmember Kagawa: ...material that could hamper their ability once they get it. I think we do not want disclose what they are going to do or their game plan in public.

Council Chair Rapozo: It sounds like most of us had that briefing and I think we all understand the necessity for the Executive Session. It is. There is a special provision in there to allow this type of discussion in Executive Session. With that, staff, note that in the next two (2) weeks, we will schedule an Executive Session. Mauna Kea, if you can help work with the language. The motion is to approve. Is there anybody in the audience wishing to testify?

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 2018-83 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. I apologize for bouncing around. While we are waiting for the Administration to come across, if there is no objection, I would like to at least have the discussion on C 2018-84. Can we just start that discussion?

C 2018-84 Communication (3/16/2018) from Council Chair Rapozo and Council Vice Chair Kagawa, transmitting for Council consideration, proposals to amend the Fiscal Year 2018 Operating and Capital Improvement Projects Budgets to fund the acquisition of a coastal property located at Tax Map Key (TMK) No. (4) 5-5-001:002 (por.) in Hanalei at a cost of \$5,600,000.00, utilizing funds from the Public Access, Open Space, Natural Resources Preservation Fund account: Councilmember Kaneshiro moved to receive C 2018-84 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Before we start, I would like to have Mauna Kea. We will suspend the rules and is have Mauna Kea do a presentation to go through the chronology of what has occurred, and then we will open it up for public testimony, unless there is some in the audience that has to leave.

*(Councilmember Kawakami was noted as not present.)*

Council Chair Rapozo: We have not seen this yet. Everybody is going to see it for the first time although we have been briefed on this process for quite a while now. With that, I will suspend the rules. Mr. Trask.

There being no objections, the rules were suspended.

Mr. Trask: *Aloha* honorable Council Chair Rapozo, Council Vice Chair Kagawa, Members of the Council, for the record, Mauna Kea Trask, County Attorney. Thank you for this opportunity. This is a briefing on the agenda item as posted, regarding a bill for an ordinance to amend the budget to provide funds from the Open Space Fund to purchase a certain parcel to extend the Black Pot Park. Hold on one second. I forgot something. Okay, I am ready now. Thank you. I want to begin by orienting everybody. Right here, if you look on the Tax Map Key (TMK) map of the County area, this is Black Pot Beach Park proper. This is what everyone knows as "Black Pot." This, right here, is about two point four seven (2.47) acres, and the County currently values this property on our real property tax website, at twenty-four million one hundred six thousand six hundred dollars (\$24,106,600). Again, that is two point four seven (2.47) acres. In 2010, the County, in cooperation with Kaua'i Public Land Trust and the Open Space Commission, purchased this parcel, also known as the "Hodge" parcel at the time. It is point seven three eight three (0.7383) acres, and it was purchased for a total of three million dollars (\$3,000,000). Today, the market value on this lot, although it is owned by County designated park, is eight million six hundred forty-three thousand dollars (\$8,643,200).

Now, what I am going to do is the next couple of slides are going to move *mauka* from Black Pot Beach Park. This is the Hanalei riverbank right here and we are going to move up this way. These are three (3) lots that the County recently acquired via condemnation litigation that lasted from about 2011 to 2014; parcels 49, 33, and 34, respectively. This is a combined total of three (3) parcels, two point six three (2.63) acres. The jury verdict for the value in this case, as all condemnation cases, value of the property is a matter for a jury to determine, whereas public purpose is for the court to determine. The combined total jury verdict was five million eight hundred thousand dollars (\$5,800,000). Today, it is valued combined total is six million seven hundred thousand dollars (\$6,700,000).

If you look at top right corner, this dashed line, this is Parcel 2. So we are going to move over next door. Here is the parcel we are talking about right now. Currently, this is not subdivided. The landowner is going through—that is Patricia Sheehan's trust. This is a wraparound parcel that goes along Hanalei River and bends around and meanders this way. Eventually, you hit Blue Dolphin and then the river goes up. This is the lot that we are talking about. It is three point zero two (3.02) acres, covered by an easement that is recorded with the State. The purchase offer was five million six hundred thousand dollars (\$5,600,000). So as you can see, if you compare acreage to value, although it is a lot of money, if you compare it with everything else, it has actually a lot of land for less money that we have recently paid. The Office of the County Attorney maintains that this was a successfully litigation proceedings that for the value, it was good per the appraisals. However, also, too, if you look at this five million eight hundred thousand dollars (\$5,800,000), that is not including attorney's fees that cost for litigation, which was over four hundred thousand dollars (\$400,000). If you add attorney's fees in that, you are going to go about six million two hundred thousand dollars (\$6,200,000), around there, plus. That is just the cost of doing business.

The settlement conditions. I am going to take this opportunity to kind of allay some misconceptions in the public right now regarding this. There are a lot of misunderstandings, and that is not surprising because how this came towards the County and Council was via a letter for offer for settlement. As you all know, offers for settlement are confidential. If an offer for settlement involves purely purse strings, which is money, it is strictly the Council's authority to make. If it also includes administrative calls not tied to any money, then it is strictly the executive or administrative branch's decision to make. If it is a mix of both, it has to be both. However, during the process, it has to be kept confidential. You have been briefed about this in Executive Session, and if you divulge any of that information in Executive Session, you are going to potentially violate Charter Section 20.02 by divulging confidential information that is not otherwise available to the public. The reason why that is important is because it explains why the circumstances were such that no one knew about this prior to today. It is the lawful process that we have to follow. I, myself, would be prohibited from divulging these things to the public, and I would advise you the same. Some of the terms of the settlement now that the settlement has been executed, it has been turned over to Patsy's attorney to be filed in the appropriate—these are split properties in this area, so it is both Bureau and Land Court. I am not sure which ones are which exactly. These are the other settlement conditions. Upon the County paying Mr. Sheehan or Hanalei River Holdings Company, which is a corporation that he is the Manager of, for lack of a better term, is five million six hundred thousand dollars (\$5,600,000); upon the execution delivery of the assignments of the Grant of Easements which gives him authority to use and occupy the properties currently from Ms. Sheehan under those recorded documents. So we get control of the property, he gets the money, and the following cases are dismissed: Federal court case Sheehan v. County of Kaua'i, et al. This is regarding the permit revocation of his boatyard permits that began about 2006 and ended about 2010. As far as the administrative proceeding, it was in the Federal District Court. County of Kaua'i v. Michael Sheehan, et al. was the declaratory action and injunction case to prohibit him from continuing to operate a boatyard on that property. Then, the condemnation case has been resolved, but no further claims or legal assertions were made in regards to that case. Furthermore, there are use restrictions on this park. The park is going to be closed from 10 p.m. to 5 a.m. This public park will be for public use only. There is going to be no commercial tour boat and related boatyard-based purposes for that. There is a rumor going around that this is all for commercial boaters, there is going to be about Hawai'i Division of Boating and Ocean Recreation (DOBAR) regulating commercial boats off of this property. There is a use restricting prohibiting that, so that does not apply. Then also, there is going to be a cooperation agreement to be further clarified later, but it is regarding the access to the park to mitigate dust and also, improvements to the easement areas to reduce vehicular speed for safety and other negative impacts to the community. There is possibly speed bumps or other speed control mechanisms.

Again, there are a lot of misunderstandings. I just want to address what I have heard. Again, this is not some big push for commercial use. This is for the public's use. There is very little opportunity for expansion of public infrastructure and public place beyond the Hanalei Bridge. Everything *makai* is pretty much developed or very difficult to occupy and very expensive, prohibitively, and most of the lands *mauka* of Kūhiō Highway in that area is either owned by State or Kamehameha Schools, Bishop

Estate, and most of it is in Conservation, which is a lot of the problems in the Hā'ena area, even with staging parking for the Kē'ē Beach parcel. Again, I want to refer to some things, *mauka* of the three point zero two (3.02) acre lot, which we are looking at, here is the Hanalei Canoe Club. This deal does not affect Hanalei Canoe Club whatsoever. There is not any part of the deal. Our understanding is that Hanalei Canoe Club just renegotiated a new twenty (20) year lease with the landowner. We are not touching Hanalei Canoe Club whatsoever. That is going to stay there. Finally, there is no conspiracy regarding Jeff Stone, or Omidyar, or any other type of large landowner. There is nothing in that regard whatsoever. That is what I know. I am not on Facebook, so I do not hear everything, but I want to make that clear. This is not an anti-community thing. It is actually all pro-community, so I wanted to make that clear. In effect, the only two (2) things this does is that about prior to 2010, a public presence in Hanalei was limited just to right here, two point four seven (2.47) acres, and the Executive Order (EO) that the State gave to the County, the sandbars and the beach areas right around it. Since 2010, this County has increased this area of public space by about four (4) times. We went about from two point four seven (2.47) acres to about eight point two (8.2) acres, total, is the additional. I think everyone would agree that is sorely needed in the north shore, especially in this area. You have parking issues all up on Weke Road, especially when you have canoe races during the summer and really, any given time. It is not really seasonal anymore. It is constant. I know there is a lot of parking issues regarding parking up to three (3) rows of vehicles on this side of the beach, *makai* of Black Pot Beach Park. I definitely do not want to talk about that today. I know it is very contentious on both sides, but that is also an issue directly related to capacity problems. What this does is it increases public space. Finally, I just want to address, I have heard and I do understand that the Open Space Commission and various members of the public are not happy how this rolled out and that they are hearing it this way for essentially, the first time. However, I have to stress, although I understand that and I sympathize, I want everyone to know that in the Office of the County Attorney's opinion, it is not properly blamed on the Council or is properly blamed on the Mayor. The fact is that both the Council as a body and the Mayor are bound by laws themselves. The fact there is highest ranking government agencies and officials on this island does not make them above the law, so they have to comply with confidentiality, they cannot divulge things in Executive Session, and because it was tied to litigation and dismissing thereof, it kind of had to occur this way. I could identify no other way to do it. I just hope that everyone understands that and is kind to my client because even myself, I know a lot of people and I wish I could have talked about this. I think with we could have gotten a lot of support for it if we could do it another way. I just do not see how we could have. For that, I just want to communicate for what it is worth, I apologize for that, but that is kind of how it is, unfortunately.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: As the introducer, and actually, I started working on this with Council Chair Rapozo as soon as I got in office. What I wanted was I did not want this extra piece. I just wanted to be able to use the ones that we bought and start using it for parking and expanding the park. Then County Attorney was Al Castillo said, "Do not worry, Mr. Sheehan gets nothing, and we are going to

win.” I waited another year, discussed it again, and same thing, “Do not worry. We got it. We are going to use it.” The lawsuit is still going on till today. What am I going to wait for? Until I die? I wanted to move forward and see, Mauna Kea, what can we do? We worked together; Mauna Kea, Council Chair Rapozo, the Mayor, Managing Director, and myself. We looked for a solution because incurring lawsuits and saying, “Do not worry,” after five (5) years gets kind of tiring. It gets old. We found a solution. The person, Mr. Sheehan, who has the lawsuit against the County, has offered this as a settlement. Now, it is not a settlement that says, “Oh, we can go back to the market value what we say is market value.” It is a take it or leave it settlement. He either continues the lawsuit and continues to own that property, free to sell it to whoever he wants, and he did say to me that there are interested buyers out there, including some large current landowners on Kaua’i. They are not from here. I can either believe him or not believe him. The fact of the matter is he brought a settlement. This is my item, Councilmember Yukimura. When you have an item, you discuss it for ten (10) minutes.

Council Chair Rapozo: I am going to allow everyone the opportunity. I am doing this because the public is here.

Councilmember Kagawa: I am introducing the Bill. I think I am entitled to say that I have worked on it.

Council Chair Rapozo: Continue.

Councilmember Kagawa: Now, I lost my train of thought. Anyway, this is the settlement. This is a way to settle and bring an end to something that I have been working on, and I want to get it done before I am out of office. I want to get that land to the people, for the people, and ensure that the local fishermen and local residents can have that piece to use, not be restricted by a rich landowner who decides that this is going to be for me and my friends. We have seen that on the coastline there. We have seen it many times. If we do not buy that by now, then that is a real alternative, and we are blind. We have a chance. We have an opportunity and we can use the Open Space funds because we are restricted from using more of our reserves from our own policy that we approved. But now we have some extra moneys coming. We have the General Excise and Use Tax Surcharge (GET). It is going to help free up some General Fund money. We possibly have more money coming from the Legislature. There is nothing that precludes this Council from adding more to the Open Space Fund when we see a good deal. I am saying, “Open Space Commission, do not stop your work, and find us good projects, and it is up to this Council to fund it.” For now, the matter before us is, do we want to bring closure to this and do we want to accept settlement, or do we want to continue battling this lawsuit and not being able to use it because we have not finally won that lawsuit that was said, “Do not worry”? My father always told me, “When they say, ‘Do not worry,’ that is when you worry.” That is right. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you. I just want to also thank the introducers. I think finally to be able to get to talk about it and get it on to the table

is a really good step. One of many, I feel, that needs to happen in terms of letting the community understand the scope of it. What this does is offers to clean the slate, and that is invaluable. In the process, we also get more for the community, but I am looking forward to having more feedback from community now that they are more aware of it, if you can make your presentation available, as well as understand that there is a public hearing forthcoming on this item so that we can get more insight and the feelings from the community. I, too, was disappointed that we were not able to start that process earlier. My only question was really about what you spoke about when it comes to the Executive Session. I know regarding financial matters such as this, it has to come to the Council and it is the Council's purview, and perhaps there were other options. I was wondering if it would have been appropriate to also hold an Executive Session with the Open Space Commission, maybe not on the details of some of the financial issues, but just as a briefing to let them know the direction that this Council was headed. I just wanted to know if that is an option in future.

Mr. Trask: I would say no. If you look at the case on this, it is pretty clear. It says, "The Supreme Court is held to the authority to settle claims with County funds on behalf the County, stems from the fiscal and spending powers vested in the Council. Thus, where the consideration for settlement involvements a commitment of, in this case city funds, or exercising municipality authority exclusively vested in the Council by the Charter, the Council may alone pledge, grant, or commit the settlement consideration." It was communicated directly to the Council from an attorney for Mr. Sheehan. I do not encourage, nor agree or otherwise to the extent I could allow other people to be part of the discussion. It is just not appropriate because it would involve discussion of confidential matters related to cases that they have no part in.

Councilmember Chock: Thank you.

Council Chair Rapozo: Are there any other questions of the County Attorney? If not, I will call it back to order and we will have some discussion. Do you have any questions, Councilmember Yukimura?

Councilmember Yukimura: I do have one thing.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I want it thank you for this presentation, Mauna Kea, and thank you for the work that your Office has done under the Mayor's leadership on this case and on other cases like the condemnation case to expand Black Pot Beach Park, because this is a visionary action that is going to have benefits for generations. Thank you very much.

Mr. Trask: Thank you. We did best we could.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: I just have one (1) question, Mauna Kea. I had this question come from a fisherman. If we do have votes to buy it, who is going

to manage the boatyard? What they told me was they hope that the County Department of Parks and Recreation is not going to be managing it because they foresee a lot of problems if the County operates that. The suggestion was, why do you not you let the State take care of it because they regulate boating, the harbors, or whatever and turn that management over to them. I know that has been a question that may not even come. It is a hypothetical, but I think it is valid because the boatyard is an important piece of that Black Pot purchase, right?

Mr. Trask: Yes. I do not have the answer for that. It is County parklands, so it would be necessarily the Department of Parks and Recreation. I can tell you, I think, the Office of the County Attorney's perspective is that and this Council and the Mayor are very good about this, the days of jurisdictional finger-pointing are done. It has been said before on the floor. I think Council Chair Rapozo said it when Mr. Say and Mr. Tokioka were here. They are our constituents. We need to work together. That river is a State river and the land underneath that river is unencumbered land; that is public submerged lands. That is not a harbor, but it is a waterway subjected to Coast Guard permits. It is a navigable river way. So there is even a layer of the Federal government oversight. The fact is that we have to work together for the betterment of the community. I do not know how we are going to do it. I do not know the specifics and details, but it has to be done. I have seen no agreement, I know of nothing with DOBOR managing that area, but there needs to be management in Hanalei Bay. There are mooring areas, ingress/egress zones, no wake zones, swim zones, and there is a lot of potential for user conflict and public health safety problems, especially for kids. So we have to figure this out. But right now, we are purchasing the land.

Councilmember Kagawa: Okay.

Mr. Trask: And that land is going to provide us the opportunity.

Council Chair Rapozo: That is where I was going to go. Today on the agenda is just the purchase.

Mr. Trask: Yes.

Council Chair Rapozo: I do not want to get muddled or muddy the waters. I think at some point, we have to bring the Department of Parks and Recreation here. I think the Park Master Plan is going to have to go through the community process and at that point, the community will decide what they want for that park. There are a lot of issues that the community is raising. I do not want to get there right now because more importantly as Councilmember Kagawa said earlier, it is getting control of this property.

Mr. Trask: Just want to add one more thing for the record, under the Section 20.02(b) of the Charter, "No officer or employee of the County shall: Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer or

employee's official duties..." and that is what we are dealing with. This is not a rouse. It is real. That is all.

Council Chair Rapozo: Are there any other questions of Mauna Kea? If not, thank you very much. I am going to take the public testimony since you are here. This is still the Communication. We still have to get to the Bill. Is there anyone in the audience wishing to testify?

Mr. Sato: We have one (1) registered speaker, Maka'ala Ka'aumoana.

MAKA'ALA KA'AUMOANA: Good morning.

Council Chair Rapozo: Good morning.

Ms. Ka'aumoana: Whew. I do not know how else to express it. *Aloha* Councilmembers. I am Maka'ala Ka'aumoana. I am the Executive Director of the Hanalei Watershed Hui. Our organization exists because Hanalei is an American heritage river. This designation provides public—in case you are wondering, that is a Newell Shearwater. It is my phone. I am sorry. This designation provides public-private partnerships to address community concerns about our river and the watershed in which it lives. We support this acquisition and thank the County Administration for bringing this Bill forward. We recognize this sacrifice is a true legacy of this Administration and the fulfillment of the vision for a people's park in Hanalei. This piece completes the puzzle of Black Pot Park and provides a community place for our families and fisher folk. I would like to go off script here for a second and say, "Yes, this now needs to be included in the master planning process. It could not before and obviously, that is the next step in implementing this purchase of this land." Ten (10) years ago, I personally conducted a survey of the fishers who leave from Hanalei. If you ask them where they fish, they tell you "Hanalei." They do not mean they fish in Hanalei, they mean they leave from Hanalei. Seventy-two (72) responders wanted this property and boat ramp on it for their use. These are fisher folk. I know who our fishermen are and I was not asking four people. The restrictions on commercial uses of the parcel will ensure it is used as a community resource. Hanalei has needed this parcel for a long time and although it is certainly not cheap, its value as a place for our people to safely access the river and practice their traditions cannot be measured in dollars. *Mahalo* for your support of this Bill and Hanalei.

Council Chair Rapozo: Thank you. Anyone else? Felicia.

FELICIA COWDEN: Felicia Cowden, for the record. I do, basically, support the purchase of the property. What is important for me is that it ends up being a win-win. I have had a long history with this particular area and at the time that we had so much conflict, I was actually living on the property. I understand how important having the boats and the fishermen there is and what we went through at that time. It eviscerated Hanalei from being a community of residents and turned it into a motel. I feel very strongly about when I have seen the plans that are proposed with the nice, big, huge paved parking lot, that is not going to be residents on it. That

is going to be tourists on it. It is going to be full. Right now, I know we are not arguing how exactly it is used, but I am saying, "Please." I appreciated what Councilmember Kagawa said because we have to leave something left for the people who live on the north shore in Hanalei. Most people have been pushed out of Hanalei because of the actions that happened relative to this river. I could take a tax map key and go house-to-house-to-house what happened and where we lost it. If this becomes something that is just paved over and like the last I have seen of the parks, you are shaking your head, no good because I hope it has changed because it really needs to be servicing the people. I do not know how you make to do that. At least what I saw in the proposal, it did not do that. They said it did, but it did not. It should not be a campground right there because the river completely goes over that whole area. I am kind of surprised that there are not more people here because you are going for the jugular of the surf community. Hanalei Surf Company used to be my business. I was right in the middle of the all of that. I was President of the North Shore Business Council and the Hanalei Business Association when these changes happened. I am not always pro-business, but it is important that it is pro-small business like those fishermen are actually able to do it and it does not turn into something odd. When the police came and closed this whole thing up, my kid was one of those commercial offenders who was in there playing music in the park with his child band. It was not a bad thing that was happening. I honestly get a little scared when it seems like it is going to be another push off of the people, but I do support the purchase.

Council Chair Rapozo: Thank you. Anyone else wishing to testify?  
Mr. Blake.

THEODORE KAWAHINEHELELANI BLAKE, Public Access, Open Space, Natural Resources Preservation Fund Commission Open Space Commission Vice Chair: My name is Ted Blake and I am the Vice Chair of the Open Space Commission. I am speaking as an individual. When the Open Space Commission found out about this, it was already Saturday. There was no time to meet as a group due to constraints of the Sunshine Law. It was eye-opening, as Councilmember Kaneshiro can tell you. I think I called you at about 6:30 a.m. on Sunday. I called you right after that. I wondered where this came from because the only place this was money was the six million dollars (\$6,000,000) we had in the Open Space Fund. That money is to be used for purposes like this one, but in the meantime, we were chastised and admonished last year, big time, by the Council when we put in a couple of proposals. No appraisal and something else that had to be done first. This goes completely about what we were scolded about. No appraisal and not paying market value. My question is, we are the Open Space Commission. Is there is some kind of protocol that we should at least learn about this because we have five (5) projects right now; two (2) are before the Council and there are three (3) more coming up. They are doing their due diligence right now and these are in the communities of Kalihiwai, Kekaha, Hanapēpē, one at Hanalei in Waipa, and two (2) on the south shore. The south shore is really important. We have been trying to get a safe access from Lāwa'i Kai from Spouting Horn. That is going to go by the wayside when this purchase goes through, if it does. I understand that you can get money. If it was that easy to get moneys from other sources, our roads would be fixed by now. If you look at what happened over the last three (3) days from the rain that we had. I talked to a person yesterday

who had a nice Mercedes who wrecked his wheels, his tires, and his rims at the tree tunnel from going over potholes. The question is, like Councilmember Kagawa said, it is not that easy to get the money. Yes, the money is available at different places, but now you fall in the pecking order of getting that money. We have six million dollars (\$6,000,000). It was accrued over a period of five (5) or six (6) years. Our generating source was reduced by sixty-six percent (66%) from one point five percent (1.5%) to point five percent (0.5%). Next fiscal year, the budget says we will get probably six hundred fifty-five thousand dollars (\$655,000). It is going to take us ten (10) more years to get back to where we are at with all of the work we have been doing. I think we should look at other sources to also help this so we just do not raid everything in the fund. This parcel already got one million seven hundred thousand dollars (\$1,700,000) from Open Space. It is going to get a total of seven million dollars plus (\$7,000,000+). That is a big chunk when you are trying to talk to other communities that are looking for some type of open space protection in their communities also. It is a tough one. I do not know how to answer those questions when we get asked by the public and it is even tougher for you right now, because I did not realize the situation that was going on. But to raid all of that money from the Open Space Fund, I think, is not *pono*, especially for the work that our Commission has done. Thank you.

Councilmember Chock: Thank you, Council Chair Rapozo. Thank you, Teddy, for all of the work you have done with the Open Space Commission. I apologize on behalf of everyone for how it kind of unfolded. As I said, it was a concern for me in terms of how we moved forward with the discussion. What I am interested in is understanding in terms of priority. I know you mentioned five (5) acquisitions that the Open Space Commission is considering. Which ones do you foresee perhaps in the next fiscal year that we need to consider and what are the amounts that you are foreseeing?

Mr. Blake: There are two (2) before the Council right now.

Council Chair Rapozo: Teddy, what we will do is we are going to set up another item on the agenda because I do want to get into the Open Space Commission priorities right now, because it is not on the agenda. I do want to have that opportunity to allow the public to be part of it.

Mr. Blake: Okay.

Council Chair Rapozo: I apologize, but the questions pertaining to this is appropriate. But as far as the Open Space Commission priorities, I think that would require a separate posting.

Councilmember Chock: If I could, Council Chair Rapozo.

Council Chair Rapozo: Yes.

Councilmember Chock: Thank you, I think we need to have a full discussion on what it is we are looking at. My only interest is part of the decision I

am hearing is, where do we get the money from if not just from the Open Space Fund and what do we need to actually think about in terms of what that number is if we continue to give some to the Open Space Commission to work with. If you could just keep that in mind, that is really where I want to get a figure in my mind. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Teddy, thank you for your work and for your points made today. So it is clear that goes back to one point five percent (1.5%) would really help, would it not? It would expand the pot.

Mr. Blake: I do not know how to answer that question. Yes, it would definitely help, but the one percent (1%) with the sixty-six percent (66%) of the generating funds were taken away because the County had shortfalls in other places. If it comes back, it could go back up or it could be reduced. I believe it has to be at least point five percent (0.5%), it is has the ability to go up to one point five percent (1.5%), and that is all fiscal things that you have to figure out.

*(Councilmember Kagawa was noted as not present.)*

Councilmember Yukimura: If it is a matter of what is the County's priorities, right? I mean, how much money we put to what.

Mr. Blake: I think the County's priority is stated by having an Open Space Commission, to purchase those kinds of properties.

Councilmember Yukimura: Not if it does not manifest into acquisitions.

Mr. Blake: Well, that is a question you have to answer.

Councilmember Yukimura: That you have been working for.

Mr. Blake: Setting up an Open Space Commission is what they are there for.

Councilmember Yukimura: Okay.

Mr. Blake: You have eight (8) volunteers that come, give their time, and do their homework to get proper information to the Council.

Councilmember Yukimura: Okay. Do you support this purchase or not?

Mr. Blake: I just found out about it on Saturday and I was ballistic already. I have to take some time to cool off and figure out how this works out.

Councilmember Yukimura: Okay. Thank you.

Mr. Blake: Right now, I do not.

Council Chair Rapozo: Let me ask the question, disregard where the funds are coming from, do you believe that the purchase is an important purchase for Kaua'i?

*(Councilmember Kagawa was noted as present.)*

Council Chair Rapozo: Forget about the money coming from the Open Space Fund, because I know that is your frustration. But as far as securing that last remaining portion of that parcel, is that something that you would support?

Mr. Blake: I think it is important on the north shore because the prices are skyrocketing, and one of the things that we discussed at the Open Space Commission meetings is that any vacant lot beachfront lot we find on the north shore, let us go check it out because a comment the made, "Why do you want to spend that much money?" I said, "Because in ten (10) years, we will spend that much for a ten (10) foot path on that same property," and that is what is happening. It is happening all over. Now is the time to put some thought into other communities, especially on the west side. They are talking about a new second city. Pretty soon, you are going to have a lot of newcomers there and you are going to have the same problems that we have right now in the north shore, down on the west side. We are having that on the south shore right now.

Council Chair Rapozo: Teddy, when is your next meeting?

Mr. Blake: April 18<sup>th</sup>.

Council Chair Rapozo: We should schedule our briefing or our discussion after your meeting here, and then can you discuss what we are discussing today, priorities and so forth, and then the Commission can come.

Mr. Blake: Alright.

Council Chair Rapozo: Is that okay?

Mr. Blake: That is fine.

Council Chair Rapozo: Staff, let us make a note after April 18<sup>th</sup>.

Councilmember Kaneshiro: I have a process question on the timing of this item. We have first reading here, public hearing, and then it is going to go to Committee. I was just wondering if our Committee Meeting is going to fall after their presentation or at the same time.

Council Chair Rapozo: It is the same day? It is the same day as their meeting? May 9<sup>th</sup>. It is two (2) separate discussions, really, but I think it is clear because we are in budget right now. I think that is why Councilmember Yukimura is asking about the number to make you folks able to operate and have some meaningful discussion and some meaningful properties. I guess that is the discussion that I would ask you to have with the Commission.

Mr. Blake: Well, my concern is that you take five million six hundred thousand dollars (\$5,600,000) out of fund right now, we comes to a screeching halt, everything that we are doing, and this is in a market that real estate is the greatest thing. All of our plantations and land developers are not plantations people anymore. I do not expect things that are here now to be there when we do have moneys to get it. Right now, we have the liberty of going and choosing the ones we want because we have plenty of backup. It is not going to be the same thing when you are looking at four hundred thousand dollars (\$400,000).

Council Chair Rapozo: Well, you have six hundred fifty thousand dollars (\$650,000) or six hundred sixty thousand dollars (\$660,000) coming in the next fiscal year. That is one million dollars (\$1,000,000), but again, as Councilmember Kagawa and Councilmember Yukimura said, this Council has the ability to backfill that account if we feel necessary.

Mr. Blake: I understand that, but you do not have any (inaudible). You cannot just backfill it because someone else is going to pound you on something else from another side.

Council Chair Rapozo: Do not worry, there is. Again, it becomes the priorities of the Council and the Administration. That is really where it lies. If the parcel is valuable or if the parcel is going benefit the community, then I think the County will act.

Mr. Blake: I do not know how to put this or make it politically correct, but you have communities where you have a lot of newcomers. They make a lot more noise and they get a lot more things through the development and everything else. The things that we look for is for everybody on this island, and sometimes we get flack by purchasing a property like in Hanalei, or purchasing Hoban main, or going for the safer access to Lāwaʻi Kai Beach. We get their point of view now, and their point of view is, "No, we do not like your path here." When you down on the ground-level, you hear some ugly things from people. "How did this happen at the place that I was born and raised, my parents were born and raised, and all of a sudden now we cannot do it?" That is something that I worry about because it is not going to get any better. When I was growing up in Kōloa, we had one (1) Plantation Manager.

*(Councilmember Brun was noted as not present.)*

Mr. Blake: After Kukuiʻula sells out, there is going to be one thousand (1,000) Plantation Managers and each one themselves has more money than the County. That is a tough place to live after that.

Council Chair Rapozo: I share your pain. Let us do that, let us schedule it that way and encourage your Commission to have that discussion, and then can have that discussion.

Mr. Blake: Oka. Is that it?

Council Chair Rapozo: Are there any other questions for Teddy? Do you have a question?

Councilmember Kagawa: No. I just wanted to say the same thing. Do not let the Commission stop their work because they see four hundred thousand dollars (\$400,000). If it is a good buy for the people, you have a majority of the Council that agrees it is a deal that we need to take, we can go another five million dollars (\$5,000,000) with requests if you want. It is up to this Council as to when it will get approved. It might not get approved this year, it might get approved in the next fiscal yet, but do not stop the work. This is just seen as an opportunity right now, because it is presented before us to settle a dispute. This Council can appropriate and fund all of the requests that you want, if it is the will of this body.

Mr. Blake: Thank you. I appreciate that.

Council Chair Rapozo: Thank you very much. Anyone else wishing to testify?

DOROTHEA HAYASHI, Public Access, Open Space, Natural Resources Preservation Fund Commission Open Space Commission Member: Good morning, Councilmembers, Council Chair Rapozo, and Vice Chair Kagawa. Thank you very much. I was called early this morning about this purchase

Council Chair Rapozo: State your name.

Ms. Hayashi: Dorothea Hayashi from the Open Space Commission. This is my last year, so you will not be seeing me anymore for the Open Space Commission anymore. Hip-hip-hooray for that. I will get my freedom. I got a call this morning and it was very disturbing because what we heard on the media is the only thing that was relayed to me. Coming here and listening to what the problem was really demonstrated to me again, whenever we have legislative work, whatever the laws, it always starts out good and then it turns bad, and then it turns out ugly. Nobody is responsible in the end, and you folks have to clean it up, which also involved our Open Space funds at this time. But hopefully with the promise that was made with the next Council, we can really have the funds given back to us because right now, we have a lot of on table we are working towards, but then we are having so many obstacles because we to go through the process that Councilmember Kagawa explained. It made me really angry that this project is just going right through. I understand what has happened. I hope you understand how we feel. I feel, anyway, like we were neglected. We are a volunteer Commission. As a volunteer Commission, you kind of feel like, "Well, why am I here for?" That is all I wanted to express. At this time, I can understand what is happening. I will hold you to your promise and if I will come if I have to, although I do not like to come anymore, that you will support the Open Space Commission projects that we have onboard right now. Thank you very much.

Council Chair Rapozo: Thank you. Anyone else? Seeing none 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: Again, this is still the Communication. We will have more discussion on the Bill. Is there any further discussion? Councilmember Yukimura.

Councilmember Yukimura: This action and prior actions to expand Black Pot Beach Park are visionary actions, which started with the County's first fight against commercial boating in the river twenty (20) some years ago. There were thirty-four (34) boating companies that were going in and out every day taking passengers. They would yell at the kids in the river to get out of the river. It was a violation of the whole policy that had been set early on, that commercial development and resorts would be up on the Princeville plateau and that Hanalei would remain a non-commercial area for residents and people in general. It has been that long that the effort has gone forth to expand Black Pot Beach Park. This action is the type that leaders take boldly, because it is thinking not only of the present, but it is also acting like our forefathers did, our parents and our grandparents. The Japanese have a phrase for that, *kodomo no tame ni*, which is "for the sake of the children." It is not only for the north shore. I remember talking to HawaiianTel person who he lived on west side, but he would have his lunch at Black Pot when he was doing work on the north shore. It is for the whole island.

*(Councilmember Brun was noted as present.)*

Councilmember Yukimura: We have to think that way. We cannot allow this to be divide us. The one point five percent (1.5%) of real property taxes that I supported and others supported, would have given us more money to have now that would not divide us, so setting aside that kind of money is really important. As far as the price, I worked with the Trust for Public Lands to acquire Crater Hill to add to the Kilauea Point National Wildlife Refuge. At that time, they said something very wise that I have always remembered: "Even though the price seems high today, in a few years, you will think it was low. In a few years, if you wait, it will be gone." So we have to act on these things and buy the land now or it is forever gone. As Mauna Kea's PowerPoint showed, it is not a high price at all, not for the value that we need that it is going to provide for generations. For me, personally, this is a dream come true. In fact, I helped to start the Kaua'i Public Land Trust, which was the initiator of the Hodge purchase, the property that right next to the pier. Dr. Blaich, Mehana Vaughn's dad, was a key leader in that, and it will be a dream come true for him and his family as well. I want to thank the Mayor, who has taken this initiative, since he was in office and to his team, especially Mauna Kea Trask, for their initiative and effort because we need to take this action. If we do not, it will be a huge loss, not just to the north shore. It would be a loss to this whole island and to many generations.

Council Chair Rapozo: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: I just want to state that for the record, if I was sitting on the Open Space Commission and this large chunk came out of it all of a sudden, I would feel the same way as they do, but having heard all of the facts, I hope

that they can see that the County was broke. I think we are in a better place now and that Open Space Fund was a solution to this problem. If you have a problem, you have to fix it. If that is the only place that you can go at the time and that is, because we are not through this current budget yet, which is going to get better, then you have to either go for it and we will see how the votes fall. When my kids were younger and home, there are two (2) places they want to go. They want to go all the way to Polihale or Hanalei. It is not only people in the north shore who are going to benefit. The local kids like to go the furthest places. They want to either go there or there on the weekends. For me, they are going to have kids pretty soon and I want them to enjoy, like all the rest of the local kids, they want to enjoy the best park facilities and accesses that we can. Having done this, I hope that the Council going forward will support the Open Space Commission requests knowing that we took so much out of this fund because I believe open space is more important than roads and parks. We already own the parks, but instead of doing amenities, I think open space is more important. When the opportunities present itself to make improvements so that we can keep and gain access to areas for life, I think it is valuable because Kaua'i is "fantasy island" for the rich. They want to buy whatever they can and once they buy it, they likely going to be restrictive because they want to make sure that nobody bothers their property and what have you. I am saying, go forward, bring the requests, put it on this Council and the Administration to work together and fund it because if it is important, we have money. We have reserve money. We have a lot of it. We want to keep the reserves. But if it is important, sometimes you have to spend some of your reserves and you put it back later. Councilmember Yukimura laughs, but the thing is I laughed at a lot her votes, too. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Chock.

Councilmember Chock:

I just want to acknowledge that I also understand how the Open Space Commission feels. They certainly feel undermined in the process. I also hope that with today's presentation, they can be a bit more supportive and continue to look at this with us. I am looking forward to those discussions in trying to prioritize. I think that word was used many times this morning, just in terms of priority. I really like what I am hearing about what that might be as it relates to the Open Space Fund, and that, we as a body, would be supportive of continuing the initiatives that they are looking into. This property is important for a couple of things; one we have talked a lot about is watershed protection and cultural site protections, but also, for us, it takes it out of private interests and gives it to the public and to the community. I believe it is through the community process that it should be determined how it is used. I am looking forward to it being part of that master plan and ensuring that the community has a say in it as it relates to any boating activity that has been discussed. Increasing the Open Space Fund is something that I always wanted to look at. I was here when we had to consider decreasing the amount, and I think that what I have heard today is that perhaps we can be creative in where we get the funding for this particular request. I just want to make sure that as it relates to the Open Space Fund, there has been some misconceptions that I heard, for example, "Well, where are your priorities?" We cannot use this money for fixing roads, everybody. This money is specifically for open space purchases, for acquisitions. By Charter Amendment, this community has said so, so that is what we need to honor, legally. What it means is we should actually be

focusing more attention and energy into it. If that means that the priorities that the Open Space Commission has and can put on the table as soon as possible, it can give us an indication of what it is we need to save for. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, obviously I think I can count and everybody seems to be supporting this. But I do want to say thank you, first of all, to Mauna Kea. I think Councilmember Kagawa talked about it earlier. It was about five (5) years ago that Councilmember Kagawa got on the Council and we talked about this. Councilmember Kagawa and I had started to make communications with the Administration and with, of course, the County Attorney at the time, and the landowner. It just seemed like really, no one wanted to move. They were satisfied with litigation and we continued. When Mauna Kea came in and we had a change of direction, Councilmember Kagawa and I went to Hanalei. We met with the landowner and his attorney. We had Mauna Kea and the Mayor.

*(Councilmember Chock was noted as not present.)*

Council Chair Rapozo: We had a great discussion and we found out guess what? There was an opportunity to at least start the discussion. The Sunshine Law prohibits us from doing a lot of things. We are in litigation right now, not just with one case, but several. So obviously, that discussion cannot be had on the floor. It has to be in Executive Session and we just continued. I will be honest, the number was higher. The number was higher and it took a lot of begging, really, and there were other stipulations that Councilmember Kagawa and I simply could not agree to. But at the end of the day, we came up with a number that was palatable, there were no restrictions, and the County would retain control of that very awesome property. Then, the next step was really how we fund it. Like Councilmember Kagawa, if I woke up Saturday morning, opened the newspaper, and saw that the Commission that I sat on just got wiped out—I know Teddy called me that morning. I was on my way to church. I had to pray for him in church because of what he said. God said he forgave you, but he was understandably upset because they worked all this time. They have the funds available and every time they come to Council, there are obstacles. I did want to say to Teddy's comment that they got chastised by the County Council because of the appraisal, granted that was true because I think we definitely should have an appraisal. But in this case here, we have to keep in mind it is not just the value of the land, it is the value of the litigation and the value of what we gain by the ending all of the lawsuits. I can tell you, I do not know what the number is, and at some point we will get it. It is public record how much we have spent so far. I do not know if you have that number now, but it is significant, in legal fees. All of that future costs are gone and we gain control of that property.

*(Councilmember Chock was noted as present.)*

Council Chair Rapozo: I know it is very hard to swallow for the Commission and I apologize for that. I think Mauna Kea explained why we were not at liberty to discuss it. Remember again, we are in litigation. I am kind of excited that we are moving forward on this. The next phase will be even more exciting, now getting the community to agree on the plan to develop that area and create that parks plan for Black Pot. As to the point five percent (0.5%) or the one point five

percent (1.5%) of the real property taxes, at the end of the day, it is all money that goes to the County, so whether it is point five percent (0.5%) that generates six hundred thousand dollars (\$600,000) or one point five percent (1.5%), I think it has been said several times today, if, in fact, the Commission has a project that is a viable project that is going to benefit the community, this Council has the ability to move funds from somewhere else whether it be the reserve or a less important project. It may not be from the reserves, but it could be a project that is in existing budget that this Council feels is not as high on the property list as the acquisition of open space. At that point, it really simply takes a money bill to move the money back the Open Space Fund. I cannot sit here today and promise the Open Space Commission that we are going to take five million dollars (\$5,000,000) from the budget and move it over to the Open Space Fund in this budget cycle, but I will say as Councilmember Kagawa said, if project comes to this body, the sooner we know, the better so that we can make those adjustments in the budget. Fun times. Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, I want to thank you and Councilmember Kagawa for your efforts to bring the litigation to a close. That is very good. I also want to acknowledge what Teddy said, that the existing Open Space Commission really shows the County's commitment to acquiring open space. Though it is important how we support the Commission and actually, the Commission cannot do its work without the money to acquire the property. If open space is important, I think setting aside moneys for it, because in cases of acquiring land, you do not always have the time. If you have the money ready, it really helps, and we need to look at that because there are many other pressing priorities.

Council Chair Rapozo: Thank you very much. Is there any other discussion? I was going to wrap up with my final comment that it just makes it a lot easier for us on the Council, when we have a County Attorney that is not telling us every reason why we cannot make something happen. It is so refreshing when we go to the County Attorney and he looks for ways that we can make it happen legally. That is a huge difference between this current Office of the County Attorney and the prior. It made it a lot more fun. With that, the motion is to receive. Again, it is going to come up later in the Bill.

The motion to receive C 2018-84 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. At this point, we are going to take our caption break. Are you going to read us into Executive Session? Let us read us into Executive Session first, Scott.

There being no objections, the Executive Sessions were taken out of order.

#### EXECUTIVE SESSION:

ES-943 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County

Attorney requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle a claim filed by GEICO Insurance as subrogee for Amanda Mixon, 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.

ES-944 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, and 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 and request authority for a possible settlement proposal in a claim filed by Troy K. Tanigawa, Department of Public Works, and related matters, discussion regarding the production of documents related to a personnel matter, and related matters. This briefing and consultation involves the powers, duties, privileges, immunities, and/ or liabilities of the Council and the County as they relate to this agenda item.

*(Councilmember Kawakami was noted as present; Councilmember Yukimura was noted as not present.)*

Councilmember Chock moved to convene into Executive Session for ES-943 and ES-944, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. We are going to go in initially and take up ES-944, and then we will come back to open session. But at this point right after the motion, we are going to take our caption break, but it will also be our Executive Session. I do not anticipate the Executive Session being less than forty-five (45) minutes, probably. I would suggest we break at 10:30 a.m. and then reconvene at possibly, 11:15 a.m. With that, roll call.

The motion to convene into Executive Session for ES-943 and ES-944 was then put, and carried by the following vote:

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.

*(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)*

Mr. Sato: Seven (7) ayes.

Council Chair Rapozo: Thank you. With that, we will take a break. Councilmembers, if we can reconvene in Executive Session in five (5) minutes.

There being no objections, the meeting recessed at 10:23 a.m.

The meeting reconvened at 1:35 p.m. and proceeded as follows:

*(Councilmember Yukimura was noted as present; Councilmember Chock was noted as excused.)*

Council Chair Rapozo: Next item, please.

C 2018-86 Communication (03/21/2018) from the Office of the County Attorney, on behalf of the Council, requests authority to approve settlement regarding the claim filed by Troy K. Tanigawa, Department of Public Works, and related matters.

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

Councilmember Kawakami moved to approve settlement authority up to fifty thousand five hundred sixty-eight dollars and ninety-nine cents (\$50,568.99), contingent upon the County Attorney's validation of the claim and supporting documentation, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: With that, is there any discussion?  
Councilmember Kagawa.

Councilmember Kagawa: I just want to say, I think this is a preventable error. My only hope sitting here on the Council, is that if we cannot learn from our mistakes, then that is the true definition of "insanity," as Councilmember Kawakami has stated before. I would hope going forward, that we learned a very good lesson and that going forward, we make sure we dot our I's, cross our T's, and treat our employees fairly. Thank you.

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

Councilmember Yukimura: I want to say that this is the culmination of a very unfortunate and sad situation where everyone got hurt, first and foremost, County employee, Mr. Tanigawa, then also the County, and also the process in the County. I agree that it was preventable and we need to do our job better here in the County. I hope that this situation will be the basis of some changes to the system in the future so that something like this will not happen again.

Council Chair Rapozo: Anyone else? Let me say there is one (1) more party that got hurt and that is the taxpayer. The taxpayer got hit for a fifty thousand dollar (\$50,000) plus bill again, on as we all understand, has been totally avoidable. I am frustrated, to be honest, because this is not the first one. We have had paid attorney's fees for employees because we did not do it right, somehow we did not do it right, somehow the process was flawed or they failed to do a very important component. To continue and expect things to change over and over and over again is not my idea of resolving or solving the problem. What we just went through in Executive Session was very clear, that there is an issue of competence, there is an issue of process, there is an issue of policy, there is an issue of the willingness to do

the right thing, and there is just a whole cluster of problems that could have been avoided and should have been avoided. As we sit here every time and say, "Hopefully we learned from this, hopefully we do not make the same mistake information system take," and we keep saying that and nothing happens, the mistakes are made, and the people pay out. I am just frustrated. I have instructed staff, and I am hoping that at least three (3) others my colleagues on this body will agree that the only way that the Council can utilize its authority, because we do not have that administrative/executive authority. We do not have the ability go out and discipline employees. That is the administrative function. But we do have the power to investigate. We do have the power to subpoena. We do have the power to look into every operation within this County and that has never been used. Although we have talked about it, I have introduced resolutions in the past, we have never passed them. This example here of what we just experienced again and the responses that we received and it is like the basic fundamental parts of management. It is fundamental. It is basic due process that we just did not follow. It is not a complicated thing. Again, if you run a business or you run an operation, there are certain things that are elementary and we did not see it and, in fact, somebody really got hurt, an employee got hurt. A human got hurt. To say, "Yes, we kind of messed up. It was not that bad. We corrected it." There were some what I consider severe violations of privacy and of all kinds of things. So we can sit here and say, "Hey, do you know what? Let us just make sure it does not happen again," or we can exercise our authority of Section 3.17 of the Charter and investigate and find out exactly why and what happened, and hold those people accountable. I have instructed staff to expedite a resolution for a 3.17 investigation on this very issue. I know Councilmembers cringe when they hear that term, but do you know what? If we do not start exercising our authority as Councilmembers, then do not think it is going to get better. We have all been here long enough to see that the public exposure here at the Council Meetings does not work. We get the apologies and the "Yes, it will not happen again," but it does. That is why the Charter allows this body, the legislative body, to have that power, but we choose not to exercise it. So I can only hope that we get the support that, in fact, we move forward with that and once and for all, hold people accountable. Remember, this was not just an overpayment of a contract. This was not an over expenditure of a project or a bridge. This was involving an employee that had to go through a period of extreme stress and embarrassment, and for us to sit back and just expect things to change, I think, is not acceptable. That is just my position. I am hoping to get that resolution out within the next couple of weeks. Councilmember Yukimura.

Councilmember Yukimura: The initiation of this problem and much of the problem was caused by prior Administrations and Councils. I think we need to acknowledge that. It is not just this Administration. It really stemmed from past Administrations and even Councils.

Council Chair Rapozo: Well, that is what the 3.17 investigation would show. The 3.17 investigation will expose all of the problems, and if it is this Council, then we answer to the voters. That is just the way it works. But without determining or defining the issues, the concerns, and the problems, we are just hoping that something will change. I think history tells us that it will not. Maybe it is a problem of past Administrations and Councils because no one had the courage do an

investigation and hold people accountable. Maybe that is why. Councilmember Yukimura.

Councilmember Yukimura: It is not this Council. I want to make it clear. It is past Councils.

Council Chair Rapozo: Okay. Well, I have been on the Council since 2002, so I am assuming that was meant for me. Anyway, at the end of the day, in fact, you were with me.

Councilmember Yukimura: Yes.

Council Chair Rapozo: I think you folks got my point.

Councilmember Yukimura: It is past, before that.

Council Chair Rapozo: Okay. Whenever it was, I think we need to get to the bottom of it and hold people accountable is what I am trying to say. The motion is to approve. Is there anyone in the audience wishing to testify?

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 settlement authority up to fifty thousand five hundred sixty-eight dollars and ninety-nine cents (\$50,568.99), contingent upon the County Attorney’s validation of the claim and supporting documentation was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Six (6) ayes.

Council Chair Rapozo: Next item.

LEGAL DOCUMENT:

C 2018-87 Communication (03/16/2018) from the County Attorney, recommending Council approval of the following:

- Warranty Deed from the Apartment Owners of the Villas at Puali, conveying a roadway lot (Lot 1854) Tax Map

Key (TMK) No. (4) 3-3-003:039 (por.), Līhu‘e, Kaua‘i, Hawai‘i, for roadway purpose;

- Grant of Easements from the Association of Apartment Owners of the Villas at Puali, conveying easements to the County of Kaua‘i, Tax Map Key (TMK) No. (4) 3-3-003:039 (por.), Līhu‘e, Kaua‘i, Hawai‘i for access and utility purposes, a bus stop, and drainage purposes;
- Grant of Easements from Grove Farm Properties, Inc., conveying easements to the County of Kaua‘i, Tax Map Key (TMK) No. (4) 3-3-018:009, Līhu‘e, Kaua‘i, Hawai‘i, for access, utility, and drainage purposes.

Council Chair Rapozo: If there are no objections, I am going to ask that we take these three (3) items in seriatim because Councilmember Kaneshiro needs to recuse himself from the third bullet. If there is no objection, I will entertain a motion for the approval of the first two (2) bullets, the first two (2) Deeds.

Councilmember Yukimura moved to approve the Warranty Deed from the Apartment Owners of the Villas at Puali and the Grant of Easements from the Association of Apartment Owners of the Villas at Puali, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any discussion or public testimony? If you could come up and state your name.

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

BILL BERNARD: I was told to be here. I am the President of the homeowner association (HOA).

Council Chair Rapozo: Okay. If you could just state your name for the record.

Mr. Bernard: Sure. My name is Bill Bernard. Listening to all of you this morning, brought back a lot of professional memories and personal ones with regard to my own purchase here on Kaua‘i when you were talking about the land purchase. I appreciate being here today and trying to help out in any way that I can. I noticed that in 2007, the Council voted on this 4:2 to approve it. The Mayor signed it and then it did not get to the Clerk until 2011. I am not sure what happened there, but it was eventually rejected by the Land Court, according to my notes from my lawyers, based on the fact that the developer did not have a power of attorney to sign on our behalf. We have been working on this for a long time and they stuck me in the Office of President here and said, “Hey, get this done if you can.” So that is why I am here and anything that I can do to happen, I am happy to do it.

Council Chair Rapozo: Thank you.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Go ahead, Councilmember Kagawa.

- Councilmember Kagawa: Is everything all good now as far as the...
- Mr. Bernard: Yes. Everything is fine and I cannot tell you how many questions I had this morning when I got back. Are the roads approved? Are the roads dedicated? I would like to be able to go back and say, "Yes," if I could.
- Councilmember Kagawa: Who is the person who worked with you on the County end?
- Mr. Bernard: Do you mean my attorneys?
- Councilmember Kagawa: No, the County.
- Mr. Bernard: I believe it was somebody named Joe from my attorney's office working with...
- Councilmember Kagawa: She is coming back right by you.
- Mr. Bernard: Oh, here she is. Hi.
- JODI A. HIGUCHI SAYEGUSA, Deputy County Attorney: Hi. How are you?
- Councilmember Kagawa: You folks can introduce yourselves to each other.
- Ms. Higuchi Sayegusa: Jodi Higuchi, Deputy County Attorney.
- Councilmember Kagawa: Jodi, is everything good on the County's end? Is this good for the County and everything is all intact?
- Ms. Higuchi Sayegusa: It should be squared away as much as we can do. The next step would be to file the Deeds along with the subdivision with Land Court. So, that is a whole other process there.
- Mr. Bernard: We have all of the appropriate signatures and notaries.
- Councilmember Kagawa: Do we feel that now, we have everything all aligned?
- Ms. Higuchi Sayegusa: I think so, yes. It required the Declaration amongst the homeowners to be amended, and those authorizations were incorporated into each of the deeds and easements, so everything should we good go by that.
- Councilmember Kagawa: Thank you. Thank you for your work, Jodi.
- Mr. Bernard: Thank you.

Councilmember Kagawa: Thank you as well.

Mr. Bernard: Thank you all very much.

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

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

Council Chair Rapozo: Is there any further discussion? I do want to say, Dickie Chang was here earlier this morning and he has been the bulldog for your association. I know he cannot tell you how many times he has called. Of course Mauna Kea and the Deputy County Attorney, Jodi...the work on this has been long overdue.

There being on objections, the rules were suspended.

Mr. Bernard: He was in contact with me and he was anxious to find out what was going to happen. He said, "I want to go this morning." I said, "Well, it is up to you, Dickie. Whatever you want to do, I am fine with." I guess he had something to do this afternoon, so when you went into Executive Session, he had to leave.

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

Council Chair Rapozo: Anyway, I am glad it is over. It was a long process. The motion is to approve the first two (2) bullets. Councilmember Yukimura.

Councilmember Yukimura: I just want to say because Dickie was a colleague, I am aware of this, and I think a couple house parties you both had, everybody made us aware of it. It is shamefully overdue and kudos to you as the leader in that arena for making sure that every "I" is dotted, every "T" is crossed, and getting this actually completed. What a good feeling. Thank you.

The motion to approve the Warranty Deed from the Apartment Owners of the Villas at Puali and the Grant of Easements from the Association of Apartment Owners of the Villas at Puali was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

Council Chair Rapozo: Motion carried. The next item is the third bullet. Can we get a motion, please?

(*Councilmember Kaneshiro was noted as recused.*)

Councilmember Kagawa moved to approve the Grant of Easements from Grove Farm Properties, Inc., seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony on of the third bullet?

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 Grant of Easements from Grove Farm Properties, Inc. was then put, and carried by a vote of 5:0:1:1 (*Councilmember Chock was excused; Councilmember Kaneshiro was noted as recused*).

Council Chair Rapozo: Motion carried. Next item.

*(Councilmember Kaneshiro was noted as present.)*

#### CLAIMS:

C 2018-88 Communication (03/16/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Andrea Laymon Turner, for damages to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

*(Councilmember Kawakami was noted as excused.)*

Councilmember Kagawa moved to refer C 2018-88 to the Office of the County Attorney for disposition and/or report back to the Council, 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:

The motion to refer C 2018-88 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 5:0:2 (*Councilmembers Chock and Kawakami were excused*).

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

C 2018-89 Communication (03/22/2018) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Troy K. Tanigawa, for reimbursement of attorney's fees / expenses, pursuant to Section 23.05 and/or 23.06, Charter of the County of Kaua'i: Councilmember Kagawa moved to receive C 2018-89 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. I think we have had all of the discussion necessary.

The motion to receive C 2018-89 for the record was then put, and carried by a vote of 5:0:2 (*Councilmembers Chock and Kawakami were excused*).

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

### COMMITTEE REPORTS:

#### PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2018-05) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2689 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, SECTION 23-3.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PEDDLING AT COUNTY PARKS, PLAYGROUNDS, OTHER FACILITIES, AND BEACHES,”

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 carried by a vote of 5:0:2 (*Councilmembers Chock and Kawakami were excused*).

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

#### BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2018-13) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

“BF 2018-13 Communication (03/02/2018) from Committee Chair Kaneshiro, requesting the presence of the Director of Finance, to address the issues causing lengthy wait times at the County’s Treasury Division, Motor Vehicle Section, how the Administration is/will be addressing this situation, and what members of the public can do to avoid the lengthy wait,”

A report (No. CR-BF 2018-14) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2688 – 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 IN THE LIQUOR FUND (*Department of Liquor Control – Radio Equipment - \$35,000*),”

Councilmember Brun moved for approval of the reports, 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 for approval of the reports was then put, and carried by a vote of 5:0:2 (*Councilmembers Chock and Kawakami were excused*).

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

RESOLUTION:

Resolution No. 2018-15 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Charles P. Stack*): Councilmember Kaneshiro moved for adoption of Resolution No. 2018-15, 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: Roll call.

The motion for adoption of Resolution No. 2018-15 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL – 5*
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Next item.

**BILLS FOR FIRST READING:**

Proposed Draft Bill (No. 2701) – 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 HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Hanalei Coastal Property Acquisition (Operating Budget) – \$5,600,000.00*): Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2701) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee, 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 for adoption of Proposed Draft Bill (No. 2701) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2702) – A BILL FOR AN 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Hanalei Coastal Property Acquisition (CIP Budget) – \$5,600,000.00*): Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2702) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Brun.

Council Chair Rapozo: 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 discussion? Go ahead.

Councilmember Kagawa: Really quick. I am planning some cuts, approximately two million dollars (\$2,000,000). My hope is that it will be a cut/add, if I can get approval for the cut. My add, I am looking at adding a significant amount to the Public Access, Open Space, Natural Resources Preservation Fund–CIP. Thank you.

Council Chair Rapozo: Is there any other discussion? Seeing none, the motion is to approve. Roll call.

The motion for adoption of Proposed Draft Bill (No. 2702) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2703) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TAXICABS: Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2703) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Brun.

Council Chair Rapozo: 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 discussion? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair Rapozo. I see the petition by the airport taxi companies listing all of the taxicabs that operate out of the airport. Out of the signatures in favor and against, it looks like we have a tie ballgame. For me, it is very difficult to support something that exactly half the people affected—well, just in this proposal. I do not know what the true amount is, but when you have half in favor and half against, for me, it is kind of difficult to—oh, it is two (2) proposals. I am sorry. Anyway, I hope we can clean it up so that we can have better consensus. I think the purpose of Council Chair Rapozo introducing it was because they said that they needed a change and we are not micromanaging their business. They are saying that they need a change, but then, they also need to go do the legwork and do the education amongst themselves so that we do not end up fighting it on the Council floor. Hopefully at the end of the day, we can have proper amendments brought forth by the taxicab companies to help us along the process because like I said, I do not want to be caught in a battlefield here at the Council floor when we are trying to do something that pleases them and their business. Thank you.

Council Chair Rapozo: Thank you. Anyone else? I think what we saw today with the testifier that came up and the reason it is on the agenda, is it really the only opportunity to have an opportunity to discuss this as a body. But I think like this morning when the gentleman came up, he was not aware that it was an optional charge. It was not a mandatory charge. It is really a plea from the airport cabs that they sit in line at the airport for hours at a time, they get their fare, and it is a short run to the courthouse or to Wal-Mart. Then, they have to come back and get in line and wait again. This is really an optional charge if they choose to like the baggage claim. They do not have to charge for baggage. There is one concern though, that was raised in the E-mail today regarding the calibration of the meters and that the only person that is or licensed or certified to calibrate the meters will not do it unless the taxi person installs the meter, so that might be an issue. We plan to get that cleared up before it hits the Committee. Anyway, that is why it is here. Is there any further discussion? If not, roll call.

The motion for adoption of Proposed Draft Bill (No. 2703) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 25, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Next item.

BILLS FOR SECOND READING:

Bill No. 2688 – 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 IN THE LIQUOR FUND (*Department of Liquor Control – Radio Equipment - \$35,000*): Councilmember Brun moved to approve Bill No. 2688, on second and final reading, 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.

The motion to approve Bill No. 2688, 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, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL – 5,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Next item.

Bill No. 2689 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, SECTION 23-3.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PEDDLING AT COUNTY PARKS, PLAYGROUNDS, OTHER FACILITIES, AND BEACHES: Councilmember Brun moved to approve Bill No. 2689, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there 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 discussion? Councilmember Kagawa.

Councilmember Kagawa: I just want to thank Lenny for trying to make an improvement to Spouting Horn concessions and trying to make that operation more successful and attractive. Thank you.

Council Chair Rapozo: And most importantly, we will keep the concession stands open at Spouting Horn so the people do not have to worry about that. Is there any further discussion? If not, roll call.

The motion to approve Bill No. 2689, 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, Kagawa, Kaneshiro, Yukimura, Rapozo	TOTAL - 5,
AGAINST APPROVAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Chock, Kawakami	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: Thank you. With that, there is no further business. If there is no objection, this meeting is adjourned. Thank you.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 1:58 p.m.

Respectfully submitted,



SCOTT K. SATO  
Deputy County Clerk