

## COUNCIL MEETING

JUNE 26, 2019

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, June 26, 2019 at 8:37 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun  
Honorable Mason K. Chock  
Honorable Felicia Cowden  
Honorable Luke A. Evslin  
Honorable Ross Kagawa  
Honorable KipuKai Kuali'i  
Honorable Arryl Kaneshiro

### APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda, as circulated, seconded by Councilmember Brun.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on the agenda?

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 Kaneshiro: Seeing none. Is there any discussion from the members?

The motion for approval of the agenda, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item, please.

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

Minutes of the June 13, 2019 Public Hearing re: Bill No. 2749, Bill No. 2750, and Bill No. 2751

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

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on the Minutes?

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 Kaneshiro: Seeing none. Is there any discussion from the members?

The motion to approve the Minutes, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next up, we have interviews. Taryn A.M. Dizon had a family emergency, so we are going to reschedule her interview to July 17, 2019. The next interview.

#### INTERVIEWS:

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

- Taryn A. M. Dizon (*Waimea / Kekaha*) – Term ending 12/31/2021

##### KAUAI HISTORIC PRESERVATION REVIEW COMMISSION:

- Stephen Wesley Long (*Planning*) – Term ending 12/31/2021

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair the next interview is for the Kauai Historic Preservation Review Commission, this is for Stephen Wesley Long (*Planning*), term ending—there is a typo, it should be 12/31/2021, both for Taryn A.M. Dizon and for Mr. Long.

Council Chair Kaneshiro: Okay, I have that note. Stephen, please come up.

ELLEN CHING, Boards & Commissions Administrator: Good morning, Ellen Ching, Boards & Commissions Administrator. I am happy to introduce to you, Stephen Long. Stephen is an advent sailor; designing and racing Hawaiian sailing canoes, along with Stacy Sproat, over one hundred (100) *keiki* every summer he spends paddling and teaching them sailing. His other passion is historic preservation. As an architect, Stephen is the ideal candidate for the Historic Preservation Review Commission in the planning position. He previously served in on this commission and when asked when he was most proud of, he responded, the work he did with the Planning Department staff and other members of the

commission in serving and creating a historic inventory of Lihū'e, Kalāheo, and Kōloa. He hopes to continue his work for Kapa'a, Westside, and the North Shore. We thank him for his willingness to expend a considerable amount of his time and expertise and we look forward to his future contributions.

Council Chair Kaneshiro: Thank you. Stephen, do you want to say a few words? Just some background about yourself and what you look forward to.

STEPHEN WESLEY LONG: My name is Stephen Long. I am an architect of Event Kaua'i for twenty-eight (28) years. In 1992, Hurricane 'Iniki, I raised my family on the North Shore. I am relocating to Kapa'a. I served on the Kaua'i Historic Preservation Review Commission for six (6) years. I have taken my one (1) year off. Professionally, I am an architect, but personally, I have a passion for historic preservation and preserving the built environment in our community, so that we have some reflection and connection to our past and we keep some of those historical buildings with us for the future.

Council Chair Kaneshiro: Okay, thank you. Are there any questions from the members? Councilmember Cowden.

Councilmember Cowden: I just want to thank you for your willingness to do this. Are you working on the Hanapēpē area? I know that is an area that is coming up. Have you had some focus down there? Are there any areas that inspire you here?

Mr. Long: Well, the entire island. Each community is unique and separate in its own right. We did have a number of proposals and issues come before us during the last six (6) years I was on the commission; the Hanapēpē Bridge and the Hanapēpē Foot Bridge. We work closely with the community. Actually, I think it was in Hanapēpē that we were able to get the Hanapēpē community a Certified Local Government (CLG) grant to write the historical preservation application for the bridge. That is an interface between local community, our commission, and the needs of the community.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Thank you, again for your willingness to serve and we will be voting on this in the next few weeks. I think we are off next week for Fourth of July. It will come up in a few weeks. Thank you.

Mr. Long: Thank you.

Council Chair Kaneshiro: Next is the Consent Calendar.

CONSENT CALENDAR:

C 2019-140 Communication (05/31/2019) from the Director of Finance, transmitting for Council information, the Period 8 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of February 28, 2019, pursuant to Section 21 of Ordinance No. B-2018-841, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2018-2019.

C 2019-141 Communication (06/03/2019) from Councilmember Kualii, transmitting for Council consideration, a Resolution Supporting Efforts Towards Preserving The Affordability Restrictions At Courtyards At Waipouli.

C 2019-142 Communication (06/12/2019) from the Deputy County Engineer, transmitting for Council consideration, a Resolution establishing the following, due to damage caused by the historic flooding on April 2018:

- A marked crosswalk on Weke Road;
- One-way traffic around a traffic island on Weke Road; and
- Stop control at Weke Road and Wilikoki Place.

C 2019-143 Communication (06/19/2019) from Councilmember Kagawa, providing written disclosure of a possible conflict of interest and recusal relating to Resolution No. 2019-39, due to his familial relationship with Reid R. Kawane.

Councilmember Kualii moved to receive C 2019-140, C 2019-141, C 2019-142, and C 2019-143 for the record, seconded by Councilmember Brun.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on the Consent Calendar?

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 Kaneshiro: Seeing none. Is there any discussion from the members?

The motion to receive C 2019-40, C 2019-141, C 2019-142, and C 2019-143 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Let us do our first Communication C 2019-144.

COMMUNICATION:

C 2019-144 Communication (04/26/2019) from the Executive on Aging, requesting Council approval to receive and expend funds in the amount of \$25,000.00, from the Long-Term Care Ombudsman Program (State funds) for the period of July 1, 2019 to June 30, 2020 and to indemnify the State Executive Office on Aging. The funding will provide for a Long-Term Care Ombudsman position whose primary role will be to visit and advocate for individuals who are residing in long-term care facilities on Kaua'i: Councilmember Kualii moved to approve C 2019-144, seconded by Councilmember Brun.

Council Chair Kaneshiro: Are there any questions for the Administration on this item? Is there anyone in the audience wishing to testify on this item?

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 Kaneshiro: Seeing none. Is there any final discussion from the members?

The motion to approve the C 2019-144 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. I guess, I will give everyone an overview of today. We have a long day for Council. I know many of you may be here for our housing discussion. We have two (2) housing discussion items. We have the Housing Study and Affordable Housing Projects and we have the Courtyard Resolution. My plan—we have our D.C. Consultants here and they are on a time schedule. We are going to have them come up next. If anyone wants to testify on the housing items, please sign up over there and if you need to leave early, let us know what time. So far, I know someone has to leave by 10:00 a.m. We are going to take our D.C. Consultants, if we get close to 10:00 a.m., we will take a quick recess, and allow the people that need to leave at that time to testify. If not, once we get done with the D.C. Consultants, we are going to go into the Housing Study and Affordable Housing Projects. Then, once that is done, we are going to go into the Resolution for Courtyards at Waipouli. That is the plan and we should be able to get through that this morning, I think we will be on track for a good day. Are there any questions on that plan? If not, let us go with C 2019-145. Again, if you want to testify, please sign up and put a time if you need to leave at a certain time.

C 2019-145 Communication (05/10/2019) from the Mayor, requesting agenda time for a briefing from Smith Dawson & Andrews, Inc., Washington, D.C. consultants, to provide a recap of the services and activities they provided the County during the past year as part of their professional services contract.

Council Chair Kaneshiro: May I have a motion to receive?

Councilmember Kualifi moved to receive C 2019-145 for the record, seconded by Councilmember Brun.

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

There being no objections, the rules were suspended.

Council Chair Kaneshiro: You folks are no stranger to us.

JAMES P. SMITH, Principal, Smith Dawson & Andrews: No. A lot of familiar faces up there today, but I know there are some new ones too, so good morning. Mister Chairman, thank you very much for inviting us here today and having an opportunity to have a conversation with the Council about our services and activities in Washington D.C. on behalf of the County. I will give you a brief update and try to share with you some of the things that are happening in Washington D.C. today, but before I do that, I thought I would give a little introduction on not only myself, but the firm and my associate Katherine Biel, especially, for the new members of the Council who we have not met before. My name is Jim Smith. I am the president and founder of Smith Dawson & Andrews, Inc. (SDA). We are a public affairs and government relations company in Washington D.C. We have been in business for more than thirty-five (35) years. We represent State and local governments from around the country in Washington D.C. including the County of Kaua'i. We are very proud of our partnership with the County of Kaua'i. We have represented the County's interest in Washington D.C. since 2012 and it built a number of very good relationships on behalf of the County. Not only with the congressional delegation and other key committees in congress, but also the Executive Branch. During that time we have had a number of successes. I am joined today by my colleague, Katherine Biel, who has been with SDA for actually a number of years, but has come on at a full-time capacity about a year ago. She is the day-to-day primary staff person on behalf of SDA working with the County, so I am pleased that she could join us today.

We were retained by the County in 2012 to do one (1) thing—that was to identify and procure federal grants and assistance for the County. We have done that through a very methodical process. We started in 2012 working with the County and the Administration to institutionalize what we call federal priorities agenda. We come out every year about this same time of the year, meet with all the County Departments, agency heads, and the Office of the Mayor to get a sense of what the local priorities and needs are. Then, we try to match those up with federal opportunities, whether they be legislative opportunities through the appropriations process or projects through the authorization process or through federal grants and programs. Over the years, we have been successful in procuring grants for the Police Department, Fire Department, Department of Transportation, and probably one (1) that you are most familiar with, is what is referred to as the Transportation Investment Generating Economic Recovery (TIGER) grant, which was a Department of Transportation initiative that was launched under the Obama Administration to fund high priority projects around the country. Projects that were multimodal in nature and projects which leveraged other programs and services that would complement, whether it be education, healthcare, community development, and community livability. We have identified that program for the County back in about

2015. Ultimately, submitted an application and we were successful. Of course, it is great to come back now, and to see those dollars being put to use. We toured the project yesterday and saw all the construction and we are really happy to hear that the project is on time and within budget. Hopefully, it will be completed by the end of the year. In identifying federal grant opportunities, we go through all the federal grant programs. In fact, we have brought out with us a document, which we put together for the Administration, that lists literally, hundreds of federal grant programs across multiple agencies that we think align well with potential opportunities for Kaua'i. These are grant programs from the Department of Transportation, the Department of Housing and Urban Development (HUD), the Department of Labor, the Environmental Protection Agency (EPA), everywhere, and this is kind of a road map for the County to review these programs and to see where they have projects that might fit well. When we identify those potential opportunities, then we are sort of the arm of the County in Washington D.C. to interact with those federal agencies and those program managers to get a sense of what they are looking for in the next round of applications. That is how we were successful with the TIGER grant. We literally spent a year interfacing, meeting, and talking with Department of Transportation with the program manager of that particular program to get a sense of, whether or not, our project was consistent with the objectives of that program. Ultimately, to fine tune as good of an application as possible. That is the purpose of this document. We met with a number of the department heads yesterday, had conversations about what local needs and priorities are. We will be working with them in the weeks ahead to identify some of these projects and programs to pursue grant funding over the next fiscal year. In terms of Washington D.C., as you know, we had a new Congress sworn in, in January. The Democrats now have control of the House of Representatives. They have articulated a number of priorities that they would like to see pushed through this Congress. Not the least of which is infrastructure. As you probably know, Speaker Pelosi and Chairman Defazio, the Transportation Committee, came out with a trillion dollar (\$1,000,000,000,000) Infrastructure Bill, which they have hoped they could get through the House by the end of this summer. That was later matched by Administration proposal of two trillion dollars (\$2,000,000,000,000), but without any attached funding to it, that is where negotiations and discussions seemed to have broken down. We are not sure what the future of the Infrastructure Bill is this year. The hang-up is over financing. The Republicans are opposed to increasing the federal gas tax, which is primary source of funding for Federal Transportation programs, but the Democratic House is determined to push a Bill—we will follow that very closely. That is the Bill, which incidentally authorizes the TIGER program, which is now called the "BUILD" program, which is, remind me...

KATHERINE BIEL: "BUILD" is Better Utilizing Investments to Leverage Development (BUILD) and "TIGER" is Transportation Investments Generating Economic Recovery.

Mr. Smith: They are essentially the same program, but with the new Administration a new name. We will be following that really closely. Congress is in the midst of appropriation season, right now. The House has moved first, there are twelve (12) standing appropriations Bills that should be enacted by October 1<sup>st</sup>, the start of the new fiscal year, which provide funding for all the Federal

agencies. To date, the House has completed nine (9) of those twelve (12). The Senate has yet to take up one (1). We are getting close to the end of the Federal fiscal year, September 30<sup>th</sup> and not a lot of time. It is unlikely and this is not unusual that Congress will not be able to complete those Bills on time. In which case, I will probably put together a continuing resolution, which is a continuation of funding on a short-term basis until they can resolve all of those issues. We have worked very closely with the new Administration. We were pleased to welcome Mayor Kawakami to Washington D.C. in January. When he came out in conjunction with United States (US) Conference of Mayors winter meeting. We always take advantage of the mayor's time during those visits to advocate, set-up meetings with the Administration, the Executive Branch, and the Congress to advocate for Kaua'i's priorities. Unfortunately, this January, Federal government, as you may recall was shut-down. So, the Federal agencies were not open and we were not able to schedule any meetings at that time. However, we did just recently, when the Mayor was back for the annual Hawai'i on the Hill, scheduled a number of meetings for the County and the Mayor and had a number of productive sessions with the White House, the Department of Housing and Urban Development, the Department of Transportation, and the Federal Emergency Management Agency (FEMA). We felt very good about those meetings and think those will bear fruit in the coming months. I do not want to take up too much time, I know you have a really busy agenda. So, if it is okay with you, I would be happy just to take any questions.

Council Chair Kaneshiro: Do we have any questions from the members? They did send us a summary of what they are advocating on. Are there any questions from the members? Councilmember Chock.

Councilmember Chock: Thank you, Chair. Good morning, Mr. Smith. Thank you for being here. Welcome. I do have some interest in the infrastructure as it relates to resiliency and floods and of course the rains that we have experienced. I am wondering where that discussion is going and what we can expect in terms of outcomes that might be related to our needs here on Kaua'i.

Mr. Smith: Well, there is obviously a lot of discussion on resiliency in Washington D.C., it is a very high priority for the Democratic Congress. Although, they have not unveiled or released an Infrastructure Bill yet, there has been a lot of hearings and talk of including new resiliency measures into Transportation infrastructure investment. So I fully expect that when and if an Infrastructure Bill moves, that resiliency will be a big part of it. In terms of the Bill itself, the infrastructure, the Administration or the Congress is really talking about two (2) different initiatives. One (1) is broad infrastructure that includes not just transportation, but also, water, broadband, housing, a number of other capital investment areas. That is what the House is trying to move this year. In addition to that, there is a normal Transportation Bill, which will expire in September of 2020. It is anticipated, next year, that Congress will take up the reauthorization of the Federal Transportation Act. That includes funding for highways, roads, bridges, buses, and public transportation. It is also funded by the Federal Gasoline Tax. There will likely be two (2) cracks at infrastructure investment, hopefully, over the next twelve (12) to twenty-four (24) months. Resiliency will definitely be a part of those deliberations.

Councilmember Chock: Just a follow-up. How does the Special Envoy for International Water Affairs work into that?

Mr. Smith: Well, it is a totally separate program. It would move separately and independently. It is not under the jurisdiction of either House or Senate Transportation Committees. However, it does come under Senate Commerce Committee. I do not know exactly where that stands, right now, but I know that is a priority.

Ms. Biel: Are you referring to Henk Ovink. For that, we set-up a conference call with Mayor and staff and Mr. Ovink. We have been trying to get him down to Kaua'i. Now, it is in the Administrations hands, there is a lot of coordination that still has to go on. I know it is a top priority and we are continuing to work with them. We can look into more of the status of that and give you a more detailed response, if you would like.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I feel like pressing my replay button from years ago. My question is always about dealing with the Newell's Shearwaters and how do we get the Kaua'i Interscholastic Federation (KIF) night football, our high school football games on Friday nights, to be played again, as we use to. It is because of this issue with the Newell's Shearwaters, which we have had since I was playing back in the 1960's. We have been coexistent with the Shearwaters from way back.

Mr. Smith: Right.

Councilmember Kagawa: I guess all of the other islands, their Shearwaters have all disappeared because they brought in the mongoose, I believe. Kaua'i does not have mongoose.

Mr. Smith: Right.

Councilmember Kagawa: We still have abundance of Shearwaters, but we are trying to find some way that is not going to cost us one hundred thousand dollars (\$100,000) per bird, so that we can just play at these football games. I think in order for those species to sustain, we need cooperation between the local inhabitants and the endangered birds.

Mr. Smith: Right.

Councilmember Kagawa: Right now, what we are creating is animosity. I have a lot of parents that say let us run those birds over because they are just tired of letting our kids suffer. We are not Washington D.C., we do not have the Capitals or the Redskins games to go to. Friday night football is important for people to gather, talk story, support their children, and enjoy. We are not Honolulu. We are a simple community and this is very important to our community. We play games during the day. Twelve o'clock at noon (12:00 p.m.), the *kupuna* or elderly cannot go to these games—it is too hot. I do not know what efforts you have made. I give you this

homework every year to try and see with our Legislators or Congressional delegation. I know because I have personally talked to them, it is always, okay, we will look into it and...

Mr. Smith: Right.

Councilmember Kagawa: I have been here seven (7) years and nothing. They keep telling us, you folks need to go do the steps. We cannot even take care of our parks. How are we going to take care of an endangered species? I think it is a Federal government and a State government's job to take care of those populations. I think one hundred thousand dollars (\$100,000) per bird, it is not right and we are not helping the species in any way because like I said, we are creating animosity that should not be there. We have coexisted for forty (40) or fifty (50) years with these birds and we are good partners, I believe.

Mr. Smith: Yes.

Councilmember Kagawa: This action by the Federal government has just, to me, been the wrong direction in all ways to deal with sustainability and preservation of this species. Can you help us?

Mr. Smith: Well, we certainly would do anything we can to advance an agreement. I know this is a very important issue to the community and it is cultural. It is a high priority and I know it has been going on for a very long time, even before we were initially engaged with the County. It is obviously a very technical and legal issue, because it involves the Endangered Species Act. While we are not privy to the negotiations and discussions that are ongoing between the County and Fish and Wildlife and all the other stakeholders, we have had some updates and reports that there is progress being made. We are hopeful that there could be a final agreement in the next few months, maybe by the end of the year that would include a conservation plan that would be much more realistic on the expectations on the County, both financially and culturally. With that, I just say we will do anything we can within our authority and resources, but we are optimistic that based on what we have heard, progress is being made.

Councilmember Kagawa: Just bring this back to them, according to the Department of Land and Natural Resources (DLNR) professionals that work with these federal groups. There is a large group located in Hanapēpē Town. They have about twelve (12) of them that operate the Newell Shearwater office in Hanapēpē. According to the DLNR employee I talked to, majority of the Shearwaters are dying from feral cats and rats, because they are eating the chicks and eggs. Lights and power lines cause very minimal deaths. The one hundred thousand dollar (\$100,000) question is, why do we not focus our efforts on the feral cats and rats? Then I think we all win, instead of just focusing on a utility companies and the Counties restrict our public from the important activities and we will save one (1) or two (2). All logic just goes out the window with the way we have dealt with this issue. It is really frustrating. Tulsi Gabbard's office just called me about six (6) months ago asking me to know more about this issue. For her staff to not have been there that long and not even know about the issue, it surely shows how Kaua'i is out of the loop. Maybe all

the attention is on O'ahu, but that is why we have you folks. We need Kaua'i's priorities to be involved in our heads of our Congressional delegation. I do not want to bring up old things, I know no one wants to hear it, but back when I was playing, I remember we use to get about five thousand (5,000) to six thousand (6,000) people at one (1) game. With a population of forty thousand (40,000), that is a large segment of our population that use to attend these Friday night games. I am not saying they are attending every game, but the important ones that have bearing for championship. That is how many people would attend these games.

Mr. Smith: Right.

Councilmember Kagawa: Right now, during the day, you have about three hundred (300) or five hundred (500) people at the most. It is very disheartening that we continue to wait every year. I will wait until I die on this thing if I just wait, as well and nothing will get done. So please help us.

Mr. Smith: We will certainly convey your thoughts and message back to the delegation and policymakers in Washington D.C.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: I believe when we go up for National Association of Counties (NACo) and meet with our Representatives, it is more of a frustration on our part that if these animals are endangered, then why are we getting punished for having them here. We should be applauded. If it is that important, then we would love for the Federal government to give money to help us assist in keeping them alive and thriving, but it has been more of a slap on the hand. The burden falls on the County and the County taxpayers. It is like you folks have these birds, so now, you folks have to put money...right now the Resolution has been that we have to pay hundreds of thousands of dollars to be able to play a football game at night to be able to leave lights on at the Kaua'i War Memorial Convention Hall where the community goes to have graduation parties and first birthdays just to keep the lights on. For us, can the Federal government be a better partner? If these birds are that valuable, then provide us with those resources and let us build them an area to thrive, but right now it is like, you have them, the games are affecting them, you folks will be penalized for it. So, if there is any way you see sympathetic to these types of endangered species type act and want to give money to Counties. That is what we are looking for because right now, it is the County, the residents, and the taxpayers that get punished. It costs us money to have endangered species on our island. I think that is where the biggest frustration comes from—all the burden falls on us and the taxpayers for having something that is special. We have an endangered species on our island. We should not have to get punished for it either.

Mr. Smith: I understand your frustration.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you all for coming. I want to take the opportunity to thank you for your role in the TIGER grant. As I understand and I

have heard for years you folks have been instrumental in that process. I really think it is going to help small businesses in Līhu‘e. I feel like it has already helped small businesses in Līhu‘e, so thank you. Do you see any future grants like that? That is a project that would not have happened without Federal support. Through the “BUILD” grant or others, do you see any large infrastructure grants coming our way or are you folks working on anything?

Mr. Smith: Yes, definitely. I should say this was a project that the United States Department of Transportation has taken a lot of pride in, as well. They were very engaged in the application and the award process. The director of the TIGER program from Washington D.C. has been here, visited and walked the project. They are very familiar with it. We met with those people who are the head of the BUILD program about three (3) weeks ago, gave an update on the project. They would very much like to see a second round of funding. I think the priority right now though and what they encourage, which I think makes sense is let us finish this project, let us show them we can deliver a project of this size and magnitude, on time, on schedule, and under budget. Once we do that, then I think we are going to be in an even better position for a second round of funding. We will be talking with the Department of Transportation with city planners, about what their project might be, but those are very popular programs—the TIGER and now, BUILD. There is only about five billion dollars (\$5,000,000,000) allocated annually, which sounds like a lot of money, but for the entire United States—it is not. In fact, they only fund about one percent (1%) of applications on an annual basis—that is how competitive it is. The program is very popular and the funding will continue in the future. I think Kaua‘i is in a really good position for a second round BUILD grant funding.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Evslin: I have two (2) more, but if you want to go ahead with a follow-up.

Councilmember Cowden: No, go ahead and finish.

Councilmember Evslin: I have seen a number of proposed policies from presidential candidates regarding housing policy in terms of time, Federal housing money’s toward relaxed development standards. Especially, higher density along transit corridors and such. Do you see any bills currently moving through Congress right now or do you see any of that becoming a reality? Do we have to prepare for that in any way?

Mr. Smith: There is no particular Housing Bill moving in Congress, right now. The housing programs are currently authorized and going through the regular appropriations process. I would anticipate sort of a status quo in programs and funding for the next, maybe year or two (2). Those would include HOME Investment Partnerships Program (HOME), Community Development Block Grant (CDBG), and funding, which the County participates in. Affordable housing is a problem everywhere you go. I know it is a big issue here in Kaua‘i, but even back

in Washington D.C. where we live, it is a major challenge. There is a lot of effort to try and provide additional resources for affordable housing, but there is nothing available now, other than the Housing and Urban Development (HUD) programs.

Councilmember Evslin: My final question. Could you walk us through the opportunities that we have here and maybe how you feel they are going to help?

Mr. Smith: For those of you who, maybe are not familiar with it, opportunity zones are a Federal Tax Incentive program that was created by Congress in the Republican Tax Bill, which passed in December 2017. Actually, it is a program that was conceived and originally proposed by two (2) Senators, Cory Booker of New Jersey and his Republican counterpart, Tim Scott from South Carolina. What it is, is a program focused on low-income areas designated by census tracts, chosen by the State and Department of Treasury in Washington D.C. There were two (2) such zones designated in Kaua'i. Now, that program, while it was enacted in 2017, it has taken the Department of Treasury over a year to get the implementing regulations out. Those have only just recently become available. There is not a real track record on the program, yet. The program is designed to attract both institutional and private investors who want to shield income from capital gains. If you invest in these opportunity zones and leave it there for a period of ten (10) years, you ultimately would pay no capital gains on your initial investment or profits that would incur over the 10-year period. Now, the activities that are allowed in an opportunity zone are pretty wide and varied. You can do anything from housing development to manufacturing small business. Most any kind of activity would be eligible. There are criteria like job creation and other factors like that. The bottom line is, it needs to be attractive to investors and it has to fit within those designated census tracts.

Councilmember Evslin: When I first read about the program and I saw it was for low-income areas just for development, I thought this seemed like a great idea. Then I saw which areas were identified on Kaua'i we have, I believe is Kukui'ula and Princeville to Hanalei, our highest income areas. I was wondering, do you know, how they were chosen and what the rationale was for choosing higher income areas?

Mr. Smith: Yes, I was aware of those two (2) areas. It is kind of anomaly. How they were chosen was initially after the legislation was enacted, Treasury sent out notice to all the States and ask them to submit designated areas for opportunity zones. The areas were chosen by the State, then ultimately, approved by the Department of Treasury. Now, I realize, these two (2) areas within Kaua'i are high income areas. Perhaps, they may be second homes that do not get counted within the census data, which is how they fit within the criteria. We are aware this is kind of a problem for Kaua'i. In fact, Katherine and I, in recent meetings both with HUD, as well as the congressional delegation, even the White House—brought this to their attention. Unfortunately, the criteria for the program are embedded in the statute, so there is really no Administrative authority or relief that Treasury or White House could give, right now. We were encouraged or it was suggested, perhaps, we might want to consider a legislative proposal to amend the Opportunity Zone Act to provide some relief for areas like Kaua'i. Frankly, in my

view, it would make more sense if that opportunity zone were right here in Līhu‘e and would leverage the Federal investment that the Federal government is already making in the TIGER grant. That is something we are going to be looking at. We have spoken with Senator Hirono’s staff about that. We are going to be, perhaps, putting together a proposal for their consideration.

Councilmember Evslin: Great. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you so much. I am going to start with a little tail on his before we pick on Hanalei, too hard.

Mr. Smith: Okay.

Councilmember Cowden: As an opportunity zone I want to say it is sort of an inverse bell curve of normal people, right? We might have the wealthiest there, but we also have just about the highest numbers in schools for Chapter One and temporary assistance to needy families. It is like the rich and those who wash their cars. People are struggling really hard and maybe even barely have a home. It is an anomaly in many ways, so I just want to put that correction in there. We even have teachers who are houseless. Hopefully, they have a house, but first semester we had four (4) without housing in our community. It is not that simple. I want to thank you for what you are doing. I want to thank the Mayor’s Administration for the ways they are working aggressively to get grants. I want to acknowledge even just today in our approvals, we have four million five hundred and seventy-eight thousand dollars (\$4,578,000) worth of grants coming from the Federal government. So, today is a good day, but we have pretty regular, congratulations to all and our County who are working to do that. I am assuming we will get a copy for the Council to be able to look at that. I am eager to see that document you just held up. We have been attending State, regional, and soon National Association of Counties meetings, two (2) elements came up for me there that are of real interest to me. I am in alignment with what all my colleagues have said so far. I believe Councilmember Kualii and I are going to be working on this, I think it is called the Stepping-up program, do I have that right? For court diversions, we have other places in the Country, a lot of houseless and then a spiral of social services that end up being necessary for that. Often our correctional facility, parks, and beaches end up being where our people are. What we learned from Lieutenant Governor Josh Green, I said this last week, fifty-one (51) is the average age of our houseless community here, where eighty-three (83) is the average age of our housed community. Three (3) decades is a lot to shave off of people’s lives. As Chair of Public Safety & Human Services Committee, that is important to me. I want to be looking at things like that, that will help. I see they are in your list here and we are going to be working more on that. Other question I wanted to ask you about was FEMA. Do you folks work with FEMA money’s too?

Mr. Smith: Yes.

Councilmember Cowden: Okay, what we learned in two (2) of these workshops is how important it is actually, get your FEMA recovery in Washington State, the focus was on disasters and wildfires. Just about every State is having horrendous natural disasters, so FEMA funding often is not funded when people are planning on it. We want to work with diligence on that. In Maui we looked at...the wording was clawing back the money's. Even after the funding is given, then so many years later, they take it back. Do you have any training in that area?

Mr. Smith: Specifically, we do not have any training in the Administration of FEMA money. We do follow the FEMA program and funding process very closely. In fact, we met with FEMA representatives a couple of weeks ago, but I am familiar with other grant recipients who have experienced natural disasters who have worked both with FEMA and HUD through the CDBG disaster relief program. It is very technical and you have to be very deliberate and diligent in how you administer and expend those funds, because there is an exhaustive audit process and close out process. If you do not do it strictly by FEMA's rules, they can "claw" some of that money back. It is an issue.

Councilmember Cowden: Both our State and our County have received significant amounts of money from last year. Are you in the process of assisting us on those funds?

Mr. Smith: Yes. As I have said we met with FEMA recently and as you probably know, HUD came out with a Federal register notice there would be CDBG disaster recovery money available for Hawai'i. We are working through that process now to determine how much. Congress just passed another emergency recovery supplemental appropriation about a month ago. We understand there could be additional disaster recovery funding for Kaua'i through that Bill, as well. We are watching that very closely and staying in close contact with the Congressional delegation.

Councilmember Cowden: Thank you so much on that. I have a couple small questions, how many clients do you have that are rural communities? Do you have any of the other Counties in Hawai'i?

Mr. Smith: No, not in Hawai'i.

Councilmember Cowden: We are your only one. Do you have any other island Counties?

Mr. Smith: We actually have done a lot of work with Puerto Rico.

Councilmember Cowden: Okay.

Mr. Smith: We have done a lot of work in Puerto Rico throughout their recovery from Hurricane Maria. We do represent other Counties around the United States, both urban and rural.

Councilmember Cowden: Okay, about how many Counties do you work with? I am just curious, roughly, ten (10) or a hundred (100)?

Mr. Smith: Probably six (6) to ten (10).

Councilmember Cowden: Okay, that is helpful for me to know how much of your attention we have and just where you would see scope of differences you can learn from other communities.

Mr. Smith: Yes, there are obviously, differences from community to community, but there are also a lot of similarities. Kaua'i is the only County that we represent in Hawai'i.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Sorry, just a quick follow-up to something that Councilmember Cowden said, I apologize, if what I said sounded like I was inferring that there was no low-income people in Hanalei.

Mr. Smith: Right.

Councilmember Evslin: Just that these—and Kukui'ula. They are probably last places that we should be looking at spurring development by giving wealthy investors break in the capital gains tax.

Mr. Smith: Right. I should say because of that disparity it does not mean there is not a project that could be developed within those zones. I know the Administration is looking very closely and working very hard on trying to identify those potential opportunities and investors. That is just the way the program is and we have to live within those parameters for now.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I have a quick question. When I was looking at the activities bullets and the later bullets; appropriation, legislation, and long-term relationship building. I am wondering, do you have any contact or relationship with the National Association of Counties (NACo) legislative folks?

Mr. Smith: Yes, we do. The firm works very closely with NACo. As I have indicated we have a number of other clients who are Counties. We participate in the regular NACo Washington lobbyists' meetings. That occur every couple of weeks. We have been active on behalf of other clients in pushing resolutions through NACo for adoption at the annual meeting. We are very familiar and work closely with NACo.

Councilmember Kualii: I know they just had the big conference in February in Washington D.C. I was supposed to be there, but I had a family emergency. So I probably would have saw you there.

Mr. Smith: Yes, we were there.

Councilmember Kualii: Some of the things you are working on will come up in the annual meeting in Las Vegas next month.

Mr. Smith: Right, will you be going, too?

Councilmember Kualii: Yes, a few of us.

Mr. Smith: Will you all be going?

Councilmember Kualii: I do not know.

Mr. Smith: Okay, good. Well, if there is anything we can do to assist or prepare you in advance of that, let us know.

Councilmember Kualii: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I have another tough one for you. In all your years of experience, have you ever had any legislation, or what have you, to deal with sending transplant homeless from State-to-State? Has this come up? If government funded sending homeless to other States, I think, while it may not be illegal, it should come with some type of funding or something from that State because I know it is happening. I see folks all the time every week with a backpack hitchhiking from the airport. The State agency say they know exactly where to come. As soon as they reach they know where to go, they have instructions, they go to the welfare office, sign up, and they get their checks. So, it is happening, it is all over the place, I am wondering, have you folks ever dealt with legislation—because I am sure California, Seattle, or Washington must have some conflicts going on. I am sure something has been done, but not sure if it is successful. Have you folks heard of any?

Mr. Smith: Not at the Federal-level. Obviously, there are a lot of different programs at the Federal-level to assist homelessness, but we have not been involved, nor am I aware of any legislation impacting the transport of homeless from one State to another.

Councilmember Kagawa: I know this is happening. There is no way they can buy their ticket to come here.

Mr. Smith: Yes.

Councilmember Kagawa: There is no way.

Mr. Smith: Right.

Councilmember Kagawa: That money would be spent on something else and you probably know what that is.

Mr. Smith: Right.

Councilmember Kagawa: Nothing has ever been requested at our Federal government. I there are countries, I do not know, if it is Thailand or Singapore, where as soon as you reach, they have one thousand five hundred dollars (\$1,500) in cash. They make sure you have sufficient funds for your travel stay. If you do not have that, then you go back.

Mr. Smith: No, I am not aware of anything like that.

Councilmember Kagawa: Okay, alright.

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

Mr. Smith: Thank you very much. We appreciate the time and the opportunity to work with Kaua'i.

Council Chair Kaneshiro: We will stay in touch as everyone heads to the mainland for different conferences.

Mr. Smith: Please do, and if you have any follow-up questions after the meeting, feel free to submit them to us and we will respond.

Council Chair Kaneshiro: Thank you.

Mr. Smith: Thank you.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item? Seeing none.

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

Council Chair Kaneshiro: Is there any final discussion from the members? Councilmember Kagawa.

Councilmember Kagawa: I want to thank our lobbyists and I know they have a tough job to do. While the Federal government is trying to give tax cuts that are not affecting most of us in here, you folks all know, you folks are probably paying more in taxes last year, if you are in the middle class...we are spending more on defense, we are spending less on support for government agencies such as infrastructure, transportation, roads, bridges, and we seem to be supporting a lot of multimodal-type of things, which is nice, but our infrastructure is really suffering.

We have one 100-year old bridges in Hanapēpē and in Wailua Homesteads, what are we doing? Are we waiting for it to fall? Nothing is going to last a hundred (100) years. It is carrying thousands and thousands of pounds, and the only way we are going to do it soon is we are going to need those matchings. I hope, while we do search for this beautification, I hope we are going to start working with our lobbyist and fix our infrastructure like those one hundred plus (100+) year old bridges. When they fall it will be a little too late. Besides that, I want to thank our lobbyists for working on these other projects we bring up, such as Shearwaters. From little Kaua'i, it is very hard to get into the ears of people in Washington D.C. I appreciate them, I think they do a wonderful job, and it is very hard with the Trump Administration, with the new Congress to get things done. I know they have a good reputation and we are very fortunate to have them onboard. Thank you for all your efforts.

Mr. Smith: Thank you.

Council Chair Kaneshiro: Is there anyone else? Councilmember Cowden.

Councilmember Cowden: I am going to echo Councilmember Kagawa's *mahalo*. Thank you so much. We look forward—maybe you can leave some business cards for each of us, because I would like to have direct contact. I will be looking for you at NACo.

Council Chair Kaneshiro: Is there anyone else?

The motion to receive C 2019-145 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. We do have a testifier that needs to leave before 10:00 a.m. This is the plan. I will bring up the Waipouli Resolution, we will allow Valerie to speak on it and anyone else who needs to leave before 10:00 a.m. to speak on it. Then I will go back and try to get through a bunch of our Communication items, which should not take very long. Then we will go into Housing Study, Affordable Housing, and the Waipouli Resolution. With that, Jade, can you read in Resolution No. 2019-40?

There being no objections, Resolution No. 2019-40 was taken out of order.

#### RESOLUTION:

Resolution No. 2019-40 – RESOLUTION SUPPORTING EFFORTS TOWARDS PRESERVING THE AFFORDABILITY RESTRICTIONS AT COURTYARDS AT WAIPOULI

Ms. Fountain-Tanigawa: We do have one (1) registered speaker that needs to leave early, Valerie Medina.

Councilmember Chock moved for adoption of Resolution No. 2019-40, seconded by Councilmember Kualii.

Council Chair Kaneshiro: With that, I will suspend the rules. Valarie, you may come up and speak. State your name for the record. The light will turn green and you will have three (3) minutes, it will turn yellow when you have thirty (30) seconds remaining, and then red when the three (3) minutes are up.

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

VALERIE MEDINA: *Aloha* and good morning Chair and Councilmembers. *Mahalo* for the opportunity to speak on behalf of Resolution No. 2019-40. My name is Valerie Medina, I am here with my husband Richard. We have lived her on Kaua'i for twenty-five (25) years; since 1994. I have siblings and we have children here, so we often travel to Kaua'i until we decided to move here. So much has happened since then. Our individual family has moved five (5) times since being on island. In January 2016, we moved to the Courtyards at Waipouli in Kapa'a. This has been our home for the past three (3) years. Just to share some quick family history, I am Medicaid disabled since August 2014, when I had a stroke. On May 2017, after seven (7) grueling years and the effects of a stroke, I graduated with a Bachelor's (BA) degree in Public Health Administration from the University of Hawai'i, West O'ahu Campus. For right now, I am a loving, patient *tutu*, and a babysitter with a BA degree. I share this information with all of you, to give you folks a sense of who we are. We are *kupuna*. Rich still works, he is with the County. He is a full-time bus driver. Our daughter Anela is a single mom of two (2) boys, ages three (3) and seven (7). She works two (2) part-time jobs. We all live together. We are simple, hardworking folks, trying our very best to live, caring, productive lives, with our family, friends, and neighbors. Today, we petition all of you to please intervene, negotiate, compromise, brainstorm, mediate, discuss, and talk story in what is necessary to have the Courtyards at Waipouli a Kaua'i County project. Chair, I have a petition of five hundred seventy-two (572) signatures of people, not only from Waipouli, but from around the island of Kaua'i, here with me today. Thank you very much. *Mahalo*.

Council Chair Kaneshiro: Thank you. Valerie was the only one (1) who notified us she needed to leave by 10:00 a.m. Does anyone else need to leave early? What time do you need to leave by? We will get to public testimony before 12:30 p.m. This will be your only time to talk on this item. You will have three (3) minutes, state your name for the record, when you have thirty (30) seconds left, the light will turn yellow, and when the three (3) minutes are up, the light will turn red.

JODY KONO: First of all, thank you, it has been a long-haul since the first time I was here. I thank you all for your amazing surprise that this message came to me while I was in Los Angeles.

Council Chair Kaneshiro: Please state your name.

Ms. Kono: Again, I do not have anything prepared. All I have is...

Council Chair Kaneshiro: Please state your name.

Ms. Kono: I am sorry. My name is Jody Kono. I have been at the Courtyards at Waipouli since November of last year and have moved three (3) times in five (5) years; all due to vacation rental situations. I probably have moved in the last five (5) years more than I have moved in my entire life. I finally found a place where I felt I was at home. I love living there, I love my neighbors, I love everything about it, and what pains me most is—I know I will survive, I am a survivor. When I see all the young mothers who have raised their children there because they have that opportunity. I also work in the hospitality industry and I have for over thirty (30) years, but my heart pulls me to doing more work with young girls. These young girls do not have a lot of money. I can charge other clients a lot of money, but my heart comes back to home, as to working with our young people and having a voice, becoming our future leaders, helping them to root themselves in that way. My living there allows me that space to give them the opportunity to come to me without having to worry about paying me the absorbent prices I can charge to other people. I come to you, as local people, who know how to work magic. You know how to—when you make a decision, nothing is going to get in your way. I trust and believe in that, with my whole heart because that is the way we were brought up here; to know what is right, stand in our own integrity, and come from a place of honor. That is all I ask, right now, to know we do not need vacation rentals, we need homes for our people who live here and are born and raised here in Hawai'i. That is all, thank you.

Council Chair Kaneshiro: Thank you Jody. With that, I will recess this item. Let us try to get our other Communication items out.

C 2019-147 Communication (06/07/2019) from the Executive on Transportation, requesting Council approval to receive and expend a Federal Transit Administration (FTA) Section 5311 grant in the amount of \$1,074,280.00, FTA Section 5339 grant in the amount of \$2,800,000.00, FTA Section 5310 grant in the amount of \$312,000.00; and FTA Discretionary Funding in the amount of \$1,400,000.00, and to indemnify the FTA. The funding will be used by the County Transportation Agency for operational expenses: Councilmember Chock moved to approve C 2019-147, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions? Celia or Kalawai'a. Councilmember Kagawa.

There being no objections, the rules were suspended.

Councilmember Kagawa: Is this more or less than the prior year?

CELIA M. MAHIKOA, Executive on Transportation: Good morning. My name is Celia M. Mahikoa, Executive on Transportation. A portion of it is our annual allocation that is typically provided to our agency.

Councilmember Kagawa: Did that go up, down or stayed the same?

Ms. Mahikoa: It is about the same.

Councilmember Kagawa: We hear stories both ways under the Trump Administration. Things are going down and then for Defense it is going up. I am just

wondering, what is the effect on the Transportation grants? Basically, has it stayed the same?

Ms. Mahikoa: The FTA Section 5339 grant or the capital funds are significantly more.

Councilmember Kagawa: Okay, good. About how much more?

Ms. Mahikoa: We are looking at about two million dollars (\$2,000,000) this year.

Councilmember Kagawa: Did it go up two million dollars (\$2,000,000)?

JEREMY "KALAWAI'A" LEE, Assistant Executive on Transportation: I am sorry for interrupting, Jeremy Lee for the record. The 5339 capital grant that Celia is referring to is multiple years worth of appropriations from the State-level down to us. We were asked by the State to draw on some of the multiple years worth of the grant allocations to support our current operation fleet replacement needs and also to support the efforts moving towards battery electric vehicles. That is why we see a larger portion of money coming to us.

Council Chair Kaneshiro: Is it to try and be more green? We are trying to move in that direction and we are receiving grant funds for that.

Mr. Lee: Yes, it is the support in part that Statewide effort to put electric vehicles into our fleet to meet the Statewide goal by 2035. Another portion of that money is to support the ongoing fleet replacement capital needs that the agency has.

Councilmember Kagawa: Are we looking at going with more electric vehicles on shorter routes?

Mr. Lee: Based on some of the data that we received from the pilot project, we identified some of our mainline routes that would benefit most of the communities that layout in our western end or northern end. Also, the Līhu'e shuttle in its current version would probably some of the highest carbon reduction impacts to our community.

Councilmember Kagawa: I remember see you folks practicing with those electric buses; it was really nice. It was unbelievable nice and quiet.

Mr. Lee: This is the support in part of that effort.

Councilmember Kagawa: My only question was, is the battery going to last? Hopefully, it does. You talk about a couple of grants, is the other one (1) more or less?

Ms. Mahikoa: Right now, we are asking for approval to proceed with four (4) different opportunities that are there. One (1) is what Mr. Lee was describing.

Councilmember Kagawa: The 5339 grant, okay.

Ms. Mahikoa: Another is the Discretionary 5339, which is an additional opportunity that was provided this year.

Councilmember Kagawa: Is that something new?

Ms. Mahikoa: Yes.

Councilmember Kagawa: Thank you.

Ms. Mahikoa: They also have an opportunity for, what they call 5310 vehicles. That is the three hundred twelve thousand dollars (\$312,000) that we are requesting approval for. Those are particularly for serving—enhancing mobility for individuals with disabilities and seniors.

Councilmember Kagawa: Okay, good.

Ms. Mahikoa: That funding arena. Then there is also...

Councilmember Kagawa: Are those busses still going to be big or are we going to make those smaller?

Ms. Mahikoa: Typically, for our paratransit vehicles we like to dedicate the smaller vehicles, because of the method of carrying out paratransit service. It requires smaller vehicles we can access different areas and being able to serve in a reasonable amount of time for the individuals who are on-board.

Councilmember Kagawa: Maybe it is good to have a variety because there are sometimes when you need the larger one and sometimes you need a small one.

Ms. Mahikoa: That is true.

Councilmember Kagawa: You get a variety of M&M's of different colors. Sounds good, thank you.

Council Chair Kaneshiro: Are there any other questions from the members? Seeing none. Thank you.

Ms. Mahikoa: Thank you.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item? Matt, you know the rules.

MATT BERNABE: Good morning, Matt Bernabe, for the record. I have a few questions—maybe some food for thought questions here. The bidding process for these vehicles, are we locked in to a single one (1)? Have we been competitive? Have we had multiples? As for these contracts, are they short-term or long-term? I do not want to get stuck with a lifetime contract dealing with one (1) individual. These busses that we are getting, that are electric, we are all for it. Is this old technology or modern technology? If we are buying some surplus old technology that is not as efficient as the current technology, but then we are paying top-dollar for it, I think we are going to get ripped off. My last, not last, I am sure I will come up with one hundred (100) when I drive home, but are we going to install our own charging solar units at these bus depots? I have so much going on in my

mind, right now with this issue. I have a problem that we do not actually bid out the paratransit, because we could probably get a more competitive bid. What we have in our coffers, we could put to the regular routes. There is so much that we need to do with this department. They are doing a great job, but as everyone here knows, maybe not the public, we are financially bleeding. Paratransit is expensive, I personally know, I am an Americans with Disabilities Act (ADA), I qualify for the use; if I really wanted to, so I have done my homework. We are bleeding with the ADA paratransit vehicles. I think you folks should look into bidding it out. I know they do not want to, but as a government, as you folks, as a body, you legally cannot say we do not want to do that. You folks need to look at what is best for the community and if what is best for the community is getting handy-vans come in to relieve some of the duties off of their regular routes, so that they can use those operators for other areas, instead of planning in this. There is so much down-time with paratransit, it is crazy. Another thing with the paratransit is that we need to make more routes, so the age of someone is not just an issue to be on the paratransit. When you go to Honolulu, you will see eighty (80) or ninety (90) year olds standing at the regular bus stop; not just because you are sixty (60), sixty-five (65), or seventy (70), you should be able to get a paratransit. The problem on Kaua'i is you need to walk six (6) miles to a bus stop. Therefore, it is justification to allow them by age, so we need to fix that. They know my concerns, they are doing a great job. I love those two (2), I know it sounds like I am complaining, but this is about the bottom-line—you are the money folks. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else in the audience wishing to testify on this item? Seeing none.

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

Council Chair Kaneshiro: Are there any final discussion from the members? Councilmember Kagawa.

Councilmember Kagawa: Yes, I am not riding home with Matt today. You can take Chair Kaneshiro.

Council Chair Kaneshiro: Are there any further comments? It is not the agenda item, but I do know our Transportation did go through a short-term transit study and they have been implementing a lot of the items that Matt just addressed regarding: paratransit, age, and a whole bunch of those issues—so they are taking steps towards that.

The motion to approve C 2019-147 was then put, and unanimously carried.

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

C 2019-148 Communication (06/12/2019) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Section 8-1.5 of the Kaua'i County Code 1987, as amended, relating to Guest House: Councilmember Chock moved to receive C 2019-148 for the record, seconded by Councilmember Brun.

Council Chair Kaneshiro: We will save questions for the actual Bill. Is there anyone in the audience wishing to testify on this item? This is a

Communication. The Proposed Draft Bill (No. 2735) will come up. You can go now, but you will not be able to testify on the actual Bill.

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

DENNIS ESAKI: Good morning. Dennis Esaki, for the record. I have been a long proponent for allowing the kitchen and the guest house and I thank the folks for bringing it this far because it makes sense—you can build it, sleep in it, eat in it, you can use the bathroom, but why not a kitchen? Now you can put it in a smaller lot, but one thing I would like to see is increase the size of the guest house. Right now, it is only five hundred (500) square feet, so maybe eight hundred (800) square feet, which is insignificant when you look at a large agricultural lot, let us say two (2) acres or five (5) acres. Three hundred (300) feet is nothing compared to an acre, so I urge you to do that. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else? This bill probably will not come up until after lunch. If you want to testify on it now, so you do not need to stick around until after lunch.

BRIAN O'BRIEN: I am hard of hearing, so I was not able to hear what was going on.

Council Chair Kaneshiro: This is regarding guest house.

Mr. O'brien: My name is Brian O'brien I did provide you folks a paper. Briefly, I do support the guest house with a kitchen. There is one real small issue—I have spoken with a few people and they have kind of cleared it up, but I wanted to get my point across to the Council. Right now, if you have a lot and want to build a guest house on it, you have to build a regular house first. You cannot build a guest house first. I suppose it is because they are up until soon, hopefully, because there has not been a kitchen in it. Our family, right now, can afford a guest house with a kitchen, but not a regular house—full family home, yet. We are asking, if you folks would make it so you can build the guest house first, then come back later, even a couple years later, and start to build a regular home, that way at least one (1) of the family members would have affordable housing. I guess, there you go. Thank you.

Council Chair Kaneshiro: Thank you. Councilmember Kagawa.

Councilmember Kagawa: This is just First Reading, so we are going to public hearing, we will go to Committee, then I will ask that question. If that is possible, we will work an amendment out of it.

Mr. O'brien: Thank you.

Councilmember Kagawa: It sounds like a reasonable request, but when it is on First Reading, we typically do not go into much details with the department because we wait for public hearing to get more input before we go into making all the changes, which is normally done at Committee. Thank you for your suggestion and I can see why you are asking for it and it does make sense in a lot of ways with people struggling with moneys. Thank you.

Mr. O'brien: Thank you.

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

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I believe it is been addressed at Planning Commission that you can build it without having an existing house on there. I think we will get to that later, but I just wanted to say that.

Council Chair Kaneshiro: We will get to that when the actual bill comes up. Is there anyone else?

The motion to receive C 2019-148 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Jade can we go to C 2019-150.

There being no objection, C 2019-150 was taken out of order.

C 2019-150 Communication (06/12/2019) from the Chief of Police, requesting Council approval to receive and expend funds in the amount of \$41,140.00, from the Hawai'i Tourism Authority, for the purpose of additional parking enforcement in Hā'ena, which would be provided as of June 17, 2019 when the restricted area of Kūhiō Highway is expected to reopen. The Kaua'i Police Department shall charge its actual personnel costs, including overtime and fringe benefits, when on duty officers are available: Councilmember Kagawa moved to approve C 2019-150, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions on this item?  
Councilmember Kagawa.

Councilmember Kagawa: Much has been made about the practice—I guess, at the early onset of blocking the road and using the resident status to educate people going in or out, but I have a lot of concerns from the community saying is that practice okay with us? It is not okay with me, because I do not want to see that going on all over the place—you drive up a road and a resident will stop cars as they please. It seems like a job for you folks, actually—to know who is going to stop when and what is going to be the rationale for stopping and going? What is the policy on that? Is it still going on?

There being no objections, the rules were suspended.

PAUL N. APPLGATE, Captain of Investigative Services Bureau: Good morning. Paul Applegate, Kaua'i Police Department, Captain of Investigative Services Bureau. That was an issue early on. It has since been addressed and is not occurring as of right now.

Councilmember Kagawa: Thank you. Great answer.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Who is going to be doing the enforcement with this money? Is that going to be officers from the Department of Land and Natural Resources (DLNR) or the Police Department?

Mr. Applegate: Actually, this money is earmarked for Kaua'i Police Department. They have other money that was given to them. It will not be taken out of this amount here.

Councilmember Cowden: Okay. Is it going to be one (1) of our patrol officers out there issuing parking tickets?

Mr. Applegate: Yes, on overtime.

Councilmember Cowden: Will we still have two (2) officers in the region?

Mr. Applegate: Yes.

Councilmember Cowden: That is regular for problems. We are not taking one (1) of our core people and putting them on traffic.

Mr. Applegate: No, this money is to augment those efforts.

Councilmember Cowden: Okay, thank you.

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

Mr. Applegate: Thank you very much.

Council Chair Kaneshiro: We will go with the list of testifiers who signed up.

Ms. Fountain-Tanigawa, County Clerk: Representative Nadine Nakamura followed by Sue Kanofo.

Council Chair Kaneshiro: Welcome Nadine and thank you for all that you do for us on the State-level.

NADINE K. NAKAMURA, Representative, State House of Representatives: Thank you Chair and thank you members. I am here to support this measure in front of you. This is a grant from the Hawai'i Tourism Authority (HTA) to both, Division of Conservation and Resources Enforcement (DOCARE), DLNR, and to the County to help with enforcement in Hā'ena. There is a third piece that is still being worked on and that is to secure a private security firm to fill in when the special duty officers at DOCARE and overtime workers at Kaua'i Police Department cannot cover this area—that is being worked on as well. As you know, there is different pieces to make this work in Hā'ena to reduce the impact of the illegally parked cars. There is a multi-prong solution; one (1) we created a No-Parking zone, about two (2) miles long.

It is not the entire area, there are some areas where parking is permitted for surfers and fishermen. We wanted to preserve some of those areas, but for the most part there is this No-Parking zone where—if you have gone out there, you have seen the No-Parking signs, so this is for the police and DOCARE to enforce. There is also the shuttle, which helps reduce the number of cars that go into this area and impact the neighborhood. Then the parking reservation system at Hā'ena State Park. The shuttle started up last week...all of these pieces come together to try to reduce the impact to this community that has been impacted by too many visitors—really impacting a precious resource in our community. One final thing and that is a bill that I introduced two (2) years ago, passed this session and the Governor is not going to veto it, so I am very happy. Currently, the fine is typically thirty-five dollars (\$35) and a lot of visitors are glad to pay that fine and park illegally, which is really the cause of the health and safety issue. What this Bill does is in addition to that fine, it increases—it creates a surcharge of two hundred dollars (\$200). Right now, the thirty-five dollars (\$35) goes into the State General Fund, under the Bill that I wrote, half (1/2) of it will go to the State Highway Fund and the other half (1/2) goes to the County where the citation is issued—to that Police Department, to again help with enforcement. I am hoping this is a model we can use for the future as we try to partner together to solve some of our common problems.

Council Chair Kaneshiro: Thank you for that. We have a few questions.  
Councilmember Brun.

Councilmember Brun: Does the State plan on putting any money into this effort?

Ms. Nakamura: The State has put money into all the different components that I talked about. The Hawai'i Tourism Authority, there are State funds going towards enforcement, the DLNR funds went into the parking reservation system and improvements at Hā'ena State Park, and I believe some of the disaster funds were channeled through the shuttle, so yes.

Councilmember Brun: Are they putting anything for this overtime costs?

Ms. Nakamura: The Hawai'i Tourism Authority funds are State funds.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Chair. We do not get a Representative here, too often, so if we could indulge having some open dialogue with your presence here. One of the things, I think, in looking at this multi-coordinated approach from our government agencies to address this. I think we are moving in the right direction and part of what I am hearing is not only the enforcement piece we are here to talk about today, but certainly and educational piece. As we start to learn how to adapt and change for the kind of behavior we are expecting on the north corridor, it would behoove us all to approach all learning from the perspective particularly from those who live out there and are experiencing or have experienced

some of the trauma. Again what we are looking out for of our visitors and how they visit the places we love. I love that we are focusing on enforcement in addition to that effort I am wondering—as we look at trying to hire an outside firm to take some of this, that we might be able to, from a multi-agency standpoint bring us together about what we want and do not want, how we approach it because it is a very sensitive issue.

Ms. Nakamura: Yes, right, I think we are really fortunate that residents have worked on the *Aloha* Pledge, which sets some expectations on how we treat our environment, community, and respect the neighborhood that you are visiting—not to walk on the reefs, to take away your *opala*, all of these things that we want to promote as part of the whole education of this area. Fortunately, the shuttle company have hired local residents to run the shuttles. Hopefully, in terms of security, we are hoping to do—not just a volunteer security force in the community, similar to a *Makai* Watch, but also to potentially hire security who are from that area. As we know, the State has set aside funding for Park Rangers at Hā'ena State Park and hopefully, people from the community can work there.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to start by thanking you for your active engagement through this whole experience and you are open receptiveness. I am asking on behalf of some of the businesses, I know you will continue to be open in looking into what their issues are as well—the business element is really challenged. Do you have any active continuing outreach going on right now, where people might be able to find you?

Ms. Nakamura: I think the best thing is to call my office, get in contact with me. We are very accessible, we continue to have...for the past two (2) years been working on this solution; public, private, Government, State, County—we are all in it together to problem-solve, to address this. It is not a simple solution, so we have been working continually and having weekly meetings on this and problem-solve as we go along.

Councilmember Cowden: You have done a great job on this and many other District 14 things. I just want to thank you.

Ms. Nakamura: Thank you very much.

Council Chair Kaneshiro: Is there anyone else? If not, thank you Nadine. Again, thank you for all that you do for us. I am glad we will be getting money off of tickets that we are actually giving. That is a change. Next up, Sue.

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

SUE KANOHO: *Aloha*, Sue KanoHo, Executive Director of the Kaaui Visitors Bureau. Special thanks to Nadine, Chipper, and Pressley Wann is

here, as well, from the partnership we have been able to create for Hā'ena State Park master plan. We are working on education, it has been changing, almost by the day, so I did do some flyers that was going to go out April 30<sup>th</sup>, but they decided to keep the road closed, so those flyers are really nice recycling pieces of paper right now. We are working with the *Aloha* Pledge group and we are going to get that out. We are also working with Hanalei Town.

*(Councilmember Chock was noted as present.)*

Ms. Kanoho: For the record, the Hawai'i Tourism Authority provided a grant immediately following the flood to help them with Hanalei Town reopen. We created a website for them and did a photo shoot for them. They also have some money left over, so now, they are working on new messaging based on the challenges that exist today. Also, with the work on the road at the Hanalei hill landslide area. Just know we are all working together as best as we can. I will tell you, I am trying to get o the rental car agencies to try and get them to give the message at the time of a contract being signed, because I still hear people are going up there uninformed. This is going to be a joint effort for all of us and all businesses for all our staff, because I have been telling managers, then I hear staff does not know, so they have to make sure their staff tells people that goes for activities, hotels, condos, vacation rentals—whatever it might be. Everyone has to have the same message about...it is an advanced reservation, it is a permit, both for entering the park, as well as parking and of course using the shuttle, if the parking is sold out. Just know that we have worked very hard and are really grateful to Representative Nakamura, also to Chipper, and the Hā'ena group that has worked with us to try and get this done. It is something that is needed in the worse way. I know some people are not happy about it, but it is really the right thing to do for the place and the people.

Council Chair Kaneshiro: Thank you. One quick question,  
Councilmember Kagawa.

Councilmember Kagawa: Will there be a spot where they will be checking cars?

Ms. Kanoho: No, that was not in the plan. Right now, the goal is to get everyone retrained on the new rules. There should not necessarily be "stopping" happening.

Councilmember Kagawa: The police overtime and...

Ms. Kanoho: Is for enforcement. The whole illegal parking thing, that everyone thinks they can park all over the place, needs to go.

Councilmember Kagawa: Why are the police on overtime? Is that not part of their regular duties?

Ms. Kanoho: DOCARE is the police for the park, but there is outside the park as well. It really is a partnership. It is DOCARE plus Kaua'i

Police Department (KPD) and then we are also looking at a private company; RFP (Request for Proposal) through the Hawai'i Tourism Authority, mind you, so HTA has committed to their dollars for enforcement to try and retrain everyone. I do not know if anyone has heard about Queen's Bath, but they were retrained quickly on the new program.

Councilmember Kagawa: I was thinking it would be good if a private company can do some of the direct services that will be needed because police are about sixty (60) men short.

Ms. Kanoho: Thank you, Ms. Nakamura. I was the one who pushed hard for the private sector, because I have two (2) brother-in-laws that are retired KPD and my husband is Fire, so I totally get that whole thing. We are going to try and shift to...initial enforcement needs to show...

Councilmember Kagawa: Yes, of course. I like your strategy, I think it works.

Ms. Kanoho: Hopefully, go to private sector and work with the community and maybe we can get...for *Makai* Watch—is a really great program where they are amongst themselves. That is a great program, too, so maybe we will end up doing something like that, too. It will probably be a combination of many things, initially. If we can transition to either volunteer or paid contract then that would be great.

Councilmember Kagawa: Great, just again, echo other Councilmembers—I appreciate all of your work, Nadine's work, and Administration's work because it is all about compromising. You are not going to please everyone at one time, but I am glad we are taking aggressive steps to try to deal with it is...my friend works at Young Brother's and he was telling me the amount of cars that come in, mainly rental cars, minus the ones that go out, which is scrap cars, the plus/minus is there are way more coming in. We have major issues—you want to call it "over tourism" or whatever it is, but I am glad we are going to manage Hā'ena now that we have chance. I am really happy you are thinking outside the box and trying to help out.

Ms. Kanoho: Thank you. We run about twenty-five thousand (25,000) to thirty thousand (30,000) visitors a day—some are a little higher than that, but divide that in half and that is how many rental cars you have on island. There is a lot of people on the island.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: Are there any further questions for Sue? If not, thank you. Is there anyone else registered to speak?

Ms. Fountain-Tanigawa: No further registered speakers.

Council Chair Kaneshiro: Okay. Matt.

Mr. Bernabe: Good morning. Matt Bernabe, for the record. I too, was not happy that people are stopping people in the road. I am glad to hear that Councilmember Kagawa asked that question and I am glad to hear the officer's response. First of all, how long does forty thousand dollars (\$40,000) last for overtime? We are going to create this system and then, are we going to expect the money we receive from the tickets going to the State to support the police? I heard them say we are going to have a two hundred dollar (\$200) surplus that goes to the State. I did not hear them say we will take one hundred fifty dollars (\$150) out of that surplus and reinvest into this program to perpetuate it down the road. The second thing is, when we hear we only have "X" amount of police and we need more police, but yet when we are on the road and we see squads of them go by or when I was working on the recovery on a dump truck, I could see patrols coming in while we were working. They still came and did patrols in the day. You would think that would have been the time they had overtime or hazard pay, when they had to come in with big excavators going and the flow of traffic. That is when I would have thought, okay, let us get these folks extra money—they are doing a great job. Now the road is open and we are asking them to do their job and we have to create a special fund—I am sorry. I have total respect for the job and individuals—not all police I have respect for, but many of them are very nice, I love those folks. Some of them are blanks, but to go give tickets on a route that is there regular route—this sounds like we are creating a *puka* that we are going to dump money from time in and out. I do not want to see a private company giving me or anyone a ticket on a highway that we pay tax dollars. I cannot respect them the same way I would respect an officer giving a ticket. By the way, I see all kinds of illegal cars on Rice Street in the morning before the time they are supposed to park and they are not ticketing those cars. What if a local gets this ticket? Now, what if they cannot pay the two hundred dollars (\$200) or even the thirty dollars (\$30)? Now we need to put them in the system. Meanwhile, it is devise to make the State money—two hundred dollars (\$200) going to the State. I heard it clear, right? Did everyone hear it clear, right? Going to the State or am I wrong? I will reserve my three (3) minutes, if I am repute.

Council Chair Kaneshiro: Is there anyone else? Pressley.

PRESSLEY WANN: *Aloha*. Good morning. My name is Pressley Wann and I am here representing Hui Maka 'āinana o Makana. We are located inside the Hā'ena State Park where we started off taro farming, but things have gone—we have been involved in a lot of things and one of the things we are involved in is with the planning of the Hā'ena State Park Master Plan. We had a lot of input in a lot of meetings—probably over forty (40) community meetings and with the advisory groups. One of the things that came out is why the parking enforcement is really important. Can you imagine ourselves where we live and all of a sudden have cars start to park in front of your house twenty-four seven (24/7); how would you feel? That is what it really is about—the enforcement. For the Hā'ena State Park Master Plan to work, we need to have the enforcement. I am in support of the HTA, wherever we can get the money to...especially right now, the beginning, we need that enforcement. Not only is the parking enforcement important to the park to make the park work, as far as public parking—there is thirty (30) parking stalls. I have been down there almost every single day in the park and the parking seems to be working

well. There is a lot of local people going. About one-third (1/3) of the people are local—the couple days I was there. The feedback is they are happy—that part is good. Going back to the parking enforcement, number one is the community's safety. If you can imagine, if you live in Hā'ena or Wainiha and there is a tidal wave or some kind of catastrophe, now you need to get home to your family and home to secure your place—now you have mass exodus of cars, so it is important to keep the community concerns in mind. They are quiet and not going to say anything, but they will blow up and I do not blame them. Anyway, safety is the key issue. *Mahalo nui.*

Council Chair Kaneshiro: Thank you Pressley.

BRUCE HART: For the record, Bruce Hart. I am in support because as I listen to Nadine and Chief Applegate—right now, everything is brand new and we need to do this in different ways. Try these different ways and see how they work. I am fully in support of KPD being upfront down there at this time. I believe the tensions are high and a KPD officer on the scene will tend to settle things down. I was really concerned when I saw what was happening. We do not want any tragedies or any kind of that public relations (PR)—that is not good at all. There are several different methods for handling a parking situation. I want you to remember that KPD has the authority for officer discretion. They do not necessarily...they can educate, rather than ticket, but whenever you get a knucklehead, then you are going to have to ticket. I was happy to see the fine go up, that will discourage people from taking advantage. I also remind you, not everyone on this Council, but many of the members of this Council were here whenever under Chief Gausepohl, an amendment was proposed to Chapter 16-10.5, that is also a tool that can be used. I would like the public to understand there is a shortage of officers. I have personally seen it. Yes, there needs to be more done about the parking issue, but this is another time when you have to apply parking law islandwide. Let us remember that KPD is under the gun to do that kind of thing, they have to make those decisions. Let us all work together, so we remain an island community and do not have separate areas. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else wishing to testify for the first time?

JOAN HELLER: Joan Heller. My thought has always been, since our weather has been changing to more severity, why is everyone opening a can of worms? You can see how you are asking for more services from the County and privatization, when I feel that Kē'ē, Kalalau or the trail—all that should be no more. Even if I am a minority, as far as my statement, it is a can of worms to have the public go in. Just the residents should be able to have access. I went there with family two (2) or three (3) years ago during Thanksgiving, on the side of the hill—that was not when we had all these storms we were having, there is no permanent embankment. This is an island that is eroding, it has been, it is the oldest in the Hawaiian chain and here we are still trying to do the same old business as usual to make money out of an area that is risky. Like the other gentleman said when there is a hurricane or tidal wave, natural disaster, the only people you will need to worry about are the residents, not the public, if you never have them go in there. That is my two cents. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else for the first time? Is there anyone wanting to speak for the second time? Matt.

Mr. Bernabe: Matt Bernabe, for the record. The first thing I will say is, I am absolutely for the police being out there for enforcement. I think they should be doing it anyway. We should not have to create a fund—a fund that we are going to have to continuously put money into—we will be obligated. I look down the road. As far as tourist impacting the community—let us talk about Kapa‘a corridor. If the tourist bureau really wanted to help tourism, they would alleviate and have police sitting in the Waipouli district, they would have a lot more money for the vehicle violations that I see on a day-to-day basis coming out of the bypass, behind the Marketplace, coming out by Kintaro’s, by the gas station, illegal turns, holding up traffic, which is impediment of the flow. I hear more tourist complaining about that. To me, just because one local stopped a person on the road—the tourist industry needs to step in and make funds, while we have day-to-day problems with our tourists in Kapa‘a Town. There is a whole reason to stop traffic from Hanalei coming in—just go out there and tell them, “No, you cannot go to Lihu‘e anymore, we have bad traffic.” Parking is bad, bicycles everywhere—we have bike lanes everywhere, look at Kapa‘a. We have a lot of people doing illegal things on a bicycle. If it is the tourist who are naïve or if it folks that do not have legal bike permits. I do not think a County agency should be shifting money to the Police Department for a job that they should be doing already. Then the splitting of it—it is DLNR property for crying out loud, they should be doing it. The State should be funding our KPD because it is their property. The roads and easements out there are their property, like the lady before me said—she was right about one thing—we should not be incurring the liability. That is what I would say, right? For different reasons that is State property. I have also said it many times before, they should revert Kalalau to hunting only because it is a hunting district. That is what it was. You are supposed to be in there with a hunting license. I do want the police out there, I do not want vigilantism and I think all the community’s—everyone is talking about Hanalei, Kapa‘a is a lot more congested than Hanalei, let us get real. You want to talk about a problem, Kapa‘a is a problem. This is just upset residents because they are a private gated community due to the flood is now reopen and they forgot how inundated they were. Meanwhile, you sit in traffic to go one (1) mile in Kapa‘a and you are dehydrated, if you do not have air conditioner.

Council Chair Kaneshiro: Thank you. Is there anyone else wishing to testify on this? Seeing none.

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

Council Chair Kaneshiro: Are there any discussion from the members?  
Councilmember Kagawa.

Councilmember Kagawa: To state for the record, I definitely do not need a ride from Matt today. There is a lot of opinions and frustration on many areas. Shipwreck’s, Kōloa, and Po‘ipū, I was trying to enjoy the beach there one day, but there is no parking, just tourists all over the place and this is early in the morning. It is not only Na Pali—it is everywhere. What is the solution? It is not one-size fits

all. Nadine and Sue have taken drastic steps to work with both the local community and continue to support tourism, which is our major source of economy in the State. Many of you are comfortable here and have money—not everyone is like that. People rely on tourism, Matt. I will be the first to say I do not like all the impacts of increased tourism, but I sit in a position where I have to vote for the majority of the people. Majority of the people are poor to middle class—let us remember that. Not everyone is fortunate like some of you folks. Like I said Representative Nakamura, our Administration, and the Visitors Bureau are trying their best. I have never heard them say this is the solution that will be the final fix all. This is a drastic change they are trying, give them a chance. Appreciate what they are doing. They fixed that road, which is amazing in itself. It got done, it was funded from the State. We need to work together. We cannot have community upset and being police themselves. We need to work together—work with the Mayor and all the agencies. I think that is the solution. The police is the police. They do their job. We have new leadership and I think we are on a good track, right now. If problems come up, communicate it to all the legislative bodies and let us help find a solution because it is not only there. There are tourist problems all over the island, but when we reap the benefits of tourism, do you hear anyone complaining? Everything is expensive and we need money to survive here. What will replace tourism, if we do not want it? Again, I applaud the efforts so far, I do not have any better suggestion at this point and shutting of that area is not a solution. I disagree with that one.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I want to thank Sue Kanoho for coming today. She has been speaking for a while on managing tourism rather than marketing. I think this is a great example, we have the Hawai'i Tourism Authority helping fund the Kaua'i Police Department to enforce parking tickets against tourists. I imagine, maybe it is not enough or will not last that long, but just from the symbolic aspect of it, that to me is a shift here. I hope we can continue going down that road. Also, want to thank Representative Nakamura, for so long we have heard the thirty-five dollar (\$35) parking ticket issue. That is the price of parking in Waikiki. If tourists knew they were going to get a ticket or not, it does not matter, it is worth it for them to have access to Kē'ē. That two hundred dollars (\$200) was much needed, especially since it will help KPD get out there. I recognize why we do not necessarily want or can afford to have an officer there all the time—with twenty (20) vacancies in the Kaua'i Police Department and two (2) officers per beat. If we have an officer or two (2) in Hā'ena, that means their response time in Princeville or Hanalei is going to be that much shorter. So I recognize why this needs to be based or done off of overtime until we can get fully staffed—anyone out there wants to join the Kaua'i Police Department, let us get them onboard. I appreciate all these people coming together. I also want to thank Pressley Wann and the work he has done to get the Hā'ena State Park Master Plan up to speed. It is not about the State making money, the State is actually losing money by managing that park. The parking fees are so small for them to keep that staffed. It is not about making money, it is about trying to find ways to manage tourism in the area. From three thousand (3,000) visitors down to nine hundred (900). All of that said, these are all incremental steps, now the ball is in our court to help manage parking in Hā'ena Beach Park, the neighborhoods surrounding, and all our beach parks and neighborhoods on Kaua'i.

There is a lot the County can be doing in that regard. There is a long way to go, but I appreciate the work everyone has done to get us to this point.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I will simply echo a lot of what Councilmember Evslin said because we need to have two (2) officers available to be supporting the rest of the community. That parking enforcement is almost a full-time job. Also, I am thankful to the tourism association and the State for coming up with that money—Hawai'i Tourism Authority. This is temporary funding and I am comfortable with it because we are trying to figure out what works. We might find the businesses and everyone who is directing people out there get into a habit that works. It might be we do not need to be setting up a full-time funding situation. Other things we are adjusting, like a small thing out there, might not hurt to have an extra first responder in the police department is that the boardwalk has no rails on it and it is slick when it is raining and wet. People are sitting there with their ice chest and chairs. To fall off that boardwalk and fall onto those rocks that we put in there. I think there are dangerous situations where we need to be looking at. There is a lot we need to adapt to, like how we intend to be closing the park at the end of the day. Having some adaptability to have the extra support of the Police Department down there with a focus, I support that. I appreciate the temporary nature and where the money's coming from. I certainly will support this funding. It is really easy to support receiving money, by the way, that is hard to say no to. Thank you for the efforts.

Council Chair Kaneshiro: Is there anyone else? I want to clarify that this is to allow us to receive money from HTA, it is not costing the County any money. Again, I really appreciate everyone coming together partnering, basically, trying to manage the expectation upfront. I think if we just opened it up and let everyone go, it will be very hard to reign back in wanting people to park where they want to park. Definitely, increasing the fine is going to change people's opinion on whether they will park there and pay a thirty-five dollar (\$35) fine versus an over two hundred dollar (\$200) fine. It is all about managing expectation and I appreciate our effort in saying, "From the get-go, this is what we want it to look like. We do not want any parking here, if anyone comes up we will ticket them." Hopefully, everyone can get use to the expectation of how it is going to be out there. I will be voting for this also. Is there anyone else?

The motion to approve C 2019-150 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. We are coming up on a caption break. We will take our 10-minute caption break. We have two (2) more—should be quick—Communication items and the rest of the morning before lunch we will spend on housing. So, 10-minute caption break.

There being no objections, the meeting recessed at 10:30 a.m.

The meeting reconvened at 10:40 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Clerk, can you please read the next item. We have two (2) more Communication items and then, we will go into the housing items.

C 2019-149 Communication (06/12/2019) from the Life's Choices Kaua'i Coordinator, requesting Council approval to apply for, receive, and expend Federal funds from the Drug Free Communities (DFC) Grant through the Office of National Drug Control Policy (ONDCP), and the Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP), in the amount of \$125,000.00 per year for a period of five (5) years beginning October 31, 2019. The funds will be used for:

- Establishing and strengthening collaboration among communities, public and private non-profit agencies, as well as federal, state, local and tribal governments to support the efforts of community coalitions working to prevent and reduce substance abuse among youth; and
- Reduce substance abuse among youth over time, reduce substance abuse among adults by addressing the factors in a community that increases the risk of substance abuse and promoting the factors that minimize the risk of substance abuse

Councilmember Kualii moved to approve C 2019-149, seconded by Councilmember Brun.

Council Chair Kaneshiro: Are there any questions on this item for the Administration? Councilmember Cowden.

Councilmember Cowden: Thank you for working on this important issue. Is any of this going to help open our new youth drug facility?

There being no objection, the rules were suspended.

THERESA KOKI, Life's Choices Kaua'i Coordinator: Theresa Koki, Life's Choices Kaua'i Coordinator, for the record. No, this will not. This will be prevention money's for the youth. The coalition to work with the communities for youth not to go into the treatment center.

Councilmember Cowden: Okay, that is an important group, as well. Is this money that we receive regularly, year-after-year, or is this a fresh pot of projects?

Ms. Koki: This would be for a fresh pot of projects. I am not sure, if any of you are familiar—I am quite certain that Councilmember Chock and maybe, Councilmember Brun would be. Before we had two (2) coalitions; east and west, they did very great work. They did have funding from this pot of money and worked with their communities. For some reason the central section never took off the ground, so we formed this coalition, as part of a grant we already have working towards beefing up the workforce and community work.

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

Ms. Koki: This is the first time we are applying. Once we do apply, it is one hundred twenty-five thousand dollars (\$125,000) for five (5) years, but you do have to reapply every year.

Councilmember Cowden: Twenty-five thousand dollars (\$25,000) a year is a modest amount.

Ms. Koki: One hundred twenty-five thousand dollars (\$125,000) per year.

Councilmember Cowden: Okay. Thank you very much for your hard work on that.

Council Chair Kaneshiro: Does anyone else have questions? If not, thank you. Is there anyone in the audience wishing to testify on this item?

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

Council Chair Kaneshiro: Is there any final discussion? Councilmember Chock.

Councilmember Chock: Thank you. I will be supporting this request and thank Theresa for continuing to look into the needs of this area. My only request is that we are stronger when we work together, we are stronger collectively, and there are many initiatives out there, particularly on our island, that are committed to this work. I look forward to how we engage, interact, and integrate into the community initiatives that are already in existence. Thank you.

Council Chair Kaneshiro: Is there anyone else? I want to say thank you also. One hundred twenty-five thousand dollars (\$125,000) for five (5) years, each year, I think that is a good amount of money. Thank you for that.

The motion to approve C 2019-149 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 Kaneshiro: Motion carried. Next item, C 2019-151.

C 2019-151 Communication (06/19/2019) from Councilmember Evslin, transmitting for consideration a Proposed Draft Bill to remove minimum lot requirements in the Residential District. Currently, the minimal parcel area on which two (2) or more single family dwelling units developed shall be twelve thousand (12,000) square feet, and two (2) or more multiple family dwelling units developed shall be ten thousand (10,000) square feet: Councilmember Chock moved to receive C 2019-151 for the record, seconded by Councilmember Kualii'i.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item? Seeing none.

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 2019-151 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 Kaneshiro: Motion carried. With that we will take our housing Communication.

C 2019-146 Communication (06/04/2019) from Councilmember Kualifi, requesting the presence of the Acting Housing Director, to provide a briefing on:

- The information contained in the Workforce Housing Nexus and Financial Feasibility Study commissioned by the County Housing Agency, including any recommendations from the Administration to incorporate the study's findings and recommendations in the County's Housing Policy; and
- A status update on the County's affordable housing projects.

Councilmember Kualifi moved to receive C 2019-146 for the record, seconded by Councilmember Chock.

Council Chair Kaneshiro: Steve, I know you have a presentation. There are some people who want to testify on the next item around twelve o'clock (12:00 p.m.). The presentation questions go a little long, we may have to stop at one point to recess, take testimony, then come back to this. If I am looking at it, I believe we can get this item and the Waipouli Resolution done before lunch at twelve thirty (12:30 p.m.).

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

There being no objections, the rules were suspended.

STEVE FRANCO, Acting Housing Director: Steve Franco, Acting Housing Director. Mike had a few words to say before we get started with this quick slideshow for everyone's information.

*(Councilmember Kagawa was noted as present.)*

MICHAEL A. DAHILIG, Managing Director: Mike Dahilig, Managing Director. This is a follow-up to the formal study that has been transmitted to the

Council as of last Wednesday. I am sure all of you have hardcopies of the studies. It has been a long study in process, but I would like to clarify the purpose of the study, because I am not sure if that is clearly articulated in the actual findings and the synthesis behind where and why money's were appropriated to launch into this. A while back, then County Attorney Mauna Kea Trask had raised issues concerning Ordinance No. 860, whether or not the exactions for affordable housing on proposed types of development was actually in-line with Constitutional provisions with the proportional nexus and partial takings. This study was meant to look at and analyze the impacts of those types of issues, not necessarily looking at it from a legal angle. A lot of the work that still needs to be done is a discussion with crafting an ordinance that meets the constitutional muster based off of our local conditions that create or perceived impacts to our affordable housing stock. I would like to, one, make sure that that context is provided before we launch into this study. Secondly, and Steve will go over—keep in mind the study is largely broken down into two (2) product types; those that are resort product and those that are residential product. A lot of the linear discussions that would come out of the findings from what the consultant was able to provide, should be along those two (2) types of product discussions. One (1) for housing that is related to resorts, one (1) that is not. I think from a policy standpoint, you will start to see some of the suggestions coalesce from those two (2) genres of product types. I will leave it over to Steve to launch into this.

Mr. Franco: Just to give you a quick overview of the Kaua'i County Housing Agency contracted with Keyser Marston Associates, Inc (KMA) to prepare a Residential Nexus Analysis with consideration of potential inclusionary requirements applicable to new residential development, resort development, and rezoning permitting request for Kaua'i County. The scope of the work that was included nexus studies, which would provide nexus support for updated affordable housing requirements for both resort and residential development. A Real Estate Financial Feasibility Analysis, this was going to be used to evaluate the sustainability of both existing and potential modified affordable housing requirement levels in both resort and residential development. Also, included in the scope of work was an analysis of any alternatives or additional incentives that could assist in evaluating structure in potential updates, a survey of other affordable housing requirements elsewhere within the State, and a list of recommendations to include for the County of Kaua'i. As Mike mentioned there was a report, for those of you who have been able to take a look at it, it is one hundred seventy (170) something pages, but it is broken down into different areas. These were some of the recommendations from the final report as it pertains to residential uses within the visitor designation area. One (1) of the recommendations was to maintain requirements at a similar level to the current, with existing incentives, the current workforce house requirement is estimated to equate approximately sixteen point five percent (16.5%) of units, if provided on-site, and twenty-four percent (24%) of units, if provided off-site. Another recommendation was to consider treating projects with condominium property—the same as other projects. Currently, our ordinance condominium projects are subject

to higher requirements than single-family and attached townhomes. A general recommendation was simply to clarify the program, so it is easier for developers to understand.

Another recommendation was to currently sell units priced at one hundred forty percent (140%) of the area medium income. Their recommendation is to consider modifying this requirement so units are priced at a level more affordable to a lower Area Medium Income (AMI) level, which basically is saying it is too close to the market prices, right now, with what we currently have as for-sale prices. Households running up to one hundred forty percent (140%) could remain eligible to purchase those units. Another thing was how we currently are calculating workforce housing prices—they are recommending we consider modifying the technical methodology used to set the workforce housing prices. Another recommendation included affordability term—the current 20-year term is within range of other counties of Hawai'i, but according to their research and recommendation there are longer affordability terms, such as forty-five (45) years with programs across the mainland, right now. For residential uses outside the Visitor Destination Area (VDA)—one (1) of the recommendations is consider exempting apartment from requirements, feasibility is challenging for apartments under the current market conditions. Also, reduce for-sale requirements. The recommendation is to explore other options for reducing...currently the requirements were found to in fact feasibility significantly. Then consider allowing increased residential densities or density bonus. The recommendation would be to increase allowable densities and reduce minimum lot sizes and appropriate locations that could enhance feasibility of some projects that are located outside the VDA.

In the report you will see some of the recommendations that would apply to outside and the inside of the VDA, as well. If you go through the report, it is broken down by the two (2) different types. Under hotel and resorts, one (1) of the big recommendations they had was to set a specific requirement. Right now, the Ordinance requires there be a current custom analysis process that most resort developers are having to do. They are recommending we set a more specific requirement than doing a custom analysis. Also, to continue to allow in lieu of use, they felt what we had...alternative means of compliance, we should continue allowing what we have, right now. That is a brief overview of the recommendations based off of the report. There is a section specific in the study that lists all the recommendations. The next steps is what we are looking at, like Mike mentioned between the Housing Agency and the Administration, we look forward to working with Housing & Intergovernmental Relations Committee Chair Kualii to craft something of an amendment to Ordinance No. 860 based on the report recommendations. The study that was provided to the Council will be published on the Housing Agency's website and hardcopies are also available if anyone wants them at our Housing Agency Office. That is it.

Council Chair Kaneshiro: Okay, I am not sure which way would be the fastest, if we allow Steve to go through his affordable housing projects, also. If we can organize our questions to this presentation, then the housing one. Then we will see how our time is going. If we need to we will take a quick recess and have Waipouli on, but I would rather Steve finish his presentations now, then we ask questions after. Steve, you can continue on with your affordable housing projects presentation.

Mr. Franco: The next presentation that I put together at the request—just a status update on the County's affordable housing projects as of today's date. Kalepa Village Phase I and IV—we have a total of one hundred (100) units; sixty (60) in Phase I and forty (40) in Phase IV. The number of units by income group vary by phase, but overall this particular project, the highest AMI, we were able to go up to is eighty percent (80%). In Phase IV, there were seventeen (17) units designated at one hundred and twenty percent (120%) AMI, and the rest were limited to eighty percent (80%) and below AMI. Current vacancy percentage is less than five percent (5%). The management company that we have there does a good job turning those units around quickly and we have waitlists for all our projects that I will be going over. As far as forecasted expenses, we have maintenance reserves, as part of the project and through the management company, that we collect and have budgeted for. For Fiscal Year 2020, we budgeted seven hundred and ninety eight thousand dollars (\$798,000), which included regular annual need; exterior painting to Phase I, fixing and replacing lighting pole mounts in Phases I and IV. Then Phase IV, we are planning to change the flooring in some of the units that have had some issues with flooring. Kalepa Village Phase I and IV are County-owned projects, which mean that we hire or contract a management company to take care of. Phases I and II are currently leased—they are County-owned land leased to the Kaua'i Housing and Development Corporation (KHDC). There is a total of eighty (80) units in these two (2) phases. These were Low-Income Housing Tax Credit (LIHTC) projects, so at move in, the AMI for this particular phases are sixty percent (60%) AMI, then they cannot go more than eighty percent (80%) AMI. Again, current vacancy percentages are at less than five percent (5%). There is one (1) management company that handles all four (4) phases even though KHDC is who we currently lease the project to. As far as forecasted expenses, KHDC as part of the lease is required to do all the maintenance and upkeep of the buildings there.

Pa'anau Village Phase I, total number of units there is sixty (60). All of the units there are below eighty (80%) AMI. Pa'anau Village has a current vacancy percentage of less than three percent (3%). This is a County-owned project and we have contracted or hired a management agency, forecasted expenses for Fiscal Year 2020 include annual need stair landing repair, storage room, and storage door replacement, which we estimated to be about three hundred and eighty-five thousand dollars (\$385,000). Same thing here in Kalepa Village, we do have maintenance reserves and have that designated and budgeted for upkeep. Pa'anau Village Phase II is currently leased to KHDC, so they will handle all the forecasted expenses

as I mentioned—in Kalepa Village Phase II and III. Total units here is fifty (50), again, this was a LIHTC, so sixty percent (60%) AMI at move in and not to exceed eighty percent (80%) AMI, here as well, current vacancy percentage is less than three percent (3%).

Kolopua in Princeville is a total of forty-four (44) units, this was also a LIHTC, we are currently at eighty percent (80%) AMI or below for this particular project and current vacancy percentage is less than five percent (5%). This property is currently leased to the Ahe Group, so any forecasted expenses or upkeep is their responsibility. Kaniko'o Phases I and II—a total of ninety (90) units; sixty (60) in Phase I, and thirty (30) in Phase II. This is dedicated senior housing and is for eighty percent (80%) AMI and below. Current vacancy percentage is at less than five percent (5%) and this project is also leased to the Ahe Group, so any forecasted expenses are being handled by them through their lease agreement with the County. Also, I have included upcoming projects or in the process of being constructed. Koa'e Makana is currently under construction—total of one hundred and thirty-four (134) units with an estimated total build-out completion, we are looking at fall of 2020. The breakdown of income by unit will be one hundred (100) units at sixty percent (60%) AMI or below, then there will be thirty-three (33) units at fifty percent (50%) AMI or below. This is also a LIHTC that combined home and HTF funds, as well. There is one (1) unit designated for a resident manager, that is where you add up the one hundred thirty-three (133) and that is how it is one hundred thirty-four (134). Right now, I do not have anything to report, as far as vacancy and forecast as expenses, but it is currently being leased by Mark Development, Inc. Waimea Huakai Apartments in Waimea is in pre-development—this is County and HOME funded with an estimated completion of fall of 2020. There will be a total of thirty-five (35) units there and twenty-six (26) units will be priced...again this is another LIHTC project, which will be utilizing HOME and County funds. Twenty-six (26) units will be designated at sixty percent (60%) AMI or below, and eight (8) units will be at fifty percent (50%) AMI and below, and then one (1) unit is designated for a resident manager. Of course, everyone knows about Lima Ola. We are hoping to commence Phase I infrastructure construction by the end of this year or early 2020 with a total of one hundred forty-nine (149) units in the first phase. It is going to be a mixture of single-family and multi-family residences. Then there will be home ownership and rental opportunities in the first phase of Lima Ola. It is a four (4) phase development spanning over fifteen (15) to twenty (20) years. That is all.

Council Chair Kaneshiro: Thank you for that. I know we have been doing a lot of work on affordable housing and I think this shows that we might be doing more housing than anyone else on the island right now. Do we have questions? Let us start with the Workforce Housing Nexus and Financial Feasibility Study. Councilmember Evslin.

Councilmember Evslin: Thank you folks for doing the study and providing the update on it. For me, one of the most interesting take-aways was the chart showing the cost of our current housing policy on development. If I can quickly run into it...our current Ordinance adds half a percent (0.5%) to the cost of a luxury resort home and has an inverse as the density increases the costs go up. So it goes to two point one percent (2.1%) of the cost of a single family home; two point five percent (2.5%) to the cost of a townhome; five percent (5%) to the cost of a condo; and six percent (6%) to the cost of an apartment. It recognizes in the analysis that the percentage burden requirements increase as density increases. I was hoping you could walk me through, it says, "This happens because the condo and the apartments are not eligible for incentives under the housing policy for single-family or detached units, which reduces the workforce housing percentage applicable to the lower density projects. In addition, larger affordable units provided with the lower density projects have a lower net cost than smaller affordable units provided with the higher density projects." Just two (2) questions in there; one (1), what are the incentives for single-family homes under the current policy? Two (2)—I can read it again after, but if you could walk me through what that second quote means, because I am not sure what they are trying to say.

Mr. Dahilig: Can you refer to the page?

Councilmember Evslin: It is page 28.

Mr. Dahilig: If you look at structurally, Ordinance No. 860, it treats all density the same. Alluding to the fact that there is incentives necessarily, flows from the reality that all density counts treat all the units flat. The inversion that you are describing comes as a consequence of what happens when you are giving the developer the choice of what product to actually put together and where the margins come based off of what the market is bearing. If you look at why, you have seen the inversion in the per unit cost and what is coming as a consequence of that, that really does come because the higher margins come with the luxury and single-family product. That is one overarching policy question that the Council should keep in mind is how Ordinance No. 860, right now, does not differentiate between different product types. If I could point you to—which will help to illustrate this better, is on the previous page 27, that actually outlines when you apply Ordinance No. 860, pretty much every product type that normally is built on the island is either marginal to infeasible once you apply it.

Councilmember Cowden: Please say that again.

Mr. Dahilig: It is either marginal or infeasible to actually build in the first place. The reality is Ordinance No. 860 has been premised upon getting affordable units on construction being put in the ground and using constitutional proportional impact types of analyses to mitigate the impacts that are

created with the additional housing. It is like the circulation of currency. When you add currency into a system, it is going to multiply, so when you add more homes they go through this analysis of saying, "Okay, with more residents, you are going to create more jobs, which will create more units that need to be filled because you have to hire more doctors or lawyers et cetera." There is that echo boom effect that happens, but what they are saying here is that in order to mitigate those things, if we treat the product the same across the board, applying Ordinance No. 860 presently, does not yield the actual market construction of these units to be able to carry the Ordinance No. 860 requirements. There are two (2) general questions; one (1) of law and one (1) of policy here, that really come as a result of the study. One (1) is, do we have the right proportional nexus to meet the constitutional muster, but on the other hand, you may have the right net proportional nexus, but the market may not be able to bear that in the first place. What they are saying here is that presently even with Ordinance No. 860, that is why we are not seeing the unit production because the Ordinance is too restrictive and here is why.

Councilmember Evslin: Thank you for that. I understand that and I know from other places that it does result...placed with high levels of inclusionary zoning have more luxury homes being built, that seems like a fact. I guess, the question was more directed towards...it specifically references "incentives under the housing policy for single-family or detached units." Are there specific incentives in the housing policy for those types of units that do not apply to higher density units?

Mr. Dahilig: There is no product differentiation. In a nutshell, that is what we are trying to loop back to the incentives are not throttled per product type, it is flat.

Councilmember Evslin: So that was my understanding, which is why I was confused, that it was referenced in there like that. You mentioned the constitutionality, which is not mentioned in here. If it makes apartments infeasible, condos infeasible, single-family homes, or duplexes marginally feasible, does that pass legal muster?

Mr. Dahilig: That is the question that I think really has to flow as a consequence of what policy you want to put on the table. If there is policy's that say, "We want a flat product type across to have the same density exaction." Then there could be some question on challenge ability because the impacts are not even across product types. I think that has to be done as you analyze it by whether you are creating resort type of product versus residential type of product, whether you are creating single-family duplex type of products versus condominium types of products. Whereas, Ordinance No. 860 in its simplicity, was a good stab at trying to address the echo boom impacts of creating more jobs and residents to the island. At the same time, not all units are the same—that is what this is saying. It could be open for challenge on that.

Councilmember Evslin: I recognized some of the suggestions in there, such as density bonuses and excluding apartments would be ways to undo this (inaudible) that we have here. One (1) of the other findings was that an apartment is infeasible regardless of the workforce housing requirements. I could not understand from there what makes an apartment infeasible, regardless. I know we may need a developer to walk us through this, but if you folks could eliminate it a bit.

Mr. Franco: I think it is based on the way the Ordinance is now, like how Mike was explaining, the apartment part was based on the way the Ordinance is written now turns out...I am sorry, I do not...

Mr. Dahilig: One of the things to keep in mind is the prototypical unit that was laid out was a nine hundred (900) square foot unit. Whether or not something that is a nine hundred (900) square foot unit is or is not even marketable to this day, what I think it leads to and its conclusion, that is why that type of product is most suitable for subsidy. That is the inverse way to look at this—where the land cost and the labor cost is calculated by the consultant, lead to the conclusion that the product type we need the most, but that product type, if we were to try to fold on the open market is the most right for that subsidy because at nine hundred (900) square feet with anticipated household of two (2) people per unit, they are not going to be able to bear the debt service to be able to service something like that. Again, the numbers could be a little different, if they said maybe you are building a thousand (1,000) square foot unit versus nine hundred (900) square foot units. Right now, look at Halelani Village, they are seven hundred fifty (750) square foot units, maybe the cost per unit would go down. It is not to say that the prototypical unit is reflective of what exactly is what the market would bear, but needless to say you could build smaller units and have those float on the market, possibly at a higher margin because nine hundred (900) does seem a little on the higher end when you come to look at apartment types of things.

Councilmember Evslin: Thanks. If I am thinking about it right, no matter what we do to the workforce housing requirement or the Housing Ordinance, we need to work on the other side to try incentivize apartments. Those apartments are not going to get built no matter what we do to this Ordinance.

Mr. Dahilig: Right. When you tie this into the General Plan analysis, a lot of what we are chasing is a number of nine thousand (9,000) by year 2035. We know that all of it cannot be single-family units and all cannot be at the same type of product type either across all levels. Given the variation of what our community has from AMI standpoint and average household standpoint, we need the diversification and the product types in order to meet these needs.

Councilmember Evslin: My final question on the study, are you folks currently working on an ordinance based off these recommendations?

Mr. Dahilig: We have some draft language based off of what has come out of here. One thing that is not something that is readily apparent, even though the findings again in Table 3-4.b, that seems to be where we are discussing the policy needs around what is called “missing middle housing” and whether or not the Affordable Housing Ordinance is necessarily the right place to do that or the Planning Director is here, whether or not there needs to be some loosening up in the density calculation product types of things that would lead to opening up that missing middle. Again, that is why the purpose of this study is not necessarily to lead to a specific type of policy, rather to inform different policy discussions. This really was meant to say Ordinance No. 860 may have some issues when you look at the challenge ability of some of the exactions when they are applied equally across different product types.

Councilmember Evslin: Thank you and it was very informative for me.

Council Chair Kaneshiro: We have a couple follow-up questions?  
Councilmember Chock.

Councilmember Chock: Thank you, Chair. I appreciate the study and I almost feel like we knew what Ordinance No. 860 was challenging us and that is why we have been trying to work on it for so many years. I almost feel like, let us go, what do we need to do next? Let us move on this because we have been waiting for such a long time based on the constitutional challenges that we have been facing. Yet, even that, I feel in some ways have not been addressed with this specific study. For me, it is about moving forward and as a follow-up to this study, it seems to me it is amorphous amount to think about as it translates into the planning side, how would you suggest us moving forward? In the past, we have had these subcommittees that were formed, is that what your suggestion is, or because it sounds like you already have some recommendations that moves us towards policy, is it that you would come back and present those to us, for us to really unpack and figure out, one (1), where the vision is and how we are going to get there, then how that all fits into these specific changes that we need to make.

Mr. Dahilig: Certainly so, there is as we have heard from the public consistently, there is a sense of urgency regarding addressing this issue. One of the factors though that we would—just keeping in mind the reality of legislation that we need to in-house decide whether we are going to propose to you things that are low-hanging fruit versus things that become an over-haul. What tends to be the question as we are seeing, at least I am analyzing the study, I am sure Steve would concur, as well, that more of the urgency seems to be put on that second class of housing types—things outside the VDA, that is not residential and how Ordinance No. 860 is applied to that. That seems to be more of the urgent matter versus some of the more resort and VDA type of development items. Keep in mind, we have not had a major hotel put up on the island in the past ten (10) years, so if

you are considering that being an engine for generating affordable housing, the reality of looking prospectively into the next decade and hedging our efforts on trying to fix the resort and VDA portion of the Ordinance, may not necessarily make sense—that is one thing to keep in mind as we are wrestling through this. The other thing too, comes back to that missing middle discussion. What we see from the study is that there is an inflection point, where between one hundred twenty (120) to one hundred forty (140), you are starting to see that they start breaking even there, whether we start steering through planning or through housing—what is the best bullets to put in to try to address things that go beyond that inflection point and start charging either in-lieu fees proportionally or not? That is the big “X” factor that we have to distill. A lot of the things that Steve described are low-hanging fruit items that we can very easily already. We do have language for—that we are going to try to work through the legislative process, but the larger policy question on the missing middle is tough to take away, but it seems to be the most urgent.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: You mentioned Halelani, was that thirty (30) years ago?

Mr. Dahilig: Right before the hurricane.

Councilmember Kagawa: For me, that project was a homerun. I remember a lot of local families that was their first-time homebuyer and that was their start for a lot of them. A lot of them are not there already, they have moved on to greener pastures, thanks to the market. I believe at that time they bought it for one hundred twenty-five thousand dollars (\$125,000) because I had family that bought there. In football when you have a good play that worked, you run it again. So, how do we make that happen again or what barriers in that thirty (30) years happens, so private developers no longer see those types of projects as an option anymore? I feel like the need to buy...and I do not know what would be the new price, one hundred twenty-five thousand dollars (\$125,000) was that past price. Now, thirty (30) years later it may be two hundred fifty thousand dollars (\$250,000), but you see in Honolulu, it says affordable, but it is five hundred thousand dollars (\$500,000), that is not going to work. How do we run that play again for Halelani to happen again because those are the types of first time options that would best suit the needs that are out there and the amount people have. Certainly, Hanamā‘ulu project was not an option—that was near a half a million dollar price, so what can we do to make Halelani happen again. Coming from the private sector and easing the burden of our County funds, which we basically do not have.

Mr. Dahilig: I might want to ask the Planning Director to come up to describe some of the...because we have two (2) throttles; we have the zoning throttle and we have the incentive and the affordable housing throttle. One

thing he will confirm is that, right now, we are not building to our max densities. What that means is that it is reflective of what the market conditions bear, which is bigger and better when it comes to be able to get more money. Whether size limitations come into play, that is something he can describe as...

Councilmember Kagawa: What I am looking for is, if you look at Kapi'olani—that high one that came up, when they go high, but then they are luxury, the prices are astronomical. I am just looking for something simple like Halelani that can pencil out with prices that will truly bring interest. This half a million dollars (\$500,000) does not draw interest from local people who are looking for a first-time home option.

KA'ĀINA S. HULL, Planning Director: I am sorry, what is the question?

Councilmember Kagawa: What barriers are out there...so we can make these Halelani's happen again, not ten (10) years from now, but soon.

Mr. Hull: There is an array of different barrier Councilmember. Definitely from a planning perspective, I think you watched over the past few years and is still going on today, some of that is just density issues. These properties did not have enough density to pencil out for some of these projects, so we have begun freeing up density, whether it be through Councilmember Brun's Additional Rental Unit (ARU) Bill, whether it was through the R-40 Bill on Rice Street and these various aspects. That is one (1) barrier that is being eased up. Another barrier is things like the cost of infrastructure—how high the cost of infrastructure is and how evenly those costs are applied. The Facilities Reserve Charge (FRC) continuously comes up as a point of discussion where a five hundred (500) square foot house has to pay that seventeen thousand dollar (\$17,000) FRC fee, so does the ten thousand (10,000) square foot house, right. When you pencil that cost in, it is much more proportionally larger on that smaller unit that is much more aimed for local families than the larger units. Among other things, it begins driving the construction industry and contractor to say it is much safer to put our investment in the high-end, when having to pencil in the cost of infrastructure. Looking at trying to reduce those, as well as Ordinance No. 860 being one of those avenues, but I think what the Managing Director was getting at was because things like density and cost of infrastructure driven in a certain manner, but you also have—Hawai'i, no matter what is going to be the speculative market within the global scheme, because people want to have homes here. You see a lot of that speculative market buying up properties and the desire of these high-ends is—like the Managing Director was pointing out, before you would buy in Po'ipū and put a bunch of units and sell as many as you could on a speculative market, now, what you are watching in Po'ipū is they are buying a property that might have entitlement to bear the right for four (4) units, but they are only going to build one (1) unit because they much rather build one (1) high-end unit because that is what the high-end luxury side is

asking for—more privacy with their mansion. Even driving more units through a mechanism like Ordinance No. 860 is becoming problematic, because the high-end is not even building to that strategy, essentially. There is an array of different barriers. Working to reduce those barriers and allow the work that is going on here is at the forefront of all our lines.

Councilmember Kagawa: I just want to state that 901 Kapi'olani that I was talking about, I think the price is about seven hundred thousand dollars (\$700,000). It is something current that being built high, but is not affordable, so I do not know what is the sense of giving them entitlements, if that kind of price is going to come with it—it is frustrating, the market is dictating it though.

Mr. Dahilig: One thing too, that you eluded too, also, Councilmember, is the reality of homeownership is a stepping up process and a lot of economic household realities for people that are talking around the dinner table every night are worried about is the financial stability element. What you see with homeownership at the small product type is they are able to build that equity and bounce it along, which allows for more financial stability and keeps our kids home. That particular product type that is described in the apartment realm is severely needed. We have not seen large projects along this realm that are in the fee-simple category go up as the director is describing here, the flat exactions and the flat requirements are not incentivizing people to build up to the max. The General Plan revealed that even though we have potential density, we are only building up to two-thirds of the actual density that is being allocated by the Council because of market conditions.

Councilmember Kagawa: Thank you folks.

Council Chair Kaneshiro: It was interesting to look at Halelani Village example, then after that they did Ho'okena at Puhi—that was a similar product type, but I know a lot of people went upside down on their mortgage and that development. I do not know how or what the changes or conditions were or maybe the market was at a hot spot and people bought in and the market crashed. There is a lot of factors to it, but I know a lot of people who bought into Halelani and it was a good thing. They have all moved onto bigger houses, then you get a project right next door that a lot of people are struggling on it. There are so many different factors. I would be interested to know what type of factors affected that type of thing.

Mr. Hull: I can definitely say for the Ho'okena situation, literally, it went on the market at the market's peak point, right after those homes sold the bottom dropped out. There are other factors that I think you are getting at Chair, but that was one of the biggest issues. That is something that is constantly going to be within the environment of providing housing, though, it is what the

market bears particularly given the fact that we cannot escape much of Hawai'i's real estate market is speculative driven.

Council Chair Kaneshiro: If you look at it, Ho'okena at Puhi would have been very similar to what we would have wanted, but I guess the market messed that up. Are there any other questions from the members? Councilmember Kualii'i.

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

Councilmember Kualii'i: I see in your presentation with the bullets you have highlighted or focused on about eight (8) recommendations of what is here on page 11, 12, and 13. Is that what you intend to work on first? Is that why you highlighted them?

Mr. Franco: Yes. We did whatever recommendations were provided. We asked the Office of the County Attorney to take a look at it to make sure it is recommendations we can start moving on and they cleared the recommendations listed on this.

Councilmember Kualii'i: The one bullet that is of prime concern is the one affordability term. It does not sound like a recommendation, it is saying this is what it is, this is what other people do, basically, saying you might want to look at this.

Mr. Franco: Yes.

Councilmember Kualii'i: I am sure we do want to look at this based on the problems we are up against now.

Mr. Franco: Right.

Councilmember Kualii'i: You said, "However, programs on the United States mainland, typically require longer affordability terms, such as forty-five (45) years." Are there others that are longer than that?

Mr. Franco: I am aware of some that stretch out as long as sixty (60) years. I think the 45-year number comes as a middle ground to what is...

Councilmember Kualii'i: Are there ones that are in perpetuity?

Mr. Franco: That would be more along the leasehold or the Community Land Trust model, which has a 90-year to 99-year lease, which is considered a period of affordability requirement.

Councilmember Kualii: Are the other Counties in Hawai'i are in the 20-year range?

Mr. Franco: Yes, most of them are in the 20-year, some are in 10-year, I think Maui may have recently reduced theirs to ten (10) years. I know there is a table in the study that does break down.

Mr. Dahilig: There is a table in the study. Let me see if I can get that for you.

Mr. Franco: Yes, that compares the different Counties and their length of their...but they are along the lines of twenty (20) years, where we are at.

Councilmember Kualii: If Maui was twenty (20) years and they reduced to ten (10) years, does that just happen?

Mr. Franco: Let me see if I can pull that up. I am not sure if it was Maui County, but I believe one of the other Counties recently made some adjustments to their restriction period.

*(Councilmember Kagawa was noted as present.)*

Councilmember Kualii: The only other thing on this is long-term affordability term, such as forty-five (45) years. In the book it continues on with the term reset, each time the unit changes hands. That means for this one example you was on the mainland where it is set at forty-five (45) years, if that current owner after ten (10) years sold the property, it would restart the forty-five (45) years.

Mr. Franco: That is the way we have it right now. The 20-year restriction, if for some reason the owner sells within the twenty (20) years and the County exercises its right to purchase, when we sell it again we...right now, the way the Ordinance No. 860 reads is we sell the property by leasehold. If it is a fee simple resale, we will reset the twenty (20) years all over again. If for some reason we have to sell it by fee simple, we will sell it again and tag on that 20-year restriction—it will start all over again.

Mr. Dahilig: Councilmember, for your information, it is on page 17, there is a matrix comparison of all the different Counties given the present policy on affordable housing.

Councilmember Kualii: Okay. So you are not actually, as the Administration or agency, recommending anything. Are you saying we should look at it?

Mr. Dahilig: It is worth taking a look at. You hear a lot of the same chatter concerning affordable housing studies and theories on perpetual affordable housing is one that always tends to come up. You always hear that on one end, but you always hear the down-stream issue, which is the maintenance over time, the depreciation cost and these types of things make it overtime not tenable for the government to continue to hold. One classic example is, if you look at Kūhiō Park Terrace in Kalihi, that had to get disposed of by the government because of the infusion of new capital had to be done through a public market type of situation. Sometimes the idea of perpetual affordable housing can be the flavor of the month, or the song of the month, those are things we have to be weary of when you look at the planning period that extends beyond just the now, but things that go twenty (20) years, like Steve said, twenty (20), forty (40), sixty (60) years and whether or not the product that you are building makes sense to keep it perpetuity given the depreciation and maintenance cost over time.

Councilmember Kualī'i: I would not think of it as "flavor of the month", but more as a value of wanting to have people remain in their homes.

Mr. Dahilig: That is a fair assessment. We want to make sure that at the end of the day we are not creating a "Trojan horse of costs" as you have seen with some of the other products, like you have seen in Honolulu.

Councilmember Kualī'i: Okay.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a couple small ones. I appreciate all the quality questions of my colleagues. Can you give me an example of a Community Land Trust (CLT) model that is on this island?

Mr. Franco: There has not been a specific CLT set-up here on Kaua'i. I can tell you that the leasehold program that the Housing Agency currently has for the sale of County-owned properties, it follows the CLT model. To give you an idea, just a brief description of our leasehold program; it is a 90-year lease and the County retains ownership of the land and the improvements are sold to the homeowner. It is sold at an affordable price below market. In most cases, we have income limits on who we can sell certain properties based on the funding we have to acquire the properties. It meets all of the requirements because most set times where we are targeting eighty percent (80%) of the AMI and below when we do these types of sales.

Councilmember Cowden: Would there be a classic example on any of the islands, if I wanted to look at it for a better understanding?

Mr. Franco: I know on Maui, Nā Hale O Maui is a CLT that has been quite successful. They started off with some funding from the United States Department of Housing and Urban Development (HUD) through the neighborhood stabilization program. They were able to grow into a thriving CLT. I believe Hawai'i Island has a CLT—I cannot think of their name, right off the top of the bat.

Councilmember Cowden: I can look at Nā Hale O Maui. It is good for me to have a template to look at. Just a small question on “continue to allow in-lieu fees”—that is something that does make sense to me, because smaller projects, my theory is to donate some of that then collectively we could be using it. Since we have not had big resort building recently, what is our threshold right now? Do we have much that is in-lieu fees that we are sitting on? Is that in our General Revolving Fund?

Mr. Franco: That is correct.

Councilmember Cowden: It is in our General Revolving Fund. Okay, I heard that was something that at federal-level, they were going to move us away from being able to do, but that has changed.

Mr. Franco: I am not aware of any Federal mandates.

Councilmember Cowden: A few years ago it seemed like we were having to wait on new development to be able to be getting anything. It seemed like we were having to wait on new development to be able to be getting anything. It seems like if we just have in-lieu fees—seems to me like a practical way to get it. This is just recommending to continue that.

Mr. Franco: Yes.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Chair. After looking at the recommendations and getting a sense of knowing where we need to go, where we need to get to and the current situation, which is no one else is developing. In fact, we are the only ones developing anything that is affordable. I guess, the gaps and the questions for me are—we can work on this—I am not sure we can get to where we need to get to, as far as Ordinance No. 860 goes because for developers it is just a no play kind of activity. The question for me is on a larger scale—what is the capacity of the County, if we are going to be the only ones in the market of building homes at an affordable level and how are we going to reach there? As you can see with what is

forthcoming, we are not going to reach that nine thousand (9,000) mark, not just with what we are trying to accomplish. When I take a step back and how do we actually solve the issue? I appreciate some of this, but I just do not think it is, maybe even aggressive enough, from a standpoint of where we are looking at from a planning perspective to really address the needs. That comprehensive look at something that I think we have kind of skirted on and to grasp it is such a big discussion. I want to know where that is for us as a County.

Mr. Dahilig: One illustrative example of working under the hood on an issue like this has been what we have been doing on Rice Street. That ten (10) or eleven (11) years ago the Council had first passed the Līhu'e Town Core and said everyone is going to come—that did not happen. Then we increased certain incentives regarding density and these types of things and that will do it, but that did not do it. Pouring in fifteen million dollars (\$15,000,000) of Federal money for the street—maybe that will do it. Water—we have to go through a lawsuit because we are having issues with water capacities—maybe that will do it. It is almost like you are dealing with an Apollo mission, where you have to look at mission control and the necessary switches and say which ones you need to turn on and off to try to get to the question you are posing. Just looking at Rice Street as an example, trying to look at it across the whole island is a little more complicated. This does give us a window, though, into things that may loosen up certain things, but I would agree it is not necessarily going to be the one-two punch that everyone is looking for from a quick-fix standpoint. If you look at page 20 of the study, it shows you we are a new housing desert. Food deserts, health deserts, I mean, that tends to be the phrase of the month, right now, but we are a new housing desert, where you look at the amount of units that have been produced in five (5) years. It is very paltry and it should alarm everyone what we are yielding from an as needed basis. What the County can do—we are being very competitive, to a point where I am sure Steve would say, that the other three (3) Counties are actually upset at the amount of money we are getting for our programs. There is one (1) project that has not been mentioned that is Pua Loke project, which is another fifty (50) homes.

Mr. Franco: Fifty (50) units.

Mr. Dahilig: We have word that we possible will have some good news to share shortly, but we are competing on things in the order of dozen of units, not hundreds of units. The only way we can actually get to that level is trying to stoke some of the private sector investment in some of the smaller unit types to try to get some things in the ground.

Councilmember Chock: My comment, in no means is criticism of the work, actually, I am very happy. I am talking about, while we are riding that wave, what can we really do in capacity from a County perspective? Since we are there, I

would like to leverage that as much as possible to whatever degree and be really aggressive in unique ways to address the housing issue.

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

Councilmember Evslin: On page 31, it mentions the total development costs for single-family homes, townhomes, and condominiums—it looks like it ranges from four hundred twenty thousand dollars (\$420,000) for a condo, to five hundred eighty-one thousand dollars (\$581,000) for a single-home or a duplex in just developing cost, which include permit fees and assessment fees and infrastructure. What have we been looking at, typically, in our own housing developments per unit cost?

Mr. Franco: I am glad that you asked because we just had a coordinator's meeting in Honolulu last week and a lot of the talk was about costs. When we put our action plans together for all the Federal funding that we have to apply for on a regular basis, the consensus was around four hundred fifty thousand dollars (\$450,000) a unit.

Councilmember Evslin: Is that after Federal funding?

Mr. Franco: No, this is before Federal funding.

Councilmember Evslin: What are we looking at with all the funding sources that we have, kind of ballpark?

Mr. Franco: With the subsidies, I would say under three hundred thousand dollars (\$300,000). When you take into account all the funding sources that are available through HUD, you need to figure out, then throw in the low-income housing tax credits, as well. It could fluctuate, but if we were looking a normal project the average per unit before subsidy is ranging around the four hundred fifty thousand dollars (\$450,000) mark, right now.

Councilmember Evslin: Does that decrease when we do higher density projects? That is for a single-family home, I am assuming.

Mr. Franco: Yes, it would.

Councilmember Evslin: Alright, thanks.

Council Chair Kaneshiro: Are there any other questions from the members on any of the studies? Councilmember Kualii.

Councilmember Kualii: On page 16, the last paragraph under residential it says, "Kauai requires that for sale units be affordable for twenty (20) years and rental units for forty (40) years." That is what is also in the chart.

Mr. Franco: Yes.

Councilmember Kualii: That is when the project is built and intended for rental.

Mr. Franco: Yes, that is correct. If it is a proposed rental project.

Councilmember Kualii: When the developer is entering into that project, if it is part of their requirement to satisfy affordable housing, is the County asking that it be designated for sale and rental?

Mr. Franco: Yes.

Councilmember Kualii: Would we allow them to be just for sale and they would be limited to twenty (20) years?

Mr. Franco: Yes, if it is just for sale.

Councilmember Kualii: Was Waipouli Courtyard that?

Mr. Dahilig: Waipouli was pre Ordinance No. 860.

Councilmember Kualii: Okay. If it was with this it would have been forty (40) years, instead of twenty (20) years.

Mr. Dahilig: It would have been and I think that is...

Councilmember Kualii: In essence too, that kind of leads you to realize that there are other projects out there approved and yet, to be built that this would not apply to, so they have either twenty (20) or less than twenty (20) years.

Mr. Dahilig: In fact, Councilmember a lot of the larger hotel resort projects that have not been built yet, have received permits and approvals prior to the enactment of Ordinance No. 860, so their applicability to the current Housing Ordinance does not come into play as you are alluding to. It was the practice in the past a case-by-case type of analysis that lead to what ended up having to be built for affordable housing. The unfortunate thing as I mentioned previous, nothing has come through the pipeline at that scale after Ordinance No. 860 has come

through. A lot of what we are discussing here, really is theoretical rather than the reality of what we have coming over the horizon.

Councilmember Kualii: Legally there is no way to go back and undo what is already destined to happen.

Mr. Dahilig: There are ways, but that is probably better for the Planning Director and the Attorney to discuss with you.

Council Chair Kaneshiro: Are there any further questions? I know it is a lot to digest. It is a study we have been anticipating for a long time. If not, thank you. We will take public testimony on this.

MICHAEL HULME: My name is Michael Hulme. I am just trying to respond on the fly to what I have heard here. Your points are great, as far as, what is the burden the County can continue to absorb, what is the incentive for the developers to come up with things like affordable housing. There are some odd statistics we have already heard here today that serve as the answer to all of this. We heard some statistics earlier that said there are fifteen thousand (15,000) to twenty-five thousand (25,000) rental cars on the island. There is twice that in tourists that makes thirty thousand (30,000) to fifty thousand (50,000) tourists a day. There are how many homes on the island? Thirty some odd thousand. You go to developments like Kakela Makai where every home is allowed an ADU. You talk about laws that are going to increase the available density islandwide to two (2) or three (3) homes. In other words the point is we have one (1) natural resource that is renewable, that is our tourism. As much as people in Hanalei or elsewhere want to hate tourism, you cannot go work at Raytheon, Boeing, you cannot go sing at the local playhouse, unless you can dance hula and do not look like me. You cannot go to all of these other types of career places and do this. We have one economy and beyond that we have medical and government resources. This is it, the tourists are here and people can be allowed to host them and instead of being bitter about the haves and the have-nots, instead of being bitter about the fact that they have two (2) and three (3) jobs and are barely making it. We are asking what the AMI is to affordable housing, what is the AMI to just normal housing and how close are those people to slipping? Were they the illegal renters? Are they the people that are making it? Just because of that. Are they the people that head of planning and others who have law degrees are looking to make a litigated issue out of our lives? They are looking to fine them ten thousand dollars (\$10,000) a day. The point is, these people can live not only affordably, but they can live here for free. They can live here for free by them getting one of those thirty thousand (30,000) to fifty thousand (50,000) tourists lodged. We are talking about lodging, we are talking about housing, we are talking about a housing problem, how is it affordable? The County cannot build it affordably, they cannot do it, they cannot build every affordable house that is necessary, right, but you all have tourists, so perfect match. Lodging problem, housing too expensive,

tourists want lodging. You can make that work by changing planning's philosophy. Do not have planning led by litigation. Do not have planning that attacks your citizens. Do not have planning that threatens unconstitutional ten thousand dollars (\$10,000) a day fines, but rather get planning and resources that can tell you how to make this place...embrace to tourism. Take a Country like Italy. I got married at a church that was built in the 4<sup>th</sup> century, four hundred (400). There is not Grand Hyatt's and Marriott's in all these cute little quant towns in Italy. They have their own culture preserved. They have ancient foods, types, dialects, wines, and vineyards, but why? Because they host their own tourist. They maintain their own culture and *aloha*, they truly have *aloha*. They do not have bitter have and have not attitudes anymore. They maintain their culture and they embrace their tourist and they reap it. There is none of us reaping the dollars of these tourisms.

Council Chair Kaneshiro: Mike that is your first three (3) minutes. You can have another three (3). I just need to see if anyone else wants to testify on this item. You can come back after everyone has had a chance.

Mr. Bernabe: Matt Bernabe, for the record. I have two (2) points I want to make, but before I start, I was listening to the Planning Department and they were saying a lot of things. One of the things they said is, you are not going to be held to pay that whole lien, until you resell. That is not actually true, if there is any kind of problems, the bank has the right to make you pay your lien, then you need to refinance. I was contacted by a banker who is watching this and they are basically, telling me a lot of things that went over my head, but I did get the gist of it, that is, if there is any kind of speculation of a problem, the bank has the right to collect its money. So when you have these government projects, you already are on thin ice. It is not like a regular home they can take and resell—that is the problem. Is that a bank cannot come in and take one of these nice government houses and resell it—that is the risk the bank takes. That is why the Planning Department was kind of falsely leading you folks, maybe there is a reason why there is all these high-risk foreclosures. The points I want to make, which that was not the main point. The first point that I want to make is, the gentleman was just talking about it. We already talked about how many tourists are here and how many problems we have, but everyone knows that I am a solid waste person. Just the other day Kekaha shut down, the ram broke. You folks must be aware of that, right? Yes, all your County employees tell me every little thing. I will not name names, I cannot say their names because that is the kind of environment you folks made. There are problems because we do not operate on best practices. They are afraid to tell their supervisor to have the problem solved. If we have problems in solid waste, where are these ten thousand (10,000) people going? Where are these ten thousand (10,000) new homes? Where is all their rubbish, *opala*? Before we build the roof, let us build the foundation, let us get our infrastructure there, let us get caught up. It may be a house drought—I will say this, I was naïve to this problem until a friend of mine was mad at me for making little that he was getting his house sold for top dollar and needed

to find a rental. I told him he a lot of money just go find...I did not realize this is a serious problem, but so is the rubbish, the infrastructure, and the road capacity. So I think before we put all our energy into actually building the houses, let us get our sewer in Kapa'a Town better because I know my house is still stink at the stop light. Let us get houseslots tied in so we can fill the void that they are saying we do not have enough sewage. Let us do things like that before we worry about ten thousand (10,000) homes.

Council Chair Kaneshiro: Thanks Matt. Former Councilmember and Mayor, JoAnn Yukimura.

JOANN A. YUKIMURA: Thank you. I am JoAnn Yukimura. I just wanted to answer Councilmember Kagawa question about Halelani. It was built out of the sixty percent (60%) inclusionary zoning applied by the Land Use Commission to Grove Farm. That is one of the reasons it happened. I also want to say that we have built, I think two thousand seven hundred (2,700) homes over the last forty (40) years and it is instructive to look at how those homes were built—affordable homes. They were built with the forty million dollars (\$40,000,000), in part, with the forty million dollars (\$40,000,000) that we received after Hurricane 'Iniki. You need some substantial capital, if you say we are going to build affordable housing just on Federal money's and we are not going to put any money's in from the County, then affordable housing is not a priority for this County. As you know, I proposed earmarking a three percent (3%) of real property taxes just like we do earmarked percentage for natural areas and shoreline acquisition. We could have done it based on higher taxes on real property high investment, high priced real property without affecting our local homeowners. There are solutions, but we have to be willing to bite the bullet. Indeed, the amendments that my Affordable Housing Advisory Committee worked on, was dropping the inclusionary zoning to sixteen percent (16%). We were going to do it by asking for land and off-site infrastructure, so that really cut the sixteen percent (16%) in half, on top of that, you cannot do it without some form of inclusionary zoning. People who make money off of developing land on Kaua'i should help to build housing for our people. Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: JoAnn, can I ask a question around the project that were in question. You said sixty percent (60%) inclusionary zone on that property.

Ms. Yukimura: Yes.

Councilmember Chock: That was before Ordinance No. 860, apparently.

Ms. Yukimura: Yes it was. It was a too onerous requirement.

Councilmember Chock: That is why it never happened again.

Ms. Yukimura: That is correct. It was the Land Use Commission thinking about how they were going to produce housing. Recognizing what it would take, but it was not fair to put it all on the developer. I think the direction that my Affordable Housing Advisory Committee was going, which was much less to eighteen percent (18%), then half of that by land and off-site. So you saw the permanent affordability problem because the County owns the land and even when the houses deteriorate, you still have the land on which to build new housing. The Kukui housing sited by the managing director is somewhat unfair, because that was an early project, it was fraught with short-sidedness. I think you need to look at Kalepa Village and Pa'anau, where Gary Mackler, Ken Rainforth, and others insisted on maintenance reserve where Federal officials now come and look at Kalepa and say, "That is public housing?" In fact, it is. We have been learning a lot about how to manage. We have to continue to learn more because that is the way to insulate housing from the market because if we let it go into the market, it is gone.

Council Chair Kaneshiro: Thank you.

Ms. Yukimura: Thank you.

Council Chair Kaneshiro: Is there anyone else?

GREG CROWE: Greg Crowe. This is obviously on the fly and you just heard the presentation earlier today. I would like to prepare more extensive comments later, but I think one of the recurring themes that keeps coming up and has been mentioned somewhat by our current Managing Director and Councilmember Chock brought it up. Going back to years ago, our then Deputy Planning Director and now Planning Director, said there is a common theme we hear from affordable housing developers who are building elsewhere. There are successful models that affordable housing is being built elsewhere rather than trying to figure out how to reinvent the wheel, why do we not bring in affordable housing developers that are successful, elsewhere, and ask them what would they need to build affordable housing here on Kaua'i? One of the comments I have heard—going back to our former Deputy Planning Director and now Planning Director, hopefully this is still current Ka'āina, you can tell us, but he said that what he was hearing from a lot of these affordable housing developers successful elsewhere seeing the need in Kaua'i, coming here looking to help and saying we cannot do it in Kaua'i. A lot of reasons go into it, but the number one reason was what they called the discretionary nature of our approval process. That is something that is almost entirely within the Counties own control—to streamline and make consistent how projects get approved. It should not take five (5) to seven (7) years to get a project approved. The best County's in the

country are doing it in thirty (30) to sixty (60) days. The State Legislature itself, in Resolution 201H, they provided a 45-day period, that when a project is submitted for approval, it has to be approved within forty-five (45) days. That kind of certainty of the process is what is needed, first and foremost, for any developer to look at taking the risk of developing with all the other things that are outside of their control, they should not have to have the government approval process be something they cannot determine ahead of time what it is going to take to get it done, how much it is going to cost, and not be hit after-the-fact with new changes. There are reasons, I am sure is going on from the County's side, we need to look at it, I am not blaming the County, I am sure there are reasons the system has evolved to prevent abuses and so on, but there are ways that is being done elsewhere and I would suggest that is what needs to be looked at to bring in the experts who are already doing it elsewhere. We can learn from successful models with how to solve the problem and it is being done elsewhere, that is my biggest comment. I think there is a lot of individual things we can address, but again, going back to what Mike Dahilig said today, taking this piecemeal approach as Līhu'e Town Core, he said changing the zoning code, changing the water, changing this—all those things we thought that was going to do it, changing traffic—it did not do it because they were piecemeal that was not part of a consistent overall systems approach that is looked at by experts who have done it elsewhere saying, "Yes, that is what we need to make it work here in Kaua'i." Thank you.

Council Chair Kaneshiro: Thank you. Bruce.

Mr. Hart: For the record Bruce Hart. First, I appreciate the presentation. I learned a lot. I agree with most of the testimony—not the latter part, but also, I will follow Councilmember Chock's line of questioning. I do not think it is aggressive enough. I think we all have to consider how many units we are behind. The focus has to remain as it is at this session. Everyone at this moment is focused on this issue and I really appreciate all the testimony of every Councilmember. That focus has to stay, I know in my personal life that I cannot spread myself too thin, I have to stay focused on whatever issue I am working towards. I am going to encourage you, we are going to have to keep fighting because it is a fight. Just like planning and the rest of it, there are all these issues they have to take in consideration. People think that it is just as simple as say it, do it. It is not that simple. Again, I appreciate what you are up against and it has to be a cooperative effort. We have to work with the Administration, we have to work together, we have at least, on some issues, we are going to have to work together and have a common goal. We are going to achieve this, we can do this, and we can bring it about. Now, my own personal perspective is that we are going to have to have more private enterprise, more private developers. We are going to have to woo them, we are going to have to offer them incentives, we are going to have to bring them in somehow, we are going to have to reassure them that what happened in the past will not happen

again and we will follow through. If we commit to something, we will follow through. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else for the first time? Does anyone else want to go for a second time? We will go in order, so Michael first.

Mr. Hulme: It is Michael Hulme, again. It is hard to know where to start on the topic of encouraging you Councilmembers, only because I admit I come here with a preconceived idea that you have already been taught to be anti-tourism in the way I look at it. Wooing developers or incentivizing them or getting them here would require an economy that functions, not shopping centers that are halfway dark or malls that cannot get tenants anymore or anything from a subway shop to boutiques closing down every week or restaurants that do not have the highway visibility for tourism that cannot survive—those all speak to the local dollars, those all speak the local spinning. People do not come to Kaua'i to go to the mall or to go to the back far reaches where Papaya's use to be, near the Safeway in Kapa'a—that is the local people. The reason those things go dark—there is no discretionary income, there is nothing left. Plus they are at work—three (3) jobs, so when do they have time. It is that kind of place where...but then to top it off the incentive to bringing folks here to build affordable housing, you also have to have affordable materials, affordable labor pool. This math does not exist right now. If we can put money in the pockets of our citizens through the one renewable natural resource that we have, which is tourism and train our culture and our world to do it, then we have discretionary income. The horrible confluence that just happened over the last ten (10) years is you have Directors of Planning who are anti-shared consumers and collaborative consumers in booking platforms. Airbnb is the evil word is it not? It is evil. That was the one chance for every citizen on Kaua'i to level the playing field with Marriott, with the Grand Hyatt, with any of these resorts. Finally, the internet gave it to Kaua'i, said here it is on a silver platter, you can now market yourself equal to the best. Welcome, now you get those dollars. Those thirty thousand (30,000) rental cars full of sixty thousand (60,000) tourists. Now they do not drive to an international company, taking the money off island, so that your subway closes down, so that you cannot afford your kid to go to college, you cannot afford a medical emergency, you cannot buy a second car, et cetera. We cannot let that money leave island when today, now, it is a flat earth—the internet has flattened the playing field. Now, Kaua'i can reap that benefit and you need at this point, at this time, thanks to that, you need more creative people than you are depending on, that are head of Planning or head of the County, that only have the experience of this microcosm that are not thinking about the Italy's and the seven (7) most toured countries in the world and the smallest continent on the planet that have already gone through this, that also have ancient culture in there and have preserved it. You are going to have to get more creative and reap the internet, reap the benefits, and do not vote seven (7) to zero (0) to penalize the same crowd that use to be at the

football games—five thousand (5,000) people, then thousand dollars (\$10,000) a day. That is not showing we understand the problem.

Council Chair Kaneshiro: That is your time. Thank you. Matt.

Mr. Bernabe: Matt Bernabe, for the record. You know, everything that I talk about is all about best practice. The gentleman talking about, we are not reinventing the wheel—his whole testimony can be summed up in one phrase, “Switch from past practice to best practice.” Our Planning Department is not even part of the National Ethics Board, so they are not running on best practice. Mike Dahilig stands up here and he said, “We cannot piecemeal it,” but what has he been doing for the last eight (8) to ten (10) years. He has been part of the problem. Now he is going to act like the hero solutions. Come on. Look, you folks are a pay-to-play entity. Let us just face it. I have heard stories where some of these B&B’s are passing because they are paying the fine, they are paying whatever it is even though the illegal ones that the County is not even going after. They only go after the ones that try to conform and be legal. As far as development goes, if we ran on best practice our departments, like Solid Waste, they would be able to report problems and get them resolved with the least amount of expenditure—that is time, money, and manpower. If we did that, then we probably could absorb some of these people coming in. We just repaved Ka’apuni Road after how many years? Repaved it, but, I have a funny suspicion they had to get to the pipes underneath, that is why they did it—that is what I believe, because I saw them dig up the pipes and fix some things. Just like how they did in Houselots a couple years back—we have all new roads because they did the water lines, not the roads. You go by Mahelona three (3) years ago where I broke my upper ball joint, not one piece of asphalt there. You come out here, brand new planters right in front of the County building—unnecessary. Rice Street—brand new sidewalks. All of these things on Rice Street that they are bragging about, that they said is not even working. They just testified it is not really making the density that they thought it would do. So we wasted that, that should have been Kapa’ā Corridor. I will always argue that. Development—until you have the bankers in the office with you folks planning, until you folks have a qualified department head in Human Resources—a department head, which I think you will have a hard time getting a qualified one, because they do not want to work for you folks, and that is who you need to have in the meeting when you are planning. It is not just about the houses. Planning is the whole community, down to the empty stores.

Council Chair Kaneshiro: Is there anyone else? JoAnn? Greg? Then you, Bruce.

Mr. Crowe: Hi, good morning, again. Greg Crowe, again. Several other major factors that need to be put into a comprehensive plan here that we all sort of know are lurking out there, but have not been addressed. First and foremost is, what is our real need and the timeframe for affordable housing? We hear

these plans from the General Plan that says, “We need nine thousand (9,000) over the next twenty (20) years,” but in fact, if we are going to keep our current population, we are going to keep our current culture—we cannot wait twenty (20) years to provide that housing. We need to do within the next five (5) years or those people are going to be gone permanently, irreparably, and we will have lost what we all love about Kaua‘i. We have to do something fast, we need to do it consistently with a good plan, but it has to be planned for five thousand (5,000) units in the next five (5) years. That means we are going to have to bring in some of these successful developers who know how to do things quickly, efficiently and affordably. Also, design them, plan them, and budget them, so they are going to be maintained properly for the duration. Again, those are being done elsewhere, we can bring them in here and make them happen, but we need five thousand (5,000). If we are not talking about a plan that is going to create five thousand (5,000) houses in the next five (5) years that are affordable, then we are not solving the problem, we are just kicking the can down the road. I can go on for a day on that alone. The other thing that was mentioned a little bit, we really need to focus on is our missing middle. Those are our nurses, our doctors, our lawyers, our shop keepers, our police—the people we critically need to service both the low-end people and the high-end people in our economy—or we do not have a functioning economy. We need those missing middle people. We need to be building affordable housing for those people. We have done a job...the County is really focused on it, of building things for those people at sixty percent (60%), eighty percent (80%), and below—great they need housing, but who is going to service their housing? Who is going to service their medical needs? Their healthcare needs? Their paramedic needs? Their Police needs? We need to have that workforce housing and the gap housing, which is defined, as you all may know, gap housing is people who are making too much to qualify for any of the existing assistance programs, but not enough to qualify for financing on their own. Two (2) teachers married and living together, fall into that gap housing. You want to know why we do not have good teachers on the island. They cannot afford to stay here, like a lot of our critical employees. We need to solve the missing middle, second point. Next point, the permanent affordability. Again, there are model zones where they work that keep it permanently affordable and have the money to maintain them and keep them looking nice and functional indefinitely. We can copy those models and bring them here. The other big issue—my time is about to run out—probably the biggest issue that has been hiding in the closet. We have, literally, a tsunami we know is coming, it is called sea-level rise. We have to be addressing that issue, not only for our exist...any new housing has to be built out of it and the infrastructure for it has to be out of sea-level risks zones. We have to figure out what are we going to do about all the existing housing that is in levels that are going to be hit. We have already seen a small taste of that with what happened in the north shore. One of the standards being seen elsewhere, the 100-year storm is now the 10-year storm, we need to plan for that as another part of our overall addressing this issue. Thank you.

Council Chair Kaneshiro:

Thank you.

Mr. Hart: For the record Bruce Hart. In regards to a missed opportunity with Airbnb, Transient Vacation Rentals (TVRs), and the rest of it, I am not for turning Kaua'i into a ground-level hotel. The way to preserve culture is to preserve neighborhoods. Neighborhoods where people buy in, raise children, and spend their lives there. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else for a second time? Is there anyone else wishing to testify for their first time? If not, I will call this meeting back to order.

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

Council Chair Kaneshiro: I do not want a stifle conversation. We are 12:20 p.m. and I do want to get to the Waipouli item, so if anyone has to say something let us make it important and say it quick. I would like to get Waipouli done too, before lunch. Councilmember Kagawa.

Councilmember Kagawa: I want to agree with that. If we can take the Waipouli item, but then we have something at 1:30 p.m., so I am not sure if we will be able to finish it realistically. If the Waipouli item is going to be fast, then I can see us doing it. I want to thank everyone for their input. Some of the comments I have heard makes it seems as though there is a silver bullet out there and there is no silver bullet. Hawai'i is the most expensive place to live and that is the main problem. The market dictates what the price is going to be and that is a main hurdle. Even if you were to tax three (3%) on rich properties, how much money would that generate? How much families are you going to help? Forty (40)? You want to help forty (40) people out of nine thousand (9,000)? That is going to take so much years. The better way is to cut and support budget cuts to places like the Fire Department, where the increase budget has gone from thirteen million dollars (\$13,000,000) to forty million dollars (\$40,000,000) in thirteen (13) years. Now they are coming up for a five percent (5%) per year raise, again. It will be ten percent (10%) every two (2) years they are going to go up. How is the budget going to be sustainable? Support budget cuts, do not support tax increases. Tax increases is the last resort. Hawai'i is second in the nation in taxes. Do we want to be number one? Do we want to overtake California? Where is the plan? You want to have a plan, you want to sell it to the people? Run for Mayor.

Council Chair Kaneshiro: Is there anyone else? Thanks.

The motion to receive C 2019-146 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 Brun was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

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

Ms. Fountain-Tanigawa: Chair, do you want to go to Courtyards?

Council Chair Kaneshiro: Courtyards, the Resolution.

Resolution No. 2019-40 – RESOLUTION SUPPORTING EFFORTS  
TOWARDS PRESERVING THE AFFORDABILITY RESTRICTIONS AT  
COURTYARDS AT WAIPOULI

Council Chair Kaneshiro: We already have a motion and a second. Are there any questions on the Resolution? Councilmember Kagawa.

Councilmember Kagawa: First, I want to thank Councilmember Chock. We tried, we talked to Larissa and almost wanted to cry when you talk to some of these residents that they are paying high rent for that location. If you are talking about affordable and having two (2) kids. I did reach out to Senate President Kouchi, one of the ones who were there at the time, we have the same answer. That Bill they had was a gift from the developer, Mr. Showe, when you think back, you think how could we make that better, but the Council at that time felt it was a gift for the County that he gave it at that amount. I did not understand all of that, because I was not on the Council at that time. You have a developer who is no longer interested in dealing with the County and helping us out, knowing families will be suffering and out of housing. The only way, I can see, we can help the local residents out, we have to find them alternative options, because this person does not want to. He wants to deal with the market price and that is it. I do not know whether this Resolution is going to seek to get the developer to try and deviate from what he stated, but I do not think that will happen. Again, it is not because a lack of effort, I think the Administration has tried as well, but if the owner does not want to give us any break to help the people and wants to be selfish with his needs, he has the right to do so. I think we should spend our efforts looking for alternative housing. I hope there are some gaps in our current housing that can accommodate some of these people. Hopefully, we can move them up on the priority list, as far as people like Larissa with her family. Anyway, that is my hope with today's Resolution. We can somehow help as much as possible with the current affordable housing that we have out there and fit them into what we have, at least, for the immediate time. Thank you, Chair.

Council Chair Kaneshiro: Let me just update everyone on the progress of it. Right now, the County, we did send a letter back to the developer, asking for...saying we are going to go through the appraisal process. Previously, the thirty-seven million dollars (\$37,000,000) was just an asking price. We do not know if that was fair market value. We do know that if HHFDC is going to buy it, they will need an appraisal. Basically, we are taking that first step and ask for an appraisal, what the number comes out to be, we do not know if we can afford it, but it is the first

step. Again, we cannot force anyone to sell to us, we cannot force anything, but this is the first step; to see what the values are of these units, and if there is a willingness to purchase and a willingness to sell. That is the process we need to go through. I know our Resolution helps because HHFDC wanted to have the commitment that we agree to move forward in this way. The Administration has already set the progress in motion by sending a letter regarding the appraisal on the property, so I think the wheels are moving. How it will end up at the very end? We cannot predict. In the end, it is going to be like any other sale. Someone has to agree to sell, someone has to agree to buy, but I think these are the first steps we need to take to get anywhere. Councilmember Chock.

Councilmember Chock: Thank you, Chair. On process wise, I know people are here for it. I do not know if you want to get to the testimony, as soon as possible. I do have some questions for the Administration. Thank you for putting the Resolution forth, I think it will unanimously pass. I think there is a role we need to identify and define of where the County is going to be active. That is where my questioning lies in. How much can we put a figure on it to slow the process down in order for the County and its partners, such as HHFDC, to step in and look for solutions to accomplish them? That is the kind of affirmation I want out the session. Thank you.

Council Chair Kaneshiro: We can take public testimony now. We will see what time we are at. I do not mind cutting into our lunch time to get this item done. I do not see us disagreeing on the Resolution. I can almost guarantee it will pass unanimously. I would like to get everyone to testify and then any questions if you do not mind going into lunch. Just having that in mind. Councilmember Kagawa.

Councilmember Kagawa: Can I suggest we at least stop at 1:00 p.m., we need to give at least the staff a half an hour break for lunch because we need to be here at 1:30 p.m. We have an appointment.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I apologize, I have a meeting at 12:30 p.m. so I can run out and come back as soon as possible, but we can continue with that.

Council Chair Kaneshiro: Yes, I think we have enough. I will take public testimony. Okay, we have twenty (20) minutes.

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

Ms. Fountain-Tanigawa: We have registered speakers. The first registered speaker is JoAnn Yukimura followed by Larry Graff.

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

Ms. Yukimura: Thank you very much. JoAnn Yukimura speaking as a private citizen in favor of Resolution No. 2019-40. I am actually paying a babysitter to take care of my granddaughter right now, so I am overtime. I appreciate this opportunity. I want to thank the Council Chair and Housing & Intergovernmental Relations Committee Chair Kualii for putting the subject Resolution on the agenda. I also want to thank Councilmember Chock who has been pushing for such a Resolution for many months. *Mahalo* to Councilmember Evslin and Councilmember Cowden who have tried to help and to Councilmember Kagawa and Councilmember Brun for your desire to support affordable housing. Finally, *mahalo* to Mayor Kawakami and his team for their leadership in invoking the County's contractual right to buy Courtyard at Waipouli at a fair price in order to preserve its original purpose, which was long-term affordable housing for those who live and work on Kaua'i, not visitor units or vacation rentals when we are already in a state of over tourism. I also want to, with your permission Chair, speak for Kamalani Kauai, who wanted to come and was planning to come today, but her child got sick last night and she sent me E-mail testimony and it is three (3) minutes.

Council Chair Kaneshiro: It is all within your three (3) minutes.

Ms. Yukimura: No, it is not within.

Council Chair Kaneshiro: It will be within your three (3) minutes.

Ms. Yukimura: Alright, then I will wave my testimony in order to give hers. *Aloha* County Council, thank you for your time to listen to our community's plea. My name is Kamalani Kauai of Kapa'a. I was unable to attend due to illness of my son, but I hope my voice will be heard despite my absence. I am the eldest sibling of five (5). I will be speaking on behalf of my family who lives at Courtyard at Waipouli. We can all agree that one crisis we face in our community is the housing crisis. As you probably already know affordable housing is difficult for many families on Kaua'i, forcing people to get multiple jobs, move farther than they want or move back with relatives. The waiting list for affordable housing here can take up to months for some to hear back with any hope, sometimes even longer. It has led many local families to leave the island to find affordable housing on the mainland. My family has gone through all these experiences and we even had to move to Washington due to more affordable housing at that time. Chair, I spent most of my three (3) minutes thanking all of you, so could you just give me this time?

Council Chair Kaneshiro: You will have another three (3) minutes after the first one.

Ms. Yukimura: Okay, then I will come back for the six (6) minutes.

Council Chair Kaneshiro: Okay.

LARRY GRAFF: Larry Graff, Executive Director of Neighborhood Housing and Community Development Corporation. Honorable Chair and members of Council, I want to thank you today for putting this Resolution forward. I want to commend you for seeking to preserve your affordability at Waipouli. It is very interesting sitting in the audience. I do not envy any of you, you are in a tough position. You have to weigh competing interests in the community and competing viewpoints on how we solve this crisis that we have with housing. It is not an easy answer to preserve the affordability at Waipouli. It is going to be difficult. It is going to take a lot of number crunching. Councilmember Chock talked about what the role of the County is and I would urge you to take the role of someone to look for all solutions, to look for public/private partnerships, to seek funding where it is available, and to analyze where funding can be supplemented by the County. I cannot imagine that this is deal—and I have twenty-seven (27) years of experience in affordable housing development—I cannot imagine that this is a deal that can move forward without some County support in terms of not just the Resolution, but funds. There are a lot of private developers here with great deal of experience and additional capital put into a project like that. Neighborhood housing has been quietly behind the scenes looking at this deal very carefully. We think there might be some solutions. We stand ready to support you and you can reach out to us and we can talk to you about some of the innovative ideas that we have been looking at that could possibly help. I do not know where my three minutes went? I will make it brief. The Resolution is going to pass. We thank you, but the Resolution is where the work begins. Neighborhood housing stands ready to help and we urge you to take an active role to seek public/private partnership and to see if funds are available. Keep in mind, these units are built and people are living in them. You talked about the housing plan of the future. We cannot lose this housing now. We need to make every effort to keep it at four hundred and fifty-one thousand dollars (\$451,000) a unit—that would be roughly the cost to build these with no subsidy currently. This is an opportunity now for the County. Thank you very much.

Council Chair Kaneshiro: Thank you. Do we have anyone else who signed up?

Ms. Fountain-Tanigawa: No further speakers.

Council Chair Kaneshiro: Okay, Matt. The plan is, once we get to caption break we are going to have to take it. We will take public testimony until caption break, if that is what we need to. Then we will have to take another ten (10) minutes and we are looking at being around 1:00 p.m.

Mr. Bernabe: Matt Bernabe, for the record. I also support acquiring these units. I was curious. Are they all eighty-two (82) or forty-one (41) units? What are we looking at—all of them? I do not know the numbers. Is it eighty-two (82) units in that building?

Council Chair Kaneshiro: The whole project is eighty (80) something units. The affordable units is forty-one (41).

Mr. Bernabe: Are we trying to get all of them or just the forty-one (41)? Anyway, whatever we can get I would like to see that happen. I would just like to say that we need to make this deal the learning lesson of what not to do again, because this was built after 2009, after the bubble collapsed. The developers really got a sweet deal. They got cheap workers, cheap parts, built when it was real cheap. They got their zoning changed out in Līhu'e for their high-end hotel and now they are not playing ball. All we got was ten (10) years. Now we are here ten (10) years later. When we go in the future, like we were today, this better be in the negative column and not an example of how to succeed. This kind of deal making, which I believe that whole eighty-six (86), or whatever that thing we were listening to earlier is one of the reasons we got that. This is a bad deal. Ten (10) years for what they got is highway robbery. We were desperate at the time, but you need to have a better poker face when we go and make those deals. That is all I am going to say. I support it.

Council Chair Kaneshiro: Thank you. Does anyone else want to testify for the first time? Bruce, you are going to be here the second half of the day also. Anne.

ANNE WALTON: Thank you, Council Chair and Councilmembers. For the record my name is Anne Walton. I want to say I fully support as drafted, Resolution No. 2019-40. I think we cannot afford to lose the affordable housing inventory that we already have. It would be an assault on our efforts to increase the inventory by losing this opportunity. I want to thank all of you for your efforts over this year to try and find creative ways to increase our affordable housing inventory—it is appreciated. Taking new approaches is really important to building that inventory. Thank you.

Council Chair Kaneshiro: Thank you. Bruce.

Mr. Hart: For the record, Bruce Hart. I am in support of this Resolution. One of the reasons is that this affordable housing already exists. To preserve it, I think is wise. My question is, I think it is the question on everyone's mind, where is the money going to come from? Like Councilmember Kagawa says, "We are broke." I would really like to hear, I do not know if you are going to discuss it at this time, but I want to hear where the money is going to come from. Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify for the first time?

Mr. Crowe: Greg Crowe. I will try to keep it short. It is simply to support this Resolution. Hopefully, we can still save Waipouli although the delay in getting this going of course makes it harder to do, but perhaps it was good because it focuses our attention on a short period of time. Basically, it was already mentioned, if you take the average cost per unit at Waipouli that the developer already offered it to the County, it works out to about four hundred fifty thousand dollars (\$450,000) per unit. That is what the County itself was saying it costs them to build a place and that is not including the time delay, the displacement of all those people, the social costs, I think it is far cheaper to keep Waipouli than any other option the County has. Councilmember Kagawa, you were trying to brainstorm, what about using some of the existing housing we have, but we also heard them earlier today, talking about the vacancy rates and those units is essentially, zero (0), and they all have waiting lists. We know there really are no affordable units on this island. We cannot afford to lose ones that already exist. We need to build a lot more. I guess, I have covered all the things. One other point was that we do actually, from what I have read and heard with other testimony and talking to people about this, is that the County does have the right, right now, to force the developer to sell. It is a question of price. That is of course what the appraisal needs to determine. Then figure out how to finance it, but as Larry Graff also mentioned, there are alternative financing things and do not even have to impact taxes on everyone else. There are ways to finance it that does not require an increase in taxes. I think there are ways we can solve this problem. We just need to come together as we are doing now to work on it. Thank you very much for putting this on the agenda. Hopefully, we will all brainstorm to come up with a solution on this. At the very least, I would hate to think of this option, if we do not keep Waipouli, at least let us make sure it is a very, very big lesson to all of us that we learn from and never let this happen again. Thank you very much.

Council Chair Kaneshiro: Thank you. Is there anyone for the first time? I have eight (8) minutes left. Second time, JoAnn Yukimura.

Ms. Yukimura: Thank you. I will continue speaking for Kamalani Kauai who is speaking on behalf of her family who lives at Courtyard at Waipouli. I was reading that they have known housing crisis all her life, because the family of six (6) members have had to deal with it, even moving to Washington State for a period of time to find affordable housing. My family has moved about ten (10) times now. The Courtyards, now, is my family's only hope to have a solid place to stay until we can save up to buy our own home one day. County Council, my plea to you will be simple, please save the Courtyards at Waipouli. We need more homes for our local families. We need local families to stay here in the islands. When we can serve our families first, I believe the spirit of *aloha* can thrive within the home and

the community, creating more peace and prosperity. I support tourism because of how well the economy has prospered from it. However, it is true that the need for homes are far greater than the need for more vacation rentals on our island, especially at Waipouli. By buying Courtyards at Waipouli we will not only be ensuring local families with homes, but this will also make sure that these families will not be found hopeless and homeless. Please save these homes. Thank you all who are part of this. I pray that all will work out for everyone. *Mahalo*, Kamalani Kauai. Since I have a few more minutes. I want to say it is better to prevent homeless than to try to cure it. By buying Courtyards it will be homeless prevention at its best. These families have been trying to find other places to live and they cannot find it and it is very frightening and stressful. Except for several retired couples or retired individuals who live at Courtyards—the residents at Courtyards all work. A couple of the tenants as you heard, like Mr. Medina are bus drivers. Several tenants are in managerial positions in the visitor industry and food industry. One (1) tenant is a nurse who also goes to school. One (1) is an entertainer, actually, that is Kamalani's mom. I also met a security guard leaving for work. Several Councilmembers have stressed the importance of workforce housing, well Courtyards is providing workforce housing, right now. If some of the tenants are forced to leave Courtyards and have to leave the island, where are the poor employers going to find more workers. This will benefit employers, as well. "A bird in the hand is worth two (2) in the bush." As Greg pointed out, it is already built, it is families that we need to save. It is not more expensive than building a unit.

Council Chair Kaneshiro: Thank you. We have probably enough time for one (1) more testimony. I do not think we will have time for the vote. Michael you can come up. We are going to be taking lunch right after this and we will vote on it when we come back from lunch.

Mr. Hulme: I am sorry. I just want to say a couple things. I am kind of connecting what I was going over earlier along with some things that we just heard from that sweet testimony JoAnn read. People are saying they are doing the best they can until they can afford to buy a house of their own. I just want you to think about that math, as time goes forward. Things like capitalization rates are complicated to teach people, so we would not want to worry people with that, but we could explain, how does it help you out if you had two hundred dollars (\$200) more per month to pay your house payment? What if you had two hundred dollars (\$200) additional a day, right? So your house is free. The point there being, these people that are trying to save up, finally, after moving ten (10) times across the ocean and back, et cetera, and are dying for these affordable housing places to not go away. Those are brilliant transitional places for them to then later acquire a non-affordable house. Non-affordable houses we can attract developers to build. Non-affordable houses, spec homes, can be built. Those can be built at our labor rates, those can be built at our material costs, the problem and the challenge will be, how will anyone afford it when they are there? I brought up Kakela Makai briefly, I cannot afford a

home there, that is a very expensive place, but if you look at an open house, you will see this incredible little ADU in the back of a lot of them. They can long-term rent them, but that is not two hundred dollars (\$200) a day. That does not make their house payment free, that does not give someone who does not make much, who has a horrible AMI, a chance to consider that dream. These are the kind of ratios that are important to consider and it does take an innovative planning group to then encourage neighborhoods that are designed to hold both the homeowners and without making the whole island a flat resort, as I heard one criticism, also the tourist. With that said, we are ninety-five percent (95%) under developed, eight percent (80%) inaccessible, that is the nature of the beast geographically speaking. We are amongst the tourists, whether we like it or not. That does not go away if we do not have them paying our house payment, right? They are still here, they are amongst us—that is the reality. The point is let them pay for your kids college, let them pay for your medical emergency, do not just let them give you a maids job or give you a waiters job, or give you a maintenance job—let them pay for that life and do not vote against the opportunity for citizens that do that or you will have a lot more people looking for the low-income homes we do not have. Thanks.

Council Chair Kaneshiro: With that, we will need to take a lunch break. We will come back, we will finish up if anyone wants to testify when we come back, we can do that also and we will finish up this item. Be back for public hearing at 1:30 p.m.

There being no objections, the meeting recessed at 12:44 p.m.

The meeting reconvened at 1:56 p.m., and proceeded as follows:

Council Chair Kaneshiro: I know we were in the middle of testimony. Does anyone else want to testify on Courtyards at Waipouli? If not, I will call this meeting back to order. Does anyone have questions? Councilmember Chock. I will suspend the rules.

Councilmember Chock: I think this message is probably to Mike—that is who I have been talking to. It might be Housing, I do not know. Thank you Managing Director for being here. First of all, I appreciate Administration for moving forward on this. It has been months of trying to figure out what we can do and how we can do it. Mostly, my questions are trying to help the people who are showing up today, feel confident of what we are actually doing. I sent some questions out before this particular item.

There being no objections, the rules were suspended.

Mr. Dahilig: There are five (5) of them, right?

Councilmember Chock: Just for clarity sake. We want the public to know what the role of the County is. We understand thirty-seven million dollars (\$37,000,000) is a steep price for us. The County is not in a position to move on that, but we are wanting to commit to seeing how it does stay in affordability for these people and what mechanisms we can enact in order to ensure that process.

Mr. Dahilig: Okay. Mike Dahilig, for the record. Just so that we explain what “die has been cast” with the particular housing agreement. What we had as an option was the ability to purchase at the fair market price. If we did not agree with what the fair market price was, we had the option to request an arbitrated appraisal through a process, where we choose an arbitrator, they choose an arbitrator, and then, they collectively choose an arbitrator together. Then they sort out what would be the actual value. So, what we understood through the process of the actual discussions between the chair of HHFDC and Mr. Showe’s company, was that in order for HHFDC to open up its checkbook, they need an appraisal under State law. That is a bright line requirement that we cannot get around. We understood their discussions had broken down when the option of actually initiating a mutual agreeable appraisal on a mutual agreeable scope was not palatable to the developer. At that point the negotiations have broken down—that is when we went over to talk with the community to say, “Hey, look, we do not have the cash to do this. Our reserve is forty-three million dollars (\$43,000,000), if we were to spend thirty-seven million dollars (\$37,000,000) on this, we would essentially be wiping out our whole reserve for this. We do not have the cash for this.” But HHFDC has told us in subsequent conversations to that information, if they did end up with an appraisal, they would be willing to still have those discussions go on. As our contractual rights under the agreement with Waipouli, we are—and was the letter that was sent out in May, essentially saying we want a new appraisal. That is where we are, the thirty-seven million dollar (\$37,000,000) figure was an offer and we explained to them in the letter that we did not believe it was a fair market value offer. We also, do not necessarily agree that the product that they are basing their evaluation on, is necessarily the product that is allowed on the property. Those are certain items that we believe still allow us to engage and try to get to giving HHFDC the tools they need to engage in a realistic negotiation with the developer, but at this time that is the only role we can play at this point, because we have been very clear from the get-go that there is issues with our ability to...even at the offer price be able to fund thirty-seven million dollars (\$37,000,000).

*(Councilmember Brun was noted as present.)*

Councilmember Chock: In terms of HHFDC’s role at this point, they are encouraging us to continue that dialogue to get the appraisal, so they can be at the seat, in discussion with the owner.

Mr. Dahilig: I will say that we have open communication with them that this process is helpful for them. Now, as discussed before the break what that appraisal amount will yield—it is hard for us to speak on behalf of HHFDC that says for their own negotiation purposes that they would accept a certain value. There was some discussion that thirty-seven million dollars (\$37,000,000) was appealing to them, but again we do not know, as the chair mentioned in some of his comments, we do not know what the appraisal value they will come out with, whether it be higher or lower. What we do know as part of our obligation is to ensure that a fair market price is what is arrived at and that starts with our discussions with Waipouli to ensure that the scope of what they are actually appraising is agreeable between both of us, if not then we go to the arbitration process.

Councilmember Chock: In terms of other agencies or organizations that might have interest in helping to subsidize, is the County and Administration open to those partnerships and options? That might look at being a little more creative, for instance, in trying to fund it.

Mr. Dahilig: I think we are open to any solution that helps reduce the financial liability on the County to bear the full cost of this thing. It ultimately, again, we have to eat our whole reserve, pretty much, to fund this alone. The easiest checkbook is HHFDC, but if there are other opportunities either for public/private financing and those types of things—it is unfortunate that this does not sit in an opportunity zone, because that would have given some latitude to look at P-3 types of initiatives to do something out here, but it really does amount to who has the means to be able to purchase the fee on this. Right now, that only real game player in this would be HHFDC.

Councilmember Chock: When do you expect the appraisal to be completed and available?

Mr. Dahilig: We obviously would like it sooner than later. I think at the crux of this Resolution is language as we read it that would like the maintenance of status quo while this appraisal process continues. If we do not have a meeting of the minds when it comes to the scope of the appraisal we are going to have to go with it, as we go with it. To be responsible to the taxpayers, we obviously want to come to an agreement without having to go through an arbitrated process because that could cost a lot of money.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Just a follow-up to that timeframe. If we initiate this process and it draws out for months, does the developer have the option,

if he gets an offer that comes to the table, to accept that offer or once we initiate this process, do they have to wait that out?

Mr. Dahilig: It is almost kind of like a—how would I describe it—a yes, if then no, type of discussion, where let us say the appraisal comes out and it is at fifteen million dollars (\$15,000,000), I am sure there is going to be some discussion about whether or not HHFDC at their price point would still want to engage in that discussion. Again, we are relying on the experts to come up with these amounts—they are professionals—we can only put the best of it forward. It is hard to answer that question without pulling in the first, what-if, which is what would that price look like? It would be difficult for us to say okay what happens after that amount comes out. That is why we suspect Mr. Showe is hesitant to go through the appraisal process because it is a bit of—I do not want to use, crashout, but we can only guess what is going to come out of it.

Councilmember Evslin: Just to clarify a little bit, my understanding is that the affordability runs out in August, right?

Mr. Dahilig: Right.

Councilmember Evslin: We initiate this process, now, does that mean come September 1<sup>st</sup> or end of August, that developer could accept other offers, even if we have initiated this process.

Mr. Dahilig: That is something that I think, a discussion with our attorney's would make sense. My personal opinion is that we have initiated a process that they have agreed to contractually before the lapse deadline, so we would obviously hinge on that, but ultimately, that would be best left as a question to the Office of the County Attorney for disposal.

Council Chair Kaneshiro: Are there any other questions from the members? If not, thank you. Are there any discussion from the members?  
Councilmember Kagawa.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Thank you, Chair. At thirty-seven million dollars (\$37,000,000) for eight-two (82) units—I think they said the math was four hundred ninety thousand dollars (\$490,000) per unit. For me, if that is a fair market value they are going to take it at, it is kind of high for that type of unit. It may not be in Pikake, but you could get a house and lot for five hundred thousand dollars (\$500,000) on Kaua'i in the Kapa'a area or even Puhi or Hanamā'ulu area. What I am wondering is if the County is going to be buying it and the State and Federal government cannot do it. Where are we going to get the money? Then if we

should do it, say we will find the money to do it, does that mean every property at that price we are going to buy it? To me, it is a difficult task for our County, which is broke to start purchasing units at that price. I am concerned if the other folks do not come through, then are we making a false promise or if we are real about it, what are we going to cut or what are we going to tax? Will the public be okay with that? I would think it would be a very difficult decision to make. You have forty-one (41) families or even eighty-two (82) families and you have nine thousand (9,000) on the waiting list, you still have ninety-nine point ninety-nine percent (99.99%) that will not be helped. Thanks.

Council Chair Kaneshiro:            Councilmember Chock.

Councilmember Chock:            Thank you, Chair. I think there has been a clear message that this Administration is not interested at purchasing this particular property at the price that it is currently at. I do not expect it to. The reason why I mentioned it is that there are a lot of entities out there, such as HHFDC who are interested and we should in our own role be proactive at seeing those opportunities are seen completely for the sake of keeping it in affordability because the other option is that this ends up being TVRs. Whatever we can do on our end, I think, we need to administrate it and help it through. When you look back at what happen, this particular—as mentioned earlier, before our Housing Ordinance was enacted—this is not a good deal for the County to get into. I am glad that moving forward it will not happen the same way. It also exemplifies the reason why permanent affordability is something we need to consider and how we do it is really key. I would like to ask the County Attorney and I do not need an answer now, but to really maybe even provide more insight—that could happen in writing, in terms of what...now that we have initiated the process and we do have a pending deadline of August, what that truly means for us, in terms of the County's position and how we can help leverage getting other funders to the table to see what options we have. I am thankful and I thank our Housing & Intergovernmental Relations Committee Chair Kualii for putting this Resolution forward. I will be supporting it. Thank you.

Council Chair Kaneshiro:            Councilmember Cowden.

Councilmember Cowden:            This Resolution is not a resolution saying we are committing to buying it, it says we are committed to talking about it. It looks to me like there is the capacity for outside entities like HHFDC or others to be able to get creative in being a part of it. I am not opposed to having a conversation and it is forty-one (41) of the eighty-two (82) that is the commitment on the affordability, which means there is room for creativity with the others and there is money coming in from the rentals. Seems like there is enough possibility in here for a conversation. I will be supporting it to have the conversation. I understand what Councilmember Kagawa is saying and I am in agreement. If we do not have thirty-seven million

dollars (\$37,000,000) to invest at this level, but we can have the conversation and open it up.

Council Chair Kaneshiro:                      Councilmember Evslin.

Councilmember Evslin:                      I want to thank Councilmember Kualii and Councilmember Chock for all the work they have done to get us to this place and the Administration, also. To clarify, I am not so concerned about the County putting themselves out there and having to pay for this entire thing. As Senate President Kouchi at the last Lihu'e Business Association meeting said pretty clearly that HHFDC is interested. The word has been trickling down that they are at least open to this. I think all we are doing is opening the door here. With that said, if I could maybe tie this in with the inclusionary zoning conversation. As far as the housing crisis goes, this is without a doubt the biggest crisis that we face is the rapid depreciation of home prices on Kauai. Three hundred forty-five percent (345%) since the year I was born. So many people have so little options. I think as we discussed during the inclusionary zoning conversation, well, I think Mike, Ka'aina, and Steve Franco were really saying we need to look at everything—more public support for housing for those who cannot afford a home. This is one (1) avenue, to do this through Waipouli. We need to look at our Inclusionary Zoning Ordinance and making sure that works because it clearly is not working. We have had no new home construction. We need to look at whatever we can do through our zoning codes to encourage more people to build. There is always hesitancy with new construction saying if we are building new homes at five hundred thousand dollars (\$500,000), these homes are not affordable for most families on Kauai. That might be true, but my generation we are not buying new homes, we are buying the homes that people are vacating when they go into one of those homes, right? One of those homes are built, someone who is older buys that house, they open up a house for my generation to buy. We are not building any homes, like we are, right now. Those homes are never available. Home prices rapidly appreciate. I just want to say, again, tying it back with inclusionary zoning conversation, I am really glad today, we are sort of looking at everything, right? We have all these zoning bills, we had the housing study, we have Waipouli, it seems like we are trying to pull all this together and just take incremental steps forward and I support it.

Council Chair Kaneshiro:                      Councilmember Kualii.

Councilmember Kualii:                      At the risk of over simplifying the importance of this Resolution is as a County, we had already almost given up. This is one last try. There is no promises, but there is hope. The hope is by partnering we can do the right thing here. The fact that there is even that opportunity to work with the seller and the Administration is willing to do the work by initiating this procedure that we are entitled to with the appraisers means there is some movement and some hope. I want to thank Councilmember Chock who is also the Vice Chair of the Housing &

Intergovernmental Relations Committee, as well as, Chair Kaneshiro who helped make it possible with the Administration. I thank the Mayor Kawakami and Managing Director Mike Dahilig. Let us pass the Resolution and let us put all our energy behind the Administration being successful in working with HHFDC and whoever else might bring us money to make this work. Thank you.

Council Chair Kaneshiro: I will be supporting this Resolution. I do not want to provide false hope. You know our Resolution does not guarantee anything. In order for this whole thing to work there is a lot of factors that need to fall into place. Ultimately, you need a willing buyer and you would need a willing seller. I can tell you first hand County is not going to buy it, we do not have the money to buy it. We do not have thirty-seven million dollars (\$37,000,000), we do not even have twenty million dollars (\$20,000,000), if it was that. HHFDC luckily a State company has the money available. They are interested in it and this Resolution and that ask for appraisal are just the first of few steps in order to see if we can make something happen. I do not want to provide false hope for anyone at all saying do not worry, we are going to purchase this whole property and it will stay in affordable housing forever. It just depends and there will be a lot of things that need to take place to make that happen. These are the first steps in it. Are there any further discussion? Councilmember Kagawa.

Councilmember Kagawa: Yes, those first steps have always been there with or without the Resolution, right? The Administration could have always been working on this issue. I just want to make that clear. It does not take this Resolution to make the Mayor and his team try to keep that place. Nothing prevented all this time. Yes, I support the Resolution. It does no harm, but I am saying the ability to do it has always been there.

Council Chair Kaneshiro: With that, roll call vote.

The motion for adoption of Resolution No. 2019-40 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Kaneshiro: Next item, we will take the Fire Bill.

There being no objections, Bill No. 2748 was taken out of order.

BILLS FOR SECOND READING:

Bill No. 2748 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 11 BETWEEN JULY 1, 2019 AND JUNE 30, 2021: Councilmember Brun moved to approve Bill No. 2748, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Do we have any further questions for the Administration on this Bill? No one wants to talk about it anymore? Okay, if not, we will take public testimony.

Councilmember Kagawa: I have one question.

Council Chair Kaneshiro: Is this for the Administration?

Councilmember Kagawa: For Janine.

Council Chair Kaneshiro: Janine.

Councilmember Kagawa: This is a simple question. Are we prepared to offer United Public Workers (UPW) and Hawai'i Government Employees Association (HGEA) packages that include two percent (2%) bonuses, as well?

There being no objections, the rules were suspended.

JANINE M.Z. RAPOZO, Acting Director of Human Resources: Good afternoon, Janine M.Z. Rapozo, Acting Director of Human Resources. UPW already has a contract in place. They had a 4-year contract two (2) years ago, so they did not get bonuses. For this coming year they do not...

Councilmember Kagawa: If this passes would we consider telling them they could include bonuses?

Ms. Rapozo: We negotiate all separately. We would not necessarily tell them they are going to get bonuses.

Councilmember Kagawa: Can I suggest it?

Ms. Rapozo: You want to...

Councilmember Kagawa: What about HGEA?

Ms. Rapozo: For HGEA we have five (5) contracts, yet that we have to settle. They are all going to be going to arbitration.

Councilmember Kagawa: If this passes, can you tell them that Councilmember Kagawa wants them to get five point two percent (5.2%), as well, per year. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I had a quick question. I have been involved with union contracts in my past. I am curious because there was an issue about... we are not talking about the raises or the premium, we are talking about this bonus. The bonus was also, or a similar bonus, was also given to the Police union.

Ms. Rapozo: The amount of the bonuses was given to them in their third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) year of their contract. They had a 4-year contract two (2) years ago.

Councilmember Kualii: In any instance, does either the Police union or the Firefighters union have something called the "Me-Too Clause"—where if the other union gets it, then they get it?

Ms. Rapozo: Are you talking about—and I cannot think of the term.

Councilmember Kualii: There is another word for it, but I know it more simply as the "Me-Too."

Ms. Rapozo: No one has that, right now.

Councilmember Kualii: But part of the argument is they got it so. I saw it in writing in testimony.

Ms. Rapozo: I think the arbitrator looked at that. I do not think that was presented by the Fire Department in their presentation at the arbitration. They were asking for something else, a different type of differential. So, I am not sure if this is what the arbitrator came down to, as far as the final decision.

Councilmember Kualii: Okay. Thank you.

Council Chair Kaneshiro: Are there any further questions? If not, thank you. We will take public testimony. Do we have anyone who signed up?

Ms. Fountain-Tanigawa: We have one (1) registered speaker. Brian Doo.

BRIAN DOO: Good afternoon, Council and Councilmembers. Brian Doo, for the record. I have been a member of the Kaua'i Fire Department for about eighteen (18) years currently as a Captain and also serve as the Kaua'i Division Chair for Hawai'i Fire Fighter Association (HFFA) representing a few hundred members here. At this point, a few thousand Statewide waiting for the decision that is before us. We have submitted written testimony and also some oral in previous meetings, so I will spare any extra conversation in those points, but I do want to say that I am here in hope seeking support for this Bill. We do feel it is fair. At the end of the day we feel it is the right things to do because it is the law.

Please support this Bill, I think the members, community, and public safety in general will be rewarded for this. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else in the public?  
Matt.

Mr. Bernabe: Matt Bernabe, for the record. Before I start my testimony, I want to put a disclaimer out there—the energy behind this testimony has nothing to do with Kaua‘i Fire Department. This has to do with sending a statement to collective bargaining. The fact is Kaua‘i does not need to have the same things that the City and County of Honolulu have. They do not have to have a huge budget for our Fire Department. Nothing against these folks, they have a hard job, I have a hard job, there are a lot of people with hard jobs, but if you were to do a cross analysis of what these Firemen actually do versus what a City Fireman has to do with a huge population, it is non-compairisant. If anything I would rather have the lifeguards get a raise. So I am going to support you folks turning this down, sending the State, sending it to go to...he just talked about the law—challenge the law, bring this to court. We have other areas that are failing financially that we could be using this money in other areas; parks, roads, et cetera. Collective bargaining, time and time again, we have talked about how we are hamstrung, this is an opportunity. This is that perfect pitch for you folks to hit it out of the park and to actually put teeth behind the County Council’s power. That is what you seven (7) are here for. This very thing, looking at the numbers and seeing what is best for your voting block—I am your voting block, okay? Not Mayor Caldwell’s voting block or Ige’s for that matter, when it comes to this County. The fact of the matter is, I talked to Fire Department folks and I have talked to lifeguards. The lifeguards on a day-to-day basis have an actual harder job, if you ask me. If your house goes up in fire, you are going to want the Fire Department to come. I am not saying they do not deserve a fair rate, but at this environment we are in right now...it is just like putting ten thousand (10,000) homes and not taking care of the infrastructure. We are going to add another bonus, another raise to these folks pay, it is going to be long-term. Meanwhile, we have deficits in every other area. I would rather see money go to solid waste trash compactors. I would rather see money going to scales, so our vehicles are weighed correctly so they are not destroying our roads. There are so many other areas of management, this is an opportunity, not to punish these folks, but to make a statement to the State—challenge them, force them to go to court. I am going to use my other three (3) minutes because I want to tell them something. I see the red light coming on. I need a full minute or two (2) to get my next comment out. So I will be back.

Council Chair Kaneshiro: Okay, thank you. Is there anyone else in the public wishing to testify? Come on up.

MIKE GIBSON: Mike Gibson. Kapa‘a. I would ask for you as a Council to support this unanimously. Pardon my being nervous. We all elected you for your courage to do the right thing; to manage our money, our resource, budget, and our people. We understand this cost a little bit more money than you were expecting to coming in. It is part of a process that I hope you would not vote no, just to say no to the process. It is going to cost a little bit more money, but you want the

best Fire Fighters you can have. As a citizen, I want us to have the best Fire Department. I have been in the fire service since 1987. I have retired two (2) years ago as a Chief Officer in the mainland, believe me, I would have much rather worked here. I want to live here, die here, I love the culture, I love preserving it, the people, there is no better place in this world. I came from a great Fire Department as a Chief Officer for eight (8) years, I worked as a consultant overseeing promotions, interviews and a raider for promotional process across the United States. Departments like Washington D.C., Houston, Texas, and I can tell you from the interactions I have had with Chief Vaughn, other members of your Department, Battalion Chiefs, Captains, Fire Fighters; match the Department I came from, which I will brag about the Department without saying the name—they are ten (10) times better than Houston and Washington D.C. other Fire Fighters I have interacted with. Their confidence, interaction with the public—you have top-notch Fire Fighters—I know you want to pay them, but as leaders to your community, you need to be unanimous in your support. You need to show the community that you all support this, there is no conflict because that sends the message you are doing the right thing. Thank you.

Council Chair Kaneshiro: Is there anyone else who wants to testify for the first time? Matt.

Mr. Bernabe: Matt Bernabe, for the record. I am not doubting that these folks are good. I am saying when was the last time they had to run up a thirty (30) story building and save people, like Marco Polo? That is what I am talking about. The Fire Fighters of O'ahu are pressing their County because they go out and risk their lives on a day-to-day basis. Not that these folks do not, but they are not doing it on a day-to-day basis. That is a fact. I see it myself. The lifeguards go out on a day-to-day basis. I have seen that, also. What I am saying here is this, I once had a problem with the Department of Water. I went and talked to the Department of Water and they told me, off the record, Matt, you one hundred percent (100%) correct. You know what they told me on the record? On the record, if you want to change anything, you need to sue us. That is what I am talking about here. If you vote to turn this down, then it goes to the court. If you honestly believe that we are well represented in the collective bargaining, if all seven (7) of you try to tell me, then I will vote for you folks again because we are not good with collective bargaining. It is a fact. If you folks do not agree with me, then you do not really know what you are doing here, that is a fact. We need to sue or be sued to change this stronghold they have on us. We are out of the talking discussion, because we have no power. This particular issue gives you, like I said earlier, the pitch that allows you to hit the homerun. What do I know? I am just a loser in your race. That is because I make sense and I am about saving money, not special interests. I am not a pay-to-play person, and at the end of the day, this is not, not paying them. This is paying them more. If I can remember in my memory, within the last five (5) or six (6) years—going up. I do not see teachers going up. I do not see all these other folks going up. I know that we have deficits in our services. I know I was told by multiple government agencies, if you want change, you need to force it in the courts. So, force it in the courts, shoot this down, let them come after you legally, and let us hold this in the courts. Maybe we can regain some talking power when we go to negotiate with the unions, but if not...

Council Chair Kaneshiro: Is there anyone else wishing to testify? Final call. If not, I will call this meeting back to order.

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

Council Chair Kaneshiro: Are there any last final discussion from the members before we take the vote? Councilmember Kagawa.

Councilmember Kagawa: First of all, I want to say that I am in one hundred support of the Fire Fighters getting a three point two percent (3.2%) raise, for each of the next two (2) years. Something similar, which I would support for HGEA, UPW and if I could vote on HSTA, I would also support a three point two percent (3.2%) raise because I know the State is in a thirteen billion dollar (\$13,000,000,000) deficit when it comes to their Employee Retirement System (ERS) payments. They are way more broke than us. I would just go to the first line why I do not support the two percent (2%), beyond the three point two percent (3.2%) per year. This is a 20-year summary of what has happened from 1998-2019. If you look at the bottom column; HFFA has sixty-two percent (62%) increase—about three point one two-five percent (3.125%) per year average. That is the second to the last column, sixty-two point two-five percent (62.25%). You look at HGEA, which is similar to HSTA or teachers, if you look at the BU-13—that is where the teacher are at. Similar pay raises for the past twenty (20) years. It amounts about fifty percent (50%). Already, the Fire is twelve percent (12%) more than the teachers and HGEA workers; and State of Hawai'i Organization of Police Officers (SHOPO) is beyond that—they are twenty-two percent (22%) higher, but we have a huge shortage in SHOPO all over the State, especially, in Honolulu and Kaua'i. That does not include rank-for-rank, does not include standards of conduct and any other bonuses, so you would have to add those percentages. The gap between the other unions and Police and Fire would be even larger—not by a little, but by a lot. If you go to the next slide I have. I have been on the Council since 2012 and the second column is the Fire column. When I first came in the budget for Fire was twenty-two million six hundred thousand dollars (\$22,600,000). Today it is thirty-three million eight hundred thousand dollars (\$33,800,000). Again, this Council since I have been here have been very supportive of our Fire Department. If you look at the percentage increase from 2008, the Fire Department has gone up one hundred forty-five percent (145%), while Police are next largest budget has gone up one hundred four percent (104%) and the next highest budget is Solid Waste at eighty-eight percent (88%). You can see our support of our wonderful Fire Department has been there from the County. This County has supported our Fire Department one hundred percent (100%) much to what is going on out there, like we are not supportive of our Fire Fighters. We are very supportive and this County has paid for it. I just want to share also, our annual budget, for your information, goes up about five million dollars (\$5,000,000) to six million dollars (\$6,000,000) per year based on market values going up, without tax rates changing. If our salary increases, take up that five million dollars (\$5,000,000) to six million dollars (\$6,000,000), there is nothing left for anything else like Capital Improvement Projects (CIP), affordable housing, there have you. That is why I think it is important that each County, like Matt said, can thumbs up or thumbs down to certain items because we are all in

different situations. For the Hawai'i Island folks to criticize us when they came up about our decision. It could have been a more humble way they came up, but I never told them to build subdivisions on an active volcano, but I do not go to Hawai'i Island and criticize them. I let them deal with their things. If I have a problem I will deal with Kaua'i issues here. Same with Honolulu, I did not tell them to build the rail, but what did they do after? After they voted yes to the Fire, what did they do next? They increased Homestead tax and Hotel tax, so they did not have the ability to pay, they had the ability to tax. Then they had the ability to pay. If you look at this last one; this is the one I struggled with because I have been on this Council and have been very supportive of our Fire Department in funding. When this happened, this was the tip of the iceberg because if you look at our Fire Department and the spiking cost, the one that is circled is right there, two million two hundred forty-eight thousand dollars (\$2,248,000) for Fiscal Year 2018. That was the penalty we had to cough up. While Fire coughed it up from their budget, but I think I have justified my position. I am in total support of a three point two percent (3.2%) raise, similar to the other unions. I believe we do not have the ability to pay five point two percent (5.2%) yearly increases to any union, at this time. Thank you, Chair.

Council Chair Kaneshiro: Is there anyone else? Councilmember Cowden.

Councilmember Cowden: I also have a very short financial presentation. In the last meeting I talked about our water tank in our fire truck, meaning our reserve at the Council. I was concerned when we spend all this money, where is it coming out of? I did the math on it myself and that top line there is basically, all Countywide retirement contributions. I did not single out the Fire Department, but that is the trend line that is twenty million two hundred thousand dollars (\$20,200,000), over on the right. Then the bottom line is our debt service—that is our interest payment on everything we have. This year it is at eleven million dollars (\$11,000,000). Then I wanted to look at where we are moving, so the next slide is the trend line of our debt service. It is actually looking better than I thought it was. That is not always going up, it is a little bit flat. That is at five percent (5%). If we could back up to one more slide. It is five percent (5%); when we look at what our retirement is, it is at about ten percent (10%). Between the two of them, it is about fifteen percent (15%) of our budget is getting spent on debt service, and then our retirement contributions. Then our very last slide here, the blue line represents—these are actuals, these are not budgeted—what we have unspent at the end of the year. This is what we call general fund/unassigned fund balance. Basically, it is that tank of water on our engine 1—our reserve. I will be honest with you, it is better than I thought it was going to be. The yellow line that is halfway up; that is all our salaries, the top line is our budget. Then the red is our debt. That fifteen percent (15%) makes me nervous, that is unsustainable as Councilmember Chock said last time. The blue line is fatter than I thought it would be—it is higher than I thought it would be, which makes me a little bit more comfortable in saying yes this time. You hear a little bit of reluctance in my voice. I have concerns, but I also did look...thank you, Ms. Rapozo, Acting Director of Human Resources, about more than two-thirds of our staff are hired prior to 2012, that is the more robust retirement. I think the reason why I am going to say yes to this is that it is not as bad as I thought it was instinctively. Next time, in the budgeting, even though with

arbitrating, it is bad...Ross is laughing at me...it is not as bad as I had thought. Next time I will be over there for arbitration. I know we have no voice at the table, but I really want to make sure we are more involved, pushing harder on the front-end. I agree it is problematic that we cannot continue to spend. Basically, I did the math on this myself. I am going to vote yes, but I recognize there is a challenge. Thank you.

Council Chair Kaneshiro: Thank you. Councilmember Evslin.

Councilmember Evslin: Again, I appreciate this conversation we have had many times. I will keep this quick. I have learned a lot from our Councilmembers here, I also, want to say I appreciate the fact as we have heard a lot of testimony that Fire Fighters are out there putting their lives on the line. They have higher risk of cancer, they are working a third of the time, they miss a third of Christmas' et cetera. For me, none of that factors into my decision. It comes down to supporting the right to a fair negotiation process. I think no vote on this pulls the rug out from that process and a group of people who cannot go on strike. If you look at that chart up there, there was a bunch of zero percent (0%) tiers. We have zero percent (0%) contract. They have no say over that and if we vote no, that means we do have say. It is a lopsided table. Again, I support the contract, I support the Fire Fighters union and I support all the other unions in the work they do, especially, through a binding arbitration agreement. Thanks.

Council Chair Kaneshiro: Is there anyone else? If not, I will go. I will show the same presentation, but I will try to go a little faster. Again, I am under the same feeling as Councilmember Kagawa. I do not have anything against Fire. I have a ton of friends and family who work in Fire. For me, it is looking at the overall, financial ability of the County. Considering a lot of other...when I talk to some of the union folks, they say spiking is not our issue, all these other things are not our issue, all we care about is how much our Fire Fighters get increase, but as County Councilmembers we need to look at the whole picture and I have shown this the last time. You might have a hard time seeing it, but if you look at the spiking that happened in 2018, we had thirteen (13) retirees and it costs us two million two hundred thousand dollars (\$2,200,000). The one (1) employee that retired costs us three hundred five thousand dollars (\$305,000). It costs us two hundred ninety-five thousand dollars (\$295,000) for the next employee. It costs us two hundred ninety-six thousand dollars (\$296,000) for the next employee. Two hundred thirty-three thousand dollars (\$233,000) for the next employee. Two hundred nineteen thousand dollars (\$219,000) for the next employee. You kind of get it. Just the top five (5) employees that retired, we had to pay one million three hundred thousand dollars (\$1,300,000) to ERS to make up for their spiking. That is very little control for us. It was a big pill to swallow. When we look at the total cost of what it is costing us, we just cannot have spiking like that to happen—three hundred thousand dollars (\$300,000) for one (1) employee. Then you look at other costs, we have ERS that is continuing to increase. It will end up being forty-two percent (42%) in the next few years. That is a total cost to the County. When they look at collective bargaining, they are only looking at salaries. When we look at it, I am looking at what the total cost to the County. Again, I put together another sheet that has the actual total costs. I was looking at the total increase Fire gets a year. We all hear about cost of living

increases and usually it is in the two percent (2%) to three percent (3%) range, but if you add up; overtime and additional pay, the actual total compensation a Fire Fighter gets increase year-to-year, the average is over ten percent (10%) a year. That is why I have a problem with the bonus. If you look at their year-to-year increase, over ten percent (10%), I do not think many people in the County get that kind of increase a year. Again, I am fine with the increases that are proposed at collective bargaining, the two percent (2%) increase a year, I am fine with the step movements, it is the bonus that I had a hard time swallowing on. It is a bonus that I had a difficult time understanding why we are giving out a bonus. I have heard a lot of reasons; one was Police has a bonus, so Fire should get a bonus, but it is hard for us to compare apple-to-apples with Police and Fire because if you look at it, Police is having a tough time. We can throw bonuses at them and they have twenty-two (22) vacant positions at Police. They have a difficult time retaining employees. When they go to recruit they can barely make one (1) recruit class. The last recruit class they had, I think, they had five (5) people. You look at Fire, they have zero (0) vacancies. They retain their employees well and when it comes time to recruiting, there is over one hundred (100) people wanting to become a fireman. You know that is a more appealing job when it compares to Police. That is why it is hard to compare apples-to-apples on pay. In the end, for me, my “no” vote is basically, on the arbitration. I read the whole arbitration document and it looks the same as the last time we read it. We just got hammered. They do not look at...the harder we work to keep our financials good, the worst it is when we go to arbitration because the answer is always going to be we have the ability to pay on it. For me, I think it is a little unfair. Again, I appreciate Fire and all the work they do, but it costs us money and I think the bonus is a little too much for me to handle on it. I believe Fire makes cost of living, they have higher than cost of living if you add up all their pay together. If we could line item, veto the collective bargaining, I would. I would line item veto the bonus, but I cannot. It is all or nothing and I am going to stick by my vote and it is a “no” on this collective bargaining. Is there anyone else? Councilmember Chock.

Councilmember Chock: Thank you, Chair. First thing, I want to talk about some of what I heard today. I am going to respectfully, disagree with my friend Matt Bernabe on some points. While I agree, Kaua‘i is not O‘ahu, I think risks still is there for all Fire Fighters. I do not know if there is a better example out of me being a Fire Fighter and the risks being associated with the job. Three (3) ruptured disks. Is that what it takes to prove there is risk in the job? Since the age of thirty-two (32), I have not been able to pass a lung function test. There is risk, there is risk in this job and these folks are being exposed to it, whether or not they accept it or have found it yet, they are being exposed to this. That is the first thing I want to say. It is not your average job. Now, as it relates to some of the issues we are having fiscally with this—I absolutely agree with the trend lines that we are looking at are problematic and unsustainable for this County. I have struggled over the past few years on how to address it. Mr. Bernabe says, “Well, the only way you will get change is if you sue them.” In my experience, that is a double-edge sword. What I found is that oftentimes, no one wins in lawsuits, as well. When I think about what I am weighing out, particularly for this year, I look at where I have come from. In the last four (4) years I have really tried to sit down and talk with some of our leaders.

Thankfully, I get calls now from our union leaders, who say, “What is going on? This is what is going on and this is how we are approaching it.” I have a little more insight and I am thankful for that relationship, because I think if we do approach it from building some relationship and understanding with what is happening on both sides of this fence, that is how we can actually get some progress done. Maybe that is farfetched or maybe that is being wishful in my approach, but I can say I feel it is moving in a direction. The other aspect I think about is—every County has to look at this every year and we are looking at it having discussions; Maui, Hawai‘i Island, I think if we want to really take a stand on this and take it to court, we need to get more organized and more coordinated on how it is we are going to approach it because the cost of what this lawsuit will bring will be more than the two hundred fifty thousand dollars (\$250,000) we are looking at, right now, in paying this extra bonus. For those reasons I appreciate the discussion in a sense we need to all be serious about how it is we move forward together as County first—as an island. We also need to look at overtime—the ERS and spiking issues we are looking at. I hope we can have good discussions on it because we are going to have to address this from a State-level. Not only all the Counties, but also, what can we do to over haul some of the ERS system? I am hoping to propose some of those kinds of changes as we move forward. Overtime kills us not only in the Fire Department, but everywhere. The new people do not get it. Most of these folks do not get overtime worked into their retirement, but the past and some of those old-timers have taken advantage of it, that is the truth. I am not pointing a finger at them specifically, I am saying, from a management-level that has not occurred—we need to be more proactive at it. There is some work that needs to be done there. When I think about the discussion and I read the transcripts, the things I have heard, the discussion is about this bonus and/or an increase of hazard pay. Things like rank-for-rank that has gone crazy for us in terms of the budget. If I had to choose the bonus versus the hazard pay increase, I choose the bonus. I am running out of time, but obviously, I am supporting this still today. My hope is that we get more organized as a County, as a Councils, and come back to the table next bargaining session and figure out a way we can have more open dialogue and more insight to what it is we are going through collectively. Thank you.

Council Chair Kaneshiro:

Councilmember Kualī‘i.

Councilmember Kualī‘i: I will just say upfront, this is a very difficult vote for me. It is ironic that I am sitting between the two (2) colleagues of mine that have made the arguments that I feel both. The two (2) competing principle for me are the numbers do not lie. We are trying to be more fiscally responsible. It is our citizens hard earned tax dollars. Things are bad with the County. Of course, it is bad. We have a one hundred million dollar (\$100,000,000) backlog in road maintenance, we have a General Excise Tax (GET) that we have not had before—that is the State tax, and now we have one at the County, too. It is a tax that impacts the poorest amongst us the worse. That is taxes that our citizens are paying to run this County, right? We need to be more cautious with our expenditures. I agree with

everything the Chair has said about the different items. I support our Fire Fighters—that is why we pay them so well. Look at their compensation package, it is excellent. The salary, the benefits, the annual increases, the premium pay, the overtime, the rank-for-rank, the standard of conduct, it is all there—it is excellent. The one piece that I was questioning is this bonus. Why more? Then on the flipside, the other principle is I have a long-time past history in the labor movement and I understand what binding arbitration is; that process and how it is almost sacred. The parties have agreed to in advance—both sides, the County side, not necessarily this Council was in part of that agreement, but the Administration, HR, our Representatives, were there at the table saying we agree to this. We are going to do our labor negotiations, if it does not work out, then we are going to go to binding arbitration. The word “binding” has to mean something, you know? Yet, when you read through the language on the legislature from the ERS, it talks about how we have a role as legislators because in the end we have to pay for it. That is why this vote is before us, now. I just say it is difficult for me to make this decision.

Council Chair Kaneshiro: Is there anyone else? If not, roll call vote.

The motion to approve Bill No. 2748 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST APPROVAL:	Kagawa, Kaneshiro	TOTAL – 2,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Motion passes. Five (5) ayes, two (2) nays.

Council Chair Kaneshiro: Motion passes. Next item, we have Legal Documents.

LEGAL DOCUMENTS:

C 2019-152 Communication (06/10/2019) from the Deputy County Engineer, recommending Council approval of a Grant of Easement and to accept the land and construction gift from SPD II Makaiwa Resort Development, LLC to the County of Kaua'i for a perpetual non-exclusive easement (Easement B-10A, B-10B, and B-10C) for bike/pedestrian purposes, Tax Map Key (TMK) Nos. (4) 4-3-002:015, 016, and 020 (Portions), Kapa'a, Kaua'i.

- Grant of Easement  
Councilmember Kualii moved to approve C 2019-152 with thank-you letter to follow, seconded by Councilmember Brun.

Council Chair Kaneshiro: Any questions on this Grant of Easement? I will suspend the rules. Doug. Councilmember Evslin.

Councilmember Evslin: Can you talk us through where this is at and when we could expect to see it built out?

There being no objections, the rules were suspended.

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

DOUGLAS HAIGH, Chief of Building Division: Douglas Haigh, Department of Public Works, Building Division. Before you is a Grant of Easement to obtain land to help us bridge the gap between Papaloa Road and Foodland/Safeway, which will allow us to have complete route from Lydgate Park to Kuna Bay, Donkey Beach. We hope to have quite a few more of these coming forward in the near future. The final land acquisition is a challenge. This property has two (2) big, vacant lots in the middle of the Plantation Coconut Resort area. They have always been fully supportive in wanting to work with us and as you notice in the letter, not only are they providing the easement, they also are committing to building the path in that section for us. This is critical for us that we get these land donations and these types of donations because right now, we are out of soft match. We currently have approval to do the Uhelekawawa Canal Bridge widening, which is a canal between Foodland and Safeway and on the *makai* side, we are going to widen that bridge. We actually ran out of soft match and I am working with the Hawai'i Department of Transportation (HDOT) right now to get approval of our Department of Defense work that was done on the Kawaihau Elevated Boardwalk as a soft match, so we are finalizing those details so we can fund this bridge widening, but we are going to need more soft match in order to complete the actual construction.

Councilmember Evslin: When do you think construction will be completed, if you had to guess?

Mr. Haigh: That is always a tough question. I am hoping that by early next year or sometime next year, we will be able to start construction. We are in this land acquisition stage and it is a challenge. We get verbal commitments, but then to actually bring it in writing is a challenge and we are working at it. We got quite a few more parcels/easements to obtain in order to do this.

Council Chair Kaneshiro: Are there any further questions from the members on this? If not, thank you. Is there anyone in the audience wishing to testify? Matt.

Mr. Bernabe: Matt Bernabe, for the record. Before I speak, I just want to clarify the area. Are we talking about the area between the hotel and the marketplace, which is the fishing spot known as "Slaughter House?" Is that the place in Kapa'a we are talking about? Is this a path adjacent to the beach going from the marketplace all the way through to The Bull Shed Restaurant? Okay. First, we have so many destroyed roads that I think we should not even be focusing on this. Two, bicycles are all over the place in Kapa'a Town. They are on the regular road, they are backwards on the regular road. We are encouraging illegal bike riding and we need to get that under control as we add on these trails. The other thing is from what I have preliminary heard about this is that they want to remove those ironwood trees that are out there, which is an erosion thing. It is like, hold up, it is a monk seal area. I do not know if any of you fish, but I fish. Therefore, if you go to "Slaughter House," which is an old slaughter house that they used to bring the cows out, so that...but I should not be telling this on the air...no fish there. Disclosure, there are no fish there. I do not think we should be putting that right there just to match it up because those ironwood trees are important. That is a fact. They did not put those there for no reason. There is a reason these trees are here. The other thing is that if they are going to waste time putting in a bike path, they might as well make it right next to the road, so that we do not have illegal bikers on the road. I have a problem with Kapa'a Town and all these illegal bikes. Some of them are tourists renting bikes who do not know who ride the bikes all the way to Sleeping Giant, they ride their bikes all the way up to Kapahi, they are riding their bikes everywhere, and there is no enforcement on these bikes. We are encouraging them to ride any willy-nilly. I do not have a problem with bikes, but the problem I have right now is I am currently fixing my truck because our roads are history and we are putting money into things that are not important. It is not important. They put the bike trail by the middle school—how many people use that bike trail that we wasted money on? It was not even legal. They had to make an after-the-fact resolution to make that legal. No one is using the trail. Maybe one (1) or two (2) and they are not even using it correctly. Are we going to come up with a tourism special budget, so that police can earn overtime to monitor the bicycles that are messing up everyone on the road? Can you visit behind Pono Market and see how much of a mess that is? Do you folks have to take a fieldtrip with me? I will show you everything. I know you have a lot of office time, but I will show you the outside world if you want to take a cruise. I will teach you about this island. I am just saying that we are wasting our money on this. Do not remove the ironwood trees.

Council Chair Kaneshiro: Thank you. Is there 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 Kaneshiro: Is there any final discussion from the members? Councilmember Evslin.

Councilmember Evslin: Matt, thank you for your testimony. I just wanted to clarify, as Doug said, the landowners are giving this land and paying for by construction. I do not know if the bike path by the elementary school was paid for by the Army Corps of Engineers, he said "middle school," but maybe he is talking about a different one, but a lot of these had been paid with outside money, or the large majority of this has been paid by outside money. That would not have come, to us in any other way. Just as far as people riding backwards on that road...I am probably one of them, where at times, have rode backwards on that road because you end up at the end of that path right now and it dumps you out backwards on that road because it does not connect all the way. We need to make that path connect all the way, so that people do not end up going backwards on that road. Right now, you have no choice, except to ride with traffic, which is what I end up doing most of the time. I support it and thank you, Doug, for the work that you have been doing.

Council Chair Kaneshiro: Is there anyone else?

The motion to approve C 2019-152 with thank-you letter to follow 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 Kaneshiro: Next item, please.

C 2019-153 Communication (06/14/2019) from the Acting Housing Director, recommending Council approval of the following Grant of Easement, Conveyance of Water Facility, and Right-of-Entry Agreement for the associated utilities needed to complete the Koa'e Makana Project, Tax Map Key (TMK) No. (4) 2-6-004:019, Kōloa, Kaua'i, Hawai'i:

- Grant of Easement and Conveyance of Water Facility by and between the County of Kaua'i and Koa'e Workforce Housing, L.P. and the Board of Water Supply, County of Kaua'i, for the maintenance and repair of potable water pipelines and related meters, valves, and other associated waterworks facility improvements and appurtenances; and
- Right-of-Entry Agreement by and between the County of Kaua'i and Koa'e Workforce Housing, L.P. and Kaua'i Island Utility Cooperative, to locate, install, build, construct, use, operate, repair, maintain, and replace poles, wire lines, conduits, appliances, equipment, and facilities necessary for the transmission and distribution of electricity and for communications and control circuits.

Councilmember Kualii moved to approve C 2019-153, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions on this item? If not, is there anyone in the audience wishing to testify on this item?

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 Kaneshiro: Is there any final discussion?

The motion to approve C 2019-153 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 Kaneshiro: Next item, please.

CLAIMS:

C 2019-154 Communication (05/31/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Roxane Paula Kuehl, for loss of property, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2019-155 Communication (06/13/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jenna Tehero, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2019-156 Communication (06/13/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Marn C. Zeeb, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2019-154, C 2019-155, and C 2019-156 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Brun.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on these?

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 Kaneshiro: Seeing none. Is there any discussion from the members?

The motion to refer C 2019-154, C 2019-155, and C 2019-156 to the Office of the County Attorney for disposition and/or report back to the Council was then

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

Council Chair Kaneshiro: Motion carried. Next item.

### COMMITTEE REPORTS:

#### PLANNING COMMITTEE:

A report (No. CR-PL 2019-05) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2746, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 AND CHAPTER 10 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENFORCEMENT, LEGAL PROCEDURES, AND PENALTIES,”

A report (No. CR-PL 2019-06) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2749 – A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-1.5 AND SUBSECTION 8-4.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS WITHIN THE RESIDENTIAL DISTRICT (*County of Kaua'i Planning Department, Applicant,*”

Councilmember Chock moved for approval of the reports, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on these committee reports?

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

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

The motion for approval of the reports was then put, and unanimously carried (*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 Kaneshiro: Motion carried. Next item.

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2019-01) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2750 – A BILL FOR AN ORDINANCE AMENDING SECTION 5A-5.1, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX LIENS AND FORECLOSURES,”

A report (No. CR-FED 2019-02) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2751 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX,”

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

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on these committee reports?

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 Kaneshiro: Seeing none. Is there any final discussion from the members?

The motion for approval of the reports 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.*)

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2019-14) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2748 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 11 BETWEEN JULY 1, 2019 AND JUNE 30, 2021,”

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

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item?

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 Kaneshiro: Seeing none. Is there any discussion from the members?

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

Council Chair Kaneshiro: Motion carried. Next item, Resolution No. 2019-41.

Resolution No. 2019-41 – RESOLUTION ESTABLISHING A CROSSWALK ON WEKE ROAD; ESTABLISHING ONE-WAY TRAFFIC AROUND A TRAFFIC ISLAND ON WEKE ROAD; AND ESTABLISHING STOP CONTROL AT WEKE ROAD, AND WILIKOKI PLACE HANAIEI DISTRICT, COUNTY OF KAUA'I: Councilmember Kualii'i moved for adoption of Resolution No. 2019-41, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions on this item? I have a question, and it is probably a quick one. Is the community aware of what the County is doing? Are they in favor of it? The last time we had something on this road, we had everyone here...

There being no objections, the rules were suspended.

MICHAEL MOULE, Chief of Engineering Division: Good afternoon, Chair and the members of the Council. My name is Michael Moule, Chief of Engineering Division, Department of Public Works. We have not done public meetings or hearings on this, it is very straightforward, simple elements here. We are simply adding a stop sign to what is currently a private road that will become the access to the parking on the *mauka* side of Weke Road for Black Pot Beach Park. Similarly, a stop sign coming out of...can we pull up the image, so I can show you a little bit better perhaps? But coming out of the park itself on the *makai* side onto Weke Road and then adding circulation around, what is essentially a new traffic island that was built as part of the recovery effort from the storm, and a crosswalk in that area. I will say that this is not as nearly as controversial or potentially controversial as speed humps, speed tables, or speed cushions like we talked about the last time I was here. We think this is really simple things for functioning of the park. All of these features are pretty much beyond...it is all within the Park area, even though parts of it are public right-of-way for Weke Road. I can point out the features if you want to see it in more detail when the image comes up.

Council Chair Kaneshiro: Councilmember Cowden, do you have a question?

Councilmember Cowden: I am assuming that crosswalk does not have a speed hump underneath it.

Mr. Moule: That is correct.

Councilmember Cowden: Is it flat?

Mr. Moule: It is flat.

Councilmember Cowden: This is all new...just for what they built?

Mr. Moule: Yes, and I can quickly explain how it came about. It will only take about two (2) or three (3) minutes. The issue is...this is Weke Road and this is the actual pavement surface. The right-of-way width is about five (5) feet or more than that on either side as you come up to this area. At this location near the park, the right-of-way is actually all of this area here. That is actually the road right-of-way. It looks like it is part of the park, but it is technically part of the road space and so because it is part of the road space, we paved all of that as part of the recovery from the storm, the Federal Emergency Management Agency (FEMA) paid for that work. The purpose for paving all of that is to make this stronger and less susceptible to erosion that occurred in the storm last year. Because that was all paved, we had to figure out what to do with that pavement and so we have added a little island here. It is paved underneath, but on top of the pavement, there is some dirt with some small groundcover plants that have been planted. The opening here was originally intended for draining this part of the roadway. Here is a little bit of drainage needed to carry the water in the low part of the road over to the park area, but it turned out to work out very well as doubling as a pedestrian passageway. Normally, we would not make a pedestrian passageway in the same place we have drainage, but the amount of the water flowing there is minor—it is just that we had to open it up in order to make sure it would get through. We are planning a crosswalk across the main part of the road, as well as this little one-way circulation around this island here, is what this Resolution is creating; a crosswalk across that as well and then a stop sign for this Wilikoki Place, it is a named road, named by the County. A sign has never been there before, we are putting in street names as well. Historically, it has gone back to private properties, but there is going to be access to overflow parking for the park back here on this. We felt that since we paved the approach to this, as part of the project, we felt we wanted to put a stop sign there and to put a stop sign there on the right-of-way, we have to come to you. That is why we are here for the stop sign. We realized that with the circulating traffic around this, even though this is part of Weke Road, technically it is part of the road right-of-way, we wanted to make sure that the people coming around this also required to stop when they are reenter Weke Road. It is fairly straightforward, simple things. This is all within the area of the park. This is what is now the main beach parking area, about fifty-five (55) spaces are going to be there once that is ready to go with the overflow parking over here, and then the pier is just off to the left. This is where the

pier would be on this map. If you have any further questions, I would be glad to answer them.

Council Chair Kaneshiro: Are there further questions from the members? If not, thank you. Is there anyone in the audience wishing to testify on this? Yes, Matt.

Mr. Bernabe: Matt Bernabe, for the record. Obviously, crosswalks, no one is going to go against a crosswalk. I actually do not have anything bad to say about the roundabout, because it sounds like it is on the private side. The question and point that I want to bring up is...I have said this when this first happened—I do not know why we are continuing on in trying to make this, basically, a sea-level park...it is trying to rebuild homes on a vent in Hilo. We obviously are going to get inundated some more. I heard that they raised the banks for the buffalo, which is an invasive species, I do not know why we promote that. It is like albizia trees. Eventually, we are going to have another catastrophic event and then we are going to be in hindsight and the Mayor will say, "Why did we waste all this money on this?" It is like, I do not know why we did not take this opportunity as the writing on the wall to just revert this back to a wetland. I have said it...not in this Council because I have not been here for any of the agenda items, but it just dawns on me that this is just backwards logic. To me, everything we are doing here is basically just saying, "We are going to do what we want to do no matter what it says, we do not care." You see this time and time again in other departments. If it is giving the Fire Department raises, we are going to suffer in other areas. If it is building bicycle lots, which by the way, these bicycle trails Kaua'i has it our rail. This is our rail. The fact that we are not actually putting our resources to fix the County road by Mahelona or down in Kōloa and we are doing them piecemeal, but wait a minute, brand-new potters out here. Our priorities as a County are really messed up. I do not even know why this has to be like this. This should just go back to wetland. To be honest, it is sad that we do not have the foresight to realize that this is basically sea-level. Even if there is catastrophic rain, as the water rises...is Waikīkī not taking this serious? When is the last inundation meeting you folks had with O'ahu? They have maps showing where it will be affected. Are you telling me that Hanalei Black Pot is not on the map of affecting areas? Please tell me it is not so we can challenge this. I just do not see it...we are going to be under water over there. You folks are wasting County money. It should be wetlands again.

Council Chair Kaneshiro: Is there anyone else wishing to testify on this item? Seeing none, I will call the meeting back to order.

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

Council Chair Kaneshiro: Is there any discussion from the members?  
Councilmember Cowden.

Councilmember Cowden: I appreciate Matt's testimony. We have missed you. We have had bitter fights over all of this or at least some of us have. This has already been fought over already. We are talking about two (2) signs and a

crosswalk, so it is neither giving the up or down on any of the rest for the concrete that is right there. There is a crosswalk and two (2) signs seems pretty minor.

Council Chair Kaneshiro: Is there anyone else? If not, roll call vote.

The motion for adoption of Resolution No. 2019-41 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 7*,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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

Council Chair Kaneshiro: Next item, please.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2735) – A BILL FOR AN ORDINANCE AMENDING SECTION 8-1.5, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GUEST HOUSE (*Guest House*): Councilmember Kuali'i moved to receive Proposed Draft Bill (No. 2735) for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: I apologize. Why are we receiving this on first reading? Okay, got it. Is there anyone in the audience wishing to testify on this? We are on Guest House, but this is the "Council's version." The actual version that we are going to be talking about is the next bill, Proposed Draft Bill (No. 2754), regarding Guest House—Planning Commission Recommendation.

Councilmember Kuali'i: This is just housekeeping.

Council Chair Kaneshiro: Yes, this is housekeeping measure to get rid of this bill.

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 Kaneshiro: Seeing no public testimony, is there any discussion from the members?

The motion to receive Proposed Draft Bill (No. 2735) 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 Kaneshiro: Motion carried. Next item, please.

Proposed Draft Bill (No. 2754) – A BILL FOR AN ORDINANCE AMENDING SECTION 8-1.5, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO GUEST HOUSE (*Guest House — Planning Commission Recommendation*): Councilmember Kualii moved for passage of Proposed Draft Bill (2754) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 31, 2019, and referred to the Planning Committee, seconded by Councilmember Brun.

Council Chair Kaneshiro: Are there any questions on this item from the members?

Councilmember Chock moved to amend Proposed Draft Bill (No. 2754) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Brun.

Councilmember Chock: I have a housekeeping amendment to reorganize the verbiage. It is not a significant change, but we can review it for your pleasure.

Council Chair Kaneshiro: Did this come from the Planning Department?

Councilmember Chock: It came from Council Services Staff. Nothing has changed in terms of the content.

Council Chair Kaneshiro: Councilmember Cowden, do you have a question? Are there any questions on this amendment?

Ms. Fountain-Tanigawa: Council Chair Kaneshiro, we do have a registered speaker.

Council Chair Kaneshiro: Okay. Is it on the amendment?

Ms. Fountain-Tanigawa: On the bill.

Council Chair Kaneshiro: We will take the testimony now.

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

Ms. Fountain-Tanigawa: Kurt Bossard.

KURT BOSSARD: Council Chair, thank you, Councilmembers. I want to thank the Planning Department and the Planning Commission for properly returning this matter to the Council and, I believe, Councilmember Brun who initially

introduced it. I believe the Planning Commission and the Planning Department left the issue of the size of the structure on the table for the Council's determination. Presently, the Planning Commission is short several members and the clear vote on such bills is difficult to obtain. I am suggesting that the Bill be amended to allow up to a seven hundred (700) to eight hundred (800) foot guest house structure. This would allow for a small kitchen, dining/living area, a bathroom, a bedroom, and some storage. All day you have been hearing about housing and the government paying for it and allegedly, and I believe it, you are broke. If the private sector does not build it, it does not happen, and we get further into the hole. Most of all the residences that are being built right now are being built in more expensive subdivisions or for tourists. If it is going to be a residence, then allow a single person, a married couple, perhaps with a child or an elderly, and others who do not need or cannot afford a three-bedroom home to have a place to live. Another example I have personally in terms of the size, is we have a structure on our property that is five hundred eighty (580) square feet that could be converted to a guest house...it would not make any sense for us to demolish eighty (80) square foot of that structure if really what you want is a place for someone to live. Therefore, five hundred (500) square feet is unreasonably small for a residence and that is kind of evidence by the fact that it was sized to be originally just for guest on a part-time basis and not to live there. Some of these structures are already built and can be converted and they are almost always built in two-foot wall increments. Therefore, a twenty-two (22) by thirty-two (32) foot building would be seven hundred four (704) square feet and a twenty-two by thirty foot building would be six hundred sixty (660) square feet; these are not large structures. I would encourage members of this body to amend the ordinance to adjust the size of the structure; the seven hundred eighty (780) square feet and I thank you for keeping an open-mind on this and considering my testimony. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else in the audience? Matt.

Mr. Bernabe: Matt Bernabe, for the record. I actually have a question. I am sorry if I am ignorant on the answer. My question is...some of us and I am not talking about me, I am not about to make a structure, but I do know some people have the room to create this extra space or even add on to their house. But they do not have room to...and this will actually push the question further for the 2050 thing regarding cesspools, but if you were to do an upgrade on a property, I might be wrong, but I am lead to believe if you have a cesspool, you are supposed to convert to a septic, am I right? Some of these lots that are CPRs (Condominium Property Regimes), back in the '80s, does not have room. Even if I was to pull out my cesspool, I do not have room for a leach field, so even in 2050, I am going to have a problem, if I am alive. My question is, is there anything in the language regarding this area or is it just left for broad interpretation? I did not read it all, I am ignorant on this. I apologize. I did not come here for this agenda item, but it stirred my interest. Maybe someone can direct message (DM) or text me later. Like I said in my earlier testimony, I was oblivious as a homeowner as to the seriousness of the problem. Now, I would like to have it all balanced with solid waste and this, but I can tell you from a humbling experience, I teased my friend and he got really upset with me, which made me realize how serious of a problem housing really is. My question is, if there is a property out there that could add on an adjacent structure, a

second room, third room, or a second story, are there exemptions for this cesspool rule or is that beyond the Planning Department's purview? That is my question.

Council Chair Kaneshiro: Bruce.

Mr. Hart: For the record, Bruce Hart. I am going to take a different position. First, I think what Matt said about...but you probably have taken those things into consideration, but if you do a lot allow for the size increase, then there will have to be room for some type of septic system, so I agree with him. I did not think about that. There is a need on the island. There is a need for housing for a single male, a single female, or a couple without children. If you leave the size as it is proposed, remember this is coming out of a guest house and so if you leave the size, it is going to be more affordable for a single person who does not have a double income. I would like to see it left in. If you are going to increase density, you are going to make this into basically another dwelling unit; it is going to be rented and people are going to live in it. The issue has come up several times and I bring it up every so often that I am hoping that as density increases and this body continues to do that, that you would once again consider my request that this body consider a noise ordinance and that you take into consideration that whenever you come into a neighborhood that is already established and you increase density, there are people that live there that are thinking when they bought in, that it will remain at the density at which it was when they bought in. Please consider this. I, myself, had to deal with the noise issue and I know what it is. I know many people who have come to me asking me to please ask the Council to consider it. So when it does come forward and I am hoping it will come forward, it comes to the floor, let us have discussion about it, and let us come up with one that will really work for the people of this community. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Seeing none, I will call this meeting back to order.

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

Councilmember Brun: I was going to introduce an amendment to go up to eight hundred (800) square feet, but I was advised not to, so maybe Matt can explain what is going on.

Council Chair Kaneshiro: I thought you meant Matt Bernabe.

Councilmember Brun: No. Matthew Bracken.

Council Chair Kaneshiro: I thought you wanted to ask Matt Bernabe a question.

Councilmember Brun: Sorry, the County Attorney.

Council Chair Kaneshiro: It has been a long day for me.

Councilmember Brun: Matt, can you explain what it will take to move it up to eight hundred (800) square feet?

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: That could be seen as a substantial change in that the original proposed ordinance is just adding the addition of the kitchen, so I would just recommend submitting another bill.

Council Chair Kaneshiro: I would say let us entertain it in Committee and then in Committee if we want to decide to get rid of the size or change the size, then we would refer it back to the Planning Commission, if we need to. But I would like to have that discussion in the Committee Meeting.

Councilmember Brun: Thank you.

Council Chair Kaneshiro: Yes, it would be a substantial change. Are there any further questions? Councilmember Evslin.

Mr. Hull: Good afternoon, Chair Kaneshiro and the Council. Ka'aina Hull on behalf of the Planning Department.

Councilmember Evslin: Just for clarity, we had a testimony earlier today to the idea of being able to build it before you build the main house, but for my own clarity as this came out of the Planning Commission, that is one of the changes, correct; that you could build it before you have a main house.

Mr. Hull: There is no prohibition per se right now on the books of building the guest house first, but the reason our staff prevents that is because if you build a guest house first, that means you are going to build a bedroom without a kitchen, which is essentially what a guest house is and then live there. It is pretty much going to have a kitchen no matter what—it is like saying, “I want to get a permit to build a structure and pretty much put in a legal kitchen,” so that is why it has been stopped to say you have to have the house first. The way we generate and process is to tell individuals, “You can use your density rights,” right, if your property calls for one house and a guest house, you get the permit for the five hundred (500) square foot structure with a kitchen as a dwelling unit. If you want to start building your primary dwelling unit later on in the future, you can start building it and before we transfer that density right over to it is going to get certificate of occupancy, our inspectors go out to make sure the kitchen facility is removed from the guest house. But to go back to the original question, Councilmember Evslin, yes, right now we do not allow them to build a guest house first, but should this bill pass as proposed where you can put a kitchen in it, in essence, we would have no problem with them using it first, because again, they can have a kitchen now.

Councilmember Evslin: Also, in removing the nine thousand (9,000) square foot limitation, that is effectively saying, “that any property on Kaua'i without the rights to an Additional Dwelling Unit (ADU) can build a guest house,” right?

Mr. Hull: Correct. If you have an ADU, there is a prohibition in the ADU law of being allowed to build that guest house, so, correct, any property would be able to build a guest house. Removing the nine thousand (9,000) square foot issue resolves a lot of planning barriers, if you will, but under...Mr. Bernabe was getting into that, under septic requirements by the Department of Health, they would have to hook up to a septic system or an existing sewer system.

Councilmember Evslin: Could it be connected to an existing house or does it have to be separate?

Mr. Hull: The way it is drafted now and has been for decades, the square footage is interpreted as under roof, because if you attach it, then it is hard to calculate the square footage of the roof of the guest house versus the primary dwelling. Historically, we have not allowed the guest house to be attached; a very clear fix for that. We do not have a problem with them being attached, it is just a procedural issue is if you could clarify arguably through an amendment that you want it to be counted as the enclosed area for the guest house. Similar to the way that the Additional Rental Unit (ARU) bill is drafted, essentially.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: I have a follow-up question. Do we need to continue to call these structures a guest house, when it is going to be more like an ARU, because you cannot subdivide...you cannot CPR a guest house, right?

Mr. Hull: You cannot CPR a guest house, no.

Council Chair Kaneshiro: So it would be basically the same as an ARU, if it is a building with a bathroom and a kitchen?

Mr. Hull: Very similar to an ARU. I think moving forward, I would have no disagreement with that, but I think a lot of this is also premise of the fact that we have several thousand guest house permits in establishment now that I think it is saying, "If you have these guest houses now, now you can legally put a kitchen in them as opposed to some of them coming in to get"...if we changed the name to "ARU 2.0," if you will.

Council Chair Kaneshiro: What if we say you can convert your guest house to an ARU and then they just have to follow whatever...would there be confusion as far as the standards to get it to an ARU, because they are just adding a kitchen?

Mr. Hull: The one issue that it would fall into is that they can easily do that right now, but the ARU provision is only in the Residential zoning district. Guest houses are allowed in Residential, as well as the Agricultural (Ag) and Open zoning districts.

Council Chair Kaneshiro: So, it would just be the Ag ones that would be anomaly.

Mr. Hull: Correct.

Council Chair Kaneshiro: Councilmember Chock, did you have a question?

Councilmember Chock: In terms of the increase of square footage, what is you department's stance?

Mr. Hull: I think Bruce mentioned something that we sat up here numerous times in that...and we had it during the ARU discussion that having a small square footage footprint requirement feeds into what the Board of Realtors had a lot of testimony with us during the ARU Bill, that one of the largest areas of inventory that was completely lacking is in the studio market, where you have single individuals or couples who could afford the studios and there is virtually no inventory out there. So keeping it small helps to feed into that market, exactly what Bruce was saying. There is some merit that. There is also some merit to allowing the eight hundred (800) square feet because that seven hundred (700) or eight hundred (800) square feet does allow for small families, starting families, or those who are elderly individuals who wanted to age in place and go smaller allows them also for housing opportunity, too. Therefore, primarily, I would have to say that the Department does not have any objections to moving the square footage up.

Council Chair Kaneshiro: Are there any further questions from the members? If not, thank you. Is there any discussion from the members? Councilmember Evslin. Sorry, Councilmember Kualii had a question.

Councilmember Kualii: You defined guest house in the definition, but you did not define "guest." I think I mentioned a while back, but the word "guest" tends to connotation that...like hotel guest or TVR guest as opposed to my cousin from California is visiting and he is going to be my guest. Do you think it might not be a bad idea to define how you mean "guest" in this instance, or the language that it cannot be TRV or homestay is enough?

Mr. Hull: Councilmember Kualii we would not have any objections to inserting the term "guest" into the Comprehensive Zoning Ordinance (CZO). In relation to the guest house, because the guest house functions has an accessory to the dwelling unit or the property...and that is not just mine, it has been the historical interpretation of all the directors past, that those are guests associated with the primarily dwellings occupants habitation of area, so it is your cousins coming in from the mainland or friends staying the night. The Commission went a step further to explicitly state that these cannot be used for vacation rental or homestay operations, so I think that takes care of any confusion, but if in the abundance of caution you still want to have an amendment to that effect, we would not have any objections to that.

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

Council Chair Kaneshiro: Are there any further questions? If not, thank you. Is there any final discussion from the members? Councilmember Evslin.

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

Councilmember Evslin: Councilmember Chock just walked out, but I just want to say awesome job to Councilmember Brun and Councilmember Chock. To me, I think this is, in my opinion probably the best bill we have seen all year, as far as the impact on Kaua'i's families, especially with these changes that came out of the Planning Commission and making it easier for more property owners on Kaua'i to do it, so thank you folks for your work on this.

*(Councilmember Chock was noted as present.)*

Council Chair Kaneshiro: Is there any other discussion? We are on the amendment. Roll call.

The motion to amend Proposed Draft Bill (No. 2754) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1 was then put, and carried by the following vote:

FOR AMENDMENT:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*
AGAINST AMENDMENT:	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 Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

Council Chair Kaneshiro: Roll call vote on the motion as amended.

The motion for passage of Proposed Draft Bill (2754) as amended, on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 31, 2019, and referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*
AGAINST PASSAGE:	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 Kauai, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

Council Chair Kaneshiro: Next item, please.

Proposed Draft Bill (No. 2755) – A BILL FOR AN ORDINANCE AMENDING SECTION 8-4.3(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS FOR RESIDENTIAL STRUCTURES NOT INVOLVING THE SUBDIVISION OF LAND: Councilmember Kualii moved for passage of Proposed Draft Bill (2755) on first reading, seconded by Councilmember Chock.

Councilmember Evslin moved to amend Proposed Draft Bill (No. 2755) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 2, seconded by Councilmember Kualii.

Councilmember Evslin: The purpose of the amendment is to do some renumbering what was originally Subsection 8-4.3(a), removing a reference to (a)1, since there is no need for the numbering as (a)2 and (a)3 are proposed to be removed. Part of the amendment is to remove Subsections (a)4.3 (b) through (e) from the proposed draft bill as these sections are in another bill, which we are currently looking at the setback bill and we did not want to pass this bill without language, which would then potentially conflict with the other bill. Therefore, we are removing basically everything not pertaining to the amendment.

Council Chair Kaneshiro: Are there any questions on this? This bill will get referred to the Planning Commission once we make this amendment. Is there anyone in the audience wishing to testify on this?

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 Kaneshiro: Is there any final discussion from the members? Roll call vote on the amendment, as circulated.

The motion to amend Proposed Draft Bill (No. 2755) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 2 was then put, and carried by the following vote:

FOR AMENDMENT:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST AMENDMENT:	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 Kauai, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

Council Chair Kaneshiro: The amendment passes.

Councilmember Kualii moved to refer Proposed Draft Bill (No. 2755) as amended, to the Planning Commission, seconded by Councilmember Chock.

Council Chair Kaneshiro: Anyone in the audience wishing to testify on this?

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 Kaneshiro: Is there any final discussion from the members before it goes to the Planning Commission? If not, roll call vote.

The motion to refer Proposed Draft Bill (No. 2755) as amended, to the Planning Commission was then put, and carried by the following vote:

FOR MOTION:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST MOTION:	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 Kauai, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

Council Chair Kaneshiro: Next.

BILLS FOR SECOND READING:

Bill No. 2746, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 AND CHAPTER 10 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO ENFORCEMENT, LEGAL PROCEDURES, AND PENALTIES: Councilmember Kualii moved to approve Bill No. 2746, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions on this Bill?  
Councilmember Evslin.

Councilmember Evslin: I have an amendment, but we can take it later.

Council Chair Kaneshiro: We can take it now.

Councilmember Evslin moved to amend Bill No. 2746, Draft 1, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 3, seconded by Councilmember Chock.

Councilmember Evslin: The proposed amendment would do two (2) things. It would have the County Attorney sign off on any liens and just extends the 30-day period to ninety (90) days, just to give the homeowner more time to comply with any potential fines. A ten thousand dollar (\$10,000) fine is a lot to come up with in thirty (30) days and we extended it to ninety (90).

Council Chair Kaneshiro: Did the County Attorney have a chance to review this amendment? Mr. Hull, I am going to ask you the same question, I know you only got it now; if you are okay with the amendment. Basically, the amendment is for ninety (90) days and for the County Attorney to sign off on it. Usually, we do not take amendments at full Council, but it is a pretty simple amendment and the question is, are you folks okay with the amendment?

There being no objections, the rules were suspended.

Mr. Hull: Yes, I was reading it a little earlier. We do not have any objections. The fact of the matter is that the 90-day level, as I testified last week to you folks, once we get into the lien or we are actually going to apply a lien, we will have been going for several months and in some scenarios like the

example I have used before you folks concerning the North Shore resort property, we could be in the process for over a year before we actually start exercising this measure of last resort. Also, too, because at that point we will obviously be working at great lengths with the Office of the County Attorney, having to fold them in would be happening anyway.

Council Chair Kaneshiro: Matt?

Mr. Bracken: Matt Bracken, County Attorney. I would agree. I do not have any problem with either of them. I would agree that the 90-day point, we are probably well pass the year before we even consider putting a lien on the property anyway, so it is usually far down the road, and we have been involved in the process anyway.

Council Chair Kaneshiro: Are there any further questions from the Administration? If not, thank you. We will take public testimony on the amendment. Is there anyone wishing to testify on the amendment?

Mr. Hulme: Michael Hulme, for the record. I think more important than the timeframe is the constitutionality of it; that needs to be understood that there are clear state constitutions as well as federal to discuss exorbitant fines. I do not understand how that is being passively dealt with, how Councilmembers or how anyone thinks that is okay. I know that earlier when we talked about workers being...I forget what the technical term is, I got it in my notes, but I do not tend to follow my notes, but we were talking about the hospitality groups needing to have housing for their employees and they actually, literally, the hospitality, the hotels literally said, "Hey, please keep a fine in place, a fee that we can pay," like a slap on the hand, so it is a cost of doing business when they do not provide housing for their employees. That is evidentially not ten thousand dollars (\$10,000) a day per worker, because those hotels would not be saying, "Oh, please keep a fine option available for us when we do not provide housing for our workers." Yet, we are telling our citizens that ten thousand dollars (\$10,000) a day is reasonable. Now, we are going to put a lien on the house and actually the fines are going to help pay the legal fees to further enforce those liens and then we sit there and worry about homelessness or affordable housing costs, but we are okay with ten thousand a day liens going against people's homes, which then they are also being told not to have this secondary income and so it ends up that they cannot make ends meet, but they have liens on their houses that have been recorded with the state. At this point, they have resell problems. It is just incredible we are talking on one hand about homelessness and about people making their bills and people not affording affordable housing. The answer is right within any of you all grasp, but then also we make clear that when we build a cottage, let us make sure it is only the freeloading cousin that can stay there, from California. Heaven forbid it should be some other revenue coming from a hotel. It is just going to get a fee slap on the hand because they do not provide housing for someone. Time and time again we hear the Planning Department talking about what they do not allow, what they do not do, what they do not approve—yes, we do not approve cottages to live in there while you are building the main house, because that would actually help homelessness because that would

help someone make a stage. Why? Because we know that you would be putting an illegal kitchen in there. The problem is when you have a Planning Department headed up by attorneys or headed up by people who wanted to be attorneys or who went to law school and they want to approach it with fines, fees, litigation, prosecution, and felonies. This is what is being billed out to the community. We are talking about one thousand five hundred (1,500) letters that have already gone out. When your Planning Department is attacking the population even if it is only five percent (5%) or ten percent (10%) of them, they are not functioning as a Planning Department and no one wants to approach them, even once they receive a letter saying they have a fine. On any rate, there is more I can tell you on a personal note about those types of stories, but I will leave it at that. Thank you for your patience.

Council Chair Kaneshiro: Matt.

Mr. Bernabe: Matt Bernabe, for the record. This discussion makes my text earlier very crystal clear of what they were speaking of and this is the kind of turbulence that could force a bank to go and collect on their loan, which would then force the person to go and refinance just to pay that loan. My question right now regarding this discussion is, let us say it is successful and they foreclose, would the County get the house or does it go back to the market and what coffers does this money going to, if we do collect it? Is it going to the Rice Street funds? It seems like everything is going to the Rice Street funds. I am just saying. Everything we see is about Rice Street or something special for "not us." I am just curious what they will do with these moneys and what are they going to do with the house if it does foreclose. Does it go back to the market? I know one thing, the testifier before me, I have seen some pretty much "thuggish" behavior regarding the Planning Department interacting with homeowners and whatnot. Me, personally, I roll it off my back. I do not take it so personal. This goes back to best practice. What is the best practice in this type of situation? I am just saying, if you took a study of one hundred (100) counties and they all have this same problem and you took the top fifty (50) successful counties, what did they do? Is it the same thing we are doing? These are all questions. Food for thought.

Council Chair Kaneshiro: Bruce.

Mr. Hart: For the record, Bruce Hart. I have had time to think about it from when it was introduced. I still have a problem with the amended version that specifically targets TVRs and it does not give authority as Mr. Hull asked. We wanted authority to be able to put these liens against any zoning violation. I understand the drama that existed at that time that they were going to go out and we went through all that—I do not believe that would be what would happen. But this issue as I understand it, there was an article in *The Garden Island*, it is in federal court and depending upon how that turns out, I question whether the amendment will stand. I also have, from my perspective, a problem with it. I do not believe that it is equal application of the law, so I do not see how it is really enforceable. That is where I am at. It is not that I have anything against the lien, because I have spoken to the County Attorney and I heard the testimony and they always had the ability to do this. All they are asking is that they want to save a step,

so I do not have a problem with that, but I have a problem when you narrowed it to only TVRs. No? You did not? Oh, you did not pass it. Okay, so it is...thank you.

Council Chair Kaneshiro: I apologize to the captioner, I meant to take a caption break before the last bill. I will take a ten-minute caption break right now and we will come back for any remaining testimony.

There being no objections, the Council recessed at 3:50 p.m.

The meeting was called back to order at 4:02 p.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We are still taking testimonies. Is there anyone else wishing to testify on this amendment? Mr. Crowe.

Mr. Crowe: Greg Crowe, good afternoon Council Chair and Councilmembers. I oppose and support this Bill. I urge you to defer it until it can be part of a comprehensive package of the legislation that addresses both the causes and symptoms of noncompliant housing all over Kaua'i. Otherwise, this Bill has the unattended, but, horrible potential to punish the victims of Kaua'i's affordable housing crisis and make the crisis worse. I urge this Council and the Administration to work together to create an integrated system of both incentives and penalties, carrots and sticks, so that the residents of Kaua'i have both the means and the motivation to solve our affordable housing crisis. That cannot be done with this Bill in isolation. This Bill by itself, is very likely to make Kaua'i's affordable housing worse, and drive long-term residents out of their homes and off the island. I oppose this Bill by itself, but I would support what I believe is the "good intent" behind this Bill. The County does indeed need to not only increase the effectiveness of enforcement efforts by the Planning Department; however, more importantly County policies are needed to help noncompliant users become compliant. Additional bills and administrative action are needed to accomplish this huge task of correcting a housing disaster that was decades in the making. If the primary intent of this Bill is to reduce illegal rentals to increase enforcement, one part of which is effective enforcement and collection of penalties, that is of course a good intent. We all know that there are many residents on this island who are just getting by with the additional income of illegal rentals. Those illegal rentals are not just vacation rentals that remove desperately needed affordable housing from the market, we all know that there are many long-term residents that are in the "illegal rental market" either as landlords or as renters. That illegal housing is a necessity created by desperate circumstances beyond the control of most residents. That is why I am very concerned that there will be many unintended consequences by this Bill. If it is passed by itself, it could make Kaua'i's affordable housing crisis worse, forcing long-term residents out of their homes and into homelessness, and as mentioned, invoking unintentionally, the banks foreclosing on a property that had a lien placed. Kaua'i residents need a comprehensive reform of many County policies, regulations, and taxes in combination that help create Kaua'i's affordable housing crisis. Now, the County must help correct this injustice through comprehensive reform with a combination of many interacting

bills and policies that are considered and passed simultaneously. A broken system cannot be fixed with a piecemeal manner, rather only with a coordinated and comprehensive systems approach. A comprehensive and multi-faceted package of reform may seem to be a large and complicated task, but it is in fact a better strategy. It is simpler, effective, efficient, and socially just instead of separate piecemeal measures as this Bill by itself. However, as good as this intention may be, the unintended consequences will worsen Kaua'i's affordable housing crisis to a breaking point for many residents who are doing what they need to do to get by. Thank you.

Council Chair Kaneshiro: Thank you, Mr. Crowe. Is there anyone else in the audience wishing to testify for a first time? Is there anyone else for a second? Mr. Bernabe.

Mr. Bernabe: Matthew Bernabe, for the record. Most of my testimony regarding what we were talking about while reading this was about tax liens. As it is playing out, I realize this is not just about tax liens, that this is another mechanism to go out and enforce TVRs and B&B rules. I have a little experience in B&B. I have worked for a B&B for almost eleven (11) years. In the beginning, I am not going to lie, I am not a B&B person. I prefer to stay in hotels and I was not fawned of people staying in B&Bs. I did not understand the logic of wanting to stay in a house or having someone staying in your house. Over the ten (10) plus years working there, there is one thing that is clear to me. For every hotel lobbyist listening, the people that come here and stay in these B&Bs would not stay in a hotel. This is what the trend is...if they did not come to Kaua'i, they would not go to the hotel. There is no cannibalism of the market here. There is no one saying, "Oh, I was going to stay at the Grand Hyatt Kaua'i Resort & Spa but I saw a house on Airbnb and that is what I want." Those people would go to Italy, the Caribbean, or New Hampshire, the wine country of California, where they embrace this and made a legal pathway. This is where I am going. I have been part of a B&B that has been solicited by our 2002 General Plan for the Moloa'a Hui that I work at. It was named in the plan for the exact thing that we are doing. None of the farmers that we subsidized "farm," some of them have illegal B&Bs. I have not seen one County inspector go down, if you folks need, I can give you addresses later and we can inspect their properties. The people who pay commercial taxes, Transient Accommodations Tax (TAT), we pay all the taxes, and we have been knocked down to the point where some of our neighbors have come after us because they see your public posts and they think we are "criminals," and they have harassed us. I work there, I see it with my own eyes. I do not say anything because that would be threatening, and if I say anything they would think I am a threat, so I be quiet and watch. I have learned that if we do not embrace this, what is going to happen? We are not going to have enough tourists. The problem with overcrowded roads may not be hotels. In the hotels, there are only finite rooms. You need to pick your poison. Do you want to go back to Old Plantation? I do not see any farming going on at A&B Properties and Grove Farm, where are their farms? It is all chemicals or seed stock. I do not see any farming, we are not exporting anything,

very little. My point to you is this, you folks can to attack B&Bs all you want, but those people are unique customers. They are not going to go to a hotel.

Council Chair Kaneshiro: That is your time Mr. Bernabe.

Mr. Bernabe: Yes, I see that.

Mr. Hulme: Obviously, I keep coming up here today for any type of subset of anything that has to do with topics of affordable housing, tourism, TVRs, and fines. It is a theme today on several levels. This one is to extend ninety (90) days and getting people to pay this. Matt was nice enough to talk to me a little during the break. I asked him some pointblank questions about Article 1 Section 12 of the State Constitution talks about excessive fines. I said, "Hey, is a five (5) figure fine excessive" if you are only running room rates of ninety-nine dollars (\$99) or one hundred twenty-five dollars (\$125) a night to try to attract someone on Airbnb? Matt was gracious and told me other perspectives that he had. We are not talking about the homes in Hanalei, Po'ipū, or the seventy-five percent (75%) of all real estate that got sold to the mainlanders. Those people are typically buying TVRs. They have the multimillion dollars and are trying to get away with things, go after them. I am trying to point out like the other Matt, these are people that are trying to get by. Attorney Matt pointed out that they are making six (6) figures. Ninety-nine dollars (\$99) to two hundred dollars (\$200) times three hundred sixty-five (365) days...one thing I need to tell you is that it does not work out that way. For one, many of them are paying all their taxes, upkeep of the property, you are making maybe forty cents (\$0.40) on the dollar at best. Two, you are still talking about a five (5) figure fine. The constitution clearly lays out in the same area where it talks about excessive bail, you cannot do something like this people who do not have the discretionary income to cut the check, how can it not be considered excessive. How can any of us say, "It is okay to setup a law that not only accepts a ten thousand dollar (\$10,000) fine and gives us ninety (90) days to pay it, or it becomes a lien against your house?" He also said something to the effect that it will limit that and we will not make it more than one day? I am thinking, what are you talking about one day? You are going to get one day that they rented the house? Since when do people come to Hawai'i for a one day vacation? How is not going to be a two (2), three (3), four (4), or five (5) day times ten thousand (10,000), it could be whatever they want. It could be thirty (30) days, sixty (60) days, the lien is able to happen how it happens. The attorney says to me, "If they were not breaking the law, why would they be worried about the fine?" Well, that could be said about every fine, every fine in this world. There are counters in the County just for paying fines. If we were all perfect, there would be no fines. That is not the world, it is not the housing crisis, and it is not the economy. We are living in it, we are all in it together. The more ways we figure out how to penalize, foreclose, and to put liens against homes then ignoring the constitution, or smugly believe that they deserved it anyway, the more we are going to see failures and crises that we do, whether personally, financially, or

otherwise. This is probably not the last of me that you will see today. I wish I did not sound so hostile, but I appreciate your patience.

Council Chair Kaneshiro: Is there anyone else wishing to testify for a second time? Greg.

Mr. Crowe: Greg Crowe. Picking up where I left off, rather than one bill ordinance at a time, a comprehensive package is needed not only to give the County the “sticks” that it needs to enforce compliance, but also the “carrots” needed by struggling property owners and renters to bring not compliant housing into the legal affordable housing market for both rental and owner occupied affordable housing units. The County can and should provide incentives rather than just penalties to encourage property compliance. As an example of one key incentivize in a package of many that the County could provide, is assistance with financing the cost of bringing housing into compliance, but in exchange for a permanent affordability provision on that housing. Across the total housing affordable housing spectrum from the typical below sixty percent (60%) AMI up to the workforce and gap level housing who are our teachers, nurses, shopkeepers, or workers that we desperately need to keep on the island and are being forced off by the lack of work for affordable housing. To avoid increasing taxes in general, a special purpose bonding can be used for such projects and it can be secured and paid for by the improved and now compliant property. As part of a comprehensive package, this Bill is good and even an essential piece, however standalone, I do not think it should be passed. Without affordable housing for our workforce, our employees, and our essential service providers, everyone on Kaua’i suffers. If you do want to go ahead and pass this Bill more or less as it stands, please amend it to include a modification for the penalties to be proportional to the value of the violation. A chicken coop is not the same as a high-end vacation rental, which is bringing in thousands of dollars a night. If you make the fine proportional to that, and that will at least address some of these inequitable issues of creating justice that some people have raised out of concern. The lack of affordable housing is a tough problem, but it can be solved with an overall systems approach that addresses the underline causes as well as the service systems. Rather than just penalties, viable and attracting paths out of noncompliance must be provided by the County. This Bill by itself will probably make the housing crisis worse; but, as part of a comprehensive package to address the lack of affordable housing, this Bill is essential. Please defer the Bill until you have the rest of package in place. A big *mahalo* to all of you for your efforts to address so many issues necessary to improve the quality of life for everyone on Kaua’i, both our residents and our visitors. Thank you for your efforts and your time.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify?

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

Council Chair Kaneshiro: Is there any discussion on the amendment as circulated? Councilmember Cowden.

Councilmember Cowden: I would like to add in there...I am not in support of the Bill. I am going to be really clear about that. Are we able to add a reporting process where we are able to look at it every six (6) months what liens have been put into place and to be able to document what is happening so we know we are actually addressing the issue that we are looking at? I appreciate the intention of the Bill, to protect flagrant disregard of County ordinances. At the last meeting when we were talking about parking lots, sometimes it is really hard to go after certain organizations that have the capacity to deflect and get away from the County. I get that. I have faith that the Planning Department is not meaning to go after the people. I supported what Mr. Crowe had to say. The potential of this action leaves so many in the position of being in fear, in fear of their neighbors, in fear of the government...the ability to leave people homeless, because so many of our houses are out of compliance with what would be necessary. As Mr. Crowe mentioned, ten thousand dollars (\$10,000) per day is out of the range for the level of some of these potential elements that are out of place. The Planning Department says, "They do not put this big fines in that are discretionary." I think if we are able to put little breaks in there so that those fines are not disproportionately large, and it is not imposed improperly, that would soften the blow and the risk. I know that Bill No. 2746 is not meant to do a lot of damage to the community, but for me, as a Councilmember, this is the worse bill that has been before us. I will definitely be voting "no." I am in agreement with what Mr. Crowe said. We need to have a comprehensive plan that looks at how we address these issues, hat the Planning Department is asking for something reasonable, and to go after violators. This is too strong and in the wrong hands five (5) years down the road from now, it could be very profound and damaging. That is my position.

Council Chair Kaneshiro: Is there anyone else on the amendment? For me, I do not think you need to put it into the Bill to ask for status projects that the Planning Department is going after on liens. You are able to ask for that at any time. If you wanted, you could ask for that right now. Not right this second, but you could ask for it. Roll call vote on the amendment.

The motion to amend Bill No. 2746, Draft 1 as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 3 was then put, and carried by the following vote:

FOR AMENDMENT:	Brun, Chock, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6*,
AGAINST AMENDMENT:	Cowden	TOTAL – 1,
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 Kauai, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

Ms. Fountain-Tanigawa: Six (6) ayes and one (1) no.

Council Chair Kaneshiro: Motion passes. Is there any final discussion from the members on the Bill as amended? Councilmember Evslin.

Councilmember Evslin: We had a good discussion last meeting and I do not necessarily rehash all, but maybe some of it. We have a lot more testimony today in regards to TVRs and such. When we have one (1) in six (6) homes sitting as a TVR, this has tremendous impact on our island. It is increasing the cost of housing for everyone by taking these homes off of the market. It impacts those communities and where they are at. If you look at North Shore, Hanalei to Hā'ena, they have one (1) in two (2) homes that is a TVR, there is not a community even left out there. This is not a place where they are no...hospitals are far away, grocery stores are far away, this is not meant to be a resort community, and it has been turned into one. We need to do everything that we can to try and reign this back. In regards to TVRs, we have a tourism strategic plan that is clearly saying that we are over in capacity for tourism. We cannot bring down the number of hotel units that we have. We have three thousand (3,000) more units that could be built at any time. The only real direct control we have over the growth of tourism is making sure that TVRs do not overfreight everywhere. I understand how difficult it is for the Planning Department to enforce against these, there are a lot of high-end TVRs that are able to pay the fine, and because of how difficult it is to implement the fine, they are only getting fined on one (1) for every thirty (30) days that it is rented. They are barely getting fined. If I could, I would increase the fine for TVRs. It has been discussed, it would have to go back to the Planning Commission if we were to try and increase that fine or set up a new fine structure for TVRs. I do think that it is important to make sure smaller people are charging a smaller rate and bigger people are charged a bigger rate. I know that the Planning Department is working on something to work on that. The fine should be based on what the people are renting it for. I do think that this is necessary, we need a way to stop this proliferation of TVRs and I am going to vote for the Bill for that reason. I do have deep concerns on the other side of it as far as allowing liens to be placed on any zoning violation. As a mentioned before, we have an affordable housing policy based on what I think of as "illegal housing units." I am concerned about doing too much to discourage those uses. I have a lot of faith and

trust in our Planning Department here that you folks are not going to do that. Whether that can change in the future, I do not know. For me, I think the route for us to go is to do everything that we can to help bring those people into compliance. To do everything that we can to ensure that someone with an illegal rental unit is able to come into compliance by changing the rules that we are needing to change. I will be voting in support of the Bill. Thank you.

Council Chair Kaneshiro: Is there anyone else? I will be supporting the Bill. We received a ton of testimony on this, items that was not changing the Bill. We received testimony to reduce the fine, the fine never changed. The fine has always been ten thousand dollars (\$10,000). I did not see any examples on the how the fine is effecting anyone right now. The fine is there to make people do what they are not supposed to be doing. As far as compliance, we did not change any compliance laws. If someone is not in compliance now, and we did not go after them, it shows...there is so much fear around us going after every single person on the island. We did not change any of the compliance laws or how we are going to go after people. It is still the same. We are basically increasing the fine amount, the amount that we actually collect from fines from one hundred thousand dollars (\$100,000) to five hundred thousand (\$500,000). We are allowing the Planning Department to post the lien in the newspaper for people that they have been going after and are saying, "We absolutely cannot get in touch with them and we cannot serve them." It is a tool that they needed. The ability on the lien, we could always lien the property. For me, I see...we hear a lot in the public about "we are not doing anything about noncompliance and we are not doing anything about illegal TVRs." We are finally taking a little step to try and make it a little easier for us to do something and we get blowback. For me, I am in support of this Bill. We are not going to change the way they are doing anything. We are adding another step in the line of trust and to have the attorney signoff on any properties that we are going to lien. I heard a lot about accountability and people saying, "Oh we will trust the Planning Director now, but we will not trust the Planning Director in the future." Again, we are adding in the signature for the attorney. If someone wants to be vindictive at a time, they are going to have to account and be responsible for their actions. If you look at the past, we are not going through and fining everyone for noncompliance. We are not going to put a lien on everyone's house. I am comfortable with this as a step forward in what we have been trying to accomplish. We are trying to get people who are in noncompliance to comply. Councilmember Cowden.

Councilmember Cowden: Another change that is in the main Bill is to put the lien with the Bureau of Conveyances before it goes into a contested case hearing. That is a really big difference. When they are not able to contest it and it goes to the Bureau of Conveyances, someone runs the risk of having their loan called is a very big difference especially if the ownership on the house is not clear, grandpa is dead who has his name on it. Until this Bill came up, I have not looked deeply at the existing law. You are correct that the existing law has had almost as many teeth,

not that putting with the Bureau of Conveyances ahead of a court case. I had not seen it and when looking at it, I had realized that it is like lying there as potential to do a lot of damage.

Council Chair Kaneshiro:            Councilmember Chock.

Councilmember Chock:            Thank you. I will be supporting this Bill. I do that with reservations. At the Committee Meeting, I did support the amendment that narrowed this Bill to address TVRs only. I want to empower our enforcement team with what they have been tasked to do, but also as a measure to take a smaller step and not be so far-reaching. That amendment failed as articulated earlier. I thought it was actually going to come back today. It is apparent that the votes are not there to support it. I will not allow that or let that be the hindrance for me to support ultimately, what I want to see get done and what I want to support our enforcement team with. With that being said, I actually agree wholeheartedly with Mr. Crowe in terms of needing to balance our approach in what we want for the future, however that is a very difficult thing to do in this environment—to look at a comprehensive package that addresses all the carrots and all the swords at the same time and, I have not seen that happen. However, I can say, I have seen efforts on both fronts that I am happy with. I think that we need to continue to be able articulate what those are, and support them. The other thing that I wanted to say, this is for my fellow Councilmembers, when we look at these amendments that come up, we may not agree with the main motion and what it means entirely, but as amendments come up, I hope you take into consideration that they may get to where you are trying to closely achieve. I would ask that you consider that moving forward. I am not against TVRs, I am not against homestays. I think that the approach here, what we need to do, is to take back and build a foundation from a community standpoint. Once we are able to get a handle on that, we can really start to say, “Hey, maybe this is a process that we can use in order to establish more homestays that is feasible.” What I do not like in our current environment, is the imposition of neighbors against neighbors, and that is what is happening right now. It has completely changed our neighborhoods, so much that the scale is unbalanced. When we look at the far reach of what this Bill is trying to accomplish with the liens and the fines...which by the way, as Council Chair Kaneshiro has said, have been there already. It has existed for some time now. It has done nothing for what we are trying to accomplish. We need to be more proactive in how we are able to empower our enforcement team in order to achieve this outcome. With that being said, I look forward to the “carrots” forthcoming.

Council Chair Kaneshiro:            Councilmember Evslin.

Councilmember Evslin:            I wanted to clarify two (2) things which abroad misconceptions. To my understanding, in order to get the fines, the Planning Department is not sending out a notice of violation with a ten thousand

dollar (\$10,000) fine. If you are operating an illegal TVR, you are first getting the notice of violation, when you ignore that, you get the fine, and you get a chance to come into compliance. If you immediately comply, there is chances to reduce that fine significantly, is my understanding. The people who are getting these large fines are the ones who are willfully ignoring the law. We are not saying no TVRs on the whole island, we have Visitor Destination Areas (VDAs), which we have said are the places where we have the infrastructure and the services available to handle TVRs. What we are saying is, if you want to operate a TVR, then do it one of these areas which I think is totally fair. We do not want to see them encroaching in residential areas.

Council Chair Kaneshiro: Is there anyone else? Roll call vote on the motion as amended.

The motion to approve Bill No. 2746, Draft 1 as amended to Bill No. 2746, Draft 621, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6*
AGAINST APPROVAL:	Cowden	TOTAL – 1,
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 Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)

Bill No. 2749, Draft 1 – A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-1.5 AND SUBSECTION 8-4.3, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS WITHIN THE RESIDENTIAL DISTRICT (County of Kaua'i Planning Department, Applicant) Councilmember Chock moved to approve Bill No. 2749, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Are there any questions on this for the Administration? Is there anyone in the audience wishing to testify on this item?

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

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

Council Chair Kaneshiro: Is there any final discussion on this item?  
Councilmember Evslin.

Councilmember Evslin: I want to say this is an exact example of what we need to be doing to allow people to come into compliance. By getting more flexibility on our setbacks and lot coverage, this is one example of something that needs to get done.

Council Chair Kaneshiro: Is there any other discussion from the members? Roll call vote.

The motion to approve Bill No. 2749, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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

Bill No. 2750 – A BILL FOR AN ORDINANCE AMENDING SECTION 5A-5.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX LIENS AND FORECLOSURES: Councilmember Kualii moved to approve Bill No. 2750 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Kaneshiro: Is there any questions for the Administration on this? Is there anyone in the audience wishing to testify on this item? Seeing none.

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

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

Council Chair Kaneshiro: Are there any final discussion from the members? Roll call vote.

The motion to approve Bill No. 2750 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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

Bill No. 2751 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX: Councilmember Kualii moved to approve Bill No. 2751 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Kaneshiro: Are there any questions for the Administration on this Bill? Is there anyone in the audience wishing to testify on this Bill? Seeing none.

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

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

Council Chair Kaneshiro: Are there any final discussion from the members? If not, roll call vote.

The motion to approve Bill No. 2751 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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

Council Chair Kaneshiro: That is our final item on camera for today. Can you read us into Executive Session?

EXECUTIVE SESSION:

ES-993 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), (4), and (8), the purpose of this Executive Session is to consider matters that require confidentiality under state law, to wit, the hiring of a County Auditor, including interviewing any candidates, and terms and conditions of employment. The further purpose of this Executive Session is to meet with the Council's legal counsel on questions and issues relating to the Council's powers, duties, privileges, immunities, liabilities, claims, and/or potential claims, as such powers, duties, privileges, immunities, liabilities, claims, and/or potential claims relate to the foregoing item, and to take such action as the Council deems appropriate: Councilmember Chock moved to convene in Executive Session for ES-993, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item?

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 Kaneshiro: Seeing none, are there any questions or discussion?

The motion to convene in Executive Session for ES-993 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7*,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

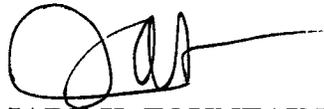
(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)

Council Chair Kaneshiro: We are done for today. We will be in Executive Session. Thank you everyone.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 4:33 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a long horizontal line extending to the right.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:jy

(June 26, 2019)  
 FLOOR AMENDMENT  
 Bill No. 2754, Relating to Guest House

Introduced by: MASON K. CHOCK

1. Amend Bill No. 2754 by amending the definition of "Guest House" to read as follows:

““Guest House” means a building with a floor area of no more than five hundred (500) square feet, [contains no kitchen, is used for dwelling purposes by guests, and is located on a parcel of at least nine thousand (9,000) square feet that contains one (1) or more dwelling units.] may contain a kitchen, and is used for dwelling purposes by guests, tenants, or owner(s). A guest house shall not be used for a transient vacation rental (TVR) or homestay operation within or outside of a visitor destination area (VDA).”

2. Amend Bill No. 2754 by amending SECTION 2, including correcting typographical errors in the table headings, to read as follows:

“SECTION 2. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 Table of Uses, in pertinent part only, to read as follows:

“Table 8-2.4 Table of Uses

Sec.	USE	ZONING DISTRICT								
		Residential		RR	Commercial		Industrial		AG	O
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG		
8-2.4(a)(2)	Accessory structures and uses, including one (1) guest house [on a lot or parcel 9,000 square feet or larger]	P	P							

(Material to be deleted is bracketed. New material is underscored.)  
 V:\AMENDMENTS\2019\Bill No. 2754 - LE (AMK:aa)

(June 26, 2019)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2755), A Bill For An Ordinance Amending Section 8-4.3(a), Kaua'i County Code 1987, As Amended, Relating To Development Standards For Residential Structures Not Involving The Subdivision Of Land

Introduced by: LUKE A. EVSLIN

Amend Proposed Draft Bill (No. 2755), SECTION 1, to read as follows:

"SECTION 1. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending [Section] Subsection 8-4.3(a) as follows:

"(a) Parcel Area. [Parcel area shall be as follows:]

[(1)] The parcel area required for single family detached dwelling units shall be calculated in accordance with the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, except that, one (1) single family detached dwelling unit may be constructed on any legal lot or parcel of record as of August 17, 1972, even if the lot or parcel is smaller than is required in the density district in which the lot or parcel is located.

[(2)] Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, the minimum parcel area on which two (2) or more attached single family dwellings may be developed shall be twelve thousand (12,000) square feet.

[(3)] Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, the minimum parcel area on which two (2) or more multiple family dwelling units may be developed shall be ten thousand (10,000) square feet.]

[(b) Setback Requirements. Setback requirements shall be as follows:

(1) No building may be closer than ten (10) feet to the right-of-way line of a public thoroughfare or the property line of a private street or the pavement line of a driveway or parking lot serving more than three (3) dwelling units.

(2) No garage, carport or storage building may be closer than ten (10) feet to the right-of-way line of a public thoroughfare.

(3) No building shall be closer to a side property line than five (5) feet or one-half (1/2) the total height of the highest building wall from the ground level nearest the property line, whichever is greater.

(4) No eave, roof overhang, or other appurtenance to a building, other than a fence under six (6) feet in height, shall project into any setback more than one-half (1/2) the distance of the setback, or four (4) feet, whichever is less.

(5) No balconies, overhead walkways, decks, carports or other exterior spaces intended for human occupancy above the ground floor of any building, shall penetrate the setback area.

(6) No building shall be closer than ten (10) feet to the rear property line. Accessory buildings and garden or service shelters not higher than seven (7) feet nor covering more than four hundred (400) square feet, nor exceeding twenty percent (20%) of the rear property line in the longest dimension facing the rear property line, may be built without setback. Accessory buildings higher than seven (7) feet shall not be set back less than five (5) feet from the rear property line or one-half (1/2) the total height of the building wall nearest the property line measured from the ground level to the wall plate line, whichever is greater.

(7) The front side of any building shall not be closer than ten (10) feet from any property line, and the rear side of any building shall not be closer than fifteen (15) feet from any property line.

(8) Greater setbacks because of topographic, drainage, sun exposure or privacy conditions may be required and made a condition for a Zoning Permit.

(c) Minimum Distance Between Buildings. Minimum distance between buildings shall be as follows:

(1) Minimum distance between detached buildings containing dwelling units shall be:

End to end or side to side or end to side	10 feet
Front to end or side	20 feet
Front to front	20 feet
Front to rear	25 feet
Rear to rear	30 feet
Rear to end or side	20 feet

All dimensions shall be increased five (5) feet for each story over one (1) in both buildings.

(2) The minimum distance between detached accessory buildings and between dwelling unit buildings and detached accessory buildings shall be ten (10) feet.

(d) Parcel Dimension Requirements. Parcel dimension requirements shall be as follows:

(1) A parcel large enough to qualify for two (2) or more dwelling units shall conform to the following requirements before any person is permitted to develop more than one (1) single family dwelling unit and accessory buildings on the parcel:

(A) The minimum frontage on a public or private street shall be twenty-five (25) feet unless the parcel is a flag lot.

(B) The minimum average width of the existing parcel, excluding the flag portion of a flag lot, shall be sixty (60) feet.

(2) Requirements for parking, access, driveways, building height, utilities and other regulations not specified in this Section shall be the same as those required of all residential development as established in Sec. 8-4.5.

(3) The amount of land coverage created including buildings and pavement, shall not exceed fifty percent (50%) of the lot or parcel area.

(e) Open Space. When development on a parcel meeting the density and parcel area requirements of this Section results in the designation of areas within the parcel for open space use, the area shall be designated on a map of the parcel as permanent open space and the map shall be recorded with the Bureau of Land Conveyances. In addition, the areas shall automatically be transferred to the Open District for zoning purposes.”]”

(Material to be deleted is bracketed)

V:\AMENDMENTS\2019\Formatting Amendment PDB 2755 2 (CT:aa)

(June 26, 2019)

FLOOR AMENDMENT

Bill No. 2746, Draft 1, Relating to Enforcement, Legal Procedures, and Penalties

Introduced by: LUKE A. EVSLIN

Amend Bill No. 2746, Draft 1 in its entirety as follows:

“SECTION 1. Findings and Purpose. The purpose of this Bill is to strengthen existing mechanisms to assist the Planning Department with its enforcement of the codes, statutes, and regulations that it has the authority to enforce. The proposed revisions and additions will better enable the Department to:

(a) Notify the property owner of a violation where service cannot be attained;

(b) Place a lien on property where the owner has refused to rectify the violation or pay their civil fine within ninety (90) days of the County’s notice of violation and order;

(c) Provide for education, training, and legal representation opportunities utilizing the Planning Enforcement Account within Fund 251 where such is not available now; and

(d) Clarify the applicable enforcement section for violations of Chapter 10, Kaua’i County Code 1987, as amended.

SECTION 2. Chapter 8, Section 3.5(b), Kaua’i County Code 1987, as amended, is amended to read as follows:

“(b) Civil Fines.

(1) If the Director of the Planning Department determines that any person, firm or corporation is not complying with a notice of violation, the Director may have the party responsible for the violation served, by mail or delivery, or by posting on the property which address is the most current address reflected in the Real Property tax records, or by publishing such notice in a newspaper of general circulation in the County of Kaua’i should previous notification efforts not be accepted, with an order pursuant to this Section. The order may require the party responsible for the violation to do any or all of the following: (A) correct the violation within the time specified in the order; (B) pay a civil fine not to exceed ten thousand dollars (\$10,000.00) in the manner, at the place, and before the date specified in the order; (C) pay a civil fine up to ten thousand dollars (\$10,000.00) per day for each day in which the violation persists, in the manner and at the time and place specified in the order. All civil fines shall be deposited to the Planning Enforcement Account within Fund 251.

(2) The order shall advise the party responsible for the violation that the order shall become final thirty (30) calendar days after the date of its delivery[.] or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kaua'i. The order shall also advise that the Director's action may be appealed to the Planning Commission.

(3) The provisions of the order issued by the Director under this Section shall become final thirty (30) calendar days after the service or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kaua'i, of the order. The parties responsible for the violation may appeal the order to the Planning Commission pursuant to its rules. The form of this appeal must conform to the Planning Commission's rules. However, an appeal to the Planning Commission shall not stay any provision of the order.

(4) The Director may institute a civil action in any court of competent jurisdiction for enforcement of any order issued pursuant to this Section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the Director need only show that the notice of violation and order were served; that a civil fine was imposed; the amount of the civil fine imposed has not been paid; that either the order has not been appealed or that if appealed, the order was sustained by the Commission and/or any Court action.

[(5) There is hereby established and created an account to be known as the "Planning Enforcement Account" within Fund 251. The fines collected pursuant to this Section are hereby deemed appropriated upon receipt and may be expended to retain independent contractors to assist in the enforcement of the Comprehensive Zoning Ordinance and other Codes, Statutes, or regulations the Planning Department has the authority to enforce. The fines may also be expended for materials, supplies, and equipment that facilitate inspection and enforcement of such violations. Council notification is required for any single expenditure from this account which exceeds ten thousand dollars (\$10,000.00). Any fines collected when the account has an excess of one hundred thousand dollars (\$100,000.00) in uncommitted funds shall be transferred and deposited into the General Fund at the close of the fiscal year. The fines collected shall not lapse at the close of the fiscal year. The Planning Department shall annually report to the Council as part of the Mayor's budget submittal on March 15<sup>th</sup> of each year, the expenditures and outcomes of said account.]

(5) The Director may place a lien on the property if the violation has not been corrected or the civil fine imposed has not been paid within ninety (90) days of the order. The Director shall obtain approval from the County Attorney prior to the placement of any liens.

(A) Said lien shall be recorded with the State of Hawai'i, Bureau of Conveyances or registered in the Office of the Assistant

Registrar of the Land Court, and shall identify the owner's name, address of the property, and tax map key number of the property, and include copies of pertinent documentation as to the failure of the property owner to pay the civil fine. Any cost incurred in the filing of the lien shall be part of the lien for the civil fine set forth.

(B) The lien may be enforced and foreclosed by action of the Director in circuit court, and the proceedings before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time out of the County or cannot be served within the County, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner, appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by Chapter 634, H.R.S. In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien in the manner provided.

(C) The Director or subordinate shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction, which shall be entered in the general indexes of the Bureau of Conveyances or noted on the certificate if a notation of the original notice was made on any Land Court Certificate of Title.

(6) There is hereby established and created an account to be known as the "Planning Enforcement Account" within Fund 251. The fines collected pursuant to this Section are hereby deemed appropriated upon receipt and may be expended to retain independent contractors to assist in the enforcement of the Comprehensive Zoning Ordinance and other Codes, Statutes, or regulations the Planning Department has the authority to enforce. The fines may also be expended for materials, supplies, education, training, and legal representation, and equipment that facilitate inspection and enforcement of such violations. Council notification is required for any single expenditure from this account that exceeds ten thousand dollars (\$10,000.00). Any fines collected when the account has an excess of five hundred thousand dollars (\$500,000.00) in uncommitted funds shall be transferred and deposited into the General Fund at the close of the fiscal year. The fines collected shall not lapse at the close of the fiscal year. The Planning Department shall annually

report to the Council the expenditures and outcomes of said account as part of the Mayor's budget submittal on March 15<sup>th</sup> of each year."

SECTION 3. Chapter 10, Kaua'i County Code 1987, as amended, is hereby amended by adding a new Article 7 to read as follows:

"Article 7. Enforcement, Legal Procedures, and Penalties.

Any violation of any article, section, or provision of this Chapter shall be subject to the enforcement, legal procedures, and penalties provided for in Chapter 8, Article 3 of the Kaua'i County Code 1987, as amended."

SECTION 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION 5. Material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 6. This Ordinance shall take effect upon its approval."

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

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