COUNCIL MEETING

JULY 22, 2020

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, July 22, 2020 at 10:08 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Luke A. Evslin *(via remote technology)*
Honorable Ross Kagawa
Honorable KipuKai Kuali'i
Honorable Arryl Kaneshiro

Excused: Honorable Arthur Brun*

Council Chair Kaneshiro: Please note that we will run today's meetings pursuant to the Governor's Supplementary Emergency Proclamation dated March 16, 2020, Sixth Supplementary Emergency Proclamation dated April 25, 2020, Seventh Supplementary Emergency Proclamation dated May 5, 2020, Eighth Supplementary Emergency Proclamation dated May 18, 2020, Ninth Supplementary Emergency Proclamation dated June 10, 2020, and Tenth Supplementary Emergency Proclamation dated July 17, 2020.

APPROVAL OF AGENDA.

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

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

Council Chair Kaneshiro: Is there any discussion on the agenda from the members?

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next items are the minutes.

MINUTES of the following meetings of the Council:

July 8, 2020 Public Hearing re: Resolution No. 2020-28
July 8, 2020 Council Meeting

Councilmember Kuali'i moved to approve the Minutes as circulated, seconded by Councilmember Chock.

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

Council Chair Kaneshiro: Is there any discussion on the Minutes from the members?

The motion to approve the Minutes, as circulated, was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next up, is our Consent Calendar.

CONSENT CALENDAR:

C 2020-183 Communication (06/24/2020) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Kelly M. Gentry to the Board of Ethics – Term ending 12/31/2022.

C 2020-184 Communication (07/08/2020) from the Director of Finance, transmitting for Council information, the Fourth Quarter Statement of Equipment Purchases for Fiscal Year 2019-2020, pursuant to Section 17 of Ordinance No. B-2019-856, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2019-2020.

Councilmember Kuali'i moved to receive C 2020-183 and C 2020-184 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any discussion from the members on the Consent Calendar?

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

The motion to receive C 2020-183 and C 2020-184 for the record was then put, and carried by a vote of 6:0:1*.

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

COMMUNICATIONS:

C 2020-185 Communication (06/30/2020) from the Director of Economic Development, requesting Council approval to indemnify and hold harmless Kaua'i Government Employees Federal Credit Union, Gather Federal Credit Union, Kaua'i Teachers Federal Credit Union, and Hawai'i USA Federal Credit Union, who will administer the $5,000,000.00 of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding for the Small Business Boost Program.

Councilmember Kuali'i moved to approve C 2020-185, seconded by Councilmember Cowden.

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

Councilmember Cowden: Hi, Nalani. I am really excited about this. This is very much needed and awaited. I have a lot of confidence in the credit unions as being the appropriate vector to help these small business grants—and a big excitement over that word "grant," rather than loan. Can you provide us with a brief overview so we can all be correct as we share with the public about what this is and how they have access to it?

There being no objections, the rules were suspended.

NALANI K. KAAUWAI BRUN, Director of Economic Development: Nalani Brun, Director of Economic Development. Absolutely. We are pretty much following the example that O'ahu set and we partnered with the credit unions. The mission just follows that we all just want to help our community. Both O'ahu and Maui have also indemnified their credit unions, so they are doing a similar program. The credit unions have already set up a system to quickly evaluate applications and distribute the funds, so we are pretty much almost where we need to be. We are still going through contracts between the attorneys and the County. We were hoping to actually start this program next Monday, but it looks like it will be August instead. We are hoping for the first week, but it could be the second week of August. We are going to put the announcement in the newspaper and most of the information, like normal, is going to be on kauaiforward.com. We are still finalizing the eligibility criteria, but without getting into the specifics, our goals are pretty much to preserve small local businesses that are already established and have a reasonable chance of continuing with this financial help. They are grants, so they do not need to pay them back, provided for their use of the eligible expenditures that we have noted on the application. People cannot duplicate...so if they already used funds for specific things like via the Paycheck Protection Program (PPP), then they would not use these funds for the same things. They would use these funds for, perhaps, other things. We do want to manage the expectation. We are all putting five million dollars ($5,000,000) into this pot and this is sixteen percent (16%) of the total sub-award from the State. Given the numbers

involved, this is probably going to give us six hundred (600) small business grants—that is seven thousand five hundred dollars ($7,500). I think the last count was one thousand seven hundred (1,700) businesses registered to Kaua'i, so it will not help everyone, it will help six hundred (600). We totally appreciate what the credit unions are doing. They are working day and night trying to get this done. We are very close on the contract. Nicholas R. Courson, Project Manager and Compliance Officer is the project manager for all the CARES funds and is doing a fantastic job trying to maneuver around the many documents that we have to do to make sure that this is done well and safely for the County.

Councilmember Cowden: Thank you.

Ms. Brun: Sure.

Council Chair Kaneshiro: Are there further questions? Councilmember Evslin.

Councilmember Evslin: Thank you, Nalani. I am excited about this program also. I know the O'ahu program has been a huge savior or help for a lot of businesses. I am anxious to get this one online. I also appreciate, as you said already, all the work that the credit unions are doing for this. It is seven thousand five hundred dollars ($7,500) max. Is that correct?

Ms. Brun: Yes. I think O'ahu did ten (10) and we are doing seven thousand five hundred dollars ($7,500).

Councilmember Evslin: When O'ahu first rolled it out, it had to be for businesses with one million dollars ($1,000,000) or less of revenue, which excluded a lot of restaurants, which have high revenue and also high overhead and low profit. Then, they modified it to be two million dollars ($2,000,000) in maximum revenue. Do you know what the County is going to have?

Ms. Brun: Honestly, I cannot recall. We are working with O'ahu, so we have already made adjustments to the criteria according to what was not working for O'ahu. They were making a lot of adjustments, even up until yesterday, trying to make sure that everyone fit.

Councilmember Evslin: Great. That sounds awesome. Thank you. My reason for the question is to show my support to have that threshold be two million dollars ($2,000,000), because I think then we do get a lot of our restaurants in there, which have low profit/high overhead.

Council Chair Kaneshiro: Councilmember Kuali'i.

Councilmember Kuali'i: Nalani, when you said, "We are all putting in five million dollars ($5,000,000)," do you mean five million dollars ($5,000,000) from the County?

Ms. Brun: Five million dollars ($5,000,000).

Councilmember Kuali'i: And five million dollars ($5,000,000) each from those four (4) credit unions?

Ms. Brun: No, "we" means the County.

Councilmember Kuali'i: Is the entire fund five million dollars ($5,000,000)?

Ms. Brun: Yes.

Councilmember Kuali'i: And the credit unions are just helping us distribute it.

Ms. Brun: They are helping us distribute it. We are working out...they will take a small cut, about two point five percent (2.5%) or up to five percent (5%) for what they have to do, but it is pretty minimal.

Councilmember Kuali'i: Okay. When do you expect to get all the moneys out?

Ms. Brun: It should be quick once we get it going. The thing is the launch. We are planning to launch sometime in August—we are hoping in the first or second week of August. We will make sure that everyone knows what is happening.

Councilmember Kuali'i: Thank you.

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

Councilmember Evslin: I had one (1) more question. Is it going to be first come, first served presumably as far as...will the requirements as far as documents that people need to gather, that will come out before launch, so people can properly prepare to apply?

Ms. Brun: Yes. We will have a list of everything they need.

Councilmember Evslin: Okay, great. Thank you so much.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Will they find the list of everything they need on kauaiforward.com?

Ms. Brun: Yes. We will place it on kauaiforward.com, we will definitely place an advertisement, and make sure it goes out on social media, so everyone will know. We will also contact all business associations to make sure they will let their members know.

Council Chair Kaneshiro: Is there anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: One last thing, when we talking about the CARES Act budget and the line item at that time was Small Business Loans and Other Business Support Grants totaling five million dollars ($5,000,000), is that the five million dollars ($5,000,000) and is it all grants, there are no loans?

Ms. Brun: No loans, all grants.

Councilmember Kuali'i: Okay, thank you.

Council Chair Kaneshiro: With that, I will call the meeting back to order. Is there any final discussion on this item? Councilmember Evslin.

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

Councilmember Evslin: I just want to express my appreciation, again, to the Office of Economic Development (OED). You folks have done a really good job under terrible circumstances to try and get a lot of money out to the community in a lot of different ways over the last few months and this is just another example of that. I am excited for this program to come online and I appreciate the work you folks are doing.

Council Chair Kaneshiro: Is there anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: I want to say thank you, also, Nalani and to the entire Administration. I think it is exciting—six hundred (600) grants does not sound like a lot, but it is a lot and I think it is a big chunk of the total that you talked about. I am really glad we are able to do that.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am thankful, also, and it gives me a lot of relief to be able to point someone in a direction where there is something for so many who these other avenues have not panned out for. Is there any prioritization if a company has not been able to get any other help—would they be closer to the front of the line?

There being no objections, the rules were suspended.

Ms. Brun: I have not read the last document that we are looking at, but I am pretty sure it is first come, first served.

Councilmember Cowden: Okay, thank you.

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

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-185 was then put, and carried by a vote of 6:0:1*.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair, the communication should read, "Kaua'i Government Employees Federal Credit Union."

Council Chair Kaneshiro: Okay, so noted. Do we have to revote? Okay, motion passes. Next item.

C 2020-186 Communication (07/07/2020) from the Director of Planning, requesting Council approval to receive and expend Federal/State funds for the Hawai'i Coastal Zone Management (CZM) Program in an amount up to $365,926.49, and to indemnify the State of Hawai'i in accordance with the State of Hawai'i General Conditions (AG-008 103D) for administering the program. The pass-through funding will be utilized to continue the implementation of the CZM Program on Kaua'i commencing July 1, 2020 to June 30, 2021. Funding will be expended on salaries/wages, travel, equipment, and supplies for the CZM Program, specifically for the implementation and enforcement of the Special Management Area Rules and Regulations of the County of Kaua'i and Shoreline Setback provisions of Chapter 8 of the Kaua'i County Code, and an additional scope of service to allow for the completion of the Fiscal Year (FY) 2019-2020 coastal access inventory update project.

Councilmember Kuali'i moved to approve C 2020-186, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We did not request for anyone else for any of the reminder items on the agenda. Do we have questions on this? Councilmember Evslin, I do not think the Planning Director is present.

Councilmember Evslin: I recognize that the Planning Director is not present and I did not request him to be present. I only noticed this and had a question yesterday, but I just wanted to put it out in case any of you know—more information of what the coastal access inventory update project is. Altogether, it sounds like a great program and I am happy to approve it anyway.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a question to be sent over. I am just wondering when we see all the erosion along the bike path on the east side, which is pretty phenomenal, does that fall under this as well...for planning or working on...I would think so.

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

Councilmember Kagawa: Is this new funding or is this reoccurring? We had it before?

MICHAEL A. DAHILIG, Managing Director: Chair Kaneshiro?

Council Chair Kaneshiro: I will suspend the rules.

There being no objections, the rules were suspended.

Council Chair Kaneshiro: It sounds like Mike.

Mr. Dahilig: I can shed some light on this. This is funds that typically goes through...this is a federal grant that comes from the National Oceanic and Atmospheric Administration (NOAA) that the State sub-grants over to the counties for the enforcement of Chapter 205A, which is the Coastal Zone Management Program. This is every year. It funds three (3) or four (4) employees in the Planning Department, including an enforcement officer. This has been going on since pretty much the 1970s.

Council Chair Kaneshiro: Thank you, past Planning Director. Councilmember Evslin.

Councilmember Evslin: I have a question for our past Planning Director. Do you know what the coastal access inventory update project list by any chance?

Mr. Dahilig: I do not know off the top of my head. I can probably guess based on its title, but I would rather not.

Councilmember Evslin: You have a good idea what it means, but do not know for sure what it is. Okay.

Council Chair Kaneshiro: Again, it is money coming into the County that does not cost us anything, so those items will not hold up our vote on it and we can easily send him the question on the information. Are there any further questions for Mike while he is on? Is there any final discussion from the members? Councilmember Cowden.

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

Councilmember Cowden: I think that it is really important that we keep this type of activity moving forward strongly. We are just seeing a lot of challenge along Kapa'a shoreline where the erosion underneath the roadway along there is big, the bike path—I am worried about the Wailua Bridge, so it is good that we are keeping it moving forward and active.

Council Chair Kaneshiro: Is there anyone else?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-186 was then put, and carried by a vote of 6:0:1*.

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

C 2020-187 Communication (07/13/2020) from the Managing Director, requesting Council approval to apply for, receive, and expend Federal funds from the Federal Emergency Management Agency (FEMA) in an amount not to exceed $2,000,000.00 for the reimbursement of expenditures related to the March 27-28, 2020 rain event.

Councilmember Kuali'i moved to approve C 2020-187, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Mike is available if Councilmembers have questions, but again, this is just asking FEMA for reimbursement related to the March 27-28, 2020 rain event. Are there any questions for Mike? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: Is that the full amount that is remaining to be reimbursed to the County? Is that correct?

There being no objections, the rules were suspended.

Mr. Dahilig: It is an estimated amount based off of the preliminary damage assessment that was conducted by FEMA, as well as any human

resource types of things, like for example overtime where additional work time needed to be done to respond to that. Chelsie and the team at the Kaua'i Emergency Management Agency (KEMA) really turned over every single rock to get this qualification by the President, so we are thankful that there was a lot of effort to try and meet that threshold and thankfully the federal government agreed to be able to meet it. This is the minimum threshold that we are hitting, the two million dollar ($2,000,000) mark, and that is why it has to be listed at the two million dollar ($2,000,000) mark, so there are some items, has been damage to the Wailua Golf Course, the baseyards, and even Rock Quarry Road has been qualified as being COVID-19 assistance eligible. Just as a heads up, it will cover seventy-five percent (75%) of those costs.

Councilmember Cowden: Yes, okay, that Rock Quarry Road is really significantly damaged, too. Are we likely to be getting any more back for 2018 or are we pretty much finished with that?

Mr. Dahilig: The Governor did release the recent proclamation for the fifteenth time, so we are still "in recovery" for that. In terms of additional moneys, we are not anticipating anything to come in other than previously-approved FEMA reimbursements by the previous Council for actions that were taken, so those moneys are still coming in, as well as reimbursements for work at Weke Road, those types of things. Those things still need processing, but those moneys are still ongoing and are considered reimbursements at this point.

Councilmember Cowden: Big gratitude to Chelsie for getting it. Thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Is there a reason why we do not have a breakdown of the two million dollars ($2,000,000), itemized or even a summary?

Mr. Dahilig: What I do have is just a preliminary damage assessment of all the estimated damages, but in terms of how the moneys are going to be spent, there has not been any actual contracts or work that has gone out thus far to respond to this particular federal disaster. I can send the breakdown of the preliminary damage assessment, which has the estimated amounts and the items that were qualified by FEMA as being eligible for public assistance.

Councilmember Kagawa: I would think if you need the Council approval, it would be nice to have at least some type of detailed breakdown as far as what we are asking, so there is transparency.

Mr. Dahilig: Okay. Once we actually get into agreements with FEMA, we can come to the Council and say what exactly we are looking at.

Councilmember Kagawa: Okay, thank you.

Council Chair Kaneshiro: Okay. Is there anyone else? If not, I will call the meeting back to order. Is there any final discussion from the members?

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

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-187 was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. We are at 10:30 a.m., so we will take our ten-minute caption break.

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

The meeting was called back to order at 10:41 a.m., and proceeded as follows:

Council Chair Kaneshiro: Next up, Claims.

CLAIMS:

C 2020-188 Communication (07/13/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Douglas J. Glasscock, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2020-189 Communication (07/13/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Douglas J. Glasscock, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kuali'i moved to refer C 2020-188 and C 2020-189 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

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

Councilmember Kagawa: This is why I say we need to pave roads. This is every Council Meeting. This is not about in totality how much we deny or how much is on the claim, because I am pretty sure we deny most of them because they cannot

prove that the road caused it. People are struggling financially with COVID-19 and are stressed and then to have to go through fixing their cars or tires, because we cannot have decent roads—it is annoying. People pay property taxes, if they pay rent, they are helping to pay property taxes, and we impose this way of generating twenty-five million dollars ($25,000,000) a year and that is why I want our main priority focus to be...if you are on a football team and you run the ball, we need to run the ball—we need to fix our roads. That should be our priority. We will have less of these claims and we will impose less stress upon innocent people who are just trying to go to where they have to go on our roads. Thank you.

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

Councilmember Cowden: I have a question.

Council Chair Kaneshiro: I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Cowden: Items one and two look identical.

Council Chair Kaneshiro: He has two (2) separate claims for two (2) separate incidents.

Councilmember Cowden: On the same vehicle?

Council Chair Kaneshiro: I read the claims, but I cannot remember if it was the same vehicle or not.

Councilmember Cowden: Okay.

Councilmember Kagawa: That one might be an issue of just having some really bad luck.

Council Chair Kaneshiro: If I remember correctly, they were on Kōloa Road or Maluhia Road, so the roads that we are going to be getting done. Are there any further questions? If not, I will call the meeting back to order.

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

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

The motion to refer C 2020-188 and C 2020-189 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6:0:1*.

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

COMMITTEE REPORTS:

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2020-05) submitted by the Finance & Economic Development Committee, recommending that the following be Received for the Record:

"FED 2020-04 – Communication (06/18/2020) from Councilmember Kuali'i, requesting the presence of the Director of Economic Development, to provide a briefing on any climate change efforts that the County of Kaua'i has made, to include the following:

- The County's response to the expected impacts of climate change;
- The types of action the County is planning to implement; and
- The resources required to implement the County's efforts and where they are anticipated to come from,"

Councilmember Kuali'i moved for approval of the report, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

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

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2020-16) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

"Bill No. 2793 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 14 BETWEEN JULY 1, 2019 AND JUNE 30, 2021,"

Councilmember Kuali'i moved for approval of the report, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the reports was then put, and carried by a vote of 6:0:1*.

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

RESOLUTIONS:

Resolution No. 2020-28 – RESOLUTION AUTHORIZING THE ACQUISITION OF AN EASEMENT INTEREST IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, SITUATED AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUA'I, HAWAI'I, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

Councilmember Kuali'i moved for adoption of Resolution No. 2020-28, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any discussion from the members on this item? If not, roll call vote.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for adoption of Resolution No. 2020-28 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

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

Resolution No. 2020-31 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS *(Kelly M. Gentry)*

Councilmember Kuali'i moved for adoption of Resolution No. 2020-31, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item? If not, roll call vote.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for adoption of Resolution No. 2020-31 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

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

BILL FOR SECOND READING:

Bill No. 2793 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 14 BETWEEN JULY 1, 2019 AND JUNE 30, 2021

Councilmember Kuali'i moved to approve Bill No. 2793 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We did receive a written testimony on this item. Is there any discussion from the members on this item? Councilmember Kagawa.

Councilmember Kagawa: I saw a really interesting article about the University of Hawai'i, Board of Regents asking the Legislature to defer pay raises for all employees due to COVID-19. The reason why they said that was that they were told that the State is probably headed towards furloughs or even layoffs if things do not get better and money does not pop up from the federal government, somehow in the next year or two. The Regents are laypeople, just like us. They oversee the University of Hawai'i and a lot of them come from the private sector and the questions about the pay raises were that, yes, they were negotiated, they were collectively bargained; however, this is a once-in-a-lifetime thing that has hit us, COVID-19. If COVID-19 had hit us prior to those pay raises being negotiated, would they be approved? The question undoubtedly would have been "no," because rather than have employees pay that at a higher rate, what government would do is follow the private sector, who are all struggling as well. If we do not have these pay raises in, there would be less furloughs,

less layoffs needed—the impact down the road would be softer and the public would receive a greater benefit by having more times that the County is open for public services. It is a really interesting majority decision by the Regents that said, "Due to COVID-19, I think we should be deferring our pay raises, keeping it at the same level they were prior to the new bargaining agreements that were approved and seeing if that is an option," since we are headed towards those hard times. It is very interesting in that one could say, "Yes, it is already done; all the matters were collectively bargained fairly, like how they always do," but the problem is they never faced COVID-19 after that and we are. For me, to deny this one, while the other ones have already been approved, would really make no sense—it would be holding one group hostage because they are the last one to come up for the increase before the legislative body. Most of the previous ones came up before COVID-19, so it is a tough decision and in this case, I am really torn, actually. I want to make a statement. I do believe that government should take the hit, just like the private sector. It is about sacrifice. For someone to say, "private sector pays me more," you are free to go all the time, including myself. We are all free to leave this job once it does not pay us as well as the private sector, but as policymakers, I think for me this is where we need to show the strength and hold our duties and look at how it affects the general public in what is coming. We know what is coming. There are dark times ahead. Is this a time for generous pay raises knowing that there are furloughs and layoffs going forward? For me, I am very torn. I do not want to single out the lifeguards and it is a very tough for me. I will be voting no, because I believe in always sitting in this chair and doing what I feel is right for the entire taxbase. My gut tells me I would rather sacrifice pay raises for all employees, including myself as a school teacher and reduce the number of furloughs and layoffs down the road. The public deserves the least heartache possible from the government, who services them with the taxpayer money. Thank you.

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

Councilmember Evslin: I just want to say briefly that I respectfully disagree with Councilmember Kagawa's perspective. I respect that he is making a tough decision on his end, but we are in very a different financial position than the State is. Our taxbase is much more stable than the State. They are reliant on income taxes, excise taxes, and transient accommodations taxes (TAT) taxes to a greater extent, which are all very unstable tax basis in a time of recession...property taxes are stable and we have not heard that we are going to be facing furloughs or layoffs in the same way. As we heard from our Finance Director at the last meeting, the Administration supports this and from a fiscal perspective they support it. For me, I said it before, I think they are amongst the lowest-paid County employees for the work that they perform. I think to not grant this raise, yes, it is four-and-a-half percent (4.5%), but I do not think it is a generous raise. All it is getting them is to where they should be at. They are risking their lives to save people, but also what we are paying them right now is basically saying, "Work full-time for the County risking your life, but also in order to survive, you have to get a second full-time job or part-time job." You cannot make it with that salary.

There is no private sector out there, so it is not even fair to say, "Find a private sector job if you do not want to do this." These people are passionate about public service. That is my own perspective. I do support the raises.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to say that I see our lifeguards as being somewhat underpaid already, so that challenges as it drives most of them to want to join the Fire Department and that tends to be the natural pathway—into the Fire Department for the better pay. We need to keep our experienced people in the lifeguard towers as long as we can. I do want to recognize that their workload in risks probably drops during this window of when we do not have the visitors. Those tend to be our highest risk people in the water. I am going to support this. If we were ahead of everyone, I would be ready to not make the raises on all. The last time when we were discussing the challenge of collective bargaining, my understanding was that it is possible to send a Councilmember for the collective bargaining, even just to sit and listen and be present. This year, I would like to see that happen if in any way possible. I thought that was my understanding that we can have someone in the room. Is that right? We were told that, but do I have that wrong?

Council Chair Kaneshiro: That is what they said.

Councilmember Cowden: That is what they said. I am willing to go. To me, it is crazy that we have our staff get their bargaining done, when we do not even have anyone there. It seems like that is something that needs to be looked at more proactively, because we do not seem to be a part of the collective conversation in the collective bargaining for what we pay. I am going to support this.

Council Chair Kaneshiro: Is there anyone else? Councilmember Evslin and then Councilmember Chock.

Councilmember Evslin: I do want to recognize that we certainly are facing bad fiscal trends, but it is not the same position as the State, so we are going to have to continue making our decisions on our budget as we did in this last one, but I think those cuts and priorities have to be...equipment purchases, travel expenses, et cetera, first. Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you for the conversation, everyone. I will be supporting this. It is just on the matter of timing, for me. I do think that we all need to take a piece of this moving forward in how it is we manage our salaries, especially given the bleak financial forecast. But I do think the right mechanism for me would be to see how we all participate in that, not just one bargaining unit that is

coming in by chance at the last hour and is now being affected by this outcome. This will be a really tough decision moving forward, but I think the sooner we can start this conversation about it might look to preserve our financial stability is really important. Thank you.

Council Chair Kaneshiro: Is there anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: I am supporting this Bill. These represent past-due raises, right, so effective July 1, 2019, the increase represents one hundred eighty thousand dollars ($180,000), and for July 1, 2020, four hundred thousand dollars ($400,000). The collective bargaining process has resulted in these agreements, all sides have agreed. These are for periods that have already passed, so it will be retroactive. I would like to see us get back on top of our negotiating and get in front of it. Obviously, this is the last of many different collective bargaining agreements that have been completed and it would not be right, like Councilmember Kagawa said that stops this now being the last of all of them. Being that it is for periods that were agreed to well before...for periods before COVID-19 struck and has taken effect. Having said that, obviously in our next round of negotiations the Administration will have to seriously consider the revenue shortfalls that will inevitably result—that are even on a deeper level because of COVID-19, but today I will support this.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I just want to clarify, again, for Councilmember Evslin. My vote is against all pay raises; past and current, in order to make a fiscally responsible decision, because COVID-19 is here now and COVID-19 was not here when all of these agreements were made. There is a big difference between the State's and counties' financial future now compared to March. I just wanted to clarify that I am saying with what we are faced with, with the State and County, and you can say that the County is better off or whatever, you are going to be asking the State to remove your TAT. Whatever the State does, the counties need to follow suit or there will be consequences. We have been told that by Senate President Kouchi straight from his face. You can call him yourself. If the State furloughs, you better furlough or you will suffer the consequence. Let us be clear about that and let us not beat around the bush. There are going to be consequences to this County from COVID-19 and I do not need a crystal ball for that. Thank you.

Council Chair Kaneshiro: Okay, is there anyone else? I will be voting in favor of this. It did go through arbitration, it was negotiated prior to COVID-19, and this is the tail-end of negotiating all of our collective bargaining contracts. I would be very interested to see the collective bargaining contracts that will be coming up some time later this year or early next year. I will be very interested to see what comes of that and how...if we are most likely to go into arbitration on a lot of them and how the mediator and arbitrators look at the economy and our ability to pay. I will be very

interested to see that. For this contract, I will be voting in favor. Is there anyone else? If not, roll call vote.

(No registered speakers requested to testify regarding this agenda item.)

The motion to approve Bill No. 2793 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 ADOPTION:	Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL – 5,
AGAINST ADOPTION:	Kagawa	TOTAL – 1,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes, one (1) no.

Council Chair Kaneshiro: With that, Clerk, can you read us into Executive Session? We will read it in now, but take it at the end of our meeting today.

EXECUTIVE SESSION:

ES-1028 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and/or decision-making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.

ES-1029 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing and request for settlement authority in the matter of Mark N. Begley vs. County of Kaua'i et al., Civil No. CV16-00350, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1030 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to obtain settlement authority of Robert Adam's real property tax claim and related matters. This briefing

and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-1028, ES-1029, and ES-1030, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any discussion on these items, members? Councilmember Kagawa.

Councilmember Kagawa: I have one (1) question. ES-1029 and ES-1030, we know who the plaintiffs are, I guess—Mark N. Begley vs. County of Kaua'i and the other Executive Session is regarding Robert Adam's real property tax claim, and the other Executive Session is a workers' compensation claim, but there is no name. I am wondering if there is a reason. Is it a workers' compensation claim from many individuals or is it an individual?

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: Matt Bracken, County Attorney. It is a workers' compensation claim from one (1) individual. The name is actually protected because it is a workplace injury and it is protected under federal laws, Health Insurance Portability and Accountability Act (HIPAA).

Councilmember Kagawa: But the other Executive Sessions are...Begley works for the County and that is fine to list?

Mr. Bracken: Correct. Per the Sunshine Law, we want to provide as much information to the public, so they can testify on what the Executive Session is about. The lawsuit is a public lawsuit—all the information is available from the Public Access to Court Electronic Records (PACER) website or the federal courts.

Councilmember Kagawa: Very good.

Mr. Bracken: Similar with the third claim. That actual claim would be considered a public record as well, so the public could request to see that record, therefore, those are public records that can be reviewed versus the first Executive Session is not.

Councilmember Kagawa: I am just making sure there is consistency and you satisfied my question.

Council Chair Kaneshiro: Are there further questions from the members? Is there any final discussion from the members?

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

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

The motion to convene in Executive Session for ES-1028, ES-1029, and ES-1030 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Kaneshiro: The motion is carried. That concludes our business on our Council Meeting Agenda. Seeing no further business and hearing no objections, this Council Meeting is now adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:06 a.m.

Respectfully submitted,

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:jy

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).