

## COUNCIL MEETING

NOVEMBER 12, 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, Lihu‘e, Kaua‘i, on Thursday, November 12, 2020 at 8:40 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 Kualii  
Honorable Arryl Kaneshiro

Excused: Honorable Arthur Brun\*

Council Chair Kaneshiro: Please note that we will run today’s meetings pursuant to Governor Ige’s Supplementary Emergency Proclamations with the most recent relating to the Sunshine Law being his Fourteenth Supplementary Emergency Proclamation dated October 13, 2020.

### APPROVAL OF AGENDA.

Councilmember Kualii moved for approval of the agenda, as circulated, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Is there any discussion 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 agenda, as circulated, was then put, and carried by a vote of 6:0:1\*.

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

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

October 21, 2020 Council Meeting

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

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

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

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

CONSENT CALENDAR:

C 2020-265 Communication (10/20/2020) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of May 7, 2020.

Councilmember Kualii moved to receive C 2020-265 for the record, seconded by Councilmember Kagawa.

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 this agenda item.)*

The motion to receive C 2020-265 for the record was then put, and carried by a vote of 6:0:1\*.

COMMUNICATIONS:

C 2020-266 Communication (10/09/2020) from Ka'aina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Article 27, Kauai County Code 1987, as amended, relating to Shoreline Setback And Coastal Protection.

Councilmember Kualii moved to receive C 2020-266 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We will see this come up later under Bills for First Reading. Is there any final discussion on this?

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

The motion to receive C 2020-266 for the record was then put, and carried by a vote of 6:0:1\*.

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

C 2020-267 Communication (10/15/2020) from Ka'aina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation that Proposed Draft Bill (No. 2671) be received for the record.

Councilmember Kualii moved to receive C 2020-267 for the record, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: This item will also come up later under Bills for First Reading. Is there any final discussion from the Members?

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

The motion to receive C 2020-267 for the record was then put, and carried by a vote of 6:0:1\*.

C 2020-268 Communication (10/18/2020) from the Emergency Management Administrator, requesting Council approval to receive and expend State funds, in the amount of \$750,000.00, from the United States Department of Homeland Security, via the State of Hawai'i Department of Defense, to be used to enhance the capability of State and local units of government to prevent, deter, respond to, and recover from threats and incidents of terrorism, as well as "all hazards" catastrophic preparedness initiatives.

Councilmember Kualii moved to approve C 2020-268, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions or is everyone okay with this item? Is there any discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I would like to acknowledge that the seven hundred fifty thousand dollars (\$750,000) is a recurring grant. It is great that it is applied for, and we had a catastrophic preparedness initiative need. I am acknowledging the value of this grant.

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 2020-268 was then put, and carried by a vote of 6:0:1\*.

Council Chair Kaneshiro: Next item.

C 2020-269 Communication (10/21/2020) from the Executive on Aging, requesting Council approval to receive and expend a total of \$100,465.00 in State General Funds for Fiscal Year 2021, and to indemnify the State Executive Office on Aging, to be used for the provision of Kūpuna Care Services, which includes case management, adult day care, assisted transportation, attendant care, homemaker care, kūpuna care transportation, personal care, and home-delivered meals.

Councilmember Kualī'i moved to approve C 2020-269, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members? Is there any discussion? Councilmember Kagawa.

Councilmember Kagawa: I would like to thank the Agency on Elderly Affairs for helping our *kūpuna*, doing everything they are able to, and reaching out to ensure their presence is felt. I spoke to the children of a senior citizen. They are disappointed that our neighborhood centers are not available. For their father, it was the only thing that he looked forward to and it has been closed for almost a year. To me, at some point, we need to reopen those facilities for the senior citizens. If it is the only thing that they look forward to every day and it is not available, then what do they have? Yes, there are risks. However, there is a way to balance community needs and risks. Having the centers available for senior citizens is desperately needed. I am sorry that it drifted off track, but I felt it was important to share.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: The senior citizens use the Kīlauea Neighborhood Center for music and senior programs; it is a big issue for our town, also. I am just agreeing with Councilmember Kagawa.

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 2020-269 was then put, and carried by a vote of 6:0:1\*.

C 2020-270 Communication (10/21/2020) from the Executive on Aging, requesting Council approval to accept a monetary donation of \$750.00, from 'Āina Ho'okupu O Kīlauea, to be used by the Retired and Senior Volunteer Program (RSVP) for the delivery of fresh produce boxes to eligible seniors island-wide.

Councilmember Kualī'i moved to approve C 2020-270 with a thank-you letter to follow, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is a donation from 'Āina Ho'okupu O Kīlauea. Is there any discussion from the Members on this item? Councilmember Evslin.

Councilmember Evslin: I would like to thank 'Āina Ho'okupu O Kīlauea. This program consists of RSVP volunteers who deliver produce. In a memorandum received from Kealoha, I would like to read an inspirational quote from a *kupuna* who is on the program. "I was born and raised in poverty, so I appreciate what you are doing, and happy for what you are doing. At eighty-five (85) years old, I am not in that same financial place. I rarely purchase vegetables and fruits since my wife died fifteen (15) years ago. She is probably smiling that I am eating healthy

again.” I thought that was a moving quote and I really appreciate this program. It seems amazing. Thank you to ‘Aina Ho‘okupu O Kīlauea, to all of the RSVP volunteers, and to Kealoha and her department. Thank you.

Council Chair Kaneshiro: Thank you. 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 2020-270 was then put, and carried by a vote of 6:0:1\*.

#### CLAIMS:

C 2020-271 Communication (10/15/2020) from the County Clerk, transmitting a claim filed against the County of Kaua‘i by James A. Tavares, for damage to his property, pursuant to Section 23.06, Charter of the County of Kaua‘i.

C 2020-272 Communication (10/19/2020) from the County Clerk, transmitting a claim filed against the County of Kaua‘i by Jill Elmore, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua‘i.

C 2020-273 Communication (10/26/2020) from the County Clerk, transmitting a claim filed against the County of Kaua‘i by George Makaneole, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua‘i.

C 2020-274 Communication (10/27/2020) from the County Clerk, transmitting a claim filed against the County of Kaua‘i by DTRIC Insurance, as subrogee for Noel Butay, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua‘i.

Councilmember Kualī‘i moved to refer C 2020-271, C 2020-272, C 2020-273, and C 2020-274 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 or is there any discussion on this? Councilmember Kagawa.

Councilmember Kagawa: When you see these claims and knowing how bad our roads are in some areas, for example, Kōloa Road, the bypass road, Olohena Road...there are many roads, and there should be no excuse for the Department of Public Works, Roads Division to let the roads get this bad. Yes, there are a lot of times you see them working on the sidewalks and bike paths, but you need to take care of what is on your inventory first, then you can work on new projects. To me, a lot of the claims that come in are inexcusable. People pay a lot for property taxes. Public Works, you need to do your job. There should be no excuses. Thank you.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to refer C 2020-271, C 2020-272, C 2020-273, and C 2020-274 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.

**BILLS FOR FIRST READING:**

Proposed Draft Bill (No. 2671) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Shoreline Setback*)

Councilmember Kualii moved to receive Proposed Draft Bill (No. 2671) for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We have two (2) Bills; one (1) introduced by the County Council and one (1) introduced by the Planning Commission. This Bill is to be received. I am going to ask that we receive this Bill first. On the next item, Ka'aina can share the difference between both Bills and why we are proceeding with Proposed Draft Bill (No. 2813) and have the discussion then. It would be easier than trying to piecemeal the discussion on the same item relating to Shoreline Setback. That would be my suggestion and I am hoping you folks are okay with that? The motion on the floor is to receive. Roll call vote.

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

The motion to receive Proposed Draft Bill (No. 2671) for the record, was then put, and carried by the following vote:

FOR RECEIPT:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
AGAINST RECEIPT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

JADE FOUNTAIN-TANIGAWA, County Clerk: Six (6) ayes to receive.

Council Chair Kaneshiro: Next item.

Proposed Draft Bill (No. 2813) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*County of Kaua'i Planning Department, ZA-2020-14*) (*Shoreline Setback And Coastal Protection*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2813) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 2020, and that it thereafter be referred to the Planning Committee, seconded by Councilmember Kagawa.

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

Councilmember Chock: Thank you, Council Chair Kaneshiro. The Shoreline Setback Ordinance has been something that we have been looking at over the last five (5) years. Since we received the Proposed Draft Bill (No. 2671), Ka'aina, if you could provide the history, the purpose of this Bill, and how we see it moving forward into the Committee Meeting.

There being no objections, the rules were suspended.

KA'AINA S. HULL, Planning Director: Ka'aina Hull, on behalf of the Planning Department. In 2017, we were sent the Shoreline Setback Ordinance draft bill that you just received for the record. We were holding it to get the updated erosion rates that are necessary for the formula calculation regarding the Shoreline Setback. We got those rates, and a few things happened in between year 2018. We started to rework the policies and essentially spun up a new bill, , and it was somewhat of an oversight on our part that we had the existing Bill sitting in our docket. When we sent over the Bill that we worked on with the Planning Commission, thank you to Council Services staff for pointing out and saying, "You still have the Proposed Draft Bill (No. 2671)." We decided that because there are two (2) Bills, we would receive the older Bill and work on the new Bill. It was an oversight on our part, and I apologize for that.

Essentially, the Bill that is before you, the primary thrust and purpose of it is to update the Shoreline Setback and Coastal Erosion Rates that we contract through Dr. Charles "Chip" Fletcher and his team. He updated his study and there needs to be adjustments made to the Coastal Erosion Rates that are the standard for how the setback is established. There are also other amendments.

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

Mr. Hull: For the first Bill that was originally initiated, there was concern with how repairs were being handled and structures near the coastline not being subject to the Shoreline Setback Ordinance because of the way repairs were being used. There is arguably a loophole to get substantial construction through without having to certify the shoreline. We have an amendment on an

exemption that is not used, and we are proposing to take that out. There are a handful of other amendments. Another policy change in the proposed bill is aligning the rocky shoreline minimum setback with the rest of the island's coastal setbacks. The minimum for a rocky shoreline is forty-feet; for the minimum for other shorelines such as erodible shorelines is sixty-feet. We are aligning all shorelines to have a sixty-foot minimum setback. While much of the Shoreline Setback Ordinance is based on erosion rates, it is ultimately about protecting structures from coastal processes regardless of it being situated on a rocky or sandy shoreline. That is one (1) policy change aside from the updated study that is being proposed. The main thrust of this is to update the study to include the new erosion rates. We are looking forward to doing additional work with you folks in Committee.

Council Chair Kaneshiro: Thank you, Kā'āina. Councilmember Chock.

Councilmember Chock: Thank you for that response. I was the co-introducer of Proposed Draft Bill (No. 2671), alongside former Council Chair Rapozo. This came up after meeting with Caren Diamond and seeing some of the repair issues and how they are slipping through and being interpreted from the homeowner's perspective. I am curious to know and if you can share who was involved in the new iteration...if Ms. Diamond was involved and anyone else in coordinating the outcome?

Mr. Hull: Yes, Ms. Diamond was involved in the discussion regarding the draft bill. We also sought out some of the original members of the working group that worked on adopting the Shoreline Setback Ordinance we have today. That working group comprised of both community activists and land use attorneys. We have been working closely with Ms. Diamond.

Councilmember Chock: Okay, thank you. Thank you for ensuring that it was an inclusive process for everyone. Those things tend to sneak back up on us. In Committee, if you can provide a list of people who contributed towards this effort, it would be helpful for the Council. That would be my request.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have three (3) questions I am hoping are simple and for my clarification. When the property is on a cliff above a rocky shoreline, it is going to be a sixty-foot minimum. I remember that was an issue before. For example, in Princeville where there are rocks all the way up, people say, "Hey, it is forty (40) or sixty-feet;" it does not matter. To be consistent, will it be sixty-feet?

Mr. Hull: The proposal is for it to be a minimum of sixty-feet. For those with additional lot depth that can accommodate larger setbacks, it is already established in the Ordinance.

Councilmember Cowden: Your audible dropped out a little. I believe I heard you say if there are already plans in place or something existing, it would not change what is already permitted.



Mr. Hull: Councilmember Cowden, for existing structures, it does not affect the Shoreline Setback; it is for new proposals.

Councilmember Cowden: For new proposals. What about yet to be built and if they already got approved? I am not sure if there is an example, but I remember a few years ago when this was being fought, I was on the side for it being sixty-feet. I remember there were people wanting to design up above and on the cliffs. There is nothing in limbo at this point and that we are aware of?

Mr. Hull: I am not aware of any major projects that are in limbo.

Councilmember Cowden: Okay. When we have the new zoning, I believe we are calling it Open Coastal Zoning in the West Kaua'i Community Plan (Plan), how do these relate to each other?

Mr. Hull: Both policies are concerned with acts of coastal hazard. With the Special Treatment Coastal Edge in the Plan, that proposes the sea level rise rates line that is established through the sea level rise exposure area study. We looked at how we could fold that into the specific coastal erosion formula set in the Shoreline Setback Ordinance. We were not able to do it under the existing study done by Dr. Fletcher. I am able to say that we have contracted Dr. Fletcher to bring the same sea level rise exposure area rates that we were able to use for the Open Coastal Edge and to look to see if it was possible to format it within the Shoreline Setback erosion rates; that is essentially the difference. It technically does not accommodate for sea level rise in the Shoreline Setback Ordinance or the draft that you have before you, while the Special Treatment Coastal Edge does.

Councilmember Cowden: We are not going to have a conflict on those properties because the zoning on the Westside would oversee the Shoreline Setback piece, right?

Mr. Hull: The Shoreline Setback Ordinance covers the properties that are in the Special Treatment Coastal Edge. However, it does not necessarily apply to all of them.

Councilmember Cowden: Okay. We heard from a handful of people who own those properties and are stressed regarding that change. If they are listening and watching, and for us, I wanted clarification. My third question is how does this influence properties that the County owns? There is evidence of parks, roads, Ke Ala Hele Makalae Bike Path in Kapa'a—there is erosion going on everywhere. Alarming so, it is in almost every region throughout the island. It is amplified by the trees brushing against the shorelines that starts to dig away. It brings us back to how we handle Albizia trees et cetera. How does this influence when the County owns the property and not be hypocritical about it? Right now, and to some degree, we are fixing our coastal erosion where we have assets. Are you able to speak to that so that I have an understanding?

Mr. Hull: Councilmember Cowden, there is a specific provision to allow for some minor public structures to be constructed in proximity to the shoreline. They must be under one hundred forty-five thousand dollars (\$145,000), and that also applies to the private sector. Ultimately, the County is still subject to this Ordinance. There has always been some degree about whether or not it is appropriate to exempt our park facilities from this Ordinance. Many of our park facilities are specifically designed or situated to have the public be able to access these recreation areas. Our beaches, which are one of our biggest recreation areas, is a hazardous erodible area, but we need to be sensitive for public enjoyment activities. So perhaps, subject to an erodible beach, as that beach erodes, the park facility needs to move with that erosion, not prevent redevelopment, because of the negative impacts that comes with the sea movement, but that is not part of this draft.

Councilmember Cowden: Okay. To reiterate, near the Ke Ala Hele Makalae Bike Path, we are seeing how it is deeply eroding away. Wailapa Road in Kilauea is washing away, and it is dangerous. The road along Fuji Beach in Kapa'a and the State Highway. We need to continue to rebuild it, right; or what do we do? Is that not a part of this?

Mr. Hull: That is all erodible areas where the water is lapping on the infrastructure. It must go through a State permitting process and there is no charge—a public hearing process. Unless emergency powers are used to reconstruct or fortify. Aside from the usage of emergency powers, they must go through a permitting process. Not only on Kaua'i, the entire State needs to look at their infrastructure and say, "What is the infrastructure necessary to fortify in place?" There is an argument for public infrastructure and the uses by the public overriding the prohibitions that are going on for seawalls for private property owners. However, recognizing the seawalls that are done for public infrastructure can have negative impacts on other areas of the island. It is a case-by-case assessment that not only our Public Works and Department of Parks & Recreation need to make, it is happening statewide. Which ones are the assets, and we need to reach out to the community, which of these assets are deemed vital enough to fortify? Which assets do we need to find a manner or find a way to migrate them *mauka*?

Councilmember Cowden: I have another question. Is it the State or the County's responsibility to harden the shoreline financially? When I think about Fuji Beach, there are a few places where I am afraid that someone is going to drive, park, and fall in. If they pull up with a big vehicle, it is going to drop down. Something needs to support or close that. Whose responsibility is it to fortify the shoreline? It seems to me that it is the State Department of Land and Natural Resources (DLNR).

Mr. Hull: It is not our responsibility. It is a DLNR asset. DLNR will review the application to fortify. Once you are proposing something *makai* of the shoreline, that is essentially State domain for permitting processes. However, it depends whose asset it is. If it is a State asset, they will bear that financial burden of fortifying should they be able to get the permits to do so. If it is a County asset, say a County road, the County would have to get permission from the State through the DLNR process, and the financial burden would fall on the County.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. I am sorry, I had trouble hearing some of your answers to Councilmember Cowden. Just to clarify, is it the longterm intent to fold in the sea level rise exposure area into the Shoreline Setback Ordinance and you are contracting Dr. Fletcher to include amendments, is that correct?

Mr. Hull: Councilmember Evslin, yes. Ultimately we are contracting with Dr. Fletcher. The sea level rise exposure area study that he has is a series of lines on a map that they pick this exposure area. Folding it into the Shoreline Setback Ordinance that was formula based proved real sticky to a point where we attempted it, but it was not formatted correctly. We voiced these concerns to Dr. Fletcher and he pointed out that he has the ability...instead of folding the lines of the sea level exposure area, to use his data to adjust the rates established from the shoreline setback erosion so that the same data points used for the sea level exposure area would be utilized in the formulas where erosion rates established for the Shoreline Setback Ordinance. I will say that it is very nuanced, and almost "unreliable," but from a policy perspective, it is what would be necessary to fold in his data into the Ordinance. We are looking at doing that. However, should we propose that happening, it would be at least one-year out and it would require legislative scrutiny and action.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Hi, Ka'āina. In the section regarding minimum shoreline setback requirements and the change from forty-feet to sixty-feet, there is underlined language, which I am assuming is new language that says, "except as determined by the Planning Commission pursuant to Section 8-27.10." When I look at Section 8-27.10, there are three (3) pages and there does not seem to be any significant changes. Some seem grammatical, aside from the forty (40) to sixty-feet. The one thing I noticed was on the last page, it says, "To minimize and mitigate risk of adverse impacts on beach processes" and it adds "and neighboring properties." Is that something that was added to address certain issues? Section 8-27.10, the third page.

Mr. Hull: Yes, the inclusion of "neighboring properties" clarifies that any proposal being done within the setback area...this is the criteria for approval for a variance, which means, the applicant is looking at siting a structure within the setback area. When they do so, they will do it in a manner that will not negatively impact coastal erosion processes, but can negatively impact neighboring properties also. With the extreme example of seawalls, we generally have to put up a seawall because of the fact that the water is eroding at your property line and you want to protect that property from further erosion. What science has found is that

virtually all cases where that seawall goes up, that erosion rate will migrate somewhere else and onto another property. It will begin to erode somewhere that may not have been eroding before.

Councilmember Kualii: Along those lines, the section prior, Section 8-27.9, Variance application. On the second page of that, it talks about noticing the neighbors and it says, "Within three hundred (300) feet of the parcel that is subject to the application." The three hundred (300) feet is enough for including the neighbors that are impacted or affected? It seems when you talked about the seawall, it might impact neighbors beyond the three hundred (300) feet.

Mr. Hull: Yes, Councilmember, you are correct. The three hundred (300) feet is a standard notification that we have for all of our public hearings whether it is a zoning amendment for a specific property or a use permit, and that is where that language was gleaned from. Theoretically, should someone want to propose a seawall, it could go beyond three hundred (300) feet of the parcel. That is correct. In establishing a standard and a criterion for variance approval, they must go through several scientific studies to demonstrate that it would not shift erosion to any nearby properties. That should address whether it would affect properties beyond three hundred (300) feet. I hear your concern.

Councilmember Kualii: It is not necessarily something that needs to be in the Bill because the Planning Department would address that in the application when applying for the variance.

Mr. Hull: The Planning Commission would be reviewing it for action. A non-impact would have to be established through a scientific study that was part of a packet of application.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? Councilmember Kualii.

Councilmember Kualii: Ka'āina, this is only a request. When we work on this in Committee, can you come to us with a basic summary overview describing the significant changes. I know a lot of this is an update based on the current data. Besides that, there is a handful of other amendments.

Mr. Hull: Absolutely.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Are there any further questions? Is there any final discussion on this item? Councilmember Chock.

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

Councilmember Chock: Thank you, Council Chair Kaneshiro. Thank you Ka'āina, for the explanation and I look forward to it being in Committee. It has been an ongoing issue that we have been seeing over the years. I see this being the next step of a continual process. This has been translated as an issue between State and County jurisdiction. As questioned by Councilmember Cowden, I also believe it will need to be addressed sooner rather than later. Nonetheless, the County gets left having to deal with it without the necessary support. We are seeing increased issues occurring along our shoreline. In addition, a lot of it relates to abuse and how we are managing it at the court level has significantly impacted our own Office of the County Attorney and how they are addressing everything from non-conforming structures, et cetera. It is a big job and I appreciate the effort. I know there is a lot of housekeeping amendments for this Bill. I see that Jenelle Agas is an analyst on this Bill. I believe she is the right person in terms of helping with the housekeeping amendments. I heard comments from Ms. Diamond and others who are supportive of the Bill, but shared that it could be further explored at the Council level regarding verbiage and grammatical content. I am sorry, Jenelle will not be on this Bill, she needs a break from the Plan. It will be Aida Kawamura, who is just as good. Thank you. Council Chair Kaneshiro, that is all for my comments.

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

Councilmember Cowden: I am hoping that we have a Coastal Erosion Study that will help to complement this as it moves along. The most pronounced looking to me is the Eastside shoreline. I regularly receive complaints and comments from landowners. There is an expectation that it is our responsibility to fix it. It is a collaborative effort and a process. I am glad that we are looking at this. Right now, I am pitching out to the public to speak up and engage so that they understand the rules and that there is only so much that we can do about the natural erosion on the island.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. I would like to express appreciation to the Planning Department and for the collaborative nature on this. I would like to recognize that even with this, we are still making zoning decisions based on historic data at a time of rapid change when that historic data, I am paraphrasing from Dr. Fletcher, "we have a climate that has never existed previously." It is vital that we integrate Dr. Fletcher's work to base sea level rise modeling into future setback decisions. I am looking forward to those future amendments at some point down the line. Thank you to the Planning Department and everyone else involved.

Council Chair Kaneshiro: Is there anyone else? I would like to say thank you to Councilmember Chock, former Council Chair Rapozo, and Ka'āina. It has always been talked about and it is a very hard trigger to pull regarding coastal erosion and sea level rise. People may say we are a little late, but this is an item that can be kicked down the road very easily to say, "No, once it starts to wipeout the main

roads, then Council will have to deal with it.” I am very happy that the Council and the Administration has been proactive. To some extent, the General Plan and Community Plans have tried to take sea level rise and coastal erosion into consideration. I am glad that it is on our radar and we are trying to be proactive. We have seen these major storm events that came through our island. Everyone is aware that we want to plan accordingly. This is some of the first steps and I am glad that we are not taking the passive aggressive approach and leaving it up to the future Council or Mayor to deal with the issue. We are being proactive in getting the studies done and the proper scientific information to be able to make these decisions. We know that it is going to come down the road where we are going to have to make difficult decisions on these types of events. Thank you. With that, is there any further discussion from the Members? If not, roll call vote.

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


The motion for passage of Proposed Draft Bill (No. 2813) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 2020, and that it thereafter be referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
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).*

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 9:21 a.m.

Respectfully submitted,  


JADE K. FOUNTAIN-TANIGAWA  
 County Clerk

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\*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).