

**COMMITTEE OF THE WHOLE  
DELIBERATION AND PRELIMINARY DECISION-MAKING  
FISCAL YEAR 2023-2024 ANNUAL BUDGET**

**MAY 12, 2023**

The Deliberation and Preliminary Decision-Making Meeting on the Fiscal Year 2023-2024 Annual Budget of the County of Kaua'i was called to order by Mel Rapozo, Chair, Committee of the Whole, on Friday, May 12, 2023, at 9:08 a.m. at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, Hawai'i and the presence of the following were noted:

Honorable Addison Bulosan  
Honorable Bernard P. Carvalho, Jr.  
Honorable Felicia Cowden  
Honorable Bill DeCosta  
Honorable KipuKai Kualii  
Honorable Ross Kagawa (*present at 9:16 a.m.*)  
Honorable Mel Rapozo

Council Chair Rapozo: Let us call this Decision-Making session to order.  
Councilmember Kualii.

Councilmember Kual'i'i moved to accept the Supplemental Budget Communication changes submitted on May 8, 2023, and to use the Supplemental Budget as a starting point for Decision-Making, including the further reduction of the Homestead class real property tax rate in Resolution No. 2023-33 by sixteen cents (\$0.16) per one thousand dollars (\$1,000) net assessed valuation from two dollars and seventy-five cents (\$2.75) to two dollars and fifty-nine cents (\$2.59), seconded by Councilmember Cowden.

Council Chair Rapozo: Is there any discussion? Is there any public testimony? Seeing none. Roll call.

The motion to accept the Supplemental Budget Communication changes submitted on May 8, 2023, and to use the Supplemental Budget as a starting point for Decision-Making, including the further reduction of the Homestead class real property tax rate in Resolution No. 2023-33 by sixteen cents (\$0.16) per one thousand dollars (\$1,000) net assessed valuation from two dollars and seventy-five cents (\$2.75) to two dollars and fifty-nine cents (\$2.59), was then put, and carried by the following vote:

FOR MOTION:	Bulosan, Carvalho, Cowden, DeCosta, Kuali'i, Rapozo	TOTAL – 6,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

JADE K. FOUNTAIN-TANIGAWA, County Clerk:

The motion passes.

Council Chair Rapozo: I think all of you have been through Decision-Making before, except for Councilmember Bulosan. First of all, let me say thank you all for being here, and thank you for your presentations, being here in-person, and being able to share your departments with us. I spoke with the Mayor and he is out of state, but he sends his regrets. We had a good chat. The Mayor met with all of the Councilmembers individually throughout the budget session, or prior to the budget starting, and was able to accommodate all of the requests of the Council's, so I do not expect a contentious Decision-Making session. There are some proposals that will be made today, which will be discussed and voted on. Is there anyone from the Administration that would like to speak before we get started. If not, let us get started. Let us start with the first proposal. Folks, just as a reminder, by our Charter, if you want to add an item it will require four (4) votes, if you want to cut an item, you need five (5) votes. The law requires us to have a balanced budget, so if you want to add, you need to have a cut of equal value. Let us get started, who is the first proposal? Again, this is the first time we are all going to see these proposals because of the Sunshine Law. Councilmember DeCosta.

Councilmember DeCosta: Thank you, Chair. I want to thank all the department heads and the Administration team for their hard work in coming here to negotiate with us and showing us the good faith of how you budget for each department. I just want to say thank you so very much.

Councilmember DeCosta moved to dollar-fund Position No. 23, Deputy Chief of Police, with a savings of \$135,959 and related benefits, for a total savings of \$193,673; appropriate \$65,063 to the Kaua'i Police Department (KPD), Administrative & Technical Bureau for fifteen (15) new mobile data terminals (MDTs); \$30,000 to the Department of Human Resources (HR) for the Internship Program, and the remaining \$105,210 to the Reserve Fund, seconded by Councilmember Kualii.

Councilmember DeCosta: My decision behind that was when I looked at the date of when our last Deputy Chief held office, it was back in August 27, 2022, and we are closely reaching upon possibly three (3) months to that date, and I am not sure what is the activity to get a new Deputy Chief in, but we can always do a money bill if we do find a possible candidate for that position.

Council Chair Rapozo: Did you make your motion? You can make your motion.

Councilmember Kualii: He did.

Council Chair Rapozo: Oh, I am sorry.

Councilmember Kualii: I will second for discussion.

Councilmember Cowden: I heard the Chief say he is looking to get a Deputy Chief as soon as he can, it did not sound like he did not want one.

Council Chair Rapozo: We can have the Chief up, and I will suspend the rules. For me, Chief, let me ask a straightforward question, is your intent to fill this position in the next Fiscal Year?

There being no objections, the rules were suspended.

TODD G. RAYBUCK, Chief of Police: Chief Raybuck, for the record. It is my intention to fill the Deputy Chief position once an eligible and suitable candidate is identified, and it does not disrupt the continuity of the operations for the Kaua'i Police Department. I do not have a hard-set timeline for you, but as noted if this Council decides to short-fund the position and a promotion is in order, I will come back for a money bill.

Council Chair Rapozo: Okay. Councilmember Cowden.

Councilmember Cowden: If it was six-month funded or nine-month funded does that make it easier? I thought I heard you saying you wanted one tomorrow.

Mr. Raybuck: To clarify what I said, no one wants a Deputy Chief more than myself, and if I could promote one tomorrow I would, but that is not the case I am in today.

Councilmember Cowden: Okay.

Council Chair Rapozo: The process, I am assuming, and I do not know this, I should, but to hire a Deputy Police Chief would be like hiring any other Police Officer, they would have to go through the same, aside from the selection process, because that is your prerogative, but if a Deputy Chief is appointed or selected, how long does it take for that person to get through the hiring process? Do they still need to go through the background, psychological, and all of those other things that take a long time?

Mr. Raybuck: Thank you for the question, Chair. An internal candidate would have already had all of that done, so if an internal candidate is selected, which is my goal, then that candidate would be eligible for promotion immediately, or on the date that I set.

Council Chair Rapozo: Correct.

Mr. Raybuck: An external candidate would be required to go through the background, the psychological, and a polygraph.

Council Chair Rapozo: Is that three (3) months or four (4) months?

Mr. Raybuck: Three (3) to four (4) months, it really depends on scheduling.

Council Chair Rapozo: Are there any other questions for the Chief?

Councilmember Cowden: You said you were okay with this; did I hear that?

Mr. Raybuck: What I said was that if the decision of this Council is to short-fund this position, and I identify someone to promote to Deputy Chief, and the funding is not there, I would be happy to come before this body and request a money bill.

*(Councilmember Kagawa was noted as present.)*

Councilmember Cowden: Okay.

Council Chair Rapozo: In reality, we would get the money bill passed quicker than you could get someone hired externally.

Mr. Raybuck: I do not know the procedures for that, I will take your word for it.

Council Chair Rapozo: That is typically how, it is a normal money bill, so if this is passed, then I would suggest that as soon as you have an inkling of a promotion in the works that you let the Council know.

Mr. Raybuck: Thank you.

Council Chair Rapozo: Thank you, Chief. I am sorry, do you have a question?

Councilmember DeCosta: No.

Council Chair Rapozo: I am sorry, do you have a question?

Councilmember Cowden: I have a question for Councilmember DeCosta.

Council Chair Rapozo: Are there any further questions for the Chief? If not, I will call the meeting back to order. Councilmember Cowden.

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

Councilmember Cowden: Is the internship program specific to the Police Department?

Councilmember DeCosta: I was going to trust our Human Resource Department...

Councilmember Cowden: Okay, Human Resources.

Councilmember DeCosta: We all spoke about how important it is to "groom up" our upcoming personnel within the County.



Councilmember Cowden: Okay. Then, the profiles and computer support are for the police.

Councilmember DeCosta: Correct.

Councilmember Cowden: Fifteen (15) more.

Councilmember DeCosta: Right. We heard that from Acting Assistant Chief Mark Ozaki, so we wanted to assist him in this very critical portion. I stated earlier that it is the purview of the Council that we have that power to accept and do the money bill. You heard from our Chair that we can move faster on that money bill, than he could probably fill that position.

Council Chair Rapozo: External.

Councilmember Cowden: External, because I am hearing him say he wants internal, but we can probably just do it without...

Councilmember DeCosta: I am thinking, if he had someone internal it would be great, possibly we could hire within the six (6) months or three (3) months.

Councilmember Cowden: Okay.

Councilmember DeCosta: He could not give us a date.

Councilmember Cowden: Okay.

Council Chair Rapozo: The reality is if in fact it is an internal hire, there are available funds in the department to fund that position until the money bill is passed, so there would be no gap where we cannot promote because we do not have the money.

Councilmember Cowden: Okay.

Council Chair Rapozo: I am comfortable with it. Go ahead.

Councilmember Carvalho: There is the commitment once he comes forward.

Council Chair Rapozo: Correct.

Councilmember Carvalho: We can just move forward. I just want to make that clear.

Council Chair Rapozo: There will be no disruption. I think the reason for this if you look at...I am not sure what is on the board, is the MDTs, because I know this Council did not approve the transfer of unexpended salaries, that is just a practice that this Council frowns upon, but we did make the commitment that we would fund those MDTs when we came to our budget. I am a little confused as to how many computers the department

actually needs, and as you can see, if this is approved, there is some funding available for what you folks need. My concern is, what I heard in the discussion, and someone can come up and correct me if I am wrong, is that we have computers that are, some say, "End of life." I like to say, "Out of warranty." Whatever the case is, we want to make sure that these officers have computers that work when they need to work. I do not want them out there, and not be able to do their job because we did not provide them with a computer that we know will work, so I see here, fifteen (15) new MDTs, if anyone wants to...okay, good, I was hoping someone would come up, but I did not want to ask. I will suspend the rules, Chief.

Councilmember Cowden: I have an internal question. On Wednesday, the number was sixty (60).

Council Chair Rapozo: Correct.

Councilmember Cowden: We were going to give sixty (60), so that we have none that are not...

Council Chair Rapozo: That is why I am...

Councilmember Cowden: Alright. Was this fifteen (15)?

Council Chair Rapozo: This was Councilmember DeCosta's proposal. Councilmember DeCosta is going based off of the information that he received, and I am going based on what I heard, and my interpretation—that is all this is, just to clarify. This is your opportunity to say what you want. This rarely happens, Chief.

There being no objections, the rules were suspended.

Mr. Raybuck: Chief Raybuck, for the record. The original proposal we spoke about before you last week was to purchase thirty (30) MDTs. The thirty (30) MDTs, fifteen (15) of those would be to outfit the incoming vehicles, the other fifteen (15)...I am sorry, I am misspeaking. Thirty (30) MDTs total, ten (10) of those will be used for the lease of the purchase vehicles that we expect delivery in August. As we mentioned, and for the Council's refresher, initially our Fiscal Year 2023 budget, the plan was to order the vehicles fully outfitted with the MDTs, the price of the vehicles exceeded our ability to do that, so Acting Assistant Chief Ozaki, or Assistant Chief Ke looked at that and made the determination that it would be better for us to extract the cost of MDTs from the purchase of the vehicle. That means we have ten (10) vehicles on order, expected delivery in August with no MDTs, so our request was to purchase ten (10) MDTs to outfit those vehicles that are on order, and en route. The other twenty (20) MDTs were for end of life or out of warranty, those MDTs have shown consistent issues where they regularly require Information Technology (IT) support to keep them in maintenance. Given the fact that we needed to order the ten (10) MDTs, we made the decision to request an additional purchase of twenty (20) MDTs to provide for the replacement of those, so a total of thirty (30), which we anticipate \$3,500 each for a total cost of approximately \$105,000 for the thirty (30).

Council Chair Rapozo: Do you currently have existing MDTs in the existing budget?

Mr. Raybuck: There are fifteen (15) that are in the current budget that are for the fifteen (15) vehicles that we are...I am sorry, let me just make sure I am clear. The fifteen (15) that are in the Fiscal Year 2024 budget are to outfit the fifteen (15) vehicles that we are purchasing in the FY 2024 budget.

Council Chair Rapozo: Okay, but the ten (10) are for the ones that you already ordered.

Mr. Raybuck: Correct.

Council Chair Rapozo: That is going to be delivered, so we are caught up on vehicles, all the vehicles are currently going to get a new MDT.

Mr. Raybuck: No, the ones that are on order...so, if you are saying about the ones that are currently in our fleet in operation.

Council Chair Rapozo: No, the ten (10) that you ordered, or the fifteen (15) that you ordered that will be delivered in August, that fifteen (15)...

Councilmember Kualii: Ten (10).

Council Chair Rapozo: ...are in the budget submittal.

Mr. Raybuck: If I may, the ten (10) that are on order and delivery for August is the FY 2023 budget.

Council Chair Rapozo: Okay.

Mr. Raybuck: We do not have MDTs ordered for those, that was what the request was before this Council last week.

Council Chair Rapozo: Okay.

Mr. Raybuck: The fifteen (15) for FY 2024 budget, those fifteen (15) MDTs are in the FY 2024 budget.

Council Chair Rapozo: Okay. This is the question for me, it is so amazing, that day we had that discussion, one of the IT persons were here to work on our computers, because we have old computers, too, and I asked him what the condition of the KPD MDTs is? They said, "They need help." That is what he told me. My question is, to bring all of our inventory up, all of the computers that will hit the end of life in this next Fiscal Year, what would that number be?

Mr. Raybuck: We are asking for the ten (10) MDTs to outfit the vehicles on order, and twenty (20) MDTs to replace those MDTs that currently are end of life or out of warranty. A total of thirty (30) MDTs.

Council Chair Rapozo: Okay, thank you.

Councilmember Cowden: When I said "yes" on Wednesday, this group said they were going to get sixty (60), and when we looked at the documents, I think it was 2016, 2017, and 2018 computers that were getting replaced, and that is where that sixty (60) came from, I believe. You said sixty (60) on Wednesday, so I went okay, "yes," otherwise I would have said "no," not that it made a difference.

Council Chair Rapozo: That is why we are here today. That is the number, thirty (30), I do not want to buy computers that will be in storage until they reach their end of life, so if thirty (30) is the number, thirty (30) is the number.

Councilmember DeCosta: I want to process this Chief, because the numbers I got is why I decided to go with fifteen (15), so the fifteen (15) would take ten (10) of that and put those in the ten (10) vehicles that do not have those laptops coming in.

Mr. Raybuck: Are you speaking about the fifteen (15) that are in the upcoming Fiscal Year budget?

Councilmember DeCosta: What I am doing is my request here for that money within my...

Mr. Raybuck: I am pulling up this slide that is not up there anymore. I see that in your proposal, you would add \$65,000 for the purchase of fifteen (15) new MDTs, so we already have fifteen (15), so that is thirty (30), okay. We would be fifteen (15) MDTs short of our current ask, because we asked for thirty (30) for the FY 2023 budget plus fifteen (15) for the FY 2024 budget year.

Councilmember DeCosta: For those fifteen (15) new vehicles that are coming in 2024, which is going to replace fifteen (15) other vehicles out there, which have old MDTs, right?

Council Chair Rapozo: Let me try to simplify this. You have what you have in the existing budget proposal, that is good, with these additional units that he is proposing, he is asking for fifteen (15) more, should that number be thirty (30)?

Mr. Raybuck: That is what we requested originally; it should be thirty (30).

Council Chair Rapozo: Okay, that is what I am hearing, you need thirty (30) instead of fifteen (15).

Mr. Raybuck: That is correct.

Council Chair Rapozo: Then you will be all good.

Mr. Raybuck: That is correct.

Council Chair Rapozo: The vehicles will get their laptops, the “end of life” will be replaced, and we will be in good shape.

Mr. Raybuck: We have a replacement schedule to address the other MDTs, so that we are on a regular schedule of replacing.

Council Chair Rapozo: Okay.

Councilmember DeCosta: Chief, I did not anticipate that this is how the conversation was going to go, but I have something to introduce to cover fifteen (15) more for you folks. We are going to print that, so we are going to take care of you, and your department, and Assistant Chief Mark Ozaki with sixty (60), so that is perfect. It is like Christmas, we came through for you, Chief. Print that in *The Garden Island*.

Council Chair Rapozo: Are there any further questions for the Chief or his staff?

Councilmember Kagawa: I just had a clarification. Even if Councilmember Cowden voted with me, “no,” because I voted “no” because I thought that it was okay if we used unexpended salaries to take care of something that takes care of public safety, not because I did not agree with Councilmember DeCosta, and what I think the practice is. Even if you voted with me, we still would have lost 5:2, so it does not matter, but I wish you would have voted, but we would have lost anyway.

Councilmember Cowden: I know.

Council Chair Rapozo: If there is a need to transfer funds from unexpended salaries, let us say in August, September, October, and we are so far away from the budget that this Council, I can almost guarantee that we will say “yes,” but when we are in the middle, this is the proper way to do it. If it was for an item that we needed to order, like a fire truck that takes a year to deliver, I might have had a different position, but in this case, according to Acting Assistant Chief Ozaki, it is a month, we put in an order in a month, these funds will be available, you could order those funds right now, I mean order the computers, but July 1<sup>st</sup> the moneys will be available. It was explained to us that it was not a life and death issue, that in fact, we have spares that can be used, so I did not see it as a life-or-death situation that we needed to transfer the funds. Obviously, you know I support the police, but I feel better when this is in the budget, and we understand, then we would not be dollar-funding positions like we are doing. Are there any other questions for the Chief and his staff?

Mr. Raybuck: Chair, I appreciate your explanation. I own the timing of our request, so I apologize that I made a request for use of unexpended salaries in

the middle of the budget and appreciate your offer to consider this for us in the future if it is necessary. I appreciate it.

Council Chair Rapozo: Thank you. I will call the meeting back to order.  
Councilmember DeCosta.

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

Councilmember DeCosta: Just for the record, it is the full Council that will discuss this.

Council Chair Rapozo: No, that is Councilmember DeCosta.

Councilmember DeCosta withdrew the motion to dollar-fund Position No. 23, Deputy Chief of Police, with a savings of \$135,959 and related benefits, for a total savings of \$193,673; appropriate \$65,063 to the Kaua'i Police Department (KPD), Administrative & Technical Bureau for fifteen (15) new mobile data terminals (MDTs); \$30,000 to the Department of Human Resources (HR) for the Internship Program, and the remaining \$105,210 to the Reserve Fund, Councilmember Kualii withdrew the second.

Councilmember DeCosta moved to dollar-fund Position No. 23, Deputy Chief of Police, with a savings of \$135,959 and related benefits, for a total savings of \$193,673; appropriate \$133,126 to the Kaua'i Police Department (KPD), Administrative & Technical Bureau for thirty (30) new mobile data terminals (MDTs); \$30,000 to the Department of Human Resources (HR) for the Internship Program, and the remaining \$40,147 to the Reserve Fund, seconded by Councilmember Kualii.

Council Chair Rapozo: Is there any further discussion? Seeing none. Roll call.

The motion to dollar-fund Position No. 23, Deputy Chief of Police with a savings of \$135,959 and related benefits, for a total savings of \$193,673; appropriate \$133,126 to the Kaua'i Police Department, Administrative & Technical Bureau for thirty (30) new mobile data terminals (MDTs); and \$30,000 to the Department of Human Resources for the internship program, and the remaining \$40,147 to the Reserve Fund was then put, and carried by the following vote:

FOR MOTION:	Bulosan, Carvalho, Cowden, DeCosta,	
	Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: Is that it? That is the last one? It will be an early day.

Councilmember Kualii moved to add a new Operating Budget Proviso Section 33 (sections renumbered as needed) to read as follows: "Except as otherwise authorized herein, written approval by the County Council shall be required prior to the use of any unexpended salary moneys for any non-salary related expenditures," seconded by Councilmember Bulosan.

Council Chair Rapozo: Is there any discussion before we open it up? None. Is there anyone wishing to testify? Seeing none. I will call the meeting back to order. Councilmember Kualii.

There being no public testimony, the meeting proceeded as follows:

Councilmember Kualii: This is just a minor proviso change to further clarify and emphasize our desire to not have, unless it is critically needed, and just basically require you to come back to the Council for unexpended salaries to be used for non-salary related expenditures. There is a proviso already.

Council Chair Rapozo: Yes, there is a proviso, this just makes it very simple, the other one had a lot of information about the Police Department because they have ongoing recruiting and different requirements than most departments. I just want to say, the salaries, when we get the budget presented to us, and the department heads are saying, "We need these tax dollars to fund these positions," that is not just to the seven (7) of us, that is telling the community that we need your tax money, because we want to fill these positions. I know every single...especially, today, hiring is tough, shortage of employees everywhere, but the idea is when you tell the community we are going to be hiring employees, and that is what they expect, and that is what I expect, and the fact that we have that available source of revenue to use for anything that we want, I think is not transparent to the community, and it is definitely not transparent to us. So salary items, overtime, training, all of these things, you have access to those funds without coming to Council. You do not need to come to Council, because "I am going to take money from this position because we had to pay overtime." No, that is a salary-related expense that would not require Council approval. Now, if you are going to be using salary money to purchase things that are not salary-related, then I think the public deserves to know, that is the simple breakdown of this proviso. This proviso was strongly discouraged over every single budget that myself and Councilmember Kualii sat on, we introduced this proviso, and was told we could not, but I think we can, and it is perfectly reasonable, I think, so I hope we can get the approval of this body, and everyone knows the rule. Councilmember Kagawa.

Councilmember Kagawa: My question to the introducers, who said we cannot do this proviso?

Council Chair Rapozo: County Attorneys of the past.

Councilmember Kagawa: What does the current County Attorney think?



Council Chair Rapozo: He is sitting right there.

Councilmember Kagawa: Just a thumbs up or thumbs down if you think it is proper.

MATTHEW M. BRACKEN, County Attorney: I do not know, I am looking at it right now.

Councilmember Kagawa: I am fine with doing something that I am sure that at the time...it has good intentions; it is not like it is a proviso that you are seeking to harm anyone. It has well intentions, and I am okay with the question mark as long as it has good intentions to protect taxpayers.

Councilmember Kualii: Remember, it is not prohibited it is just saying that it has to come before the Council, so it is adding another check, if you will, and it is bringing it back to the original body anyway that decides the budget.

Councilmember Kagawa: I guess we will find out.

Council Chair Rapozo: We will find out.

Councilmember Kagawa: We will find out at some point. The attorneys will make their decision, and will notify the departments, and notify us that this proviso does not stick.

Council Chair Rapozo: If there is any DEPARTMENT HEAD right here that feels like this is unreasonable, I would ask that they come up, and share an explanation of why. We have not voted yet. I cannot imagine why anyone would think this is bad, and why would this not be expected? It is like if your parents give you \$20, well, nowadays they give you \$20, but back then you will get \$0.50 to go to the store to buy the newspaper, and you bought candy without asking, you will get punished—same thing, because it is not our money, do you understand?

Councilmember Kagawa: You think about when COVID-19 came, there are other disasters that are emergency-related, could be public safety, between Fire and Police where something breaks, they need to get it, and they cannot wait for the full dates to comply with the proviso of having the Council process the month and a half. I would think there are some things that we are not thinking about, but I am sure the Office of the County Attorney will give their guidance at the end, and they will have leeway to do what they do.

Council Chair Rapozo: Emergency declaration comes with a whole set of rules, and once the Mayor declares an emergency, then procurement is a whole different set of rules.

Councilmember Kagawa: Right.



Council Chair Rapozo: Now, Matt...maybe we should take a short recess. I can tell you that this is not the only jurisdiction that does this. I have checked with colleagues across other jurisdictions, and they were shocked that we allowed it to happen. They would say, "What do you mean I can come up and say I am going to hire thirty (30) people and go and use the money to buy something else?" How can that even be? To me, that is common sense. Councilmember DeCosta.

Councilmember DeCosta: I would just like to chime in. I am in full support of this proviso, and I need to tell you folks why. When we go to this National Association of Counties (NACo) conference across the United States, we talk story with many Councilmembers across the United States, and do you know that our counties of Hawai'i, we do not get involved too much, we are probably the least County across the nation that takes advice from our lawyers, which we should, take advice from Administration, which we should, talk story with department heads, which we should, and then, we make a decision budget, and lay low for the rest of the year. Really, it is our authority to make sure that you folks are operating fiscally responsible for our community, because it is their tax dollars, so this proviso puts a fiscal responsibility on your department to budget accordingly, so if you are going to hire salary positions, hire them, if not, come to us and ask us what you want to buy, we will discuss it, we will make the decision, and we will put it back to you folks. We are your governing body. Thank you.

Council Chair Rapozo: Are there any other comments?

Councilmember Carvalho: Did you talk to Matt?

Council Chair Rapozo: Yes, he is still looking into it. Matt, do you think we should take a short recess.

Councilmember Kualii: We do not have anything else.

Councilmember Cowden: Do we not have the tax rates?

Councilmember Kagawa: The tax rates.

Councilmember Cowden: Can we do that first, then come back?

Council Chair Rapozo: We voted on the tax rates; we can have a discussion though.

Councilmember Cowden: Okay, we voted on it. I have one (1) comment on Councilmember DeCosta's comment. It is shocking when we go to these conferences, which we are doing next week, to see how little power we have relative to just about every other county, even ten thousand (10,000) people in a county, they have so much more input than we do.

Council Chair Rapozo: To be fair, many of the jurisdictions on the mainland have city managers that the County Council or Board of Commissioners hire. Here,

we have a “strong mayor” system, that is the setup. You have a Mayor who is the Administrator, we are legislative. In these jurisdictions with Commissioners and City Managers, the Council is the Administrator, the City Manager, their Mayor is ceremonial, their Mayor is like the Chair of their Council, it is just a title, but the actual Administrator is the manager that they hire, and it is not elected, it is a Chief Executive Officer (CEO) typically, it does not mean they are the most popular, it means they are the most qualified. When you compare us and them, it is a whole different story. We actually have significant power here, whether we choose to exercise it or not. In this process that we just went through, and in prior Administrations, we have been lucky to have that relationship with the Administration that we did not have the fights that many other jurisdictions, in a strong mayor system, have. We explored the City Manager system, myself and prior Councilmember Mason Chock, we went to...and at the end of the day decided that Kauaʻi may not be ready for that right now, but that is always a discussion to be had. Councilmember Cowden.

Councilmember Cowden: I wonder if just as a point of privilege while we are waiting for our attorney to look on that, because I have to run out for a few minutes. I just wanted to say, how pleased I was with the system of working back and forth across the street with the Mayor on this budget, I do not have any proposals, because I feel like they included just about everything that I asked for, and I was almost touched at the receptivity and willingness to adapt and change; it felt like we really worked on this together. I am not going to list them all, but I am really grateful, and even one (1) tiny one that I saw just as this was finished was the person to answer the phone at the Department of Motor Vehicles (DMV), I am happy to see that one (1) added too, so I am thankful for everyone as we work through this budget, and I feel good about it, so if they vote while I am gone, I have given it up.

Council Chair Rapozo: Yes, if they did not answer the phone at DMV, we would have cut the whole budget. We will never have a DMV; everyone will walk or catch the bus. Councilmember DeCosta.

Councilmember DeCosta: I want to add a little bit to what Councilmember Cowden just said. My last closing statement was authoritative, but I want you folks to know that as the Committee Chair of Public Works & Veterans Services, and the Vice Chair of the Parks & Recreation / Transportation Committee, I have worked with department head Troy Tanigawa, and as Vice Chair alongside Councilmember Bulosan, we have worked with County Parks Director Pat Porter, so we spend numerous hours with them, consolidating their wish list, looking over the budget, so the reason why you never saw any interaction with me on the Public Works budget or the Parks budget is because they gave us the opportunity to talk to them, and we did all of things that we needed to do—that is where I am going with this, that is why I wanted to explain as far as my position and the two (2) departments I work closely with, we did our homework. Thank you, Councilmember Bulosan.

Council Chair Rapozo: Go ahead.

Councilmember Kualīʻi: One quick thing, when Councilmember Cowden made her point earlier about other counties and us having little power, I think that, indeed, what the Chair said is that it is not about having little power, it is about how we exercise the power that we do have. The budget is the biggest responsibility of this Council, and

historically, this Council has never gone bold, and never exercised their power fully. Even outside of budget, when the administrators come before us with money bills, I have never really heard of a money bill being voted down, but that is our power, and that is our opportunity, right? What we have done recently is not normal. I think we have come to a place where, even Councilmember DeCosta's proposal now with a 7:0 vote, that is unheard of, we have never done anything like that. In the past, we have had two (2) votes or maybe three (3) votes, when you need four (4) to add, and five (5) to cut, I do not remember it happening.

Council Chair Rapozo: I sit here, and I look at former Mayor Bernard...

Councilmember Carvalho: I am listening.

Council Chair Rapozo: It reminds me of growing up here on Elua Street, and I remember we did not have much money, and I remember going to the park after baseball, and we would all go to Dairy Queen, and my friends would be...I remember, I will never forget, hamburger, french fries, and Coca Cola, \$0.99 with tax, but I did not have \$0.99, so my friends would all be eating the hamburger, french fries, and I would be wishing I had. I remember at times, friends would say, "I will buy you one." And I would be shame and say, "I do not need," but they would buy anyway, and I would enjoy the hamburger, french fries, and Coca Cola. I think what we have today, and that is why I look at Councilmember Carvalho, and I am thinking I want to put all of these Members that were not here in the lean times in a time capsule and put them back to the budget discussions back then, because all of a sudden there is no money. Councilmember DeCosta, if you want to add, this would be impossible unless we cut something from the Administration.

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

Council Chair Rapozo: We are in a different time today, so the reason there is not too much conflict is because we have the resources available to accommodate the wishes of this body. Councilmember Carvalho is like, "If I only had this budget to work with." It is not that this Council is any more special, it is just that the time is different, the needs are different, resources are different, Transient Accommodations Tax (TAT), General Excise Tax (GET), we never had that back then, I mean we had TAT, but it was that much, not it is this much, and of course the property taxes, which we are going to address at a later time, but I feel for you former mayor.

Councilmember Carvalho: Come on man, let us go.

Council Chair Rapozo: Wow.

Councilmember Carvalho: Interesting.

Council Chair Rapozo: Anyway, I just had to make that point, because it is a lot easier—in some ways it is more difficult, especially for the Administration it is more difficult when you have cash—but it is a lot easier for this body, especially when we are all inclusive, and we get to work with the Administration, and not saying that we never had that

opportunity in the past, it is just that it became the Mayor's priorities versus the Council's priorities, and the Mayor has that prerogative, and sometimes we never agreed, and like Councilmember Kualii'i said, we would come up, and I have introduced many of these things, "We need to cut something from a CIP project to accommodate our requests," and the vote went down, it did not pass, so I know what it is like on both sides, and we are blessed today to be able to have this situation, so I just wanted to make that comment.

Councilmember Kualii'i: Just one more thing, and this is probably in support of this proviso proposal as well, that is also where we can exercise our power, right? From the very beginning, there are several of those provisos in there that is requiring reports, the vacancy report that I always dig through every year, that was not part of the procedures in the past, but in the proviso you can make sure you get the information you need, so you can make better decisions during budget, and you can limit how things happen, and that is exactly what this proviso is trying to do. So, exercising a power is saying even when the attorney comes and tells us, because that is how it has been stopped before, usually with legal advice to tell us, "You better be careful." But sometimes that means we are giving up our power.

Council Chair Rapozo: I will suspend the rules, and by the look on your face, it is probably not good news.

There being no objections, the rules were suspended.

Mr. Bracken: Matt Bracken, County Attorney. I think you are reading my face pretty well. I am looking at Charter Section 19.08F, and it says, "The Mayor at any time may transfer an unencumbered appropriation balance or portion thereof within a division or between divisions in the same department." That is the Charter Section that would come into play. There is a 2008 opinion from my office, and it was the County Attorney at the time was Matthew S.K. Pyun, Jr. and the attorney that wrote it was Mona Clark, and typically, when I look at old opinions there is really not a lot of substance to them, it is usually just, "this is what it is," and the attorney signs it, and I cannot put a lot faith in those. This one though actually seems to be relatively well researched. Obviously, I have not read the entire opinion, because I have not had the time, but they are citing to the same Charter Sections, they do analyze what an unencumbered balance is, and typically, the way the County interprets an unencumbered balance is you all appropriate things, and the only way it gets encumbered by the end of the fiscal year is that it is spent, or if a contract somehow encumbers that, or there is a purchase order, or something of that nature. At this point, I am in agreement with this opinion that Charter provision would prohibit you from enacting this budget proviso.

Council Chair Rapozo: Please read the language again.  
Unencumbered...

Mr. Bracken: "The Mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division or between a division in the same department." So, it can only be transferred within the same department.

If it goes outside of the department, then it comes back to you all, but it has to be approved by the Council.

Council Chair Rapozo: Okay, which is what we had amended the proviso in the past to require them to report to us, which is probably the way we are going to have to go.

Mr. Bracken: That is actually in this opinion as well, and I think that was the recommendation, or it said that you could require that when the transfer does occur that it is reported to you all.

Council Chair Rapozo: Okay, perfect. Go ahead.

Councilmember Kualii: What you are saying is that, if our being more careful, and controlling of the budget, in the interest of the public that the Charter does not allow us, so this would take a Charter change for the people, because this is in the interest of the people, and now you are telling me that we cannot do it in the interest of the people per the Charter, and I do not believe that anyone in the public would say, "We do not want our Council to be more fiscally responsible for our budget, and to have the review, and that additional level of approval." I just do not believe you can find one (1) person out in the public that believes that, so the County Attorney having an opinion to say that is in the best interest of the public because it was written in the Charter. I guess it is just legally the way it is, is that what you are telling me?

Mr. Bracken: I would have to agree with what the Chair said earlier, the way the Charter is written is it is a strong mayor Charter. So, the way the Charter is written it gives the Mayor certain authority, certain powers, gives the Council certain authorities, certain powers, and certain restrictions. There are some interesting restrictions in there in what can and cannot occur, so this is just one (1) that the Council has the authority to appropriate, you appropriate the balances, and create the budget, but once it is created to a certain extent, it is out of your hands.

Councilmember Kualii: The Charter, indeed, is written for the public before it is written for the Mayor or the Council. I mean, it is written for the Mayor and the Council on how we behave, right? That we are doing everything legally and in the interest of the public, but if you are telling me it is about the Mayor's powers, the Council with the public's support could have this power as well to check the Mayor's powers, but you are just telling me that is the way it is written in the Charter, and it will take a Charter amendment to allow something like this to happen, is that what you are saying?

Mr. Bracken: That is correct. That is what I am saying. Correct.

Council Chair Rapozo: That is exactly what he is saying.

Councilmember Kualii: Charter Commission, I hope you are listening, because it is in the interest of the public.

Councilmember Carvalho: I just want to clarify the Charter, that is the written part of it, right?

Mr. Bracken: Correct.

Councilmember Carvalho: Any changes need to be made, but at the same time, the Mayor's authority, but the Council has the right to ask the questions and go back and forth, and put on the floor, and all of that, that is the role there.

Mr. Bracken: There are reporting requirements, yes, exactly, everything you just said.

Council Chair Rapozo: I guess...

Councilmember Kualifi: Ellen is right there.

Council Chair Rapozo: Matt did not write the Charter, he is interpreting it. I somewhat agree with the language, because that is what it says. Obviously, a Charter amendment will be forthcoming for sure, a proposal, but the power still lies with this Council, so if you folks feel that people are padding their budgets, then we have the authority to six-month fund every single employee vacancy that we have, and the Mayor would be able to transfer moneys all over within that department to make that department work. I am not suggesting we do that, but I think the reporting, and I guess, Jade, we have been getting the reports from the Administration whenever they transfer funds. Honestly, that is the first time when the police came up that I remember them asking permission, because I am sure there are a lot of transfers that go on. Again, I have not been here for four (4) years. If we get consistent reports from a specific department that these funds are being transferred, then obviously, anytime during the year we can do a money bill and transfer salary moneys to the surplus if we believe one (1) department is abusing that, so the power still lies here, no doubt about it, it is just that it would take some action from this body. With that, I guess we stay with the original language. Go ahead.

Councilmember DeCosta: I had a question for Matt.

Council Chair Rapozo: Matt.

Councilmember DeCosta: The same eyebrows and facial expressions that you saw, Chair Rapozo, I saw a little different one, a little gray area, and I want to ask you a gray area question. Your job is to give us professional opinion, is that correct?

Mr. Bracken: Correct.

Councilmember DeCosta: At the same time, is it not your job to assist us if we have a professional stance to take?

Mr. Bracken: Yes, I do that as much as I can.



Council Chair Rapozo: I can promise you he will help us with the Charter.

Councilmember DeCosta: That is where I am going with this, Chair. Again, I like to compliment this governing body of seven (7), because I have been on one (1) before, and it was great, I had a perfect first two-year term, and I want to commend our Administration team and our Mayor, because they have the community at their best interests, but with that being said, I think this Council has a vested interest even deeper than what we have had in the last twenty (20) years of taking care of the community. Matt, if there is anything in here that we have done outside of our purview, you would have told us, correct?

Mr. Bracken: That is correct.

Councilmember DeCosta: Council Vice Chair Kualii's proviso, if we vote on it, who can challenge us on that, would it be the Mayor?

Mr. Bracken: Yes, that is a possibility.

Councilmember DeCosta: The Mayor, if we approve his budget, that is the man who is going to challenge us?

Mr. Bracken: Correct.

Councilmember DeCosta: Okay.

Mr. Bracken: Two (2) routes, generally speaking, you see cases where this occurs most frequently, City and County, I feel like is the most examples when you look at case law, but you will have the Mayor challenging something that the Council did, and you would have a lawsuit between the two (2) parties. You also have potential for taxpayers, taxpayers can challenge violations of the Charter as well.

Councilmember DeCosta: We are in the best interest of our taxpayers, and I do not see one (1) taxpayer out there.

Mr. Bracken: I do not disagree with that, right? I do not know that taxpayers necessarily care about this, but they can. I am just saying those are the two (2) avenues of a challenge to something like this. I am more than willing to relook at this 2008 opinion, I have no problem doing that, but can I really disagree with it? After reading the Charter language, which appears clear to me, and just a quick read of the opinion, I cannot really disagree with it at this point, but I am more than willing to look at it more closely.

Councilmember DeCosta: For the record, Matt, I believe our constituents who elect us to be their voice, they are busy working two (2) jobs sometimes, that is why when I see a testifier in here, I want to know if they took off of work, or they just have too much time on their hands, but we are here to make the best interest of our constituents. Thank you.

Council Chair Rapozo: Are there any further questions for Matt? Thank you, Matt. Were there any other provisos? I mean any other items. Was this it? Go ahead, Councilmember Kagawa.

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

Councilmember Kagawa: Are we into whether we are going to support it or not?

Council Chair Rapozo: We are still in discussion for this motion.

Councilmember Kagawa: For me, I am not going to vote against what Matt said. We had Bill No. 2491 and Mauna Kea came up with his opinion, I stuck behind every decision by the County Attorney just because I am not even close to being an attorney. In their job, I will listen to them. If it was learning how to hit a golf ball or baseball, then they should listen to me. Thank you.

Council Chair Rapozo: Councilmember Kualii, there went your 7:0, we never had a 7:0, there went that thing. Councilmember Carvalho.

Councilmember Carvalho: I am happy he came up and explained it. Matt, that was important. There is a process in place, but for this particular time, I cannot.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I am going to take a different approach, I am going to back up Council Vice Chair Kualii. I think our lawyers work for both of us, he represents the Mayor's side and our side, and I think this is in the best interest of our community, and this is actually where we exercise our power, when we have legal advice that could go either way, we are bold enough to go the way we think we are going to benefit our community, so I am going to back up Council Vice Chair Kualii on this one.

Council Chair Rapozo: Alright. Is there any other discussion? I will just say that I have asked the Clerk to reword the proviso to require that the report be made within thirty (30) days. Matt's job is to defend us, but what I have learned is if you go against the County Attorney's opinion you are pretty much on your own if you get challenged. No, I respect you Councilmember DeCosta, because in you I see me twenty (20) years ago; I was you, I just got old. Me and Councilmember Kualii—Matt, I do not know if you remember, you probably were not even born yet, but me and Councilmember Kualii sued the Mayor and the County, do you remember that? We did, because the County Attorney tried to convince us that "shall" and "may" meant the same thing. I do not know how many of you remember that "shall" versus "may," and the attorney sat up here and said, "No, 'shall' is not really shall, 'shall' is may." Find a dictionary that says that. So, me and Councilmember Kualii got an attorney from Honolulu and we sued. The declaratory judgment trying to get the court to determine, "Is 'shall', shall? Or is 'shall', may?" Do you remember that? I was feeling really good about this, I am not a lawyer, but my God I can read, and the judge played the



politics and said you two (2) have no standing, so he did not hear the case. But how many of you folks in here right now, I am asking, think “shall” means may? How many of you folks think “shall” means may?

Councilmember Kuali'i: “Shall” means must.

Council Chair Rapozo: Yes. The fact that this body can challenge that body, and that body can challenge this body, imagine if...is the Chief still here? Imagine if we just voted his thing down last week, and the Chief went to the Mayor and said, “I want to exercise Charter Section...Mayor, I am asking you and not the Council.” And the Mayor said, “No, transfer it.” We would have to sue the Mayor. Then, what if it is found that we violated the Charter, we cannot practice this business in jail, hard, I guess you can Zoom. I know a past Mayor served his term in Wailua jail, but that does not happen anymore. Again, maybe because I am older, but I read that and it does, you are right, it could be taken either way, but when the attorney is willing to look more into it, I do not know if it is worth the time, but that is something that we can ask, but at this point, I probably will not support that.

Councilmember Kagawa: I just want to thank Councilmember Kuali'i, because it has always been his thing to get more accountability from the Administration on hiring dates, and things. He would always prepare all of his pluses and minuses based on what they presented at the budget, and I think this proviso would have taken care of not having to do all of that work that he was doing before, and sometimes they will say, things change, and someone got hired before that. To me, what Councilmember Kuali'i used to do was actually what he is trying to do with the proviso. I wish and hope that we had a proviso, or maybe you do have one (1) that can take care of this to provide some accountability for the budget, and when the transition phase of hiring really taken place.

Councilmember Carvalho: I want to add a quick one. The intent is great, we know the intent, but the legal part with the Charter, to me, having that experience that is the Charter, and let us go.

Council Chair Rapozo: I have shared this with Councilmember Kuali'i, in the past we...and this is what I plan to do going forward in the next fiscal year, we have never done this, but this is my plan, is we would get quarterly vacancy reports, so month six (6), if these positions have not been filled, obviously, they do not meet the full funding, so we would modify the budget, and we would transfer that unexpended salaries into the fund balance, so that would prevent this from happening at the end of the fiscal year—that is our power, that is why I am saying there is more than one way to skin a cat, and I am not saying that we are trying to skin a cat, I am just saying that if we are concerned about all of these balances at the end of the year that will be used for things other than salaries, then we can control that to some extent by simply modifying the budget at the six-month mark, at the nine-month mark based on the vacancy reports that we get, and that way we will have a more accurate picture. You will not see positions that have been vacant for three hundred (300) days and still funded, because as the time goes on the line item for that position will be reduced, and reduced, and reduced, so that is one option that we have as the Council should we choose to do that.

Councilmember Kualii: Chair, I am going to withdraw my motion.

Councilmember Kualii withdrew the motion to add a new Operating Budget Proviso Section 33 (sections renumbered as needed) to read as follows: "Except as otherwise authorized herein, written approval by the County Council shall be required prior to the use of any unexpended salary moneys for any non-salary related expenditures," Councilmember Bulosan withdrew the second.

Councilmember Kualii: I will ask that you take a quick recess, so we can look at some options for a new proposal.

Council Chair Rapozo: Okay, how much time do you need? Ten (10) minutes? Let us take a 10-minute break.

There being no objections, the meeting recessed at 10:08 a.m.

The meeting reconvened at 10:18 a.m., and proceeded as follows:

*(Councilmember Cowden was noted as present.)*

Council Chair Rapozo: Welcome back. Councilmember Kualii.

Councilmember Kualii moved to add a new Operating Budget Proviso Section 33 (sections renumbered as needed) to read as follows: "Upon the use of any unexpended salary moneys for any non-salary related expenditures, the Mayor shall report the details of the transfer to the County Council within thirty (30) days," seconded by Councilmember Kagawa.

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

Councilmember Cowden: I missed it. They just have to tell us within thirty (30) days, so there is that significant change than was a few minutes ago.

Council Chair Rapozo: Yes, you missed out on the whole County Attorney opinion.

Councilmember Cowden: Okay. Alright.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I want to brief Councilmember Cowden, because she missed out, but the gist of it was there are other ways to skin a cat, per our Chair.

Councilmember Cowden: Okay.

Councilmember DeCosta: In the budget process. We have it covered,  
Councilmember Cowden.

Councilmember Cowden: Thank you.

Councilmember DeCosta: Yes.

Councilmember Kagawa: Chair, the word "shall" appears again.

Councilmember Kualii: Should I replace it with "must"?

Councilmember Cowden: As opposed to "may."

Councilmember Kagawa: If "shall" means "may," then there is no change.

Council Chair Rapozo: I do not think this Administration is...I asked  
them, and I have it on recording and no one raised their hand.

Councilmember Kualii: Check with Matt.

Council Chair Rapozo: Matt, what is "shall"?

Mr. Bracken: "Shall" means "shall."

Councilmember Kagawa: Which means "must"?

Council Chair Rapozo: I have to say that it is not like there has been no  
abuse of this, I just want to make that clear. I am just trying to get a better snapshot of the  
budget whenever we get into budget deliberations, we have a right to know what the financial  
state of this County is accurately, and this just helps with that. Councilmember Bulosan.

Councilmember Bulosan: I had a question for Matt. With this language, in  
your opinion, per the Charter that you just reviewed, is there conflict in this proviso?

There being no objections, the rules were suspended.

Mr. Bracken: Matt Bracken, County Attorney. No, this  
language actually has been in the budget ordinance before, it has been in there in the past,  
and the opinion that I referenced in 2008 actually said, "No, you cannot do the first thing,  
but yes, you can do exactly this." So, that was also referenced in the 2008 opinion.

Council Chair Rapozo: Okay, thank you. I will call the meeting back to  
order. Is there any further discussion? Go ahead.

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

Councilmember Bulosan: Based on how it is worded, I would be in support of this. Generally, in my perspective for our community, I think this is important, it is a way for us to have clear communication, and be accountable to each other, and help our departments make sure that there is a possibility that there might be something we are not looking at, and this body might be helpful than restrictive. In a little bit in the back of my mind, I always hate more rules in general, I hate making things harder, I do not see this making it harder, I see this as making it more transparent, and more efficient for our body to make those decisions, so I will be in support of this.

Council Chair Rapozo: Thank you. Is there any other discussion? Seeing none. Go ahead.

Councilmember Kualii: The other thing I would add is that even though we are not able to make this a requirement, and we are just making it where you report to us after the fact, there is nothing that prevents you from working with us, and if you do not work with us and you do something we disagree with, even though we do not have the power to stop you upfront, as Chair mentioned earlier, we have the power to do money bills the same way you come and ask us for money, we can also determine if you have all this extra money in your salaries, and we can do a money bill to move that money into the surplus, or the reserve.

Council Chair Rapozo: Or to Council Services.

Councilmember Kualii: It can work both ways, too.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I am going to chime in now. Councilmember Cowden, that is the way you skin the cat.

Councilmember Cowden: Okay.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: Thanks to this proviso, it helps me. I had a cut that I was thinking about. I was concerned about our use of GET for the bus, and in an expended fashion, but it goes back to when Lyle Tabata told us that \$25,000,000 a year at half percent times ten (10) years will pretty much be caught up with our paving of roads and bridges. I think there was no mention at that time when we voted on it, and when it was presented to the public that we would be using more of it for other purposes, which are good purposes. Again, there are some items like ridership that I am concerned about, or even paratransit, whether there are ways to....that process can take place during the year and this proviso allows me to not propose something now when I do not have facts to back it up, and I would not have mustered the votes anyway without having the backup, plus I would upset a department for no reason, because I would not have any votes anyway. I thank you folks for this proviso, and I think it will help us to do our budgeting throughout the year.

Council Chair Rapozo: Is there anyone else?

Councilmember Kualii: You might have my vote, you do not know.

Councilmember Kagawa: All I am saying is let us use GET to tackle the things that we promised the people. It would be sad if in ten (10) years we have a bunch of bridges and roads that are not paved, and we say, "Sorry, we cannot get to them until we have more money." Because the intention was back then, and I understand now it is hard to get asphalt, I am not speaking to place blame, it is just that some of these things have changed due to the pandemic, and there is not availability of road contractors, but it is not to say that money could have sit in the CIP waiting for that time to come, instead we are spending on other needed things that qualify. Again, it takes away from the intention of what it was originally intended to do.

Council Chair Rapozo: Is there anyone else? You folks know the policy of this Council, and as long as I have been the Chair the agendas are open for all of you, so you do not have to get my permission, yes, I need to sign it, but I will never say "no" to an agenda item, as long as it is legal. Bill No. 2491 would have never made the agenda if I was the Chair, because the County Attorney said it was illegal, but anything else, whether I agree or disagree, will have that opportunity to be on this floor. Again, as you talk about Council powers, there is nothing that says we cannot modify the budget outside of the budget session, and that is available to us at any time throughout the year. Again, I would recommend and ask that you work all of these things out with the Administration prior, and come to an agreement that is the easiest way when it comes across as a request from the Administration versus dropping something on the agenda that will be in conflict, and then spend all this unnecessary time validating our points; working with the Administration, and then if you cannot agree, then unfortunately it will be done here, but there is always that possibility. Councilmember Kagawa, the example that you use, if you believe at some point that more of those funds should be directed elsewhere, that can be done at any time by this body. It is not that we do not have power, it is just that we have never had the necessity to do that, mainly because we did not have money, and everything that we brought in we had a need, in fact, we did not have enough, so we are in a different time now, so it is an exciting time to be on this Council, just because of the situation that we are in. Anyway, that is my two cents. With that, roll call.

The motion to add a new Operating Budget Proviso Section 33 (sections renumbered as needed) to read as follows: "Upon the use of any unexpended salary moneys for any non-salary related expenditures, the Mayor shall report the details of the transfer to the County Council within thirty (30) days," was then put, and carried by the following vote:

FOR MOTION:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: Final motion, unless we have any others, is there anyone else? Okay.

Councilmember Kualifi moved to allow Council Services Staff the ability to make adjustments to balance the budget, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion? Your final thoughts, because this is it. Is this another one?

Councilmember Kualifi: That is it, amend as circulated.

Council Chair Rapozo: This is final discussion for the day. If not, I will call for questions. Okay, go ahead.

Councilmember Kualifi: Your comment about being a better year, there is more money available, and I just want to say that regardless of when the budget is tight or when there is more room to flow, our job is to be there on behalf of our people to make sure everything is fiscally responsible, and in the best interests of our people, because they work hard and they struggle, so we should not be wasting their money in any way.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: First of all, I want to thank all of the departments for working hard. I know there has been an increase and that is hard on the public, and I am happy and thankful that we have been able to give raises to our people working, because everyone of you is swimming the same current, and without you the County and the island does not function, so I appreciate all the effort. I also want to acknowledge how there is inflationary pressure everywhere, I am really talking to the public as much as anything else on why there have been these increases. I just worked with the Department of Finance yesterday just seeing wonderful ways our IT Department is going to be making us more effective, more efficient, better for the people, so I am thankful and competent that we are doing a good job. I am looking at our first responders that are in the room, and Kauai Emergency Management Agency (KEMA), as Chair for Public Safety & Human Services Committee, I am very thankful for the jobs that you are doing. Elderly Affairs. I feel good about our budget, and as I said earlier, I am really thankful for the creative and supportive ways that the Administration has worked with us, so when you see no conflict, it is because it has been collaborative, and I appreciate it.

Council Chair Rapozo: Thank you. Councilmember DeCosta.

Councilmember DeCosta: I want to thank our Administration team, Mayor, and especially our department heads and our deputies. A lot of people out there watching think that the Councilmembers work every Wednesday, and that is all we do. No, we do not, there are a lot of meetings that go on, a lot of legal meetings in our conference room, at different departments, meetings that go, well, sometimes we have a cup of ice water, and we



decide, talk, and it goes over well, and there are other times that it does not go over well, that no one sees, no articles in *The Garden Island*, no news blurb, there are even situations where we walk out without even shaking each other's hand, but at that point, we are making the best decisions for our community, and we come back to the table, and put our differences aside, and we make the best fiscally responsible decision for the tax dollars that our people pay, so that is what I am here about, and that is why during the budget of this year, we use like a comb to comb through the hair and get every strand—we did that. Councilmember Kagawa with his accounting background, my economics background, Councilmember Kualii accounting background, the former Mayor who spent ten (10) years running a budget, and our Chair here who basically to the helm and told us, we are going to comb through this budget, and we are going to do what we are supposed to do. I believe this is why we have all of these conversations right now, because we did what we were supposed to do for the people, for the taxpayers. Thank you.

Council Chair Rapozo:

Councilmember Carvalho.

Councilmember Carvalho: Just as a Councilmember, I appreciate the quick responses from the Administration and the department heads following through on some of the critical questions or issues that came across the table. Then, being here as a Councilmember and understanding my fellow Councilmembers, and what we need to work together with Mayor Kawakami and the team, just overall, we are not always going to always agree on everything, but at the same time at least we can work on each area, and get responses back and forth, because the community is constantly calling and asking, "How come?" "Why not?" But I appreciate the budget process. I have nothing else to say other than good responses timing-wise from every department. As a Councilmember I really appreciate that. *Mahalo*.

Council Chair Rapozo:

Is there anyone else? Councilmember Bulosan.

Councilmember Bulosan: As a first-timer, it was a very large learning curve. I want to *mahalo* our staff, you folks are ultra responsive, super supportive, all the Councilmembers ultra responsive, super supportive, and especially the Administration and all of the staff that you folks have, many not in this room, have made it a really positive experience to tackle a really hard job, which is to take care of our community and island. I believe the budget that we have in front of us is taking bold action to take care of our local people. It is very bold that we are reducing the tax burden on our local residents. It is very bold that we are taking care of the needs of things that fell off the floor, and we did not get the chance to take care of it until now. I think it is bold that we are addressing the problems face-on instead of not, so I am excited for this budget. What I am most excited about is to execute, in every capacity I can as a Councilmember to help our staff, our Councilmembers, and all of you folks, the Administration, to execute this budget, and make every dollar make another \$5, and really help our community. I am all for it, and I am looking forward to working with all of you folks. Thank you so much.

Council Chair Rapozo:

Is there anyone else? Councilmember Kagawa.

Councilmember Kagawa: Thank you. I want to thank the Administration and our staff for their hard work on the budget. Council Chair, you did a great job running

the budget, and Members. We did not just whip through the budget proceedings, there were a lot of great questions and dialogue that we went through. I think one of the things is about the police and their going forward and working with their union and seeing what we are going to do as far as changes and hopefully they will work it out. I have seen in this short time back on the Council there are many complaints not even really County-related, but yet, County-related because we are closest to the people. Kikīa'ola Boat Harbor, a lot of the frustration with fishermen about conditions there competing with tour boats, and those types of things. Kapa'a Business Association, we just walked the town yesterday thanks to the Planning Department and Councilmember Carvalho, just great dialogue with the businesses, a lot of complaints about the homeless gray man who is a big headache for the businesses. Again, the budget can seem "hunky-dory," but there are problems out there, we need to keep working together on those, because of the bathroom there. Again, it is not to place blame, it is the users, you have the homeless, and all the businesses feed all that food, and when they say they want to use the bathroom, they point them to that bathroom. It is for locals too, right? Maybe they live in Kīlauea or wherever, it is far to go use the bathroom if you need to go, right? Where do you need to go? You need to go to that bathroom, so one (1) of the options Councilmember Carvalho and I were thinking about was possibly having a restroom like that outside by the small triangle park that we have. We are maybe looking at \$250,000, but we did not fund it in a change yet, because we need to get the approvals from the Department of Parks & Recreation, we need to make sure we are not disturbing any *iwi*. We will make sure we do it right, we do not need to rush, that is basically a no-brainer that there is a lot of food going out there, and not enough public restroom facilities. Then, the walk to the beach park restroom is too far, and I do not know how we can even keep that clean with some of the homeless who are in there, they have no place to go though, so I have no good answer for that. Another glaring problem is the soccer field, and we are trying to work it out with the Department of Parks & Recreation to provide immediate relief. For me, port-a-potties are not good, but are okay, but as stated not everyone can think about using it, they find it disgusting, and it is understandable, so finding a solution to that again is a lot of work. Just talking to Wally, you are talking about hundreds of thousands, if not \$1,000,000 to do the infrastructure and put the facility up. If we did that facility in a yard, maybe the building would cost maybe about \$500,000, but there are a lot of extra costs with that not having close utilities nearby. The work is there, Mike Sheehan asking us for a meeting, we are going to go out there, try to resolve the issue so the County can finally take the land that we bought for the public, so there is from north to south, there are a lot of work for us going ahead, some of it budget related, we have the funds in this budget to take care of things that come up, so for that we should feel fortunate, but again, there are also things that do not come with money, but the work does not stop here, we need to do better. Thank you.

Council Chair Rapozo:

Is there anyone else? Go ahead.

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

Councilmember DeCosta: Thank you, Councilmember Kagawa for explaining that a lot of what we do. Of course, this time there is the budget, but there are a lot of things that we do outside that is not budget related, but I really wanted to thank our Council staff from County Clerk Jade Fountain-Tanigawa, and I call him "boss man" Lyndon, and all of the staff, I had this motion and this language, and I did not write it, our staff wrote it, I just have the privilege to read it, so thank you folks for making us look as intelligent as we want to, hard to think I am, but you folks make me look like I am, but thank you. Give everyone a round of applause for our staff. That is all I ask.



Council Chair Rapozo:  
to give them a round of applause?

What about the Administration staff, are we going

Councilmember DeCosta: I want to apologize to Mr. Dahilig, because sometimes we are hard on him when we have meetings, and we “hash things out,” and it does not reach the floor because we “hashed it out,” and I do not want to challenge a Punahou man on the floor, because I think I might win him, I am that good. Anyway, thank you, Mr. Dahilig, honestly, you are a blessing to our Administration team. Thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I want to say *mahalo nui loa* to everyone involved in the budget, especially everyone at the Administration, the Mayor, the Managing Director, the budget team, all of our department heads, and their respective budget teams. I want to mention one specific thing that is in my heart, I am very grateful to the Administration and to the folks at Transportation for a very small things, but for increasing our outreach program budget where we are doing funding to our nonprofits for the fifty percent (50%) discounted bus passes, and also for being willing to start a low-income annual bus pass pilot program where we will make the fifty percent (50%) bus passes available the same way we do now to students, youth, and *kūpuna* to our folks on public assistance and very low-income folks that are already on public assistance. It is a pilot program, it is only \$50,000, I will say *mahalo nui loa* to Celia and her team in advance for their time and effort in making this a success, so that we can build upon it year after year. I know from the nonprofits like Catholic Charities, Easter Seals, and from the YWCA that is important, so we are helping people and we are getting more people on our busses. Lastly, my biggest *mahalo* goes to our staff, like Councilmember DeCosta said, we cannot do this without them, and they work hard all the time, long hours making us look good, doing the detailed, often legal work that is so important so that we can do our jobs. We just could not do this without them, and we can never say *mahalo nui loa* enough, so thank you all, especially our budget team.

Council Chair Rapozo: Is there anyone else? If not, we are not passing the budget today, we still need to pass the budget, so I hope you do not change your mind before we actually have the budget ordinance. Yesterday, we all received a scathing email from a constituent, I do not know if you folks read it yet, but this man is angry at everything, there is nothing on this island that he likes. He should move. It was horrible. He picked on every single part of government. I was like, “Wow, if I felt that way, I really would move.” I responded as professionally as I could, but he brought up some points that are real and accurate, but the delivery was terrible. It was like I dug potholes, I took it personally, it was defensive, but whatever. I think the fact is that it is our problem, it is not the Council’s problem, or the Administration’s problem, it is our problem, it is all of us, and I can honestly sit here and say that we try our best, every one of us try our best. As Councilmember Kagawa said, “We have a lot of work to do.” I think this year is the year that we should all try to get as much of that accomplished as possible, because we have the financial means to do so. Next year, we do not know what it will be, who knows? That is why I say we really need to focus this year on making sure we can get these things done. As far as the Council, we are the checks and balances—that is our job to make sure that things are running the way it is supposed to, but it is not our job to execute. As Councilmember Bulosan said, that is the key, now we need to execute, now we need to put this into action. I had Sunshine Law written down here, because I think a lot of people are under the impression that all of us get to meet throughout the week, and huddle and ask how are we going to do this? That is simply not

the case. As you can see today, these provisos, we all saw for the first time. I wish we had an opportunity to discuss with each other. Finally, again, our staff, our staff is our staff, all of you folks. Our staff we work very intimately with, they are incredible, and they bring us so much important information, and like Councilmember DeCosta said, he did not write his...yes, we never write our things, we give them an idea, and we give them some resources, or resource people, and then they take it from there, so to our staff, and by the way, today is Lisa Watanabe's birthday. She is not here, she is downstairs, so happy birthday, Lisa. If you see her on the way out, please wish her a happy birthday. The staff of the Administration, I need to say, response times are incredible, like our staff, we ask for something, it is like we get it right back. In this budget, I do not want to name names, because I will forget because I know I have worked with each and every one of you, but I know that the ones that come to mind when I talk about immediate responses, and I really do not get in contact with Mike anymore, because he is the elite, so he has more important things to do, but Sarah has been the brunt of my texts sometimes not so pleasant, I am pissed off, it could be a weekend, could be a night, and she always manages to respond immediately. Adam, another one. I appreciate it when you all respond like that, and I have not had any issues with any department. Reiko is quick, I do not know how you do it so fast, because my questions to Reiko are financial questions, tax questions, Tax Map Key (TMK) questions, and it is like she is a walking encyclopedia. I just want to say thank you folks for your cooperation in all of this. I think when that happens this is the result, it is just a smooth process. That is all I have. We will have the budget come up, when is that?

JENELLE AGAS, Legal Analyst: May 24<sup>th</sup>.

Council Chair Rapozo: May 24<sup>th</sup> is when we actually finalize and vote on the budget. Again, I hope this is where we will be. With that, thank you folks all very much. Again, the motion is to approve. Roll call.

The motion to allow Council Services Staff the ability to make adjustments to balance the budget was then put, and carried by the following vote:

FOR MOTION:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	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 Kaua'i, Councilmember Cowden was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Ms. Fountain-Tanigawa: The motion passes.

Council Chair Rapozo: Thank you. With that, I appreciate you folks. Have a wonderful weekend, we will see you folks in a couple of weeks.

There being no objections, the meeting was adjourned at 10:47 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jessica Young", written in a cursive style.

Jessica Young  
Council Services Assistant I

APPROVED at the Committee Meeting held on June 21, 2023:

A handwritten signature in black ink, appearing to read "Mel Rapozo", written in a cursive style.

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MEL RAPOZO  
Chair, Committee of the Whole