

COUNCIL MEETING

NOVEMBER 20, 2019

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, November 20, 2019 at 8:32 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 8:33 a.m.*)
Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Luke A. Evslin
Honorable Ross Kagawa
Honorable KipuKai Kuali'i (*present at 8:34 a.m.*)
Honorable Arryl Kaneshiro

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda, as circulated, seconded by Councilmember Cowden.

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

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

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

Council Chair Kaneshiro: Seeing none, members, is there any discussion?

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kuali'i were excused*).

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

(*Councilmember Brun was noted as present.*)

MINUTES of the following meetings of the Council:

October 23, 2019 Council Meeting
November 6, 2019 Council Meeting

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

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

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

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

Council Chair Kaneshiro: Seeing none, is there any discussion from the members?

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

Council Chair Kaneshiro: The motion is carried.

CONSENT CALENDAR:

C 2019-246 Communication (10/21/2019) from Derek S.K. Kawakami, Mayor, transmitting for Council consideration and confirmation, the following Mayoral reappointments to various Boards and Commissions for the County of Kaua'i:

- a. Board of Ethics
 - Susan H. Burriss – Term ending 12/31/2022
- b. Board of Review
 - Craig A. De Costa – Term ending 12/31/2022
 - Christopher A. White – Term ending 12/31/2022
- c. Charter Review Commission
 - Charles Patrick Stack – Term ending 12/31/2022
 - Jan W. TenBruggencate – Term ending 12/31/2022
- d. Civil Service Commission
 - Vonnell F. Ramos – Term ending 12/31/2022
- e. Fire Commission
 - Michael Martinez – Term ending 12/31/2022
 - Chad K. Pacheco – Term ending 12/31/2022

f. Liquor Control Commission

- Maryanne W. Kusaka – Term ending 12/31/2022

g. Police Commission

- Gerald Bahouth – Term ending 12/31/2022
- Roy M. Morita – Term ending 12/31/2022

h. Public Access, Open Space, Natural Resources Prevention Fund Commission

- Shaylyn K. Kimura (At-Large) – Term ending 12/31/2022
- Herman J. Texeira (Kapa'a / Wailua) – Term ending 12/31/2022

Councilmember Chock moved to receive C 2019-246 for the record, seconded by Councilmember Kagawa.

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

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

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

Council Chair Kaneshiro: Seeing none, is there any discussion from the members?

The motion to receive C 2019-246 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Kualii was excused*).

Council Chair Kaneshiro: Motion carried. Next item.

COMMUNICATIONS:

C 2019-247 Communication (10/22/2019) from the Deputy Fire Chief, requesting Council approval to accept a donation from the Kaua'i Lifeguard Association (KLA) of a 40-foot used Matson container and delivery costs, valued at \$3,600.00, which will help in storing equipment at Wanini Beach upon the approval of the Planning Commission: Councilmember Chock moved to approve C 2019-247 with a thank-you letter to follow, seconded by Councilmember Brun.

(*Councilmember Kualii was noted as present.*)

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

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

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

Council Chair Kaneshiro: Are there any questions or comments from the members? I do not know if the Fire Department is present, though.

Councilmember Cowden: I would like to make a comment.

Council Chair Kaneshiro: Okay.

Councilmember Cowden: I just want to really appreciate the use of these containers. I see that we have one at the end of the road at Kē'ē. Having one at the Wanini area will be really helpful and so I want to acknowledge the gift that we received from KLA and that it is very valuable down there at the beach. It makes a much better organization ease for our staff.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I just want to thank KLA for getting this done and for helping to store our equipment. I know in the past we allowed Kapa'a Pop Warner to use that container for storage when they did not have a storage facility and there are other numerous organizations that have asked to put things in there. Our former Parks & Recreation Director...at the end started to frown upon those requests because he said it was an eyesore; however, it is all about balance. When you are losing thousands of dollars of equipment and things, sometimes it is an eyesore, but it is also protecting property. I do not know what the deal is now with the new Parks & Recreation Director; he is very quiet. We need to take each request and if there is a quick way to safely store the equipment...because it is very hard to steal a Matson container and it is very long for the County to build a facility to store things. When volunteers want to do it, they make it very hard for the volunteers to do it. You have to jump through a lot of hoops. Please, Administration, relook at the policy regarding the use of these storage containers. The former Parks & Recreation Director is no longer there and we can change direction, if necessary. It is very valuable to me to use these things and protect them whether it be the County's equipment or whether it be equipment for the users. Again, this is not a dictatorship. Thank you.

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

Councilmember Cowden: I just want to say that I most recently noticed the one at Kē'ē and when I saw it, it did not look like an eyesore to me at all. My

instinctive reaction was one of relief. Just understanding how dangerous that area is and how important it is to have whatever you need right there and not have to waste time having to drag equipment out every morning. I thought it was done very tastefully, set nicely, and I was pleased and proud to see our Fire Department logo right on it. I took a picture of it and posted it; I was happy about it. Good job on that.

Council Chair Kaneshiro: Is there anyone else?

The motion to approve C 2019-247 with a thank-you letter to follow was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Thank you. Next item.

C 2019-248 Communication (10/25/2019) from Ka'aina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, Relating to Class IV Zoning Permits of the Comprehensive Zoning Ordinance: Councilmember Kuali'i moved to receive C 2019-248 for the record, seconded by Councilmember Brun.

Council Chair Kaneshiro: We will have the discussion on this at Bills for First Reading. Is there anyone in the audience wishing to testify on the Communication?

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

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

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

The motion to receive C 2019-248 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2019-249 Communication (10/30/2019) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$5,518.00 for the Fiscal Year 2020, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals, and to indemnify the State Executive Office on Aging: Councilmember Kuali'i moved to approve C 2019-249, seconded by Councilmember Brun.

Council Chair Kaneshiro: Are there any questions from the members? Councilmember Kagawa, I think you ask the same question every time about the Meals on Wheels Program, but up to you.

Councilmember Kagawa: I am good.

Council Chair Kaneshiro: Okay. Are there any questions?

Councilmember Cowden: I do not have a question, but I just have a comment.

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

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

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

Council Chair Kaneshiro: Seeing none. Councilmember Cowden.

Councilmember Cowden: I just want to appreciate our Aging Affairs Committee for what they do and having this. We did talk about this quite a bit with our food service and acknowledging Kaua'i Economic Opportunity (KEO), and just how important it is to be getting food out. Thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I just want to thank the Office on Elderly Affairs, too. More than just the fact of the meals...the meals are very important, but it is the visits and our staff that goes out and visits our *kūpuna*, and that is priceless, so I want to thank you for your agency, for your work, and all the dedication of the workers at your office.

Council Chair Kaneshiro: Is there anyone else? The motion on the floor is to approve.

The motion to approve C 2019-249 was then put, and unanimously carried.

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

C 2019-250 Communication (11/08/2019) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2019-856, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2019 Through June 30, 2020, By Revising The Amounts Estimated In The Housing Development Fund, to maintain 417 acres of land purchased in Waimea, to include regular mowing, canal cleaning, and security: Councilmember Kualii moved to receive C 2019-250 for the record, seconded by Councilmember Brun.

Council Chair Kaneshiro: Again, we will take the discussion when we get to the bill; this is just the Communication. Is there anyone in the audience wishing to testify on this item?

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

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

Council Chair Kaneshiro: Seeing none, is there any final discussion from the members?

The motion to receive C 2019-250 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2019-251 Communication (11/08/2019) from the Director of Finance, requesting Council approval of the First Hawaiian Bank Service Contract and indemnification provision contain therein, for lockbox services relating to sewer payments: Councilmember Kualii moved to approve C 2019-251, seconded by Councilmember Brun.

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

There being no objections, the rules were suspended.

Councilmember Cowden: Thank you so much. I just wondered if you could give us and the viewers an explanation of what you are doing and why.

MICHELLE L. LIZAMA, Deputy Director of Finance: Sure. Good morning, Michelle Lizama, Deputy Director of Finance. This contract is for lockbox services for the Sewer Department. Mail-in payments come into our Treasury Division and in order to be more efficient, we want to send those payments to First Hawaiian lockbox services.

Councilmember Cowden: Which means it goes to the bank directly.

Ms. Lizama: Correct.

Councilmember Cowden: So this saves time at the County and a quicker deposit.

Ms. Lizama: Correct.

Councilmember Cowden: It is a simple move towards efficiency. Okay.
Thank you.

Council Chair Kaneshiro: Right now someone has to manually count the checks, right?

Ms. Lizama: Correct.

Council Chair Kaneshiro: And sending it to the lockbox and then First Hawaiian Bank will automatically put the checks to whatever account they have, and then any discrepancies will come back that we will have to look at. This will save a lot of time.

Councilmember Cowden: It makes it right back into our booking system, right, so it is just simpler. Thank you so much for that effort.

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

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

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

Council Chair Kaneshiro: Seeing none. Is there any discussion from the members? The motion on the floor is to approve.

The motion to approve C 2019-251 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. We are going to skip C 2019-252 to the end of the meeting. We will probably have a lot of questions on this and I do not want to hold up everyone else on it. I think we can get through the rest of the agenda pretty quickly. We will skip C 2019-252. Next items are the Committee Reports.

There being no objections, the Committee Reports were taken out of order.

COMMITTEE REPORTS:

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. PWVS 2019-09) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2019-05 – Communication (10/30/2019) from Committee Chair Kagawa, requesting the presence of the Mayor and the Managing Director, to

discuss the infrastructure and other contributions of the Kekaha Agriculture Association,”

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

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

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

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

Council Chair Kaneshiro: Seeing none. Is there any discussion from the members? Councilmember Kagawa.

Councilmember Kagawa: I know it is probably not appropriate to have discussion during the approval of the committee reports, but I just want to say that I got a lot of thanks from people who saw the video from Landis Ignacio. That fifteen (15) minute video really made people aware that it was a huge loss and the responsibility of that water system is just unbelievable. You ask yourself, “How did they go all the way up there one hundred (100) years ago and do all of those things?” I am really happy that I decided...I will pat myself on the back and I was really happy that I decided to put that on the Committee Meeting. I believe that is that important that we expose how important KAA (Kekaha Agriculture Association) is and the accomplishments of an incredible individual like Landis. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to thank you Councilmember Kagawa for doing that and I want to acknowledge how many people did watch and see that. I always leave my phone put away while I am here, but what I saw when I got finished with the meeting is I had a whole slew of positive comments from the north and the east side. That was brand new information for many people and I think it was a value and many people were watching it even as it was on, so shout out to Hōi'ke for televising these meetings and I think you achieved your objective.

Council Chair Kaneshiro: Is there anyone else?

The motion for approval of the report was then put, and unanimously carried.

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

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (HIR 2019-03) submitted by the Housing & Intergovernmental Relations Committee, recommending that the following be Received for the Record:

“HIR 2019-01 – Communication (11/06/2019) from Council Chair Kaneshiro, requesting the presence of the Housing Director, to provide an update on the Adolescent Treatment & Healing Center,”

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

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

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

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

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

The motion for approval of the report was then put, and unanimously carried.

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

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (FED 2019-05) submitted by the Finance & Economic Development Committee, recommending that the following be Received for the Record:

“FED 2019-02 – Communication (09/04/2019) from the Director of Economic Development, requesting agenda time to present general information on progress, next steps, and collaborative options that have come from the Rose-Ringed Parakeet Working Group,”

A report (FED 2019-06) submitted by the Finance & Economic Development Committee, recommending that the following be Received for the Record:

“FED 2019-03 – Communication (09/04/2019) from the Director of Economic Development, requesting agenda time to present general information on the progress of the North Shore Shuttle Project,”

Councilmember Kuali'i moved for approval of the reports, seconded by Councilmember Brun.

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

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

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

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

The motion for approval of the reports was then put, and unanimously carried.

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

RESOLUTIONS:

Resolution No. 2019-55 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Susan H. Burriss*): Councilmember Kualii moved for adoption of Resolution No. 2019-55, seconded by Councilmember Chock.

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

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

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

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

Councilmember Kagawa: As I look through all of these and a lot of them are recurring, continuing to serve additional years. That tells me that a lot of them came from the Carvalho Administration and are great picks, but my question is if at some point do the Administration as they go forward with making these picks, do they look at the accomplishments of them on that board? I hear some of them say, "We hardly meet," and really, you are on the board by name, but not much is done. My thinking is if they are valuable individuals, maybe try to switch them around, try a different board, and maybe they will actually get something done rather than just meet and give certificates to people. What are the accomplishments of the board and if they are not doing much and you see that they are valuable, move them around. Why leave them in the same spot if they are not getting much done in the spot they were on? They are volunteering, right? Why do we not utilize them? We should utilize their talents. A lot of them are successful businessmen, attorneys, and what have you. That is the way you can improve over the previous Administration, let your boards do more of the work that can improve the County and government. I am just saying.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Can I ask Ellen to come forward?

Council Chair Kaneshiro: I will suspend the rules.

There being no objections, the rules were suspended.

ELLEN CHING, Boards & Commissions Administrator: Good morning,
Ellen Ching, Boards & Commissions Administrator.

Councilmember Cowden: I attend a lot of these meetings.

Ms. Ching: Yes, you do.

Councilmember Cowden: I am probably one (1) of the hardest citizens relative to the commissions. Almost every one of these with the exception of one (1) is a second term. The Resolution with Pat Stack, I believe, he has been on other commissions. I just want to say how much I deeply appreciate the commissioners. It is not very easy to get them, is that correct?

Ms. Ching: It is not very easy to get them and since I have taken this position, this year we had because of the new Administration, we had about forty (40) vacancies in contrast to the upcoming year where we have about nine (9), so it is been very difficult and it has kept me extremely busy trying to fill vacancies. I can tell you since taking this position, I have been extremely impressed at the caring and the work that every single individual puts into it. They do tremendous amount of work. It is not always quick. We are under the same constraints as you all are with Sunshine and so it is a very deliberative process. I think that for Boards & Commissions, we are exceptionally challenged in the recent years in that three (3) of the Commissions have been going through a hiring process, which seems to take quite a bit of time. But I can tell you similar to the Police Commission where each...which the commission itself reviewed over one hundred thirty (130) applications, so similarly the Fire Commission, similarly the Civil Service Commission is reviewing for themselves each application and scoring it, going through it, and then going through a multi-phased process in order to carry out their duty of a due diligence. I cannot even begin to explain how impressed and amazed I am at the work that they do.

Councilmember Cowden: I want to acknowledge at how important it is when we are in the hiring process to not switch horses in the middle of the stream. What I am seeing is how much work is going through and in the Fire Commission, they went through the entire process and were not able to...the person they asked for dropped out at the last minute, having to start it all over again, so that continuity is incredibly important. For the commission meetings that I do attend, which is about half of them, maybe a little more, I see that people are regularly attending training. For example, the Fire and the Police, they go to different conferences, is that correct?

Ms. Ching: Yes, it is.

Councilmember Cowden: As a County, we really invest in these volunteers in their understanding and learning.

Ms. Ching: Yes.

Councilmember Cowden: I am envious that I cannot go to some of these conferences, because they really do discuss what is learned and when they share back is of great value. I just want to acknowledge the strong job...I am only going to be speaking on this first person, because it is collectively and we do have one (1) of our people here, who I have probably been the hardest on from the Charter Review Commission, because I struggle with that particular group and I just want to say the level of professionalism and acceptance of pushback and a very diligent effort to do the best that they can to be looking at an incredibly important position, so important it makes me uncomfortable. I want to say that these people are volunteers. With the Planning Commission, do we have a full commission right now?

Ms. Ching: No, we do not. We have a couple of vacancies in there.

Councilmember Cowden: We have a couple of vacancies, so if people are watching and you have good knowledge on this, I hope people apply, but that is probably about fifty (50) hours of work. If someone does a diligent job, it is an incredible amount of work, and I think that I just cannot overstate the importance of having competent commissions because the role that they play is so valuable and decisive in what we do, also with the Board of Water. So, thank you. I do not look at this flippantly, I look at it with gratitude to all those who are being replaced into their position. All of these are a second term, with the exception of one, Pat Stack, and I know he has been on other ones. I am trying to remember, but he seems to be diligent in his commitment to what he does, so I just really felt that it was important to have that acknowledgement. I hope that some of them are watching and I thank you. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Thank you for being here Ellen. Since you are up there I will ask a quick question. It sort of has to do with how long a person could serve and what is the basic service. So, what is the term after you are appointed, for how long, and how many terms can you serve?

Ms. Ching: In general, you can serve a three-year term and be appointed for a second three-year term.

Councilmember Kuali'i: So, it would be two (2) three-year terms, right?

Ms. Ching: Yes.

Councilmember Kuali'i: I know that we received testimony specifically opposing one (1) reappointment and it is over one (1) issue or one (1) decision, and I do not ever think of voting against someone just for one (1) particular thing like that, but the public can know that their terms are limited as well. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you Ellen for coming. For someone who is possibly interested in serving on a commission, what is the process for them to apply?

Ms. Ching: They can go to Boards & Commission webpage and there is an application link and they can fill out the application. Once they submitted their application, it will go directly to me.

Councilmember Evslin: Great, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Since Councilmember Kuali'i brought up the point of contention and saying that this particular person in the Liquor Control Commission did not read the minutes; you would have been present at all of this, is there any accuracy of what we are seeing here?

Ms. Ching: Regarding the testimony, in opposition to the appointment to the Liquor Control Commission, if you look at the third paragraph in reference to that occasion, I was present at that occasion and I can tell you that the individual that changed their vote, they were not coached, they were not...that person said on the floor that they were confused initially about the motion and based on that when the motion was restated, they of their own volition stated that they wanted to change their vote. I was there at the time that happened. That is my recollection.

Councilmember Cowden: I want to say I know both of these individuals personally. Both are very powerful independent thinkers, both who have handled many, many controversial items and I cannot imagine that one approached the other.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: In the past the Boards & Commissions...I used to put on classes on Sunshine Law and Robert's Rules of Order for Commissioners and

Councilmembers and anyone from the public who was interested. Are those still occurring?

Ms. Ching: They have not occurred this year. My primary focus has been filling the vacancies and making sure that the Commissions can move forward and do the work that they need to do. This coming year, that is one of the things that I am really looking at as to how we can provide training to all of the Commissioners. I am hoping that I will have the majority of the vacancies filled, especially now that I have gotten over this initial bump. I am also looking more globally about how we can improve training, how can we make it more accessible for the people coming in, and just looking at overall at upping the quality of it and really wanting to be a lot more pointed in...I think it was generalized training on Sunshine and Robert's and on conducting the business in a general sense, but I think there is a lot of Commissions like the Planning Commission that is very specialized, the Water Board, and so forth, and I would like to see more directed, pointed type of training specific to those Commissions.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you. I think that is really important that there is directed-specific training and I have been, as I stated earlier, encouraged that they are going and being supported in going to these different conferences. My observation over the years is each Commission, all the positions are not just simply open and equal. One is meant to represent maybe Hawaiian cultural understanding, business, environment...a range depending. We even have an arborist group, a tree commission. We have a range of perspectives, correct?

Ms. Ching: Yes.

Councilmember Cowden: I think that is really important and I just cannot understate how much power and control the Boards & Commissions have and it is really important for us to be vigilant that we get the right members in there. I just happen to know all these people and I feel comfortable with all of them. I would not just rubberstamp it and it is important that the community understands it as well for what is happening. Thank you. Those are all of my questions.

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

Councilmember Kagawa: After hearing you speak so long about this, I am almost inclined to vote "no" on all. The point I am trying to make is that we had twelve (12) years of Baptiste and ten (10) years of Carvalho. I was hoping when we have

a new mayor that we are going to shake the bag a little bit and what I am seeing is the same names all over again. If I am mayor in two (2) or three (3) years, I guarantee you that I will fill everyone new out of this list. I am going to shake the bag. I am serious. You are doing your job, whatever.

Council Chair Kaneshiro: Is there anyone else? Thank you.

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

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

Councilmember Evslin: I served on the Public Access, Open Space and Natural Resources Preservation Fund Commission (Open Space Commission) for two (2) years and we often could not make quorum, because we only had five (5) members and if someone was not there, we could not meet. I recognize the value of trying to fill these positions and I recognize how difficult it can be going from forty (40) vacancies, filling thirty-one (31) of those, and getting it down to nine (9), so I appreciate the work that Ellen has done in bringing more people into this. I appreciate everyone willing to serve on a Commission. I think it is every other week for most of these or at least once a month for three (3) hours to twelve (12) hours for the Planning Commission. It is a tremendous amount of totally volunteer work. If you are doing work outside of that, there is a lot of research that should be done, et cetera, so anyone willing to serve, I appreciate their willingness to go forward. Obviously, I will be voting to approve those who are reappointing and appointed today.

Council Chair Kaneshiro: Is there anyone else? The motion on the floor is to approve Board of Ethics, Susan H. Burriss. Can I get a roll call vote, please?

The motion for adoption of Resolution No. 2019-55 was then put, and carried by the following vote:

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

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

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Seven (7) ayes.

Resolution No. 2019-56 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF REVIEW (*Craig A. De Costa*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-56, seconded by Councilmember Brun.

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

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

(Councilmember Kagawa was noted as not present.)

BRUCE HART: Out of curiosity, I think I will ask Ellen, but one hundred thirty (130) applications for the Police Commission, it seems as I have sat here through the years that some Commissions are far more popular than others, so I am kind of wondering about it. Also, I have thought about it before, but I do not think I am qualified and as the discussion proceeded, it is like the people that occupy these seats, they seem to have a lot more qualifications than me. I am wondering would it be a good idea to have some unqualified people on these Commissions? The way I see it and it is not a criticism, but there is a whole segment of the population that is excluded. That is why it is hard to fill the applications. You need to have a Business Degree, you need to have a Law Degree, know about water, you need to understand all the ins and outs, and so it seems to me that it is a pretty narrow selection. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone else?

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

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

Councilmember Brun: Bruce, you should apply, because a lot of these people is within the group and it is all about politics. Maybe there should be someone unqualified on a commission or someone with commonsense. Sometimes people are really smart with no common sense. I encourage you to apply for a commission. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I encourage anyone to apply for any of these positions and "qualify" does not mean all the paperwork. It means certainly commonsense, certainly interest, and certainly experienced.

(Councilmember Kagawa was noted as present.)

Councilmember Cowden: I would personally love it if we had this in a transparent way where we are able to see who is being chosen from, but in this case, we are looking at the Board of Review, which is about understanding if someone has been fairly managed with their real property tax and it is hugely important. People lose their homes, their livelihoods, their stability, if a decision is not made right. This is an important position. I just appreciate that there is a little bit of strength coming in on this.

Councilmember Kagawa: Councilmember Cowden, how many cases has the Board of Review sided with the public against the Administration; since you know so much about the Board of Review.

Councilmember Cowden: Thank you for asking that.

Councilmember Kagawa: How much?

Councilmember Cowden: Not enough in my opinion.

Councilmember Kagawa: Zero (0).

Councilmember Cowden: I do not think it is zero (0).

Councilmember Kagawa: How much has gone in favor of the public over the Administration?

Councilmember Cowden: We just talked about...

Council Chair Kaneshiro: Ellen may be the better person to ask that question to.

Councilmember Cowden: Yes, she would be the better ask.

Councilmember Kagawa: All of the cases I know of, have all gone with the Administration. All the ones I know of, seriously, have gone with the Administration. We have been through this many times, Councilmember Rapozo and me.

Councilmember Cowden: Let us bring this up because this is very important. I am going to agree that it is very important and I have definitely sent a number of people even just this time on that topic. Let us ask that and thank you for bringing that up.

Councilmember Kagawa: You are praising their glory, so I am saying, "Show me that the Board of Review is working." If you are going to praise them, show me proof.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Ellen, I think you are the better person to answer the question, you have been present at the meetings.

There being no objections, the rules were suspended.

Ms. Ching: Ellen Ching, Boards & Commissions Administrator. I cannot tell you the exact number. I would be happy to provide you with that information, but I know this year there has been rulings that have been with the person who is appealing.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: This is an incredibly important Commission and where I would have a challenge is that on a few that I think are incredibly important that never made it to the Board of Review, what I understand is that they get screened out ahead of time, because they say the start date is not appropriate and so when we are looking at that is in situations like the rollback taxes on agricultural (Ag) dedication. I know of a couple and I brought in the lawyers in to talk with them. When complaints have been made against someone for Ag dedication, there is a one (1) or two (2) stop and determine that does not happen that Ag dedication rolls back fifteen (15) or eighteen (18) years and they say it is too late to have it. I do not know if that is true or not, but...or actually I do know because I have asked. That is a problem, so that is a staff problem, right? Who determines whether something goes in front of the Board of Review?

Ms. Ching: I cannot answer that question, but I know that there are four (4) grounds on which you have to base your appeals on. If you do not meet those four (4) grounds to file the appeal, then the appeal will not be taken out.

Councilmember Cowden: Something that I would like to ask is if we can have sent to us the four (4) grounds and how many have been bounced for those, because I would like to look if there needs to be adaptation to what those grounds for appeal are. I do know that there are heartbreaking stories, but I also have met with Real Property Tax and talked about this and I do know that decisions have been made recently against their better judgment or what they feel is...they call it an empathy vote that happens for the people. I am watching for that. So thank you if we can get that information.

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

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

Council Chair Kaneshiro: Is there any final discussion? We are on Craig De Costa's appointment. For me after hearing Bruce's testimony, I just want to say there are a wide variety of boards that are available for people to look at. I believe some might have a little more stringent qualifications, but for the most part I believe there are a lot of boards that the qualification might just be residency. I encourage anyone that is interested to maybe contact the Boards & Commissions and see what boards are available, where the vacancies are, and try and apply for one that interests them. Ellen would be able to give them information on what the requirements are, but I know there are a lot of boards that I do not think they have very many requirements to them. With that, roll call vote.

The motion for adoption of Resolution No. 2019-56 was then put, and carried by the following vote:

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

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

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

Resolution No. 2019-57 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF REVIEW (*Christopher A. White*): Councilmember Kualii moved for adoption of Resolution No. 2019-57, seconded by Councilmember Brun.

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

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

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

Council Chair Kaneshiro: Is there any final comments from the members? Roll call vote.

The motion for adoption of Resolution No. 2018-57 was then put, and carried by the following vote:

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

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

Resolution No. 2019-58 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Charles Patrick Stack*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-58, seconded by Councilmember Brun.

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

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

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

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

Councilmember Cowden: I just want to say that he is a first time to this, but I believe that he has been on the Planning Commission and I have seen him use some judgment.

Council Chair Kaneshiro: I see that the Resolution says, "Reappointment," so he has been there.

Councilmember Cowden: Okay, alright.

Councilmember Kagawa: So, you like him?

Councilmember Cowden: I do and I have a lot of friction with the Charter Review Commission by the nature of what it is, but I am fine with him.

Council Chair Kaneshiro: Roll call vote.

The motion for adoption of Resolution No. 2019-58 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	Kagawa	TOTAL – 1,

EXCUSED & NOT VOTING: None
RECUSED & NOT VOTING: None

TOTAL – 0,
TOTAL – 0.

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

Resolution No. 2019-59 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Jan W. TenBruggencate*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-59, seconded by Councilmember Brun.

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

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

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

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

The motion for adoption of Resolution No. 2019-59 was then put, and carried by the following vote:

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

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

Resolution No. 2019-60 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Vonnell F. Ramos*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-60, seconded by Councilmember Brun.

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

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

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

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

The motion for adoption of Resolution No. 2019-60 was then put, and carried by the following vote:

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

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

Resolution No. 2019-61 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE FIRE COMMISSION (*Michael Martinez*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-61, seconded by Councilmember Brun.

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

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

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

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

Councilmember Cowden: I regularly attend this meeting, I want to give Michael Martinez a very enthusiastic yes. He does an excellent job and he really does his homework and I really appreciate all of the work he puts into it.

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

The motion for adoption of Resolution No. 2019-61 was then put, and carried by the following vote:

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

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

Resolution No. 2019-62 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE FIRE COMMISSION (*Chad K. Pacheco*): Councilmember Kuali'i moved for adoption of Resolution No. 2019-62, seconded by Councilmember Brun.

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

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

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

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

The motion for adoption of Resolution No. 2019-62 was then put, and carried by the following vote:

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

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

Resolution No. 2019-63 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Maryanne W. Kusaka*): Councilmember Kualii moved for adoption of Resolution No. 2019-63, seconded by Councilmember Brun.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this item? We did receive one (1) E-mail testimony on it.

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

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

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

The motion for adoption of Resolution No. 2019-63 was then put, and carried by the following vote:

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

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

Resolution No. 2019-64 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE POLICE COMMISSION (*Gerald Bahouth*): Councilmember Kualii moved for adoption of Resolution No. 2019-64, seconded by Councilmember Brun.

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

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

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

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

Councilmember Cowden: This is another Commission that I attend pretty much every month if at all possible, and I give both of these Commissioners a very enthusiastic thumbs up. I feel they do a very competent job and they are really working hard to understand doing the ride-alongs and many other elements, actively going to training and high involvement in these conferences.

Council Chair Kaneshiro: Thank you. Is there anyone else? I know they had their job cut out for them and I believe they ended up hiring a very good and competent Chief of Police that we are all proud of. With that, roll call vote.

The motion for adoption of Resolution No. 2019-64 was then put, and carried by the following vote:

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

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

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

Resolution No. 2019-65 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE POLICE COMMISSION (*Roy M. Morita*): Councilmember Kualii moved for adoption of Resolution No. 2019-65, seconded by Councilmember Brun.

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

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

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

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

Councilmember Kagawa: Some of these I am just not voting on it because again, there are other people that can be given a chance. It is not against the person, but to me, I want to see better effort going forward with future Administrations to give other people a chance. There are a lot of people willing to serve, you just have to ask the right way. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have put so much focus on the Police Department and with open friction and coming on to the Council and again, Roy Morita has been someone that I just feel has an extraordinary job, also participating in the community and taking a real interest in understanding where the challenges are for the people who are on the wrong side of the law. I respect Vice Chair Kagawa's position and I think this person does a great job.

Council Chair Kaneshiro: Thank you. Is there anyone else?

The motion for adoption of Resolution No. 2019-65 was then put, and carried by the following vote:

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

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

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

Resolution No. 2019-66 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Shaylyn K. Kimura, At-Large*): Councilmember Kualii moved for adoption of Resolution No. 2019-66, seconded by Councilmember Brun.

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

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

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

Council Chair Kaneshiro: Seeing none. Is there any discussion from the members? Councilmember Cowden.

Councilmember Cowden: Again, a very enthusiastic support for Shaylyn Kimura. I see how much she is involved not just at the Open Space Commission, but in the community. If she is not, she should be...represents the Hawaiian community. She is out there encouraging people for constructive behavior and deeply involved in these areas that there is a lot of contention over. Those places are just by no means coming in and just an empty vote. She is very, very involved. She has my high respect.

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

The motion for adoption of Resolution No. 2019-66 was then put, and carried by the following vote:

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

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

Resolution No. 2019-67 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Herman J. Texeira, Kapa'a / Wailua*): Councilmember Kualī'i moved for adoption of Resolution No. 2019-67, seconded by Councilmember Brun.

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

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

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

Council Chair Kaneshiro: Seeing none. Is there any discussion from the members? If not, roll call vote.

The motion for adoption of Resolution No. 2019-67 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Bills For First Reading.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2764) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CLASS IV ZONING PERMITS OF THE COMPREHENSIVE ZONING ORDINANCE (*County of Kauai, Applicant*) (ZA-2020-3): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2764) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 18, 2019, and referred to the Planning Committee, seconded by Councilmember Brun.

Council Chair Kaneshiro: This is basically just adding the Transportation Agency to the planning process. In the past, it would only go to the Transportation Agency if it was referred by the director, but now this is just adding the Transportation Agency in, so that any application will go to the Transportation Agency, just as it goes to the Department of Public Works and to the Department of Water.

Councilmember Chock moved to amend Proposed Draft Bill (No. 2764) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Kualii.

Councilmember Chock: This is a housekeeping item.

Council Chair Kaneshiro: It is just adding the word “or;” a housekeeping item. Is there anyone in the audience wishing to testify on this amendment?

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

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

Council Chair Kaneshiro: Seeing none. Are there any questions from the members on this amendment? If not, roll call vote.

The motion to amend Proposed Draft Bill (No. 2764) as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1 was then put, and carried by the following vote:

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

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

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

Council Chair Kaneshiro: Back to the main motion, as amended. Is there anyone in the audience wishing to testify on this item?

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

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

Council Chair Kaneshiro: Seeing none. Are there any questions from the members? Councilmember Cowden.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: Aloha, Council Chair and members of the Council. Ka'āina Hull on behalf of the Planning Department. I am join by Staff Planner Romio Idica.

Councilmember Cowden: Thank you for supporting my learning process. As I looked at this very basic amendment basically asking for...you are adding the Transportation Agency, right, instead of just going through the Department of Water...I looked up what a Class IV permit is. Can you describe what makes the Class IV special?

Mr. Hull: A Class IV permit is a discretionary zoning permit that is reviewed and acted upon by the Planning Commission. It allows for the opportunity for members of the public to comment and testify on the application, as well as any applicant has to notify the abutting surrounding properties that are within three hundred (300) feet of the project area, so they also may provide input. We also fold in to that input process...I apologize, the Planning Commission will ultimately take the application, the department's evaluation, and the public input to make their determination. They also take a fourth level of input from State or County agencies and making their evaluation and determine what course of action they want to take. Right now by law, we are required to submit it to the Department of Water and the Department of Public Works. By function, we do automatically just submit virtually all our applications as well to the State Department of Health and if there is a nexus, the State Department of Transportation. The Transportation Agency has asked us to submit all Class IV applications to them and we do that as a function of

practice, but it is not codified, so this is essentially codifying the practice that we have in place today.

Councilmember Cowden: So for clarity the Transportation Agency means the bus?

Mr. Hull: Correct, it means the bus.

Councilmember Cowden: So this is asking for the bus to take a look at it and so gratitude to Jenelle who gave me all the pieces on the Class IV permits—I see mostly it is like more than twenty-five (25) dwellings and these are almost all large buildings or a concentration, is it not just one (1) house. Typically, there is a lot of people that might be living in that area, so it is asking the bus if they are going near there and if that works for them. Is that correct? That is basically what I am hearing...that we are trying to make sure when we have concentrations of housing, units, or residents that we make sure the bus comes in close proximity.

Mr. Hull: I would say that is an accurate assessment, but that is not the only criteria. The Class IV Zoning Permit is a function when you are looking at residential proposals at a higher level of development, say fifty-one (51) units. But the Class IV Zoning Permit process is also a procedural process for the use permit and the use permit is required for any proposed use that may not be generally permissible in a respective zoning district, so if you propose say...even if it is a small one, like a restaurant within the agricultural zoning district, it is not an outright permissible use, so therefore through the use permit, which would also require a procedural Class IV Zoning Permit would probably be attached to it. As well as any variance permit, which an applicant is looking to vary around the standards except for a respective zoning district. In that scenario, a Class IV Zoning Permit would also be required as a procedural function of it. And then, essentially with the bus being folded in, it is essentially—there are two (2) tiers of that aspect and one (1) is saying that this proposal is going to negatively or significantly impact any of your bus operations or assets, and therefore, are there any mitigating measures that need to be taken to ensure that impact does not occur or at least it is mitigated. Secondly, is there a proportional nexus between the bus system in which say a particular amount of improvements may be necessary from that development at a proportional level to the bus service.

Councilmember Cowden: Okay. Yes, I see in one of these it talks about dormitory units, one hundred (100) or more dormitory units, so that would make sense that you would want them to be there and you gave the example of a restaurant in the middle of an agricultural zone. Well the restaurant in the middle of agriculture zone probably is going to have help and maybe not all of them can afford transportation of their own car. That makes sense, so thank you and I appreciate your input. I ask these questions because I know people watch this and it is important for them to understand what our decisions are based on. I appreciate it and I am learning.

Mr. Hull: Thank you.

Council Chair Kaneshiro: Are there any further questions?
Councilmember Kuali'i.

Councilmember Kuali'i: This is in keeping with our moving towards encouraging more transit-oriented development, correct?

Mr. Hull: I would say that is an accurate assessment. It does not come with actual any further "beefing up" of the bus system, but it folds them in to a codified manner to the discretionary permit review process, to make sure that they can have a proportional bite of the apple, if you will, or to ensure they can mitigate any of their assets.

Councilmember Kuali'i: In the actual language, the County Transportation Agency is being added, the last part is "for comment or approval." From the Transportation side, does that mean that everything that is submitted to them, they have to comment on or approve or is there a window of—if they do not address it by a certain period, it is automatically okay? Do they have to tell you okay or if them not responding means it is okay?

Mr. Hull: There are internal practices where we give a timeline that if they do not respond, then we take that as no comment. However, if they see the timeline and they come back and it is still within the actual deadline and they would like to comment, we would absolutely open that up to provide their input to the Planning Commission.

Councilmember Kuali'i: I am just thinking along the lines of ensuring that by adding more review, it does not lengthen the process.

(Councilmember Kagawa was noted as not present.)

Mr. Hull: The Class IV Zoning Permit has a 60-day actual timeline requirement and it ultimately results in automatic approval. We have to get all the information to the Planning Commission within that timeline for them to take action. Should the Planning Commission require additional information, there are times when they will request that the applicant waive or extend those timelines, but there is set in law of an actual deadline.

Councilmember Kuali'i: So this will fit in the existing timelines?

Mr. Hull: Correct.

Councilmember Kuali'i: Thank you.

Council Chair Kaneshiro: Are there any further questions from the members? If not, thank you. I know I asked once, but I will ask again, is there anyone in the audience wishing to testify on this item, as amended?

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

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

The motion for passage of Proposed Draft Bill (No. 2764), as amended, on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 18, 2019, and referred to the Planning Committee was then put, and carried by the following vote:

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

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

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

Proposed Draft Bill (No. 2765) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE HOUSING DEVELOPMENT FUND (*Waimea Parcel Mowing, Canal Cleaning, and Security – \$230,000.00*): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2765) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 18, 2019, and referred to the Committee of the Whole, seconded by Councilmember Brun.

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

Councilmember Chock: My question is about the canal clearing. We just had the presentation from the Kekaha Agriculture Association (KAA) on the oversight of those canals and the importance of keeping those canals clear. I wanted to know...one, I know we are approving this funding to make sure that happens, but obviously there is an ongoing need for it. What is the ongoing need in terms of costs that we perceive, how often will we clean it, and what are the implications, if we know, if they are not maintained. For instance we also know that their issues with Waimea River are not clear if this has a correlation to it, if indeed we do not live up to what the requirement is.

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Managing Director: Thank you, Councilmember, Mike Dahilig, for the record. I just want to premise the response in explaining that the Bill before you is a mechanism to receive the rents that are coming in from the current tenants on the property that we assume the lease is for and then be able to expend that money to put back into the property. Back to the bottom line, it is not expected to actually change the balance of the current budget. It is meant to provide that mechanism for us to expend those revenues coming in. What those revenues are meant to do is, as stated in the title as posted in of the Bill, what we are intending to do is actually put money back into the property by keeping the courses clear, providing security, so that it does not turn into a situation where people starts squatting on the property, and then also looking at just the general maintenance like mowing and that type of thing. In a survey where we took most of the Department Heads actually out to the area, the areas that are currently under lease are generally well-maintained. The areas that are not, are areas that do need a degree of catching up to do. What we do know is that every two (2) to three (3) years, there needs to be a pretty intensive clearing of these courses, because as the water comes down from either through runoff or just through the fact that the water table is high enough that there is...this area was traditionally fast land, essentially, that we needed to ensure that the drainage courses continue to be clear so that water can be pulled out from the water table and drops appropriately. If we do not do so, it does cause a flooding problem predominantly on the Kekaha side of the property. On the Kekaha boundary, though, there is also a number of other property owners including the Knudsen family and the Agribusiness Development Corporation (ADC). They are also responsible for those things and why we have gone out for and request for information, as stated in the last presentation to the Council, is to look at whether or not we can better integrate some of the efforts that are going on out there to keep and coordinate the opening and closing of those ditch mouths, as well as make sure that we are pulling out organic material constantly out of these things. So, there is a big front load of effort that is going to have to be put in to clean it up and then we hope that there are just regular maintenance—it becomes more of a background-noise cost rather than something we have to put a lot of effort. That is the first thing regarding that. In the last meeting, also, we did talk about two (2) particular drains that are questionable in terms of who has the responsibility for them and I think that is also part of your question. The one that does go into Kikiola Harbor, we did take a survey of and we do understand that there is a protocol that is already in place with KAA and (inaudible) and how that thing is open. The other one, we are still looking at the landownership on that one to understand whether or not that is a County responsibility. As these lands have been broken up over time as the plantations have pulled back, some of these things are just—limbo-types of infrastructure that we have to first ascertain whether or not we do have responsibility as a landowner, but nevertheless we have continued to work with KAA and through (inaudible) to ensure that regardless of landownership, that area remains safe and that we will continue to do so. We do understand the responsibility, at least for the Kikiola item and that entry to the ocean, the other one is still in limbo.

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

Councilmember Cowden: When we learned last week about the mill storm drain, does either of these end up there?

Mr. Dahilig: There were five (5) entries that...

Councilmember Cowden: Storm drains.

Mr. Dahilig: ...were into the ocean that were identified by Mike Faye, two (2) of them are in question, and one (1) we can say, "Yes, that is our *kuleana*," but the other one, I am not familiar if it is called the "Mill Drain," but there is another one that, as I mentioned, is the one that is in question. The other three (3) KAA does have a clear responsibility for those items.

Councilmember Cowden: You were just answering and I am just trying to make sure I understand that...it looks like this ditch that we would be clearing out, has not been cleared for some time, so it might make a whole difference in the drainage in the area.

Mr. Dahilig: It is not just a ditch, it is a series of ditches that crisscross the property. There is a business interest for the current tenant to keep their portion of the drains clear. That does not need quite the level of remediation as some of the other areas that have not been farmed for quite a while. But for the overall health of that property, it is imperative that we ensure that all those courses are regularly maintained.

Councilmember Cowden: I appreciate that you are being very consistent with the decision that we made when the land was being purchased that it would be self-sustaining on what is earned on it, so I just wanted to acknowledge that the follow through is accurate with what we agreed to. Thank you.

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

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

Council Chair Kaneshiro: Is there any final discussion from the members? Again, it is only first reading, so it will go to public hearing and committee. Roll call vote.

The motion for passage of Proposed Draft Bill (No. 2765) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 18, 2019, and referred to the Committee of the Whole was then put, and carried by the following vote:

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

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

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

Council Chair Kaneshiro: We will go back to page 3, C 2019-252.

(Councilmember Evslin was noted as not present.)

C 2019-252 Communication (11/13/2019) from the Managing Director, requesting agenda time to present and discuss Waste Management Hawai'i, Inc.'s notification to withdraw from the Kekaha Landfill operating contract effective December 1, 2019, including the Department of Public Works' short-term plans to ensure uninterrupted service at the Kekaha Landfill and to discuss and solicit input from the Council concerning the long-term operations of the Landfill given Waste Management's withdrawal: Councilmember Kualī'i moved to receive C 2019-252 for the record, seconded by Councilmember Chock.

Council Chair Kaneshiro: With that, I will suspend the rules. Do you have a presentation?

(Councilmember Kualī'i was noted as not present.)

There being no objections, the rules were suspended.

MICHAEL TRESLER, FISCAL MANAGEMENT OFFICER: Yes.

Council Chair Kaneshiro: State your names for the record. Councilmembers, we will go through the presentation and then we will ask questions once it is done.

Mr. Tresler: Good afternoon, Councilmembers. My name is Michael Tresler, Department of Public Works Fiscal Officer.

JOHN RUIZ, Kekaha Landfill Worksite Supervisor: Good morning, my name is John Ruiz, Kekaha Landfill Supervisor.

Mr. Tresler: We are here today to give a presentation on the Kekaha Landfill Operations Transition Plan. We would just like to start off by informing the Council and the public that we are going through a transition and as of December 1, 2019, the County of Kaua'i will be operating the landfill solely. Currently as it is we have a contract with Waste Management Hawai'i to assist the County in operating the landfill. That is slated to end on December 1, 2019. We are prepared to continue operations. We filled the gaps that are going to be left with Waste Management's departure. Our team will continue to operate the landfill. They have been doing it. We have John Ruiz, who is our current Landfill Manager and he was formerly the District Manager for Waste Management Hawai'i. He has done a great job running the landfill; he and his team. We have full confidence in them. We executed the procurements necessary for professional services to fill the gaps to assist us in regulatory compliance. We are in the process—we have procured rental equipment and we are in the process of getting that contacted. The equipment is a temporary measure until we are at such time that we can hopefully get funding to acquire our own equipment.

(Councilmembers Kagawa and Kualii were noted as present.)

The next slide is a big picture of our very important key piece of equipment at the landfill, which is a compactor. I will have John elaborate about some of our challenges of why we got here, because the next slide is basically, "Why are we here," and the biggest reason why Waste Management Hawai'i has submitted their notice to terminate the landfill operations contract as of December 1, 2019.

Mr. Ruiz: The picture you see with the compactor...the compactor is the most important piece of equipment that we need to operate the landfill successfully. Airspace is valuable. Airspace equals money. What I mean by that is the more trash that we can put in our landfills in a designated amount of area, the longer we stay there—the longer we stay there, the more money we save for the County by siting the new landfill or expansions and whatnot. Compaction is critical to extending the landfill's active life. Therefore, the longer we stay, the more money we save. The compactor's wheels are fitted with steel cleats and penetrate the waste surface to achieve greater compaction and utilize all available airspace. So, the more passes we make over the trash, the longer we stay in a certain area. The current situation and challenges we are facing now is the lack of efficient equipment has brought down the morale of the men at the landfill and I will get into that...meaning, the loss of valuable airspace. One day without this compactor, we use roughly two (2) to three (3) days of airspace. In 2019 alone, we operated roughly two (2) months without a compactor. If you do the math, we loss four (4) months of airspace. Kekaha Landfill—we had to shut down roughly a dozen times when we had no compactor in

order to save valuable airspace. It was more valuable to shut down than just throw away airspace and look for a new site.

Mr. Tresler: I think what John is pointing out is the current contract situation. Waste Management Hawai'i provides the equipment and that is part of our challenge. If equipment is old and they continually break down, we tend to lose airspace and that costs the County a lot of money, basically. Airspace in landfills, especially on Kaua'i knowing our situation, is extremely valuable. Moving on, the equipment is part of our big challenge now. Moving forward through our presentation, I am going to discuss strategies on the operation of the landfill long-term and of course we are going to obtain Council guidance and how we move forward.

The next slide is, "Who does what at the landfill?" This will give us a better understanding of how the operation runs out there and who does what. John will explain that.

Mr. Ruiz: Who Does What at the Landfill? Currently, the County staff. We do the placement and compaction of all waste that comes to the landfill, that is done by the County. Landfill Cover Management—it is County operators who is bringing all the cover material to the site. Cover Soil Stockpile Management—in the permit, we are required to have a seven (7) day stockpile on-site and again, it is County personnel that hauls the dirt to the landfill. Litter and Odor Control done by the County. We have our men on a daily basis walking the landfill, picking up litter, and the odor control, we cover with dirt at the end of each day or we use tarps to cover at the end of every day. That is all done by County. Landfill Fire Control is done by the County. If there is a fire at the landfill, the Fire Department calls out County personnel. Post Closure Maintenance is going to be done by the County. Waste Screening is done by County operators. We have a spotter on-site who guides the trucks in and screens every load that is dumped on the ground for prohibitive. We have a dozer operator who also watches for things that do not belong and the compactor operator. That is all the things that the County staff does.

Consultants hired by the County. They do the Landfill Gas Management and they do the Groundwater Monitoring. Now, if you look at the last column, Waste Management Hawai'i—they are responsible for the groundwater monitoring and reporting, which is contracted out. It is done by others. They provide the Landfill Equipment, they provide the Aerial Flyover, which is done by others, and they take care of the Special Waste Management, meaning when we go sludge, grit, and asbestos that come to the landfill.

Mr. Tresler: The next slide, "What Needs to Happen Next?" We are going to identify some alternative strategies to keep the landfill operating, determine what needs to get done to minimize the impact to the County, and then execute the alternate strategy with your support.

This next slide says, "Three Options," but really, it is four (4). We split Option 2 into "2A" and "2B." Option 1 is basically if at all possible is to keep Waste Management Hawai'i for about forty percent (40%) increase. We are in negotiations. (Inaudible) our former acting head of Solid Waste was in negotiations with them at the time for a while, so here is a good idea of what those costs would be. Next two (2) option, basically is mirroring what we have now. The only difference between Option 2A and Option 2B would be that the County own equipment in 2B, but we would have to go through a process to get a new vendor. We will talk about the advantages and disadvantages of each option. Option 3 is the County of Kaua'i taking over, which we are on December 1, 2019 and we would own the equipment.

Councilmember Brun: What does WHM stand for on Option 2A and Option 2B?

Mr. Tresler: I am sorry. That stands for Waste Management Hawai'i...that is a little typographical error. It supposed to be WMH. Some benefits in Option 1; we would not have to go through a procurement rather than a contract negotiation. The negative impacts are that we would face some steep increases in contract cost; the current contract requires and provides equipment and that has been a challenge for us; negotiating better terms to impose penalties, which would help us assure performance on the contractor's part; and then the cost increase may become a trend for us in the future.

Option 2A would be to go out and solicit for a new contractor or vendor, which could possibly result in better service for the County. Negative impacts are that there are not many qualified landfill operators out there; doing the procurement would take a very long time; no guarantee on what those costs would be, it could be more or less; and we would not have control over equipment performance. The difference in Option 2B would be that if we would acquire the equipment, the County would have equipment and control over that and we would have much better assurance that our equipment is operating in good operating condition. We think there are cost savings in owning the equipment, because if someone else owns it, they are going to charge us a premium for the equipment, right? They would want return in the cost of equipment as well.

The benefits in Option 3 is that the County would have full control over the landfill operations; the landfill equipment will be reliable and operational; that would certainly improve employee morale; it is a lower cost for landfill management; and we know this for a fact, that it would be the most efficient management of airspace, which is the most significant cost that we face with our landfill. A negative impact in this scenario is hiring engineering staff may be difficult. We can talk more about that as we go through the presentation.

This is a slide that really shows some financial comparisons and again, these are estimates. In Option 1, we see that the estimated cost would be an increase to about six million dollars (\$6,000,000) a year. Disadvantages is because of the equipment, lack of control, and inadequate landfill compaction.

We estimated Option 2A to be about five million dollars (\$5,000,000) and Option 2B the difference is that we would own the equipment and so there would be a cost savings between, at minimum, six hundred thousand dollars (\$600,000) to one million dollars (\$1,000,000) for that equipment. That is based on what we priced out what the new equipment would be and the lease to own payments annually. These are annual costs, right. The third scenario, Option 3, would be that the County will have full control of the landfill operations, which I think is key for our future, moving forward with our challenges in the limited life we have out there. Landfill equipment, of course would be updated, reliable, operational, and would improve employee morale. Those costs are estimated, which I feel very confident in, which is around two million five hundred thousand dollars (\$2,500,000) a year. There is a big difference in costs to operate the landfill.

Councilmember Kagawa: Is that six million dollars (\$6,000,000) or six hundred thousand dollars (\$600,000)?

Councilmember Cowden: You missed a zero.

Councilmember Kagawa: In Option 1.

Mr. Tresler: Yes, sorry about that.

Councilmember Kagawa: Okay, whomever made that mistake, I think you should make them do one hundred (100) yards crabwalk.

Mr. Tresler: Yes, that would be me.

Councilmember Kagawa: Come on, Coach. Oh, you are going to do the crabwalk?

Mr. Tresler: Usually I do the "M" for "Million," instead of typing zero. Thank you for the person that did the final review and did not catch that for me. Going back to the presentation, there are truly cost-savings if the County is going to...we are operating it as of December 1, 2019. Landfill Operations Transition as we go into December 1st and moving forward. Operational goals right now is actually to just keep the landfill operating. We feel confident that we have taken the steps necessary to do that. We need to improve the reliability of landfill equipment, that is a point that we are trying to get across, obviously, and of course our goal is to minimize operational costs. Some implementation requirements of the various

options. Option 1 will cost us a lot more. There is a significant cost increase in cover soil if the contractor were to actually continue, like in Waste Management in Option 1 or Option 2A. Just based on the simple fact that working with, for example, KAA is who we work with together with cover soil. They have quoted prices of twenty dollars (\$20) per cubic yard, which is we pay one dollar (\$1) now. We are facing increases ourselves, but being that we are a government agency, there are things that would do. It would be less costly for us to obtain a cover soil than a contractor. Right now in our current contract, the contractor is responsible for the cover soil. Option 2B, we have discussed that. It is the same thing there. There is additional costs to that for having an outside manager. It is important to point out that our employees operate Waste Management's equipment and that is not going to change. That is an important point to understand. We cannot really solicit an operator outside to come in and bring their equipment and their employees to operate the equipment at our landfill. Option 3—we hire consultants. We would continue that if we were to take it over permanently. To do the things...it is the same thing that Waste Management has done. In fact, we have consultants with us that are conducting compliance and regulatory compliance for us. I think again, we would need to hire staff, a couple mechanics to maintain the equipment, an engineer, there are discussion about two (2) engineers or one (1) engineer, at least, that would eventually be trained and that would end up basically reducing what our consultants for professional services would be doing. In that scenario there are some cost-savings there as well.

What Will it Take to Deploy Option 3? We will need to rent and buy landfill equipment. We went through a procurement recently and the cost to rent is in...it really does not pencil out, so buying on a lease to own basis, finance-basis would be the recommendation. We would need to hire consultants for professional services on a longer term basis. Right now we went out for a one-year contract. That is done already. We have that in place and ready to get started come December 1, 2019. Again, we would need to secure funding meaning that we would come to you for a money bill and go through the procurement process to obtain the equipment. Basically number three is following up on the procurement for the equipment. Again, we executed or very close to executing the contracts for the consultants and then we would go to amend that or do whatever additional procurement we would need to obtain long-term professional services.

The next slide just lists out some of the tasks that need to be done and the first one is the landfill equipment rental of. We posted that, awarded that, we are going through the steps, and we will get it done by December 1, 2019. But that is renting the equipment and it is much more expensive than acquiring and owning your own equipment, but that is a necessary step for the transition. We are in the process of negotiation...you folks are aware of the situation legally, so I do not want to talk too much about that, but we are trying to purchase the compactor and other equipment from Waste Management. We hired, I think we are very close, if not, done with signing the contracts for our professional services already, at this point in time, and

then we need to complete the settlement agreement with Waste Management. Thank you very much for your time.

Council Chair Kaneshiro: Thank you. With that, I will have Matt stop us if we get into an area where we should not be talking about...maybe the contract services with Waste Management. We are at 10:05 a.m.—let us take a caption break. When we come back, we will go through all of our questions uninterrupted.

There being no objections, the Council recessed at 10:05 a.m. for a caption break.

The meeting was called back to order at 10:15 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Thank you for that presentation. Do we have any questions from the members? Councilmember Kuali'i.

Councilmember Kuali'i: On the last slide when you talked about, "hire consultants to perform landfill professional services;" it says the start date is September 1, 2019. Is that the correct date?

Mr. Tresler: Yes, "start the process" is what that date was.

Councilmember Kuali'i: Start the process to deal with what changes are coming?

Mr. Tresler: Yes.

Councilmember Kuali'i: Or how to fill the gap?

Mr. Tresler: We have actually executed the contract. Therefore, it is in place and they are ready to go.

Councilmember Kuali'i: But those consultants are to help with...

Mr. Tresler: Groundwater monitoring, all the compliance issues that we are required to do to operate the landfill.

Councilmember Kuali'i: Oh, so it is not about the...

Mr. Tresler: Not managing our operation and oversight.

Councilmember Kuali'i: ...plan for what is going to happen starting December 1, 2019?

Mr. Tresler: No. They are to perform professional services meaning we have certain requirements by the Department of Health (DOH).

Councilmember Kualii: What makes this new, why were they not there before, and why are they needed now?

Mr. Tresler: To be real clear, we already had a firm onboard performing some of the compliance duties, but Waste Management also was responsible for certain amount of those duties, which they also outsourced as well. What we did was we put everything into one (1) contract to fill the gaps of what Waste Management was responsible for...what they were doing.

Councilmember Kualii: Okay.

Mr. Dahilig: If I can turn you to page 5 of the presentation. It is an attempt to maintain status quo where if you were to take the WMH column, we had to find consultants to take care of these items to maintain the public/private/employee status quo at that time. That is why you will see that particular item for consulting is not long-term. It is meant to just cover...if you were to take out WMH, you would put that in there.

Councilmember Kualii: The thing about we having to totally be responsible for the landfill starting December 1, 2019, we have already had to be partially be responsible for other parts of it that Waste Management used to do, but stop doing even prior to that.

Mr. Dahilig: That is correct.

Councilmember Kualii: On September 1, 2019?

Mr. Dahilig: On September 1, 2019 was when we already had gotten the idea that this transition is going to happen whether we like it or not. The staff at the Department of Public Works preemptively already went out to solicit for professional services to fill that gap, so that is where that start date is really indicative of. It is anticipating that we are already were going to be put in this scenario, so the procurement process will start in advance of even getting the notice from Waste Management, because we had through conversation gotten tipped off that this was going to happen. Rather than getting caught with our pants down, we decided to start a procurement process for it, because it takes a while.

Councilmember Kualii: Absolutely. On page 12, which is the one (1) page that is not numbered.

Mr. Tresler: Yes, sorry.

Councilmember Kuali'i: When I was looking at the comparison of these different estimated costs, the last cost on Option 3, you have two million five hundred thousand dollars (\$2,500,000), but with that option we would own equipment, correct?

Mr. Tresler: Yes.

Councilmember Kuali'i: That is the annual costs, but that is not the upfront cost of purchasing the equipment.

Mr. Tresler: True, but what that cost includes is the one-year of the estimated lease financing payment spread over seven (7) years.

Councilmember Kuali'i: Oh, okay. So the plan would be as part of that option to do lease financing over multiple years and the one-year cost of that is in the two million five hundred thousand dollars (\$2,500,000)?

Mr. Tresler: Yes.

Councilmember Kuali'i: And included in that two million five hundred thousand dollars (\$2,500,000) is also the maintenance of this new equipment that we now own; new or used, it could be used, right?

Mr. Tresler: Yes.

Councilmember Kuali'i: Okay, that is what I was wondering. Clearly it is much less expensive if all of your forecasting is correct.

Mr. Tresler: Yes.

Councilmember Kuali'i: And that is the option you are sort of leaning towards or recommending.

Mr. Tresler: Yes.

Councilmember Kuali'i: Okay, thank you.

Council Chair Kaneshiro: I have a follow-up. Is the soil costs included in that two million five hundred thousand dollars (\$2,500,000)? We know the soil cover is a cost that is going to go up.

Mr. Tresler: No. The soil costs that we estimated to be an additional three hundred thousand dollars (\$300,000).

Council Chair Kaneshiro: Okay.

- Mr. Tresler: On an annualized basis.
- Council Chair Kaneshiro: Is the soil costs included in the other cost estimates, also?
- Mr. Tresler: It is included in Option 1 cost.
- Council Chair Kaneshiro: Okay.
- Mr. Tresler: So there is a difference in that one.
- Councilmember Kualii: You did highlight that the compactor was the biggest, most important piece, right? So it is probably a really expensive piece of equipment.
- Mr. Tresler: Yes.
- Councilmember Kualii: Is that included in the one-year lease financing?
- Mr. Tresler: Yes.
- Councilmember Kualii: Okay, thank you.
- Council Chair Kaneshiro: Councilmember Evslin.
- Councilmember Evslin: Follow-up to that. What is our currently costs or how much of an increase are we looking at?
- Mr. Tresler: Our current cost...
- Councilmember Evslin: For the landfill. You are saying the estimate cost per year if we take it over is two million five hundred thousand dollars (\$2,500,000)...how should we anticipate it?
- Mr. Tresler: To compare apples and apples. These are additional costs that we would incur as a County. In comparison to what we currently contract with Waste Management or possibly any other outside contractor. For example, Fiscal Year 2019, we paid them two million six hundred thousand dollars (\$2,600,000) or somewhere around there. That is to compare apples and apples. What really is happening is if it is costing us two million five hundred thousand dollars (\$2,500,000) or two million eight hundred thousand dollars (\$2,800,000) additional to run it, we are already paying that amount or more to Waste Management, and we

would have to negotiate increases and whatnot up to six million dollars (\$6,000,000), possibly. Really, we could operate the cost of the landfill for very little increase, but there are transitional costs that would be an increase in the initial year, but long-term spread over five (5) to ten (10) years, it would be a huge cost-savings.

Councilmember Evslin: Therefore, the net difference then is marginal from...

Mr. Tresler: Right, the net difference could be one million dollars (\$1,000,000) to three million dollars (\$3,000,000) depending on new contract negotiations or new...

Councilmember Evslin: Right. Thank you.

Council Chair Kaneshiro: I know you mentioned hiring engineering staff, is that costs is included in the two million five hundred thousand dollars (\$2,500,000)?

Mr. Tresler: Yes. It is for five (5) staff people costed out with benefits. We have a couple mechanics and an engineer.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: With the additional five (5) people, that would lock us in then to running it for the long-term?

Mr. Tresler: Yes. I do not see us doing a landfill for quite some time, even with alternative solutions. Many of them still require landfilling. It would be nice to not have to landfill, but yes.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I know when we went to the automated we saved significant amount of labor costs. Instead of three (3) men of the truck, we only have one (1) person. In time I guess those people went out to the transfer stations and then there were some complaints from the existing transfer station people that these people came in with higher pay, because they got to keep that pay they had on the trucks to transfer over. I had a lot of drama with that issue out there. Now, we need to hire five (5) more people...is there a possibility...at that time I think we were told it would free up twelve (12) men maybe. Is there a chance of pushing those folks back in or is the twelve (12) people built-in now into the places they are and maybe we are saving overtime, now that they are spread out into that area? I know some times we have to use them as back-up in case people are out on the automated.

Mr. Tresler: To answer your question, yes.

Councilmember Kagawa: Are we going to add more people or can we move some people around?

Mr. Tresler: It is particular skills for mechanics...we need a couple of mechanics and engineers, we do not have those engineers. It is different types of positions. It is not a labor position, it is not an operator position...

Councilmember Kagawa: Support-skilled positions.

Mr. Tresler: Yes.

Councilmember Kagawa: And the County does not have existing people in the Engineering Division or something?

Mr. Tresler: If we actually need people in the Engineering Division, we cannot hire, we are challenged in trying to hire and keep engineers. That is why it was in the slide that is one of the challenges to actually hire engineers.

Councilmember Kagawa: For me it is like, I know from seven (7) years ago they said, "Okay, Kekaha has six (6) years more and then they are going to close," so I thought, "If I get elected, continue, and by the time I term out, we are going to be in the move already," because it was way before when they said, "Six (6) years and then *pau*." Now, I am still here. How much more years will Kekaha extend?

Mr. Ruiz: Right now, seven (7) years.

Councilmember Kagawa: Seven (7) more.

Mr. Ruiz: Yes.

Mr. Tresler: So we added seven (7) to your seven (7).

Councilmember Kagawa: Okay, thank you.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: Mike, why are we in this position?

Mr. Tresler: We had a slide that stated why we are in this position.

Councilmember Brun: Yes, and we are putting all the blame on Waste Management.

Mr. Tresler: No. I do not want to...because it is sort of in litigation, I really do not want to...I will defer.

Councilmember Brun: I got it. Employee morale—I mean we are putting that on Waste Management. As far as I talked to the employees, the morale was crappy for a long time over there. They liked John coming in; no one complained about that. I never heard one (1) person grumble about Waste Management and we are putting all the morale issues on Waste Management. All the concerns I hear is about the Administration. They like John coming in, but how come we are putting the morale issue on Waste Management?

Mr. Ruiz: For the four (4) years being at the landfill with the County, maybe it is not specifically on Waste Management, but the morale was down for the equipment that they need to operate. Every day is a new issue or the same issue. The employees logged down every day at the beginning and at the end of the day what is wrong with the machine. It can go for months that the machine does not get fixed. The employees are fed up. You probably will not hear, “I am fed up with Waste Management,” but they are fed up with the equipment that they are given to operate. They are not given the tools to succeed.

Councilmember Kualii: Did we do anything as the County to try to improve that? We should have acted earlier. If we were two (2) months without a compactor, why did we not rent one or do something?

Mr. Dahilig: That has been cast by the current contract where the maintenance and the responsibility of the equipment is solely within Waste Management realm, so for us to come to the Council and ask for authorization to purchase equipment to supplement what is already contractually obligated to be provided by Waste Management under the series of contracts would be in addition to what we were already paying for. Therefore, what we have been getting out of Waste Management as John has been alluding is that they are not doing what they are supposed to be doing. As Mike has put in the presentation earlier, some of the controls concerning penalties for lack of maintenance or breach of contract type of situations have not been built into the previous contract, enforcement mechanism, so that is why in effect the dye has been cast by what the contract had already spelled out.

Councilmember Brun: I understand that, but we lost two (2) months of airspace and airspace is very important. Do we go against contracts all the time? Why did we not rent an equipment way before this?

Mr. Dahilig: If we came to you for money for that particular request, the drawback is that one, if we are assuming something that is part of a contract obligation, then Waste Management can say, "We do not need to perform on that anymore because you are coming in and doing it for us." There are a whole number of things that I am sure the attorneys can explain in Executive Session concerning the pros and cons of why certain decisions were not made as part of contract enforcement. That is why we are in this scenario where Waste Management is pulling out on December 1st because they also feel that agreement is not gratuitous for them to be able to operate given the amount of money we are giving them.

Councilmember Brun: Yes, we can go into Executive Session, but why can we not put it on the floor because it is the people asking, not us.

Mr. Tresler: Can I add to that? The piece of equipment that we are talking about, the compactor, is extremely expensive and it is really not available for rent on Kaua'i, in Hawai'i—very difficult, even on west coast. It is not like an escalator or a normal type of construction type of equipment. It is very specialized, so that is also part of the challenge.

Councilmember Brun: Will we get our compactor here by December 1st?

Mr. Tresler: We are told that the respondent to our procurement says they will. That is what we know right now.

Councilmember Brun: Where is the equipment right now?

Mr. Tresler: I am not sure.

Councilmember Brun: I doubt that part. How are you going to get it from the mainland? You know we take eight (8) months to sign a check.

Mr. Tresler: Part of the plan was to acquire the existing compactor and those are there. We intend to fully do so, but again in Executive Session, we are not sure how that is going to play out.

Councilmember Brun: Okay, I am not going to even ask that question, but that is why I am worried about that.

Mr. Tresler: Yes. We all are. That is a big concern.

Councilmember Brun: What is the liability costs? Did we factor in the environmental liability we are going to assume, if we go all County, because right

now the Waste Management is responsible for that, right? Any accidents, any equipment accidents all fall on Waste Management, but did we factor in all those things?

Mr. Dahilig: That is an opportunity cost and so to be able to qualify that as a direct number is very difficult to do, but that is something that we acknowledge that if the County assume full responsibility for things like environmental liability do come into play and we would have to ensure that if staff were to be brought on-board, they would have to operate at the same level as professional responsibility that the same engineer that is hired by our consultant, would have to operate with.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Following up where he is at, do we anticipate there will be an interruption of services around the beginning of December? Can the citizens work hard to make less trash to make that easier?

Mr. Tresler: That would be extremely helpful, but we are very confident that we will continue the operation. We have a plan in place.

Councilmember Cowden: What is the cost of this new compactor that I am understanding is built into this price? Are we ordering a new compactor? Is that part of that suggestion?

Mr. Tresler: We would like to come forward with a money bill.

Councilmember Cowden: Okay.

Mr. Tresler: And then provide that information. It can be upwards of one million dollars (\$1,000,000) for that one (1) piece of equipment.

Councilmember Cowden: Just like what we saw there that little...I mean it is not little, but...

Mr. Tresler: Yes.

Councilmember Cowden: That is one million dollars (\$1,000,000)?

Mr. Tresler: Yes.

Councilmember Cowden: Okay. I am just asking.

Mr. Tresler: That is why it is not readily available to rent on a daily basis.

Councilmember Cowden: I am hearing that we want Option 3—that is where I feel we are being guided moving towards. Is that for a permanent place? It seems like we do not have another option besides Option 3 next month.

Mr. Tresler: Yes, we are going to operate the landfill, you are correct. Going forward in the long-term, that is what we feel is the most cost-effective for the County—Option 3.

Councilmember Cowden: I know we had for a short period of time a new solid waste director, did we ever refill that position when he left?

Mr. Tresler: No, but he continues to be on contract and extremely helpful.

Councilmember Cowden: Okay, so he has not completely left, he is still giving us some guidance?

Mr. Tresler: Yes.

Councilmember Cowden: The Council's has been approached by another contractor that would like to have this opportunity, are we considering any of those? I am looking at more than three (3) years out, more than two (2) years out, we have been approached by one company and I know that we are also looking at Ma'alo...

Mr. Dahilig: That is essentially why these are still "options" and as much as Mike has articulated the Administration's preference on this, at the end of the day it is this body that controls the purse strings. As Councilmember Brun has brought up, some of these things are not quantifiable when it gets into the realm of environmental liability and professional liability. Nevertheless at a minimum, we are at a position where we see the equipment becoming an element of leverage by a contractor, if we do not control it, both because it creates a cost for us in rapid assumption of airspace as well as employee ability to do and work with the appropriate tools. It is not necessarily off the table, at the end of the day, but the cost-savings we feel does show that not going with Waste Management anymore is at least something that we need to bring to the Council's attention. We do have the option that if the environmental liability costs and the professional liability costs outweigh the amount of cost it would go out for a new solicitation, that is within the purse string province of the Council to make a decision on.

Councilmember Cowden: Am I correctly understanding that the nature of our relationship with our contractor is kind of frayed? They are ready to go.

Mr. Dahilig: That is the gist of their letter—"We are out of here on December 1st." As Mike pointed out in his presentation though that if we do go with a new contractor, we cannot just pick that contractor, we have to go through a full procurement process that could take quite a long time that also involves negotiations on the contract. In the meantime as you alluded to in the previous question to Mike, we still need to maintain operations out at the landfill, so the interim plan of having the consultants provide what Waste Management has been providing is still going to have to be (inaudible) during that time. A renegotiation with a new vendor would have to happen.

Councilmember Cowden: So when we do at least an interim Option 3 and we hire five (5) new people or find a way to bring them up from within the ranks, those become permanent obligations and turn to permanent commitments in terms of our relationship with the union, do I have that understanding right?

Mr. Tresler: That is correct, but that would only take place if it was Option 3 to be agreed to and supported and that would be the long-term permanent option going forward. In our transition, we are not hiring additional staff.

Councilmember Cowden: Okay. So that is good to know. As Vice Chair Kagawa was bringing up about right into the end of this window of time with the landfill and I believe Kekaha is not excited about continuing that relationship indefinitely...we talked about Ma'alo place and we have been hearing from a new vendor, can you speak to that at all about this new vendor? It sounds like it is almost too good to be true. Are we not talking about that here?

Mr. Dahilig: There is big money in the business of waste management. If you look at Waste Management it is a national company, they trade on the New York stock exchange and they are in the fortune five hundred when you look at their valuation in the market. Not what a lot of people think about when it comes to trash being a business, but it is a very big business across the nation, because there will never be an end to trash. As much as people would like to hope so, there will never be an end to trash. That being said, when it comes to Ma'alo, we have had to take what the previous Administration had to put on the table, which was having an Environmental Impact Study (EIS) sited and approved for that area. What we are having to weigh is the cost of constructing that particular landfill. One of our concerns has been the inordinate amount of debt that we would have the taxpayers assume to actually construct that plan. It is an excess of nine (9) figures. What we need to look at very carefully once we stabilize this operational issue with the current landfill is, do we recommend to the Council essentially nine (9) figures worth of debt to construct and site that landfill, which is a very hard ask for us to

bring to you. As part of our due diligence, we still need more time look at the alternatives, to ensure that there is not something more cost effective and environmentally sensitive before coming to you and saying, "Please issue one hundred twenty million dollars (\$120,000,000) worth of debt."

Council Chair Kaneshiro: Your questions are good, but I just want to say let us not mention the vendor's name and you have not.

Councilmember Cowden: I have not and I will not. I do want to acknowledge that a challenge with Ma'alo is that it is going to be visible from the airplanes, I would think, it would impact two (2) of our major industries...maybe not? It seems like it would.

Mr. Dahilig: We still do not have secured agreements with the Federal Aviation Administration, the State Department of Transportation Airports Division, and the landowner. Those are three (3) things that right off the bat that we do not have certainty that we can even execute even if the EIS was published to actually construct that landfill, so it is not to say that those challenges are insurmountable, but they do pose quite an issue if we are looking at trying to not only take care of three (3) items that have been difficult to be resolved, but on top of that to also come to you with a financing plan that could be very expensive.

Councilmember Cowden: So when we have other entities that would like to be the vendor approaching us and when they are approaching us with their piece saying that they will take on all those upfront costs and amortize that out, all for the cost of picking up the rubbish. I appreciate the smile, because if you can help me understand because we are hearing things that seem like they will take on the entire problem and we are not going to have much left for the landfill—make it sound very, very good. I do not work in this industry, so I am curious to see the reaction, because it is like an elephant in the room. What is the value of considering a waste to energy type of option?

Mr. Dahilig: Just to be very canid, as long as you remain at the table and any member around the table, you will get calls like this throughout your term. There is big business behind handling trash. (inaudible) There are more pitches that will come. One particular example was the current green energy plant that you see. It is a simple boiler, but when it was pitched to the Council and pitched to the Planning Commission, it was supposed to be this radical plasma arc that came in from Sweden. It is okay to look at...and the Administration's opinion is to look at alternatives, but they need to be tested alternatives and they need to be proven as being cost-effective to our island. By policy, should the Council agree, we can pay into an option that is cutting-edge, but we may never know whether or not that will create downstream opportunity costs or additional costs that we have never seen because it

is experimental or it is new. We would just give a word of caution that a lot of these things that may be coming your way may not necessarily be as good as it gets.

Councilmember Cowden: I appreciate that. I am going to make Mike tell me in a moment why he has such a warm smile on his face, but if I am hearing then correctly if we went temporarily to Option 3, that still can be entertained other ideas rather than just building them out. The reason why I am asking is because a number of people from Kekaha will say to me that they are tired of being the recipient of all the rubbish.

Mr. Dahilig: That is where the labor issues come into play because once we hire someone that is unionized to take what has previously been a privatized function, we can never un-ring that bell. There is no temporary Option 3, so that is why you are seeing the current crutch, which is the professional services contracts as a way to maintain a privatized function to operate the landfill while the long-term options with the Council is sorted out from a financial standpoint.

Councilmember Cowden: Mike, why are you smiling?

Mr. Tresler: I have been involved with a lot of alternative energy feasibility studies, so I know how challenging it is and I know how many people have great ideas and the newest, the latest, and the greatest technologies. That is why I smiled. I am pro for having alternative solutions to divert a lot of our trash, but it is a challenge, I would like to see it happen. I know there are a lot of people out there and once this thing starts getting out there, there will be a lot more people coming around.

Councilmember Cowden: John, I tried to look up the process of mining old landfills and turning that into energy, you work in this as your job, are you aware of that? That was something that was being said. Can you mine old landfills and turn it into energy?

Mr. Ruiz: From my knowledge, yes, you can mine old landfills. At Kekaha Landfill from my understanding, because I was a little kid, and who knows what went into the first piece. There are options out there. There are companies that mine landfills and they sort out their metals, they take the metals out, and Kekaha phase one is not lined. Phase 1 is not lined, so everything would need to come out, line the landfill, and ship out whatever we could ship out; the metals and so forth. It is an option though.

Councilmember Cowden: Okay. I guess that is it. Thank you all. It is a very interested topic and I probably could learn for hours.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I have a follow-up to her question. The top engineer for the Solid Waste Division left right? He moved.

Mr. Tresler: Yes.

Councilmember Kagawa: But even though he moved, we kept him employed?

Mr. Tresler: He is on contract as a support to...

Councilmember Kagawa: Did that go out to procurement?

Mr. Dahilig: He is on an 89-day hourly contract, so he bills us as he provides consultant work, essentially.

Councilmember Kagawa: So he is a consultant, but it did not go out to procurement?

Mr. Dahilig: He is technically still a County employee, but he is on an 89-day contract.

Councilmember Kagawa: How can we have a County employee that we cannot even verify his work?

Mr. Dahilig: What we have been doing is we have been looking at his timesheets. He is not billing forty (40) hours a week. He is billing what is based off of the products. Mike and I keep tabs on his contract that he commutes digitally to us and provides mainly the products, which are mainly spreadsheets, reports, and those types of things. He does not engage in any management. It is purely analytical work that we are getting from him.

Councilmember Kagawa: I will be honest, it troubles me. We did that with our County Auditor, Mr. Pasion, he did that with his lead auditor when her parents were sick and she worked in Honolulu. It became a mess and I hope we do not continue this practice, actually.

Mr. Tresler: Councilmember.

Councilmember Kagawa: We have been down that road before and it is not good.

Mr. Tresler: It is on an 89-day contract, so I think it is a little different than permanent employment. I was skeptical...

Councilmember Kagawa: Did he even hit the eighty-nine (89) days or did we go eighty-nine (89) days several times?

Mr. Dahilig: This is his third 89-day contract.

Councilmember Kagawa: This is his third 89-day contract?

Mr. Tresler: Yes, and I have been...

Councilmember Kagawa: Come on man.

Mr. Tresler: It has been actually helpful to have him, because we have no leadership there. He has expertise and knowledge to assist us with a lot of negotiations with the contracts and some of these other high level operating issues that we deal with. We do not even have an engineer because he left to go to the Wastewater Division.

Councilmember Kagawa: But there is a process called procurement where we can hire services that we do not have that I think is a little bit more transparent. I am not comfortable, but if that is...if you folks are following the law, than whatever.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: 89-day contract, you are checking his timesheet, how do we even know he is working if he is on the mainland?

Mr. Dahilig: It is based on the work product. So, if we are getting spreadsheets...we know based off of other consulting work that we have done with engineers, et cetera, whether or not the bill or the hourly that is coming in looks suspicious. We have been monitoring the timesheets that come in every pay period. If we are getting eight (8) hours for an E-mail, obviously we are going to question whether or not that (inaudible).

Councilmember Brun: Yes, but how do you know he...if he provides a spreadsheet and could be done in ten (10) minutes and he is charging you five (5) to six (6) hours...

Mr. Tresler: Councilmember...

Councilmember Brun: How do you know, because he is not on island?

Mr. Tresler: Yes, that would be the same as any contractor or professional service contractors that we have. Like I said, it has been valuable for everyone. In fact, even this presentation putting together the analysis and things, he has been extremely helpful. He has a lot of knowledge in this industry, right? I am just saying that from practical standpoint, it has been good. We do not have any Engineer V positions that would normally handle a lot of our consultants (inaudible), so that also helps us in that area. Like I said, we cannot hire a County Engineer. We are trying. We do our best in managing the contract. Right now, we are comfortable with the work product and the services that he provides.

Councilmember Brun: I understand that, Mike, but we fire employees for lying on their timesheet. I hope you can verify what is going on. I know it is valuable for you folks, but what are we doing as an Administration to make sure that he is doing the work. Who is in charge of this person?

Mr. Dahilig: That is where both...there is a double-tread where both Mike and myself are taking a look at the timesheets and we are making sure that what we are getting as a work product is reflective of what he is being asked in pay for part of his services. He is not billed as a full-time employee; I want to make that very clear. He has not been asking us to pay him as a 40-hour a week employee.

Councilmember Brun: So, say we were paying him an 89-day contract one hundred thousand dollars (\$100,000) a year, which was what he was worth, so we paid him about three thousand dollars (\$3,000) an hour or something, because he is not a regular County employee. Are we paying him benefits or for anything else?

Mr. Dahilig: 89-day contracts do not accrue benefits.

Councilmember Brun: Yes, exactly.

Mr. Dahilig: So they are just hourly and what we based it off of is what his previously salary was with the County, so it is not something that has been as a windfall for him. We could essentially maintain status quo with the exception of him conducting oversight and management of the employees, all he does is analytical work on behalf of the Solid Waste Division.

Councilmember Brun: Okay.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: The discussion on the equipment seems to be in the center in terms of our success in any option. With Option 3, particularly, we need the compactor, but right now what I am hearing you say is that the equipment

is the point of contention with our employees, for instance, their morale is low because it is not being fixed. My question is...we know that Waste Management is responsible for it, but is the issue actually about them not having the resources to maintain the equipment or are they just being...are they not following through with the contract? My main thing is that we buy this piece of equipment, do we have the means to actually repair it and make sure it continues to stay and repaired for the morale of our employees.

Mr. Tresler: That is the request to have the support that comes with the equipment, meaning the mechanics.

Councilmember Chock: So, that should be covered. Do we have the resources for that? Do we have the mechanics who can fix this?

Mr. Tresler: Yes, we actually have potential people.

Councilmember Chock: So, it is not like the Engineer's issue, we have the resources...

Mr. Tresler: We are confident that we can...

Councilmember Chock: Okay. Thank you.

Councilmember Kagawa: I have a follow-up. Have we looked at privatizing those mechanic services? Like the State, I see cars at Gary's and Kaua'i Vehicle Center all the time. The State does not fix their own cars. The government sucks at taking care of those types of needs. The private sector does a lot better job doing those type of things, like repairing cars, repairing heavy equipment. I feel like in-house we suck at it. I have not seen any profit in fixing vehicles, heavy equipment, or what you have in-house. I have never seen it. Can we contract that out? The heck with the United Public Workers (UPW). This is health and safety, the ability to run machines, take in trash, and deal with it in a proper way.

Mr. Tresler: We obviously can look at that. In some cases, there are a lot of warranty issues, so then that is where the private services will come in. Therefore, when you see vehicles out there, we do it, we try to outsource certain things as well. There are certain types of equipment, for example, refuse trucks, where we are the best at it. No one else on-island can do it as best as we can, because no one has that type of equipment. We can look at it certainly. Part of the issue with that is when you are at a contractor's whim, when they have time and when they make it a priority, and if it is not a regular thing, we are not a priority and we (the County) sits in line as number ten (10) and there is nine (9) other pieces of equipment to be repaired and addressed before us, so there are challenges with outsourcing those

things that way. We have experienced that when we tried to do it, but we can look at it, certainly.

Councilmember Kagawa: I know how much time we spent to get out repair people in line and with the morale issues there, and our inability to fix things on time when you are talking about lawnmowers and what have you. I am just thinking is there a way to expedite or guarantee that the County's equipment will be repaired.

Mr. Tresler: I agree.

Councilmember Kagawa: Do you need something?

Councilmember Kualii: No.

Councilmember Kagawa: Go ahead.

Council Chair Kaneshiro: I have Councilmember Evslin, who has been waiting very patiently.

Councilmember Cowden: Okay. I have a follow-up on that.

Councilmember Evslin: I have a follow-up to Councilmember Cowden. As a follow-up from earlier, I am a little confused as far as hiring of the five (5) employees. As I understand, as soon as we hire five (5), unionize employees, we are committed forever, which is what Mr. Dahilig said, "there is no interim Option 3," but then I thought I heard Mr. Tresler say, "Come December 1st we are doing an interim Option 3."

Mr. Tresler: I want to clarify that we are in a transition plan where we are taking over the operation of the landfill. We have hired the consultants to assist us. We are renting equipment.

(Councilmember Kagawa was noted as not present.)

Mr. Tresler: We are renting equipment as a stopgap measure until we can figure out what our permanent solution will be. If we get the support to do Option 3, we would need to come back for a money bill and approval to get the funding for the equipment and the positions, and then we can execute Option 3. Basically, we are going to operate this landfill. What we are proposing is not an Option 3, it is a transitional thing that we are doing. We are looking at a one-year period, but we need to get to a permanent solution, which is one (1) of the three (3) or four (4) options we provided.

Councilmember Evslin: You are saying that we could possibly do this for a year without hiring five (5) employees as we figure it out...at what point do we hire the five (5) employees to pursue Option 3?

Mr. Dahilig: I think that is the gist of the discussion as we are going into budget 2021, we need to be able to program and essentially get the input from the Council to propose something that makes sense. If we are getting the impression that going towards Option 3 is not tenable, then that is a two million five hundred thousand dollars (\$2,500,000) absorption that we have to figure out somewhere within the budget process, which is very different than trying to look at one thousand dollars (\$1,000) for something else, right? That is why in effect we are laying all of these items out. The opportunity costs, again, are things that we cannot necessarily quantify, because it relates to things like taking a private function and turning it public, and having to be stuck with a scenario where we cannot go back to, to private work; that is the first issue. The second thing as Councilmember Brun brought up was the environmental and professional liability that we cannot quantify, but we again still have to operate under the same standards that Waste Management would be operating. That is why the interim hiring of private consultants to do Waste Management's work, at least on the compliance end, is really meant to in effect, provide that status quo until we get the lead from the Council on where the appropriations are going to go. On top of that when you are looking at where Waste Management falls into play, in terms of how we separate starting December 1st, those are things that I know you have been briefed on in Executive Session and we cannot discuss it on the floor.

Mr. Tresler: It is my responsibility for being the Fiscal Officer for the Department of Public Works. As I see the numbers here, I think we would more than likely have to come in for a money bill for some type of funding with the temporary measures and the transitional costs. I just wanted to preface that.

Mr. Dahilig: I do want to take responsibility and it is an opportunity to thank Mike and John for pitch-hitting on these things, because that is really what has been going on. So, when they say, "Take operational responsibility," they are the ones that are going to be overseeing the slew of these consultants and the current civil service individuals that are out there at the landfill.

Councilmember Evslin: Just so that I am totally clear, our final sort of locked and loaded Option 3 would probably come through budget when we are looking at filling and budgeting for those five (5) positions?

Mr. Dahilig: That is what we are essentially trying to address as discussion leading into the budget presentation in March, because we obviously do not want to put on something that will overwhelmingly result in a "no." That is why we are trying to lay out both the reassurance that we are going to

maintain operations on December 1st but also give the Council lead time to have this discussion amongst the body, to be able to answer any questions leading up to the budget process, which will be presented in the middle of March.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Where is the existing compactor currently being repaired?

Mr. Ruiz: Waste Management has their own personal mechanic on-site.

Councilmember Cowden: Do they fix it on-site?

Mr. Ruiz: Correct.

Councilmember Cowden: If we either purchase this compactor or have another one, would we be doing the repairs on-site or are we going to have to try and take it to our garage here in Līhu'e?

Mr. Ruiz: Every repair will be done on-site.

Councilmember Cowden: Will that mechanic be there on-site?

Mr. Ruiz: Correct.

Councilmember Cowden: Committed to the landfill? Or is he going to be seated in a cube behind something for mowing the lawn on the North Shore?

Mr. Tresler: No, to Solid Waste.

Councilmember Cowden: Yes.

Mr. Tresler: Which includes Kekaha Landfill, but includes...

Councilmember Cowden: Yes, the transfer stations and things like that. Okay. Currently does the Waste Management fix the transfer stations? Okay, it is still the County? Okay.

Mr. Tresler: To be clear, Waste Management only repairs their equipment out at the Kekaha Landfill.

Councilmember Cowden: Okay. The cover soil—are we going to be expecting a money bill for cover soil, too? Is that something separate?

Mr. Tresler: Like I mentioned earlier, I am pretty sure we will need to come forward with some type of money bill.

Councilmember Cowden: Thank you.

Councilmember Brun: Is Waste Management outsourcing the mechanic?

Mr. Ruiz: No, they hired their own mechanic.

Councilmember Brun: Because before they used to have a contractor on-site.

Mr. Ruiz: Yes.

Councilmember Brun: The soil...did we not get some sand from the harbor, dredged, or something and it supposed to have been donated to the County and now there are some issues with that?

Mr. Tresler: No, we wish that was the case. We initially thought that there was some of that on the land we acquired, but it is not very much that got spread out or got diverted. We are not really sure. Cover soil is an issue and we are working on the solution with KAA.

Mr. Dahilig: The volume that we thought was there was not the volume that we anticipated. When we took control of the site, Mike and his team went out there and took a look at it, it was not at the volume that would yield quite the amount of savings that we anticipated.

Councilmember Brun: I thought it was made clear that it was for the County when that sand was hauled out.

Mr. Tresler: I am not sure, Councilmember. I know some other private entities got some of that and so we have been trying to contract with them to obtain some of that as well.

Councilmember Brun: From what I heard it was donated, and hauled to be kept for the County, this was for the County, for the landfill, and then someone was trying it sell it back to us; our own sand.

Mr. Tresler: We can look into that. I am really not aware of what that original arrangement was.

Mr. Dahilig: It is there, but it is literally a fraction of what everyone thought it was going to be.

Mr. Tresler: I know what you are talking about.

Councilmember Kualii: Some of your answers to Councilmember Evslin cleared things up a little bit, but on the procurement that was completed, "hire consultants to perform landfill professional services, start date September 1, 2019," and it says completed. Therefore, there are currently consultants in place for what length of time?

Mr. Tresler: The current contract is for a year.

Councilmember Kualii: Okay. Because we do not know how long it will take before we transition to Option 3?

Mr. Tresler: Yes, hopefully soon.

Councilmember Kualii: Is that to help with...on the slide where it says, "Who Does What on the Landfill," and it has a couple of things. It is all under Waste Management Hawai'i's column, but a couple of things says, "Done by others." Does that mean Waste Management was subcontracting with other providers on-island?

Mr. Tresler: Exactly.

Councilmember Kualii: It will take these new consultants to do the subcontracting now that we have them in place or have we already gotten on top of that for December 1st?

Mr. Tresler: We contracted with a firm which then coordinated all the other contracts that they were not able to perform themselves.

Councilmember Kualii: Really what that line represents is multiple consultants to do the different pieces?

Mr. Tresler: Yes.

Councilmember Kualii: That we have already procured and is in place for more than a year.

Mr. Tresler:

Yes.

Councilmember Kualii: I want to see the detail numbers prior to the money bill. I want to see that when you come to us to ask for money to do the job that you need to do, that you also show what money is already available, because when you stop paying Waste Management Hawai'i, that money is in the pot to pay for what you are trying to do, and ultimately what you are trying to do is get us to a place where it is going to cost less than what it has been costing us currently with Waste Management. Let us try and make sure that it is all part of that money bill, so we are lowering the money bill and asking for only what we need and not more. Obviously, if you need more, you can come back.

Mr. Tresler: Understood. Our calculated cost-savings is one million two hundred thousand dollars (\$1,200,000), currently, with Waste Management leaving on December 1st with what was budgeted.

Councilmember Kualii: I want to see the detail of what we are paying the different consultants to do what Waste Management is no longer doing on December 1st and what we were paying Waste Management and what is currently in the budget unexpended, that would give me an idea if we are currently saving money and if we are comparing apples/apples – what is the true cost?

Mr. Tresler: I can make an appointment with you and show you.

Councilmember Kualii: It can be in writing, it would be good to have in writing.

Mr. Tresler: Okay.

Councilmember Kualii: It will be easier with the money bill for me to have much more information. Thank you.

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

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

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

Councilmember Kualifi: This is a really important challenge that we have to deal with and I appreciate everything that the Administration is doing.

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

Councilmember Cowden: I think this is a really important challenge, I appreciate everything that the Administration is doing, and I am glad that this is coming to the surface. I hope that the people of Kaua'i can do their best to help by creating as little waste as possible, something that we should be doing every day. We cannot take it for granted that we have a place to put all these things because Kekaha is rather full. We have heard the passion of the people taking care of the area where they have even stopped operation rather waste months of potential time in the landfill, so I appreciate that intention and commitment. We all need to back them up. It is very important and I hope that we in time are able to come up with solutions that are more progressive than just a landfill.

Council Chair Kaneshiro: Is there anyone else? If not, the motion on the floor is to receive.

The motion to receive C 2019-252 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Kaneshiro: Next up is Executive Session.

EXECUTIVE SESSION:

ES-1011 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in the matter of County of Kaua'i vs. KAPHA North Shore, LLC, Civil No. 18-1-0031 (Fifth Circuit Court). This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1012 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to discuss the Kekaha Landfill operations and the obligations, remedies, and contractual obligations under the Waste Management of Hawai'i, Inc.'s contract. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kualii moved to convene into Executive Session for ES-1011 and ES-1012, seconded by Councilmember Cowden.

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

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

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

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

The motion to convene into Executive Session for ES-1011 and ES-1012 was then put, and carried by the following vote:

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

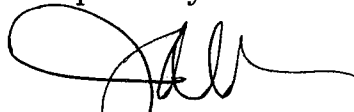
*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Kaneshiro: Motion carried. With that, that concludes today's agenda. If there are no objections, I will adjourn the meeting. We have a public hearing at 1:30 p.m.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:12 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:dmc

(November 20, 2019)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2764), Relating to Class IV Zoning Permits of the Comprehensive Zoning Ordinance

Introduced by: MASON K. CHOCK, Councilmember

1. Amend Proposed Draft Bill No. 2764, SECTION 2, relating to Subsection 8-3.1(f)(2)(A) by changing "County of State" to "County or State" as bolded below:

SECTION 2. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Section 8-3.1(f), Class IV Zoning Permits, Subsection 8-3.1(f)(2), to read as follows:

"(2) The Planning Director or designee shall check the application to determine whether the construction, development, activity, use or plot plan conforms to the standards established by this Chapter and:

(A) Shall refer the application to the Department of Public Works, [and] the Department of Water, and the County Transportation Agency, and may refer the application to any other County **or** State Department for comment or approval; and

(B) May require additional information if necessary to make a determination."

(Proposed Draft Bill material to be deleted is bracketed and new material to be added is underscored. Proposed Draft Bill material to be amended on first reading is bolded and highlighted.)

V:\AMENDMENTS\2019\Floor Amendment PDB No 2764 re CZO JA_dmc.docx