

COUNCIL MEETING

DECEMBER 4, 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, December 4, 2019 at 8:51 a.m., after which the following Members answered the call of the roll:

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

APPROVAL OF AGENDA.

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

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

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

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

Council Chair Kaneshiro: Seeing none. Any discussion from the members?

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

Council Chair Kaneshiro: The motion is carried. Next we have interviews for Board of Review and the Board of Water Supply.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: The first interview is for the Board of Review.

INTERVIEWS:

BOARD OF REVIEW:

- Stella Bumacod Fujita – Term ending 12/31/2020

ELLEN CHING, Boards & Commissions Administrator: Good morning, Councilmembers. Ellen Ching, Administrator. Since we are confessing, I think it takes a lot of skill to bowl a six (6). To go through the entire game and bowl six, I believe, is very miraculous—I confess to that. Today, I am happy to introduce Stella Bumacod Fujita as an appointment to the Board of Review. Stella has been a Real Estate Broker for the past twenty-four (24) years. She is the President and Principal Broker for Acclaimed Kaua'i Property, Inc. She has earned the designation of the Graduate Realtor Institute and she is also the Certified Residential Specialist; which is the highest credential awarded to residential sales agents, managers, and brokers. In her spare time, she relaxes and mediates with golf. When asked what her favorite golf memory was she quickly said, "Hole in One, at Wailua, on the seventh (7th), with her 3 Wood." In work and play, Stella aims high. Stella has never served on a Board or Commission. We thank her for her willingness to serve, her time, expertise, and we look forward to her fresh approach and new ideas.

Council Chair Kaneshiro: Thank you. Stella, did you want to say anything?

STELLA BUMACOD FUJITA: This is all new to me. I want to make it short and sweet.

Council Chair Kaneshiro: Do we have any questions for Stella?
Councilmember Cowden.

Councilmember Cowden: Thank you so much for volunteering your time to do this. Are you familiar with what the Board of Review works on?

Ms. Fujita: To my understanding it is on tax appeals.

Councilmember Cowden: Real property tax appeals, that is correct. When I look at your lifetime on the island, have you always lived here?

Ms. Fujita: Yes.

Councilmember Cowden: That really helps you to understand the difference between one community and the next. What is important to me to know is that you understand that sometimes people can lose their homes, which is why these things go to the Board of Review. Sometimes when we change the property tax laws,

people get caught off guard, and we have challenges. The law is the law. When they come to you, they are looking for a little compassion and understanding. Are you aware of that as well?

Ms. Fujita: Yes, I am aware. I have to also take into consideration what facts are in front of me.

Councilmember Cowden: Right, absolutely. I appreciate you. I wanted to ensure that was understood. At times, that is a person's last stop. Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I do not have any questions. Good to see you Stella, thank you for volunteering to be on the Board of Review. What you experience in Real Estate, understanding how to get people into homes and what it takes for them to be successful homeowners should be an asset to the Board of Review. Thank you again, you have my support.

Ms. Fujita: Thank you.

Council Chair Kaneshiro: Councilmember Kuali'i.

Councilmember Kuali'i: I also do not have a question. I would like to say *mahalo nui loa*, thank you for your willingness to step up and serve. To me, you represent the exact type of person that Ellen should continue to go after. Congratulations Ellen in getting and finding her. There are other people out there like her to help with your vacancies. Congratulations.

Ms. Fujita: Thank you.

Council Chair Kaneshiro: Is there anyone else with questions or comments? If not, thank you. Stella has beaten me at golf before.

Ms. Fujita: I am sorry, what was that?

Council Chair Kaneshiro: You beat me in golf before. I played with you a long time ago in a tournament.

Ms. Fujita: I have, really? Wow.

Councilmember Chock: It was not very memorable.

Council Chair Kaneshiro: It was because she won.

Ms. Fujita: We will do a rematch.

Council Chair Kaneshiro: Thank you.

Ms. Fujita: Thank you.

Ms. Fountain-Tanigawa: Chair, the next interview is for the Board of Water Supply.

BOARD OF WATER SUPPLY:

- Julie Anne Simonton – Term ending 12/31/2022

Ms. Ching: Introducing Julie Simonton. Julie workouts three (3) times a week, she enjoys a good novel, and she loves to spend time gardening. She grows vegetables, tends to her fruit trees; lemons, limes, oranges, grapefruits, and avocados. She has five (5) lovely mango trees. Picture in your mind the Wile E. Coyote and the Road Runner. Julie has engaged in a fierced and prolonged battle with her arch nemesis, the parrots. This past year, she did not get a single mango as the parrots won the mango super bowl. When she is not battling with the parrots for a mango or two (2), she is the Vice President and Engineer at Pacific Concrete Cutting & Coring, Inc. Her technical knowledge of engineering and her experience in construction and management makes her the ideal candidate for the Board of Water Supply. We look forward to her contributions and willingness to lend her considerable talents and service to our community.

Council Chair Kaneshiro: Thank you. Julie, would you like to say anything?

JULIE ANN SIMONTON: I would like to share my background. I have a Masters Degree in Civil Engineering and I have worked for a number of years with Water and Wastewater Engineering. When I moved to the island, I worked with Aqua Engineers, Inc., which gave me a lot of experience with utilities. I have worked with HOH Utilities, LLC and the Wastewater Plant in Po'ipū. I have seen the challenges in running utility. I have since gotten my contractors license and I work at Pacific Concrete Cutting & Coring, Inc. I help to manage this company, so I see the personnel aspects and the financial side. I have a little bit of everything. If that can be of service to the Board of Water Supply, I am happy to do what I can.

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

Councilmember Cowden: I am so excited that you are a candidate. We have not met before. I actually looked you up and I asked some of the people at the

Department of Water about you. You are needed. How familiar are you with the position of the Department of Water?

Ms. Simonton: I know that they are looking for a new manager. I want to go in to see what the current state is, what the feel is with the staff, what the needs are, and what they are going to look for in a manager. I am trying to go in with an open mind, not have too many preconceive notions on what I think is the current state, and what we should do to get the best picture moving forward.

Councilmember Cowden: I am really happy with your background and skillset. I would say that you are deeply needed so put your running shoes on. She was talking about the super bowl of mangoes, well you are going to have the super bowl of water. Right now, the Board is the de facto manager. I believe we are missing the top three (3) layers of leadership. There are very significant challenges for the Board...it is a really young and new Board. I am excited to have you there and I hope that you have time to commit to this?

Ms. Simonton: Yes, I know that it needs attention and that it needs time.

Councilmember Cowden: It needs a lot of attention.

Council Chair Kaneshiro: Councilmember Chock, followed by Councilmember Brun.

Councilmember Chock: Thank you, Mr. Chair. I am also very excited to have you on this Board in particular because of your background and experience. I feel that you will be able to contribute a lot to the Board of Water Supply. I would agree with Councilmember Cowden, we are really trying to find a balance. As you may know, this Council and the County, in general, is looking to build affordable housing infrastructures. There are big barriers with that. As you may have seen on today's agenda, we have a Resolution to the Department of Water. We encourage and welcome your insight and support in getting us to where can be best for the community. Thank you.

Ms. Simonton: Thank you.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: Thank you for volunteering to serve. I have a question. Do you think there will be any conflict with you being on this Board because of the current position that you hold?

Ms. Simonton: No. We have never bid directly to the Department of Water as a general for jobs. I have reviewed our files and we never have. We do work as a sub-contractor, but that is not a conflict. I do not anticipate any issues.

Councilmember Brun: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: *Mahalo nui loa* for your willingness to serve and step up. I believe for the Board of Water and all of our Boards and Commissions, this is one of the biggest and toughest jobs. There is a lot of challenges. I like your background and experience, I am really confident that you will do a great job, and I want to say thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Julie, for me, I would like to say thank you. For me, with your work experience and attitude, you check off all the boxes in what I am looking for with the Department of Water. If you need help with the parakeets, I believe I may have a solution.

Council Chair Kaneshiro: Is there anyone else? For me, good luck. I will be voting for you when it comes around. I believe that you will play a very important role in the Department of Water especially while they search for a new manager and deputy. You are needed there and it will be great. I am glad to have you on board. Any other questions or comments? Councilmember Evslin.

Councilmember Evslin: I was going to save this for discussion, but I would like to combine both of my thanks into one. Thank you to Ms. Fujita and Ms. Simonton for your willingness to serve on the Board of Review and the Board of Water Supply. As everyone previously mentioned, it is so critical to have great volatile people on there. I appreciate your willingness.

Council Chair Kaneshiro: With that, thank you.

Ms. Simonton: Thank you.

Council Chair Kaneshiro: Next up is the Consent Calendar.

CONSENT CALENDAR:

C.2019-253 Communication (11/21/2019) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, a Resolution Urging

The Board Of Water Supply To Reduce The Facilities Reserve Charge For Multi-Family Units, Smaller Homes, And Additional Rental Units Certified As Affordable By The Housing Agency.

Councilmember Kualii moved to receive C 2019-253 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We will hold off discussion until the actual Resolution. 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, any discussion from the members?

The motion to receive C 2019-253 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

COMMUNICATIONS:

C 2019-254 Communication (11/14/2019) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds for the Project Safe Neighborhood Grant – Project Safe Kaua'i, in the amount of \$35,300.00, to be used towards funding overtime for Special Investigators and Legal Clerks, computers, and update software to the Justware Management System, and to indemnify the State of Hawai'i Department of the Attorney General: Councilmember Kualii moved to approve C 2019-254, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions on this item? Councilmember Cowden has a question.

There being no objections, the rules were suspended.

YVETTE SAHUT, Administrative Services Officer: Good morning.

Councilmember Cowden: First of all, thank you so much for being here with another grant. Is this a continuation of an existing grant or is this a new grant?

Ms. Sahut: I would have to check if it is existing. I believe it is a new grant, which is why we are asking for the overtime and equipment. Let me double-check on that. My apologies, our Grant Coordinator is on vacation right now.

Councilmember Cowden: Okay. The main reason that I ask...I appreciate all of the effort that is done by the different departments to find grants. I know there are times that we get a grant for the first year and we pick up the grant thereafter. This is not a high amount, this grant is for thirty-five thousand dollars (\$35,000). I would like to know if there is a grant for the first year and if the expectation is that we fund that position year-after-year. Is that something that you are aware of?

Ms. Sahut: This is an existing position. It is our Career Criminal Prosecution (CCP) position. We are not adding any new positions with the grant.

Councilmember Cowden: It is supplementing...

Ms. Sahut: It is basically supplementing overtime costs for our investigators, clerical section, and we are also using it for computers and software. Our attorney who is working on the Safe Neighborhood Program project is our CCP Attorney who is already funded through that grant. This is not funding any positions.

Councilmember Cowden: Okay, thank you.

Ms. Sahut: Thank you.

Council Chair Kaneshiro: Any other questions from the members. If not, thank you.

Ms. Sahut: Thank you.

Council Chair Kaneshiro: 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: Seeing none. Any final discussion from the members?

The motion to approve C 2019-254 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

Ms. Fountain-Tanigawa: Next item on Page 2.

C 2019-255 Communication (11/15/2019) from the Acting Director of Human Resources, transmitting for Council consideration, the cost items for the Hawai'i Government Employees Association (HGEA) Bargaining Unit 2 for the period July 1, 2019 to June 30, 2021, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 2: Councilmember Kuali'i moved to receive C 2019-255 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: 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. Any discussion from the members? This will come up later as a bill.

The motion to receive C 2019-255 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2019-256 Communication (11/21/2019) from Councilmember Cowden, requesting the presence of the Deputy County Engineer, to provide a briefing on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) appeal process: Councilmember Kuali'i moved to receive C 2019-256 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: It looks like we have a presentation for this item.

There being no objections, the rules were suspended.

LYLE TABATA, Deputy County Engineer: Good morning, Chair and Councilmembers, Lyle Tabata, Deputy County Engineer. Per request, we are here

today to walk-through the appeal process for the Hanapēpē and Waimea Levees and the Moloa'a Stream FIRM map update. As we had previously mentioned, we are the local agency that represents FEMA in Hawai'i, Kaua'i. FEMA previously initiated a restudy with a subsequent revision to the National Flood Insurance Program (NFIP) maps. We are here to deliver the message from FEMA. A little background, the FIRM updates started in November 2018. FEMA issued Preliminary FIRM Panels to the Hanapēpē and Waimea River Levees. In May 2019, FEMA issued the Preliminary FIRM Panel for Moloa'a Stream. In November of this past year, they published a Notice of Flood Hazard Determinations and began a 90-day appeal period. The appeal period will end on February 12, 2020. FEMA will then issue final letters for final determination and the County will have six (6) months to revise our own Flood Ordinance to match the FEMA flood maps, which will become effective December 2020. What you see on the screen is the pre and proposed FIRM; the effective FIRM that is existing now is shown on the left and what is proposed is shown on the right. The new FIRM map will include one hundred fifty-five (155) structures in the new zone for Hanapēpē River. In Waimea, it will affect two hundred eighty-two (282) structures in the new zone. In Moloa'a, it will affect forty (40) structures in the flood zone. I would like to introduce Stanford Iwamoto who is our Floodplain Manager. He is in communication with FEMA; FEMA sends us the information and directs us to convey their message and information to the public as the responsible local government agency.

STANFORD IWAMOTO, Civil Engineer VI: Good morning, I am Stanford Iwamoto, I am with the Engineering Division of Public Works. We were basically asked to come here to talk about the appeal process and what it involves. The definition is a formal and written objection to the proposed flood hazard determinations. In the middle of November, FEMA came out and published what they called their proposed flood hazard determinations. There is a 90-day period where people can submit appeals. Appeals need to be in written form, there is a one page application that needs to include supporting data. The second bullet reads, "Include supporting data and documentation showing that the proposed determinations are scientifically or technically incorrect." The appeals are based on scientific or technical information. Appeals can be submitted by the County or private landowners.

Appeals should be submitted to the County for review and compilation before submitting it to FEMA. FEMA accepts the appeal from the County only. They have asked the County to look at all of the different appeals and do a review. I expect that to go back to some of the people who have appealed and asked for more information if necessary. We will then submit one (1) document to FEMA. At the same time, FEMA looks at all of the appeals that are submitted. Any appeal that is submitted whether or not it is included in the County's final appeal is submitted to FEMA. This slide talks about the items that is able to be appealed. Base flood elevations, base

flood depths, special flood hazard area boundaries, zone designations, and regulatory floodways are all items that are shown on the FIRM map.

When we talk about the content that needs to be submitted and what they will look at, there are two (2) terms in there. "Scientifically incorrect" which means there is a problem with the methodology and "technically incorrect," which means that the methodology is applied incorrectly with insufficient and poor quality data or there is a calculation error in the data. All of this needs to be provided by the person making the appeal. In essence, the appeal needs to show that what FEMA has done is incorrect. They also require that the data be certified by a licensed engineer or surveyor. The appeal period is ninety (90) days, started in November and ends mid-February. We are able to answer any questions.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you so much. You got my letter I sent last spring. After we looked at this, I talked to a person who does flood hazard mitigation work on the island for the County. I got suggestions from her with the United States Army Corps of Engineers. I did not receive much of a response on that. Was any of that looked at?

Mr. Iwamoto: Yes, I believe I looked at it.

Councilmember Cowden: Did any of it sound responsible? Were there instructions on how it can be pushed to the United States Army Corps of Engineers? They should have that data.

Mr. Iwamoto: In terms of the United States Army Corps of Engineers, they do technical studies for the County. What FEMA does is their flood study or their own calculations. The United States Army Corps of Engineers has previously done studies on both rivers and FEMA came back as a part of this study and did their own calculations.

Councilmember Cowden: Am I not remembering something? I thought when it was brought to us the last time, it was said that this was a national piece that FEMA did and they basically did a template across the nation. This hit criteria that there was not a directed study. For example Waimea River, it hit criteria needed at four (4) foot increase on the freeboard for the levee.

Mr. Tabata: It all came from their own data that they gathered.

Councilmember Cowden: It came from their data. I am hearing that Waimea residents do not agree that it is critical to raise that levee. Am I remembering correctly? Is it twenty-five million dollars (\$25,000,000) to do this?

Mr. Tabata: Anyone can do an appeal. We are not in a position to do our own study and appeal. We do not have enough money or resources. It is a huge amount of data that needs to be originated on your own. I regret to say this, but we are just the messenger here. As a local agency, our role is to transmit the information from FEMA.

Councilmember Cowden: I understood that from the last time. I thought that you made that really clear when you said that there were challenges. I tried to do research to find out if there is other ways of doing flood hazard mitigation. A different suggestion could be made. Was the number of twenty-five million dollars (\$25,000,000) correct for Waimea and Hanapēpē to both be in compliance with the new request from FEMA? Do I have that correct?

Mr. Iwamoto: When the United States Army Corps did a study in 2013, they did something called a planning assistance with a state study, which was a feasibility study. At that time, I believe the costs for both Waimea and Hanapēpē was sixteen million dollars (\$16,000,000) at that time.

Councilmember Cowden: In 2013?

Mr. Iwamoto: Yes.

Councilmember Cowden: Each or together?

Mr. Iwamoto: Together.

Councilmember Cowden: Okay, I think that is better.

Mr. Iwamoto: Right now, that translates somewhere around twenty million dollars (\$20,000,000) to twenty-five million dollars (\$25,000,000).

Councilmember Cowden: Together?

Mr. Iwamoto: Yes.

Councilmember Cowden: It is my understanding from talking to people from Hanapēpē, is that they do feel somewhat at risk of levee breaching. Is that also correct?

Mr. Iwamoto: I do not think that the possibility of levee breaching is that high or to be considered a possibility. It is likely that the freeboard or the height of the levee is not there.

Councilmember Cowden: Can you help me to understand how a freeboard differs from the height of the levee.

Mr. Iwamoto: A freeboard can be a safety factor, an engineering determination based on...

Councilmember Cowden: Is it physical? A freeboard is a...

Mr. Iwamoto: Freeboard is height typically three (3) feet above the elevation that is calculated for the flood. It can be considered a safety factor or part of the calculation when you consider how the river flows and wave action in the river. It is above what the actual surface is when you calculate the flood elevation.

Councilmember Cowden: I have walked along that levee to try to grasp an understanding. The levee already feels that it is significantly higher than the east side of the river. When I think about basic physics and if that river floods, it will flood the side of the river that is mostly trees and not houses.

Mr. Iwamoto: I do not see it as being significantly different as far as one side to the other.

Councilmember Cowden: It sure looks like it when I am looking down. I have walked it with the people there. If we invest thirteen million dollars (\$13,000,000) or twenty-five million dollars (\$25,000,000), is it going to cost us more money? Is it harder to check the numbers or hire a consultant to possibly appeal this process than to basically let the time clock run out where we will be committed to twenty-five million dollars (\$25,000,000)? It does not sound like there is a risk of flooding relative to the height of the freeboard.

Mr. Iwamoto: The height and requirement of the freeboard and elevation of the levees are based on FEMA's requirements in terms of the NFIP.

Councilmember Cowden: I understand that. What I understood from talking to people that do... Really, I talked to one main person and I gave you her number. I am not sure if you ever had a conversation with her? She did the flood hazard mitigation for other parts of the island, which is why I called her. She said that we could do other flood hazard mitigation ideas further up the river that would preempt the need to possibly raise this freeboard.

Mr. Iwamoto: When the United States Army Corps of Engineers did this study in 2013, they also looked at possibly doing things up the river; diversions, dams, or storages. They felt that the cost was prohibitive and the environmental impact may be too great in doing that. That was something that had been looked at.

Councilmember Cowden: Okay. If we put the twenty-five million dollars (\$25,000,000) into raising the levees or raising the freeboard on the levees...if I have the words right, when are we required to do that by?

Mr. Iwamoto: FEMA is changing the maps right now. When the change in the maps come into effect, the flood insurance rates will change for the people behind the levees or the people that are affected by the zone change. As long as the levees are not raised and certified to meet their requirements, the insurance rates will remain. NFIP is basically an insurance program.

Councilmember Cowden: We are spending thirteen million dollars (\$13,000,000). If we are looking at Waimea, Waimea is already flooding and is flooding regardless of the height of the levee because of the dynamics of the river, the gates, and the wetland that the neighborhood is built on. We will be spending thirteen million dollars (\$13,000,000) on something that is not likely to impact the flood problem. Whether we are or not required to do it, those people will have to pay a higher flood insurance rate.

Mr. Iwamoto: I need to explain that the NFIP is looking at floods on an extreme basis, they are looking at the one hundred (100) year flood. Floods that are below that, the flood elevation, or the structural requirements do not apply.

Councilmember Cowden: Okay.

Mr. Iwamoto: Local flooding and the flooding that the insurance requirements come in at are different.

Councilmember Cowden: I suppose I am influenced by the side of the island that I live on. We have a one hundred (100) year flood probably every five (5) years. We have had a few five hundred (500) year floods...I do not believe we have been tracking for five hundred (500) years. I know that it is just a term of art. I wanted to be sure that if we have a window of time to making prudent economic decisions, that we are understanding it ahead of time. Thank you for coming in to talk to us. I am still confused, but I appreciate the presentation. I am most likely going to have to talk to you on the side, because it has not instilled confidence in me that we are going to spend a lot of money on something that is going to make a difference for the people who live in those areas. I have one last question. Being that

I focus so much on Waimea, is Molokaʻa and Hanalei actively at risk or flooding the way that Waimea is?

Mr. Tabata: I think you are talking about two (2) different issues. That will be in the presentation next week. This is regarding the flood insurance program and what we need to do to be in compliance with the flood insurance program on a national and federal basis.

Councilmember Cowden: Right. I feel like I have heard that there are other things that we could do to comply which may be more effective. I do not know enough about Molokaʻa and Hanalei and how at risk they really are. Thank you, that is all the questions I have.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: You know that you are always able to come back later. You do not have to ask all of your questions at once. Do you know the term "taxation without representation?"

Mr. Iwamoto: Yes.

Councilmember Kagawa: Is it for people who did not have to pay for flood insurance behind the levees who will now have additional big bills? The conditions have not changed, it is for the same levee. To increase the amount they are going to pay without helping them to understand the increase, to me, that is taxation without representation.

Mr. Iwamoto: Okay.

Councilmember Kagawa: When you say, "we are just the messenger," you are the local person on Kauaʻi, the local engineer that is handling flood insurance, and you say that you are "just the messenger," why do we even have County representation? It would be better that the Federal government tell the people, "We are changing the maps." I would figure that we have the County Engineer to say, "Hey, okay, I will be the in between." Who are these people from FEMA that are making these decisions and where are they from? Are they from Kauaʻi?

Mr. Tabata: No.

Councilmember Kagawa: Are they from Washington.

Mr. Iwamoto: They are from Oakland.

Councilmember Kagawa: So you have these people from Oakland that are doing all of the expert work and we are only the messenger thereafter. Is that how this works?

Mr. Tabata: It comes through the State Department of Land and Natural Resources (DLNR). We held community meetings in Waimea and Hanapēpē, which were very well attended. We hosted the meetings and DLNR came in to explain the whole process and about the insurance program. If homeowners have insurance, they will be grandfathered into the flood insurance program. They have a prorated schedule, I believe, over the next five (5) years to control the increases of the rates at a minimum until we are able to complete the project to meet the freeboard requirement. We are presently working with our State agency to use Act 35 moneys that have been recently made available to us in order to accomplish some of the work. At the same time, we are also doing a parallel process to get United States Army Corps funds. We are currently working with the Office of Senator Brian Schatz in hopes of receiving other congressional funding to help support us. We are currently working on three (3) different tracks to expedite this process as fast as we can to support the people in the community.

Councilmember Kagawa: I know there is a case in Kalāheo where the person disagrees with FEMA. On our end we tell him that he needs to hire an engineer to come up with X, Y, Z and it is going to cost you ten thousand dollars (\$10,000). If you provide that to us, we will submit that to FEMA in order to see if he is right or wrong. For the homeowner to spend ten thousand dollars (\$10,000) not knowing if FEMA will say okay or not is...do you know where I am coming from, right? For us, I thought we have the professionals in engineering and at the local office that will be able to help the homeowners understand whether they should spend the ten thousand dollars (\$10,000), if it will be worth it, or to just let them know it is not worth it. Even if you were there for seventy (70) years and you never had a flood at your place, you are now in the flood zone. Even if there was a reservoir that was above you and no longer a reservoir, you are still in a flood zone. It is hard for me and I question if we are able to do more at the County-level to help the residents. They do not have the money and they do not even understand. They have not been taxed for flood zone. The levee has protected them. As long as I have been alive, fifty-three (53) years, there has been big floods in Waimea and Hanapēpē. For the past fifty-three (53) years, I have never seen any flood go over the levee. When you are talking about a one hundred (100) year flood, that is half way there. Now that FEMA does not have money or because of the floods that they are not accounting for in the mainland, they want to say that Kauaʻi is now in a flood zone, because they need money. To me, the levee has been functioning. How can we say that "we are just the messenger" and the people in Oakland knows more than us? I do not understand. I want to see our County personnel fighting for the people of Kauaʻi. The people of Kauaʻi pay your salary and they pay mine, Oakland does not pay for your salary. That is all I want to see.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I agree with all of the comments that Councilmember Kagawa made and make them to you as well. To be clear on the information that you provided, the slides that show the effective DFIRM and the proposed DFIRM, for the proposed DFIRM in the first example for Hanapēpē, there is one hundred fifty-five (155) structures in new flood zone. What was the number of structures in the existing zone? Do you have a number for that?

Mr. Iwamoto: The one hundred fifty-five (155) structures represents the number of structures that are in zones that are changing.

Councilmember Kualii: So it is new structures? When this proposed DFIRM goes into place, will there be one hundred fifty-five (155) total structures in the whole area or is it one hundred fifty-five (155) added structures in the area?

Mr. Iwamoto: It is one hundred fifty-five (155) structures that are in a zone that is classified as protected that will now be put into a zone that is AE Zone or Special Flood Hazard Zone.

Councilmember Kualii: So it is newly unprotected...

Mr. Iwamoto: It is not new. It is an existing structure.

Councilmember Kualii: I know that the structures are existing, but they used to be okay before and they are no longer okay.

Mr. Iwamoto: Yes.

Councilmember Kualii: So you are adding one hundred fifty-five (155) structures that are now not okay because of the new guidelines. How many structures were there to begin with in the old guidelines? How many are there in total?

Mr. Iwamoto: I do not have that information.

Councilmember Kualii: Does that come from FEMA? Are you able to get that information?

Mr. Iwamoto: When we talked to FEMA it means that we have to go back and extract the data by hand. The data that they have comes in by zip code.

Councilmember Kualii: You just showed us these two (2) maps.

Mr. Iwamoto: Yes.

Councilmember Kualii: The map has shaded areas. The big difference is that there is shaded areas with black and yellow lines that say "protected by levee."

Mr. Iwamoto: Correct.

Councilmember Kualii: All of that becomes blue in the new map and is no longer considered protected. Now, I am sure when they did this map back when this was determined, they had a number of units or structures that were in that area. These units most likely needed to pay the higher insurance being that it was subjected to flooding. If one hundred fifty-five (155) is the new amount of structures that are now subject to flooding with the new standards, what was the number prior to that? You get that number and add one hundred fifty-five (155) to get a total. I want to know how many structures are affected in each of these areas. Not only for Hanapēpē, but for Waimea and Moloa'a. It seems as if this is information that you should already have, but you did not provide those numbers on these maps. If you are able, go back and...

Mr. Iwamoto: We can try to...like I said, I do not have it right now.

Councilmember Kualii: I would appreciate you coming back with that information. The primary difference is that in the old maps, there are those shaded areas that are protected by levee and in the new maps there are none. Basically, according to FEMA, the levees now are not protecting any of those structures that it used to protect.

Mr. Iwamoto: Yes.

Councilmember Kualii: Thank you. Again, I feel strongly the way Councilmember Kagawa feels.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: No, Councilmember Kagawa answered my question.

Council Chair Kaneshiro: I have a question. Are these the only three (3) areas that were affected by these changes?

Mr. Iwamoto: These are the main areas that are affected. The other change that comes with the map is that there are areas that received letters of map revisions or people that previously applied for their property and asked to be

taken out of the zone or changed from the zone based on elevation. There are a number of those that are being included in the map. However, the primary areas are Hanapēpē, Waimea, and Moloa'a.

Council Chair Kaneshiro: As far as the money goes regarding the sixteen million dollars (\$16,000,000) or the twenty-five million dollars (\$25,000,000), does that include the United States Army Corps of Engineers? Is that our total or if the United States Army Corps of Engineer has money, then our total will be reduced? Will we need to try to account for additional money for that number?

Mr. Tabata: There is a cost-sharing program if we do it at with the United States Army Corps of Engineer.

Council Chair Kaneshiro: So it is not the total cost of the project.

Mr. Tabata: No, it is the total, but it would be cost-shared.

Council Chair Kaneshiro: Will our amount might be less if the United States Army Corps of Engineer comes in?

Mr. Tabata: I believe we mentioned before that it varies. There are different shares for the design and the construction. We need to ratio that out. In general, that is the total cost of the project. As I had mentioned, we are trying to get other funds. The Act 35 is State appropriated money for the last flood that occurred in April. There is money leftover and we are trying to get that money. Senator Schatz is also looking into another congressional amount that is able to help us. I believe we are looking at three (3) different sources.

Council Chair Kaneshiro: I am not trying to draw attention to the Hanalei area, but did anything change in the Hanalei area as far as the flooding maps go?

Mr. Iwamoto: No.

Council Chair Kaneshiro: Okay. Was it always a huge area or...

Mr. Iwamoto: The area has not changed. From my own standpoint the flood elevations that happened in April did not go over the base flood elevations shown on the map. The map would not change.

Council Chair Kaneshiro: Okay. Councilmember Brun and then Councilmember Kagawa.

Councilmember Brun: Being that this may hurt some Kaua'i families, are we able to deny our portion of the bill and not approve the budget?

Mr. Tabata: I am sorry.

Councilmember Brun: We are now going to do this work and you said that it will cost money. The families that have houses behind the levee is now needing to get insurance being that they are in a flood zone. To me, it is not helping these people. Can we deny our portion for FEMA? You said in order to do the work that we need to pay a portion of the twenty-five million dollars (\$25,000,000).

Mr. Tabata: If we do the work with the United States Army Corps of Engineers, which is separate Federal Agency aside from FEMA...FEMA will only make the determination, they do will not give us any money.

Councilmember Brun: Okay.

Mr. Tabata: This will come from the Congressional Legislation and they will need to set money aside for this project. Depending on the ratio of the local match, that will be determined as the project moves forward, and if we go through the United States Army Corps route. The other route would be through State funds. Senator Schatz is trying to get congressional funding for everything.

Councilmember Brun: We have the chance to not do the work or is it something that we need to do?

Mr. Tabata: It is determined by FEMA that it has to be done.

Mr. Iwamoto: In terms of doing the work, it is not required that we raise the levee, but if you want the levee certified and these areas taken out of the flood zone, then the levees have to be raised. It is up to the County and what they want to do.

Councilmember Brun: Okay.

Mr. Tabata: At some point in time, if we do not meet the requirements, the flood insurance may not be available or it will be available at an extremely high cost.

Council Chair Kaneshiro: If we do the work it will save the people who are being affected by this or would be affected by the flood map.

Mr. Tabata: They have a program that they shared with us and the community that they will discount up to a certain amount of years.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I have a follow-up to Council Chair Kaneshiro. You said that they did not finish the flood map for the Hanalei and Hā'ena area. Did the maps not change?

Mr. Iwamoto: Yes, you are correct.

Councilmember Kagawa: Was that because it was already in the flood area?

Mr. Iwamoto: The primary reason that it did not change was because the changes in the works for this map were made prior to this.

Councilmember Kagawa: Okay, it was prior to the flood?

Mr. Iwamoto: Yes. From what I see the flood elevations caused by the April flood were not higher than the elevations shown on the map.

Councilmember Kagawa: It showed on the map a higher threshold for floods.

Mr. Iwamoto: Yes.

Councilmember Kagawa: Although all of it washed away, was it not as bad?

Mr. Iwamoto: I believe if you talked to some of the residents in Hanalei, some of them who built above the flood elevation, their homes were not flooded above that height.

Councilmember Kagawa: In the other areas with heavy flooding, during that actual flood in Kōloa, did that map change in that area?

Mr. Iwamoto: No.

Mr. Tabata: I want to clarify that all of that map change was done prior to the April flooding.

Councilmember Kagawa: To me it is a little ironic being that we had actual flooding and we had the flood map changes. For me, I like to match the

predicted and the actual. It is compared to matching an actual event to Oakland's prediction.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: When you were talking about going after the different funding, what did you say the total amount of money you would need to do what FEMA said needs to be done with the levees?

Mr. Tabata: The 2013 study that the United States Army Corps of Engineers did was sixteen million dollars (\$16,000,000). However, when we recently did an evaluation, we are expecting it to be twenty-five million dollars (\$25,000,000).

Councilmember Kualii: That was the study to determine the cost of what needs to be done.

Mr. Tabata: As Stanford mentioned, the initial study was completed in 2013.

Councilmember Kualii: When you are looking at these different pots, how is it potentially being divided up? What do you mean when you say local match.

Mr. Tabata: If we do the United States Army Corps of Engineers, it will be them entirely and the local match.

Councilmember Kualii: Is it a percentage?

Mr. Tabata: Yes. Like I said, it will vary depending on the design to construction. The Act 35 is State funding that we are working through the Kauai Emergency Management Agency (KEMA) to the Hawaii State Emergency Management Agency (HI-EMA). Senator Schatz is also looking...

Councilmember Kualii: It is three (3) separate options. If we chose that route, it would be one (1) out of the three (3) options. It would not be a combination of funding from the different pots.

Mr. Tabata: I am not able to completely answer that, it could be a combination.

Councilmember Kualii: Is it possible to get a combination of funding?

Mr. Tabata: Right now, we are taking three (3) paths.

Councilmember Kualii: Are you exploring?

Mr. Tabata: Yes, we are still exploring.

Councilmember Kualii: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to first thank you so much for looking for potential funding. I appreciate that. When would we need to build and implement this? When would it be feasible? Would be in five (5) years, two (2) years, or never?

Mr. Tabata: I believe it would be between three (3) to five (5) years.

Councilmember Cowden: This is almost a rhetorical question. When I think about thirteen million dollars (\$13,000,000) for Waimea, what if we paid everyone's flood insurance, since we do not think it is actually going to flood. That would probably be less money than the portion we would spend. It would be thirteen million dollars (\$13,000,000) to raise that levee for the largely unneeded use. Is the insurance going to cost more than one hundred thousand dollars (\$100,000) to five hundred thousand dollars (\$500,000)?

Mr. Tabata: It was explained to me by the Administrators in Oakland that if the project does not get completed, there is a possibility that no insurance will be available, or it would be available at a really high price.

Councilmember Cowden: I will agree that there would be no insurance available based on what we saw at the Hawai'i State Association of Counties (HSAC) meeting when they were talking about a national effort to try and force manage retreat. The goal is to push people out of the wetlands. To me, it feels like extortion. You are not extorting us, but it feels like extortion. My hope would be that we are able to explore, and if there is other ways of mitigating through flooding. Thank you for coming and sharing this presentation.

Council Chair Kaneshiro: Any other questions from the members? As far as the Moloka'a maps, there is not really anything that we are able to do. It is depending on the levee in Waimea and Hanalei. There is nothing that we are able to do to mitigate the mapping in Moloka'a other than someone saying that there is an incorrect elevation or there is information that is incorrect.

Mr. Iwamoto: No, not in terms of mitigating the mapping. With Moloka'a, if you are looking at the map changes, they extended the river out to

Ko'olau Road. It extends a little further. Being that they have detailed surveying information, the flood elevations have changed and it is actually lower. It is more into detail than the existing map by including lines in the big areas.

Council Chair Kaneshiro: Okay. Councilmember Brun.

Councilmember Brun: Does the Waimea levee have anything to do with the flooding at Big Save and in Waimea Valley.

Mr. Tabata: I believe that will be discussed at next week's Council Meeting. We will be prepared to answer then.

Councilmember Brun: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Do they use actual flooding to make their determination on the map changes.

Mr. Iwamoto: Yes.

Councilmember Kagawa: I have been alive for fifty-three (53) years. I do not know how many floods there have been in Waimea and Hanapēpē. If we said there was a big flood once a year, our record is 50-0, fifty (50) wins and no losses, the levee won. Do they use those statistics to say, "Maybe we should not impose taxes, the levees are working. We may recommend to raise it, but we will not give them the penalty." They did not lose yet, they are undefeated. Do these people in Oakland use actual numbers and results to come up with their changes? That is the part the residents...like I say, "Taxation without representation." Bingo, 50-0, and they will get a big bill every year. For me, it is troublesome. This is why I want you, Stanford, I know that you have a lot of knowledge, I need you to be the fighter for us on this issue. We are 50-0, we did not lose yet. We are 100-0 because there is two (2) levees, the both sides won. I know there is a big flood that happens every year. My father and I used to be happy when there was a flood, because we knew we would catch *o'opu*. Filipinos called it (Inaudible). Do you remember that? We used to look forward to the floods. We did not say, "Man, it is flooding." We used to be happy because we would be able to catch a lot of fish.

Mr. Iwamoto: If I am able to answer that. The maps is part of the flood insurance study. There is a booklet that comes out that describes exactly what they do and how they determine flood or discharged quantities. For the island of Kaua'i, they do a regression analysis based on stream gauge data. The data for Waimea and Hanapēpē dates back fifty (50) to sixty (60) years. In the report, I have read it and I have tried to make sense of the data on both sides of the hydrology and

the hydraulics. It is something that I have looked at and I am not only passing this along to you folks. It talks about Hanapēpē, Waimea, and it talks about the peak floods. Whether or not this is correct or it is their own data, they say that the largest flood in the last sixty (60) years was in 1955 or 1963 and it was a fifty-five (55) year flood over that period. They do not believe there was a one hundred (100) year flood during that period. In 1949, there was a flood in Waimea that was upwards of a two hundred (200) year flood. That is the data that they put out. It may be different anecdotally from what the local people see and really believe; however, that is what is in their report.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: Any other questions from the members?

Mr. Tabata: Council Chair if I may, this has been a really good conversation. As it has been said many times, to the millions of people out there watching, please take note and be aware that through the Flood Insurance Program, if you get the insurance now you will fall under the present program, and you will be offered a discounted rate moving forward. This will be available for the next six (6) years or so while we work to get the levee to meet the standard, so we can maintain the Flood Insurance Program for these three (3) areas. My only ask and I would appreciate if we are able to get the word out to the community.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Lyle, did we get any appeals since you have opened?

Mr. Iwamoto: No.

Councilmember Chock: Will you get all the appeals in February and submit them all at once or will you do them as they come in?

Mr. Iwamoto: We have not decided yet and it all depends on what kind of appeals that come in. It would be better if we submitted it all at once.

Councilmember Chock: Okay.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Forgive me. I thought it was the County that should be appealing and not miscellaneous people. The County is who is stuck with this responsibility, it would be us to appeal, right?

Mr. Iwamoto: FEMA requires the County to do the appeal. Private landowners or owners can provide us with appeals on their own that we will be combine and compile.

(Councilmember Chock was noted as not present.)

Councilmember Cowden: So a person that lives in an R-6 dwelling is expected to levee this appeal. On the lower side of the river where it is likely to get water, that is where you have a big landowner. It is not that they are rich, but the big landowner is across the river and not on the side of the river that is going to have to pay for the insurance. These are people who struggle to work every day. When I am hearing that we are expecting the fifteen (15) families that are on 'Ape Road, the ones that I have been talking to...is it them who need to put in the appeal?

Mr. Iwamoto: Yes.

Council Chair Kaneshiro: Councilmember Brun.

Councilmember Brun: Did we individually reach out to every single family? Did we go house-to-house to let them know what they need to do and if they want to do an appeal?

Mr. Iwamoto: We did not talk to the families individually to fill out the appeal. We held community meetings to talk to them about the process.

Councilmember Brun: I believe by going house-to-house would be more beneficial than holding a community meeting. A lot of people do not attend community meetings. As the County, are we able to go house-to-house to represent the people of Kaua'i?

Mr. Tabata: We will take that under advisement.

Councilmember Brun: Thank you.

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

Councilmember Cowden: I want to say that I have been trying to go neighborhood-to-neighborhood. I know that you are not meaning "me," but I have been trying to go.

(Councilmember Chock was noted as present.)

Councilmember Brun: Do you know the entire process of what is going on and are you relaying correct information?

Councilmember Cowden: No, that is why I have been asking. Thank you.

Councilmember Brun: Thank you.

Council Chair Kaneshiro: Is there anything else? Thank you. While the rules are still suspended, is there anyone in the audience wishing to testify on this item? Mr. Hart.

BRUCE HART: For the record, Bruce Hart. I want to address Councilmember Kagawa's frustration. I am very concerned. It is not only this issue that when you stick your hand out to the Federal government there are strings attached. From my perspective and my opinion, our government is not supposed to work this way. The real issue is that there is more and more control over the States and Counties because of issues like this. The Federal government is becoming a monster and it has so much control over these ominous burdens that are put on all of us. The individual families do not even know as much as we know. They are overwhelmed. I felt the frustration myself on other issues. Where am I going to go and get ten thousand dollars (\$10,000), I have to learn this entirely new paradigm and how it operates. People have other things to do and they just want to live their lives. It comes down to the need to be less dependent upon the State and the Federal government. We need to take care of ourselves. The Constitutional Republic is a beautiful thing. It was supposed to be that people at the County-level have the ability to decide. If it became an issue that involved the entire State, then the State had to step in. If it involved the entire Nation...they place these regulations on us and they are supposed to cover the entire Nation. They do not fit with what we need.

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

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

Council Chair Kaneshiro: Seeing none. Any final discussion from the members? Councilmember Kagawa.

Councilmember Kagawa: I would like to thank the Deputy County Engineer and Stanford for their presentation. I know that it is not an easy issue because the NFIP is in serious debt. As you know, there is bad weather going on across the nation. Right now, they are in a really bad financial position. I believe and in my theory that this is why we are seeing these types of changes. In my opinion,

they will try to expand their flood insurance to hit the properties that are in low risk to cover the debt that they have. This is happening because we have unusual weather. The flood insurance is important for the people who are going to take out a mortgage or an equity line. If it was in the old days where you own your own, you do not need the flood insurance, you are able to take a risk. With the cost of living on Kaua'i, there is no local family that owns their home outright without any mortgage or equity. This is because everyone needs to help their children and grandchildren. Who is able to afford to buy a home these days? You need to be a doctor or a fireman, right? It is tough, we have an obligation to ensure that these people from Oakland will not have free reign to say what they want. If that was the case and we are going to be the messenger to Oakland for them to make all of these changes, then why do you even have an agency to handle this? You should let Oakland tell us what is happening and let our people fight with Oakland. The people of Kaua'i, the taxpayers, Councilmembers...the taxpayers expect us to avoid taxation without representation. To avoid government imposing new fees without explaining to them clearly and showing them with evidence why this increase is coming. I have been in this Council seat for seven (7) years, the sad part for me is that I am becoming more and more disenchanted with the Federal government and the way that they spend our hard earned tax money. Income tax, social security tax, and all everything that we are taxed on...what do we get? We have people from Oakland telling Kaua'i this is what you need to do or else. The taxes do not go away. They are now saying that when you reach sixty-five (65) years old, you may not have social security. Do you know how much money is coming out of our paycheck for all of these years? It is depressing. We need to worry about the person in North Korea. I hope that the Federal government feels as frustrated as I do because that is the only way something will change. If you are not frustrated...you can be as former Mayor Bernard P. Carvalho Jr. said to *mālama* and for everyone to be happy. If you are like that and everyone is like that nothing is going to change, because you are not fighting for something to change. You are accepting the way things are, hug and kiss, and everything will be alright. That is not true. You need to fight. When something is not right, you need to fight or I am only wasting space here. It is nothing personal against Stanford and Lyle, I love them, and they are good people. They are not bad, they are wonderful and intelligent, engineers, professionals. At some point, I assume it gets frustrating for them, too. What am I fighting for? I continue to fight and lose because people in Oakland is going to override me. All I am saying is that something needs to change. I will be here to fight until the last day I am in this seat, I am going to fight for the people of Kaua'i, and I will fight for change. Thank you.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: As Councilmember Kagawa said it is an incredibly frustrating situation all around. I partially feel it is this wicked problem with no answers that are good. From the NFIP perspective, Councilmember Cowden referred to as "extortion." If the program did not exist, then people would not be able

to get private insurance in flood prone areas and they would not be able to get a mortgage. I feel there is a national problem with increasing storm events and increasing flooding, how do we continue to have this program to ensure people with already built houses in these areas is able to obtain a mortgage and private insurance without bankrupting the country. I do not feel there is any good answer here. From the County's perspective, the one avenue that we have to control and move as quickly as we are able is to hopefully find Federal money to raise that levee. I appreciate that work and effort that is going on in that direction. It is obvious that we are all here to support this. Whether it is writing letters to Senator Schatz and what we need to do to support those types of efforts. What Councilmember Kagawa said with the fact of this impacting people with a mortgage? If you own your home outright it is not impacting you. I feel it is a super important part of this equation because it is driving inequality. The people who are burdened most from this are the people who are not able to afford their home outright. It is a chronic problem that will continue to get worse as our coastal areas are inundated.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I want to thank both our engineers from Public Works who came in and worked on this. I want to acknowledge at the minimum, that there is approximately ten (10) big fires burning at the County. All of you are working on many different things. We have about two (2) months left. I had a discussion again with the person whom I talked to about the flood hazard mitigation plans. I would hope to have that at least looked at. If you are able to have a third party person look at this. When I use the word "extortion" I am using it because when we are being asked to do something that is going to be very expensive for a problem that...we are having a problem, but that is not going to solve it in Waimea. We have this window of time. We had close to a year and not we have about two (2) months. If we are able to get third party input, I hoped for that person to have been here today, but she had car trouble. I was told that her car alignment was blown out on the road. If we are able to parallel and look for financing and solutions that keep us from being in that position of spending a lot of money to save people insurance money for a short period of time. Along the lines of what Mr. Hart said, there is a national issue of where they are spending money left, right, and center for fires, floods, and different problems. They are looking across the board to raise the income that they are getting. It is not being carefully looked at. I am on Councilmember Kagawa's page that we should not put our people on a difficult space. If what I am hearing at these meetings is correct, these conferences that I thank the taxpayers for sending us to, there is a national intention to move people out of the rural areas. They plan on stopping the building of roads, picking up garbage, and to stopping all of the services that we have in the rural areas and to bring people in closer. In ten (10) to fifteen (15) years from now we may not have an opportunity for that insurance, it is a moving target. Thank you.

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

Councilmember Kuali'i: I would like to add my voice and support for the funding options that you folks are working on. Let us know if there is anything that we can do to help. I think that is the piece that we need to work on and I believe you said it needs to be done in three (3) to five (5) years, the sooner the better.

Council Chair Kaneshiro: Is there anyone else? For me, it is a difficult situation. I think that the FEMA insurance program is a good thing being that it helps homeowners that necessarily would have not been able to get insurance. On the other hand, when they changed the maps and it starts to affect more people it is difficult for us to swallow. As far as what the County has to do, there are so many aspects that are rolling around. Not only do you have an expanding map of where people are being affected, but you also have an onerous on the County to do something with the levees. It is a big issue. I appreciate the Administration looking at all of the different things that we need to do. Unfortunately, anytime we or our residents need to spend money it is a hard pill to swallow. It is a good thing that we are looking at all of our options and we are looking to come up with a solution on the levees. The more money we are able to leverage from the State or the Federal government, it helps us to be able to spend County money on other issues on the island. I highly encourage us to get as much money as we can from the State or the Federal government. Ultimately, it comes down to something that we have to do. We may not like it, but that is what we need to do perpetuate and allowing all the homeowners in that area to not have to pay this homeowner insurance through FEMA. We are getting nailed with that flood insurance. Is there anyone else?

The motion to receive C 2019-256 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2019-257 Communication (11/22/2019) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Taxes: Councilmember Kuali'i moved to receive C 2019-257 for the record, seconded by Councilmember Chock.

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

Ms. Fountain-Tanigawa: We have two (2) members of the public that are registered to speak on the Bill. Chair, the Bill is on page 4.

Council Chair Kaneshiro: The members of the public can either testify now or if they want to wait for the Bill. We have a few more items to get through until the Bill. I do not know what their time constraints are. Is there anyone else 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 receive the communication.

The motion to receive C 2019-257 for the record was then put, and unanimously carried.

C 2019-258 Communication (11/26/2019) from Joey Manahan, Hawai'i State Association of Counties (HSAC) President, transmitting for the Kaua'i County Council's consideration, the following proposals to be included in the 2020 HSAC Legislative Package, which were approved by the HSAC Executive Committee on November 25, 2019:

- A Bill For An Act Relating To Housing Development (*County of Hawai'i*)
- A Bill For An Act Relating To Transient Accommodations Tax (*County of Hawai'i*)
- A Bill For An Act Relating To Tobacco Products (*City & County of Honolulu*)
- A Bill For An Act Relating To Registration of Vehicles (Outstanding Charges) (*County of Kaua'i*)
- A Bill For An Act Relating To Registration of Vehicles (U-Drive Additional Fee) (*County of Kaua'i*)
- A Bill For An Act Relating To Tort Liability (*County of Kaua'i*)
- A Bill For An Act Relating To The Use Of Intoxicants While Operating A Vehicle (*County of Maui*)
- A Bill For An Act Relating To Cesspools (Tax Credits) (*County of Maui*)

Councilmember Kagawa moved to receive C 2019-258 for the record, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify on this 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: In order to be efficient, we will have our discussion on the item now. When the Resolution comes up, if there is anything that we discussed here that we are going to take out or not okay with, that will give our staff time to make changes to the Resolution. When it is time to take the vote, we are able to vote on the Resolution. If we wait to have the discussion, we will need to take a break if there are any changes. Are you folks okay with that? With that, are there any questions or comments on our HSAC Package? Councilmember Kagawa.

Councilmember Kagawa: First of all, do we need to change our motion?

Council Chair Kaneshiro: The motion is to receive and we will have our discussion now.

Councilmember Kagawa: Do we need to withdraw? Thank you members. We had our phone conference where we are fighting a deadline to get our package to our lobbyist before the session begins. In the past, our package has typically been submitted late. For the past seven (7) years that I have been on, HSAC has been highly unsuccessful at the Legislature. It was mainly to do with our package items that were related to money. As you know the State Legislature has not given us more money. In the past year, they have actually taken away more money from the Counties. We had a package that has gone against all odds; one plus one equals two, right? I believe that the package we have now is different than in the past. We have a package that is not so much attached to money. As a County, we feel that the items that is in the package are important. We need the Legislatures help to get our items on. For our Kaua'i package, the two (2) items that we have relate to derelict vehicles. Thank you to Councilmember Chock and Councilmember Evslin who did the legwork with the Kaua'i Police Department (KPD). We have those items and they made the cut. The other item came from our Mayor regarding the Tort Liability for our Kaua'i Lifeguards, and to give them immunity when they are serving the public while saving lives on State beaches. That item always died. However, our lobbyist now feels that we have a really good chance. He said that one of the missing pieces is to actually get some of the lifeguards to attend the Legislature during critical moments so they are able to explain how important it is for them to have that liability that was there six (6) years ago and was taken away. We would like to return back to the way it was six (6) years ago in regards to liability for our lifeguards. Our three (3) items made the cut. For each County, our package was limited to three (3) items. For us, it was perfect being that we had three (3). We had three (3) items that was important and made the cut. Maui had nine (9) items. They were not too happy when theirs got cut down to three (3). I think that it worked out well. As you know,

HSAC is teamwork in itself. You need unanimous support on items. I believe the only way that we are able to make the deadline and in play on Kaua'i's part is for us to adopt the package in its entirety. If we only adopt a portion and other Counties adopt all of it, we will mess things up. My advice for our members is that we got what we wanted, we need to be team players and adopt the package as a whole. If I am able to gain your support with that, it will be most efficient. Any questions?

Council Chair Kaneshiro: Councilmember Chock, and then Councilmember Evslin.

Councilmember Chock: Thank you, Councilmember Kagawa. The only item I had a question on...I read the bill and I think I understand is that we are lowering the threshold for the alcohol for the Maui Bill. We are going from point zero eight (0.08) to point zero five (0.05).

Councilmember Kagawa: I believe the Legislature was already moving in that direction. The law enforcement will have the ultimate say with that. It was an issue with the Maui Package that the Legislature was going to address. I think that the public will determine whether that wins or dies.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Evslin, and then Councilmember Cowden.

Councilmember Evslin: I want to thank Councilmember Kagawa. I obviously support the whole package. I think it is a credit to his representation that we got three (3) items on there and the only County that has three (3) items going forward.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I also support this. I want to comment on the Bill For An Act Relating To Tobacco Products. We have a Resolution by request that I will be introducing that is in alignment with the Bill that gives a home rule to the County's. Although this is a City & County of Honolulu's request, there will be a Resolution to support this. I believe it will be on the agenda for December 18th.

Council Chair Kaneshiro: Are there any other questions or comments from the members? I may not be the most comfortable with all of the bills, however, I understand that this is the package that we are submitting and I am okay with submitting the entire package as-is. I will be voting for this. Any other questions or comments?

The motion to receive C 2019-258 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

Ms. Fountain-Tanigawa: Chair, on page 3.

LEGAL DOCUMENTS:

C 2019-259 Communication (11/15/2019) from the Deputy County Engineer, recommending Council approval of the Property Adjustment Agreement for the Lydgate–Kapa‘a Bike/Pedestrian Path Phases C&D (STP-0700(064)):

- Property Adjustment Agreement by and between the County of Kaua‘i and Village Manor Inc., 4461 Kamo‘a Road, Kapa‘a, Parcel Tax Map Key (4) 4-3-007:013

Councilmember Kualifi moved to approve C 2019-259, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions from the members on this item? No. 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. Any final discussion from the members?

The motion to approve C 2019-259 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item.

C 2019-260 Communication (11/18/2019) from the Deputy County Engineer, recommending Council approval of the following Property Adjustment Agreements for the Lihu‘e Town Core Mobility and Revitalization Project – TGR-0700(073):

- Property Adjustment Agreement by and between the County of Kaua‘i and Trustee of The Association of Apartment Owners of Lihu‘e Townhouse, 4156 Rice Street, Lihu‘e, Tax Map Key (TMK) No. (4) 3-6-003:023; and

- Property Adjustment Agreement by and between the County of Kaua'i and Commercial Properties Limited, 4281 Rice Street, Līhu'e, Parcel TMK No. (4) 3-6 009:031

Councilmember Kuali'i moved to approve C 2019-260, seconded by Councilmember Brun.

Council Chair Kaneshiro: Do we have any questions on this from the members? Councilmember Kagawa has a question.

There being no objections, the rules were suspended.

Mr. Tabata: Good morning, Chair and Councilmembers, Lyle Tabata, Deputy County Engineer.

Councilmember Kagawa: Lyle, are the property owners okay with this?

Mr. Tabata: Yes, this is the last step and everyone signed off.

Councilmember Kagawa: Is this in order to complete the Transportation Investment Generating Economic Recovery (TIGER) Grant?

Mr. Tabata: This is for some of the adjoining sidewalks and for it to match up.

Councilmember Kagawa: There is no issues with any owners and we have not proceeded with work on property that was not ours?

Mr. Tabata: No.

Councilmember Kagawa: Okay, I wanted to be sure. Thank you.

Mr. Tabata: It was a Legal Document.

Council Chair Kaneshiro: Any further questions from the members? If not, thank you. While the rules are still suspended, 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: Any final discussion from the members?
Councilmember Kagawa.

Councilmember Kagawa: Yes, I see us trying to scramble to finish the project before the parade. I am just saying that it will not happen, they are not going to finish before the parade. I want to note my opposition to the TIGER Grant. I think we could have spent that money wisely somewhere else. Anyways, it is what it is and it came from the Carvalho Administration. Thank you.

Council Chair Kaneshiro: Anyone else?

The motion to approve C 2019-260 was then put, and unanimously carried.

Council Chair Kaneshiro: Motion carried. Next item are claims.

(Councilmember Evslin was noted as not present.)

CLAIMS:

C 2019-261 Communication (11/15/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Fire and Casualty Company, as subrogee for Warren G. Racca, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2019-262 Communication (11/20/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by GEICO Insurance, as subrogee for Justin Odell, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2019-263 Communication (11/21/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Christina Menor, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kagawa moved to refer C 2019-261, C 2019-262, and C 2019-263, to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Kualii.

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. Any discussion from the members?

The motion to refer C 2019-261, C 2019-262, and C 2019-263 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Euslin was noted as silent (not present), but shall be recorded as an affirmative for the motion.*)

Council Chair Kaneshiro: Motion carried. The next item on the agenda is Resolutions which we will take after our caption break.

(Councilmember Euslin was noted as present.)

There being no objections, the meeting recessed at 10:26 a.m.

The meeting reconvened at 10:38 a.m., and proceeded as follows:

(Councilmember Brun was noted as not present.)

Ms. Fountain-Tanigawa: Chair, on page 4.

RESOLUTIONS:

Resolution No. 2019-53 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO QUALIFICATIONS FOR THE CHIEF OF POLICE: Councilmember Kuali'i moved for adoption of Resolution No. 2019-53, seconded by Councilmember Chock.

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

Council Chair Kaneshiro: For this Resolution, it will take five (5) votes to pass being that it needs to go on the Charter. I believe we have a housekeeping amendment. Councilmember Cowden.

Councilmember Cowden: What had been added in Section 11.04 when it says, "The Chief of Police shall have had a minimum of fifteen (15) years of training experience" then it is emphasized "as a peace officer in full-service, public sector, law enforcement agency." That wording was added meaning we need someone that not only has fifteen (15) years of experience in law enforcement, but actually as a Police Officer rather than someone who is in dispatch et cetera.

Council Chair Kaneshiro: I am sorry, we will make the motion to move to amend as circulated. Councilmember Cowden, you are able to make that motion.

Councilmember Cowden moved to amend Resolution No. 2019-53 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Councilmember Cowden, go ahead.

Councilmember Cowden: That is the core piece. Overall, this came out of the Police Commission meeting where there was a very robust discussion. It was freshly away from the experience of hiring a new Chief of Police. They have done a really good job and this is a fresh experience of what is to do with the job. I support it. We had the public testimony last week. I want to emphasize the fifteen (15) years of training. They went deep into discussion the positions that were required to gain a certain level of responsibility.

Council Chair Kaneshiro: I have a question on the term "peace officer." Does that need to be in there or can it say "as a full-service, public sector, law enforcement agency?" The "peace officer" part is...

Councilmember Cowden: We have two (2) members of the Commission here. Am I able to bring the up the Chair for the Police Commission?

There being no objections, the rules were suspended.

MARY K. HERTOOG, Kaua'i Police Commission, Chair: Good morning, thank you. For the record, Mary K. Hertog, Kaua'i Police Commission, Chair. As to your question, we strongly felt it should be a peace officer in a full-service public agency. As we found out during the interview process and with the one hundred thirty-three (133) resumes, we had a lot of people that were law enforcement professionals, but they were not peace officers from a full-service public agency. In other words, they could have been from Customs, DLNR, or The University Security Departments. Peace Officer is the common terminology for a sworn Police Officer who has come through a Police Department that gives you the full spectrum of services such as patrol, investigation, or dispatch running a jail or detention facility.

Council Chair Kaneshiro: Any other questions on Peace Officer or on the amendment? Councilmember Evslin.

Councilmember Evslin: Would the Federal Bureau of Investigation (FBI) be considered a Peace Officer?

Ms. Hertog: Not in the aspect that we are doing. They are very specialized. You may have an FBI agent that only handles fraud cases, criminal cases, or drug cases. We are looking for someone that is a Peace Officer that is sworn

to uphold...it could be Federal, County or State Law. If you are hung up on the term "Peace Officer," it is a very common term that we use for our Police Officers.

Councilmember Evslin: Thank you.

Ms. Hertog: If I am able to make a comment. I heard Councilmember Kagawa say that the "Council should be fighting for the people of Kaua'i." I absolutely agree one hundred percent (100%). We need to fight for change. We are fighting for change for this Charter by putting forward this Resolution and this addendum to the Resolution. We feel that the people of Kaua'i deserve the absolute best people to be qualified in becoming their Chief of Police. Many of our members will term out off of the Commission in a few years, the ones with law enforcement experience. We are trying to set the stage for future commissioners that may not have the law enforcement experience, but to be able to increase the minimum requirements to look at when you hire someone to be our Chief of Police. The people of Kaua'i absolutely deserve to have the best department heads.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Can you do comparison and contrast to the fifteen (15) years of service versus the five (5) years of service versus no years of service.

Ms. Hertog: Sure. It takes years for patrolmen to become an expert as a patrolman. From there, they are able to move up to become a sergeant, lieutenant, and then to a captain. As the come up, they may come off of the road and made aware of what else there is to handle from budget to supervising. Let me give you an analogy. You do not want to have a teacher in the classroom for five (5) years and all of sudden say they want to become the principal. It takes that long to develop someone up to become a leader of a department. We are not asking someone to come in with five (5) years of experience. Right now, as the Charter is written, that is all it takes to qualify to be an applicant to be the Chief of Police. It takes seasoning, experience, and we wanted a minimum education of a four (4) year degree, which is nowadays the norm, it is not an anomaly for all sizes of police departments.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I do not know if you were going to do your testimony.

Ms. Hertog: You have heard it before, but I am able to do it again. I did not know if you wanted to go through that it again.

Councilmember Evslin: I am sorry, I did not want to jump in before your testimony. I will say that I am concerned about the fifteen (15) year requirement. As you said the most junior applicant on the last round of interviews had eighteen (18) years. I do not believe it is an issue right now, but I feel that it creates the potential for an issue. If we get a fantastic candidate who has twelve (12) years of experience...if we are limiting it to only Peace Officers, because in theory, we can get someone who served for twenty (20) years as the head of DLNR, they could serve five (5) years at another County as an officer, since every other County only has five (5) years as an officer, they could then become the Chief of Police for nine (9) years. Five (5) years as an officer and twenty (20) years in DLNR, and they would not qualify. I am not saying that will happen. What I am saying is that you can get qualified candidates who do not quite have the requirements. To lock ourselves in there could be worrisome. I really appreciate all of the testimony that you gave and you gave some examples of other places. The examples that you gave were all ten (10) years preferred. None of them actually required more "than the ten (10) years." As I understand when the Police Commission is making an advertisement, they could advertise for fifteen (15) years preferred or in the advertisement, they could put fifteen (15) years required.

Ms. Hertog: Sure. You could put ten (10) to fifteen (15) years, you could put a range. There is room for negotiation if you want to say that. Our concern is five (5) years, as currently written in the Charter, which means that anyone in the department who has five (5) years working in any position can apply to be the Chief. That would not be a person the Board would consider legitimately as the Chief.

Councilmember Evslin: Since the Board would not even consider that legitimately if they only served the five (5) years and did nothing else. If you have all the other experience compounded and they are a great candidate, I do not think we necessarily want to lock ourselves into the fifteen (15) years especially as is it with the five (5) year requirement in the Charter, the Commission can put an advertisement out saying fifteen (15) years preferred or even fifteen (15) years required and that can be their own internal qualification. In case we get someone else with less experience, we will still have the ability to choose them.

Ms. Hertog: We were looking for someone that had a broad range of experience in a lot of areas and not such a specialized range of experience. When you get into some of these other law enforcement agencies, of which there are thousands, you are just specialized in one area. That was our concern. We wanted someone to come up in a police department.

Councilmember Evslin: Is there a concern or do you have a concern... all the other Counties have five (5) years of law enforcement experience. Given that

we pay less than other Counties, we have a higher cost of living here, and we have triple the experience, are you concerned at all?

Ms. Hertog: To be honest with you, I do not have any concerns based on the number of people that applied for the job recently. I think that we will get very qualified applicants. We got very qualified applicants, but from very specialized departments, too. The bottom line is that when you get a new Chief of Police, they do not have time to learn how to become broader in terms of their management or experience. We expect them to be ready to go from Day 1 and after they are sworn in. If they have to get up to speed with what Kaua'i is like and what the State Laws are for Hawai'i, that will really put them in a disadvantage if they have to take the time to learn how to become a Chief of Police if they only had a specialized area that they were an expert in.

Councilmember Evslin: It makes sense why you would have the internal qualification within the Commission and advertise with it. My only concern is to locking us into that. My only concern is that we have a great candidate with less, I would want the flexibility to be able to accept that great candidate. The current listed five (5) years has not been a problem. We have hired someone with five (5) years of experience.

Ms. Hertog: The way I look at it is that the Charter was written many years ago. It is time to update it especially in today's day of policing and the requirements that a Chief of Police has to have before becoming a Chief. What they are going to have to handle is a Chief of Police, five (5) years does not cut it. That person does not know anything about the State of Hawai'i Organization of Police Officers (SHOPO), other than being a member of SHOPO, and not have to negotiate with them. They have to have the expertise of critical thinking, public speaking, to be able to engage with Councilmembers, the Mayor, and the public.

Councilmember Evslin: Thank you.

Ms. Hertog: Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Thank you for being here. In the recent recruitment when we last hired the Chief, how many of the top candidates would have met the fifteen (15) year requirement?

Ms. Hertog: All of them. The one that had the least amount was eighteen (18) years.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: If theoretically we had to replace the Chief in three (3) years, is there many amongst the existing pool and team within the Police Department that would be able to meet the requirements that are there?

Ms. Hertog: Right now, I can think of at least four (4) by name that have the time and the four (4) year degree.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Any other questions? Councilmember Evslin.

Councilmember Evslin: If hypothetically this was amended to only have five (5) years of experience including the bachelor's degree in justice and public administration or similar administrative field, would you support that or was the fifteen (15) years more important?

Ms. Hertog: The four (4) year degree was more important. As Chair, I would not support anything in terms of five (5) years. Keep in mind I go out as Chair next month and there will be a new Chair, however, I will still be on the Commission. We felt that both a degree and experience was critical.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: For me, I was held up on the Peace Officer, I have never heard that term before.

Ms. Hertog: It is a very common term.

Council Chair Kaneshiro: If it is going to kick out people we feel is going to be qualified...out of the candidates that we have, would "Peace Officer" affect any of the top candidates?

Ms. Hertog: No. Peace Officer is a very common term and that is how Police are referred to, Sworn Peace Officers.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Thank you. Mary, the Council's track record of putting Charter Amendments on and getting passed voters on the past few ballots, our track record is not that good.

Ms. Hertog: You can change it with this one.

Councilmember Kagawa: I am saying that there is another way to get it on the Charter by going through the Charter Commission. I think that the Charter Commission has a really good track record of passing items. For Council, I got five (5) votes to remove term-limits, and it died. It would be better to put it on through the Charter Commission. They have a more successful track record. Why are you picking this route to make the changes that you want? You do not have to ask us whether it is five (5) or fifteen (15). You are able to tell the Charter Commission that you want fifteen (15). For me, you could have kept us out of the loop, not have to answer whether it is five (5) or fifteen (15), why did you not go that route?

Ms. Hertog: For those reasons, we started with the Charter Commission. Although I did not know your track record in terms of a Council to get things on a ballot to be passed.

Councilmember Kagawa: We got it on the ballot. The Council's wisdom is not necessarily guaranteed when it reaches the ballot. The Charter Commission has a better record.

Ms. Hertog: Should it not get on the ballot this route, we will go that route. Councilmember Cowden came to us and said, "I would like to take this forward to the Council." You folks are televised, which gives an opportunity for the people that watch this understand what we are trying to do where the Charter Commission is not and neither is the Police Commission.

Councilmember Kagawa: Good point.

Ms. Hertog: We hope to socialize this to the people of Kaua'i why they deserve to have a Chief of Police with the highest qualifications. I am hoping that it has taken hold, it gets on the ballot, and our people of Kaua'i will see the wisdom behind this as the Commission has.

Councilmember Kagawa: Yes, great point. Now I get it. The Charter Commission is not televised and this way is a way for more people to see this. You folks made a great choice with Chief Raybuck and I do not see any problem.

Ms. Hertog: Thank you, we think so.

Councilmember Kagawa: For me, the five (5) or fifteen (15)...if we have a position where we have a lot of good people, a lot of people do not want to be the head person.

Ms. Hertog: That is true. Quite frankly, they do not make as much as some of the members in their own department.

Councilmember Kagawa: True. It is not only about money. The things that happened with former Chief Kealoha, you would understand how a local person is a little hesitant to be the head person...not so good things roll downhill. I support it. For me, our track record for getting things passed is not so great. I did not understand the political move for going this route, but now I understand. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to speak for a moment. I did ask for it and I immediately placed it on our agenda. If it does not pass here, they would be able to work with the Charter Commission. All seven (7) of us are voted in. I do not think that most people do not realize that there is a Charter Review Commission let alone who is on it. We are rather diverse and we can field this. I appreciate the issues that Councilmember Evslin brought up. Being that I have been in the Police Commission meetings, I am able to hear how robust the conversations are, and have been following it through, I feel confident that they are making the right choice. By experiencing the difficulties we have been having in finding an auditor...by the way, we have the opposite problem. I realize how important it is. I wanted the public to know and I wanted the public to be a part of this. I thank you and the Charter Review Commission for your willingness to put this on camera, in the paper, and for everyone to be made aware.

Ms. Hertog: Thank you.

Council Chair Kaneshiro: Any other questions from the members regarding this amendment? We will be voting on the amendment only, the parts that are being taken off and the parts that are highlighted. If not thank you. Is there anyone in the audience wishing to testify on the amendment?

Mr. Hart: For the record, Bruce Hart. I have no problem with the fifteen (15) years. I want to thank you Councilmember Cowden for putting this forward. I also agree with Councilmember Cowden that this is the proper place. The Council Meetings are televised and I want the people to know what is going on. I have had discussions with Councilmember Cowden and I am in agreement. It takes more of the Council's time, but I believe it is a service to the public. I am in agreement with Ms. Hertog that if you see it from a policeman's perspective, I have never been, I have spent a lot of time with those brothers, and I think I know the job. You have to work your way up. When you get to the Chief of Police position, you are not doing the same job that the men down in the field are doing out in the community. However, you have done it, you have worked your way up, and you have that perspective. Whether you are the Chief of Police or a regular Patrol Officer, in order for them to serve the people, they have to have the experience. When you get up to the level of being Chief of Police, you are doing administrative work. Chief Raybuck is attending meetings in the City & County of Honolulu and on the mainland. He has to do a lot

of administrative work, but he also has that connection from when he was a Patrol Officer and worked his way up through the ranks. When he had to take responsibility for not only himself in the field, but for the department. It is a big responsibility. I want the Chief to be someone who is comfortable, someone who does not get overwhelmed with what they have to do, is able to be cool headed, and is able to handle the different aspects. Thank you.

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

There being further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Seeing none. Any final discussion from the members? Councilmember Cowden.

Councilmember Cowden: I would like to say that I really liked when the term "Peace Officer" in there because that evokes the sense of "Serve and Protect" which is the whole culture that we would like to have amongst the Police Department. It is an emphasis on what the mission really is. I support this added wording in particular.

Council Chair Kaneshiro: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: It is very funky how the vote will come out. After the election there was a lot of people who said, "If you put the term limit back on, you will be able to run again." I said, "I did put it on, it lost." These people do not even know that it was on the ballot and a lot of them were my friends. They did not even know that the term limit was on the ballot and they are telling me to put it back on. Put it back on? I put it on twice and it lost both times. I put it on for former Councilmember Melvin Rapozo and myself. You never can tell the way the results come out. I know one thing. I like the direction of the Police Department. I see the officers looking happier. They are hustling out there, pulling cars over for speeding, pulling over cars that are in violation, and I see a lot more spark out there. Before the Chief came onboard there was a lot of negativity and people where down from the top to bottom. This Chief has brought in new energy and has been a big plus for the island. Thank you to the Police Commission for selecting the right person, at the right time, in a really bad time for the island. They picked the right person who picked us up. That is really important. I am going to put aside my rationale on what way they came. I am going to do the right thing and support the Commission, because I feel they did an excellent job in selecting Chief Raybuck. Thank you.

Council Chair Kaneshiro: Anyone else? If not, roll call vote on the amendment.

The motion to amend Resolution No. 2019-53 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.

Council Chair Kaneshiro: Back to the main Resolution, as amended.
Councilmember Evslin.

Councilmember Evslin: Matt, can I ask you a question? For my own clarification, if there is no change right now and the five (5) year requirement stays and the Police Commission wants to adopt their own internal fifteen (15) year requirement for future applicants, are they able to do that without changing the Charter?

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: That is correct. They could establish their own internal requirements and things that they want to include years of service and make that a requirement as part of the hiring process.

Councilmember Evslin: Thank you, that is all.

Mr. Bracken: Thank you.

Council Chair Kaneshiro: Any other questions on the Resolution as amended? If not, is there anyone in the audience wishing to testify on the Resolution as amended?

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

Council Chair Kaneshiro: Seeing none. Any final discussion from the members? Councilmember Evslin.

Councilmember Evslin: It is almost always that I will defer to the Commission. We are in a unique position here when we have the Police Commission, Chief of Police, and our Charter Review Commission all supporting this Resolution. There is no one that is not supporting this, maybe except for me. The only reason that I am concerned and maybe it is because I am the baby in the room here with

limited experience. When we lock ourselves into the fifteen (15) years, there is probably a ninety-five percent (95%) chance moving forward that it will not be an issue. By chance we get an excellent candidate, we could have an Assistance Chief of Police with ten (10) years of experience who applies to be the Chief of Police and he will be under the minimum requirement and not able to qualify. In another situation you are able to have someone who is a Chief of Police on another island for nine (9) years and they will not be able to qualify. That is not likely to happen, but I believe that in the event it does happen, we do not necessarily want to lock ourselves into this especially when the Commission is able to setup their own internal qualifications and perhaps adjust it in the future. I support all of this except for the fifteen (15) year experience. I also respect and appreciate Councilmember Cowden. This is something that she feels passionate about and did the work to bring this forward to us. I also respect that process. I recognized that this will pass without my vote. Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. I would like to thank the Commission for their work and diligence in putting this together. I will be in support of this moving forward. I do support Councilmember Cowden bringing it to the Council and in this route. It is clear that there is two (2) avenues for any Charter Amendment to come through. My only concern is understanding the role of the Charter Review Commission and how things should go moving forward. As Councilmember Kagawa said, sometimes it is not the right route for it to come through and that is for political reasons. It becomes very difficult to pass things through the Council. I think that this is less politicized and I do not mind it. I want to ensure that if we do not use the Charter Review Commission, we should be clear when and how we do use them. If not, what is the sense of having a Charter Review Commission there for us? It is a question that is lingering in my mind. At the very least, I hope that we are able to develop a communication process that is beneficial to vetting this in a productive and positive way to ensure that everyone is included, including the community. Thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: To reiterate, the Charter Review Commission's proposals in the past four (4) years have a record of 10-0. For me, my charter amendments that were placed on the ballot is 0-2. You are picking a longshot here and it is not a guarantee that it is going to pass being that I am supporting it. Thank you.

(Councilmember Brun was noted as present.)

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to speak on two (2) things. One, for the Charter Review Commission, the Charter is like our Constitution. There is no Constitution Review Commission for the State or Federal government. If there was five (5) to seven (7) appointed people to sit there and adjust and adapt that without any type of public awareness, that is problem when we are moving things like “and, if, some of the words editing”—the work that they do is really important. Some of it is nuance pieces, but it makes a very big difference. I would like to say something again to really support our existing Police Commission. I wish I could have played the last Police Commission meeting on the radio or that Hō’ike was in the room. The level of conversation, questions, and what the Chief of Police brought forward would make you Councilmember Kagawa a happy supporter. They have a matrix survey coming up. The exact things that you are talking about...is it top heavy or is there enough people on the bottom. Even if it may be painful, the Police Commission and the Chief of Police are looking deeply in how we are able to be more efficient. The lead officers who would be impacted were there sitting in the room. I counted approximately one (1) hour and fifteen (15) minutes of conversation looking deeply into creating a more efficient and better Police Department. This was not only for the people of the public, but for the morale and the ability to have people in the department. They are doing an excellent job. I have deep respect for what is underway. Being in the Citizens Police Academy, the police are no stranger to the fact that I have what I call police traumatic stress disorder. I am someone who really questions the Police Department, but I really learned how complex it is and how specialized it has become. I deeply appreciate how the key officers in leadership move from one department to the next in two (2) year increments. As Mary said, we are raising excellent leaders within the Police Department. I give my respect to the job that is being suggested. I have my full support on this Charter amendment.

Council Chair Kaneshiro: Councilmember Kualī’i.

Councilmember Kualī’i: I would like to say that I share Councilmember Evslin’s concern and position. I did hear the Chair of the Commission say that she could not support the five (5) years, but that she may have been to a range of ten (10) to fifteen (15) years. Perhaps ten (10) years, I do not know because I did not ask. I probably should have tried that amendment being that I did not hear anything other than five (5) from Councilmember Evslin. Ultimately, I think the work that the Police Commission has done on this, their intention is good, and that the real work will happen trying to convince the voters to pass this. Whether it came from the Council or from the Charter Review Commission, I believe this is something that will go before the voters. I am still a little tossed in my decision, but I most likely will support.

Council Chair Kaneshiro: I will be supporting this. I had the same concerns. If you take a step back, the only changes that were made was changing the experience from five (5) years to fifteen (15) years. That is not at a top capacity, that

is only fifteen (15) years in law enforcement. The managerial level experience is three (3) years, which has not changed. We changed the definition of what needs to be at the management level. Previously, it was Administrative capacity and we have now made it more specific to “performing management level duties at the rank of Lieutenant or higher.” I am comfortable with the changes. Even if this does not pass, I do not think that we are going to get a Chief of Police who only worked five (5) years. That is what the Police Commission is there for. The Police Commission is there to vet all the resumes and to pick the top person. All this will do is narrow down the amount of resumes that the Police Commission needs to go through. I am in favor of it. I feel that the fifteen (15) years experience is fine. For a Police Officer to actually get to the rank Lieutenant or higher, I am not certain in how long that takes. I am sure it is probably close to ten (10) to fifteen (15) years to be considered. I am comfortable with it as is. Again, this is a Resolution that will go on the ballot. It takes five (5) votes here. It needs to be voted on and passed by the public. There is a few more steps for this to actually happen. I understand the gist and importance of this as far as narrowing down the field of people and resumes that is received. Any final discussion from the members? If not, it will take five (5) votes. Roll call vote on the Resolution, as Amended.

The motion for adoption of Resolution No. 2019-53, as amended to Resolution No. 2019-53, Draft 1, was then put, and failed* by the following vote:

FOR ADOPTION:	Chock, Cowden, Kagawa, Kaneshiro	TOTAL – 4,
AGAINST ADOPTION:	Brun, Evslin, Kuali'i	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Charter Section 24.01A, Charter Amendment Resolutions must be passed by a vote of five (5) or more members of the Council.)*

Council Chair Kaneshiro: The motion failed. Next item.

Resolution No. 2019-68 – RESOLUTION URGING THE BOARD OF WATER SUPPLY TO REDUCE THE FACILITIES RESERVE CHARGE FOR MULTI-FAMILY UNITS, SMALLER HOMES, AND ADDITIONAL RENTAL UNITS CERTIFIED AS AFFORDABLE BY THE HOUSING AGENCY: Councilmember Chock moved for adoption of Resolution No. 2019-68, seconded by Councilmember Kuali'i.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. I want to provide a quick overview of this Resolution as proposed. As you know, over the past two (2) years we have been working diligently in ways to increase housing on this island.

Everything from multi-family housing, increasing guest houses and the use of guest houses with kitchens, Affordable Housing Rentals (ARUs), and tiny houses all have been before this Council. The missing element in the recent passing of the ARU Package really comes down to the infrastructure need in the form of water and the Facility Reserve Charge (FRC). The reason why we brought this forward to the Council is as most of you know, we would not have been able to do an Ordinance for this because the Department of Water is semiautonomous. As it relates to actual fees, this is under the direct purview of the Board of Water (BOW). We also know that BOW will be shortly reviewing their fee schedule and we think it is fine timing to make this request for them to consider how they are able to looking at subsidizing or decreasing the FRC fees. This does not only relate to ARUs, which is currently on the books, but some of these other areas we have been working on from the Council side. This is why we have this Resolution and my co-introducer Councilmember Evslin may have additional comments.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Most of the "whereas" are cited from the General Plan. The General Plan says that we should be reducing impact fees for smaller units in affordable housing in multi-family units. It is what we are trying to do with the ARU Bills. The three (3) requests at the end of the Resolution are simply to base the FRC on fixture count. Which would mean a large house on agricultural land with a lot of fixtures would get a higher FRC than a five hundred (500) square foot guest house. Right now they are getting the same FRC. It would also ask them to reduce it to certified ARUs as the County is doing with all of our fees, and then to adjust or reduce it for multi-family units. Right now, if you have a single-family home that you are trying to turn into three (3) units, you are going to pay a high FRC to do that even though the total occupancy of the house is not going to change. All we are asking is that when they do their FRC rate study that they take these things into account to make a fair FRC charge.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Mr. Chair, I would like to identify that we have asked the Housing Director and the Planning Director to be present in regards to their position on this. Thank you.

Council Chair Kaneshiro: Councilmember Cowden, do you have a question? If you have a question, we will take any questions on the Resolution.

Councilmember Cowden: Alright, I have a question for Adam Roversi.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: *Aloha,* Chair and
Councilmembers, Adam Roversi, Director of the County Housing Agency.

Councilmember Cowden: What is your position on this?

Mr. Roversi: The Housing Agency supports the Resolution as proposed. There is a few anecdotes that I would like to draw the Council's attention to that I think drives home why we support this Resolution. Our obligation is to produce both County housing and to work with private developers who are going to produce housing on their own without the county's involvement. We need to do what we are able to do to facilitate their ability to do that, help them through the permitting process, and make it as smooth as possible when serving the interest of Kaua'i. One of our jobs is that we are constantly assessing the viability of different pieces of property and doing due diligence on that property. One of the key elements of that due diligence process is to determine the cost of the major infrastructure items for the property which would be road, water, and sewer. Anecdotally, we are recently exploring properties that available to the Housing Agency that are available to develop. We target a certain property...this would be vague, because it is not something that is actually happening. We are looking at a piece of property to develop twenty (20) duplex units that would be two (2) studios that are attached. Each building unit would be eight hundred (800) square feet with two (2) units. Being that those were duplex units, they were assessed at nineteen thousand seven hundred sixty dollars (\$19,760) per eight hundred (800) square foot unit in FRC charges. Whereas Councilmember Evslin mentioned, the three thousand (3,000) or five thousand (5,000) square foot home would still be only paying the fourteen thousand (\$14,000) plus FRC charge. The Department of Water's current rules says that the assessed FRC fees should be in proportion to the demand that the unit is going to cause on water infrastructure. However, I believe the way they actually carry that enacted, does not really follow that. I think that it is common sense that an eight hundred (800) square foot duplex with two (2) bedrooms is not going to have a higher proportional burden on water infrastructure than a three thousand five hundred (3,500), five (5) bedroom house would. Yet, under the current system, it is assessed a higher FRC charge. We support encouraging the Department of Water to look at their current fee structures and consider the proposals in the Resolution. There are multiple examples that show how to deal with that proportionality issue.

Councilmember Cowden: I appreciate what you just shared. Can I have the Planning Director Ka'aina Hull join him?

Council Chair Kaneshiro: Sure.

Councilmember Cowden: Thank you Ka'aina, I appreciate you. You are an ex-officio member for the BOW. We had a rather robust session on Monday where we talked about the FRC and the portion that supports the water systems for guest

houses. I brought up this Resolution in front of the BOW who seemed unaware of the Resolution. Is that correct? I think that you were aware of it but I am not sure if anyone else was?

KA'ĀINA HULL, Planning Director: I do not want to characterize my fellow Board Members response to your testimony. I can tell you that each Board Member had been given the Resolution via the Department of Water via transmittal from Council Chair Kaneshiro, which is up for debate today.

Councilmember Cowden: Okay. I would like to speak inclusive for a moment about tiny homes. We have not passed that yet and it is not on here. Tiny homes is little bit of a different circumstance. I really appreciate what Adam said and I am in agreement with your comments. We need a rated assessment and we have so much happening right now with the Department of Water in a time of profound leadership change. Can you speak to my colleagues and give a little bit of assessment of what we learned in that meeting or how you see this as both Planning Director, BOW member, and the intent of the Resolution?

Mr. Hull: Councilmember, I will have to choose my words very carefully. It is not to be political, but I wear two (2) hats. One as the Planning Director that has been before this body in constant support of reducing fees on a proportional level for housing purposes. I also wear the BOW hat this Resolution is essentially aimed at. I want to be careful in how I phrase my statements here. The discussion that has been going on at the BOW for the past few months is part and parcel of which this is Resolution is concerned that some of many BOW members, members of the public, and Administration Department Heads have concerning the manner of which the FRC is being levied on housing units. The discussion that happened earlier that Adam was getting into is that treating all housing developments equally is essentially ensuring that the high end luxury developments are the only ones that are being built. Equally and evenly does not mean equitably. Having to look at things from an equitable standpoint as a five hundred (500) square foot unit, should not necessarily be levied the same impact fees as a ten thousand (10,000) square foot unit with multiple swimming pools that will have impacts on the system. Right now, they are being treated somewhat fair or evenly and that is creating this gap in the market where developers and contractors are saying, "I can only make it pencil out if I do the high-end home." If you are looking in the manner which we can reduce various impact fees including the FRC so that it is equitably and proportionally quartered out for the smaller units is something that the Planning Department and myself as the Planning Director have been astonished opponent of. That is as far as I am willing to go, because I realize that this Resolution is aimed at the BOW which I am a member. I am hesitant to say fully and officially that I support it. You can look at my testimony as a Planning Director. However, sitting here as a BOW member is hard to get in the middle of that.

Councilmember Cowden: I will ask one more question and let the rest of the group speak. In the last two (2) BOW meetings that I have been at, what I bothered to pencil down and when I added the numbers up, I have about sixty million dollars (\$60,000,000) worth of improvements that are planned. As we are talking about the need to do both the rate adjustment and the FRC adjustments, all of them are under consideration. It is unusual because the Council can typically look at things holistically. In this case when the Department of Water is able to raise their rates independently, then what the rest of us are looking at, I am trying to look at how there can be an affective connectivity in what our goals are. I do not know if you can speak to that and I will let others ask questions.

Mr. Hull: Yes. That is some concern that Board Members have had with the semiautonomous nature of which the way that the Department of Water functions. I definitely do think that there is merit. However, how the Administration of the Department of Water interfaces with this body is paramount in ensuring that type of analysis as a wholesome approach can be done. That is something that we will definitely be looking at as we look to find the next Department of Water Manager. I will also say one last thing. I am acutely aware that the Department of Water and the folks in the planning and resources side have heard the concerns about the FRC and are currently undergoing an update to FRC study. When you have impact fees, you have to demonstrate the proportional nexus via study. The consultant who conducts that study will be somewhat directed by the Department of Water. I know that they are looking at the prospect of trying to fold in a much more equitable approach, but the product has not been received yet.

Council Chair Kaneshiro: I have a follow-up on that. As far as it being a more equitable approach, who has the final determination on it? Does it have to go through the Public Utilities Commission (PUC)?

Mr. Hull: No. My understanding as a relatively new BOW member. The BOW sets the FRC, impact fee, and the rates.

Council Chair Kaneshiro: A rate study needs to be done that BOW looks at and BOW is who approves the rates.

Mr. Hull: Correct. Around two (2) or three (3) years ago, BOW adopted via a FRC impact fee study via that study adopted the upgraded FRC rates. What Councilmember Cowden was referring to is that there currently is a rate study that has been finalized and is before BOW for discussion on potential rate increases.

Council Chair Kaneshiro: Okay. I have questions on that too. As far as the economics on it, if we are trying to catch up the entire time, I think that we are only going to be shooting ourselves in the foot. If we continue to do a rate study and

it says that the FRC is not covering so it needs go from five (5) to fourteen (14), then the next one that we do will say that no one is really building. We will be more behind and it needs to be twenty (20) or twenty-five (25), where is the economics of it? If we put it at a number in between the two from fourteen (14) and five (5), you may have more people doing it and actually paying an FRC. I do not know, I do not think it is an easy thing to answer. Councilmember Chock.

Councilmember Chock: Ka'āina, does this study look at the Department of Water holistically? Does it look at its surpluses and the capital improvement projects that it tends to invest in?

Mr. Hull: Councilmember, I would have to defer that to the Department of Water.

Councilmember Chock: In order to get a realistic handle on this is to look at every aspect of how the Department of Water operates moving forward. They have a surplus of thirty million dollars (\$30,000,000), which is comparable to what the rest of the County has, as well as these projected capital projects on the horizon. It is about building more. I think that the question behooves us in looking at this rate study and what we are trying to accomplish. I am curious to the outline or criteria of that study and how it impacts us.

Council Chair Kaneshiro: Was that a question?

Councilmember Chock: Well he said yes, that it should be taken into consideration.

Mr. Hull: Yes, I am sorry. I would have to defer to the nuance of the Department of Water. I can definitely say that the rate study itself and in context with some of the County issues that have risen with the Finance Committee are of particular concern of mine. Your reference to the thirty million dollars (\$30,000,000) in excess that is being held there in totality with the proposal of rate increases is particularly concerning. As a Board, we are attempting to address that. I can say that particular issue is being scheduled for the next BOW meeting. Councilmember, I hear your concerns.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Any other questions? Councilmember Cowden.

Councilmember Cowden: I am assuming that we are almost ready to pass the Tiny House Bill. Tiny houses are similar to smaller homes and ARUs. That might be smaller homes, because we can put a tiny house on a two (2) acre property

that would have a lot of water use. I would like to point out that might be a special issue when I look at how something is being able to take advantage of. You buy a bigger piece of property, you put a tiny house on it to get the smaller cost, and you build it up later. There may be another way of working on that?

Mr. Hull: Councilmember, to your first part, indeed. As I understand these FRC and impact fee studies are not going to capture a perfect picture. You could build a five hundred (500) square foot house and spend all day watering your lawn. You will have more impact than the five thousand (5,000) square foot mansion that does not use any water and uses catchment because the homeowner feels that way. It is not going to catch it, but you are looking at the bigger picture of the overall trends of how these units function and their water usage. As far as ensuring that the smaller units having a lower FRC allocated through the study and that they would not abuse it and expand the footprint...in one way, the guesthouse or the ARU have square footage requirements. You are not able to go over five hundred (500) square feet for a guesthouse. You are not able to go over eight hundred (800) square feet for an ARU. Secondly, there is nuance when talking about tiny homes. You are able to put a tiny home on any property today. The Tiny House Bill that was up for discussion with this Body was not so much to allow for Tiny Homes. You are able to build a tiny home dwelling unit, a tiny home guest cottage, or a Tiny Home ARU. The Tiny House Bill that is up before this body is essentially to amend the Building Code to reflect certain building standards that would allow for tiny home construction.

Councilmember Cowden: Okay. My last question is being concerned with BOW. They are highly tasked by only looking at the water rates. I am looking at the rates of the water and they are very busy people with solid jobs. It might be unrealistic to expect them to do a holistic overview of all of these other expenses that we have going in. I am going to be supporting this Resolution. However, I am worried that we are supporting this Resolution, so I am asking when we support this Resolution will they say, "Great, we will raise the FRC five thousand dollars (\$5,000) more for both." If so, it will bump it all up. Is there any sort of break where we are not just playing a chess game of hopscotching over one another and where we are trying to avoid a charge so they raise the charge. It seems like there should be more communication between the Department of Water and the Council.

Mr. Hull: Councilmember, I would agree with that. I can pass that onto the Board Chair as well as the department as a whole.

Councilmember Cowden: With what I just said, is that possible where they are able to raise it?

Mr. Hull: No. It is to my understanding that any raising of the impact fees would have to be connected to a study. It takes at least

one (1) year to do a study. Secondly, you would not be able to automatically raise it, BOW would have to hold a public hearing and ultimately take action.

Councilmember Cowden: I would like to note that I do not see people showing up for the public hearings.

Council Chair Kaneshiro: Any other questions? If not, thank you. Is there anyone in the audience wishing to testify on this Resolution? Mr. Hart.

Mr. Hart: For the record, Bruce Hart. I am not following all of this. I am not sure how people are charged for the water. First, I would like to bring up the subject of conservation. I would like to see a charge that motivates people to conserve water. I do not like the way it is setup. I do not want abuse for the use water. That is the first thing that I think of when I think of how I would structure the charges. It seems to me that you are able to accomplish that by charging people for the amount of water that they use. I do not really care if it is a sixty (60) story skyscraper. It should depend on the amount of water that they use. It would have to be on an individual level. I can see it getting complicated, because you have a multi-unit and this apartment is using more water than this one. How are you going to monitor that? I am thinking out loud, I am not really understanding this, and it seems more complicated than it might appear to the average person on the surface. If you have a tiny house and he is using way more water than the ten thousand (10,000) square foot structure over here, that is pretty simple. I would charge the tiny house for the water that they use and charge this person for the water that they use. If you did that, how do you measure it? You need to figure it out.

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

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

Council Chair Kaneshiro: Seeing none. Any final discussion from the members? Councilmember Evslin.

Councilmember Evslin: I believe that the rationale was presented pretty well by the discussion earlier and by Ka'āina and Adam. To address quickly what Councilmember Cowden asked about whether this was presented to BOW. Yes, it was sent over as a transmittal. I met with various members of the Department of Water three (3) or four (4) times about this. Individual members of BOW and anyone who has the unfortunate circumstance of knowing me...every time I see them I talk about the FRC. This has been a topic of conversation for a while so they knew that it was coming. Secondly, I would like to say that in this, we are not saying how the infrastructure should be paid for. Water infrastructure is one of the most important

things that we are facing right now. Without water infrastructure we are not able to build housing. The Department of Water is saying that one of the big things facing us soon is that the water pipes need to be replaced every one hundred (100) years. There is no mechanism to pay for that. We have not been doing it at the rate that we should have been. This means that one hundredth (100th) of our water systems should be replaced every year. It is obvious that infrastructure is key. I do not in any way want to defund infrastructure by reducing the FRC for smaller units. To cite Paul Brewbaker at the Housing Summit said, "From an economic perspective, there should be zero FRC and put it all on rates." When this came up, former Councilmember Melvin Rapozo asked about the FRC for guest houses and said that the big barrier was four thousand dollars (\$4,000). That is a big movement within the affordable housing community is to move away from impact fees and move towards putting that on property taxes. Our continual of things should be able to pay for the infrastructure instead of just one upfront charge, which impacts smaller homes and low-income people much higher than the higher income people. However we move forward or however BOW chooses to move on this...all it is saying is to account for equity in how they determine the FRC in the future.

Council Chair Kaneshiro: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: Thank you. Councilmember Evslin, you nailed it right on the head. If we talk about that big ten thousand dollar (\$10,000) jump, where I said that if any government agency needs to raise something by that much, you will not see it done in one (1) year and the way that they did it. You would see it in increments of one thousand dollars (\$1,000) for ten (10) years. The way that they did it was all at once. For the water utility, the Charter was written in the 50's when the price of housing...folks with low paying jobs could buy a house, it was all affordable to build a house. They set up in the Charter where the water was semiautonomous, it would run by itself, govern by a separate volunteer Board not elected, and they would function. If you look at the Sewer Department, they are utility. If you look at the Refuse Transfer Station, that is considered utility. We subsidize Solid Waste eighteen million dollars (\$18,000,000) a year. The Sewer Department has so many loans going on they do not have any reserve to pay for capital improvement. They are working day-by-day, year-by-year. If they need something to be fixed, they come to Council and ask for two million dollars (\$2,000,000) more to fix a plant that is not working. The Department of Water is all alone and under the cover of politics. They do what they want. Luckily Councilmember Cowden is bothering them a little. They are not here on Channel 53 and under the microscope in justifying their decisions. The decision to go to ten thousand dollars (\$10,000) one time. Jan is in here. I am not going to be on this Council next year because I need to rest. BOW should be put under the Council and under the limelight. Why should they be the only utility that is able to justify FRC rates so they can save up capital for future improvements? We do not do that for sewer or landfill, they are subsidized through our budget. I think that human waste is worse than water, right? You are able to drink water from the river, we did it through hurricane *Iniki*. It is nasty to take care of human waste. What I am saying is to put BOW here on Channel 53. As Councilmember Chock mentioned, we can

then talk about this holistically and decide how to reduce cost so that our local children and families who do not have the best jobs is able to live here and not suffer. That is the big question. If we leave them underneath the microscope, they will do their own thing like they have been doing. We pave the roads and they dig it up and patch a little strip. The entire line is rotten. You know how ridiculous that is? If you were in a private company, they would all get fired. They dig up the road after it already has been paved. You are supposed to dig the entire line, fix the line, and then pave the road. Right? Being that they are under a separate Board from us. Do you think there is coordination? Zero. I am all negative today, I do not know what is going on.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: It is obvious that I will be supporting this. Despite the content of this conversation today, it is my hope that this Resolution is looked upon favorably by our BOW. It is needed in the next step for all of our efforts here. If the message is unclear, it is my hope to work together to ensure that we have everything that we need for our community and the people that live here. We should open that door and this is the ask to do so. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Yes, I am in strong support of this. I think that it is a very important Resolution to help with our need for housing. I really appreciate our Housing Director and Planning Director for being here to provide some *mana'o*. We are in a bit of an unfortunate situation where the Department of Water does not have a manager, deputy, or where no one from BOW became the Chair, et cetera. As Councilmember Chock mentioned, this is our Resolution and in a way our plea to them. I believe based on what the Planning Director said is that they understand the issue and they know that they need is there and that the public wants us to move in this direction. This is our Resolution and that is all that we are able to do. However, asking BOW to move in this direction and help us with housing to make it possible. I am fully supportive.

Council Chair Kaneshiro: Anyone else? If not, roll call vote.

The motion for adoption of Resolution No. 2019-68, 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: Next item.

Resolution No. 2019-69 – RESOLUTION APPROVING PROPOSALS FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE: Councilmember Kualii moved for adoption of Resolution No. 2019-69, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Anyone in the audience wishing to testify on this item? Mr. Hart.

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

Mr. Hart: For the record, Bruce Hart. I would like to say that I am really happy. As a citizen, maybe there is someone in the Legislature that looks at the testimony. Chair, if I may, I am speaking to our Legislators. I would like to encourage you...our County has worked hard to put this package together. Please give it your full attention. For the Counties to all come into agreement is really commendable. It shows that they really feel strongly about they have offered to you. Thank you.

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

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

Council Chair Kaneshiro: Seeing none. Any final discussion from the members on our HSAC Package? Councilmember Kualii.

Councilmember Kualii: I did not say so earlier, so I would like to say *mahalo nui loa*, thank you to Councilmember Kagawa, the staff, and everyone who worked hard on this. We need be sure that we continue to provide our letters of support and lobbying our Legislature when this comes up next year. Thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Yes, as Councilmember Kualii said also, I would like to thank Jade, Scott, Council Chair Kaneshiro covered me at a meeting, and I especially want to thank Aida for all of her work. She has a lot and the most experience than any staff member. She is always present at the meetings and a lot of times they look to Aida for guidance on how to move forward. I would like to thank the staff. I believe HSAC is good with a lot of debates and arguments. It is better to have that than everything be all hunky-dory. Having the strong arguments makes us better. Although it has been challenging, it has been a good change, and I believe you are going to see better results. If my track record is like the Charter Amendments, then I will be wrong.

Council Chair Kaneshiro: Anyone else? I will be voting favorably on this package. I am not one hundred percent (100%) in favor of every single bill in the package. Based on timing and being collaborative with the rest of the Counties, I believe it is in our best interest to vote on it in totality. I will be voting in favor of this. With that, roll call vote.

The motion for adoption of Resolution No. 2019-69 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.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: Next item.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2766) – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 2 BETWEEN JULY 1, 2019 AND JUNE 30, 2021: Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2766) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for January 16, 2020, and referred to the Committee of the Whole, seconded by Councilmember Brun.

Council Chair Kaneshiro: Any questions from the members on this?

Councilmember Kagawa: I would like Janine to clarify who is Unit 2 of the Hawai'i Government Employees Association (HGEA).

There being no objections, the rules were suspended.

JANINE M.Z. RAPOZO, Acting Director of Human Resources: Good morning, Janine Rapozo, Acting Director of Human Resources. HGEA Unit 2 is our Blue Collar Supervisors.

Councilmember Kagawa: Can you give us an example?

Ms. Rapozo: People who oversee our district roads, people who are in charge of the base yards, Park & Maintenance Supervisors, Janitor Supervisor, or Solid Waste Supervisor levels.

Councilmember Kagawa: Being that these supervisors are under HGEA, are they not able to fill in? Say that the people they are supervising is sick, are they not able to clean the toilet?

Ms. Rapozo: They will have to look at whether or not there is others within the Unit 1 entity and whether or not those members is able to do overtime or do that first before they are able to step in.

Councilmember Kagawa: If they really needed to step in then they could.

Ms. Rapozo: Yes, they could.

Councilmember Kagawa: I am thinking if like if you were in the private sector, if you were the boss then you would get the job done. I do not like when you have union people saying, "You are not able to do this or that," and then the toilet is left dirty.

Ms. Rapozo: Yes. This Unit is really small. There is only fifteen (15) members for the County of Kaua'i.

Councilmember Kagawa: That was my only problem. I would like to see that in the future maybe there is a way to rewrite it to get the job done. If someone is not in, we do not need to jump through hoops to get the toilet cleaned. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I spoke with HGEA. It is to my understanding that they are basically removing the step levels for Unit 2. For the sake of all of us and to be able to understand this...the Unit 1 workers are United Public Workers (UPW). They are making a more money than the supervisors and getting paid better.

Ms. Rapozo: Yes. What happened a few years ago is Unit 2 had several steps, which basically covered over twenty-five (25) years of service. As you moved along the scale that is basically how you would reach retirement. They realized that with Unit 1 only having one (1) step, which is the people they were supervising, Unit 1 was overtaking them in raises. When there is negotiations for raises, Unit 1 could put all of their "eggs" basically into the basket of across the board raises versus someone with a Unit where there is steps, they will have to give raises

for steps and across the board. Slowly, Unit 1 was taking over Unit 2. At that point, we compressed the salary schedule to three (3) steps. We are still seeing some of that inversion happening. With this contract, we are looking at going down from three (3) steps down to one (1) step.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Any other questions from the members?
Councilmember Kagawa.

Councilmember Kagawa: How much is the total increase in the package? Is the raise itself two percent (2%)?

Ms. Rapozo: They have packaged theirs a little different. At the end of the day, like any other Unit, the total for the two (2) years is about six point fifty-five percent (6.55%) increased to base. That is the amount moving forward what we are increasing the base at.

Councilmember Kagawa: Six point fifty-five percent (6.55%)?

Ms. Rapozo: Yes.

Councilmember Kagawa: So they are getting more than the teachers?

Ms. Rapozo: Have the teachers already settled? Yes.

Councilmember Kagawa: I do not know.

Ms. Rapozo: Well, six point fifty-five percent (6.55%) is two percent (2%) or one point two percent (1.2%) for steps.

Councilmember Kagawa: So it is similar to the teachers?

Ms. Rapozo: Yes. It is just a matter of how they packaged it. In this case, they are not getting anything across the board. They took it as a bonus.

Councilmember Kagawa: I know that there is a teacher shortage. I have never heard of a White Collar or Blue Collar Supervisor shortage. I do know that we have a big shortage for teachers. If they are going to give the same amount of raises, I do not know how they are going to fix the shortage.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Councilmember Kagawa, I did ask that question. Although that six point fifty-five percent (6.55%) seems high, they are bringing their pay up to be a little higher than the people that are below them.

Ms. Rapozo: That is correct.

Councilmember Cowden: It seems higher but it is to remove the inversion. Shamefully, in some areas, we have County employees who are paid well under fifteen dollars (\$15) an hour.

Ms. Rapozo: I think that we have gotten to the point where we do not have any jobs that pay under fifteen dollars (\$15) an hour. We had School Crossing Guards, but we do not have that anymore. Our summer hires and other classes of work in other jurisdictions that are below fifteen dollars (\$15) an hour. Councilmember Kagawa, yes, it is a different Union. At the end of the day, I believe your package for Hawai'i State Teachers Association (HSTA)...not only when you look across the board, but with everything else in the package, it should have been close to six point fifty-five percent (6.55%).

Councilmember Kagawa: Wow, thank you.

Council Chair Kaneshiro: Any other questions? If not, thank you. Anyone in the audience wishing to testify?

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

Council Chair Kaneshiro: Seeing none. Any final discussion from the members? Roll call vote.

The motion for passage of Proposed Draft Bill (No. 2766) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for January 16, 2020, and referred to the Committee of the Whole 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.

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

Council Chair Kaneshiro: Next item.

Proposed Draft Bill (No. 2767) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES: Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2767) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for January 16, 2020, and referred to the Finance & Economic Development Committee, seconded by Councilmember Chock.

Ms. Fountain-Tanigawa: Chair, we have two (2) registered speakers for this item.

Council Chair Kaneshiro: Okay. We will have the conversation on it first and then we will take public testimony. Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. I will start. This Bill seeks to remove Transient Vacation Rentals (TVRs) and hotels out the Commercial Home Use (CHU) tax category. Historically speaking, in 2014, the CHU tax category was introduced with the intention of finding the middle ground for homeowners who used their property or home for commercial use whether it is for a small business or TVRs. This came to light and to us via collaboration with the Department of Finance. There is discrepancy that we are finding in terms of the use and how TVRs are being placed into this category and benefiting from this tax rate. We felt it necessary to take a look at this again. When looking back at the transcript of what was talked about at the time of this Bill's introduction and passing, there originally was a concern, and we felt that we should take a look at it again. This conversation and Bill is for us to do so. I will let Councilmember Evslin explain the details of the affects and who is using the CHU from TVRs.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I have a PowerPoint. As a quick preface, let me say that of everything that we have worked on this year, this is most likely one of the hardest to move forward with simply because it affects two hundred eighteen (218) Kaua'i residents. Anytime we are talking about increasing the taxes for two hundred eighteen (218) people, we need to be very careful. I am looking forward to hearing today's testimony. Ultimately, we decided to introduce this Bill. The purpose is to ensure that all properties who provide transient accommodations are equitably classified the same; to equitably distribute the cost of County infrastructure and services. I would like to provide an overview. I know that you folks understand it but for the public...for anyone living on your property, you are able to get the home exemption. If you get the home exemption, you will get the Homestead rate of three dollars and five cents (\$3.05), which will give you a one hundred sixty thousand dollar (\$160,000) reduction from the value of your property. You are also eligible for all of the other exemptions out there such as age exemption, et cetera. If you are doing commercial activity on that property, you will move to

CHU which is five dollars and five cents (\$5.05) per the assessed of one thousand dollars (\$1,000). This is for commercial activity, long-term rental, home office, or TVRs. You will also have access to the assessment cap, which limits increases to three percent (3%) per year. The current definition of CHU includes vacation rentals, hotel, and resort uses for owners that have a home exemption, which allows property owners to get the assessment cap for those uses. Included currently within the CHU class along with long-term rentals are home stays, homes where the owner goes on an extended vacation and short-term rents while they are gone, or a multi home parcels where the owner short-term rents one or more homes and lives on the property. There is a specific example along those lines of a property with five (5) dwellings all of which are advertised on vacation rental websites. The owner resides in the one dwelling that has the vacancy at any time. They are bouncing around between the open unit and they get CHU. While it does not currently happen, the exist to potential of the owner of a resort to live on the premises gets a home exemption for the entire resort property and get CHU for that resort. Our proposed changes would simply be to remove TVR, hotel, and resort uses from the CHU definition so that they would no longer be eligible for the assessment cap. They still would be eligible for the home exemptions and all of the other exemptions that is currently allowed. Just to clarify that, the home exemption meaning that they get one hundred sixty thousand dollars (\$160,000) on their assessment. It would not put them in Homestead or CHU. We are separating those two.

The impacts of the change. There are two hundred eighteen (218) vacation rental properties would move from CHU into the TVR rate. They would lose their assessment cap and therefore return to market rate assessments. With the loss of the assessment cap and the increase of the rate, there would be a net increase of property tax revenue of one million two hundred forty thousand dollars (\$1,240,000) per year. That is the current assessment which will change year-to-year. Anyone who is impacted by this, they will have three (3) options. One, to keep the TVR in the Homestay and pay the vacation rental rate. Two, they would long-term rent that unit and they would be able to stay within the CHU. Three, would be to participate in the Long-term Affordable Rental Program and their taxes would decrease from what they are currently.

There are avenues still like every homeowner on Kaua'i has to get out of that rate. Both the CHU and Homestead rates could be considered as preferential rates for Kaua'i residents. If you are a Kaua'i resident and you live in your house, in theory, you will get property taxes below cost. When the County of Kaua'i first adopted an island wide property tax rate, I believe it was eight dollars and ten cents (\$8.10) for every property on Kaua'i. CHU and Homestead rates are well below the actual cost of infrastructure. TVRs operate at a higher profit margin for long-term rentals and they should be able to cover the cost of infrastructure in County services that are provide to their house. Property taxes for visitor accommodations will also need to cover the island wide cost of visitors that are utilizing their home. When a visitor

comes, they are costing the County in other ways. They are not paying income taxes so they are not contributing to State funds that are coming back to us in a variety of different ways.

Lastly, we believe that the three percent (3%) annual cap should not apply to vacation rentals partially because of the negative impact that they have on the housing market. Through simple supply and demand, every additional TVR reduces the supply of resident occupied housing, which increases the cost of housing island wide. Within the Visitor Designated Areas (VDA), a TVR generates cash flow and it sells for a higher amount. Being that their neighbor had a TVR, their house gets assessed for a higher a value. They are also increasing the assessed values of neighboring properties. One of the reasons that the cap exists was to stop that from happening. We feel that it should not necessarily apply to vacation rentals. Another reason is that as we look at the impact, you are able to see the cap making a huge market differentials. If a home has been in the cap for four (4) years by going to market rate, the property tax assessments could go up one hundred percent (100%). There is big differentials based on the amount of time that they have owned the property. In theory, for a TVR, they can recover nightly rentals based on market fluctuation. It does not necessarily make sense to give subsidy based on length of ownership and when the TVRs is able to charge more based on when the market is "hot." That is our presentation.

Council Chair Kaneshiro: Any questions? Councilmember Chock.

Councilmember Chock: If I may add, I know that within the last two (2) days there was a situation that came up with two (2) houses. One (1) house had the right of having a TVR and one (1) that did not have the right. We believe that there is a remedy for that which we will review in the Committee Meeting. That is probably some of what you will hear at the testimony.

Council Chair Kaneshiro: The remedy that you are talking about is an amendment that will be introduced in the Committee Meeting.

Councilmember Chock: Yes.

Council Chair Kaneshiro: Any questions on the presentation?
Councilmember Cowden.

Councilmember Cowden: I am wondering where we have the two hundred eighteen (218) units and you gave those problematic examples, do you have any idea how many of the two hundred eighteen (218) are working in a problematic way? Is it five (5), ten (10) or seventy percent (70%)?

Councilmember Evslin: The Department of Finance has the data and maybe Reiko is able to come up in a bit. I believe there is fifty-five (55) single unit TVRs and decreases. There is one (1) five (5) unit, a handful of three (3) and four (4) TVR units. I am not sure what you are referring to as far as problematic. It could be seen as problematic for someone who is going on vacation for six (6) months a year, running their house as a TVR, and getting CHU for that.

Councilmember Cowden: What I consider problematic is when houses are sold with a banner encouraging the abuse of the system. I have seen that on Real Estate pieces where they tell you to be here six (6) months and one (1) day. I am really looking to see if we are able to separate the collateral damage of people who are wonderful people. The whole island is not homogenous and the low lying areas have a completely different set of circumstances. I am telling you right now that I am deeply opposed to this. I feel emotional about this because I am aware of the very high quality service above self-families that have had nested tragedies. In doing this, they will be removed from our community because you are using a machete instead of a scalpel. To be honest, it is upsetting to me.

Council Chair Kaneshiro: Any other questions? If not, we will take public testimony.

Ms. Fountain-Tanigawa: Chair, the first registered speaker is Kimberly and Sue McLaughlin, followed by Amy Frazier.

Council Chair Kaneshiro: You will have three (3) minutes. You can each have three (3) minutes individually. Once the three (3) minutes is up, we will ask if there is anyone else that wants to testify for the first time. You will have another three (3) minutes. It will be a total of six (6) minutes per person. State your name for the record.

KIMBERLY MCLAUGHLIN: Kimberly and Sue McLaughlin. I have copies for everyone, shall I pass them out? I also sent my testimony this morning.

Council Chair Kaneshiro: We have it.

Ms. K. McLaughlin: Aloha, esteemed County Councilmembers. Thank you for giving us your time today and thank you for letting our voices be heard. I am a teacher. I took the day off today and I have a substitute in my fifth (5th) grade class in order to be here. This is an important issue to our family. I appreciate the time, effort, and everything you are doing for our County. This Bill would unquestionably cause irreversible and insurmountable financial hardship for us. As several of you know, our family owns a home in magical Hanalei. It is a property that we have had for thirty-six (36) years with two (2) homes. We live in the main house and we have a small two (2) bedroom cottage. It has been a licensed vacation rental

cottage since 1984. When the Transient Vacation Non-Conforming (TVNC) and the TVR process took effect in 2009, we got our permit and have kept it current. We believe in paying our fair share of property taxes. Just a little history with our family back in 2011-2012 our residence was classified as single-family residential. Back in the days we were taxed both on the building structure and the land structure. One day we received a flyer from the County asking about acreage, square footage, how many dwellings are on the property, what we did with it, and if we are a vacation rental. We checked off all of the boxes and sent it in. The next year when we got our taxes, our taxes had increase by more than two hundred percent (200%). From 2011-2015, our families property tax increased by an astonishing four hundred seventy-three percent (473%). Of course we were overwhelmed and astounded. We came to the County Council meetings and many of you were here. We were here back in 2015 and at the same point. Many residents were. In that time period, we were all having a hard time making it. There was incredible increases going on. That was at the time former Councilmember Tim Bynum went to work on the creation of a more reasonable tax categorization. When the categories came in, we were put from the single-family residential into a vacation rental. Former Councilmember Gary Hooser and Councilmember Chock revisited the idea of reinstating the three percent (3%) tax protection.

Council Chair Kaneshiro: Ms. McLaughlin, I am sorry that is your first three (3) minutes. Does your mom have testimony to read?

Ms. McLaughlin: No.

SUE MCLAUGHLIN: Can I give her my three (3) minutes?

Council Chair Kaneshiro: No, we are not able to do that. She is able to read a portion of your testimony if she wants too. We need to see who else is wanting to testify for the first time. You are able to come back to testify for another three (3) minutes.

Council Chair Kaneshiro: Who is the next speaker that signed up?

Ms. Fountain-Tanigawa: Amy Frazier.

Council Chair Kaneshiro: Amy, just to confirm, we have received your testimony.

AMY FRAZIER: Thank you everyone for letting me speak. For those of you that do not know me, I am Amy Frazier. I was born and raised on Kaua'i, Wailua Homesteads. I grew up in the restaurant business, my dad started Ono Char Burgers in Anahola. We lived in CHU in Kapa'a above Ono Family Restaurant. My parents recently lost their business Kalapakī Beach Hut down in Nawilili after

thirty (30) years due to rising rent and operating costs. Majority of my childhood, my parents were not homeowners. We lived in a variety of rentals. I graduated from Kapa'a High School and I did not go to college. At 18 years old I started working and saving to buy my first property. I had an aggressive plan to save for my first house. I moved to Hanalei from the east side. I lived in housing provided by my employer. After two (2) decades, having a family, and raising my children in Hanalei, that situation ended. We purchased a home in Hanalei, outside of our reach, but the reason that we could afford that property was because we had a one (1) bedroom legal TVR that supplemented the higher cost of home purchases in Hanalei and being able to afford to live there. The first year of owning our property, we had based our decision on whether we were able to afford the mortgage, taxes, et cetera. The first year is the year they implemented the TVR rate and our taxes went up three hundred (300%). Our property has two (2) separate buildings. There is our main house which is a three (3) bedroom which is not a TVR. The second building which supports the additional cost of the initial investment is the TVR, which is a one (1) bedroom. To date, our property taxes have gone up five hundred percent (500%) from when we first analyzed the property for our purchase. Based on last year's assessment, if this passes, our taxes will increase nine hundred sixteen percent (916%) in the last nine (9) years. The capitalization rate (CAP) is also another big concern. When Councilmember Evslin talks about the two hundred eighteen (218) homeowners, I looked at the data and pulled up every single property owner in the CHU rate. I am only able to identify twenty (20) property owners that have a situation that is similar to ours and where the owner lives on the property. The reason that they are bringing this Bill forward is because there is people who are abusing the system. They are renting it out for six (6) months out of the year and living in it part time and calling it their residence. In order to qualify for this rate, you have to qualify for a home exemption. If you refer to the home exemption form, it says, "Further, per KCC Section 5A-11.4(a)(1)(E), the home exemption shall be applied only to the portion of the property being used exclusively as a home. Should the entire property be rented or used for commercial activities for any amount of time, the property shall not be considered an owner's principal residence."

Council Chair Kaneshiro: Ms. Frazier, I am sorry that is your first three (3) minutes. Anyone else in the audience wishing to testify for the first time? Seeing none. Ms. McLaughlin, you are able to come up for your second three (3) minutes.

Ms. McLaughlin: This Bill, if it were to pass, it would increase our family's annual taxes by seventy-four thousand five hundred twenty-four dollars (\$74,524). We would be paying more than one hundred thousand dollars (\$100,000) annually. Furthermore, if the tax cap was removed, it is very likely that we would see another two hundred percent (200%) to four hundred percent (400%) tax increase over the next few years. For the record, our family does not want to ever sell and we do not want to be pushed out. We want to live here and

be able to live here forever. Our vacation rental helps to supplement my teaching salary and my mom's retirement. I am not able to imagine you wanting to force your residents out again. "Again" meaning we have been through this from 2015 which is why CHU tax class was put in a tax cap. This was done with many of you. By removing homes with TVRs by their fare tax class and not protecting their tax future by removing the tax cap. That is exactly the effect that this Bill would produce on our family. Do you really want to cause more clients to lose their long-term family properties due to values being grossly and artificially inflated when outsiders come in and are willing to pay any price for Kaua'i land? Please reconsider the Proposed Draft Bill (No. 2767). At the very least, we respectfully request a continuance on this vote, until we have all had the opportunity to properly assess the serious and negative impact that this Bill will surely have on our Kaua'i community. *Mahalo* for your time and consideration.

Council Chair Kaneshiro: Thank you. Ms. McLaughlin, if this passes first reading, it will go to public hearing, it will go to the Committee Meeting, and it will need to come before full Council. There will be more opportunities to hear about this as it goes along.

Ms. McLaughlin: Thank you.

Council Chair Kaneshiro: Thank you. Ms. Frazier.

Ms. Frazier: Where I was going previously was on the home exemption form, it says that if at any time in the year you rent out your home in its entirety, you do not qualify. If we followed the rule that already exists, the abuse that we are concerned about with the owners renting it out for six (6) months a year and only being here for a few months would not exist. The rule is already there. That is a huge concern to me. As Ms. McLaughlin mentioned, we have already been through this. There is a rule. It is to my understanding that it is an Administrative call, but they are not interpreting it that way. I would like to go through some of the suggestions that have been made to us. One, to turn our rental into a long-term affordable rental to bring us down to Homestead rate. Unfortunately, because of where we entered into the market and when we bought in 2010, that does not economically make sense for our situation. The other option has to be to Condominium Property Regime (CPR), so that we have two (2) different parcels. That is an option to explore; however, with the cost it is my interpretation that the values go up when you CPR property and therefore although you end up in a different rate, your values can be higher. Who is to guarantee me that the next Council is not going to have another idea that we should have an extra tax for CPR. That is one of my concerns. The other thing is when listening to your folks talk earlier about the water bill and the additional cost and trying to proportion it to the use, this is not proportioning it to our use. Seventy-five percent (75%) of our property is owner-occupant and twenty-five percent (25%) is a vacation rental. At the end of the

day, whatever happens, because I know who I am...I am going to figure it out. I want to leave you with a few thoughts. I am hoping that I have enough time because this is really important. Even if I decided tomorrow to not rent out my guest house completely and leave it empty, I do not qualify for Homestead, because the Real Property Tax Division puts people with empty second homes on the same parcel in CHU. I do not qualify for Homestead even if I had no rental income. The other thing is that I recently heard about a *kama'āina* family who thought they would be created and exchange their home with a mainland family for a one (1) week vacation, so they were able to take their children and travel. The Tax Office has put that family in CHU. Although there was not money exchanged, they are viewing that as a vacation rental. That family would go into a TVR rate and they never charged a dollar. All they did was trade places for a week. I am here based on "principal." When I start to hear things and as you have said, things that will affect residents, we are not really looking to help people stay in their homes. We talked about ARUs, but what about sustaining home ownership.

Council Chair Kaneshiro: I am sorry that is your total time.

Ms. Frazier: I am sorry, was it blinking?

Council Chair Kaneshiro: Yes.

Ms. Frazier: Okay, is that it? You folks do not ask questions?

Councilmember Cowden: We are not allowed to. Can we?

Council Chair Kaneshiro: Do you have a clarifying question?

Councilmember Cowden: I have so many clarifying questions that I would probably be abusing the situation. When I look at the McLaughlin's, that six (6) minutes did not do ten percent (10%) justice to the situation that they are in. If we were able to talk to Ms. Frazier...I am so upset. I am working to not cry. To me, this is an example of the failure of Council. What should be coming through the Council on a predatory bill that will do so much damage? It would be robust questions.

Council Chair Kaneshiro: We are able to talk to them individually anytime we want. We received the testimonies and got them in E-mail and we are able to E-mail questions back to them. The only reason we have the public testimony here is for them to be allowed to say what they need to say. We are not able to abuse our power to extend their testimony, because it will create a fairness issue with anyone else. For this, it is a situation where we have two (2) testifiers that are testifying on the same side. If we had one testifier on one side and one on the other,

if we were to continue to ask questions and extending their testimony it creates unfairness. That is why the rules are here, but there is nothing prohibits us from calling, talking, or E-mailing any of these individuals. We received their written testimony and we have any questions, we are able to E-mail them back. Are you good or do you have any clarifying questions?

Councilmember Cowden: I am not good. Can I ask a clarifying question?

Council Chair Kaneshiro: For who?

Councilmember Cowden: Ms. Frazier. Ms. Frazier, what are your suggestions?

Ms. Frazier: As you were discussing the water, you have to look at it as a proportionate share. As Ms. McLaughlin said, do I think that we should pay more than Homestead? Absolutely. In your explanation of the person who moves between five (5) houses, should I as a homeowner pay as much as the five (5) bedroom TVR next door that does not have an owner-occupant presence at all? I do not think that I should. I think that there should be some differential between the two (2) when the proportionate use on our property is owner-occupant. That is how I think and that is what I thought CHU did. The first year that we bought our house, it went up three hundred percent (300%) because we got placed into the TVR. The CHU never went back down because it kept you at the higher level and we had the CAP to protect us. It never went back down to what we thought it would be.

Councilmember Cowden: I am going to flip that scenario. In your case, you have a higher earning capacity than your parents.

Ms. Frazier: Yes.

Councilmember Cowden: In this case, it is not even comparative to the earning capacity compared to the deceased parent who bought it a long time ago. In that family's case, it is a tiny little piece with a bigger house. You have the bigger house and the tiny little piece. I am not in agreement with what you are suggestion there. If someone lives on the property full-time...when we got the example of someone moving around between five (5) houses, that is obvious that someone is taking advantage of the system. What I see is that it is not a possibility of doing a long-term rental in these low line areas to begin to cover that cost.

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

Councilmember Cowden: I am just partially upset.

Council Chair Kaneshiro: It is not our time to debate with our testifiers. That is the point of us only allowing clarifying questions. It is to allow them to freely say what they want. We take it in...

Councilmember Cowden: You are correct.

Ms. Frazier: Yes. I said something that I would like to clarify being that it speaks to what Councilmember Cowden said. For the person that moves around in the five (5) houses, the rules are already on the exemption form. If you ever rent out the house, you do not qualify for the exemption. Therefore, that should not be an issue, the rules are already there.

Council Chair Kaneshiro: Okay, thank you.

Ms. Frazier: Is there anything else?

Council Chair Kaneshiro: While the rules are still suspended, are there any questions for the Administration? Councilmember Evslin.

Councilmember Evslin: I have a clarifying question for both Reiko and Ka'āina. Thank you folks for coming. We spoke a little about this yesterday. Reiko, could you speak to the rule that Ms. Frazier referenced regarding the home exemption form?

REIKO MATSUYAMA, Director of Finance: That rule became obsolete when the CHU rate passed. We are in the process of cleaning up our Administration rules.

Councilmember Chock: Is it going to eliminate it from the form?

Ms. Matsuyama: Yes, I believe so or at least revise it.

Councilmember Cowden: Do you see a way to correct it so that you are not destroying "good families?" Are we able to correct it in a way that it has a question like that? We have a limited amount of people in our community's. This Bill is straight up predatory. Even if we put a limit on it...am I not asking a question? How are you able to not make this predatory and cruel?

Ms. Matsuyama: I believe we have gone back and forth with Councilmember Chock and Councilmember Evslin for a few months now. This is the best that we were able to propose. In all honesty, the Real Property Tax Division would remove CHU in its entirety. Administratively, it causes a lot of problems for us. That is not on the table here. Collectively, this is what we came up with.

Councilmember Cowden: Okay. Am I able to give my opinion?

Council Chair Kaneshiro: You are able to ask your questions and give your opinion when we are ready to take the vote. During the final discussion, you have five (5) minutes to share your opinion. You are able to ask your questions now. Councilmember Evslin.

Councilmember Evslin: Are you able to explain the rationale for why a house swap would be considered a TVR.

Mr. Hull: We recently began to engage enforcement actions against home-sharing. For many of these websites, while there is no actual transaction occurring, there is a point system that you are able to buy into. We have made the determination that trading your home for these points that you are able to use around the globe on some of these platforms is a form of compensation. I feel for the fact that there might be a family that engaged in this for only one (1) week. However, we came across cases that the home is being used entirely for home-sharing. The website shows a revolving door for point system. The determination was made in the last month with consultation of the Office of the County Attorney; that it does constitute compensation and compensation is part of the assessment of the vacation rental.

Ms. Matsuyama: We also received notification from the State that it would be applicable to General Excise Tax (GET) and Transient Accommodation Tax (TAT). Being that this is new, I am not sure if they are enforcing that. It is something that they are looking at.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: As we work on the Bill, you said that this is the best that we could come up with. Are we able to come up with further exemptions that could address some of the circumstances that we are hearing about? One of the testifiers said that she could only identify approximately twenty (20) families like theirs. This Bill will affect over hundreds and hundreds of vacation rentals. If there is a small amount of people that we are able to remove from this devastating affect, if you will, we should be able to come up with something. You talked about one (1) week and you also said that there is some that abuse the system for a long period of time, could we then have something that said, "You are allowed to do this exchange for a few weeks per year?" If we do that, that seems reasonable.

Mr. Hull: Councilmember, with all due respect, that would be saying that any homeowner is able to do a TVR for one (1) week out of the year. The line has to be drawn. If they are participating in sharing with a fellow homeowner somewhere else, that is fine. If they are participating in a third (3rd) party host platform system that provides compensation via a point system and not necessarily monetary. If you are engaging through those platforms, you will be

classified as vacation rental. That is not to say that you are not able to share your home with friends, family, or acquaintances. I would be adamant in my opposition in saying that we should allow homeowners to participate in third (3rd) party host platform sharing for compensatory on a one (1) or two (2) week basis. That would be akin to saying any homeowner is able to operate a vacation rental on a one (1) or two (2) basis regardless if it is monetary or a point system compensation.

Councilmember Kualii: I am still unclear why you are adamantly against this. It would be a matter of being very clear in what you are and not allowing. What you are concerned about is the use of the platform.

Mr. Hull: It is the use of the platform. By all means, share your house with whoever you want as long as there is no compensation. That is fine. What I am saying is once you are at the platform level and engage in a system that has points involved.

Councilmember Kualii: By platform, do you mean established companies?

Mr. Hull: There is home-sharing websites.

Councilmember Kualii: It is not social networking.

Mr. Hull: No.

Councilmember Kualii: If a person connected with another person who is a stranger, not a family member, and they are not doing it through Airbnb, then you would be okay with that? It would have to be written out specifically.

Mr. Hull: Yes. As long as there is no compensation involved. Once there is some form of compensation...

Councilmember Kualii: What do you mean by compensation?

Mr. Hull: Money or points that can equate into a monetary value. Some of these home-sharing websites have point systems that equate into monetary value.

Councilmember Kualii: An individual making an exchange by using social networking.

Mr. Hull: That is an agreement in which that individual has with other acquaintances.

Councilmember Kualii: Is that allowed now?

Mr. Hull: Yes.

Councilmember Kualii: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: If we take the McLaughlin's out. With their tax increase and if I looked correctly, they will be paying more than Ching Young Village. They are a family with only one person who works as a fifth (5th) grade teacher. They will be paying more property tax than Ching Young Village that is a block away. If you take them out of the equation, how much taxes do you feel that we are going to bring into the County's coffers? What is this worth and what are we going after? Are we trying to destroy anyone who is supplementing the way they are making a living? What are we bringing in? Is there an estimate of the amount of increased taxes?

Ms. Matsuyama: Without their case, we would approximately receive a little over one million one hundred thousand dollars (\$1,100,000) in annual revenue.

Councilmember Cowden: One million one hundred thousand dollars (\$1,100,000). That is compared to one (1) lawsuit for us. I want to be clear of the impacts that we have on people. When I am unprofessional in tears...when we did Bill No. 2746 that was aimed at the same industry. I am sitting by people's bedsides, they are dying, and we are killing people with these predatory taxes. We are putting that much stress on people. Is it worth one million one hundred thousand dollars (\$1,100,000)?

Ms. Matsuyama: The average annual increase per property that is being affected is going to be approximately five thousand six hundred dollars (\$5,600).

Councilmember Cowden: Out of the three (3) options that you have suggested, do you see that this is something that is able to work for people who have the fortune or misfortune of living in the communities that are near the beach? Are they able to do an ARU and would that solve the problem? With any of these that come into play, it is a forced sale. You are demanding a forced sale in exchange for the one million one hundred thousand dollar (\$1,100,000). Do you think that someone else that lives in the house is able to buy those houses?

Ms. Matsuyama: We are open to further discussion and we will provide the Councilmembers with any information that they need to make an informed decision on this Bill.

Council Chair Kaneshiro: Any further questions from the members. This Bill is not a Real Property Tax Bill, this Bill is more of fairness and equity.

Ms. Matsuyama: That is how I see it.

Council Chair Kaneshiro: Any further questions from the members? If not, thank you. We are coming up on lunch and we have five (5) minutes left on the tape. I feel that we are able to make our decision now. Any final discussion from the members? Again, this is only first reading. Councilmember Cowden.

Councilmember Cowden: I am ashamed of the Council. I am ashamed of this Bill. It is not worth the amount of injury that this will have on people. I do not understand. It is a witch hunt to get rid every last vacation rental that people do at a small level. I would like to say something about the tourists who stay in these places. When you go and you stay at someone's house, that is someone that comes who is not here for entertainment. It is someone who comes for inclusion, participation, and it is a very special type of visitor. They are not going to stay in a resort. When they have people who are helping them with their entire experience, they really add a lot. We have been removing a quality layer of visitors that are unique. I had eighteen (18) years in the industry. I know all of these properties. They are lucky that they have a good place, but these people do not have a lot. They do not want to sell their house. It is not about the money and the house. When we remove the last vestige of what we have as citizens...I appreciate what you do, but I would like to say that you are a service above self. There is a handful that are in our community that you know why they rent out a piece of their house is partly because of trauma and very special needs that have happened in their lives. We take some of the very best in our community. A vote "yes" on this and even a "vote to move it forward" says that we are willing to sit there and take an axe to them. I am ashamed.

Council Chair Kaneshiro: Anyone else? Councilmember Evslin.

Councilmember Evslin: First off, thank you Ms. Fazier and the McLaughlin family for coming out. I will say that you folks are the most heavily impacted family on this Bill. I do appreciate your voice. If this passes first reading...we have more than six (6) to eight (8) weeks until the Committee Meeting that this will be at to talk and look at options. As I said in the beginning, this was not an easy decision to make. We have been talking to the Planning and Finance Departments for months about this reality and that there is deep inequities right now in our system. People are doing TVRs for their properties and based on the intent of CHU they should not be getting this. For first reading, this was the best that we

could do for this. Again, I believe it is really important to bring equity to the entire system and we will certainly continue to talk to everyone if this passes first reading.

Council Chair Kaneshiro: Anyone else? We may have a one (1) or two (2) minutes left on the tape. Councilmember Kagawa.

Councilmember Kagawa: When it comes to increasing taxes, I am a no man.

Council Chair Kaneshiro: Anyone else? Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. When we are looking at the two hundred (218) vacation rental properties, at least twenty (20) of them are the ones that I am concerned about. What I am looking at is probably less than twenty (20). I believe that there is remedy towards that. What we are also looking at is that some of the two hundred eighteen (218) are not in the right class. That is what we are looking at, it needs to be addressed, and that is the reason for this Bill. It is not because we want more money, that is not the reason. It is about fairness, equity, and bringing people to where they should be based on the use. That is equitable and that is what we need to work for. As I said clearly when we introduced this, there is an amendment that we need to work on. It was only in the last (2) days that this particular situation came up where I believe we are able to work towards a solution. That is what I am committed to. Thank you.

Council Chair Kaneshiro: With that, we will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2767) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for January 16, 2020 and referred to the Committee of the Whole was then put and carried by the following vote:

FOR PASSAGE:	Chock, Evslin, Kualii, Kaneshiro	TOTAL – 4,
AGAINST PASSAGE:	Brun, Cowden, Kagawa	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: 4:3.

Council Chair Kaneshiro: This Bill moves forward to public hearing. We will back for public hearing at 1:30 p.m.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 12:43 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a stylized, flowing script.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:ks

(December 4, 2019)

FLOOR AMENDMENT

Resolution No. 2019-53, Resolution Proposing A Charter Amendment Relating To Qualifications For The Chief Of Police

Introduced by: FELICIA COWDEN, Councilmember

1. Amend Resolution No. 2019-53 by amending proposed SECTION 2 from the current SECTION 2:

“SECTION 2. Article XI, Section 11.04 of the Charter is hereby amended as follows:

“**Section 11.04. Chief of Police.** The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of [five] fifteen years of training and experience in law enforcement, at least three years of which shall be in [a responsible, administrative capacity.] performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration, or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission of the state of affairs and condition of the police department.””

to the new SECTION 2, as follows:

“SECTION 2. Article XI, Section 11.04 of the Charter is hereby amended as follows:

“**Section 11.04. Chief of Police.** The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of [five] fifteen years of training and experience [in law enforcement,] as a peace officer in a full-service, public sector, law enforcement agency, at least three years of which shall [be] have been in [a responsible, administrative capacity.] performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration, or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission of the state of affairs and condition of the police department.””

12-04-2019
Handout
COWDEN
RES 2019-53

2. Amend Resolution No. 2019-53 by amending proposed SECTION 4 as follows:

“SECTION 4. The County Attorney and County Clerk shall approve the wording of the ballot question, which shall be substantially in the following form:

“Shall Article XI, Police Department, Section 11.04 be amended to require increased minimum qualifications for the chief of police, as follows: a bachelor’s degree in a relevant field and fifteen years of [law enforcement] training and experience[,] as a peace officer in a full-service, public sector, law enforcement agency, with three of those years in performing management-level duties at the rank of lieutenant or higher?””

(Material to be deleted is bracketed. New material is underscored.)

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