

COUNCIL MEETING

JUNE 17, 2020

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, June 17, 2020 at 8:36 a.m., after which the following Members answered the call of the roll:

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

Excused: Honorable Arthur Brun*

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

APPROVAL OF AGENDA.

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

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

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

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

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

MINUTES of the following meetings of the Council:

June 3, 2020 Council Meeting
June 10, 2020 Special Council Meeting

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

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

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

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

CONSENT CALENDAR:

C 2020-159 Communication (05/26/2020) from the Acting County Engineer, transmitting a Resolution Authorizing The Acquisition Of An Easement Interest In Land Required For Public Use, To Wit: The Pedestrian And Bicycle Path That Constitutes Part Of The County's Public Park System, Situated At Waipouli, District of Kawaihau, County of Kauai, Hawaii, And Determining And Declaring The Necessity Of The Acquisition Thereof By Eminent Domain.

C 2020-160 Communication (06/05/2020) from the Hawaii State Association of Counties (HSAC) President, transmitting for Council approval, HSAC's slate of officers for the HSAC Executive Committee and Board of Director nominations for the National Association of Counties (NACo) and the Western Interstate Region (WIR) for the 2020-2021 term and HSAC's Fiscal Year 2021 Proposed Operating Budget, pursuant to Section 5, Section 5A, Section 5C, and Section 21, respectively, of the Bylaws of the Hawaii State Association of Counties, Inc.

Councilmember Kualii moved to receive C 2020-159 and C 2020-160 for the record, seconded by Councilmember Chock.

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

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

The motion to receive C 2020-159 and C 2020-160 for the record was then put, and carried by a vote of 6:0:1*.

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

COMMUNICATIONS:

C 2020-161 Communication (05/07/2020) from the Director of Finance, requesting Council approval to dispose of the following government records, pursuant to Hawai'i Revised Statutes (HRS) Section 46-43 and Resolution No. 2008-39 (2008), as amended, which have been kept for over seven (7) years and are no longer of use or value:

- Pre-2013 files to include:
 - Cash Receipts;
 - Treasury Trust Fund documents;
 - Totals by Pay Class reports;
 - Bank Statements;
 - Outside Receipts; and
 - Daily SII Reports.

Councilmember Kualii moved to approve C 2020-161, seconded by Councilmember Chock.

Council Chair Kaneshiro: No one signed up to testify. Is there any discussion or questions from the members on this item?

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

The motion to approve C 2020-161 was then put, and carried by a vote of 6:0:1*.

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

C 2020-162 Communication (05/14/2020) from the Executive on Aging, requesting Council approval to receive and expend Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds in the amount of \$389,892.00, and to indemnify the State Executive Office on Aging, to be used by the County of Kaua'i, Agency on Elderly Affairs to provide Title III Supportive Services, Title C2 Home-Delivered Meals, and Title III National Family Caregiver Support, for the period June 1, 2020 through May 31, 2022.

Councilmember Chock moved to approve C 2020-162, seconded by Councilmember Kualii.

Council Chair Kaneshiro: We did not receive any testimony and have no one signed up to speak on this item. Is there any discussion or questions from the members on this item?

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

The motion to approve C 2020-162 was then put, and carried by a vote of 6:0:1*

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

C 2020-163 Communication (05/26/2020) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 10, Kaua'i County Code 1987, as amended, relating to the Enforcement, Legal Procedures, and Penalties that Apply to Violations, and Clarifying the Title for Chapter 10.

Councilmember Chock moved to receive C 2020-163 for the record, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Again, we received no written testimony on this item and have no one signed up to testify. Is there any discussion from the members on this item?

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

The motion to receive C 2020-163 for the record was then put, and carried by a vote of 6:0:1*

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

C 2020-164 Communication (05/28/2020) from the Acting County Engineer, requesting Council approval to apply for, receive, and expend State grant funds, in the amount of \$48,000.00, to be used by the Department of Public Works, Solid Waste Division, to support Electronic Waste (eWaste) Recycling for Fiscal Year 2021.

Councilmember Kualii moved to approve C 2020-164, seconded by Councilmember Chock.

Council Chair Kaneshiro: Again, we received no written testimony and no one registered to speak. Is there any discussion from the members on this item?

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

The motion to approve C 2020-164 was then put, and carried by a vote of 6:0:1*

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

C 2020-165 Communication (06/03/2020) from the Chief of Police, requesting Council approval, to accept a donation from the Wilcox Medical Center of two

hundred (200) face shields, valued at \$2,000.00, to be used by officers with the Kaua'i Police Department.

Councilmember Cowden moved to approve C 2020-165 with a thank-you letter to follow, seconded by Councilmember Kualifi.

Council Chair Kaneshiro: Again, we have received no written testimony and no one registered to speak on this item. Is there any discussion from the members?

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

The motion to approve C 2020-165 with a thank-you letter to follow was then put, and carried by a vote of 6:0:1*

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

C 2020-166 Communication (06/03/2020) from the Housing Director, requesting Council approval to receive and expend \$1,425,000.00 in National Housing Trust Fund (HTF) Program Year (PY) 2018 funds and to indemnify the Hawai'i Housing Finance and Development Corporation, for the Pua Loke Affordable Housing Project.

Councilmember Kualifi moved to approve C 2020-166, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We have no written testimony and no one registered to speak on this item. Do we have any questions or discussion from the members?

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

Councilmember Kagawa: My question is, I sure see a lot of homeless—it looks like transplants—I am hoping we are going to house the local homeless and local affordable residents, because what will happen is if we continue to house these homeless transplants from the mainland, we are going to get a lot of transplants coming here. That was a concern from Mayor Harry Kim way back when they were talking about these homeless shelters—an expansion of it—then he received push-back, because that was the fear. It concerns me. I see a lot of these folks come off of the plane with backpacks and I am wondering, are we going to house these folks or are we going to house our local people? That question is for you, Adam.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: Aloha, everyone, Adam Roversi, Housing Director for the County of Kaua'i. The HTF funds that we received...quick background, an annual allocation of federal...can you hear me okay?

Councilmember Kagawa: Yes.

Councilmember Cowden: Yes.

Mr. Roversi: Annual allocation of federal housing funds that were given to the City and County of Honolulu, that they were unable to utilize, so there was a very quick turnaround application process for any other counties to apply for these funds—we applied for them and were issued with the award. Our intention is to put these funds into the Pua Loke Affordable Rental Project that is already underway. That was one of the requirements of receiving these funds, is we had to have a shovel-ready project ready that could utilize them, so that is what these funds are intended for, the Pua Loke Affordable Rental Project, over by the Department of Water, which will be fifty-three (53) units of housing with preference to Kaua'i residents. We are required by the federal government to follow their guidelines with who we are allowed to put in the housing, what income-levels people who are being placed in that housing have to be in, and so forth, so the federal government controls what we can do with that money. To get to your point, it does preference Kaua'i residents and placing people in that housing project once it is complete.

Councilmember Kagawa: I see a lot of definitions with COVID-19. Intended new resident—they can be considered an intended new resident when they come off the plane with a backpack. I hope you know what I am talking about. I am talking about long-term residents having preference in these places. Does the federal government preclude us from doing that?

Mr. Roversi: My understanding is we can impose a residency requirement, but someone can become a legal resident of Kaua'i, as far as the federal government is concerned, within a matter of a couple of days. It would be illegal for us to impose a durational residency requirement. Say, hypothetically, "You have to be a resident for five (5) years to qualify to apply for one (1) of these rental units." My understanding is that is illegal and the federal government would not permit us to do that, but we can require that someone be a Kaua'i resident.

Councilmember Kagawa: Thank you. I am not satisfied.

Council Chair Kaneshiro: Councilmember Cowden, then Councilmember Kualii.

Councilmember Cowden: Follow-up on what Vice Chair Kagawa just said. I know I have sent a couple of E-mails asking for perhaps a charrette or a visit. I am happy to help with that to the housing encampments. Director Roversi, you know that I am involved with the camping situations at the parks, so I think if we went and help sign people up, because when I go tent-to-tent down there most of them are unaware of the Pua Loke Affordable Housing Project or the project adjacent to it that has the higher risk therapeutic housing. I think there are some people that would be appropriate for that. Are we able to go down there and help sign up these people? So as we open up our parks, that some of these people are in line for housing. Is that something we can do? Can we go down there and help people sign up?

Mr. Roversi: There are two (2) separate housing projects in that area that we are working to complete. The Kealaula at Pua Loke Street will be geared more towards people who are currently homeless—the sorts of people who are now living in our County parks—that facility is not yet ready to accept applicants and move-ins, but we are hoping that it will be ready for move-ins in August. Women In Need (WIN) is a service provider that is running and managing that facility and they are charged with the outreach work to go out into the community to engage with the other various nonprofit groups on Kaua'i, that make up the Kaua'i continuum of care to handle the application process and do outreach to homeless community to fill those units with people who qualify. So there could be opportunities to join with them and assist them in that process and become a part of that, probably in the not too distant future, as they have a firm move-in date set and begin to ramp-up for that project. That will have twenty-two (22) units, I think a maximum occupancy of about sixty (60) individuals. The affordable rental project that I mentioned, which this HTF funding is about, that is just now breaking ground, so that facility will not be ready for move-in and completion for about another year, so we are a little premature to think about outreach to get people into those units at this point.

Councilmember Cowden: I have explained that to them, but among the people living in the parks there are many employed people, many with a trunk load full of construction tools that go off to work every day. I understand they will not necessarily be able to go right into a house, but whether it is those or any of our other housing projects, we have a number of different possibilities and options. Just addressing Councilmember Kagawa's concern, I would say, last I looked seventy-five percent (75%) of what is at Salt Pond are probably Polynesian ancestry—either Marshallese or Hawaiian—there is a long-standing population at Lydgate. If we went and helped them at least get on a list for the future, regardless of what happens in between, there are many that are working and they are families. So that is one way that we are able to address the issue that he is concerned about is that if we build these places there are people on the list possibly for a year or two (2) that could go into that. I want to re-emphasize the importance of looking at the houseless encampments and more at 'Anini and Lydgate, it is people continuing to be removed from their housing because they cannot afford it that are ending up in those places. I think that we should get the list filled with people, so when it is a couple years out, they have moved up the list. Please think about that. I have asked and I have not received a response, but that has been a request for about two (2) months from me.

Mr. Roversi: Okay, I am unfamiliar with any written request to my office, but I am happy to sit down and discuss anything that you would like if I get one.

Councilmember Cowden: Okay, I will send it again.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Good morning, Adam. Thank you for being here. Just some basic questions, this development has how many units? I think it is fifty-four (54). When is it expected to be completed? When can folks move in? And when is your application process going to be open?

Mr. Roversi: We are hoping that groundbreaking will take place this month to begin work. The estimated construction timeline is approximately a year, so we are hoping to have it available for move-in in the summer of 2021. There are fifty-four (54) units total, one (1) of them is a manager's unit, so there will be fifty-three (53) units of housing; one (1), two (2), and three (3) bedroom apartments. It is designed to serve primarily people who make sixty percent (60%) of the Area Median Income (AMI) and below, although there are a few units that allow up to eighty percent (80%) of the AMI and below. I would envision that the formal application process would begin a month or two (2) prior to the expected completion date—so ballpark, this is no promise—I would envision application processes would be starting to ramp up perhaps May/June of next year. What other items did you ask in there?

Councilmember Kualii: That was the first part, now I have a couple more questions.

Mr. Roversi: Okay.

Councilmember Kualii: Being that we have this time, I know at the Housing Agency you have programs where you work with our families or people to get them ready for homeownership and there are waitlists for things like Section 8, the rental program. Can you also work with our families and individuals to get them ready for rental for this project, being that it is so far up? Even though you cannot—according to the federal guidelines with the funding—put a timeline on how long they have to live here, can you do a requirement of them having gone through your program? Such as the homeownership program, but one for rentals, then be qualified to become a renter for that project? In that sense, that would at least give a period of time and perhaps a way of working with our local families.

Mr. Roversi: That is something I could inquire with the Department of Housing and Urban Development (HUD), whether we can impose some sort of educational requirement for move-in to the rental units. Anecdotally, the Home Buyer Education Program that we have is a requirement of purchasing a home through the County Home Buyer Program. It is designed to help people get over the difficulties of qualifying for financing and understanding the realities of homeownership and getting them situated so that we do not place them in a home that they then quickly cannot afford and end up being evicted, because they cannot cover their mortgage. Just as a general comment, we do not usually have any difficulty filling rental units and there is a less obvious need for financial education for renters than for people getting into a thirty (30) year home purchase situation. But I take your point of the idea and I would be happy to inquire with HUD, who controls how we use all this funding, to see if that would be an allowable preference for future rental projects.

Councilmember Kualii: The only thing I would add is that it may not even be a program that we have to administer, because I know there are several nonprofits that do basic financial empowerment type training, which would get folks ready to be a responsible renter—to have the financial management skills to make sure rent is paid and things like that. I know for sure the Young Women Christian Association (YWCA), I would imagine other nonprofits, as well, maybe even the State. Just a matter of whether it could be a mechanism we could use, whether we actually

put the staffing behind providing the additional training, but at least make it some kind of requirement. Thank you.

Mr. Roversi:

You are welcome.

Council Chair Kaneshiro:
Councilmember Evslin.

Are there any further questions?

Councilmember Evslin: Adam, thank you for coming. I want to briefly express my appreciation. It seems like there is a lot of action happening right now, from your shop between Pua Loke, the WIN project, and the tiny home villages, and I know a lot of this is the culmination of years of work, but I appreciate you and your team's move here. Just one brief question, could you speak a little bit to the overall funding for this, how are you leveraging County funds? I know you may not have exact figures here, but how much County money is going into the project and how is that being leveraged to get access to these types of Federal funds here?

Mr. Roversi:

Sure, so do not hold me to these exact numbers, because they are all of the top of my head, but they are within the realm of reasonableness. The Pua Loke Rental Project, the Affordable Rental Project of fifty-three (53) units that the HTF funds that this current discussion are going towards is ballpark a twenty-eight million dollar (\$28,000,000) construction project. What has made that possible, initially, was approximately two hundred thousand dollars (\$200,000) in County funding that paid for all the initial pre-developmental work—the environmental review, and the archeological review that were required, the approvals by the State Historic Preservation Department, and so forth. We initially used our development funds to identify and do all the pre-development work required to start the process of getting a place like this put together. The next step is to partner with a nonprofit or for-profit private developer with our land, so we utilized County funds of about two hundred thousand dollars (\$200,000) to do the pre-development work to essentially qualify this property for a project to attract developers. Then to create a realistic financing package, so that a developer can pay to build one of these projects that by definition is going to have a limited rental income, because of the income group that it is serving, we help to create the financing package. In this particular case we initially put approximately three million dollars (\$3,000,000) of the HOME Investment Partnerships Program (HOME) and HTF funds—those are HUD grant funds. We put approximately three million dollars (\$3,000,000) of those funds into the project and we put another five hundred thousand dollars (\$500,000) in County development funds into the project, so that is a total of seven hundred thousand dollars (\$700,000) in direct County funding, and three million dollars (\$3,000,000) in Federal grant funds. Then the private developer themselves utilizes the demonstration of County funding to apply for and qualify for Federal tax credits to provide additional funding to the project of—I do not have this exact number—I believe it was in total around eight million dollars (\$8,000,000). Then with the combination of the Federal grant programs, the County development funds, and the tax credit program funds, they can then get private financing to cover the rest of the project through the construction period, that then allows them to have sufficient equity in the project that once it is completed, they can rollover into permanent financing with a private lender and/or their tax credit lenders that can be supported by the amount of rent that they will realistically expect to bring

in from that project. So without the County's subsidy of that seven hundred thousand dollars (\$700,000), that twenty-eight million dollar (\$28,000,000) project would not have happened, so that is the way we leverage. Seven hundred thousand dollars (\$700,000) is not a tiny amount of money, but compared to a twenty-eight million dollar (\$28,000,000) project, that is the way we leverage our County funding to get a much larger project off the ground and completed.

Councilmember Evslin:

Thanks, that is incredible.

Mr. Roversi: The specific item that we are dealing with today is some additional HTF funding that, as a surprise to us, became available and in part because some of the bids for this specific project came in higher than originally expected and budgeted for. It was helpful to be able to add this additional Federal funding into this particular project to be sure that it can get to completion without running into any financial roadblocks.

Councilmember Evslin: Thank you. So seven hundred thousand dollars (\$700,000) in County money for a twenty-eight million dollar (\$28,000,000) housing project is a good way to leverage our funds. One quick follow-up, in broad terms again, so I think you have three hundred thousand dollars (\$300,000) in the Housing Development Fund for this coming year, do you have a broad estimate of how that is leveraged or what that turns into in terms of federal money?

Mr. Roversi: We hope to be able to complete the pre-development work to an exact dollar amount. We hope to be able to utilize the existing development funding to kick-off another affordable rental project similar to the Pua Loke project, as well as all the pre-development work necessary to get the single-family residential portion of the Lima Ola Housing Subdivision off the ground and moving forward. I would envision that if we used Pua Loke as a model, we would be looking at another twenty-six million dollar (\$26,000,000) to thirty million dollar (\$30,000,000) multi-family rental project. The Lima Ola Project is tentatively thirty-three (33) single-family homes. If we say each one is about a four hundred thousand dollar (\$400,000) house, that is another twenty-eight million dollars (\$28,000,000) to thirty million dollars (\$30,000,000) in construction. All of which clearly benefits the future, either homeowners or renters, but usually all of that construction money is also going into the Kaua'i economy, as well—paying carpenters, electricians, plumbers, landscapers, et cetera—so it is not just generating housing, it is generating significant economic activity for our island, as well.

Councilmember Evslin: Great. Sorry for going down that tangent, but I appreciate your answers and the work you folks do.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: Adam, I have one more question about the Pua Loke rental. You talked about having one-, two-, and three-bedroom apartments, how many of each? How was that decided? Does the federal funding play any role in how you can decide how many of which type to do?

Mr. Roversi: That is not determined by the federal government. Typically, that is developed by the developing partner that we came up with. They usually do a market study based on their experience, projected need, and they have projections of the rent that can be received from each of those units. They have a picture in their mind about the income that the project needs to generate in order to pencil out financially to be able to be built. That is a unit mix that arises mostly from their experience and their own understanding of what the market needs and where the demand lies. Anecdotally, oftentimes there is obviously...

Council Chair Kaneshiro: Adam, hold on. Anyone that is on, if you can double-check to mute your microphones (mics).

Councilmember Cowden: Mics.

Councilmember Kualii: The testifiers.

Council Chair Kaneshiro: Okay, Adam.

Mr. Roversi: Anecdotally, at the Koa'e Housing Project, which is currently at completion and moving in, I think they have twelve (12) of the buildings currently available for applicants and renters, right now in Kōloa. They had a similar mix of one-, two-, and three-bedroom, and as a proportion they had relatively few one-bedroom units—just as a note, those rented quickly. They had more difficulty finding people who wanted the larger units, so we are envisioning possibly for future projects trying to tilt the balance more in favor of studios and one-bedroom units, smaller units, just because at least in recent past there seems to be an increase in demand for those, whereas I think before it was the larger units are generally more desirable. I would have to pull up paperwork to be able to get you the exact unit mix for the Pua Loke project.

Councilmember Kualii: Thank you. I know it is about the demand in the market, but I think that may be a place where we can play a role too, in the demand by people who are moving here, like Vice Chair Kagawa, to take advantage of programs that we intend for our local families. It would be interesting to see if those folks coming are not the ones most interested in the one-bedroom apartments—that is why the demand is so high. Maybe if the three-bedrooms are hard to rent, instead of making more one-bedrooms, we should take it down to two-bedrooms. Can the Housing Agency work with the developer on what they are studying and try to influence that to reach more local families?

Mr. Roversi: Yes, we certainly can impose requirements on the developer at the early stages and we can tell them what type of project we are looking to develop. Then it is up to them to bid on doing the job or not, whether they think it is appropriate.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Adam, thank you for that information. It is interesting about the demand for the one-bedroom versus the two- or three-bedrooms.

When we went out to those projects and saw what they were trying to do, I was hopeful that they would be taking in families, so I was thinking the two- and three-bedroom units would be the ones to have gone first, because those were the units that would be bringing in families—parents, kids—trying to break the cycle of homelessness. It is interesting that you say the demand is mostly for one-bedroom units. I would ask as we do outreach, try to reach out to see what families we can bring in. Again, I am still hopeful and excited about the project, because the whole intent of it was to break the cycle of homelessness. Get a roof over these families heads, allow people to have a stable life, and house—not worry about where they are going to live, where their next meal is. Then in turn the kids can start to concentrate more on school or that home environment, rather than worry where they are going to sleep. I still think it is a great project and I look forward to seeing some of those types of success stories as we move forward. Councilmember Cowden.

Councilmember Cowden: First, I want to thank you for all the work you are doing and being on it for being able to get this one million four hundred twenty-five thousand dollars (\$1,425,000)—very good and that helps us to be able to do other things. I am just going to make a suggestion, when we are looking at the size of the units, if they play off what happens a lot in the condo set where there is essentially what can be a lock off that takes a two-bedroom unit and make it be a three-bedroom good sized unit, or it could be more of a studio and a two-bedroom. That is something to consider in the future, because there is a lot of apartment unit designs like that, that we see particularly directed at the visitor industry and we could probably shape it that way and have the flexibility—just to put that in your mind. Thank you.

Council Chair Kaneshiro: Are there any other questions from the members? Councilmember Kualii.

Councilmember Kualii: Adam, you had said that this rental project is dedicated to sixty percent (60%) AMI and below and a few at eighty percent (80%) AMI and below, could it be that the low demand for the two- and three-bedrooms are also because even at the lowered rent, people in that situation who have that need cannot afford it? Are the rents set at thirty percent (30%) or forty percent (40%) of their monthly income?

Mr. Roversi: I do not have the specific rents in front of me. My observation was that the one-bedroom units were in high demand. I do not think they are having difficulty filling the two- and three-bedroom units, it just was a little slower, so it is not as though we have empty units sitting there with no people willing to rent. The rents are established based on HUD defined rents. I can try to pull up the website. All the rents are on the Koa'e Makana website, I want to say the three-bedroom units are about one thousand two hundred dollars (\$1,200)—that is defined and required by HUD. On top of that, we have many units out there that are part of our project based voucher program, so we are providing rental assistance to people who live in those specific units, which is subsidizing the even already low one thousand two hundred dollar (\$1,200) month rent. There are numerous subsidized units in that facility. We are also working very hard to specifically place our Housing Choice Voucher (HCV) rental assistance voucher holders in that project, which also helps filling any gaps in their ability to pay the rent.

Councilmember Kualii: The bottom-line is, you are saying, even though the two- and three-bedrooms took longer to rent out, the demand is indeed still there, so we are helping our local families. If we had more two- and three-bedrooms we could probably help more local families.

Mr. Roversi: Yes, Koa'e Makana project is one hundred and thirty-three (133) units. I think if we could have built two hundred and fifty (250), I do not think we would have a problem filling them.

Councilmember Kualii: Okay, so then my original suggestion based on what Vice Chair Kagawa was saying is we should try to push for more local families by perhaps pushing for more two- and three-bedrooms, and less one-bedroom units. Thank you.

Councilmember Chock: Thank you, Chair. This is a follow-up to Chair Kaneshiro's question or comments about getting families into the units. I want to say about two (2) years ago your predecessor surveyed and had a sort of cross agency group working on putting some of the houseless families into homes. At the time, I think they had about thirty (30), they had about half of the fifteen (15) families into homes and we had a small list. I am curious, just to get a sense of what it is we are dealing with, because this was pre-COVID-19 of course, and how we can draw that connection to what the need truly is. Are you familiar with the work that happened previously and how we might be able to continue that?

Mr. Roversi: I am not familiar specifically with what you are talking about, but I can tell you about what we are currently doing. When it comes specifically to the homeless community, we work with the Kaua'i Community Alliance, which is a network of Kaua'i nonprofits and they utilize a computer-based system. The acronym is Coordinated Entry System (CES) and it creates a running list of homeless individuals with all their contact information. It works in advance to help them gather sorts of financial documents and identification documents that they need to qualify to be able to move into one of these projects. That collection of nonprofit organizations together with the County Housing Agency works to maintain a running list in this CES program of individuals who are currently homeless to essentially a move-in ready list of individuals to draw from when we have projects available.

Councilmember Chock: That is good.

Mr. Roversi: I am not sure what was compiled previously, but I know that CES list is what we currently utilize and we need to ramp it up. It needs to be better utilized to help incorporate more of the folks who are now congregating at all of our county beach parks into the list. I know that during the COVID-19 emergency, a lot of the nonprofit groups that we rely on that partner with us to do this work, they themselves sent all their employees to stay at home and ceased a lot of their outreach work that assists in creating this list and doing the work that it takes to get people on them. Now that some of the rules have been relaxed, I know that they are all, in the last couple of weeks, ramping up once again their outreach work to the community and attempting to get back on this sort of work you are talking about.

Councilmember Chock: Thank you. If there is an updated or current listing would we be able to get a copy of that data?

Mr. Roversi: I can get you some numbers of people on the list. The last time I checked the list had fifty-five (55) people on it. Because it contains all of their personal information, I do not think the specifics can be shared.

Councilmember Chock: Understood.

Mr. Roversi: But those are the numbers. I can relate just number-wise to give you a picture. Before COVID-19, at the recent statewide homeless point in time count—they did a survey of homeless individuals on Kauaʻi—it is all publicly available. Do not hold me to this, I could be ten (10) off, it was about three hundred seventy-nine (379) homeless individuals counted on the island of Kauaʻi. They do not presume they have counted every single one, but that is their estimate and they try to do the same technique every year, so they can judge changes over time. Before COVID-19, just under three hundred seventy (370) or three hundred eighty (380) homeless individuals on Kauaʻi. As I understand from the Department of Parks & Recreation who has been doing their own outreach work through their rangers to the people who have concentrated in county beach parks—they have been seeing counts of their own in the two hundred and forty (240) area. If we only have fifty-five (55) people on the CES list, there is obviously a lot of people who we need to interact with to help them get into the system to the extent that they can be qualified for housing. It is a complicated picture. There is no one-type of homeless individual. There are people suffering from substance abuse problems, people who are simply in an economic bad place, they are people suffering from mental health issues, so simply being on the list is not necessarily the solution for everyone. It takes a multi-faceted approach to be able to serve a wider array of people who find themselves without a house. I did not mean to go off topic.

Councilmember Chock: Yes, I will not veer us too much more. I think the point was if we can find out how many families are on that list, but we can continue this conversation, thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Adam, I have a better question for you. Are you familiar with the McKinney-Vento Homeless Assistance Act, which provides homeless assistance for students that attend public schools—such as buying them gear, paying their fees—it is a Federal act and it identifies which students are under homeless situations?

Mr. Roversi: I am not familiar with that, no.

Councilmember Kagawa: Would it be possible for your staff to check with the schools, because I believe those should be priority. I believe every child that is in a homeless situation should be first in priority to get into housing. They should not be attending public school in a homeless situation. I do not know if we have the collaboration with the schools to identify those, but it is readily available. I have a list

at Waimea High School that I can provide to you, but every school has one and I am wondering if that can be done. At least, since this is a Līhu'e project that those in this district at least be contacted to see if they may want to get into that housing, because like I said, it is pitiful and heartbreaking when you see students have to deal with trying to get an education while under a homeless situation. They could be living in that big Ahukini camp. It is troubling that we cannot get our things together with the State and Federal government and put those on the list first, somehow.

Mr. Roversi: I would be more than happy to reach out to the Department of Education (DOE) to see if we can put our heads together and cooperate with the information that they have.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: Is there anyone else? If not, thank you, Adam.

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

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

Councilmember Kagawa: Thank you. This whole situation; I have seen numerous situations that concern me. At one time, Mayor Harry Kim came in and wanted to do a homeless project that would be specifically targeted for homeless on the Hawai'i Island. Then the brakes were put on because of the situation that I brought up. They feared that if they did provide the facilities—again, like Adam said there are Federal guidelines—it is going to be very difficult to control taking care of your local homeless population. Then we saw it again during COVID-19 when Honolulu City and County cooperated with the State and set up that homeless shelter by Keehi Lagoon to keep social distancing and they had the restroom and shower facilities, and food available there. Then Mayor Kirk Caldwell started slamming Governor Ige, because he said we are providing the facilities, security with the police, and we are looking at the encampment and half of the individuals just flew in or were homeless transplants. When you ask what is local? If you came here homeless for five (5) years and you have been homeless all this time living at the parks, does that make you local? I do not think so. I do not think that fits the bill. I had this conversation with Gary Hooser and he asked me, "What is local?" It is a broad definition, but I think it is having to live in a community and serving the community in one way or another, not just taking from the community. When you come over homeless, what benefit do you provide to the island? When you fly over, like right now, with a one hundred dollar (\$100) fare and you are stuck here, are we supposed to provide the housing for you? Are we supposed to let you stay at the beach so our locals cannot go to the beach? I think this is a burden, nothing good is coming out of it. Please correct me if I am wrong. If we do show *aloha* to these individuals, we are going to have thousands more coming. I already have a lot of complaints from locals saying, "They cannot enjoy Salt Pond." Even now during COVID-19, because every pavilion is taken by the homeless. It is sad. To me, Salt Pond is a special place, it is where I grew up. We go there every weekend, but now the community that lives there are complaining to me and asking me, "When are we getting

Salt Pond back?” Like Councilmember Cowden said, a lot of them are locals. Well, we need to get the locals in housing and then we can have our beach parks back for the community to enjoy. I want to one hundred percent (100%) support these programs, but I think we need to take care of our local people. They do have amounts set aside for the homeless for housing. I do not know if it is one thousand two hundred dollars (\$1,200) a month, but in many areas that is not enough to pay rent for a family. Even in Hanapēpē, I think two- or three-bedrooms are going for almost two thousand dollars (\$2,000) or one thousand five hundred dollars (\$1,500), at least. It is troubling, it does not add up, and it is incumbent on us to try to make a difference, because you are seeing the homeless population grow. It will continue to grow with COVID-19 and the only way it will help is, I believe we have to target our local families, because they are the ones with children, like Councilmember Kualii talked about. They are the ones that their kids need to go to school and struggle to learn with other kids that have houses. It is tough. No child should be born into an unfair situation like that and have to go through it. I really hope we can target our housing, especially the affordable rental programs, for local families, especially those that their children are attending public schools. Thank you, Chair.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I wanted to say, *mahalo nui loa*. Thank you, Adam, everyone in the Administration, and the Housing Agency who are working on projects like this. I think both of these projects in Pua Loke is very exciting and I am happy to see how fast it is moving. It is great when we have something like this in place, that we show we are willing to invest into, that other opportunities can come up. So this particular one million four hundred twenty-five thousand dollar (\$1,425,000), the ability for the State to repurpose this money and us to be able to use it for this project. This is only possible because we already had it in place and we were shovel-ready. The only other thing I would say is, because of COVID-19 and how we have so much work to do with recovery and how the need is even greater, as far as affordable housing goes in helping our homeless—even more people could be in that situation—I really want to see us take this example of success and triple or quadruple our efforts and use the three million dollars (\$3,000,000) or whatever we have in our housing development fund to leverage and maximize, because you showed us some of the math. The twenty-eight million dollar (\$28,000,000) project, we have put forward seven hundred and fifty thousand dollars (\$750,000), as well as the three million dollars (\$3,000,000) in HOME funds, so let us make sure we are putting our part forward to attract all of these projects and spend down our housing development funds—that is what it is there for—and to do it at a more rapid pace now, because of the need and making sure we are doing as much as we can and then more. Thank you, so much.

Council Chair Kaneshiro:

Is there anyone else?

The motion to approve C 2020-166 was then put, and carried by a vote of 6:0:1*

Council Chair Kaneshiro: The motion is carried. We do have our two (2) testifiers for our Committee Meeting agenda item, so I am going to bounce back. I will recess our Council Meeting and go back to the Committee Meeting.

There being no objections, the Council recessed at 9:30 a.m.

The meeting was called back to order at 9:45 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

C 2020-167 Communication (06/03/2020) from the Planning Director, requesting Council approval to receive and expend State funds in the amount of \$45,000.00, from the State of Hawai'i Department of Health, Chronic Disease Prevention and Health Promotion Division, to fund a "Quick Build" Demonstration Project that promotes walking, bicycling, and transit through safe, connected routes, and healthy community design, for the project period of July 1, 2020 through June 30, 2021.

Councilmember Kualii moved to approve C 2020-167, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony and no one registered to speak on this item. Is there any discussion from the members on this item?
Councilmember Evslin.

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

Councilmember Evslin: If Ka'āina is here it would be good to hear a little bit of a rundown on it. I did not request it beforehand, so it is understandable if he is not here.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: Aloha. Sorry, I just stepped away from my computer. Is this for the Department of Health forty-five thousand dollar (\$45,000) funds?

Council Chair Kaneshiro: Correct, the "Quick Build."

Mr. Hull: Okay. The "Quick Build" funds were established by the Department of Health to provide the County with a relatively small amount of money to look at various multimodal improvements that can be done on somewhat of a temporary basis with paint or flower plant improvements to demonstrate to a community how a piece of infrastructure could impact their communities.

Council Chair Kaneshiro: Mr. Hull, you may need to sit further back.

Mr. Hull: Is this better?

Council Chair Kaneshiro: Yes.

Councilmember Cowden: Yes.

Mr. Hull: Again, it allows for the County to use things like paint and plants to demonstrate to communities how multimodal strategies can be used. Sometimes they can be used with paint as opposed to concrete and asphalt, but just with paint, how a roundabout could work for our project or how walkways can work if they are widened. The Department of Health approached us about a month ago and said we got this pot of money that you could use. We were not competing for it. They just came to us and said they have this pot of money. We have the intent to look at going to the...

Council Chair Kaneshiro: Sorry, Mr. Hull you are still coming in a little patchy. Maybe try sitting further back, that usually helps. I do not know, I am not a technological person.

Mr. Hull: Is that better?

Councilmember Cowden: Yes.

Council Chair Kaneshiro: Yes.

Mr. Hull: Like I said we did not need to compete for this. It was the Department of Health calling us and asking if we would like this money that needs to be expended within the timeframe allotted. Here we are before you. We have some idea with the West Kaua'i Community Plan outreach and working with them to look at various technical improvements and safety measures for Hanapēpē, but if we are approved to accept the moneys we will keep going back to quick outreach work with companies to see what type of small projects they like.

Council Chair Kaneshiro: Councilmember Evslin, I cannot see if you have more questions, but you have the floor if you want to ask Mr. Hull anything more.

Councilmember Evslin: No questions. Thank you, Mr. Hull. I love the idea. I appreciate you moving forward on that and you can do some exciting projects on that.

Council Chair Kaneshiro: Mr. Hull, to clarify the intent for this money you mentioned the West Kaua'i Community Plan, so you were intending on using the money on the west side?

Mr. Hull: Correct. The West Kaua'i Community Plan has not been adopted yet. There are a lot of great ideas popping up in the process, so if you folks approve it the Department of Health will look at building a master plan with outreach overall west Kaua'i to look at potential projects the community might want.

Council Chair Kaneshiro: Okay. Are there any other questions from the members? Councilmember Kualii.

Councilmember Kualii: Mr. Hull, an example of this is what is happening right now in front of the old court building, because I have noticed there is a concrete sidewalk along the Elections building and parking lot area, then it just stops, but they are painting what looks like a sidewalk on the road there, so there is a place for people to continue walking. They are also painting an area that is like a divider where the traffic goes, where there is an open space and a painted sidewalk. That is all part of the Transportation Investment Generating Economic Recovery (TIGER) grant, right?

Mr. Hull: Correct. We did receive the moneys for “Quick Build” for Līhu‘e as well, that is why you see that. But Councilmember Kualii, we cannot use this money for hardscape improvements and we cannot use it to build sidewalks or those types of improvements.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: You are still coming in a little patchy, but I think we could understand what you said. Councilmember Cowden.

Councilmember Cowden: I looked up on the internet what those big green squares mean, that are on Rice Street—does that mean it is a shareable like the bike and the car can go together—the big green square that is painted on the road—is that an example of the same thing or no, because it is not part of a popup? Did you notice the green squares on the road?

Mr. Hull: The squares on Rice Street are part of the TIGER grant that is to show...

Councilmember Cowden: Back up.

Mr. Hull: I do not think...

Council Chair Kaneshiro: You are still coming in patchy, Mr. Hull. I am sorry.

Councilmember Cowden: You need to back up.

Council Chair Kaneshiro: Yes. Try again, one more time. I am sorry, the green patches on Rice Street.

Mr. Hull: The green patches on Rice Street...is it better?

Councilmember Cowden: It is better.

Mr. Hull: Okay, the green patches on Rice Street are part of the TIGER grant, the thirteen million dollars (\$13,000,000) that was expended. Indeed they are for shareable modes to indicate where on the road should be sharable with other users of transportation. Theoretically, that could be part of the “Quick Build” grant. There was not too much discussion of that with the West Kaua‘i Community

Plan, there was some discussion to that effect, but I think in looking at the West Kaua'i Community Plan, those were not planned there.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Okay, thank you. Anything else from the members?

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

The motion to approve C 2020-167 was then put, and carried by a vote of 6:0:1* *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

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

C 2020-168 Communication (06/04/2020) from the Executive on Aging, requesting Council approval to receive and expend State funds, in the amount of \$42,438.00, and to indemnify the State Executive Office on Aging, for the Healthy Aging Contract No. 20-227, Modification Order No. 1, which will be used towards EnhanceFitness and Better Choices, Better Health workshops, for the period June 30, 2020 through June 30, 2022.

Councilmember Kualii moved to approve C 2020-168, seconded by Councilmember Cowden.

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

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

The motion to approve C 2020-168 was then put, and carried by a vote of 6:0:1* *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

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

LEGAL DOCUMENT:

C 2020-169 Communication (06/01/2020) from the Acting County Engineer, recommending Council approval of a Right-of-Entry Agreement by and between the County of Kaua'i and Grove Farm Company, Inc. to allow access to property located at Tax Map Key (TMK) No. (4) 3-3-018:009, Lihu'e, Kaua'i, Hawai'i to construct

and/or repair portions of Puhi Road for sidewalks and grading, as well as for construction related to the Puhi Road drainage system.

- Right-Of-Entry Agreement

Councilmember Kuali'i moved to approve C 2020-169, seconded by Councilmember Cowden.

(Councilmember Kagawa was noted as present.)

Council Chair Kaneshiro: I will be recusing myself from this item.

Council Chair Kaneshiro, the Presiding Officer, relinquished Chairmanship to Council Vice Chair Kagawa.

Council Chair Kaneshiro was noted as recused from C 2020-169.

(Council Chair Kaneshiro was noted as not present.)

Councilmember Kagawa: Is there any discussion from the members on this item? Councilmember Cowden.

Councilmember Cowden: I just wanted to thank Grove Farm Company, Inc. for being of assistance in helping our Puhi Road area have better drainage and sidewalks.

Councilmember Kagawa: Is there any further discussion from the members?

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

The motion to approve C 2020-169 was then put, and carried by a vote of 5:0:1*:1 *(Council Chair Kaneshiro was noted as recused).*

Councilmember Kagawa: The motion is carried. Let us call the Chair back.

(Council Chair Kaneshiro was noted as present.)

Councilmember Kagawa returned Chairmanship to Council Chair Kaneshiro.

Council Chair Kaneshiro: Next item, please.

CLAIM:

C 2020-170 Communication (06/03/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Patricia J. Erickson, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2020-170 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions or discussion from the members on this item? Councilmember Kagawa.

Councilmember Kagawa: Is this another one on Kōloa Road?

Council Chair Kaneshiro: Yes, it is.

Councilmember Kagawa: It is unbelievable how many claims were filed. I know our process is to deny at the outset, because we are going to encourage a lot of frivolous claims, but I just want to say that I am glad we are finally going to finally fix the road. Recently, I drove it a couple of times and it is really bad. All of our patchwork too is bad. The patchwork that we do...I think need to improve our pothole repair. I do think there is a better method. We need to get better. If we do the same thing and it does not work, we need to change the play or change the methods, because the patchwork that we do does not help.

Council Chair Kaneshiro: Does anyone have further questions or discussion from the members?

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

The motion to refer C 2020-170 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item

COMMITTEE REPORTS:PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:

A report (No. CR-PSHS 2020-02) submitted by the Public Safety & Human Services Committee, recommending that the following be received for the record:

“PSHS 2020-01 Communication (05/21/2020) from Committee Chair Cowden, requesting the presence of the Chief of Police, to provide a comprehensive review of the Axon Body Camera Officer Safety Plans (OSP) and associated technologies,”

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

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

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

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

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2020-13) submitted by the Committee of the Whole, recommending that the following be received for the record:

“COW 2020-03 Communication (05/21/2020) from Committee Chair Kaneshiro, requesting the presence of the Managing Director, to provide a briefing on the new standard operating procedures and business hours for all County departments/agencies, and an update on the allowable industries/businesses on Kaua'i as of June 3, 2020,”

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

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

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

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

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

RESOLUTIONS:

Resolution No. 2020-28 – RESOLUTION AUTHORIZING THE ACQUISITION OF AN EASEMENT INTEREST IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, SITUATED AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUAI, HAWAII, AND DETERMINING AND

DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

Councilmember Chock moved to schedule a public hearing on Resolution No. 2020-28 for July 8, 2020 and refer to the July 22, 2020 Council Meeting, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: With that, I will suspend the rules. I am sure we do have questions. Troy or Doug, if you want to give us a brief overview of the item, then I will open it up for questions. Someone has music in the background that we can hear.

There being no objections, the rules were suspended.

DOUGLAS HAIGH, Chief of Buildings: Selena, can you turn off that music, please. Sorry. Troy did you want me to proceed?

TROY K. TANIGAWA, Acting County Engineer: Yes, Doug you may proceed.

Mr. Haigh: We have been working on this property for quite some time. This is part of the bike path that goes from Waipouli Canal Bridge to Papaloa Road and this property is adjacent to the Mokihana property. The previous landowner gave us permission to include the path in this parcel as part of the path and the Special Management Area (SMA) permit. He had intended to donate it to us, but unfortunately he passed away. Then his trust sold the property to the current owner. We have been working with the current owner since early 2019. We sent a revised request to purchase the easement in July 2019 and our offer was based on the Hawai'i Department of Transportation (HDOT) guidelines. We had an appraisal and review of the appraisal done to assure we had the right dollar amount. Since that time, we had been in discussion with the owner and it seems to be delayed, but now we are at a point where we are ready to secure the construction funds for this phase of the project. HDOT currently has a deadline for us of June 30th to have "our ducks in a row," so we have submitted to them that we would be proceeding acquiring this parcel as an eminent domain. Basically, we take possession of the parcel and the court decides what the fair value is. We are still in discussions with the owner, but we cannot put "all of our eggs in that basket," because he has continually delayed us for many months. That is the basic outline of the process that we have been through.

Council Chair Kaneshiro: Okay, Councilmember Chock then Councilmember Kagawa.

Councilmember Chock: Thank you, Chair and Doug. In reading the transcript here, it is a little bothersome with the negotiations that have gone forward.

What I am reading here and wanted to clarify was that the new owner has asked for four hundred thousand dollars (\$400,000) for the easement. Since then we have had a counteroffer and then, no response. Can you clarify that? Also, is this owner on-property, on-island, or off-island? Who is it?

Mr. Haigh: I am Doug Haigh, Department of Public Works, County of Kaua'i, Building Division. Sorry, I did not say that earlier. Yes, we made an offer of thirty-nine thousand dollars (\$39,000) based on our appraisal. He came back with a counteroffer of four hundred ten thousand dollars (\$410,000), which actually exceeded the amount that he paid for the parcel. We reviewed that with HDOT Right-of-Way experts and they said that offer had no merit. We came back with the offer of the thirty-nine thousand dollars (\$39,000), which we believe is a fair price for the property. The owner's address is off-island, but we have met with the owner various times on-island. I am not sure what his actual residency status is at this point.

Councilmember Chock: If the eminent domain is contested, will the whole project be in jeopardy on timing? It sounds like you folks need to secure this lot first before proceeding and this could be dragged out.

Mr. Haigh: That is a good question. My understanding is our Office of the County Attorney is fairly confident that we have a very simple straightforward eminent domain, fully supported by State law. Basically, once this Resolution is passed, we will file with the courts and if the courts receive our filing, then the property is automatically in our possession to take possession of, and the actual price amount is what gets further discussed in court. I have talked with the HDOT Right-of-Way Branch Manager on how this is going to work and what they will accept and he has not given me a solid answer, but my understanding is as long as we are moving forward with the eminent domain process, we were fine as far as receiving the money. Our fallback is, if for some reason if it gets hung up on this parcel, we will just delete that portion of the project that is funded. That is our agreement with HDOT and Federal Highway that if something strange does happen, we will be ready to just not construct in that area. We will not construct in that area until we have possession or a right-of-entry.

Councilmember Chock: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: Doug, I am looking at the map; so the portion that you are acquiring is fronting the property that you highlighted in yellow.

Mr. Haigh: Are you looking at Exhibit "A"?

Mr. Tanigawa: I believe that is sheet 1 of the construction plan.

Councilmember Kagawa: The area fronting the property shaded in yellow toward the highway.

Mr. Haigh: Yes, the area shaded in yellow, if we are looking at the same thing, is the property easement that we are acquiring. It goes from his property from Papaloa Road to the Mokihana parcel on the other side, which is currently the driveway to the Bull Shed Restaurant and on the *mauka* edge of his property.

Councilmember Kagawa: The bike path is going to go past that. If you are heading towards Līhu'e, you will take a left around Coconut Plantation and go all the way to Courtyard Kaua'i Coconut Beach and it will stop there.

Mr. Haigh: That is this phase of the construction. At this point, the Courtyard Marriott is now a Sheraton, again, so these names change—they actually built the path per our specifications last fall. We are in the process of finalizing the easement so that we have ownership of it, then we can use their construction cost as part of our soft match, so that is good news. Yes, this phase will go right up to the Sheraton property.

Councilmember Kagawa: Okay.

Mr. Haigh: Then the two (2) big vacant lots; we have acquired the easement for those lots, approved by Council. Of course, they want to build it for us, but we do not know when they will build it. We are simultaneously working on getting construction plans ready to go from Papaloa Road to the two (2) vacant lots, which would be going by Islander and Kaua'i Beach Boy. So that is a future phase that we are working on the construction drawings for. Once we complete this, we will have that connection from Papaloa Road all the way to Waipouli Beach Resort.

Councilmember Kagawa: Okay, that will be the next phase that you are going to connect.

Mr. Haigh: Yes, we will get the construction money for this phase that we need this land for, then we are going to be working on next federal fiscal year on getting the construction money for the next stage.

Councilmember Kagawa: Okay. My second question is, is any part of this path near the beach? I have seen what happened to the other portion that had been damaged. It was undermined and does not look safe, so are we going to try to avoid that and maybe stay more inland of the erosion?

Mr. Haigh: We always make the effort to stay as far *mauka* as possible. During the SMA permit process, that was an issue and we did make some adjustments to the path and area to try to come in even further inland, so that is what we will do. Now if for some reason we get accelerated coastal erosion and the path gets undermined, we have to look at either doing some sort of beach nourishment or possibly moving inland and acquiring more land. Right now, on this corridor, we are acquiring land from all the hotel properties, because we are moving as far inland as we can.

Councilmember Kagawa: To me, if we have to, let us renegotiate earlier because like I said, we look stupid when we have existing paths that are eroding and we are saying, well it is unforeseen, but it is foreseen. We know it is coming. We know the shoreline is changing so rapidly that we cannot believe it. We look at all the areas now and we say, I cannot believe what happened to all the sand, it is gone. I want to make sure we are taking further steps to move more inland, like I said, this is not pennies we are talking about and when we do acquire it and a few years down the line it is eroding before our eyes it looks like it is something we should have thought about earlier. I am just saying, I know having the views, riding your bike, and seeing the water is the ideal goal, but when we have to go back and repair things and acquire more land after the fact just seems like we should have done that earlier. Although all the views are important, I think we want to make sure we do not set the precedent and force ourselves to harden shorelines when we are telling private owners they cannot do it. It is going to be because we want to protect our path that we should have moved more inland anyway since we see the erosion coming.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you. This part where we see the yellow patch is the open field that is shaded yellow—would the path be in an area where there is asphalt and boulders on either side?

Mr. Haigh: That is correct.

Councilmember Cowden: I went and took a look at that and it looks like right across that, I was trying to see where the bike path would go. Right here we see an easy line, but that is like two (2) condominium (condo) sets right there, so would it essentially go through a parking lot of the condo? How does it keep going right there?

Mr. Haigh: Okay, it goes in between the Mokihana property and the Village Manor property, are those the parcels you are talking about?

Councilmember Cowden: Well, it does not look like Mokihana, but it looks like there are two (2) either apartment buildings or condo sets. I just tried to

look to see if it is in an area that we are already using, but it is not. You go down the driveway...well, Waipouli Beach Resort, okay, maybe it is called Mokihana, but we are going to be driving across the parking lot in between two (2) apartment buildings.

Mr. Haigh: We will be going in-between the tennis court and the Village Manor Condominiums property. If we are heading Līhu'e side of the property, we cross Kamoā Road and then we travel in between Village Manor Condominiums property and Mokihana property, on the Mokihana property side, and then we hit the existing beach easement that is there in the Coconut Beach Resort property.

Councilmember Cowden: In-between those two (2) buildings—that is already approved, we are going to be able to do it or do we have to eminent domain that too?

Mr. Haigh: We already have agreements with those two (2) properties in place.

Councilmember Cowden: Okay. I noticed the adjacent property just *mauka* is for sale, but they do not have a say on this, right, because the easement is entirely on the yellow piece?

Mr. Haigh: That is correct.

Councilmember Cowden: Okay. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Doug. You might have said this already, but when is the estimated completion date of construction for this section?

Mr. Haigh: That is always a good question. We hope to acquire our federal funds fully in place in August and normally it takes us three (3) to four (4) months to get under contract. We are probably looking at about a six (6) month contract to completion, therefore sometime in 2021.

Councilmember Evslin: Thank you. Will it automatically connect to the already built one at the Coconut Beach, you said “to be determined” for the other one at the other Coconut Beach. Do you have an estimated completion from the Coconut Beach to Kamoā Road, best guess?

Mr. Haigh: For which again, I am sorry.

Councilmember Evslin: For the entire project?

Mr. Haigh: We are hoping that by 2022, we will have everything completed except for possibly the two (2) vacant lots, because we have no control over when those are going to be built.

Councilmember Evslin: I just want to express my appreciation. I know that this has been a really long and difficult process inching forward through countless numbers of different properties and access agreements, et cetera. I appreciate your diligence and seeing this thing all the way through. I also want to give a shout out to former Councilmember Tim Bynum for his vision here. I am sorry I know we are supposed to be asking questions here, but just briefly, even during the lockdown, the bike path has been crowded with residents as a great form of recreation, exercise, and social connection. It has been a great asset to have, thanks to Tim Bynum for his vision on this.

Mr. Haigh: You are welcome.

Council Chair Kaneshiro: What is the anticipated cost for us to pursue eminent domain?

Mr. Haigh: Thirty-nine thousand dollars (\$39,000).

Council Chair Kaneshiro: That is to purchase the property. Are we going to incur any legal costs?

Mr. Haigh: I cannot answer that question. When we previously did eminent domain, our attorneys handled all the work, but I am not sure what the current plan is with the County Attorney.

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

Councilmember Kagawa: Doug, the big question is, we were hoping for something close to forty thousand dollars (\$40,000) when the eminent domain goes through and the courts determine what will be the final decision. Are we hoping for the ballpark of forty thousand dollars (\$40,000)?

Mr. Haigh: That is correct.

Councilmember Kagawa: And then this person will be fighting for four hundred thousand dollars (\$400,000)...therefore, the end result might be somewhere between those numbers?

Mr. Haigh: I do not believe so, because it is based on...we are pretty confident that the process that we followed is the correct process. We follow

the law so that our estimate is a good, solid estimate and like I said, HDOT Right-of-Way Branch Manager felt that his (the property owner) price was invalid.

Councilmember Kagawa: Okay.

Mr. Haigh: I think we will probably end up pretty much where we are at.

Councilmember Kagawa: Okay.

Council Chair Kaneshiro: Are there any further questions?
Councilmember Cowden, did you have a question?

Councilmember Cowden: I just have a comment.

Council Chair Kaneshiro: I will call this meeting back to order.
Councilmember Cowden.

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

Councilmember Cowden: I want to echo what Councilmember Evslin said. I have been paying extra attention since this has been on the agenda for the amount of volume on the bike path and it is profound, it was busy today. People going up and down and those are all residents and they seemed very happy. I noticed it regularly, but I think I presumed a lot of that were people on vacation, but it has been super busy when there has not been people on vacation. I just want to acknowledge the value that it has for the community.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Doug and Troy, for the briefing on this. I am a little bit troubled. I do not want to incite anger here, but I think I am very frustrated when I read things such as this where a public interest is identified, agreed upon, and circumstances change, of course, but when you have off-island investors and speculators who obviously have an interest of just making money, because when come to negotiation for a piece of a property, an easement, they are trying to escalate the prices more than what they purchased the property for. I think it is an example of what we have experienced often in this arena and why there is frustration across the island. I just want to take note of it and maybe even send a message that it is not acceptable. This is a small community that works together for the benefit of the community. If you are here for other purposes, take note.

Council Chair Kaneshiro: Are there any further comments from the members? Councilmember Kagawa.

Councilmember Kagawa: Again, I just want to stress what I told Doug earlier. When I have people telling me, those who use the bike path and walking path, and they show me pictures of portions built in the past being eroded away, undermining, because of erosion, which we can call it “global warning” and climate change—it is here. The shoreline has changed so much over the years that one cannot even imagine how it used to look like before. There was sand in front of Kapa‘a Beach Park and now it is gone. The pavilion fell into the water. That is a huge amount of erosion. Our bike path, yes, I think that was former Mayor Kusaka’s vision, former Mayor Carvalho’s vision, and former Mayor Baptiste’s vision to have that *lei* around Kaua‘i, having that bike path, the walking path around the coastal areas. We know the erosion is here and we need to make adjustments. If we keep putting it in places that are for the best view, we risk those portions being undermined, and then what are we going to do? Are we going to acquire more land and move it? Are we going to harden the area to protect it, when we are telling private homeowners, “You cannot harden your shorelines?” We cannot do what is good for us and prevent others from doing the same. If the hardening is not good for the environment and for the other properties, then let us just avoid that. Let us lead by example. If further adjustments need to be made going forward, wiser decisions being made going forward, then do it now. Do not say, “Cannot help.” You can help—do it early, because it is already coming. Areas are eroding. It looks fine now, but it will erode. We can move it inward as much as possible is the best solution. I agree one hundred percent (100%) with Councilmember Chock, the only thing is that when you have a good deal, you have to get it done quickly. If you wait for the person to pass away, things will change. When we get a good deal, bird in the hand, you have to move as quickly as possible. Let us learn that lesson here and next time, while the person is alive, make him sign everything that is important. Thank you.

Council Chair Kaneshiro: Councilmember Kuali‘i.

Councilmember Kuali‘i: I just wanted to echo the comments of Vice Chair Kagawa and I also want to echo the comments of Councilmember Evslin in saying thank you to everyone who has worked on the path and who continues to work on the path, from Administrations before and staff from before as well. The path is important to our residents. I think with COVID-19 a lot of folks have had more free time and they have invested in their health and that is why so many of my friends and family have been on the path when they have not been on the path prior. It is also important to our small businesses along the path. I have a friend who owns a bike shop with her family and they have been renting and even though there were no tourists and they were struggling with their business on that end, they have added sales of bikes. In fact, they cannot keep up with the demand. Locals are buying bikes and getting on the path and that is really important. I know the path has been used for recreation and exercise, I just hope that once we get the path...and that is why it is important for it to be fully connected, that more and more of our residents will use the path as an alternative transportation, getting people off the road. Most people are

not comfortable with riding along the highway, you see one (1) or two (2) people once in a while. If the path is fully connected from where people live to where they work, then I think I would like to see the future where people are using it as transportation. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I just wanted to echo what everyone has said here. Councilmember Cowden, again, expressing my appreciation. This is going to be huge once this is done. It has already been super beneficial for the community as Councilmember Kualii said, not only for recreational use, but also increasing economic vitality. Not only are there bike shops, but there are also food trucks and all these opportunities for businesses along the path. This little section right here is that treacherous little section that you see people walking all the time, because they are sort of spit out onto the road there and they walk that little section or ride their bike on that section of the road with no shoulder. That is going to help out a huge amount there. As Councilmember Chock stated, yes, it is really frustrating when there is a property owner trying to recover more than he paid for the property here, especially because the bike path is beneficial for nearby properties. That is why you see all this willingness from everyone else, all these other (inaudible) and all these other places in the area, because it helps increase their property values, increases the use and value of the property, so it is frustrating when you see someone trying to do this. Lastly, Councilmember Kagawa is spot on. I am unsure of where this path lays as far as sea-level rise exposure area, but it is incredibly vital that we are setting it back sufficiently to make sure that it is not at-risk of erosion or submersion. I agree with everything that was said here today.

Council Chair Kaneshiro: I should have spoken before you, so you could compliment me too.

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

The motion to schedule a public hearing on July 8, 2020, and that it thereafter be referred to the July 22, 2020 Council Meeting was then put, and carried by the following vote:

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

(Councilmember Chock was noted as not present.)

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

Council Chair Kaneshiro: Let us try to get the next two (2) items done before we take our caption break.

Resolution No. 2020-29 – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES SLATE OF OFFICERS, NOMINEES TO THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS, AND NOMINEES TO THE WESTERN INTERSTATE REGION BOARD OF DIRECTORS FOR FISCAL YEAR 2021

Councilmember Kualii moved for adoption of Resolution No. 2020-29, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions or comments from the members? Councilmember Kagawa.

Councilmember Kagawa: First of all, let me thank Aida for being the staff for Hawaii State Association of Counties (HSAC) and being my right-hand person. We are in the same roles that we are going for as vice president, only because I fought very hard to make sure that we stayed there. There was a strong push to move us to the treasurer spot and the reason why I did not feel that was fair was because from the time that Kauai had the books, we were good. Our staff said, "not much of a problem, not too much headache with doing the treasurer's job," the books were in line. Somewhere along the line when it went to Maui and Oahu, the books are now not as clean as it was. It is very troublesome. No one wants to be the treasurer right now, because they do not want to clean up the mess that was made in that time and I do not feel that it is fair...

(Councilmember Chock was noted as present.)

Councilmember Kagawa: ...for Kauai County to have done its job well as treasurer during that time and then to now have to clean up the other counties' mess. It was basically keeping basic paperwork in line, so that when you give it to the Certified Public Accountant (CPA) that they can perform their audits. There are missing paperwork and I do not think we should take on the burden to try and search for the other counties' missing documents when we did our job well as treasurer. Again, I fought and the agreement was that in December when I leave that there will be discussion as to the changes of the officers. One of the things that I told them was to "Please, when you do make that change, make sure you folks clean up the past work," and to work hard during these months, even if we have to hire a bookkeeper, a CPA. Sometimes you can solve the problem without having certain documents or you can make a request to find the numbers that you need that are missing through other means as typical audit practice. I told them to do that, so if we do become

treasurer in January, it is not as messed up as it is currently. I am fully supportive of Kaua'i County doing a rotation in doing different duties, but under that situation, I do not think it was fair. We basically kept things as-is. Maui County is not so happy, but they agreed that we will wait until December and because of COVID-19 and everything to do the transition. That is what is coming forward when I leave and Councilmember Chock was in on the call and hopefully he will be the new vice president and he can carry forth. I just wanted the Council to know that Maui County was not happy. There was a big push for them to be in the president or vice president slot, but I just wanted to protect our staff. When we do a good job doing the job that no one wants, we should not punish our staff for having to fix the mess of other people. Likewise when we have it, I hope going forward that we will continue to do a good job and make sure we keep all of the records in place when we are the treasurer, because it is a very important job.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: First, thank you, Vice Chair Kagawa, for the work that you have done this year and our staff member Aida, who does a really good job. Given that you are terming out in December, Councilmember Chock, you are happy with having that position?

Councilmember Chock: If I am not mistaken, I think it is a question for the new Council.

Councilmember Cowden: Okay.

Councilmember Chock: To have some continuity is important and, of course, that is why I have been attending to see what I can learn. If necessary and if it fits, I am happy to continue to serve.

Council Chair Kaneshiro: Councilmember Chock is an alternate in Councilmember Arthur Brun's place. Again, just having that continuity, previous Councilmember Arthur Brun was on as an alternate and not having him around, Councilmember Chock is familiar with HSAC. It is good to have Councilmember Chock as our alternative and moving forward in December, whatever the new Council decides, they will be able to go through and see who they want here at that time. Councilmember Chock.

Councilmember Chock: Are we in discussion?

Council Chair Kaneshiro: Yes.

Councilmember Chock: I would add that I attended the meetings and I thank Vice Chair Kagawa because one of the ideas is, one, clean up the books,

because it is a mess and before it transitions to anyone else, but also the idea to hire an accountant or bookkeeper, so that there is continuity no matter what island gets it, there is someone who has their eyes on the books constantly is a good idea. I hope the new board takes that into consideration because I think it is through the transitions that things get lost. That is what I think is the issue.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I apologize I did not want to be presumptuous. I came up to being the full-time officer for Kaua'i County after serving as alternate for former Council Chair Rapozo for four (4) years. Whatever the new Council decides, it will decide, but I did not want to be presumptuous with naming Councilmember Chock as my replacement, so I apologize.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I just want to express my appreciation to Vice Chair Kagawa for his work on HSAC and his ability to retain that position, which is a testament to his efforts and leadership on HSAC. I think communication from him and Aida to us have been really good and I have heard great feedback from other HSAC, off-island councilmembers saying that Vice Chair Kagawa has been doing a good job as Vice President. I appreciate his work there and I am glad that Councilmember Chock is sort of interning for the position for next year.

Council Chair Kaneshiro: Is there anyone else? I just want to echo what everyone said. I cannot thank Aida enough. As new members come on from other counties there is a lot of inconsistency on how we do things. Aida has been around to help guide us as a county and say, "This is how we have always done it," or "this is something new that they are trying to do," and it helps us. She is our link in continuity to HSAC and she has kept us on the straight and narrow as far as changes that people have tried to make with HSAC. She has seen it all. As far as changes that people want to make that are going to be positive or changes that people want to make that probably we have tried before and have not worked out, so I just want to thank Aida also for all of her work in guiding us through HSAC. It is very difficult when you get changes in members. Lucky for us, we have one staff member that is dedicated to HSAC, but when it goes to the other counties, I believe the helpers end up being their own personal secretary. Therefore, as you get different councilmembers from the different islands moving up or becoming a president or vice president, their staff member may not have known how HSAC operates the entire time. For us, we are lucky Aida has always been there. That is a big help to us. Just making sure things run good. A lot of times when people have good ideas for change, but they really have to understand why HSAC runs the way it runs and why it has been successful for so long. Councilmember Chock knows that value. Councilmember Kagawa knows that value. That is an important part that Kaua'i plays in HSAC. We

are there to say, "We have been there, done that; I think we should move in this direction," and we have Aida to tell us the reasons why or why not something would work. Councilmember Cowden.

Councilmember Cowden: I just wanted to define HSAC, which is Hawai'i State Association of Counties and so for people who are listening that might not understand, each of the four (4) counties, we all work together and come up with united efforts to influence the State Legislature. There is a lot more strength when we work together, when we learn together, and it is a valuable organization. Just so it is clear what we are talking about.

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

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

The motion for adoption of Resolution No. 2020-29 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Next item.

Resolution No. 2020-30 – RESOLUTION APPROVING THE PROPOSED FISCAL YEAR 2021 OPERATING BUDGET FOR THE HAWAII STATE ASSOCIATION OF COUNTIES

Councilmember Kuali'i moved for adoption of Resolution No. 2020-30, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion on this item from the members? Councilmember Kuali'i.

Councilmember Kuali'i: I had a couple of questions on the drastic changes in a couple of line items. It would have been helpful if there was some kind of budget narrative that would have just explained the big changes. The two (2) that I would like to line up and see if anyone had answers to, maybe even Aida, is under expenses, line number 8, "EC Travel-Air, Ground, Lodging, Registration." It is going

up from seventeen thousand six hundred dollars (\$17,600) to twenty-eight thousand six hundred dollars (\$28,600). Related to that under the National Association of Counties (NACo) section, line number 15, "NACo Board Travel-Air, Ground, Lodging, Registration," is going down ten thousand dollars (\$10,000), from twenty-four thousand dollars (\$24,000) to fourteen thousand dollars (\$14,000). Now, I would assume that it has to do with COVID-19 and there not being a summer convention of NACo for the reduction of that ten thousand dollars (\$10,000), but why would the executive committee travel go up eleven thousand dollars (\$11,000), for a sixty-two point five percent (62.5%) increase at a time when COVID-19 is reducing our travel. If anything, I think the travel savings should have gone into some kind of reserve and not necessarily into another travel item.

Council Chair Kaneshiro: With that, I am actually going to take our caption break and I will give Aida some time. I know I saw narrative on the changes, we will take our ten-minute caption break, we will see if Aida can get us the narrative on these items, and then we will come back and clarify any questions you have, Councilmember Kuali'i. Ten-minute caption break.

There being no objections, the Council recessed at 10:40 a.m.

The meeting was called back to order at 10:54 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We did receive the narrative and Councilmember Kuali'i, I know you asked some questions on the travel budget. I believe a lot of it had to do with trying to consolidate where they were recording expenses. In the past they put some travel expenses in the "Miscellaneous" line item and what they were trying to do was zero out the "Miscellaneous" accounts that they were recording expenses in and trying to put it in the actual accounts that it should be in. For example, they had travel in the "Miscellaneous" account, so they up the travel budget and hopefully we will be recording...whoever is doing the accounting will be recording it correctly in the travel budget.

Councilmember Kuali'i: So that "Miscellaneous – twenty-eight thousand six hundred ninety-five dollars (\$28,695)." That is reduced to zero (\$0). The "EC Travel-Air, Ground, Lodging, Registration," only increased eleven thousand dollars (\$11,000) and the "NACo Board Travel-Air, Ground, Lodging, Registration" has decreased ten thousand dollars (\$10,000). I have just seen this narrative here, so I do not necessarily see anything beyond...except line number 8. The other one is number 2 "Conference Income." If the fiscal year (FY) is from July 1st to June 30, 2021...to zero that out is to say there is not going to be a conference next year and there will be no income? The twenty-five thousand dollars (\$25,000) is going down to zero.

Council Chair Kaneshiro: That is the conference that we usually have in July.

Councilmember Kualii: For HSAC?

Council Chair Kaneshiro: For HSAC.

Councilmember Kualii: It is usually in May or June. NACo is in July.

Councilmember Chock: Yes, NACo.

Council Chair Kaneshiro: Oh.

Councilmember Kualii: So it will be happening in probably next June and there will be income, but they just decreased it to zero (\$0). I do not understand.

Councilmember Kagawa: I think on that one they assumed wrong. They projected this year's into next year's conference income. They canceled this year's conference, but then as Councilmember Kualii stated, that may be erroneous, but then it might be correct. Who knows with COVID-19 hanging around, that could be accurate that we leave it there as zero. When Maui County held it before COVID-19, they did not make much money anyway. I would say it all depends. It could be a big accounting error if the conference is held next June, but then if it is held in the way and fashion that Maui held it and did not make much money, it would not be a big accounting error. If it makes the kind of money that Kaua'i County makes, then the budget probably should be amended. Who's to say that in June it is happening, so it is a big question mark as far as trying to project next year's conference income.

Council Chair Kaneshiro: I think they are being conservative on it and anticipating not having a conference. I would rather see us put zero (\$0) than put a number there, spend money, and then not even have a conference and not have income come in. I think they were trying to play it on the conservative side.

Councilmember Kualii: The numbers do not work out for me. I do not see answers to the travel line. The cuts and adds do not add up.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I noticed the overall budget is down roughly forty-two thousand dollars (\$42,000), so Councilmember Kualii, did you...when we are seeing it is going down and down, our totals are down, we are down by almost forty-two thousand dollars (\$42,000). That might account for some of that variance.

Councilmember Kualii: Yes, if you look “Conference Income – twenty-five thousand dollars (\$25,000) to zero (\$0); Miscellaneous – twenty-eight thousand dollars (\$28,000) to zero (\$0); and HSAC Promotion and Outreach – fifteen thousand dollars (\$15,000) to zero (\$0).” Right there you have sixty-five thousand dollars (\$65,000). That is already more than the difference there and I guess the only thing is the change between NACo travel going down ten thousand dollars (\$10,000) and Executive Committee going up eleven thousand dollars (\$11,000).

Councilmember Cowden: Who was supposed to hold the NACo conference this summer?

Councilmember Kagawa: Hawai‘i Island.

Councilmember Cowden: Hawai‘i Island. Will they do it next time?

Councilmember Kagawa: That has not been confirmed, but I think she has said that she would want to. Again with elections coming up, who is to say who is going to be in what position? I think when you look at the conference, everything is on hold until probably December or January, which is when we change officers. They will see at that time what county will hold the conference. Hawai‘i Island’s obligation actually is this year. Next year, they could say, “We do not want to do the conference,” and they would have to stick to the rotation that was there previously or Hawai‘i Island could step up and say, “We want the conference being on our island and we are going to do it because COVID-19 canceled our previous one.” We could have discussions even earlier, but it is just such a big question mark as far as what is going to happen. Who knows if tourists are going to be coming back? Some hotels have shut down until January.

Councilmember Kualii: I think I may have found something and I am going to ask you a question based on that. On the last part of the narrative in number 8, it says, “(3) sixteen thousand dollars (\$16,000) for members’ airfare, ground transportation, lodging, and registration to attend two (2) conferences (two thousand dollars (\$2,000) times four (4) members times two (2) conferences). That is the sixteen thousand dollars (\$16,000). Is that something new? I would imagine the one (1) conference that happens every year is the HSAC Conference, so what is the other conference?”

Council Chair Kaneshiro: Aida, correct me if I am wrong, but I believe they had a discussion on this and it was reimbursing HSAC members for NACo travel and I think in the past, they were recording it under NACo Board Travel. HSAC members are able to travel to NACo conferences and HSAC would pay a portion of it. They were recording it under NACo Board Travel, so they would have our regular

NACo board members' travel costs plus HSAC travel costs. They decided to move the HSAC portion into travel-air, ground, lodging for EC.

Councilmember Kuali'i: Okay. That answers my question. Thank you.

Council Chair Kaneshiro: Are there any other questions on the budget? Thank you for looking at that. I know that there were... Councilmember Kagawa, they were going over the budget kind of a lot, right? Trying to clean it up.

Councilmember Kagawa: The question is at the end of the day, are we having trouble getting reimbursements from HSAC and I think the answer is no. As long as it is legitimate travel that pertains to our by-laws, we find a way to pay it within our budget. Even if amendments need to be made in order to do that purpose, HSAC has always been very flexible in paying for our purpose, which is supporting NACo, supporting HSAC members, Western Interstate Region (WIR), et cetera.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Can someone explain to me why we get a "NACo Prescription Drug Marketing Fee"? I see the number dropped, but I do not see a connection with counties and prescription drug marketing fee.

Councilmember Kagawa: Can staff respond?

Councilmember Chock: NACo has a program.

Councilmember Cowden: Oh, okay.

Councilmember Chock: I think we signed up for it years ago and so it is part of that promotion.

Council Chair Kaneshiro: Are there any further questions from the members? If not, is there any final discussion from the members? Roll call vote.

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

The motion for adoption of Resolution No. 2020-30 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Motion passes. Next item.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2794) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENFORCEMENT, LEGAL PROCEDURES, AND PENALTIES

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2794) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 22, 2020, and referred to the Planning Committee, seconded by Councilmember Chock.

Councilmember Chock moved to amend Proposed Draft Bill (No. 2794) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Can you explain?

There being no objections, the rules were suspended.

Councilmember Chock: I will just real quickly do the amendment and he can talk about the bill overall. This is a bill that has gone through the commission and it is really an amendment to the bill that we passed last year on enforcement. It attempts to standardize it and have some continuity with Chapter 10. Our staff worked on it to actually mirror what is in the existing charter ordinance, so that is why you see a purpose added here under the first amendment and then under civil fines, number two and number three were to match it up to the thirty (30) calendar days. Number five, there was a request by Councilmember Cowden to increase the civil fine imposed that have not been paid within ninety (90) days of the order and also that the director should obtain approval from the county attorney prior to placement of any liens. The last piece is for some numbering here that was added under "C," and just some standard language in Section 6 as well. Again, we copied for continuity what was passed in the previous ordinance and that is what the amendments represent.

Council Chair Kaneshiro: Are there any questions from the members? Again, we are just trying to match the two (2) sections, so that we do not have inconsistent penalties. Councilmember Cowden.

Councilmember Cowden: My question would be for Planning Director Hull. Thank you for the time you took with me yesterday. We discussed this for about forty-five (45) minutes, but can you please explain again the nuances of this. Why are we calling it Community Development Plan instead of Special Development Plan? If we, prior to this, had...I see a lot of added wording in here, was there this ten

thousand dollars (\$10,000) per day per violation already existing on the zoning differences?

Mr. Hull: Ka'aīna Hull on behalf of the Planning Department. Just a little background on the bill or a small part of it be the change in Community Development Plan and Special Development Plan is...for the past forty (40) years under Kaua'i's Planning regime, the reference to plans or regional areas like Kapa'a-Wailua, East Kaua'i has a regional plan, North Shore has a regional plan, West Kaua'i, South Kaua'i, and so on and so forth. The terminology was public plan. Since that time it has become pretty standard throughout the planning community as planning that is done on a regional as well as on a grand level used to incorporate a lot of...am I echoing? I can call in on the phone.

Councilmember Chock: You are fine.

Councilmember Cowden: You are okay, but you are not great.

Mr. Hull: If I start echoing again...I switched the computer from the last time so I hope it works better, but I can spend two (2) minutes calling in on a phone line, if necessary. As I was saying is within the school of planning, the idea of incorporating the community as much as possible. It is their plan, not so much the government's plan or the developer's plan, if you will, it is the community's plan. So that is the change of terminology there for the community's development plan as opposed to just development plans. A little bit more background for the proposal before you folks. Chapter 8 of the Kaua'i County Code, otherwise referred to as the Comprehensive Zoning Ordinance (CZO), is an islandwide series of regulations that regulate land use. Within that, we have our Chapter 8 enforcement procedures and that is laid out very specifically and ensures our staff can go out and have the legal teeth and parameter to cite and issue violation notices to bring people into compliance. Aside from Chapter 8, the Kaua'i Planning Department has Chapter 10, which concerns regional plans; plans for specific regions that go above and beyond the islandwide Chapter 8 CZO regulations and so it is in recognizing that some of these areas might want standards and a built environment that is different from other areas (i.e., Kapa'a is different than Kōloa, Līhu'e is different than Waimea). One of the examples is our recently adopted South Kaua'i Community Plan, but for stringent height limitations: Two-story height limitations on developments in Kōloa Town because the community felt that the fifty (50) foot height limit that is islandwide for the existing zoning district, is not appropriate for that particular region. There are an array of different standards in Chapter 10 that the Planning Department is tasked with implementing; however, the enforcement section of that just refers back to Chapter 8, and what it states in Chapter 10 right now is that any violation of any article or section of this chapter shall be subject to the enforcement, legal procedures, and penalties provided for in Chapter 8. Therefore, we have authority already to use Chapter 8 enforcement mechanism to implement and enforce

Chapter 8. It is just that in doing so, in the end of the day grind that our enforcement officer had, when they send those notices out to bring people into compliance, it is just murky and muddy, and the layperson also has a problem understanding why we have to put a Chapter 10 standard in place, yet refer back to Chapter 8 enforcement procedures. Technically and legally we still have the enforcement teeth of Chapter 8 for Chapter 10; we just want to clean it up a little and standardize. It is really just a housekeeping measure.

Councilmember Cowden: Thank you for that clarity. It would have already applied; we are not adding a new burden? It would have already basically been in there. So if the community development plan comes into place, if someone has a repair shop of some sort in the wrong area, do they become a legally nonconforming use? Do they get grandfathered in if it preexists?

Mr. Hull: Yes, that is correct, Councilmember. If you have a structure or a use that exists prior to a new regulation being adopted, and that regulation would essentially prohibit that type of use or structure, that previous existing use or structure becomes a legal nonconforming structure or in common terms "grandfathered"—they can legally exist as they are. So if you have a community development plan that comes in and says, previously there were ten (10) foot setbacks for a structure from the front property line, we want to make them twenty (20) foot setback because of historic preservation, for example, and there was a structure in that setback prior to the new regulations, they are not subject to enforcement and penalties. They are legally nonconforming and can legally exist.

Councilmember Cowden: Okay, that is important to me. If there is someone who does create something new and it is wrong, I want to hear the process for correcting the situation and if they have a double offense, like if there is a potential of ten thousand dollars (\$10,000) per day, per violation fine, would it be double, if not triple, if they had a Building violation, a Planning violation, and a Zoning violation—the potential for thirty thousand dollars (\$30,000) per day, per violation or would it still roughly be that ten thousand dollars (\$10,000) and how is that managed?

Mr. Hull: Yes, I cannot speak to Buildings, they have their own enforcement parameters. For the Zoning violation, if it is a structure and what is probably the most common violation occurrence that happens with us, is it is a structure that did not get the appropriate permits; either they built it and one of the requirements is that you need to get the necessary permits. So say they put up as shed without the necessary permits, but that shed meets all the standards, the height, the setback—all they have to do once they get that...the first thing we send out is not a violation notice, this is a compliance notice, just putting the property owner on notice that their property is not compliant with the Zoning Ordinance. So the first opportunity they have is can they get the permits and most scenarios, they

will say, "Yes, either you can knock the structure down, but it all conforms to regulations, so all they need to do is apply for the permit." That is probably the most common violation process we have is that someone sets up a structure without the necessary permits and comes in to get the permits and they receive them within a month or two (2). The same goes for nonconforming use. Say it is not an outright permissible use in say a Residential Zoning District, but they are cited for it. They will have to cease that operation, but they can still come in for the permits to get that operation up and running. I think Councilmember when you refer to a repair shop on Kawaihau Road or on Agricultural land, that is not an outright permissible use and some of those individuals have come in to get the necessary permits, which is at the Planning Commission level to bring their operation into compliance. So they can always look into measures where they can bring it into compliance. In the case of a...and with almost all uses, you can pretty much apply for a use permit to determine through a public hearing process whether or not that use is compatible. I will not say one hundred percent (100%), but pretty much all uses fall into that category. The only use that is categorically prohibited in certain zoning districts is a vacation rental, right. You cannot come in and say, "You would like to get a use permit for a vacation rental in this area." That is categorically prohibited that they cannot. That is generally how it plays out. For certain structures that have been built and do violate the Code and they cannot necessarily get the permits, they do have to essentially remove that structure or apply for a variance permit, which is a much more higher threshold of analysis when having that permit at the public hearing. Lastly, the vast majority of those that are not in compliance that we put on notice, come into compliance relatively within an allotted timeframe that allows them to get the permits, remove the structure, or cease the operation. There are a handful that ignore that first compliance notice and after sometime of work with them we do levy the fines on them, because they have not come into compliance. Again, that small handful—the vast majority of them, when they receive that first ten thousand dollar (\$10,000) fine, they come right into compliance, realizing that we mean business and if they come into compliance relatively quickly, we reduce that fine. There are some scenarios where they did not pay attention to our compliance notice right-off-the-bat, but once they received the fine, they realized we were serious about their violation and came into the office, rectified within a few weeks and we dropped that fine from ten thousand dollars (\$10,000) down to five hundred dollars (\$500), and it is because we are not a department where we are looking at being punitive, we are a department looking at bringing properties into compliance and that is our priority.

Councilmember Cowden: Last question, at least for now and thank you. My goal is to make sure we do not financially drive people off the island—that is what my hope is. How do you notify them? Especially in properties that have been known for generations that notification gets lost, so I did not see right here how it is set out that the notification happens. I think that there might be several different methods we can try to notify; how do we notify?

Mr. Hull: The first method and the method that works in ninety-nine point five percent (99.5%) of the cases is we send it physically via certified mail. Through certified mail we will be notified when that the property owner received the mail and opened it, essentially. In a handful of scenarios we will find that people will intentionally avoid notification, because they do not intend to come within compliance and they know under Hawai'i State law for us to take more robust enforcement penalty actions against them, they have to be noticed. They refuse notice. In those scenarios, with the Ordinance that passed three (3) months ago, we have the ability now to post the property, as well as post in the public newspaper, to put them on notice.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any further questions?
Councilmember Chock.

Councilmember Chock: I failed to mention and staff thank you for pointing it out, one of the amendments is under civil fines number 6. In the original Bill that you are looking at it references establishing the planning enforcement account, but that is already established on the previous Ordinance, so it just directs the funds to the planning enforcement account. Thank you.

Council Chair Kaneshiro: Thank you. Councilmember Evslin.

Councilmember Evslin: Mr. Hull, thank you for your run through of all that. Just briefly, if you are at liberty to say, can you give us a run through of how or whether the lien power has been used since we granted it to your Department.

Mr. Hull: We have not officially put a lien on any property, at this point. I can say and it is not me revealing any secrets, because we are processing them through Court. We do have two (2) actions for two (2) separate properties going for liens to be placed on those properties, and both of those violations are egregious violations. Both are illegal Transient Vacation Rental (TVR) operations that refuse to come into compliance with our zoning compliance notice, refused to come into compliance with our notice of violations and fines, and refused to further communicate with the Department. Refuse to comply no matter how many violation notices we send out. So at this point we have determined, after well over a year of attempting to try to get them to compliance, to utilize the lien power that you folks have approved us to use last year.

Councilmember Evslin: Great, thanks.

Council Chair Kaneshiro: Are there any further questions? Again, we do have the amendment on the floor, right now, but again the amendment is just a

housekeeping; very similar to the actual Bill, also, just making the language consistent. Are there any further questions regarding the amendment?

(No written testimony was received and no registered speakers requested to testify regarding the floor amendment.)

The motion to amend Proposed Draft Bill (No. 2794), as circulated, and as shown in the Floor Amendment, which is attached herto as Attachment was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: Motion carried. Back to the main motion as amended. Do we have any further questions on the Bill as amended from the Councilmembers? Is there any further clarification from the Planning Department? If not, is there any further discussion? Councilmember Kagawa.

Councilmember Kagawa: I want to thank Mr. Hull and the Planning Department for trying to level the playing field; make sure everyone follows the...There is no sense we have inspections or zoning or permits or any type of follow-up without proper enforcement, so to have these rules set in place so it allows our inspections to be sure they validate the law and makes sure the public follows the law; make sure there is a process that there is a level playing field for everyone that we make sure we have laws in place too and laws are not meant to be broken—I think it helps, so again, I want to support and thank the Planning Department. We always have complaints about TVRs, how they operate, how they are a detriment to our county, but it is very hard to enforce without working with the Planning Department having a process in place that works and allows our inspectors to do their job and succeed at it and have property owners comply and follow our laws and respect our county enforcement who are just trying to make sure everyone plays by the same rules and is fair for all. I think that is what government is for—to enforce rules, be sure that laws are fair and on the books for everyone to see. Again, laws are not meant to be broken—we are not a third world country. Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I want to echo some of the sentiment, thank you, Mr. Hull and your team for following through on everything that is illegal. About five (5) years ago when we were having these discussions there was huge outcry from the community to enforce and we looked at about four thousand (4,000) illegal operations in last year when this original Bill was passed. We quickly moved those numbers and with the software that you folks have implemented down to a couple hundred. I know at this time we are even lower than that given some of the current situations. So I think that the message I want to share with the public is that you folks have answered that request to bring people into compliance who are in illegal

activity. Let us move in the right direction and everything we have invested in. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to appreciate the Planning Department for the work that you do that does take that five thousand dollar (\$5,000) fine down to five hundred dollars (\$500). These laws are not just about TVR, this is about everything, so the part that I get nervous about is the part that is about everything. When we have a government that is going to work kindly with the goal of solving the problem, I am comfortable with that. What makes me uncomfortable is the potential that is there and how high it can be, so if it was ten thousand dollars (\$10,000) per day and when I look at how many properties are out of compliance, particularly for general permitting, maybe less for what is built moving forward because I think we have a new expectation, so when there is legally nonconforming ability, all these elements that make it easier that is better to me, but ten thousand dollars (\$10,000) per day—I know that is an existing policy, it continues to make me very uncomfortable. I appreciate you saying that only two (2) TVR had action taken on them, maybe another time we can look at the people that I am helping that have nothing to do with TVR, they are all Agricultural properties that are under debilitating issues that has gone to the Bureau of Conveyances. It might be a slight nuance on this, but I am working with people. There is justification for my concerns. Oftentimes when someone is hostile to another party and these things are complaint driven, I am worried we are setting policy right now that in five (5) or ten (10) years from now with different people in office, we could have a real problem; we could push a lot of our community away. So I hold that concern, but I appreciate that is not the expression at present.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I am somewhat echoing Councilmember Cowden. One, I think that this Bill is important to pass now, I think the original lien bill was important to pass also, I voted for it. I think it is critical that you have the power to force some of these chronic offenders to come into compliance, especially for TVR because these folks can make so much money with rent and flouting our laws, so I support it for that reason. My original concern, which I expressed when we first passed the Bill, was I do think we started having unofficial affordable housing policy based on illegal rentals. I myself, when I lived on O'ahu, lived there for six (6) years, but half the time I lived in units with six (6) or seven (7) unrelated individuals in the house, which was a violation of O'ahu's Zoning Code and would be in violation of our Kaua'i Zoning Code, but it was the only way we could afford a home. I think those are just a couple of couples renting a room in a house situation. I think we have the same situation here in a number of different ways. I am certain that you folks as the Planning Department, right now, you are not using

this power to crack those folks into compliance and I think I heard you acknowledge it on the floor, Mr. Hull, this sort of black market for housing and it exists for a reason because we have this myriad of complex laws that makes it hard for people to build affordable housing. You yourself and your department have worked tirelessly to untangle that and make it easier for people. That is why I feel comfortable passing the Bill because I know where you folks are at and I know how hard you work to make it easier for people to come into compliance and for us to be able to approve more affordable housing. My fear in the long term is just that your position has a lot of power knowing it is so important, that I guess we are appointing people like you going forward in the future that continue to work towards these efforts. But anyways I am going to support this Bill, I supported the last one, but I do have a little bit of hesitation that we are setting policy for the long term that could be used in a possibly overzealous and precarious fashion, but thank you folks and for all of your work.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I just want to add my thanks, *mahalo nui loa* to you, Mr. Hull, and everyone at the Planning Department, Administration, and to those before you. I know this has been many years in the making and this is more about fine tuning the law so that you can do your job better when it comes to enforcement. The community is most concerned about illegal TVRs and making sure that you have the tools you need, as from the county the funding you need for enforcement. The only thing I would think and I remember when we passed increasing the fine to ten thousand dollars (\$10,000) a day and how that was necessary because there were violators where the current fine was minor to them and they could easily pay it because the moneys they were making were incredible—their daily and monthly rate, so a small fine is no deterrent, if you will, so it was important for that fine to be increased. When you say only two (2) TVRs had action taken on them; since the ten thousand dollar (\$10,000) fine has been in place, most people have not been assessed or paid those fines.

Council Chair Kaneshiro:

Mr. Hull, you are on mute.

Mr. Hull:

Sorry, Councilmember Kualii. You just asked if those two (2) properties that we are pursuing lien actions have not paid their fines.

Councilmember Kualii:

Has the ten thousand dollar (\$10,000) a day fine been assessed and collected on anyone?

Mr. Hull:

For those two (2) properties that we are pursuing lien actions, there have been a number of ten thousand dollar (\$10,000) fines assessed on both of them and they refused to acknowledge or pay. That is why we have stepped it up to the next level. In some cases they have refused to appeal

our decision; they are essentially ignoring the authority that Chapter 8, Kaua'i County Code gives to the Planning Department to shut these operations down and fine them. They do not even appeal our decision, they just keep on operating regardless, so we have moved those two (2) cases up into the lien scenario.

Councilmember Kualii: Right, so could the concern of the ten thousand dollar (\$10,000) fine being applied elsewhere. Could we have separated out the ten thousand dollar (\$10,000) fine or maybe even something higher for illegal TVR only? I know I am talking about a future potential Bill.

Mr. Hull: I will be honest, I do not think it is necessary at this point, I mean we could take a higher bill, I would not say no to it. What we are finding for the most part is having the ability to hold the line and keep fighting it out in court in most of these illegal TVR operations. I need to thank the Office of the County Attorney for being steadfast in participating in that process with us, so letting it unfold—a lot of this is quite honestly going to unfold in the Intermediate Court of Appeals (ICA) for the next three (3) years. We are at that level when we hit them with fines (inaudible) litigative measure at this point. Like I said earlier, for the most part, when people get the compliance notice and they receive that fine, they get shocked and get into compliance relatively quickly. It is a handful of bad apples that...I will not say no to higher fines, but I do not think it is necessary. Then concerning other uses that perhaps the ten thousand dollar (\$10,000) fines should affect only illegal TVR, I would say you do not want to say that just TVR are the bad apples that can potentially be out there; there are other uses that have pretty significant negative impact in the neighborhood area that have that ten thousand dollar (\$10,000) fine in there in cases where they do not want to come into compliance is a useful tool. Like I said, I can appreciate Councilmember Cowden and Councilmember Evslin's concern about any authority having the potential to abuse their fining power and that is the appointment process essentially, is ensuring that individuals, like myself, that have these authorities do not abuse them and use them judiciously and only applying them when necessary.

Councilmember Kualii: It does sound like, too, you made the point about, you are looking more, you are not trying to be punitive, you are trying to bring folks into compliance and that overwhelmingly that is what is happening. When it comes to the handful of bad apples, how long do you give them? It seems like you are trying to allow them to be compliant. It has been over a year for these two (2) after they have refused to pay the ten thousand dollar (\$10,000) fine and you have now moved to lien. You have given them a lot of time, should we not maybe be giving them so much?

Mr. Hull: That is part of why we went to Council later last year to get the lien power. So now that we have the lien powers we are levying

on them and we hope to have a much more successful effect at bringing them into compliance. Now that we do have a bit of a “heavier stick” I guess you can call it.

Councilmember Kuali'i: Alright, thank you so much.

Council Chair Kaneshiro: Councilmember Cowden, do you have a question or discussion?

Councilmember Cowden: Pardon me?

Council Chair Kaneshiro: Do you have a question or discussion?

Councilmember Cowden: I have a piece of...I do not know, can I just say it?

Council Chair Kaneshiro: If you are going to ask a question I will suspend the rules.

Councilmember Cowden: No, it is more of a discussion.

Council Chair Kaneshiro: Okay.

Councilmember Cowden: I want to say, I am going to vote yes today with reservations. I feel like it is important to advance this. I respect a lot of the intention behind it, but to expect an amendment from me next time and I would like to work with you, if possible Mr. Hull because I would like to see us find a way to remove the undue stress that might be there for these either crowded neighborhoods or properties where we have to help people come into compliance some way without killing them. A lot of the housing is all illegal housing that we have, so I think if we had some sort of punishment that was appropriate to the valuation of the property or where we can design something to actually capture the bad apples, because this can crush the people who do not have money and is not effective with the people who do. I believe I am the only member of the Council who did not grow up on Kaua'i. I did not move here until I was twenty-one (21) and when I have gone back over the years to other States, I have had the experience of seeing what has become a standard practice in other places of replacing impoverished areas of a city to becoming a revenue positive area. This type of ordinance or enforcement policy can have someone come in from the outside and just buy up a whole problematic area that is reliant on welfare, social services, and costs the County and the State a lot of money—remove them all and replace it with people who bring a lot of money into it that were gentrification. This to me is a tool for future gentrification and I understand it is not the intention of anyone here that would be proposing it or passing it, but I see the potential of it is really outside of my comfort zone. So I want to work with you to come up with something to at least propose—everyone can say no if they want to, but

I want to have something that does not keep me up at night and very distressed that maybe five (5) or ten (10) years from now we will replace our population.

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

The motion for passage of Proposed Draft Bill (No. 2794) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 22, 2020, and it be referred to the Planning Committee was then put, and carried by the following vote:

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

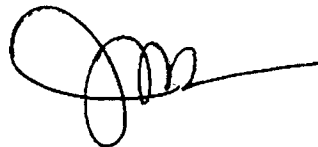
Ms. Fountain-Tanigawa: Six (6) ayes.

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

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:41 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:jy

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

(June 17, 2020)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2794), Relating to Enforcement, Legal Procedures, and Penalties

Introduced by: Councilmember MASON K. CHOCK (By Request)

Amend Proposed Draft Bill (No. 2794) in its entirety as follows:

“SECTION 1. [Findings and Purpose. The proposed bill clarifies the enforcement, legal procedures, and penalties that applies to violations of Kaua‘i County Code Chapter 10, and clarifies the title for Chapter 10 as “Community Development Plans.”] Purpose. The purpose of this Ordinance is to amend Chapter 10, Section 10-7, Kaua‘i County Code 1987, as amended, relating to Enforcement, Legal Procedures, and Penalties to clarify the enforcement, legal procedures, and penalties that apply to violations of Chapter 10, and to clarify the title for Chapter 10 as “Community Development Plans.”

SECTION 2. The title of Chapter 10 is hereby amended as follows:

“Chapter 10 [SPECIAL DEVELOPMENT PLANS] COMMUNITY DEVELOPMENT PLANS”

SECTION 3. Chapter 10, Section 10-7.1 of Kaua‘i County Code 1987, as amended, is hereby amended as follows:

“[Sec. 10-7.1 Designated.

Any violation of any article, section or provision of this Chapter shall be subject to the enforcement, legal procedures, and penalties provided for in Chapter 8, Article 3 of the Kaua‘i County Code 1987, as amended.]

Sec. 10-7.1 Permit Required.

No person shall undertake any construction or development or carry on any activity or use, for which a Zoning Permit is required by this Chapter, or obtain a Building Permit for construction, development, activity or use regulated by this Chapter, without first obtaining the required Zoning Permit.”

SECTION 4. Chapter 10, Article 7, of the Kaua‘i County Code 1987, as amended, is hereby amended by adding a new Section 10-7.2 to read as follows:

“Sec. 10-7.2 Enforcement, Legal Procedures and Penalties.

(a) Enforcement, Legal Procedures and Penalties.

(1) All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for construction, development, uses, activities,

subdivisions or other purposes which would be in conflict with the provisions of this Chapter; any such permits or licenses, if issued in conflict with the provisions of this Chapter shall be void.

(2) It shall be the duty of the Planning Commission and Planning Director to enforce the provisions of this Chapter and it shall be the duty of all law enforcement officers of the County of Kaua'i to enforce this Chapter and all the provisions thereof.

(3) Any person convicted of violating or causing or permitting the violation of any of the provisions of this Chapter, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding two thousand dollars (\$2,000.00). After conviction, a separate offense is committed upon each day during or on which a violation occurs or continues.

(4) Any building or structure or other improvement or development set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter or any use of land contrary to the provisions of this Chapter shall be unlawful and a public nuisance. The County Attorney shall immediately commence an action or proceeding for the abatement, removal, or enjoinder thereof in the manner provided by law, and shall take such other steps, and shall apply to such courts as may have jurisdiction to grant relief that will abate or remove such building, structure, improvement, development or use, and restrain and enjoin any person from setting up, erecting, building, maintaining, or using any such building, structure, improvement or development, or using any property contrary to the provisions of this Chapter.

(b) Civil Fines.

(1) If the Director of the Planning Department determines that any person, firm or corporation is not complying with a notice of violation, the Director may have the party responsible for the violation served, by mail or delivery, or by posting of the property which address is the most current address reflected in the Real Property tax records, or by publishing such notice in a newspaper of general circulation in the County of Kaua'i should previous notification efforts not be accepted, with an order pursuant to this Section. The order may require the party responsible for the violation to do any or all of the following: (A) correct the violation within the time specified in the order; (B) pay a civil fine not to exceed ten thousand dollars (\$10,000.00) per day for each day in which the violation persists, in the manner and at the time and place specified in the order. All civil fines shall be deposited to the Planning Enforcement Account within Fund 251.

(2) The order shall advise the party responsible for the violation that the order shall become final thirty (30) calendar days after the date of its delivery or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kauai. The order shall also advise that the Director's action may be appealed to the Planning Commission.

(3) The provisions of the order issued by the Director under this Section shall become final thirty (30) calendar days after the service or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kaua'i, of the order. The parties responsible for the violation may appeal the order to the Planning Commission pursuant to its rules. The form of this appeal must conform to the Planning Commission's rules. However, an appeal to the Planning Commission shall not stay any provision of the order.

(4) The Director may institute a civil action in any court of competent jurisdiction for enforcement of any order issued pursuant to this Section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the Director need only show that the notice of violation and order were served; that a civil fine was imposed; the amount of the civil fine imposed has not been paid; that either the order has not been appealed or that if appealed, the order was sustained by the Commission and/or any Court action.

(5) The Director may place a lien on the property if the violation has not been corrected or the civil fine imposed has not been paid within ninety (90) days of the order. The Director shall obtain approval from the County Attorney prior to the placement of any liens.

A. Said lien shall be recorded with the State of Hawai'i, Bureau of Conveyances or registered in the Office of the Assistant Registrar of the Land Court, and shall identify the owner's name, address of the property, tax map key number of the property, and include copies of pertinent documentation as to the failure of the property owner to pay the civil fine. Any cost incurred in the filing of the lien shall be part of the lien for the civil fine set forth.

B. The lien may be enforced and foreclosed by action of the Director in circuit court, and the proceedings before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time out of the County or cannot be served within the County, or if the owners are unknown, and the fact shall be made to appear

by affidavit to the satisfaction of the court, and it shall in like manner, appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by Chapter 634, H.R.S. In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien in the manner provided.

C. The Director or subordinate shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction, which shall be entered in the general indexes of the Bureau of Conveyances or noted on the certificate if a notation of the original notice was made on any Land Court Certificate of Title.

(6) The fines collected pursuant to this Section shall be deposited into the Planning Enforcement Account within Fund 251. The fines are hereby deemed appropriated upon receipt and may be expended to retain independent contractors to assist in the enforcement of the Comprehensive Zoning Ordinance and other Codes, Statutes, or regulations the Planning Department has the authority to enforce. The fines may be expended for materials, supplies, education, training, and legal representation, and equipment that facilitate inspection and enforcement of such violations. Council notification is required for any single expenditure from this account which exceeds ten thousand dollars (\$10,000.00). Any fines collected when the account has an excess of five hundred thousand dollars (\$500,000.00) in uncommitted funds shall be transferred and deposited into the General Fund at the close of the fiscal year. The fines collected shall not lapse at the close of the fiscal year. The Planning Department shall annually report to the Council as part of the Mayor's budget submittal on March 15th of each year, the expenditures and outcomes of said account."

SECTION 5. Severability. [The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.] If any provision of this Ordinance or the application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. [This Ordinance shall take effect upon its approval.]
Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 7 This Ordinance shall take effect upon its approval."

(Material to be deleted is bracketed. Material to be added is underscored.
Highlighted material is new.)

V:\AMENDMENTS\2020\FA PDB 2794 Planning - CH 10 Enforcement CNT_ss.docx