

## COUNCIL MEETING

OCTOBER 21, 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, Līhu'e, Kaua'i, on Wednesday, October 21, 2020 at 8:33 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 Kuali'i  
Honorable Arryl Kaneshiro

Excused:     Honorable Arthur Brun\*

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

### APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda, as circulated, seconded by Councilmember Cowden.

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

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

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

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

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

October 7, 2020 Council Meeting

Councilmember Kuali'i moved to approve the Minutes as circulated, seconded by Councilmember Kagawa.

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

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

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

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

CONSENT CALENDAR:

C 2020-249 Communication (10/01/2020) from the Deputy Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2020-2021, pursuant to Section 17 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2020-2021.

C 2020-250 Communication (10/06/2020) from Hugo D. Cabrera, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2020 through September 30, 2020.

C 2020-251 Communication (10/07/2020) from Councilmember Cowden, providing written disclosure of a possible conflict of interest and recusal relating to the Mayoral Reappointment of Dean A. Toyofuku to the Board of Ethics, due to an interest in a matter before the Board of Ethics.

C 2020-252 Communication (10/09/2020) from Council Chair Kaneshiro, transmitting for Council consideration and confirmation, the reappointment of Aubrey Summers to the Kaua'i Historic Preservation Review Commission (*Architecture*) – Term ending 12/31/2023.

Councilmember Kualii moved to receive C 2020-249, C 2020-250, C 2020-251, and C 2020-252 for the record, seconded by Councilmember Cowden.

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 2020-249, C 2020-250, C 2020-251, and C 2020-252 for the record was then put, and carried by a vote of 6:0:1\*.

Council Chair Kaneshiro:           The motion is carried. Clerk, can we move to Bill No. 2774, Draft 5?

There being no objections, Bill No. 2774, Draft 5 was taken out of order.

BILLS FOR SECOND READING:

Bill No. 2774, Draft 5 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI

Councilmember Kualii moved to approve Bill No. 2774, Draft 5, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: JoAnn Yukimura will be testifying. Can you hear us? Are you there?

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

JOANN A. YUKIMURA (*via remote technology*): Yes.

Council Chair Kaneshiro: Okay, you are up. You know the rules. You have a total of six (6) minutes. We did receive your written testimony. Again, please state your name for the record and you may begin.

Ms. Yukimura: Thank you very much. Good morning, Chair Kaneshiro and Members of the Council. Thank you for this opportunity to testify. Thank you also for your work. As I have tried to understand the various provisions in this Bill on the very complex matter of providing affordable housing, and as I have spoken to you and other stakeholders, I have detected certain assumptions that I would like to address today, because they affect the way that we think about Bill No. 2774. The first assumption is that Ordinance No. 860 is not important or necessary for the building of tax credit, also known as Low-Income Housing Tax Credit (LIHTC) housing—that is housing for less than or equal to sixty percent (60%) of Area Median Income (AMI), sometimes eighty percent (80%). The thought seems to go as follows, housing for families of sixty percent (60%) to eighty percent (80%) AMI can be provided with Federal low-income tax credits, therefore, inclusionary zoning, now codified in Ordinance No. 860, should be used to provide housing for those at the one hundred percent (100%) to the one hundred twenty percent (120%) AMI—that is not true. It is not true that housing for families at or below sixty percent (60%) to eighty percent (80%) AMI does not need Ordinance No. 860. In fact, inclusionary zoning has made land and sometimes off-site infrastructure as well, available for LIHTC projects, because tax credit cannot be used to pay for land and the County's inclusionary zoning has been used to acquire land to make LIHTC projects, such as Koa'e, Kolopua, and Pa'anau possible. If you cripple the County's inclusionary tool or skewer to the higher-end of affordable housing spectrum, you will be harming the families who need housing the most.

Assumption number two, Ordinance No. 860 is not doing enough for housing needs at the one hundred percent (100%) to one hundred twenty percent (120%) AMI. There is no one more than me who wants to see the housing needs of the families at one hundred percent (100%) to one hundred twenty percent (120%) AMI addressed, and once we have accomplished that, the families at one hundred thirty percent (130%) and one hundred forty percent (140%) AMI. The stumbling block has not been due to a deficiency of Ordinance No. 860 or the lack of privately developed housing, but the lack

of public capital. There are LIHTC funds for building houses for the sixty percent (60%) to eighty percent (80%) AMI, but there are no such funds for families at the eighty percent (80%) and one hundred twenty percent (120%) AMI. What is needed is a Charter earmark for affordable housing that can capture the real property tax revenues from high-end residential investment property and vacation rentals. A bond float based on such an earmark will provide capital to build that eighty percent (80%) to one hundred twenty percent (120%) AMI housing on land provided by Ordinance No. 860 and what a wonderful mixed-income affordable housing project can be possible with that. So who will be the bold visionary leader to introduce such a charter amendment? Because that is the way to get that type of housing—one hundred percent (100%) to one hundred twenty percent (120%).

Assumption number three is that there has been a lack of multi-family infill housing primarily due to Ordinance No. 860. In fact, the town cores of Kalāheo, Kīlauea, Hanalei, and Kōloa, the main deterrent to building R-10 or R-20 multi-family housing is the lack of a sewer system. Without a community sewer system in those communities, exempting the areas from Ordinance No. 860 will not increase the supply to lower housing prices. If you want to see more housing, provide the sewage infrastructure in these communities. The County has failed to do good land use planning. It has designated places for growth, but failed to provide infrastructure for it, leaving the private developers to install their own sewage treatment systems and this can be prohibitive, unless they can get a relatively high price for their units—as in Kōloa. So do not look for affordable housing in those developments, which perhaps, is why some affordable housing should be required at a level that will not be prohibitive. Only in the Līhu'e Town Core is there some existing infrastructure that would support up to two thousand four hundred (2,400) units, perhaps here, Ordinance No. 860 has some deterrent effect, and an exemption or a lower percentage of affordable housing could be required. To create a bill effective in addressing the affordable housing problem on Kaua'i, I recommend three (3) substantive amendments. Section 13 regarding exemptions should be changed to exceptions. Kalāheo should be removed from the exceptions list until community sewers are built. Require a ten percent (10%) contribution from developers in Kōloa Town who can get higher prices for the higher-end housing and thus offset affordable housing, and for multi-family developments at R-10 and higher. I am conceding that we could leave Līhu'e Town Core district exempt, but limit the life of the exemptions to five (5) years. I am sorry, but I getting feedback, could someone...thank you. If the sewer and water capacity are expanded during the time in Līhu'e beyond the two hundred forty (240) units...I am getting feedback again.

Council Chair Kaneshiro: Ms. Yukimura, your six (6) minutes are up, if you want to summarize your three bullet points. We do have it written here in front of me.

Ms. Yukimura: Okay, I just want to say that the second amendment would be to follow the Lincoln Institute of Land Policy recommendation and clarify the four (4) ways in which affordable housing can be made. The last one is to change the land in lieu to a land and off-site infrastructure option. I have also attached amendments. Thank you very much.

Council Chair Kaneshiro: Thank you, we have those.

Ms. Yukimura: Okay.

Council Chair Kaneshiro: That was the only testifier for this Bill. At this time, I will recess our Council Meeting and we will move to the Committee Meeting.

There being no objections, the meeting recessed at 8:44 a.m.

The meeting reconvened at 9:25 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Clerk, we are on page 2, C 2020-253.

### COMMUNICATIONS:

C 2020-253 Communication (09/22/2020) from the Director of Finance and the Budget Administrator, requesting Council approval to accept and expend the appropriations provided to the County of Kaua'i by the State Legislature of 2019 at its Regular Session, Act 40, as amended by Act 6, SLH 2020 in the amount of \$15,500,000.00, via Appropriation Warrant No. 220 dated July 7, 2020 and other pertinent attachments.

Councilmember Kualii moved to approve C 2020-253, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Do we have Mike and Reiko online? Councilmember Cowden.

Councilmember Cowden: I actually was not sure if I had a question. I appreciate this Appropriation Warrant. Perhaps, they can just express for a moment what the Appropriation Warrant signifies. This is the State giving us this money to do these capital improvements, correct? That is essentially what this is. So when we are fixing the Kalāheo, Lāwa'i, and Ōma'o water system, that is the most expensive item—nine million six hundred thousand dollars (\$9,600,000). What is the essence of that fix? If they are there. We did get a paper on it. Are they there? If not, we can move on.

Council Chair Kaneshiro: I am not sure if Mike is there. I know we do have a description in here; it says, "Design, construction, and equipment for water system improvements, and other related improvements provided that the County of Kaua'i shall provide matching funds equaling twenty percent (20%) of the State funds appropriated for the purpose of this project." That project is a total of nine million six hundred thousand dollars (\$9,600,000).

Councilmember Cowden: I am fine.

Council Chair Kaneshiro: Mike, is there anything you would like to add?

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Managing Director (*via remote technology*): For the record Mike Dahilig, Managing Director. Ultimately, for the Water Department related items, Councilmember, we can get more detail. In essence, it really is a pass-through based on the way that the State appropriation is drafted, so the amounts for those systems gets pushed over to the Department of Water and the Water Board for further budgeting and expenditure, but we can send a communication over to the board leadership and see if we can get some information and more detail for you as to what that is for.

Councilmember Cowden: I think I am okay with it, because I do listen in on the Department of Water meetings. I am good with it. Actually, I am really happy that this State money is still coming through. It looks like we are not going to be interrupted despite the fact that revenue is down. This has all been committed in the past, right? This was committed before. I was a little worried we were not going to get all the State money that we are looking for and I am happy to see it.

Mr. Dahilig: Okay.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. Mike, can you explain a little about Anahola Sports Complex? I see the description here for a 50-acre sports complex in Anahola; I just have never heard anything about it before.

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

Mr. Dahilig: Yes, I think it is just for planning money. I know that we do have some assets out there that our Parks & Recreation Department has been looking at trying to partner with the Department of Hawaiian Home Lands (DHHL) on, so that is more for some planning and design work. It definitely would not cover any type of large vertical construction at this point.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a follow-up, is this in the *mauka* area or down in the lower portion near the ocean? There is DHHL lands in both directions.

Mr. Dahilig: I am not entirely sure, I just know that it is approximately fifty (50) acres in size. I can try to get a map for you, if that helps.

Councilmember Cowden: I would like that, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Mike, I actually can add. The Anahola community, years back, did a plan with DHHL and I think it was Group 70, so the Anahola bubble plan makes plans for both *mauka* and *makai* of the highway—an industrial area, a park area, there is all kinds of types, and you can see it on the DHHL website, it is called Anahola Bubble Plan.

Council Chair Kaneshiro: Are there any further questions from the Members on this item? If not, I will call the meeting back to order. Is there any final discussion from the Members?

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

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

The motion to approve C 2020-253 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 passes. Next item.

C 2020-254 Communication (09/29/2020) from Mark Begley, Assistant Chief of Police, Patrol Services Bureau, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$638,771.27, from the recurring National Highway Traffic Safety Administration (NHTSA) grant to be used towards the following traffic-related functions: data traffic records, distracted driver, occupant protection, road blocks, speed, youth deterrence, traffic services, purchase of equipment, supplies, training, travel expenses, media expenses, et cetera.

Councilmember Kualii moved to approve C 2020-254, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this item? If not, is there any final discussion?

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

The motion to approve C 2020-254 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 passes. Next item.

C 2020-255 Communication (09/30/2020) from the Executive on Transportation, requesting Council approval to receive and expend the Federal Transit Administration (FTA) Section 5311 grant, in the amount of \$1,089,829.00, and a FTA Section 5339 grant, in the amount of \$1,400,000.00, and to indemnify the FTA. The 5311 grant will be used to fund the fifty percent (50%) grant portion of bus driver wages, hourly pay, and fringe benefit line items along with other bus service needs including professional cleaning services for all vehicles and transit facilities. The 5339 grant will be used to fund the eighty percent (80%) grant portion of vehicle purchases, equipment, and transit facility maintenance expenses.

Councilmember Kualii moved to approve C 2020-255, seconded by Councilmember Cowden.

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

Councilmember Cowden: I just have a statement.

Council Chair Kaneshiro: Okay, if there are no questions, I will do final discussion. Councilmember Cowden.

Councilmember Cowden: Again, I just want to appreciate the effort coming from each of the departments, and in this case, the Department of Transportation in bringing Federal moneys in to help off-set our costs—excellent job. I value the effort that comes to help defer our expenses.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2020-255 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 passes. Next item.



C 2020-256 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to provide the initial funding to award debris removal contracts, fund repair costs to parks facilities, and replenish protective measure expenditures as a result of the March 2020 rain event. Submittal to the Federal Emergency Management Agency (FEMA) for these expenses is expected to result in a seventy-five percent (75%) reimbursement of eligible costs.

Councilmember Kuali'i moved to receive C 2020-256 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: The next few items are all items that will come up later for Bills for first reading. This is just to receive the communication.

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

The motion to receive C 2020-256 for the record 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 passes. Next item.

C 2020-257 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to fund the anticipated half year shortfall in Transient Accommodations Tax (TAT) revenue through December 31, 2020, due to COVID-19.

Councilmember Kuali'i moved to receive C 2020-257 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any final discussion?

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

The motion to receive C 2020-257 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 passes. Next item.

C 2020-258 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, and A Bill For An Ordinance Amending Ordinance No. B-2020-867, As Amended, Relating To The Capital Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The Bond Fund And General Fund-CIP, to defund the Ho'olako/Ka'ana Parcel Improvements project and thereby restore \$1,400,000.00 to the General Fund Unassigned Fund Balance.

Councilmember Kualii moved to receive C 2020-258 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members 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 receive C 2020-258 for the record 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 2020-259 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to authorize the use of General Funds for eleven (11) positions that were formerly grant-funded to receive retroactive arbitrated awards as a part of the Hawai'i Government Employees Association (HGEA).

Councilmember Kualii moved to receive C 2020-259 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: 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 receive C 2020-259 for the record 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 2020-260 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to provide necessary funding to continue the County's protective measures in mitigating and managing the impacts of COVID-19 in 2021.

Councilmember Kualii moved to receive C 2020-260 for the record, seconded by Councilmember Cowden.

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

*(Councilmember Kagawa was noted as present.)*

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

The motion to receive C 2020-260 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 2020-261 Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-867, As Amended, Relating To The Capital Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The Bond Fund And General Fund-CIP, to procure a system to adequately address the Human Resource / Payroll System needs.

Councilmember Kualii moved to receive C 2020-261 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: 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 receive C 2020-261 for the record was then put, and carried by a vote of 6:0:1\*.

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

CLAIMS:

C 2020-262 Communication (10/01/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alan Yamamoto, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2020-263 Communication (10/13/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Wilber & Associates O/B/O USAA as subrogee of Shere-Khan Smoot, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2020-264 Communication (10/13/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Garden Isle Disposal, Inc., for damage to their property, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2020-262, C 2020-263, and C 2020-264 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

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

Councilmember Kagawa: I had a personal experience with my vehicle, but I cannot blame the County road. My tire rotor or whatever connects the steering wheel to the front wheel.

Councilmember Cowden: Drive shaft.

Councilmember Kagawa: To enable it to turn. That metal piece cracked and my mechanic has been in business for seventy years (70) years in Kōloa. You folks probably know who that is, but he said he has never seen that happen in all the years that he has been fixing cars. So that tells you that those types of things are happening; a lot of these claims are because of our pothole roads, like Kōloa Road. A lot of it is legit and I know we are tending to deny it, because it is hard for the defendant to prove, but we need to get better with the roads going forward. I know we are trying to address some now, but other than that the Hanapēpē Valley Road is how Port Allen Road used to be way back when. Port Allen was a dirt road with all potholes and that is how Hanapēpē Valley Road looks now—it is embarrassing. We make people pay property

taxes that keep going up, because of our ad valorem method with no cap, and the condition of our roads are worse. A lot of these claims are legit and I feel sorry for a lot of people, because I just had a personal experience. The road will not crack my car without bad potholes—it is hitting potholes. I am terrible at hitting potholes—I hit them square all the time. Anyway, I just wanted to add that.

Council Chair Kaneshiro: Is there anyone else? Just to be clear, your claim is not on here.

Councilmember Kagawa: I did not claim anything.

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

The motion to refer C 2020-262, C 2020-263, and C 2020-264 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 WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2020-03) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2020-03 Communication (09/17/2020) from Committee Chair Kagawa, requesting the presence of the Acting County Engineer and the Acting Solid Waste Chief, to continue the discussion that was previously held regarding the concerns relating to the Solid Waste Division’s scheduling, overtime, and repair and maintenance to facilities and equipment at the refuse transfer stations,”

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\*.

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

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (No. CR-HIR 2020-01) submitted by the Housing & Intergovernmental Relations Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2774, Draft 4 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI,”

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

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.

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2020-07) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2803 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Home Exemption Requirements*),”

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\*.

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

RESOLUTION:

Resolution No. 2020-55 – RESOLUTION CONFIRMING COUNCIL REAPPOINTMENT TO THE KAUAI HISTORIC PRESERVATION REVIEW COMMISSION (*Aubrey Summers – Architecture*)

Councilmember Kualii moved for adoption of Resolution No. 2020-55, seconded by Councilmember Chock.

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

Councilmember Cowden: I have a process question. I have no problem confirming her. I am just curious, when we do these reconfirmations, we do not get a chance to talk to them and ask questions? I guess, we would have had to ask for that, right? Thank you.

Councilmember Kagawa: Yes.

Council Chair Kaneshiro: Is there anyone else? 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. 2020-55 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kualii, 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.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2806) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Parks & Recreation RAIN20 Event – \$660,000.00*)

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2806) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it therefore be referred to the Committee of the Whole, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Councilmember Kagawa.

Councilmember Kagawa: Briefly, explain the six hundred sixty thousand dollars (\$660,000) debris removal at Lydgate, Kaua'i War Memorial Convention Hall, R&M Buildings. Is there a better breakdown of that money as to what we propose to spend and why it is not in the current budget?

Council Chair Kaneshiro: We did receive a white paper from the Administration with a description of the items. Mike, if you want to explain it. Again, this is on Proposed Draft Bill (No. 2806).

There being no objections, the rules were suspended.

Mr. Dahilig: Again, I am Mike Dahilig, Managing Director, for the record. Just as an explanation, Vice Chair Kagawa, these two (2) projects have been identified in the process to qualify for public assistance aid since the RAIN20 Event was declared as a Federal Presidential disaster, and therefore, making us eligible for Federal reimbursement.

Council Chair Kaneshiro: Okay.

Mr. Dahilig: We did come to you folks in a previous Council Meeting asking for approval to accept, receive, and expend grant funds from that public assistance grant for up to two million dollars (\$2,000,000). What this does from a bill standpoint is effectuate the projects that we have been able to get through Federal Emergency Management Agency (FEMA), through that obligation process to have them work through and be able to provide the reimbursement authorization for these two (2) items. The Lydgate Beach Park and Wailua Beach recreational item is something that we need to take care of due to the very high volume of Albizia that had littered the area, so that is what that does. Also, FEMA has agreed that the leakage in the Kaua'i War Memorial Convention Hall sustained as a result of the RAIN20 Event, is eligible for public assistance funding, so that is where those two (2) line items come in as a consequence of post-budget types of measures.

Councilmember Kagawa: Thank you, Mike. I know this is only first reading, but I know we have talked about it, because I constantly get questions from people who are concerned about all the debris by the Wailua Bridge and the debris that came down from the last rain. It is truly amazing the volume of debris that is



out there and how that shoreline and river mouth has changed—it is scary with the way it looks. I am totally in support in doing whatever efforts, but then going forward, my suggestion was that we—and this is only one thing that I agree with President Trump, is that we need better forest management *mauka*. Maybe Department of Land and Natural Resources (DLNR) can start clearing the dead trees *mauka*, so that when it rains, it does not come upon the County to clean it up—this constantly happens. At Lydgate ponds, every year we need to clean out the ponds of trees and debris. It is coming from *mauka*. You would think it would be smarter for us to clear the trees when they are dead or there are huge Albizia along the side of the river; if you clean it now, when it rains, it does not come down. It is harder to deal with when it is wet and in the water. It only makes sense. A lot of those lands, I believe, are State lands. I think we should address the *mauka* debris first. We have Patrick Porter, who I believe was with the State. He is the perfect man to coordinate as far as having a better strategy *mauka* to prevent all the...I call it “band-aid fix”—we just clean it up, then when the heavy rains come back, the wound opens again.

Council Chair Kaneshiro:                      Councilmember Cowden.

Mr. Dahilig:                                      Understood.

Councilmember Cowden:                      I would like to follow-up on that. He asked a bulk of the questions that I need to ask. I am curious, when we pull this debris out, are we going to be getting that all along the beach, because it goes toward the north of the bridge. I think about if we had a canoe season this year, it would have been really dangerous in that area. What are we going to do with it when it comes out? Where does it go? Who is taking it? Is it going to get ground-up somewhere? What do we do with that? Do we have a contractor lifting it out?

Mr. Dahilig:                                      That is what these funds would be appropriated for. It is for a contractor to come in and clear out this area. I do want to mention, a lot of the requirements actually come back to the statutory requirement by the State under Hawai'i Revised Statutes (HRS) 46-11.5. Under §46-11.5, we are actually required to look at areas that have high usage as a consequence of having a County beach park that is adjacent to the area. There are jurisdictional questions as to whether or not this fully needs to be at the County expense, but we figure it is more appropriate for us to take care of it from a nuisance standpoint, especially since we have Federal authorization to seek reimbursement for it. There was some degree of process here that we have to go through and that is why there is a five (5) or six (6) months lag behind it, but we are trying to meet the statutory requirement under §46-11.5. The contractor would make a determination of whether or not the debris is suitable for green waste disposal. If there is green debris that polluted in that type of matter, then you are going to have to make a judgment if it needs to be disposed of in another way. I think the intent is that the contractor would try to get this taken care of through green waste, preferably.

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

Councilmember Cowden: The reason why ask is because I see how complicated this is, so that is why I am very supportive of what Vice Chair Kagawa was speaking of. When we cannot put heavy equipment on the shoreline and those logs are laying there on the shoreline, that seems like an expensive and difficult process. If we throw it in the landfill, every rain we will be filling that up. I am just going to throw out a suggestion, so it goes into your brain. I wonder if we work with Green Energy, is there a way for them to get some of this contract for taking the trees down, since that is what they are in the business of doing and burning them if we were working proactively with DLNR. Maybe there is a partnership between the County, DLNR, and Green Energy, because then we are putting those trees to good purpose, as opposed to putting them and filling up any of our potential landfill areas or green waste areas, because it is a lot and it will keep coming. So being proactive is very important.

*(Councilmember Chock was noted as present.)*

Mr. Dahilig: Councilmember and Vice Chair, to your points, this does speak to a better forestry management that does need to be coordinated. Especially, since Albizia is an invasive species, is very flimsy, and does tend to envelop our landscape, so that forestry management from a comprehensive standpoint is something that we are ultimately very eager to see where we can contribute to that, but ultimately, a lot of the forestry management areas are on DLNR land or private land. That is where you are correct in observing that at the end of the day when the debris does end up near our beach parks, like at Wailua and Lydgate, it becomes our *kuleana* and we want to try and mitigate that as much as possible.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Chair. Mike, because this is under disaster response, I am curious, what does the County have to do in terms of permitting processing to accomplish this work?

Mr. Dahilig: You may have noticed from the Governor, as well as the Mayor, most recently signed extensions to Emergency Proclamations.

Councilmember Chock: Yes.

Mr. Dahilig: There are certain statutes that would be required for permitting compliance, but in this particular situation, since we are still under Federal, State, and Local Emergency Proclamations, that those permitting considerations are loosened. Certain things like historic preservation still needs to

be monitored and complied with, but for the most part a lot of these things are meant to accelerate the recovery process.

Councilmember Chock: Just to confirm, we are talking about debris removal, not cutting down existing trees.

Mr. Dahilig: That is correct.

Councilmember Chock: Thank you very much.

Council Chair Kaneshiro: Are there any further questions from the Members on this item? I will call this meeting back to order. Is there any final discussion from the Members? Councilmember Kagawa.

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

Councilmember Kagawa: When this goes to Committee Meeting, I would like to see if the Department of Parks & Recreation has any communication or information to share with the Committee on coordination with the State. Again, I get irritated when we talk about the rivers and flooding, then the rubbish, and closing and opening of the river mouth, because the State controls all of the flow. They can let folks divert how they want, whether it be with electricity or agricultural use, but when it comes down to rubbish and clean-up of the river, then it becomes the County's responsibility. The County should take care of the bad things, but we should share in the good things that we can do to help the community. But to have no say on the good things and full say on the bad, to me, that is the deal that you deny. That is not working together, that is like being a slave. Senate President Kouchi was here in this chair before, and we used to take care of the river mouths way back when—it was in much better shape. Now, we are back into this argument of whose job is it—it is irritating. The community is suffering, because it is not in as good of a shape as it was back when my dad was in Public Works, because at that time, they used to take care of the river mouths and cleaning—everything was better regarding the river. If you look at Waimea River mouth...have you ever passed there? It looks weird. It looks like islands in front of the river mouth. I think we need to do better and the Wailua one scares me, because if that highway ever falls down because of huge trees coming down, talk about a disaster, that will be a disaster and a half if traffic is ever cut-off from Kapa'a to Līhu'e. Anyway, that is my "food-for-thought," thank you.

Council Chair Kaneshiro: Councilmember Chock, then Councilmember Cowden.

Councilmember Chock: I want to jump on board with this discussion, because I agree that what happens up *mauka* definitely affects what is happening in the lower lands. Act 35 funding that has been approved is one mechanism I would like to shed light on, being able to move forward on. I know it is not a big pot of money, but the idea that perhaps we might be able to invest in a comprehensive watershed management plan that cannot only provide access, but provide that equity as a stakeholder that Vice Chair Kagawa is talking about is important. My hope is that it is one means to start that conversation. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Following-up on what Councilmember Chock was just speaking of...that is the money that Nadine Nakamura helped—thirty-nine million dollars (\$39,000,000) coming from FEMA money through the State, now to the County. I hope when we are looking at the north shore rivers—Hanalei and beyond, as well as Waimea, that we start to build a template of partnership between the contractors in the regions; the State, and the County. I think everything from climate change to almost all the issues that we are dealing with, this is going to be critical and bringing in partners like I have suggested. I have not called them, but Green Energy, and when we have Pat Porter who was an arborist with the State, he was focused on the trees for DLNR, now our Parks & Recreation Director. This is a really excellent opportunity for us to be setting up, whether it is Wailua, Waimea, Hanalei, Wainiha, wherever, pathways where we are taking care of these trees, because if we do not, these trees will be filling up our landfill, damaging the river banks and houses along it. I am glad that we have this step in here. I thank the Administration for applying for this grant, being responsible, proactive, and helping to solve our problems with moneys outside our tax revenues. Thank you.

Council Chair Kaneshiro: Councilmember Kualii'i.

Councilmember Kualii'i: I wanted to add, too, on Act 35 funding, I remember the Administration coming before us and giving us the breakdown. I clearly remember asking about the sub-recipient grants that will be made to nonprofit and other organizations for the watershed management and stream restoration and I believe it was seven million nine hundred thousand dollars (\$7,900,000), so I am awaiting the Administration announcing the process of how community organizations will apply for that funding to work on their individual streams and watershed in general. I remember, too, the line item says north shore, and Anahola is included with the north shore. Thank you.

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

Councilmember Evslin: Thank you, Chair. Since we are all talking on this subject, I will briefly say, that I do think that what is happening with the Wailua

Bridge is such an incredible safety hazard. I think we have “lucked out” that we have not had any real flooding since that huge sandbar has been there, because those homes on the bank are at significant risk of severe flooding and the bridge is at risk. It is somewhat frustrating that the State did that work with the boulders under the bridge without clearing the sandbar out. It just needs to become a priority of the State and County to get that cleared. I appreciate a movement forward on that front. Thank you.

Council Chair Kaneshiro: Thank you. With that, roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2806) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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.

Proposed Draft Bill (No. 2807) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Transient Accommodations Tax Revenue Reduction (Half Year) – \$7,467,500.00*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2807) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: Managing Director Dahilig, can you give us an overview? This is coming out of our General Fund. Is that considered our “rainy day” fund? Help me understand the flow of the money. How are we replacing this Transient Accommodation Tax (TAT)?

There being no objections, the rules were suspended.

Mr. Dahilig: Again, Mike Dahilig, Managing Director, for the record. Councilmember, what has transpired is, when we were going through the budget process with you folks back in the spring, we were not clear whether or not, based off of the lack of any tourism activity, whether the TAT would continue to be distributed pursuant to HRS 237(d), Section 6.5(b), and that is what tends to be the tempo for how the State distributes any of the TAT moneys. What we had got an indication of during the first iterations of the Emergency Proclamations that were coming out by the Governor, it was that he was waiving any implementation of that under his authority under HRS 127(a), which is the emergency statute. He has continued to waive this statute, which requires a mandatory disbursement to the counties of a particular set amount, and that amount was roughly in the amount of fourteen million dollars (\$14,000,000). So that is why early on we had posed the question, whether we should budget zero (0) or budget the full amount, and in the 2021 budget it was settled on through the Legislation via the Council that the full amount would be budgeted, so that is how the budget was wrapped up in May/June earlier with the presumption that the full amount of TAT was still going to be disbursed to the counties. Here is what has happened since then, in over the past few months, the Governor has continued to waive HRS 237(d), Section 6.5(b), and he has also transmitted a letter to us essentially indicating that no more further disbursements out of the TAT funds are going to be coming our way. That paired with the understanding that up until last Thursday, we were relatively having no TAT type of revenue that was coming into the State coffers across the State, naturally, there would be the understanding that there is no money in that pot to disburse. This was a "roll with the punches," real time type of situation, where we are only being able to react as we are able to see activity come in. It is possible that with the restart of the tourism economy that the TAT will start to replenish the TAT fund on the State from a revenue standpoint and that we expect the Legislature to take a look at—like they do every year, which is a fun exercise, whether or not this disbursement is going to be according to law or are they going to fool around with the formulas again. That is where we find it appropriate at this point to say, we do not believe we are going to be getting at least six (6) months of TAT revenue into the end of the calendar year. That is where on the Charter, we are required to come to you folks and try to keep the budget maintained in a balanced situation. Hence, the request to move these moneys out of the Reserve into the General Fund to address a portion of the TAT hole.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members on this? If not, I will call this meeting back to order. Are there any final discussion from the Members? I just want to say, this shows the importance of having the Reserve and being disciplined in keeping money in the Reserve. This is the exact

situation where that money comes in handy and what the money is used for. This is an economic downturn that the County is experiencing and it is exactly why we budget so hard and be disciplined with the Reserve all these years to get these moneys through times like this. Are there any other discussions from the Members? Councilmember Evslin.

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

Councilmember Evslin: Sorry, Chair, for speaking after you. Thank you, Councilmembers, for giving us a strong Reserve here to move forward. I also want to say, every time the State has come up in any discussion in the last few months, I have followed-up with saying how frustrated I am, at their action, whereas this is something that is totally understandable. Largely, this was the cost of the quarantine, which I support and continue to support quarantine, but this is what the cost of that is. And we need to, as Mike has said well, "Roll with the punches and do the best we can." Terrible situation all around and we continue to do the best we can. I appreciate the work here.

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

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

The motion for passage of Proposed Draft Bill (No. 2807) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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.

Proposed Draft Bill (No. 2808) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*General Fund Unassigned Fund Balance (Ho'olako/Ka'ana Parcel Improvements)*) – \$1,400,000.00)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2808) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that is thereafter be referred to the Committee of the Whole, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: Just a simple explanation. Ho'olako and Ka'ana are roads down the street here in Lihu'e that we were improving, is that correct? Do I have that right?

There being no objections, the rules were suspended.

Mr. Dahilig: Yes, Councilmember. Those are streets that are adjacent to the current Kaua'i Police Department (KPD) site.

Councilmember Cowden: Okay, so we are just going to wait. We are just going to save that money for now. There are two (2) Bills in a row here and that savings is a total of...

Mr. Dahilig: It is a total of one million four hundred thousand dollars (\$1,400,000). The bond moneys were actually meant more than authorization versus the balance, so I do not know if you want to wait until the next Bill to discuss that with our Budget Administrator.

Councilmember Cowden: Okay.

Mr. Dahilig: This first Bill is more from a standpoint of when we went through the budget process in May/June, there was cash that was moved over to the CIP Projects. What we are doing is pulling that cash back, because we believe that particular project is not timely given the situation of the County, so we want to push money back into our own community using this particular Bill, rather than having it set for that land swap acquisition that we pitched to you folks back in the spring.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Mike, that was road infrastructure improvements to make the area more conducive for future housing development, correct?

Mr. Dahilig: Right, it was to do that, as well as the ability to use those improvements as a swap with the landowner to be able to expand the footprint of the KPD current facilities. It was meant to be a combination of a number of benefits as you are mentioning as well, with opening up that area for more urban types of housing development, but given that the funding mechanism for this was



cash, we find it more appropriate at this point to pull back and put that money back into our General Fund.

Councilmember Kuali'i: Obviously, the hope is in the future we would come back to it, but for now based on COVID-19 and our financial challenges, this is the correct move to make. I support that, but I do want to see us come back to it in the future. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, I will call this meeting back to order. Is there any final discussion? Roll call vote.

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

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

The motion for passage of Proposed Draft Bill (No. 2808) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin,	
	Kagawa, Kuali'i, 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.

Proposed Draft Bill (No. 2809) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-867, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND GENERAL FUND-CIP (*Ho'olako/Ka'ana Parcel Improvements Defunding – \$4,500,000.00*)

Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2809) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this item? This is a continuation of the previous Bill; it is just coming from a different fund—this is a Bond Fund. If not, is there any 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 passage of Proposed Draft Bill (No. 2809) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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.

Proposed Draft Bill (No. 2810) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*HGEA Retroactive Raises – Grant-Funded Positions*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2810) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions from the Members on this item? If not, is there any 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 passage of Proposed Draft Bill (No. 2810) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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.

Proposed Draft Bill (No. 2811) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*COVID-19 Funding For 2021 – \$2,000,000.00*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2811) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: I am going to begin by having you explain it for a moment, then I will have questions, because your explanation might answer it.

There being no objections, the rules were suspended.

Mr. Dahilig: The Bill that is in front you is anticipation of the COVID-19 disaster running into the next calendar year. As you are aware, we have been running off of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding that has been given to us by the Federal Government via the State to be able to fund a lot of the activities that have been done to enforce the quarantine, as well as be sure that our employees and the community has the proper personal protective equipment (PPE), and those types of necessary things. Unfortunately, we are not optimistic that the Federal Government will be acting on providing more resources past the December 30<sup>th</sup> date, when the CARES Act money is intended to lapse. So what this is meant to tee up is to ensure a seamless operation going into January 1, 2021, for any of our activities that relate to the basic quarantine enforcement, airport checkpoint enforcement, monitoring, health and emergency operations. Elton had provided as part of what I had sent over to you, some of the areas that we are looking at, given the line items that are in the current Bill, we expect to have those further refined for you folks when we get into Committee discussion in November as we start to understand how the New World Order will affect that type of activity and even if it is necessary going into January 1<sup>st</sup>. Our hope is that there will be Federal funding available going into January 1<sup>st</sup>. Obviously, we are not the only folks that will be needing this—this is a nationwide issue regarding resourcing for COVID-19 types of response activities, but we are at the mercy of Congress at this point, hoping that there will be some dislodging of discussions with stimulus and those types of measures with a new congress being elected in less than two (2) weeks. At this point, this is just for preparedness sake and hopefully, we do not have to use this appropriation, but again, we do not want to be left in a position where we are not resourcing these appropriately.

Councilmember Cowden: For clarity, in the last one, where we moved seven million seven hundred thousand dollars (\$7,700,000) over from the General Fund to replace the TAT. This is two million dollars (\$2,000,000) going to Police, Fire, and Emergency Management, so we could conceivably think that is where some of this two million dollars (\$2,000,000) is coming from, correct? We will be allocating it in that direction. Also, the National Guard is leaving, and the visitors are coming, our Police will probably be busy with their regular work, when it seemed like we had a drop during quarantine. Do we have numbers that would be anticipating how many people are getting off the plane that have not had the pre-test? And how many are we needing to be sure are staying in quarantine? Because if we have been checking two thousand (2,000) people at any one time, that we are trying to make sure they are following quarantine.

Mr. Dahilig: We can certainly provide that information in a future briefing or when the Bill does come before Committee. At this point, we only have five (5) days of data underneath our belt with the safe travel system coming in and seeing how the New World Order has affected our human resourcing operations from a county standpoint. Thank you for mentioning the concern about the National Guard potentially not having authorization from the Federal Government to continue beyond December as well. They are playing a very huge part in our airport screening, as well as our spot checks with self-quarantine at home. Those are things that we are monitoring and we hope will get extended, but I wish I had a "crystal ball" to exactly say what and how we would be able to work beyond those two forms of Federal assistance falling out starting January 1, 2021. We see this Bill as just a way to at least create some safety net that we are able to stand up some degree of operations to be able to maintain those types of enforcement safety measures.

Councilmember Cowden: I would be supporting the safety net here and maybe when we have a briefing in the future—not too long out, when we have more under our belt—it would be interesting to have Chief Raybuck in also, and perhaps, we can have some numbers from the visitor industry, so that we would have some sense of what they are facing and what the plan would be, because if the National Guard leaves at the end of the year and the stress continues, which brings crime and problems with it, I want to make sure that we are anticipating what the Police Department is going to be facing. I see that they are just twenty-five percent (25%), that is five hundred thousand dollars (\$500,000), of this two million dollars (\$2,000,000) and I would like to be aware in support of a plan that we can anticipate. Thank you.

Mr. Dahilig: What we can do, after we get about a week of data under our belt, we have common dashboards with the travel system that we can provide the Council with a snapshot of what we are looking at, at least with a week of data under our belts.

Councilmember Cowden: Yes, that would be good, because I really do not know how many people are not coming with a test. Do you know offhand?

Mr. Dahilig: What I will say, is that we have a 10-day rolling period between October 13 and October 23, where between those ten (10) days we are expecting almost ten thousand (10,000) arrivals. The screen to in quarantine ratio is about five percent (5%) right now, and that is something that the State is showing. What the problem is—I probably need to check with police on this, is that there is a secondary process with KPD, where we have been running our own system that has gone back many months, that is also capturing some of those things. Let me make sure that what I am getting you from a data standpoint would be accurate.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Thank you. Are there any further questions from the Members? If not, I will call this meeting back to order. Is there any final discussion on this item? Councilmember Kagawa.

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

Councilmember Kagawa: I want to thank the Administration for adding the COVID-19 fund. I had one concern at my school where a couple of personnel traveled to the mainland, returned to school following the State's guidelines, and there has been paranoia at the school being that the second test was not voluntarily performed, which it is free at the Kaua'i War Memorial Convention Hall with a drivers license and your ticket. It is an ask, from me to the community, any government worker, private worker—your boss cannot mandate that you take it, but it will make your coworkers comfortable if you go ahead and do it. I think it is a step as a responsible citizen and a responsible worker that you take that step. To your bosses, please give them the leave necessary to perform that task, because any greater assurance that one may take to make their employees comfortable is well worth it. I urge those of you who travel, you follow the rules by the State, yes, you can return to work with no consequence. However, consider taking that further step, because I think we all know COVID-19 is something that there is no assurance until you take those steps, so that is my ask to the community. You do that as respect to your coworkers and their 'ohana. Thank you.

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

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

The motion for passage of Proposed Draft Bill (No. 2811) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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.

Proposed Draft Bill (No. 2812) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-867, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND GENERAL FUND-CIP (*HRMS, Payroll & Personnel System* – \$1,335,000.00)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2812) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this item? I will suspend the rules. Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. Mike, the Land Information Management System, is that entirely defunded or was there more than one million dollars (\$1,000,000) allocated to that?

There being no objections, the rules were suspended.

Mr. Dahilig: There was more than one million dollars (\$1,000,000) allocated for that, so we are still moving forward as planned. In the process you can only guess what you are going to absolutely need, and what you come back with in terms of vendors who are willing to provide a certain type of software. In this particular case, from our Information Technology (IT) and the cross departmental teams that have been looking at trying to digitize our well antiquated systems, that they believe that this reduction in resourcing is not going to affect the desired outcome.

Councilmember Evslin: That is great to hear. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I really appreciate this chart here, where you have the projects being defunded to support this Human Resources (HR) software program, so the difference that we are asking for is one million three hundred thirty-five thousand dollars (\$1,335,000) out of the total of three million dollars (\$3,000,000) needed. Do I have that right? I do not think I do. Do you mind helping me with that?

Mr. Dahilig: The way the bill is crafted is to reprioritize moneys from different items, so the amount of moving money is in that amount.

Councilmember Cowden: Okay, we have the original budget of the two million dollars (\$2,000,000).

Mr. Dahilig: That is correct.

Councilmember Cowden: Just to briefly state for the viewers, this is bringing our Human Resources up to code to help us with overtime—we have had a lot of discussions on that, can you just give us a very brief description of what this software is for and why it has priority?

Mr. Dahilig: Okay. I do have our HR team on the line. I do want to premise the reason why it is needed, as the write-up suggests, the software we are using is as old as me, and is probably older than Councilmember Evslin, so it is one of these systems that still relies on the green screen, and I am not even sure if it DOS based. As we have seen from what has happened in IT systems that are not updated, like with the State unemployment system, we do need to bring this system to at least a level of durability to be able to properly handle payroll and properly be able to provide self-service for people with human resources needs. Right now, we are slowly migrating in that way, but having something that becomes integrated and the one-stop-shop type of situation is really, what in the end will hopefully reduce both cost and liability for us. One of the biggest things that is problematic is our timesheets are still entered in manually, and that does pose a great deal of potential for human error and particularly since we do have a number of collective bargaining agreements, which each bargaining agreement decides to calculate things like premium A, overtime, those types of things in very different ways. So those are things we need to work more toward automation and compliance with those collective bargaining agreements, so this software upgrade is also meant to meet those challenges as well.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Chair. Mike, a small amount of ten thousand dollars (\$10,000) for IT systems countywide evaluation, I am trying to confirm, is this decreasing or is it an overage on the current evaluation that is occurring?

Mr. Dahilig: There was another item that was appropriated, not in this particular year's budget, but in the previous Fiscal Year (FY) 20 that had funded one million dollars (\$1,000,000) to actually do an overall IT assessment across the whole County. We have dozens of operating systems with many different vendors, so this was meant to try and comprehensively take a look at everything across the board. Del and his team have done a great job trying to keep some of these items under budget, so in this particular case, he feels comfortable telling us that maybe they will lock in a contract for under one million dollars (\$1,000,000). Again, this ten thousand dollar (\$10,000) difference will be moving over to support this item.

Councilmember Chock: Thank you very much.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there any final discussion? Councilmember Cowden.

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

Councilmember Cowden: I want to applaud the Administration and the Human Resources for continuing to move forward with getting our computers up to speed in the middle of COVID-19 challenges. I think the COVID-19 challenges, particularly what we are seeing with the State and its difficulty to be applying all this CARES Act money out and helping with the unemployment due to really antiquated software. This is long overdue, but proactive at solving future problems. I just really want to acknowledge that and this is very important to me in my first budget that we got this done. I am happy that this is underway. Thank you so much.

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

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

The motion for passage of Proposed Draft Bill (No. 2812) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 12, 2020, and that it thereafter be referred to the Committee of the Whole 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: The motion passes. With that we will take our 10-minute caption break and we will come back for items for second reading.

There being no objections, the meeting recessed at 10:33 a.m.

The meeting reconvened at 10:48 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Next up, we are on Bill No. 2774, Draft 5. We read it in already. The current motion is to approve. Do we have any final questions from the Councilmembers? We have been through this Bill for a while already. Do you have questions?

Councilmember Cowden: I have a question?

Council Chair Kaneshiro: Okay, I will suspend the rules. Is the question for Adam?

Councilmember Cowden: Actually, for the attorney.

Council Chair Kaneshiro: Is Matt online?

There being no objections, the rules were suspended.

MARK L. BRADBURY, Deputy County Attorney (*via remote technology*): I am here.

Councilmember Cowden: Thank you, Mark. I believe I understand the answer, but I want to clarify. If this Bill passes and we have these special plan areas in the Town Cores and we remove the requirement, if we exempt them from the housing ordinance, and it were to pass today, does that mean that they are free of those requirements? And if we were to come back and revisit this in two (2) months and want to add back on to it, would we be doing a taking? Do you understand the question?

Mr. Bradbury: Yes, I understand the question. You are anticipating coming back in two (2) months and revisiting this issue? Is that what you are basically saying?

Councilmember Cowden: I would hope not, but when I have been bringing up concerns, they say, well, if you do not like something, we can do adaptation, so I want to be very clear. For example, we have quadrupled the density

in that area over the last three (3) years, that is not something we could change our minds on and take back. They have received this entitlement on the property and currently, they have Ordinance No. 860 that requires them to do thirty percent (30%) inclusionary zoning. If it passes today, that will be removed. We cannot change our mind and decide it is fifteen percent (15%) or ten percent (10%); if we say "yes" today, it is a done deal, we cannot change our mind later and put some back on. We would be taking from the entitlements to the property.

Mr. Bradbury: If the entitlement vests, if the property owners go ahead and do something to make the entitlement vest, then there would be a problem. Adam is on, maybe he can answer the question better.

Councilmember Cowden: Okay.

ADAM P. ROVERSI, Housing Director (*via remote technology*): Aloha, Councilmembers, Adam Roversi, Housing Director. You are going to toss the legal questions to me, Mark. I would observe that the Housing Policy as it is set up now and as it will act—when and if amended—provides that for any project...There are certain triggers for the Housing Policy: subdivision, various permits, zoning requirements. Let us say the exemptions pass in Līhu'e Town Core, a specific project comes in and receives the various permits that they would need for their project, then later Council amended the Housing Policy and created different requirements. Having already received the entitlement, whatever it might be: subdivision, zoning, special use permits, building permits, there would no longer be a trigger to then come back to them and say, now you need to comply with some future amendment to the Housing Policy. I would presume that if, however, a particular developer for a particular parcel of land has not yet received whatever permits would trigger the Housing Policy, then any amendments to the Housing Policy would be applicable to that specific project. It is dependent on the triggers; it is not simply frozen in time just because amendments are passed today.

Councilmember Cowden: Okay. Adam, in reading some of the statements that we got, I noticed that we had one last night.

Mr. Roversi: I apologize, my phone rang, I turned it off. I missed what you just said.

Councilmember Cowden: No problem. In following through on one of the letters that we received from Larry Graff, I believe he pointed out something with the Keyser Marston study, that the feasibility study, the analysis, was set around two (2) scenarios. I am looking on page 4, no workforce housing requirement and comparing that with compliance with our existing Ordinance No. 860 workforce housing requirements. This study did not say what would be the best way we could address this problem. It said, which is better? What we have now, thirty percent (30%) inclusion or no requirement. It did not look for the gradient and it did not look for a best case. That is what my interpretation was from the letter that he wrote and I thought that was a very important point. It is on page 4, at the bottom.

Mr. Roversi: I see page 4, but if you look on page 11, 12, 13, and 14 of the report, it sets out numerous direct recommendations for changes to the Housing Policy. They are not telling us specifically you should use eighteen percent (18%) as your workforce housing—they are not that specific. They are making very clear, general recommendations across several pages of the report, most of which we have tried to incorporate into the amendments that are currently before Council.

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

Councilmember Cowden: Just for the record, I have read this, it is detailed, and takes a lot of background to get and grasp well, so I read it, kind of get it. We are aware that I am uncomfortable with Bill No. 2774, Draft 5, as written relative to that, so I am asking on that point. So you are feeling that it did do the interim well enough and that its overall recommendation is do not have any affordability requirements for these key areas that you want to develop—that is your overall interpretation of what this says, because it is not what I got.

Mr. Roversi: More specifically, the report recommends creating exemptions for multi-family apartment-style developments. That is the way that the specific area exemption is tailored, to incentivize and create an exemption for high density multi-family projects. It is not simply creating area exemptions. It is exemptions only for particular types of projects and that recommendation comes directly from the Nexus Analysis.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I want to continue along those lines, Adam, because the specifics make a difference in terms of max build-out, which you have already determined. Also, the actual triggers that qualify for the exemptions, can you explain that, because I do not think they have been clearly identified by means of the testimony that we have received?

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: Is it the triggers that you would like me to discuss or the specifics of the exemptions or both?

Councilmember Chock: Both.

Mr. Roversi: One thing that has been slightly misunderstood or maybe not slightly, as represented by some of the editorials that have been in the paper recently. It has been stated that the exemptions that are proposed in Bill No. 2774 exempts all development within certain zoning areas and multi-family lots from any workforce housing requirements—that is simply not the case. That is not the way the amendment is worded and that is not the effect of the amendment. Broadly speaking, there are two (2) types of exemptions proposed. One

applies to special planning areas—those are the special planning areas designated in the Līhu'e Town Core urban design district, Kōloa, and Kalāheo. The way it operates is development in one of those areas may qualify for an exemption, and “may” is important, it is not automatic. They “may” qualify for an exemption, if and only if, they develop to the maximum density allowed on the lot or parcel in question. That is designed, exactly as I was mentioning to Councilmember Cowden, that is designed to effectively create an exemption for multi-family apartment-style developments, that the Nexus Analysis concludes are financially infeasible under the existing Housing Policy. Those are the exact types of projects that provide the most housing units for the least overall costs to the folks on Kaua'i. They do not have all infrastructure needed, that is obviously the case where we do not have sewer in Kōloa and Kalāheo, but generally, those are the areas where we have water infrastructure, employment, schools, and that is where the General Plan is telling us to concentrate development. That is what we are trying to do—incentivize types of projects called out in the Nexus Report in the areas that our own General Plan tells us that we should be doing. So it is looking at both the Nexus Analysis and the General Plan to come up with this concept. It is not just a blanket exemption of everything in those areas, it is only for those specific types of projects that are maximizing the density on whatever parcel they are dealing with.

The second and related category of exemption is not based on the special planning areas, but it is based on high density zoned lots, R-10 or greater. I have provided in the past to Council with the zoning maps of the island so you could see where those areas are. Again, a project that is proposed on a R-10 or greater parcel, again “may,” it is important to use the “may,” may qualify for an exemption, if the project is built to the maximum density allowed on the parcel. Again, same exact goal is to incentivize those “big bang for the buck” multi-family style developments. It is also important to note that it only applies to R-10 parcels that are both outside visitor destination areas, so we are not incentivizing vacation rentals, and also outside of special management areas, so not along the coast, not in areas subject to sea-level rise, et cetera. In my opinion, both of those exemptions are tailored to incentivize the types of multi-family projects that the Nexus Report is encouraging us to incentivize, which are not financially feasible under the current Housing Policy. Broadly speaking, those exemptions have been misstated in the press as just blanket giveaways to the development communities in these areas, and that is not the way that the amendments are written.

Triggers. I could pull up the section of the policy, but there are numerous types of triggers that require a developer to satisfy workforce housing agreements, whether it is a rezoning of property, they are getting a special use permit, the subdivision of property, or simply getting building permits, each of those may trigger a workforce housing requirement when you are building ten (10) or more units in a project.

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

Mr. Roversi: Any project that is fewer than ten (10) units does not trigger the housing policy. Simply, residential projects over ten (10) units with those various items. For example, if a project had all of the zoning permits and entitlements prior to the enactment of Ordinance No. 860, they would not be required

to comply with the workforce housing requirements—that is no longer the case. The same would be the case presumably, if a project has more recently received all of its entitlements under Ordinance No. 860, they would not need to comply with amendments to Ordinance No. 860, because they have essentially already moved beyond the trigger point that would kick in the ordinance and require them to provide units. I can broadly state that there have not been a large number of developments put into the pipeline or creating housing agreements since Ordinance No. 860 was enacted. I do not believe we have a large pool of projects that applicability is going to be an issue. There are a few legacy projects with very old housing agreements that were never built that might have to be addressed, but broadly speaking, most developments on the island will need to comply with the Housing Policy. Did I get to your points, Councilmember Chock?

Councilmember Chock: Yes, you did. You have also been able to provide that within the town cores at a maximum build-out, we are looking at potentially three thousand (3,000) units. Have you done any assessment based on the parameters of the exemptions, what we could expect within a 10-year period? I do not know if that is even feasible, but I am curious if there has been any discussion on that level.

Mr. Roversi: I have discussed that with the Planning Director and the Planning Department staff and those numbers are essentially the “on paper” maximums that you noted, but it is highly unlikely or almost definitely unlikely that those numbers would actually be met, just because any development is dependent on so many other factors than just the Housing Policy. As it has been discussed in several prior Committee Meetings, it is dependent on many things that are outside of the Housing Policy like water infrastructure, sewer infrastructure, the availability of financing. Because there are so many factors and during COVID-19, the state of our economy, and the perceived ability that a developer would have to find tenants, occupants, or buyers of any project that they would have built. We can come up with a...just based on zoning could be technically possible, but I think it is almost impossible to predict an exact number, because there are so many subjective factors that come in to whether the particular property owner decides at some point in time to move ahead with a project or not.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I like that you are framing it as subjective factors, because there are so many. When I look at the Tax Map Key (TMK), the way to do most good sized building would be to buy up some contiguous parcels there. Why are we in a hurry to pass this today, when we have all this instability of the market with COVID-19? I do not understand why we have to do this today. When I look at these letters here, I have a total of seventy-two (72) that we got, one (1) was in support of the Bill. Several of these people who did write were people who worked a career in this industry and they are not supportive of it, but I also have been calling and talking to developers and have not found one that feels good about the policy. I am finding that maybe nothing will happen. There is no parking. I do not know how

we are going to make this work the way that we are saying it will. Why are we trying to close this deal today? Can we not continue to work on it to see if we can massage it into a better form if the fifty (50) years for a buy-back is the problem? It is like buying a rental. Why are we finishing this today?

Mr. Roversi: I would make some broad observations. Let us take a couple of examples. For example, the Kaua'i Board of Realtors has written testimony opposing the 50-year affordability period, yet they strongly support the exemptions provisions, as well as the reduction in the workforce housing percentage requirement from thirty percent (30%) to twenty percent (20%). So it would be incorrect to say that the Board of Realtors opposes the entire thing. They like some parts of it, and they dislike some parts of it. I would make the same observation of most of the other developers that I have talked about—that there are aspects of these amendments that have made some of the development community very happy, there are aspects of the amendments that have made some of the development community unhappy. On the flip side, if we look at segments of our community who consider themselves to be a progressive housing advocate, they would like to see much stricter requirements that make the development community even less happy, and they are strongly in favor of increasing the 50-year affordability period that the Board of Realtors dramatically dislikes, while at the same time not liking the exemption provisions that the Board of Realtors and the Contractors Association of Kaua'i think is great. I think there are opinions across the board and there are aspects of the proposed amendments that are making both the development community pleased and making both the housing advocacy community pleased, speaks to the fact that we are taking a middle road and addressing both sides of the problems from different directions. I would observe that previously, various task forces have worked for something along the lines of five (5) years with different groups of stakeholders from development and housing advocacy organizations, trying to come up with consensus plans to amend the Housing Policy, and all of those previous efforts have failed. They have never come up with anything that everyone agrees on, because it is such a diverse group of stakeholders and our community all coming from different directions. The idea that we should simply defer this to another task force, so we can talk about for another three (3) years, seems to me, ineffective. The notion that “because of COVID-19, we should do nothing” does not make any sense to me; we have a housing crisis, it is only going to become worse with economic crisis and economic stress in our community generated by COVID-19 with financial losses. Because people are financially in trouble, it seems illogical to me that we should not do something about affordable housing.

Councilmember Cowden: Thank you for that. What I want to be in agreement with you on, is that I agree in speaking with these experienced stakeholders that there are parts that they like and parts that they do not, and amongst the people who you would call progressive housing advocates, the same thing. But what I felt that I heard with the developers is that there are parts that they like and parts they do not, but the dislikes is enough that they would not do it—they would not be able to probably build it, want to build it, it is not workable—I am hearing that. I am also hearing from the people who build affordable housing. For example, if there is a R-20, a 20-unit per acre area that is outside of one of these town cores, why would someone not maximize that build? They would build it for a

higher end market. Why would you take that R-20 and build it for the low end? So the people who build affordable housing are feeling like it is going to be a handbrake on developing affordable housing and the developers feel like this is going to be a handbrake on developing housing. So if we slow down both sides of that equation, we are just going to be raising the values of our houses and when we are in this COVID-19 window—we have a forty-five percent (45%) out-of-state purchase rate, we saw that from the Board of Realtors, we saw from the Department of Business and Economic Development & Tourism in Monday's Hawai'i Congress of Planning Officials conference, that the prices are going up. We are selling less overall houses here on Kaua'i, forty-five percent (45%) are out-of-state, but the average selling price is going up. So what we are doing is selling to people coming with remote work and our average median income is going to go up. I am just seeing, if we continue on the trend line that we are going, in the three (3) years or five (5) years that it takes to build something—we are in such turbulent times. I will not ask much longer. I am just telling you, I feel like this does not need to go back to three (3) to five (5) more years of task force. I think it needs a little bit more tweaking. I would like to see it go back to Committee for a little bit more work. I am not comfortable with it. I think it is going to make things harder, not easier, as it is intended. From the best that I could tell from talking to people with experience in the industry.

Council Chair Kaneshiro: If there are any changes you wanted, there was an amendment that you proposed in the Housing & Intergovernmental Relations Committee and it failed.

Councilmember Cowden: I know.

Council Chair Kaneshiro: If there were any other tweaks that you wanted, it could have been brought up at that time. We are at the point of needing to vote on whether we want the Bill or not. It passed out of Committee 4:1.

Councilmember Cowden: Yes, so it probably will continue, but I do not feel better.

Council Chair Kaneshiro: It has not been rushed, by any means, I think this has been almost a year long process. Councilmember Kagawa.

Councilmember Kagawa: I am ready to go. I am ready to vote. Adam, did you steal my speech? It pretty much summed up what I was going to say. I had a conversation with Council Chair Kaneshiro, yesterday, I said exactly what you said about progressive housing advocates and the developer side—both having a lot of gripes about passing it, and I say maybe it is a good thing. I have seen other Councilmembers in charge of the Housing Committee—I will not name names, but they have held numerous meetings, put in hours of work on both sides, and just be so frustrated that both sides were never happy and never came up with a plan. Here we have a plan today. The same point as the other Chair, where both sides are not happy with it, but I think this is an improvement from what we had. I will save it for my discussion, but I was wondering if you stole my speech. Thanks.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair Kaneshiro. Could I ask Councilmember Cowden a quick question? Thank you, Councilmember Cowden, for your questions earlier. As far as trying to delay this further, as Chair Kaneshiro mentioned with your amendment at the last meeting, which lowered the overall percentage affordability requirement, allowed for the construction of market rate units, reduced the affordability time period, and removed the exemptions, Did you have any other suggestions other than those four (4) things that you would like to make the Bill better?

Councilmember Cowden: Thank you for asking. I do not propose to be an expert on this issue. I am really working on listening to so many of the people who are the experts, so at this moment, no. When I did come up with that, I had said five (5) before, I had actually spoken to six (6) of those experts, that no one was really excited about mine, but they liked it better. I know there are all kinds of nuances out of that and the incentives were not there. There are other things that I think would be interesting in incentives. What I have understood from different places in the Continental United States is that they will incentivize by giving added density. So a way to incentivize affordability is to give twenty-five percent (25%) more capacity or density in the property in order to create that. That seems to be what works well in many communities. I have suggested that earlier and have not received any response in my written pieces a few months ago. I was told this last time that we could not talk about incentives—it was not applicable here. But that was something that does seem to work in a number of other cities. I had several places where that seemed to be the effective way that they have added to it, so it created a win rather than a punishment. Thank you for asking.

Council Chair Kaneshiro: I want to add that the current ordinance does have a density bonus in it of ten percent (10%).

Councilmember Cowden: When did that go in?

Council Chair Kaneshiro: It is in the current ordinance.

Councilmember Cowden: Alright.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Councilmember Cowden, I agree there needs to be more work on the incentives. I think Housing Director Adam Roversi has said that there would probably be a forthcoming bill along those lines. The reason why I do not think that should hold up this, is because a lot of those incentives are ways to make compliance easier. It is not as if we are passing this that we are creating a big loophole that someone can jump through in the interim. I do not think there is much risk of passing this and in a few months having something else that deals with the incentives later on to try and get compliance easier.

Councilmember Cowden: I have a question that is probably more for Adam, but it is for anyone. For example, if we look at one of these R-20s in Kekaha. Is that too low-lying that it would no longer be affected this way. What I see in a



place like Kekaha, it is gentrifying, it is becoming vacation rentals, whether they are legal or not legal, but people are moving there. It is beautiful. It is sunny. It is on the beach. We have a R-20, why would they not build those? It is seven hundred fifty thousand dollars (\$750,000) a unit. Why build them affordably? What would keep R-20 in a place like Kekaha? That is where I have seen them on the map. What would keep them from not being utilized for affordable housing for the people who already live here?

Mr. Roversi: This is Adam Roversi, Housing Director. I just pulled up the Kekaha map while we were talking. There are no R-20 zoned parcels in Kekaha. There are however, R-10 areas; some of those are in the Special Management Area (SMA), so those would be excluded categorically from being able to qualify for the exemption. Conceivably, someone could build on some of the R-10 lots, almost all of which, except for one (1) or two (2), already have existing houses on them. Meaning, existing houses would have to be dismantled and future houses built on the project. Hypothetically, if someone were to build a 10-unit apartment complex on a lot in Kekaha, there is no specific rule that mandates that they be sold or rented at a specific price.

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

Mr. Roversi: However, they cannot be Transient Vacation Rental (TVR), whether someone chooses to do that and we fail to enforce it—that is not something that the Housing Policy can address. I would suggest that a 10-unit apartment complex in Kekaha that is not being TVR as a vacation unit, given the surrounding rents and housing prices in Kekaha, would not be seven hundred thousand dollars (\$700,000) condominiums. Kekaha is one of the least expensive communities on the entire island, as far as for sale homes go. Anecdotally, I do not want to get into stories without supporting information, but I just do not think that is a realistic fear given the existing housing market in Kekaha. The type of unit mix that is available, and the practical inevitability—inevitability is the wrong word—I do not think that is on the verge of happening in a widespread way in Kekaha given the lack of available high density zoned lots—there are only a handful and the fact that almost all of them are already built on.

Councilmember Cowden: I will state what feeds my concern. Coming from the north shore and not the Westside, buying a million dollar tear down is common practice. It is common practice to buy and tear down. You can buy three (3) lots in a row and tear down. So it could happen. I am going to rest my case, because I can tell that I am not going to get anywhere, but I appreciate the effort to help me feel better about the Bill.

*(Councilmember Kagawa was noted as present.)*

Council Chair Kaneshiro: Are there any further questions from the Members? If not, thank you, Adam. I will call this meeting back to order. Is there any final discussion from the Members before we vote? Councilmember Kagawa.

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

Councilmember Kagawa: I want to thank everyone involved, including the stakeholders, the developers, the progressive housing advocates. I think everyone has good intentions and the fact of the matter is, for the first time—at least in my term—we have a new housing bill coming out that we are trying to change the way things were. We have heard from numerous Housing Directors that the current bill was not working and it could be improved. Under Adam's leadership, we have the Council side working together with Director Roversi, and with all the stakeholders, everyone's input came together and came up with this plan which follows studies that the County used to guide us through this process. I want to thank Chair Kaneshiro, Councilmember Kualii, Housing Chair, for the final product; it is one of the last things I am going to be approving in my term and I am proud of it. I am proud that we came up with something that is not going to be only one-sided towards the development side or towards the progressive housing advocate side. Which I feel, if you side on either side too much, then what you have is a housing bill that is going to sit there and not be effective. If you sit too much on the developer's side, then you will have unhappy people that will say we were not strict enough, we gave them too much leeway to do what they want with their properties, and have no affordable housing in the end for our local families. When we talk about affordable housing, I want to stress a point, that our middle class is just as in need as the lower-income group. When you push the percentages down to help the affordable group, below median income, what you are doing is pushing a lot of the burden to the middle class that does not qualify or was not picked by the lottery to live in those homes. Now, we talk about forty-five percent (45%) being purchased by people outside of Kaua'i—that is something that is difficult to pinpoint. The Board of Realtors can look no further than themselves. They are selling to the higher price, which unfortunately come from a lot of the people from the mainland, who are paying these high prices. Seriously, if they really wanted to help local Kaua'i residents, then sell to local residents at prices that meet local needs—that would help. Just to pinpoint that we are going to solve this problem with this housing bill...I bought my house fifteen (15) years ago, it is fifteen (15) years older, it is the same property, and it is valued at almost double the price of what I bought it for. It is a fifteen-year-old house, older than when I bought it, and it is double what I purchased it for. That is something that is happening, not only in Kaua'i, it is nationwide. It is certainly something that is out of control, but at the county-level, how do we help our local families? Whether they are middle class or below middle class to buy homes and the only way that we can help is to try and get the private sector to develop properties that will meet market rates. There is no "silver bullet," there is no, "listen to my testimony and it will happen"—it is not going to work like that, because we cannot control the market. It is something that has gone out of control that no one has a solution to. Who can tell me you know the reason why my house has doubled the price it was fifteen (15) years ago? How does that not affect everything else? I think we came up with a good plan. To me, it is the best we can do at this time and it is an improvement over our old housing bill. Kudos to this Council. I think we have grown and worked together. *Mahalo*, Councilmember Cowden, for pushing on the other side, having us to think about why not wait a little bit? Or why not tweak this or that? It is very difficult for me sitting in this chair to go with it while we have our Housing Director saying that he does not agree with

you—that is what makes it hard for me. I am more of a layperson. Adam, is more of a housing expert than I am. He has staff who are housing professionals. At the end of the day, I think this is the best that we can do, so I am proud to say that I will be supporting this Bill. Thank you.

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

Councilmember Evslin: Thank you, Chair Kaneshiro, Housing & Intergovernmental Relations Committee Chair Kualii, and Housing Director Adam Roversi for all of your work on this since it hit the floor in January, and all the months before that getting this to the floor. I know that it has been as long of a haul as it feels like for us, and an even longer haul for you folks, and I appreciate all the work. Since this is our last opportunity to speak on the Bill, I know I have said all of this before in different ways, but I think it is still important to explain the rationale. The problem with the existing ordinance and the rationale for a new one, as our final opportunity to speak here, so I normally do not like to pontificate too much, but bear with me here as I pontificate for a few minutes. As it has been said repeatedly at every single meeting, the existing ordinance has never been triggered and created literally zero (0) units. Just as importantly, it has contributed to a steep contraction in the supply of new homes on Kaua'i since its passage making our housing crisis significantly worse. Due partially to the lack of new housing supply as Councilmember Kagawa was saying, the cost of existing homes on Kaua'i have been appreciating at a rapid clip—increase of fifty-eight percent (58%) between 2012 and today. That means that a home that was sold for five hundred thousand dollars (\$500,000) in 2012, the exact same home would be seven hundred eighty thousand dollars (\$780,000) today—that means it is appreciating value by forty thousand dollars (\$40,000) per year, which is like earning nineteen dollars (\$19) an hour at a full-time job, and that appreciating value does not just appear out of thin air, it is coming out of the pockets of new homebuyers. My generation, Chair Kaneshiro's generation, the generation that comes after us, and it is pushing all of us into higher levels of crushing debt and further away from homeownership every year. So when Councilmember Cowden says, "Why are we rushing into it?" That is why. We have a totally crushing housing crisis, which is desecrating our island in so many ways. The Keyser Marston study, which we have referenced over and over—commissioned by the County, shows that if the ordinance were triggered it would add five percent (5%) or six percent (6%) to the cost of an apartment or condominium, and just point five percent (0.5%) to the cost of a luxury home, because the market rate units absorb the below cost subsidized units. It is a regressive tax on homes and makes higher density units, such as condominiums and apartments infeasible to develop, because the market price to absorb the subsidy is higher than the market can bear, so this leads to an incentive to produce luxury units catered to overseas buyers instead of units for our local population. Those findings are in line with research from around the country, showing that housing ordinances with too high affordability requirements lead to more luxury housing, less construction overall, and higher market prices across the board. Because higher density is infeasible with our current ordinance, just one percent (1%) of our island's new development has been occurring in our high density areas within our town cores, while eighty percent (80%) is on low density residential land and agricultural land, far from town centers. As our development patterns force residents to live further

away from where they work, this leads to higher housing crisis across the board, more development pressure on agricultural land, longer commutes, more traffic, higher infrastructure costs, and more carbon emissions. As our General Plan cites, the average Kaua'i resident now pays more for transportation than they do for housing. Meaning our housing crisis is also fueling our transportation crisis. Carbon emissions from transportation are higher than emissions from electricity, because we are all driving further because our homes are further away from our jobs, so our housing crisis is fueling our climate crisis. We have a three hundred million dollar (\$300,000,000) backlog on deferred roadway maintenance, because as we build homes further away from jobs, we also have to maintain those roads, so our housing crisis is fueling an infrastructure of crisis, which is fueling a fiscal crisis. To be clear, the Bill in front of us only exempts a small fraction of the land on Kaua'i. As Adam said, only if they maximize their allotted density, which has been misstated over and over again. The intention is to ensure that higher density development near jobs is feasible to bring down the market price of housing. I will finish up quickly. Just to use an example that I used a few months ago, if you are looking to buy an affordable car, you do not buy a new car, you buy a used car, because we know that used cars depreciate in value every year, but if we stop selling new cars on Kaua'i, then used cars would start to appreciate in value. The new cars, themselves, are not affordable, the sale of the new cars ensures that aging cars can be affordable—the exact same things applies for housing. If we want to bring down the market price of housing, we need more housing on Kaua'i. Through this Bill and other measures, we can do more to ensure that housing is feasible to build and mostly built within our town cores to ensure that people can find housing close to jobs. That is the intent here and I want to be the first to recognize that I think the housing ordinance has to be catered to the particular market conditions on the ground. I do not think we should pass this and leave it alone for the next ten (10) years. If we can get construction moving in our town cores, and say there is luxury housing getting developed which no one wants to see in our town cores, and market conditions change, then by all means, we should revisit this. But bottom line, there has been almost zero (0) construction in our town cores over the last fifteen (15) years in the place we need it most, and this is exacerbating nearly every issue that we face. I think this Bill is just a necessary start to correct a flawed ordinance to try and bring down the cost of housing. I support the Bill. Thank you, again, to Chair Kaneshiro, Housing & Intergovernmental Relations Committee Chair Kualii, Housing Director Adam Roversi, everyone who submitted testimony, and stakeholders involved, and everyone who worked hard for the last year or more. Thank you.

Council Chair Kaneshiro: Thank you for that Councilmember Evslin. I am glad you put it in a way that everyone can understand it. I like that car example when you brought it up a couple months ago, so I am glad you brought it up again. Councilmember Chock.

Councilmember Chock: Everything Councilmember Evslin said, but much slower. From an affordability standpoint, this Bill would seem counterintuitive and I do not agree that supply is the answer, but I think what we have done here is we have carved out an avenue and a direction for the kind of development that we want to encourage and provide a way for it to serve our needs. So supply does have a place in being able to manage the ceiling. What we know for sure is that without

any supply, it definitely affects our housing market and that is what has occurred here. Again, I do appreciate all the work and thought that has gone into this. I have seen both sides of the table are not in agreement here, and that is what I have experienced since being at the Council in every single task force in Committee that has addressed this. It has changed, and is much needed change, so we might not agree with this, but I do think it is the next step. I would encourage all of us, whoever is on the next Council to really pay attention to the outcome of this Bill within the next three (3) years, and also to improve the other dynamics that we need to work with—this is not the panacea for affordable housing, this is one piece of a bigger puzzle that we all have to address. As we have heard in testimony, the need for us to build our Housing Revolving Fund, to look at how it is we address the sixty percent (60) to forty percent (40) to eighty percent (80%) AMI is also a big piece that we as the Council or as the community needs to focus on. I will be supporting this. I have had my own navigation through this Bill on agreeing with it and not agreeing with it, but there are enough studies to suggest that the Keyser Marston study is on the right track. It is not the only Nexus Study that is out there, but it is supported by others and there are many examples across the nation that we can look towards that says, this is probably the best step that we should be taking next. I want to thank the introducers for it and we will see how it goes. *Mahalo*.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I want to thank all the work that has gone into this and all the contributors, the stakeholders, certainly the two (2) introducing Councilmembers, and the Housing Agency. I feel like what Councilmember Chock just said really resonates with me. I am looking at both sides of the issue. I know that there is a lot of good that is in here. I am not going to be voting in support of it. It seems like it will pass just fine, regardless. I hope that you all are right and I am wrong. What I hope to see is that this does work, that this does start creating some good possibilities in our town cores, that I am looking out here with the buildings around me, where we have people who work at the County and State building in all this area where we have a place where we can walk to work, that it does help to realize the whole intention of the Bill. I am very willing to accept the outcome without any hurt feelings or deep distress, but in my own consciousness cannot vote for it yet, because I think that it will constrain housing more than it will encourage it—that is my concern. I am going to vote “no,” but I would love to be wrong.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: Everyone agrees that we have a critical need for affordable housing and not just for the low and very low-income, but also for the folks in the middle or the “gap group” and as a reminder, the gap group are the folks who earn too much to qualify for government assisted low and very low-income housing and too little to afford market housing. Our County leaders have been talking about affordable housing for this gap group for many years, but until this year, no housing policy update bill has been introduced before this Council. The Council, through our Housing & Intergovernmental Relations Committee, has been working with our Housing Director Adam Roversi on Bill No. 2774 for more than eight (8) months now. The Bill has not been rushed. The Bill was never intended to

be a comprehensive final update; instead Bill No. 2774 is a first attempt at updating our existing Housing Policy, Ordinance No. 860—a policy that was intended to address affordable housing for that middle gap group. So the thinking of us drafters was to start with the low-hanging fruit or recommendations from the Nexus Study. Recommendations for improvements that would actually incentivize developers to build multi-family workforce housing, especially housing close to existing infrastructure in our town core areas. We have a lot of this testimony and they all were very similar. They made three (3) primary points, almost like a template where you ask your friends to send out this testimony and they all do it. The three (3) primary points was that long-term affordability should be required. The term of affordability in the existing policy is twenty (20) years, our original proposal was to increase this to thirty (30) years, after hearing much testimony and wanting it to be even further, knowing that the Nexus Study told us that the standard across the country was forty-five (45) years, we had an amendment up to fifty (50) years. So that has been addressed, from twenty (20) years it has been increased to fifty (50) years.

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

Councilmember Kualii: The other point about land and off-site infrastructure, the existing policy already allows for that in lieu exchange. Obviously, the last point, the big point about the exemptions is there is a position of fear and a position of hope. Either you are afraid that you cannot trust developers and they are not going to build housing in this town core areas with the high density, smaller apartments, multi-family workforce housing, apartment-style building or they will.

*(Councilmember Chock was noted as present.)*

Councilmember Kualii: For all the reasons already explained by Director Roversi, Councilmember Evslin, and others who have been saying, we need to give this a shot. There is a 10-year sunset on this, nothing has happened in the past, we need to give it a try, we need to actually do what the Bill was intended to do, and it is to incentivize workforce housing development. Lastly, to be clear, this Bill has the full and enthusiastic support of Mayor Kawakami and his Administration, and as for the many stakeholders who have engaged with us throughout the process, as was said before in different ways, most have something in the bill they like, as well as something in the bill they do not like. For example, the developers, landowners, and realtors have expressed that they like the town core and R-10 or higher exemptions, as well as the overall assessment being reduced from thirty percent (30%) to twenty percent (20%), but that they disliked the affordability being increased from twenty (20) years to fifty (50) years, and the workforce housing definition excluding the AMI level of one hundred forty percent (140%). Then housing advocates and other individuals on the opposite side have expressed the exact opposite. So this Bill by all measurements is an improvement. It is not perfect by any means, but it offers real improvements for both sides while ultimately incentivizing the development of workforce housing units. It is the most important bill I feel I have worked on this term, and I believe that it will do what we need to do. Stop talking about affordable housing and start doing something about it. My thank you and *mahalo* is so deep and so heartfelt, because so many people have worked so

hard on this. For starters, I thank Chair Kaneshiro for agreeing to co-sponsor this Bill with me. Our Housing Director Adam Roversi, who worked tirelessly, for hours and hours, being our lead drafter for this Bill. Aida Kawamura, our staff person who did the lead work. Our Council does not function without our staff. You get the ideas and they back it up with all the research, work, communications with stakeholders, and the community—we just cannot do this job without people like Aida. Of course, to all the stakeholders and individuals who participated along the way and gave us their input, went back and forth with us. To the prior Councils and the couple of affordable task forces that were in place, that work was not ignored, that is all part of this process, all of that input. *Mahalo nui loa*. I hope we pass this Bill today.

Council Chair Kaneshiro: Thank you. Is there anyone else? For me, that was very heartfelt, Councilmember Kualii. I just sit back and look at where we are today. Our current policy has been in place for over ten (10) years and it has produced zero (0) affordable houses. So I do not think we can do worse than zero (0). We cannot constrain housing more than we have done already in the past ten (10) years. If you look at the amendments and changes that we are trying to do, I can surely stand and say that these changes are better than the current Housing Policy that we have, which has produced zero (0) units. That is why I am in favor of it. We did have a lot of meetings with stakeholders, we received a lot of public input, and I did get a lot of hurt feelings because we were not able to implement everything everyone wanted to do. You have heard numerous times from all the Councilmembers, and Adam, that it is difficult to satisfy everyone. You cannot satisfy everyone without making other people sad. The way we have been able to do this is we have taken everyone's input and we have looked at what we think was best for this bill. Not everyone is going to be happy with every single thing that we did, because we have people on opposite sides of the spectrum. I think this Bill does a good job in justifying why we are doing what we are doing and why we implemented the changes that we implemented. We wanted longer term affordability—that is why it is fifty (50) years. We researched. Adam researched. Is it going to affect people purchasing? Is it going to affect this? No. Is it going to affect them being able to get a mortgage? We looked at all that information and with that information we made the decision on, yes, we are comfortable with the fifty (50) years. We want to provide the incentive in the town core area—that is where we want housing. We want infill housing. We went through this whole process. It was not just we had our minds set up and this is what we are going to do. You can tell—we are on our fifth draft. There were amendments we put in, there were amendments we took out, it was the very same amendment, it was just to get it out there. What do people think about this? What is the feeling from the community? Yes, it was a bad reception. Now that we think about it, yes, we do not need that amendment, we took out amendments, and we added new amendments. Everyone did work very hard on it and I can truly stand here and say that I think this Bill is going to be better than the bill we currently have, which is produce zero (0) affordable housing units. We need to do better than zero (0). Again, as everyone has mentioned, this is not the solve-all. This Bill is not going to resolve our housing crisis tomorrow. This is just one layer of the onion that we are peeling back and trying to improve our housing situation. We are in a dire housing crisis. Obviously, I will be voting for this Bill. Again, I do want to thank all of our staff, Aida, Adam, all the Councilmembers, the stakeholders, everyone that put in all the time to go through this Bill, and I am pretty excited that in my six (6) years this

is the first housing bill that is coming through to address affordable housing. Ordinance No. 860, we have talked about it a lot, but this is the first time we are actually doing something about it. With that, I am happy to vote for this Bill. Is there any further discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2774, Draft 5, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 5,
AGAINST ADOPTION:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: The motion passes. Five (5) ayes.

Council Chair Kaneshiro: Next item.

Bill No. 2803 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Home Exemption Requirements*)

Councilmember Kagawa moved to approve Bill No. 2803 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kuali'i.

Council Chair Kaneshiro: Are there any questions from the Members? This is for second and final reading. If not, is there any final discussion from the Members? Councilmember Kagawa.

Councilmember Kagawa: Again, thank you to Reiko and the Administration—well done. We are increasing the time that you need to live in your house in order to get the home exemption for the year. I think that it is a good move for us to do. It ensures us that our Kaua'i residents are truly getting the break that they deserve. Thank you, Chair.

Council Chair Kaneshiro: Thank you. Councilmember Evslin.

Councilmember Evslin: Thank you, Chair, Brad, Reiko, and everyone else at Real Property. Especially those at Real Property that will be implementing this and doing the hard work of auditing it, which I am sure will be difficult going forward to make sure we are having true residents living in their home two hundred seventy plus (270+) days per year for the exemption. Sorry, there is an echo. I think it is timely that this Bill happens to be coming on the heels of the housing ordinance, because I think in a lot of ways they complement each other, as we are looking at trying to spur some construction in our town cores, at the exact same time, we need to make every effort that we can to ensure that those homes are not being bought out from overseas buyers to be used as investment properties or as their vacation home, and by really



cracking down on the home exemption and making sure that it is only going to residents who are here basically full time. I think it really complements that and it goes to show that the housing ordinance is a component, our property taxes are a component, and we need to be putting all of this together to ensure that we are building housing for local residents, so thank you to Real Property.

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

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

The motion to approve Bill No. 2803 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kualii, 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: Read us into Executive Session and we will take it at the end of the day.

#### EXECUTIVE SESSION:

ES-1036 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-1036, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Are there any questions or discussion on this item?

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

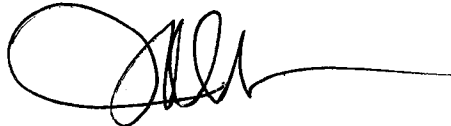
The motion to convene in Executive Session for ES-1036 was then put, and carried by a vote of 6:0:1\*.

Council Chair Kaneshiro: 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 11:55 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a long horizontal line extending to the right.

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).