

COUNCIL MEETING

NOVEMBER 25, 2020

The Council Meeting of the Council of the County of Kauaʻi was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhuʻe, Kauaʻi, on Wednesday, November 25, 2020 at 8:53 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 Kualiʻi
Honorable Arryl Kaneshiro

Excused: Honorable Arthur Brun*

Council Chair Kaneshiro: Please note that we will run today's meetings pursuant to Governor Ige's Supplementary Emergency Proclamations with the most recent relating to the Sunshine Law being his Fifteenth Supplementary Emergency Proclamation dated November 16, 2020.

APPROVAL OF AGENDA.

Councilmember Chock 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 are the Minutes.

MINUTES of the following meetings of the Council:

November 12, 2020 Council Meeting
November 12, 2020 Public Hearing re: Bill No. 2805, Bill No. 2806, Bill No. 2807, Bill No. 2808, Bill No. 2809, Bill No. 2810, Bill No. 2811, and Bill No. 2812

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

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

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

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

Council Chair Kaneshiro: Next item is the Consent Calendar. Clerk, are we able move out Bill No. 1993, Draft 1, and Bill No. 2044 for discussion?

CONSENT CALENDAR:

Proposed Draft Bill (No. 2246) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-316-95, RELATING TO ZONING CONDITIONS ON PROPERTY IN KAPA'A HOMESTEADS, KAUAI

Resolution No. 2004-01 – RESOLUTION PROPOSING A CHARTER AMENDMENT TO ALLOW MEMBERS OF BOARDS AND COMMISSIONS UNDER MAYOR-COUNCIL APPOINTMENT PROCESS TO APPOINT MORE THAN ONE ADDITIONAL MEMBER

Councilmember Kualii moved to receive Proposed Draft Bill (No. 2246) and Resolution No. 2004-01 for the record, seconded by Councilmember Kagawa.

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

The motion to receive Proposed Draft Bill (No. 2246) and Resolution No. 2004-01 for the record was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: Bill No. 1993, Draft 1, and Bill No. 2044 will be taken separately out of the Consent Calendar. The only items for receipt on the Consent Calendar is Proposed Draft Bill (No. 2246) and Resolution No. 2004-01. Is there any discussion from the Members?

Hi, Mr. Enright. You will have a total of six (6) minutes. I am not sure if you are able to see the light? It will turn green when your time starts, it will turn yellow when there is thirty (30) seconds remaining, and it will turn red when your time is up, state your name for the record, and you may begin your testimony.

We will take public testimony on all Bills that we have testifiers waiting. The first bill that we are going to take public testimony on is Bill No. 2044 that was on the Consent Calendar. The first registered speaker is Rory Enright.

Bill No. 2044 – A BILL FOR AN ORDINANCE TO AMEND OPEN DISTRICT DESIGNATIONS ON ZONING MAP ZM-PR700 AT PRINCEVILLE, KAUAI, HAWAII

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

RORY ENRIGHT (*via remote technology*): Good morning, my name is Rory Enright. Thank you, Councilmembers, for giving us the opportunity to testify this morning on Bill No. 2044, in its entirety. Some of you may or may not know, but I was the General Manager for Princeville at Hanalei Community Association for ten (10) years until I retired at the end of year 2019. This has been a long-standing issue in my mind. I would like to provide background and I am not going to belabor this, being that it gets complicated. Many people do not understand what consists of the Princeville community. It is one of several master planned communities in Hawai'i, which means in addition to paying taxes to the State and County, we also pay taxes to our community. We call them "dues," but it is "taxes." Those dues pay for our roads, parks, and other parts of the community's infrastructure, thereby reducing the burden on the County and providing services without any help. In many ways the Princeville community is self-sufficient. However, when it comes to land use and zoning, we are dependent on the State and County government regarding laws and enforcement, which is why this Bill is so important. The approval of the Princeville Development Plan has strong County and State requirements for open space and these requirements were met through the combined acreage dedicated to the golf course and the greenbelts. These balanced out the density of the resorts, multi-dwelling units, and the homes. Unfortunately, the Comprehensive Zoning Ordinance which was written soon after the plans for Princeville were approved, introduced a concept of Open Space having building density. This created the potential for someone to develop in the golf course thereby encroaching upon the original open space that was required for the overall community to be approved. Former Councilmember Kouchi's Bill No. 2044 seventeen (17) years ago was an attempt to correct this problem. I spent some time trying to understand and peel back what really happened in history. If my understanding is correct, it appears the past County Council and the Planning Department who worked on this Bill let it go, there was no follow-up, and it is a mystery to me regarding what happened. As a result, as this Council is being asked to put Bill No. 2044 to rest, the threat that former Councilmember Kouchi saw seventeen (17) years ago has become real for us. The new owners of the Princeville Resort are pursuing a development plan for a new glamorous camping resort on part of the golf course and in the middle of an existing community. They have discussed the possibility of future development. This would have never occurred if the work regarding Bill No. 2044 had been completed. I am asking and begging the Council if you do not agree to keep Bill No. 2044 alive, please help to initiate another bill designed to accomplish the same objectives. If you agree, please do not lose the testimony made by Princeville residents in 2003 to the Planning Commission. Many who spoke are no longer with us, but their testimonies now represent the living remembrance of what had been promised to the State, County, and the future residents of Princeville by its developer. We truly need your help. Thank you very much for your time listening to me and other members of the community. Best wishes for the best possible Thanksgiving during this challenging time. Thank you very much.

Council Chair Kaneshiro: Thank you, Mr. Enright. Next up we have Teresa Tico, followed by Tom or Lorraine Mull.

TERESA TICO (*via remote technology*): Thank you, Chair Kaneshiro. Teresa Tico, testifying on two (2) bills. I am testifying on Bill No. 1993, Draft 1 relating to Public Access and Bill No. 2044 relating to amending the open district designations at Princeville. Before you bury these Bills, we should note more about why they fell through the cracks. We should learn more about the history of these Bills before taking any action on them. It was clear that it was extremely important to the community at the time they were introduced nearly twenty (20) years ago. Personally, I believe these Bills are more important today.

First, let me address Bill No. 1993, Draft 1. I understand that this Bill would open public access to important historical and cultural sites. As you know, our State has a very long and important history of mandating public access to our beaches and mountains. Yet, more and more private property owners are blocking this access. I am speaking from personal experience. I have a road near my home in Hā'ena that we used for decades to access Makua Beach. The landowners have not maintained the road, they let it fall into disrepair, and making us believe that this is a County road, which seems to be in dispute. Nonetheless, the landowners have taken it upon themselves to bring in boulders and block the road so we can no longer park. Traditionally, this has been used by fishermen, surfers, beachgoers, and local families for enjoyment of a beach, which is in the public trust. We need to revisit this Bill. Before you bury this Bill, let us revise it, let us study it, let us open beach and mountain access, and not let it continue to be blocked. These places belong in the public trust.

Moving on to Bill No. 2044. I submitted written testimony, so I will not reiterate what is in that letter. If you have not read this Bill, I believe it should be revised, studied, and written into law. As the attorney for the Sunset Drive Community Association, which is comprised of twenty-six (26) homes and approximately one hundred (100) residents who abut the Woods Golf Course at Princeville, I researched the zoning history. As you know and as Mr. Enright testified to, there was significant community effort in 2002 and 2003...not necessarily to rezone, but to clarify that the green space and golf course were always intended to remain in Open Space. I am not sure if you had the time to read the public testimony, but it is extremely important. I urge you to take the time to read it because speaker after speaker testified that it was represented to them by the owner of Princeville, at that time it was Eagle County Development Corporation, that these golf courses, open spaces, and valleys, would always remain as open space in perpetuity. Based upon those representations, they purchased their properties. This effort in 2002-2003 was to clarify that despite the Open zoning designation, it was always intended and represented that these lands would remain in green space. The early documents clearly established that, especially for Phase I. We need to revisit the environmental impact statement that was prepared because it states that there would be "zero" units available in the Open zoned properties. We know from the archival research that the agreement between the County and the Eagle County Development Corporation was that all improvements and utilities for the subdivision were required to be completed by December 1971. No infrastructure was provided for residential or commercial use

in any of these greenbelt valleys or golf courses. So, this should be the end of story and we should not even be discussing this. I think it is clear from the archival records that these spaces were always intended to remain undeveloped in perpetuity. Apparently, it is not the end of story because as Mr. Enright said we now have a developer who wants to come in and build a luxury glamping resort, which abuts many of my clients' homes. I visited one (1) of my clients last week and I was shocked to see in their backyard where the glamping resort would be built. Again, it was represented to them, "You buy this home, the prices are higher, but look what you get—this permanent green space." This issue is not going to go away. We need to address it head on and we need to make it right. That is all we are asking. Let us revisit this law, reintroduce it, pass it, and do what was originally intended. Thank you for your consideration.

Council Chair Kaneshiro: Thank you, Ms. Tico. Next up is Tom or Lorraine Mull, followed by Ken Rosenthal.

TOM MULL (*via remote technology*): Good morning everyone, Tom Mull. My wife and I have been residents of Princeville for almost thirty (30) years. I am here to speak on Agenda Item "E," on the Consent Calendar, Bill No. 2044. I think I know where Bill No. 2044 has been for the last seventeen (17) years, it has been there alongside that favorite watch of mine that disappeared ten (10) years ago, or that sock that disappeared from the wash a few weeks ago. It disappeared out of the blue. I looked around and I could not find either. All of a sudden from the parallel universe, the watch drops back into my life. I had actually forgotten about it by then. When you find something that has been lost for a long time, what do you do with it? You look at it and inspect it, to see if it still works, to see if it is alive, and you see if the watch still ticks. This Bill is alive. Definitionally it is alive, because it is set on the schedule of the calendar to be killed. It would not have to be killed if it was not still alive. It had value then, it had purpose, and it has more value and more purpose now considering what Ms. Tico previously stated. This Bill is more important than ever...please do not toss this Bill. Examine, inspect, and find out what really happened—test it, let it sink, let it swim. That is not the important point right now. Please do not summarily dispose of it. It happens to be Thanksgiving Eve and I could not help but think of this. They are carving turkey on Thanksgiving Eve, they did not kill the turkey, please do not kill this Bill, let it live. Thank you.

Council Chair Kaneshiro: Ms. Mull, were you going to testify also, or did you testify together?

LORRAINE MULL (*via remote technology*): I know that there are quite a few people lined up and waiting to testify today. I believe that these are very incredibly competent people with a lot of history, insight, and will do a great job. We are from the same household. In the interest of time, I will pass it onto Mr. Rosenthal.

Mr. Mull: My wife passing up the opportunity to speak is something special right there.

Council Chair Kaneshiro: Thank you, Mr. and Ms. Mull.

Ms. Mull:

Thank you so much.

Council Chair Kaneshiro: Next up is Ken Rosenthal, followed by Mary Paterson. Mr. Rosenthal state your name for the record and you may begin.

KEN ROSENTHAL (*via remote technology*): Ken Rosenthal, Princeville resident. *Aloha*. I will not take a lot of time because I feel what has been said is good. I would like to express my consideration. *Mahalo*, for allowing the safety words regarding "saving" the open space in Princeville. I have been a Kaua'i resident and property owner in Princeville since 2009. As we know, Kaua'i Council Bill No. 2044 was a Bill for an Ordinance to amend the Open District designation on the zoning map for Princeville. The Bill referred to the Open District designation of greenbelts, parks, and golf courses in Princeville. This Bill was passed through first reading of the Council in 2002 and sent to the Planning Commission. It has been dormant in the County's pending log awaiting response. I am simply requesting that Bill No. 2044 be reconsidered at this time. The Bill is very timely, pertinent, and relevant especially today to Princeville residents. Perhaps the Council would consider a further review of this Bill, thus postponing any vote to dispose of it until a deeper dive into this Bill is under review. I would like to express my strong opinion with the Bill being revived at some point and become an Ordinance to protect the existing green spaces of Princeville as it is critically important to maintain the open spaces in our community. The greenbelts and open spaces are an integral part of our community, and a large reason that many of us purchased our homes. It would be the right thing to do to maintain the integrity of the community and maintain these essential open spaces. *Mahalo* and Happy Thanksgiving.

Council Chair Kaneshiro: Thank you, Ken. Happy Thanksgiving to you also. Next up is Mary Paterson followed by Carolyn Padgett.

MARY PATERSON (*via remote technology*): *Aloha*, Councilmembers. Thank you so much for allowing us to speak. My name is Mary Paterson. I am a solo resident of Princeville. I moved to Kaua'i in 2002 when this Bill was initiated. At that time, I worked for Princeville Cooperation, Marketing Department, from 1989-1992. The open spaces, particularly the golf courses, were revered, and an essential element to the attraction of Princeville for everyone who bought there. I knew most of the Councilmembers who supported the Bill, but I do not recall ever being made aware of the outcome. I did not receive anything from the title company about restrictions or the dedication that has come to light recently that would allow golf courses and the open spaces to be developed after 2026. I believe that was the result of the CZO which came into existence after the original golf course development. The intent of the development company was to have the open spaces dedicated and remain as open space in perpetuity. I agree with everything that has been said and I do not have much more to add. However, I would like to mention that it is not only the Princeville residents that benefit from the golf courses and all the open spaces. The visitors that come here also benefit, because we are the only visitor destination on the island, legally, Princeville Resort. There are many people who come to visit here, and they are taking advantage of beautiful walking/jogging paths that have been upgraded and widened to allow for safe transit for bikes, walkers, and strollers. If we were to allow the golf courses to be developed in any form or fashion,

it would literally bury Princeville. I am not able to see that it would remain an attractive place. People would start fleeing Princeville. The property taxes have decreased and sales of properties alongside the Woods Course is having an effect because of this and no one wants to buy these homes. It is destroying people's lives right now. I urge you, as everyone else has, to resurrect this Bill, write a new one, and not let this slip through the cracks. It is vitally important that we get this Bill or something similar passed to ensure Princeville remains the way it is in perpetuity, and the open spaces remain undeveloped. I appreciate all of you very much. I specifically want to acknowledge Councilmember Cowden who has responded to all the people who wrote to her. She sent responses individually and I think that was a wonderful thing to do. I wish you all a very Happy Thanksgiving and I appreciate you allowing us to speak.

Council Chair Kaneshiro: Thank you. Next up is Carolyn Padgett. Ms. Padgett is not on. With that, I will close testimony for Bill No. 2044 and I will open up the testimony for Resolution No. 2020-57, COVID-19 testing. While the rules are still suspended, we have Stephen O'Neal, followed by JoAnn A. Yukimura.

STEPHEN O'NEAL (*via remote technology*): Thank you everyone, for taking the time to listen to our testimony. My name is Stephen O'Neal, and some of you may already know that I have been actively involved in trying to understand this situation and how to best respond to the COVID-19 pandemic. My background is in business and a variety of things that involve a lot of logistical complexity. I worked for the United Nations (UN) in disaster relief where I found my ability to handle the complexity and tend to work well. I would like to speak in support of Mayor Kawakami's decision to opt out of the Safe Travels Program. I want to be clear that I am pro-opening and pro-economic activity. What I have seen around the world is containment. If we contain the virus in a reasonable way, you would then have good economic activity. If we do not contain it, activity drops off, even before any lockdown. I pulled my three (3) children out of the local public school on Friday, which I am really sorry that I had to do that. However, I was able to normalize our testing numbers—the number of people we test per one thousand (1,000) on Kaua'i which is about three (3) to three and one half (3½) on average per thousand. I was able to compare that to California's numbers where they test approximately five (5) per one thousand (1,000); where Massachusetts tests twelve (12) per one thousand (1,000). It became clear to me that any minute, if not already, if we continue the path that we are on the schools will end up closing. From what I can see, some of the schools will be closed according to the California standards. I made that decision with my wife to homeschool, it is difficult to do, and we have the luxury of having two (2) parents to focus on them along with other relatives with us. I would also like to say that I think moving forward, the way that this virus is managed is by turning the spigot on and off and giving the Hawai'i State Department of Health time to actually understand what cases come in and to manage them. This is not a binary all-open or all-closed. Any other country that has managed the virus well has made the decision to open-up and be closed for a little then open-up and closed again. That should be the expectation and looked at as a wise action by Mayor Kawakami and Dr. Janet Berreman. I would like to also briefly share that I have written five and/or contributed (5) or six (6) articles them that have been in a variety outlets. A lot of reporters will contact me and ask for my opinion or ask for the data. I try to make

all my decisions based on data. It is clear to me that a lot of them do not understand the unique situation that Kaua'i is in. I had regular communication with Dr. Josh Green back in June, when we lived on O'ahu. Being that we saw the numbers spiking there, although the number was still small, it was clear that the trajectory was going to get bad, we moved to Kaua'i and I was thrilled to do so as it was always my first choice. Dr. Josh Green and I were able to communicate—it was short, but clear conversations, until he decided that they needed to open the State at all costs. In doing that, I pointed out to him and said, "Hold on a second, you are well aware that Kaua'i has seventy-two thousand (72,000) people, no community spread, and almost no cases." Nowhere on the planet outside of New Zealand and a few other island nations are in this situation. This is a huge spoken secret. I said, "Your decision to open-up O'ahu and recognizing that you will bring the virus in, yet you are feeling that is okay because there is so much community spread it is not going to make a big difference." That was an irresponsible decision to affect and impose on Kaua'i, which had no community spread. There has been an uproar around the scientific and medical community because it does not fit in the "do not harm" or Hippocratic Oath. That was sort of his end of communication with me. He stopped replying to my E-mails. His last E-mail was, "I am not able to change the direction of Governor Ige to push through." I think that Kaua'i is sort of a victim of this. In order to have a unified front across the State, Kaua'i is getting kicked under the bus as we are now finding this out with data injected with community spread. This is a very appalling idea. I am hoping that everyone understands that. If you do not understand it, I would like to make myself available alongside the doctors on the island to help make that clear. It is not about being closed, it is not about protecting our turf, privacy, a quiet space, et cetera. It is about managing this virus. In order to do this correctly, you need to execute very carefully and recognize that there are very different situations on each island. You all have my E-mail address by now, if not, I am sure you are able to find it. I hope this is helpful to you, and thank you for doing your work.

Council Chair Kaneshiro:
Yukimura.

Thank you, Mr. O'Neal. Next up is JoAnn A.

JOANN A. YUKIMURA (*via remote technology*): Good morning, Chair and Councilmembers. Thank you for this opportunity to testify in support of Resolution No. 2020-57. Yesterday, I received shocking news that my good friend Ron Clark died of COVID-19 on Kaua'i. Perhaps some of you knew Mr. Clark? He was a big-hearted, jovial man who worked in the visitor industry. It really brings it home when you know someone who has died from the disease. I am speaking openly about Mr. Clark's death, because I know he would want me to do so if it could help to establish safe policies that would help prevent future death and suffering on Kaua'i. The State's Safe Travels Program and the 1-test plan is not safe. It is not based on science because it ignores the biology of the coronavirus. A person can be infected or test negative for the first four (4) days of the infection because it takes five (5), six (6), or seven (7) days usually for the viral load to incubate enough to be detected in a test. Other ways that the 1-test does not work is described in the fifth paragraph of the Resolution before you. There is no science behind the State's 1-test plan, and a lot of science indicating that it will not work. I will be submitting those cities in written testimony. Besides science, there is also data since the reopening showing that the

1-test plan is allowing a lot more infected travelers, both visitors and returning residents, to enter Kaua'i than what was predicted by Lieutenant Governor Green and business leaders in Honolulu.

Kaua'i's voluntary post-travel test, thanks to Mayor Kawakami, has identified incoming travelers who have turned positive several days after a negative pre-test, as predicted by science. Lieutenant Governor Green has claimed that only one (1) out of one thousand (1,000) travelers coming to Kaua'i is infected. However, so far, his own surveillance test on Kaua'i is showing fifteen (15) times more infected travelers per one thousand (1,000). That is actual data. The COVID-19 numbers on Kaua'i jumped dramatically from five (5) infections in the sixty-three (63) days prior to the reopening to fifty-three (53) in the last forty (40) days. Advocates of the reopening have said that it was necessary for the economy, but as Mr. O'Neal pointed out, the opposite is happening. Because of the rise in COVID-19 cases due to the reopening, the local economy is retracting. The Hanapēpē Economic Alliance reluctantly cancelled their Hanapēpē Art Night because of the increased danger, and I have heard that the much anticipated Kaua'i Made Products Fair...*mahalo* to Grove Farm for the site...which our crafters and creative businesses need so urgently, had to be cancelled. Residents with money to spend, there are more than you think; government workers, online workers, retirees, wealthy second homeowners, are hunkering down once again because it is increasingly unsafe. The economy needs safety, certainty, and freedom from the virus to thrive. I support Dr. Berreman's idea of a moratorium on the Safe Travels Plan and the Mayor's request to opt out of the plan going back to the 14-day quarantine on December 1st. Let us use that time and our *laulima* spirit to get rid of the virus by the New Year. While we are doing that, let us design and build a safe way for visitors to come. I am in favor of welcoming the visitors, but with a safe plan that consists of a 2-test plan and a six-day quarantine and released on the seventh day based on a negative second test. That would be a science-based plan. Such a screening process may be inconvenient, but if we design a good border screening with attention to detail, workability, and cost-effectiveness as well as effectiveness for the community and the visitors, and create a safe place that would become very desirable to visit, visitors will come. Let us reinvent our tourism that will keep the island safe. Let us become a COVID-19 free *kipuka*, where our children can go back to school and resume as normal, grandparents are able to hug their grandchildren, we can hold football games, and the visitor industries do not have to be afraid to go to work—like New Zealand. I know we can do it. Happy Thanksgiving to you and your family. Thank you.

Council Chair Kaneshiro: Thank you, Ms. Yukimura. Happy Thanksgiving to you too. That concludes testimony for Resolution No. 2020-57. Next up is testimony for Bill No. 2797. We have Howard Greene. This is regarding the West Kaua'i Community Plan (Plan). Mr. Greene, is your testimony split between the two (2) items or are you testifying on Bill No. 2797 and Bill No. 2800, Draft 1 regarding the Waimea Plantation Camp, at the same time?

HOWARD GREENE (*via remote technology*): Yes, I will do it all at once.

Council Chair Kaneshiro: Okay.

Mr. Greene: I will add a little blurb for Bill No. 2799 since it is related. *Aloha* and good morning. My name is Howard Greene and I am the Vice President and Project Manager for Gay & Robinson, Inc. (G&R). I am testifying today in support of Bill No. 2797 regarding the Plan, Bill No. 2799 establishing a new Special Treatment Coastal Edge District, and Bill No. 2800, Draft 1, establishing a new Plantation Camp District.

I would like to provide a little background. G&R was established in 1892 and we have been operating for over one hundred thirty (130) years. Our community at Makaweli has developed essentially in a bubble. It organically grew to meet the needs of a plantation community, and had well over one thousand (1,000) employees and over one thousand (1,000) homes in ten (10) different camps. The needs of the sugar and ranching business directed the community and infrastructure development. As the employee base grew, the villages were built. Camp general stores were built in each community and various businesses arose to support these communities at Makaweli. In 2018, the Planning Department reached out to G&R for the opportunity to participate in the Plan. We were very thankful for that outreach. The Plan has been thoroughly vetted throughout the entire West Kaua'i community. The outreach by the Planning Department was tremendous and thorough. The result and input from the public created an enormous volume of material to consider for the Plan. I feel that they did a great job in providing a balanced Plan that serves the interest of the community.

Regarding Bill No. 2799, establishing a new Special Treatment Coastal Edge District. I fully support the intent of this Bill. It has planning impacts on our coastal property and specifically for many of the homes along the shoreline in Pākalā. In general, I do not support additional layers of government. However, it is a reality regarding coastal issues, and it must be dealt with. The logic behind this Bill is supportable.

Bill No. 2800, Draft 1, establishing a new Plantation Camp District. We fully support this Bill and ask that you hopefully pass this today. Deferring this Bill any longer will have real effects on people's lives—doing so, will extend houselessness for an untold amount of Westside locals. We have over a dozen houses in our inventory that are uninhabitable. We have patiently waited for this process to play out. Back in May, the Planning Commission passed this through, and we were optimistic that this would happen sooner rather than later in order to get people housed.

With the effects of COVID-19 on the island's economy and health, now more than ever, we need this to pass and become an Ordinance. This would create jobs and provide much needed housing. Some of the homes we have need to be remodeled and we consider that substandard. In order to remodel these houses, we need to have temporary homes to move the tenant into. We have a large waiting list that is growing, and we have stopped accepting housing applications. As we look towards our agricultural diversification, the inventory of homes will be critical to the success of our farm and ranching businesses. Please pass this Bill today along with the Plan to ensure that the people and Kaua'i is able to move forward. *Mahalo*.

Council Chair Kaneshiro: Thank you. There are questions for you.
Councilmember Kagawa.

Councilmember Kagawa: Mr. Greene, thank you for your testimony. What I am hearing is the need for this County to help you folks to fix the old houses. I grew up surfing Pākalā's and on the Westside. Those houses were not in good condition since the '80s. For me, it is disingenuous to say that "you need to help us fix this." G&R has had many years to try to mend this problem. With anything, if you do not do anything for forty (40) years...this is hard for me to hear.

Mr. Greene: I am not sure if that was a question?

Councilmember Kagawa: That is a question and I am asking.

Mr. Greene: We have been fixing up the houses in the camps for many years. We have put tremendous resources into fixing the wastewater and water systems. As you know, we are not technically in compliance with the Comprehensive Zoning Ordinances that were established in the '70s. Since the '70s, there are laws dictating what we can and cannot do. I will not go into what we have done, but we have done our best to maintain the houses the best that we are able. This will give us a framework for moving forward and allow us to do future master planning for our entire property.

Council Chair Kaneshiro: Councilmember Kagawa, all the houses are nonconforming being that is on agricultural land. With the Plan and the Designation for Plantation Camp, it will allow them to fix these houses and be in conformance. There are specifics on the house size and the types of improvements they can do. This will be the device that allows them to do what they need to do. The Waimea Plantation Camp was built on agricultural land a long time ago and was never updated to be residential. Thank you, Howard.

Mr. Greene: Thank you.

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

Council Chair Kaneshiro: That concludes testimony for Bill No. 2797 and Bill No. 2800, Draft 1. We will resume with our agenda. Clerk, can we read in Bill No. 1993, Draft 1. For any of the testifiers and if you are still there, you can continue watching the meeting on the County of Kaua'i webcast.

Bill No. 1993, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 9, KAUA'I COUNTY CODE 1987, RELATING TO PUBLIC ACCESS-WAYS

Council Chair Kaneshiro: Can I get a motion for discussion.

Councilmember Kualī'i: Can I ask a process question?

Council Chair Kaneshiro: Yes.

Councilmember Kualii: With these Bills, because they are so old, is the best process to receive them and reintroduce a new Bill?

Council Chair Kaneshiro: There are two (2) options. Ultimately, we need to introduce a new Bill, because there is no way to amend these Bills that is over seventeen (17) and thirteen (13) years old. We can receive the Bills now and come back with a new bill; or, the Bills can be deferred indefinitely, and it will stay alive until a new bill is introduced. Eventually you will have to receive the old bill. It is the decision of the Council to decide what to do. We can keep the history and/or bring up the past history and testimony as we introduce a new Bill. We want to make it clear to the public that if we receive the Bills, if a Councilmember is preparing a new Bill, it does not mean that bill dies. It means that we are working on an updated Bill. We can have the old bills floating until a new bill is introduced. Some people mentioned that they would be comfortable deferring indefinitely, so that people know the Bill is still around. I am open to what the body wants to do.

Councilmember Kualii: I know that there will be a new Bill because I expressed interest in doing that...and someone else has also expressed interest. As far as your statement with keeping the records and the history alive, that will always be there. It is already documented, the testimony is there, and we can get that information at any time.

Council Chair Kaneshiro: Correct.

Councilmember Kualii: Either way, I have no real preference.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am wanting and happy to co-introduce a Bill with anyone. I would like to reintroduce both Bills. To my understanding, we need to call it that until that last day of this Council's term. To defer indefinitely can proceed in January if that is what we decide. We can pick-up and introduce a new bill. Some of the testimony is relevant.

Council Chair Kaneshiro: It is an indefinite deferral because if we only defer, it will come up on the next agenda and I do not think that we will have a new Bill within that amount of time. It would be deferred indefinitely until we have time to relook at the history, figure out why the bill was introduced, update the information, and come up with a new bill. Councilmember Kualii.

Councilmember Kualii: The Council's next term has only one (1) meeting in December. The first meeting is Inauguration and the following is a business meeting.

Council Chair Kaneshiro: Councilmember Evslin, did you have a question? I am open and will leave it up to the Councilmembers to decide. We need

to be clear and let the public know that any action that is taken, someone is wanting to introduce a new bill, so it will not go by the wayside. Councilmember Evslin.

Councilmember Evslin: I am not sure if we need a motion before I have this discussion. I would like to defer both Bills so that people know that they are not being swept underneath the rug, but there is active action being taken. We will receive these Bills when the new ones comes up.

Council Chair Kaneshiro: Let us take a motion to approve. If we do a motion to defer, it will cut off all communication. Can I get a motion to approve and a second?

Councilmember Chock moved to approve Bill No. 1993, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Kaneshiro: We are on Bill No. 1993, Draft 1. Is there any further discussion from the Members on this? Councilmember Chock.

Councilmember Chock: Council Chair Kaneshiro, I do not mind deferring indefinitely. I am encouraged to hear that Members have already expressed interests. It is apparent that there is a concern and a need. I want the people to understand the process that we must go through and have them feel comfortable knowing that the new Council is already being tasked to move that forward. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to state that Bill No. 1993, Draft 1, is regarding access being allowed. For example, permanent public access to historical places, which are things that are continuously being blocked. We are seeing how important this is. Since 2001, when this was first introduced, we had a big cultural resurgence of people paying attention. There is a lot of new knowledge being put forward as our Hawaiian Charter School systems with *‘ōlelo* and knowledge of the history has gotten stronger. I would like to point out that I remember this time. When Bill No. 1993 came out, it was a month after September 11, 2001. This Bill was dropped and we need to research this more than the next Bill that we are going to be talking about. We were all stunned at that time, planes were grounded, and things were put on hold. We had a rough window. Although this was approved from the Council's First Reading, it did not go anywhere. I am not sure why it dropped, but it could never be more relevant than it is now with keeping access to our culturally historical places.

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

Councilmember Cowden: Are we ready for Bill No. 2044?

Council Chair Kaneshiro: No, we are still on Bill No. 1993, Draft 1. I would like to make it clear that the potential motion is to defer indefinitely. The Bill is going to remain on the deferred log. A Councilmember will work on updating the Bill, as it is nineteen (19) years old. We will reintroduce the Bills, receive the old Bill and entertain the new bill. Is there anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: Unless there were Councilmembers ahead of us, Councilmember Cowden and I will co-introduce the Bill.

Councilmember Kuali'i moved to defer Bill No. 1993, Draft1 indefinitely, seconded by Councilmember Chock, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: Motion carried. Next item.

Bill No. 2044 – A BILL FOR AN ORDINANCE TO AMEND OPEN DISTRICT DESIGNATIONS ON ZONING MAP ZM-PR700 AT PRINCEVILLE, KAUAI, HAWAII

Council Chair Kaneshiro: Can I have a motion?

Councilmember Kuali'i moved to approve Bill No. 2044 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Is there any discussion on this? Councilmember Cowden.

Councilmember Cowden: Yes. I would like to thank the Council Services Staff. First, for those who need to know why this came up is because our Deputy County Clerk did an excellent job during the COVID-19 shutdown. He did backlog and found these four (4) items placed before you. It was not moved in by a developer nor any nefarious reason that this is timely and being presented. For several months, I have been responding to the Princeville community that are concerned with development that is being suggested on the open space. Rory Enright said that it master planned in the community. As best as they can tell, it was the first master plan community ahead of the County's Zoning Ordinances. It was a brand-new effort, so, if pieces in the policy were not clear, there has been confusion because of a dedication letter that came up regarding how long the golf course is there. I happen to have been at this Council Meeting in 2003. It was a Special Council Meeting that was held at the Hanalei School Elementary cafeteria. It was very rare

that a Council Meeting was held on the North Shore, which is why it was so important. The people there were passionate, and the room was full. I spoke to a handful of people...only when this came up, we looked at this again. I appreciate the Deputy County Clerk, it was 4 a.m. when he found all the information for me. All the history that we were looking at, we got it now. In looking through everything, there is a lot of subtleties in it. It makes it unique because it was only looking at one area, Princeville. However, when I look at it, it is relevant everywhere. Golf courses are essentially open space parks that have multiple purposes including wastewater settlement areas and many other aspects. I want to resubmit a new bill that will look at it. When we do and at that time, it will be worthwhile to look not only at Princeville, but other planned communities that have these types of open space commitments. I know that during that hearing, there was concern about having a CZO that affects only one community. I understand that and why we should have a broader policy more than one (1) development policy.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Yes. I would like to thank Councilmember Cowden for being well connected with our friends on the North Shore. We received over one hundred twenty (120) pieces of written testimony and I would like to thank each and every one of them. I was up until early this morning trying to ensure I was answering all the E-mails; I got to approximately ninety percent (90%). Your testimony is important to us. I have expressed my interest in sponsoring and/or reintroduction of this Bill. If Councilmember Cowden is open to doing so, I will co-sponsor with her.

Councilmember Cowden: I am open.

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

Councilmember Evslin: Thank you, Council Chair Kaneshiro. I am glad to hear that we are likely to defer this Bill and that there will be action taken amongst Councilmembers to review and/or revitalize in some capacity. It seems clear when going through the minutes from that Public Hearing in Hanalei that the land in its inception was meant to have density of zero and that units around the golf course were sold based on that. It sounds that within the EIS, it stated that the land would have a density of zero. It sounds like there have been some tax breaks given for the golf course based on no development potential. I am personally someone who has never played golf in my life, but I walk on a golf course with my children two (2) to three (3) times a week. I understand the value of green space near residential areas. While going through the minutes, there was powerful testimony stating potential legal concerns over equal protection clause and the potential of it being a taking. The person drafting this policy will have to be very careful moving forward

regarding potential to withstand legal scrutiny. It sounds like there are two (2) Councilmembers already working on this. I am looking forward to the work that they present.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I would like to point out another thing that is in common between year 2003 and the present. In 2003, the ground wars started in Iraq and Afghanistan. There was a pale over the United States. In 2001 and in response to the September 11th event, the prime interest rate dropped down to one percent (1%). There is a similar situation happening right now with the prime interest rate in response to COVID-19, and we are currently seeing the economic impacts. The COVID-19 response has been more profound than what we experienced from September 11th with different types of trauma involved. Why that matters is because with both situations, it created a spur with purchases and purchases from a distance. In 2003, the housing prices went crazy on Kaua'i, and we are seeing the spiking now. With the three hundred thousand dollars (\$300,000) a year average selling price increasing from last year, there are multiple reasons why the case in 2003 is relevant in 2020. I appreciate the people from the Princeville community who gave me distressed calls last week, which called my attention to this; and because of that, it is my hope that we can create policy that will help the entire island and our people. I would like to acknowledge what Councilmember Evslin stated, which is accurate. We need to be careful of the legal implications that could be viewed potentially as a taking

Council Chair Kaneshiro: Is there any further discussion from the Members? If not, I will entertain a motion.

Councilmember Kualii moved to defer indefinitely Bill No. 2044, seconded by Councilmember Chock, was then put, and carried by a vote of 6:0:1*.

COMMUNICATIONS:

C 2020-275 Communication (10/30/2020) from the Chief of Police and Mark N. Begley, Assistant Chief of Police, Patrol Services Bureau, requesting Council approval of a Service Agreement contract and the indemnification provisions contained therein, between the National Association of Field Training Officers (NAFTO) and the Kaua'i Police Department (KPD), for the training and certification of Field Training Officers for KPD.

Councilmember Kualii moved to approve C 2020-275, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members? Is there any discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I would like to say for the record, I talked to Chief Raybuck about this. In an upcoming briefing in January, we will have a discussion on this. All of this is relevant and good. Thank you.

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 2020-275 was then put, and carried by a vote of 6:0:1*.

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

C 2020-276 Communication (10/30/2020) from Joey Manahan, Hawai'i State Association of Counties (HSAC) President, transmitting for the Kaua'i County Council's consideration, the following proposals to be included in the 2021 HSAC Legislative Package, which were approved by the HSAC Executive Committee on October 26, 2020:

- A Bill for An Act Relating to Liquor Fines Collected Per Year (*County of Maui*)
- A Bill for An Act Relating to Health Care Insurance (*County of Maui*)
- A Bill for An Act Relating to Rental Motor Vehicles (*County of Maui*)
- A Bill for An Act Relating to Sunshine Law Boards (*County of Maui*)
- A Bill for An Act Relating to Registration of Vehicles (Vehicle transfer process) (*County of Kaua'i*)
- A Bill for An Act Relating to Registration of Vehicles (U-Drive certificate of registration fee) (*County of Kaua'i*)
- A Bill for An Act Relating to Registration of Vehicles (Vehicle certificate of registration—payment of outstanding charges required) (*County of Kaua'i*)
- A Bill for An Act Relating to Public Health Emergency Testing (*City & County of Honolulu*) (***See Resolution No. 2020-56***)

Councilmember Kualii moved to receive C 2020-276 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions on this? Councilmember Chock or Councilmember Kagawa, did you want to give a quick update on this? I am sorry, we will have discussion when the Resolution comes up on the agenda. This is just the communication.

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

The motion to receive C 2020-276 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 2020-277 Communication (10/30/2020) from the Director of Parks and Recreation, requesting Council approval to receive and expend grant funds, in the amount of \$5,000.00, from Stonyfield Organic, who is working with Beyond Pesticides, to provide direct funding to help with the initial costs of converting fields to organic management.

Councilmember Kualii moved to approve C 2020-277, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions from the Members on this item? Councilmember Cowden, do you have a question?

Councilmember Cowden: Can I make a comment?

Council Chair Kaneshiro: Yes, during discussion.

Councilmember Cowden: Okay, I am sorry.

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

Councilmember Cowden: I have been asked many times in the past few months about our usage of pesticides in the County parks. I would like to call attention to this item. We have a plan for a few parks to work on organic management. For the record, it is underway.

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 2020-277 was then put, and carried by a vote of 6:0:1*.

C 2020-278 Communication (11/02/2020) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$8,060.00 for program Fiscal Year 2021, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals program, and to indemnify the State Executive Office on Aging.

Councilmember Kualii moved to approve C 2020-278, seconded by Councilmember Cowden.

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

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

The motion to approve C 2020-278 was then put, and carried by a vote of 6:0:1*.

C 2020-279 Communication (11/05/2020) from the Executive on Aging, requesting Council approval to receive and expend Federal funds in the amount of \$203,007.00 from the State Executive Office on Aging, to be used for the provision of Title III services of the Older Americans Act, for the 2021 Federal fiscal year that began October 1, 2020 through September 30, 2022, and to indemnify the State Executive Office on Aging.

Councilmember Kualii moved to approve C 2020-279, seconded by Councilmember Cowden.

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

Councilmember Cowden: I would like to acknowledge the Agency on Elderly Affairs. Councilmember Kualii and I were there yesterday and had a robust discussion regarding funding for the Title III services. We reviewed the good work that our Agency on Elderly Affairs is doing to manage everything that is happening and that we do not take this money for granted. It is important right now.

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

Councilmember Kualii: Yes, we received a briefing on the Older Americans Act and I thought it was interesting to see all the different funds that are available, which come from the Federal Government. *Mahalo nui loa* to our Agency of Elderly Affairs. They not only go after money, they spend it well, and receive additional money thereafter, which represents additional funding. You need to do a good job in order to go back and continue receiving additional funding.

Council Chair Kaneshiro: Thank you. The motion on the floor is to approve.

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

The motion to approve C 2020-279 was then put, and carried by a vote of 6:0:1*.

C 2020-280 Communication (11/10/2020) from the Acting County Engineer, requesting Council approval to use \$34,000.00 from the Repair and Maintenance (R&M) account for the unbudgeted purchase of a replacement pump for the Fire Station Sewage Pump Station (SPS), to replace aging equipment which is essential to restore the designed redundancy for the SPS.

Councilmember Kualii moved to approve C 2020-280, seconded by Councilmember Cowden.

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

Councilmember Kualii: I would like to share information on this. This is a budget item. This was something that did not get budgeted, they are coming before us, because it is over a certain dollar amount and seeking Council approval. They are replacing a pump that has failed as a result of excessive corrosion and they have been in use for over forty-two (42) years. Thank you.

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

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

The motion to approve C 2020-280 was then put, and carried by a vote of 6:0:1*.

C 2020-281 Communication (11/12/2020) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Taxes to reduce the assessed value amount from \$2,000,000.00 to \$1,300,000.00 for residential homes that fall in the Residential Investor Class

Councilmember Kualii moved to receive C 2020-281 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is will come up again later in the agenda under Proposed Draft Bills and we will do our discussion on this at that time. 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 2020-281 for the record was then put, and carried by a vote of 6:0:1*.

C 2020-282 Communication (11/12/2020) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Authorizing The Issuance Of General Obligation Refunding Bonds Of The County Of Kaua'i For The Purpose Of Refunding Certain Outstanding General Obligation Bonds And Notes; Fixing Or Authorizing The Fixing Of The Form, Denominations, And Certain Other Details Of Such Refunding Bonds And Providing For The Sale Of Such Bonds To The Public; Providing For The Retirement Of The Bonds To Be Refunded; And Authorizing The Taking Of Other Actions Relating To The Issuance And Sale Of The Refunding Bonds And The Retirement Of The Bonds To Be Refunded.

Councilmember Kualii moved to receive C 2020-282 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is will come up again later in the agenda under Proposed Draft Bills. 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 2020-282 for the record was then put, and carried by a vote of 6:0:1*.

C 2020-283 Communication (11/13/2020) from Council Chair Kaneshiro, requesting agenda time for a briefing from Spire Hawai'i, LLP (external auditors), to provide a presentation on the Kaua'i Fire Department's Performance Audit.

Councilmember Kualii moved to receive C 2020-283 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We may have to take a caption break at 10:30 a.m. We will see how far we get with the presentation, let them do the entire presentation, and hold our questions until the presentation is completed. With that, I will suspend the rules. Mr. Kimura, you have the floor.

There being no objections, the rules were suspended.

TYLER KIMURA (*via remote technology*): Aloha, Council Chair Kaneshiro and Councilmembers. My name is Tyler Kimura, partner with Spire Hawai'i, LLP. Thank you for the opportunity to present my report of the performance audit for the Kaua'i Fire Department (KFD). I have a short presentation that summarizes the audit scope, our findings, recommendations, and KFD's response to the audit. I would like to thank Fire Chief Goble, former Acting Fire Chief Westerman, and all the KFD personnel who helped throughout the audit process. There is a lot of information in our report, but in the interest of everyone's time today, I will be covering the main takeaways from the audit, and I will be happy to answer any questions following my presentation.

This audit was initiated by the Council as a result of a two million four hundred thousand dollar (\$2,400,000) Excess Pension Cost (EPC) assessment incurred by the County in 2018. Two million two hundred thousand dollars (\$2,200,000) of which was related to KFD personnel who retired in calendar year 2017. In general, EPC assessments occur when employees earn significantly more than non-base pay in their final three (3) years of employment compared to their pay in the prior seven (7) years.

The audit was designed to answer the following questions: (1) Whether policies and Standard Operating Procedures (SOPs) are in place and are being followed when overtime is approved; (2) The sources of overtime; (3) Whether KFD has made the necessary managerial adjustments to cost-effectively manage Rank-for-Rank (RFR) Recall procedures; and (4) Whether the proper and responsible staffing levels for all fire stations are in place. Our audit period spanned from July 1, 2014 through June 30, 2018. However, some of our findings are focused on portions of that audit period or extend out of that audit period depending on the availability of data.

The first finding is that certain firefighters heavily utilized available overtime opportunities before their retirement. KFD has modified its policies in response. Collective bargaining and lax administrative practices and oversight allowed the 2017 retirees to heavily utilize available overtime opportunities during the years before their retirement. The major sources of overtime for the 2017 retirees were RFR recall, participation in the Sparky Fire House Trailer Program, and attending and teaching training courses.

RFR Recall is a provision in the Hawai'i Firefighters Association (HFFA), Collective Bargaining Unit (CBA) agreement which requires that when a ranked firefighter is absent, the opportunity to fill the position must first be offered to a firefighter of the same rank. Per the CBA, RFR arises because the employer and Hawai'i Firefighters Association – IAFF Local 1463 (Union) recognized the need to “recall employees on an RFR basis to prevent and avoid safety and morale problems.” What we found is that between 2014 and 2018, firefighters in KFD overall utilized approximately eighty-nine percent (89%) of their allowed RFR hours. We know of one (1) instance of a firefighter earning more than two hundred eighty-eight (288) RFR hours in a fiscal year (FY), which is not allowed under KFD policy or the CBA. There were ten (10) instances of firefighters earning more than one hundred forty-four (144) RFR hours in a given six-month period, which is not allowed under KFD policy. In practice, if firefighters go over their six-month allotment, then their allotment for the six-month period is reduced by those excess hours. The RFR dollars by FY are presented here. One thing to note is that prior to FY 2015, RFR was limited to twenty-four (24) hour per year, and only for vacancies due to scheduled vacations. For example, the budget for FY 2014 was only fifty-five thousand dollars (\$55,000) for RFR.

RFR overtime is typically incurred when coverage is needed because of absences due to vacation, sick leave, or training. The Hawai'i Pension Law provides that public employees who retire or leave government service in good standing with sixty (60) days or more of unused sick leave are entitled to additional service credit in retirement. We know that seven (7) of the 2017 retirees took two hundred eighty-eight (288) hours, which is twelve (12) 24-hour shifts or more of sick leave in 2017 with one (1) retiree taking seven hundred twenty-six (726) hours. The 2017 retirees filled sick leave vacancies of other retirees with RFR shifts seventy-five (75) times between 2014 and 2017. Thirty-nine (39) of which occurred in 2017, the year in which they retired.

If sick leave is abused or coordinated with firefighters who are close to retirement, KFD will not only incur extra overtime costs, but could also incur potential future excess pension cost assessment related to those retired firefighters. Separately, KFD does not actively monitor, evaluate, or report on the cost of RFR, or provide such information to the HFFA as required by the CBA. When we requested communication of the reports that KFD provided the Union in accordance with this section, the former Acting Fire Chief said that “KFD does not provide any reports and that the cost of RFR are included at the time of budget.”

The Sparky Fire House Trailer Program is a fire education program that visits all of the elementary schools on Kaua'i annually, presents student the "learn not to burn" curriculum, Ocean Safety Prevention, and hands-on Cardiopulmonary Resuscitation (CPR) lessons. Almost ninety percent (90%) of pay to all Sparky Fire House Trailer participants were paid at overtime rates between FY 2014-2019. Three (3) of the 2017 retirees were consistently among the top participants for this period, with one (1) retiree incurring as many as two hundred twenty-one (221) total hours in a FY. A current firefighter told us that when he signed up for a Sparky Fire House Trailer shift, one of the 2017 retirees confronted him and asked him why he signed up, because he should have known that this was for senior firefighters. The same firefighter also said that the Sparky Fire House Trailer spots would fill up within minutes of the E-mail announcement going out. KFD Management became aware of potential seniority favoritism associated with signing up for the Sparky Fire House Trailer shifts, but did not implement changes until September 2016. Further changes and the sign-up system were not made until 2019.

Training is an essential component of an effective Fire Department and KFD firefighters receive both mandatory and non-mandatory training. Firefighters are paid overtime for conducting and receiving training outside their normal shifts. In FY 2016 and 2017, approximately forty-five percent (45%) of the total on island training hours were paid at overtime rates. During our interviews, we were told that in 2019, KFD implemented changes to its training and policy procedures to limit the number of training programs that firefighters could attend and instruct; we understand that these changes were made in response to Senior Firefighters teaching too many training programs on overtime. Firefighters also attend off-island training and conferences from time to time, which include both interisland and mainland travel. The program directors identify upcoming off island training opportunities, and in general, preference is given to firefighters based on seniority.

Approximately fifty-two percent (52%) of the off-island training hours incurred by the 2017 retirees was paid to them at an overtime rate. We have seven (7) recommendations relating to this finding...related to monitoring costs of RFR, monitoring utilization of firefighting personnel on the Sparky Fire House Trailer, and monitoring off-island and online training programs to ensure costs are being managed effectively.

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

We have recommendations that KFD shift firefighters from a 24-hour shift to a 40-hour schedule when trainings last five (5) days or more, and to closely monitor sick leave and vacation requests to ensure that firefighters are not regularly filling in for each other particularly when close to retirement. Ensuring that the timesheets and request for leave are properly reviewed, verified, and approved. Also ensuring that reports are generated in a consistent format, so that KFD can proactively monitor for potential budgetary impacts such as excess pension cost assessments.

KFD issued a formal response to our audit, which is attached to our report. In general, KFD expressed agreement with audit recommendations and provided the descriptions of the actions that KFD has taken and will take to address them. I have

included them here for your review, but I will not read through each slide. You can see how they plan to address each of the recommendations.

(Councilmember Kualii was noted as present.)

Finding 2. KFD's excess pension costs have been significant, but some of the controls that need to be instituted are outside of KFD's hands. One of the questions this audit was designed to answer was whether KFD made the necessary managerial adjustments to cost effectively manage RFR and overtime costs. What we found is that the larger source of overtime was RFR, which is collectively bargained. Adding to the complexity of managing this cost, we know that the culture or seniority is often rewarded. The former Acting Fire Chief stated in his interview that pension spiking is "nothing new and he has been aware of pension spiking for forever." He believes that pension spiking is an accepted unregulated practice that is not unique to KFD, but rather a problem of public employers throughout the State. Pension spiking is facilitated by a general culture relayed to us by other KFD personnel of accepting that senior personnel had earned their right to take advantage of overtime opportunities.

As a result, organizations like KFD are faced with a difficult situation of managing their budget while confronting the pressures of senior ranking personnel who may leverage their collectively bargained opportunities to earn extra pay. Failure to appropriately manage these non-base pay costs will result in excess pension costs in future years. Since the State leads the collective bargaining process and controls the Employees Retirement System (ERS), Kaua'i and a few other counties need the State's assistance to manage pension spiking. We are not recommending changes to the CBA as a result of this audit, but we are bringing to light that if any changes were to be made, the State with its four (4) out of eight (8) total votes leads the process for negotiating.

We requested data and information from the ERS and its response shows that the ERS has the expertise and data that might be used to assist the County and other public employers in addressing pension spiking. The County could ask ERS to identify anomalies during routine reviews, provide projections for changes in CBA pay provisions, and provide training on overtime impacts to pension calculations.

We have five (5) recommendations relating to Finding 2. Essentially what we are recommending is for KFD to work with the County to be proactive in seeking assistance from the State regarding its positions in bargaining situations and from the ERS to stay ahead of any further pension costs assessment. Recommendations four (4) and five (5) discuss potential assistance from the ERS including training and trying to stay ahead of any potential pension costs.

KFD's response is shown here. In general, they agreed with our recommendations for Finding 2.

Finding 3. Fire station staffing is complex and depends on conditions that change. KFD should have a plan for regular assessment of its station staffing. The Council's resolution expressed a concern as to whether the proper and responsible

staffing levels for all fire stations are in place. This concern arises from the direct relationship between premium pay related to overtime and staffing costs. KFD has been questioned about its staffing levels in the past, and the Acting Fire Chief maintained that the current levels of staffing of at least four (4) firefighters at every station are appropriate and must be maintained to meet insurance standards. This position is consistent with KFD's statement in April 2009 at a budget hearing that said, "The last three (3) years of having appropriately staffed stations really helped out insurance premiums." KFD also testified in February 2014 that when a second station was added to the Kawaihau District, eight thousand (8,000) homeowners benefited from decreased insurance rates. When we asked KFD to provide evidence of the decrease, the Acting Fire Chief stated, "The public protection classification rates for Kapa'a and Kaiākea went from 6/9 to 5/9, improving or reducing insurance costs for property owners in those areas." However, in reviewing the PPC rating system, we found that staffing is not a significant scoring category which KFD referenced as evidence of lower insurance rates.

Overall, staffing is a complex technical risk assessment. The National Fire Protection Association sets requirements for company crew size and the number of companies deemed to be an effective response to fires in four categories of structures. Staffing studies are intended to be ongoing operational assessments and are not meant to be conducted through an audit. In general, audits involved looking at program conditions, exploring the cause of such conditions, and measuring program execution to best practice and other criteria. On the other hand, staffing evaluations such as those conducted by experts and the accreditation process analyze the appropriate staffing levels based on external conditions such as those identified in the National Fire Protection Association 1710 to assess whether conditions require more or less staffing than at present.

As a result, we had the following recommendations: (1) KFD should regularly evaluate its minimum staffing levels; (2) Continue updating its Strategic Plan, which was last updated in 2015; and (3) Consider engaging outside experts such as those performing similar evaluations for accreditation, for advice on appropriate staffing, and the costs and benefits of implementing scheduling software. KFD's response is shown here. In general, they agree with the recommendations over Finding 3.

That concludes my general overview of our audit and I will be happy to take any questions at this time.

Council Chair Kaneshiro:

Councilmember Kagawa.

Councilmember Kagawa: I would like to thank Spire Hawai'i, LLP and Mr. Kimura for your presentation and findings. The most bothersome quote for me was in Finding 2 where the Acting Fire Chief, who was the Fire Chief during all the spiking practices...Former Acting Fire Chief Westerman said, "Pension spiking is an accepted unregulated practice that is not unique." It really sounds like a lame excuse. As a manager, you have the ability to stop the practice to serve your taxpayers with fiscally sound management practices. I am really disappointed to see that statement in there. To state that other KFD personnel acknowledge the general culture of accepting that senior personnel had earned the right to take advantage of overtime

with RFR and Sparky Fire House Trailer opportunities. My question is, based on that statement, is the feeling that you got from the former Acting Fire Chief is basically misspending taxpayers' money is something that they can do without any consequence?

Mr. Kimura: Yes, in general, there was that feeling that in certain ways their hands are tied because of general concern and because of the collective bargaining nature over RFR and other overtime pay that is afforded to firefighters. There was also a sense of "making things better." They saw that with other KFD personnel that were in the transition process and with the new Fire Chief Goble—understanding what has been done in the past and what KFD needs to look at moving forward.

Councilmember Kagawa: For me, there were many budget proceedings where former Acting Fire Chief Westerman presented before us and those statements were never made. Those statements that are printed in your presentation were never made to this body, and that concerns me because I have the feeling that he was hiding the truth for many years. This legislative body is responsible for the budget; for setting overtime amounts, RFR amounts, and we have never heard that statement from former Acting Chief Westerman in all of the years of the budgeting. That is what disappoints me the most because there is no transparency. Admitting after all the damage is done is too late. To say, "It happens collectively statewide with all the other unions." That is not true. When you look at the spiking numbers, especially in 2018, two million four hundred thousand dollars (\$2,400,000) for the entire County spiking, KFD ranked up two million two hundred thousand dollars (\$2,200,000) of that total. That is not equally distributed across all of our responsibilities and departments. That is one (1) department feeling privilege to even make that kind of statement. Thank you for the work you have done. I am disappointed with the past, and I feel that there was acts of perjury before us. Thank you, because now we have it in writing and in the audit. I am leaving the Council and I am confident with the new chief. You have also quoted him that they agree and not fighting your statements in the audit. For that, I am thankful that we have more honesty moving forward. Thank you.

Mr. Kimura: Thank you, Councilmember.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: As a first term Councilmember and Chair of the Public Safety & Human Services Committee, I really appreciate the value of this audit. I want to acknowledge Councilmember Kagawa for being the driving force on the Fire Department's overtime numbers. When I looked at in 2018, when there was a lot of disasters going on, I did not look at this with the same eye compared to someone experienced as he is. We are going to hear from Fire Chief Goble, correct? When we have these recommendations, some of my questions are geared towards him. I would like to thank you for doing an effective reveal, however disappointing it is. We appreciate our Fire Department; we do not appreciate this taking advantage of the overtime. Thank you for your work.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Kaneshiro. Mr. Kimura, thank you for the report and for doing the audit. This question may be a little out of your scope. RFR is specific to the Fire Department. Knowing what we know now being that it is in writing and the concerns that we have had, it is obvious that it is a piece of a culture that can get out of hand where abuse can occur. I am concerned as we look not only at public safety, but other departments across the board. Did you have a chance to look and compare other departments' numbers and what they might be exposed to and/or if there are any red flags? You folks participate in our annual audit. I am also looking for triggers in other departments that we need to be made aware of ahead of time to control the issue, especially as we get more retirees and the economic downfalls that we are now facing.

Mr. Kimura: Thank you. That question is a little out of the scope regarding what we looked at. The unique situation that KFD has with their CBA, not only with RFR, but their other overtime premium pay differentials. It is because of their unique schedules. A lot of overtime can be incurred and a lot of which is not able to be "managed" in a sense being that is part of the everyday work. There are things that we have identified in our report such as training and the Sparky Fire House Trailer that is managed by the Department. Unfortunately, in terms of taking a look at other Departments within the County relating to potential opportunities—at this point, that is out of our scope relating to this audit.

Council Chair Kaneshiro: Is there anyone else? I have a question. Mr. Kimura, regarding sick leave, I know when we look at RFR we say that there is not much we can do. If we did not have RFR, it would probably save the County a lot of money. When you look at sick leave vacancies, by not allowing RFR for sick leave, would that be a small step to change moving forward? That appears to be an area of abuse where in the last year of the retirees, they took thirty-nine (39) shifts versus a total of thirty-six (36) shifts in the last three (3) years. They took more sick leave on their last year working, which allowed everyone to do RFR and fill the shift spots. As far as sick leave goes, I do not know how you would manage that. Vacation is manageable where employees have x amount of vacation they can use, they are able to schedule it ahead of time, and it gives managers the opportunity to adjust schedules. When people take sick leave and they are taking thirty-nine (39) shifts of sick leave in one year, you are not able to manage tha RFR will explode.

Mr. Kimura: Thank you, Council Chair Kaneshiro. That is a good observation, but that is also a collective bargaining item. RFR is specific to vacancies due to sick leave, scheduled vacations, or other time off. Prior to FY 2015, RFR was limited to only vacancies due to scheduled vacations. That is the difference that you are referring to and is specific to the CBA that RFR is open for sick leave.

Council Chair Kaneshiro: Does it not look weird that thirty-nine (39) shifts were taken in 2017, versus a total of thirty-six (36) shifts in the previous three (3) years?

Mr. Kimura: Yes, it looks like there was an increase between the retirees that were filling in for each other. In general, we saw that there was more sick leave taken by those retirees in 2017 compared to their averages in prior years. It was an opportunity that was used, and the data shows that it was more frequently used as a "fill-in" and to incur RFR hours.

Council Chair Kaneshiro: For me, it looks like abuse with the number amount to be so high in one (1) year versus the past three (3) years. I have a follow-up question from Councilmember Cowden, followed by Councilmember Kualii.

Councilmember Cowden: I would like to ensure that I understand the practice. If someone fills in for RFR, when they take that day that someone else is a Captain, they get paid time and a half regardless. If they take a sick day, they would get regular time pay and exchange it with someone else with time and a half. Is that how this works? Is it an intentional swapping of shifts, so that they both benefit from the hours?

Mr. Kimura: The person taking sick leave is not working, but for the person filling in, because they are filling in for a shift, they are utilizing an RFR shift, which they are getting paid time and a half.

Councilmember Cowden: Is it likely that Platoon I is shifting with Platoon III, they are both shifting, and both are getting time and a half? For example, if I swapped shifts with Councilmember Kagawa, he gets my day and I get his day, I am not actually working more, but we are both getting time and a half. Is that what I am hearing happening? If so, that is a very intentional choice.

Mr. Kimura: They are not shifting at the same time.

Councilmember Cowden: It is not that intentional?

Mr. Kimura: Correct. Rather than retiring with a large sick leave balance, because they have accumulated a lot of sick leave days. Rather than just working, they took more sick leave in the year they retired which allows others to fill in and get paid at time and a half.

Council Chair Kaneshiro: I have a follow-up question. Are you able to use sick day as a holiday? You have to be "sick" to use sick leave, right? Are you able to use sick days as a holiday? With the amount of sick days that were used in the last year, yes, there was some type of collusion with the firefighters saying, "I am going to take a sick leave, you can take my shift, you can take sick leave, and I will fill your shift." If so, they both get time and a half on those shifts and their regular pay for taking sick leave. Just because you have a lot of sick leave does not mean that you can take it as a holiday.

Mr. Kimura: There are policies and procedures over getting sick leave approved. When we were looking at the documentation, we did not have the scope and time to identify whether the proper protocol was used for every sick leave days. We were focused on the overall impact. Yes, what we could see with the

documentation was that it was approved. We did not look at whether the reason for asking for sick leave was legitimate or not. However, that was something we highlighted for KFD to be aware of. Just because you have a sick leave balance does not mean they can use the time; there needs to be a valid reason when doing so.

Council Chair Kaneshiro: We need to take a ten-minute caption break. Mr. Kimura, we will be back thereafter with more questions.

Mr. Kimura: Okay, thank you.

There being no objections, the meeting recessed at 10:34 a.m.

The meeting reconvened at 10:46 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Again, we have Mr. Kimura from Spire Hawai'i, LLP, who presented an audit on KFD. Are there any further questions for Mr. Kimura regarding his presentation on the audit? Councilmember Kagawa.

Councilmember Kagawa: Mr. Kimura, I know that Maui County did an audit where they uncovered significant sick leave abuse. Did you folks perform that audit? This was approximately three (3) years ago.

Mr. Kimura: We did not perform that audit, but we read that audit and the findings.

Councilmember Kagawa: You looked at Maui's audit?

Mr. Kimura: Yes, we did.

Councilmember Kagawa: I thought to myself, if you folks did not perform the audit, it is blatant if you found the same thing. I am glad that you reviewed that audit. Great work, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: *Aloha*, I would like to say *mahalo nui loa* for all your work. It seems quite thorough. I am curious on the timing of when the audit started and ended?

Mr. Kimura: We began the audit in November/December 2019, and we did most of our fieldwork through March and April 2020. Following that, there was back and forth ensuring our facts and findings were correct. We also worked with ERS to get a response to some of our questions that came out of the audit.

Councilmember Kualii: In your time doing the audit, did you have full access and full cooperation from the Administration to get all the data that you needed?

Mr. Kimura: Yes, we did. KFD personnel was very helpful in gathering information. We had a lot of requests. Sometimes the data was not easily accessible, they spent a lot of time on this, and were helpful with providing data that we needed.

Councilmember Kualii: I was curious and the reason I asked that question is because when I look at some of your different charts and data that you provided in this report, on the RFR recall and sixty-seven percent (67%) overtime, you have bar graphs up until 2018. Was it too early to get numbers for 2019?

Mr. Kimura: Yes, for that particular graph, the data that was provided...by the time we finished our work, it was only through FY 2018. That was also a function of our audit scope that we originally agreed to that we would go through FY 2018. To an extent, we received extra data and tried to utilize it when we had the opportunity, but that was one of the items where we stopped our analysis at the end of FY 2018.

Councilmember Kualii: Now, it would be good for us to add on the current data to see if that trend is worsening, leveled out, or starting to get better. I appreciate this. You made fifteen different recommendations and KFD has agreed to all of them. We should be able to do better. Thank you so much.

Mr. Kimura: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. Mr. Kimura, thank you for the presentation, for your foot-work on the audit, and the clear recommendations. I have a few questions. I know Councilmember Chock was asking...what I believe he was referring to was a comparison with other County of Kaua'i Departments regarding spiking. Do you see a comparison with the Fire Departments on the other islands? It seems to be the most in direct comparison in how we are doing.

Mr. Kimura: We did not do a direct comparison. Basically, what we found is that it is difficult to compare between different jurisdictions regarding staffing levels, costs, and budgets. We looked at Maui County's audit and looked at the issues that were raised there regarding overtime and potential scheduling staffing pools that were recommended as part of that audit. However, we did not do a side-by-side comparison of RFR hours. Reason being is RFR is a collectively bargained item that has maximums associated. It would be a matter of whether the utilization would be at the same level of Kaua'i. Unfortunately, we did not do a comparison.

Councilmember Evslin: It would be interesting to know the total spiking penalty compared to total pay as a percentage for each county, how much abuse is in the system, if there is control through managerial oversight, and how much more worse or better we are than other counties. So, if I am understanding

this correctly, from the audit, we learned that RFR is the biggest culprit here being that it is required in the CBA. Given that the change happened in 2015, it basically seems that anyone who is maxing out their RFR is going to end up spiking. Anyone who retires in the last few years who maxed out their RFR in 2015 would end up spiking. Is that true being that they were allowed to get the same RFR pre-2015?

Mr. Kimura: Spiking is calculated based on the last three (3) years compared to their prior seven (7) years. As time goes on from that change in RFR, more of their ten-year period would be in the RFR. It gets “baked in” in. The personnel that retired in 2017 was at a perfect storm timing where RFR was allowed at a higher level, which corresponded in the last three (3) years of retirement. It will start to phase out. Another issue is that the pension spiking bill for anyone hired after 2012, their assessment for the final years is only base pay. Again, that is only people hired in 2012 where you are looking at a twenty-plus year career where these potential issues will be around for a while.

Councilmember Evslin: Thank you. That was actually my follow-up question that if the expectation was that this would be phasing out as that comparison year ends. I would like to get back to that first question. For the most part, anyone who maximizes their RFR in the last two (2) years would end up spiking, right?

Mr. Kimura: Yes, I would think so only because it is an additional available source of overtime, non-base pay that would not have been available in their prior comparison year periods. It is potentially there.

Councilmember Evslin: You mentioned in the audit when you first started that you recommend better controls to identify when it was approaching. Do they currently have the ability see internally at KFD or at Human Resources (HR) when a firefighter is exceeding twenty percent (20%) of their base pay for that year, or when it is expected to exceed.

Mr. Kimura: The data exists. It does not appear that it was actively monitored to be made aware in identifying who might incur excessive pension cost to the County. A part of the recommendations that we are relaying in this audit is—now that you know how the assessment works, how it is calculated, and what goes into the non-base pay versus base pay, everyone needs to be aware that whatever they have control over in terms of overtime that could potentially cause an excess pension cost assessment should be actively monitored rather than getting hit with an invoice after the fact.

Councilmember Evslin: Given that, in theory, it could be possible for an internal monitoring system to flag someone when they are exceeding that allotment, and an internal policy to address RFR, Sparky Fire House Trailer, training, and overseas stuff that is not blatant. When you begin to exceed that threshold, you will not allow anything that management has authority over.

Mr. Kimura: I believe that is potentially available within the constraints of collective bargaining. Yes, if there are certain management

discretion areas for overtime. That could be a way to manage overtime costs, which not only impacts current budget, but also excess pension cost assessments.

Councilmember Evslin: Okay, thank you. Again, I understand RFR “baked in” to the CBA. It looks like KFD has an internal policy of no more than one hundred forty-four (144) hours within six (6) months, which is not in the CBA. It seems like there is flexibility to go stricter in how they are managing how RFR is allocated. Are there any other options when it relates directly to RFR that they could do to ensure there is not abuse happening, or is that to the extent of what they are able to do?

Mr. Kimura: As far as I know, that is the extent of what they can do. I think that the six-month allotment was put into place, so that in situations where someone is retiring at the end of the calendar year, and because the RFR allotment is on a FY, there is a potential that people would try to push all of their twelve (12) shifts into that first six-month period of the FY. This is the reason why the six-month period prorated half of their allotment was implemented at a KFD level. Beyond that, you are limited for the FY regarding the number of RFR hours. As long as they do not go over that, that is what the Department has to deal with regarding hours.

Councilmember Evslin: Thank you. I appreciate that and the work you folks have done and your answers.

Council Chair Kaneshiro: Mr. Kimura, I have a question. In your presentation, you spoke about the abuse happening with the Sparky Fire House Trailer and the types of abuses happening. You went on to mention that policies were implemented in September 2016 and 2019. I heard 2016 and 2019, but I missed what happened in those years. I believe you mentioned that they tried to update their policy, but I do not know what happened in 2019. Were they not following the policy implemented in 2016 and they tightened it in 2019? I missed that part.

Mr. Kimura: In 2016, when the former Acting Fire Chief became aware of the potential “favoritism,” a communication was made to the Fire Prevention Captain stating that the favoritism needed to stop. The Fire Prevention Captain sent an E-mail to all KFD personnel explaining that KFD was creating a new list of people who wanted to work on the Sparky Fire House Trailer. You needed to get on the list first in order to participate. The sign-up process did not change until 2019 when they implemented a system that was similar to callbacks. Once a firefighter participates, his or her name goes to the bottom of the list to ensure anyone interested working has a fair chance to work. The Sparky Fire House Trailer staffing was also limited to one (1) Fire Captain, one (1) Firefighter III, and two (2) firefighters. The initial communication in 2016 was not a big change in the process, but it brought awareness regarding favoritism and trying to control this situation, but the actual substantial changes to the process were not made until 2019.

Council Chair Kaneshiro: Thank you for the clarification. Regarding travel, you mentioned that they changed their policy. If they are traveling and

training for more than forty (40) hours, they would change the person to a 40-hour workweek rather than a 24-hour shift. Do you know when that change took place?

Mr. Kimura: To my understanding, it happened in FY 2020, while we were already doing the work. Therefore, that was a recent change in how they were managing training.

Council Chair Kaneshiro: Thank you. Are there any further questions from the Members? Councilmember Kagawa.

Councilmember Kagawa: To my understanding, in December 2019 or around that time period, KFD was looking at their numbers and saw that they were running short on funds leading into June. A request was made to the Managing Director and Mayor to do a Money Bill to add more money to continue their practices of overtime, and they were denied. Were the auditors aware of this and did you have any conversations with the Office of the Mayor to verify this request?

Mr. Kimura: We became aware of the communication and we had a discussion with the Office of the Mayor regarding general issues relating to the scope of our audit. However, we did not investigate that late-2019 request for overtime. That was outside of our scope pertaining to this audit.

Councilmember Kagawa: Okay. I felt it was relevant and one way to control abuse—you do not give them any money. If the piggy bank runs out, you no longer can raid it.

Council Chair Kaneshiro: Mr. Kimura. I had a question on staffing. I saw a lot of information regarding insurance premiums and how many members they needed at the station. I did not understand how many people they need to respond to an incident or an emergency. Do you have any information on that? It is obvious that you need someone to drive the fire truck and you need someone to operate the hose. I did not get any information on how many people they need to respond to incidents and emergencies.

Mr. Kimura: Ultimately, when we were looking into the issue of appropriate staffing, it became evident that there are other factors involved relating to how large communities are, distances between Fire Departments, et cetera. In our overall recommendation, it was not appropriate for us to dive in this audit to determine whether the former Acting Fire Chief mentioned four (4) firefighters staffing the fire station is sufficient or required. When we talked to him, he mentioned that there are over twenty (20) things need to be done, and they do it with the staffing that they have, which consists of four (4) to five (5) firefighters at each station. Ultimately, it became something out of our expertise to really have any findings on, which is why we recommended that staffing studies be done. In doing so, it would carry more weight and be more effective in how KFD is managed. We focused on the insurance standards, because the former Acting Fire Chief mentioned multiple times in the past that staffing helped to reduce insurance and there was a very strong correlation. That is the reason why we dove further into what is the actual evidence of that. Ultimately, we did not find that there was a high correlation

between staffing and insurance rates—there is a lot of other things that go into that. I hope that answers your question, but it was something that we could focus on versus something that was out of our scope, which is what we ended up putting into our recommendations.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a follow-up to that. Thank you for doing a good job on the objectives that we gave you, and you worked on answering those questions. Recently we got the Matrix Consulting Group survey for the Police Department, and I have been spending time looking at that. Are you familiar with the company Matrix Consulting Group?

Mr. Kimura: I am not.

Councilmember Cowden: Okay. I will ask this later. For reference, when pertaining to the Police Department, the Matrix survey gives us good graphs of the number of calls and the density of time where these calls are addressed. It is particularly relevant for their schedule. I can ask Chief Goble, or maybe we can look at this later. The way the Matrix survey looks at information, it answers things like if we have the right staffing for the right needs and the right places. Thank you, I will hold that question for the Fire Chief.

Council Chair Kaneshiro: Are there any further questions for Mr. Kimura regarding the audit and his presentation? If not, thank you Mr. Kimura. You may want to stay on incase something pops up while we ask the Fire Chief questions. If Fire Chief Goble is available, Councilmember Cowden, you have the floor for questions.

STEVEN R. GOBLE, Fire Chief (*via remote technology*): Yes, I am available.

Councilmember Cowden: Hi, thank you Fire Chief Goble. I am sure that you listened to this conversation thus far and with Mr. Kimura.

Mr. Goble: I have.

Councilmember Cowden: Do you have any commentary on the information? I would like to hear your reflection on this.

Mr. Goble: Certainly. I would like to thank Mr. Kimura and his staff for their good work. This was something that needed to be looked at. I think that they did a good job with “looking behind the curtains” and learning the facts at hand that were driving the issues of concern. I am very appreciative of them. When I talked to the staff that were able to participate in the process and gathering of data, it was clear to me that most of our folks also viewed this as a cleansing process for us internally. There were things that did not seem right, and this was the people’s opportunity to say, “This is what I saw, this is what I experienced, and this is what I felt.” While this was going on, it did not sit well. This gave them the opportunity to have a voice in who we are and what we stand for as a Fire Department. There were

a lot of conversations about the culture. I think that the culture is something that “we” as managers must be very intentional about while driving the behaviors, practices, and the character of our organization moving forward. We take that very seriously, personally and especially being under my leadership coming into this organization. I want to work through things that we can be better at. I am appreciative of the effort, shining the light on this, and I think this has been good for our team and our people. It is certainly airing dirty laundry that we wish did not exist, but the facts point to past practices that were in place and it allows an opportunity for us to improve.

Going forward, I think that the team here with Assistant Fire Chief Kanoho, Battalion Chief Hudson, and Battalion Chief Ornellas, who really worked hard to make substantive changes to improve this problem. The audit points out the fact that there were things both in and outside of our control. We need to take responsibility for those things that are within our control. I think that Assistant Fire Chief Kanoho, Battalion Chief Ornellas, and Battalion Chief Hudson worked hard to rectify that. Those are the substantial changes that Mr. Kimura spoke to in 2019. These items came to light, folks took them to heart, and worked to make those changes. We have since implemented additional tweaks to our system and work to improve them every single day. We want to be better at what we do, we want to be good stewards of the resources that we are handed, and we want to deliver the services that our community wants and needs from us in a responsible way. The challenge with this issue is the things that were accomplished were good things, but the execution was poor. For example, teaching children exit plans and how to get out of a fire in their home, teaching them about fire safety, training the Community Emergency Response Team (CERT)—are all important things. Continuous ongoing training to our team members essential to making sure that we can deliver the right kind of service to our community are beneficial things, but we need to manage our approach to those things in a better way. There has been a lot of good work put in to allow us to do that. Mr. Kimura spoke to some of the changes with the sign-up process regarding the Community Risk Reduction Programs. We have made good strides this year regarding the training component. The utilization of that 40-hour workweek with the transfers is something we worked through with the Union to ensure that we got our controls into place to implement that. They have been supportive of those needs and allowed us to get there. To be more mindful of schedules. The 24-hour schedule does not lend itself to the daily trainings and work that goes on in support of the Fire Department or other programs. Having that tool in our toolbox has been helpful and allows us to make changes. The overall management of what I consider “our discretionary options” when it comes to overtime is really the key. The RFR is clearly the lion’s of share that is driving this issue. Almost two-thirds is what has been indicated in the process. That has controls. It has the maximum cap that help us better manage that. We put the additional control in regarding the six-month limit of one hundred forty-four (144) hours to manage smaller chunks to the bigger number. The audit report indicated that we have not been sharing that data with the Union, but in the past few months, we have been. We have been passing that information along, but the next step for us is to do more analysis on it to better understand what the impacts are.

RFR is not a bad thing. It provides continuity that we look for and it provides experienced leadership in key roles in the Department. How we manage it is something that we have control over and the ability to manage the resources better. We recognize all those things and that we have a role to play in making sure the controls are implemented and followed in the organization. We take that charge very seriously.

There has been a lot of discussion regarding staffing levels. As the audit indicates with the Insurance Services Office (ISO), it was pointing to one (1) of the reasons that the staffing levels presented what they did. Something that is important, ISO evaluate with things across an organization like ours; for example, water supply and resource availability. They go into detail with what is on the fire trucks. Response resources is one of those things. They stop short of saying that four (4) people in a fire station is the right number, but they do point to overall response and you can extrapolate the math. There are other standards out there that exist and drive that number. The standards in this organization are primarily from the National Fire Protection Association (NFPA). NFPA 1500 is their health and safety standard, which drives a big piece of this. There has been debate in the fire service for decades regarding two-in/two-out. This is something that is driven by Occupational Safety and Health Administration (OSHA) standard. OSHA does not necessarily regulate the municipal fire departments, but it is directed at Federal and private industry that offer fire protection services. Two-in/two-out is a respiratory protection standard that says, "If you are going to put people in atmospheres that are immediately dangerous to life and health, you can send two (2) people in, but you need to leave two (2) people on the outside." This is to communicate any problems, initiating rescue, and things that provide an extra layer of safety to the team that is going inside. With two-in/two-out, that is what equals the number four. Departments get that number in many ways. For us on Kaua'i, it is because of our second-due response. The best way for us to get there is to have the first-due company have that amount of staffing available upon arrival. For firefighters to enter a building that has products of combustion in it, to effect a rescue, put a fire out, or to save a property, are things that drive the two-in/two-out rule. NFPA 1500 is the fire industry standard that supports the two-in/two-out. That is the standard of how we get there in this industry. There are other standards that supports NFPA 1710 which consist of response of deployment of resources; they point to a minimum four-person staffing on fire engines. Again, tying in the NFPA 1500 standard and in support of the operations that needs to take place with the first arriving company. Back in 2010, National Institute of Science Technology (NIST) did several studies on fire department response. They read numerous scenarios with different staffing levels, different problems on arrivals for first-due companies—their conclusion is essentially the same regarding the efficiency standpoint and effectiveness of operations, four (4) is the right number of folks to have for a first-due company.

I think we are in the right place when it comes to that staffing requirement. In support of that and as a byproduct of this performance audit process, we also commissioned a utilization study to do what Mr. Kimura and his team recommended. Let us get an external set of eyes on this problem and do an analysis in order to figure out what the right number is for us. What are our resource needs, what are our deployment options, et cetera? Everything will unfold in this utilization study.

Interestingly enough, we have a kickoff meeting scheduled for this afternoon with Emergency Services Consulting as the driver. We look forward to that work. It will be important to us in order to better understand the effectiveness of our resourcing and our response for deployment.

We recognize the problem that was brought to our attention in this audit. We have done a number of things to address the concerns prior to the audit being released. We will continue to do our part to ensure that we control this issue in the best way possible.

Councilmember Cowden: Okay, thank you very much. I honor and appreciate that you folks have agreed with the recommendations and for being responsible to take action. I would like to acknowledge that our Fire Department has been a shining star in terms of addressing the needs of the community, being “on point” for saving lives and remarkably putting out fires. The job that you are commissioned to do, you are doing well, and I am thankful for that. I asked Mr. Kimura if the sick leave and shift trades were intentional planned ideas, I understand why we want RFR. I do not have an issue with that, because you want a Fire Captain doing a Fire Captains job. However, if there is a pattern of intentional abuse, it sounds like you have a plan, and we will be checking to ensure we are successful because there may be alternative ways we are able to assist.

I want to be sure that we are making positive changes when we look at the upcoming budget. It is likely that we are going to have a light budget from both the State and the County. We will not have room to be making generous mistakes. I have other thoughts, but I would like to hear from the rest of the group first.

Council Chair Kaneshiro: Are there any further questions from the Councilmembers for Chief Goble? For me, I noticed the spike in numbers for sick leave, is there a way that you can monitor if it is sick leave abuse? Crosscheck and balance to ensure the paperwork is filled out correctly, the proper protocol is followed regarding calling in sick, et cetera. When I see numbers of thirty-nine (39) shifts in one (1) year compared to five (5), ten (10), or twenty (20) shifts in previous years, it is a red flag for me that there was some type of collusion for sick leave.

Mr. Goble: Yes. In speaking to that, the audit stops short and using terms like “intentional.” However, as we look at it, we have the responsibility to ensure processes are followed, to look for patterns, and to monitor issues. That is something that is within our scope. I will add that being in a collectively bargained world, it is more difficult than it should be. The prevailing response or attitude has been, “That is my benefit and I will use it the way that I see fit.” I believe as a management team, that is not a one hundred percent (100%) accurate statement. If you are sick and you use your sick leave, that is totally appropriate whether that is twice a year or forty (40) times a year—if you are sick, that is why it exists. From a management team’s perspective, we can monitor the situation and if it looks like a pattern that shows evidence of untoward behavior that is implied in the audit.

Council Chair Kaneshiro: Thank you. Councilmember Kualii.

Councilmember Kualii: I think that I already know my answer from your opening comments, and I really appreciate what you have shared. Mr. Kimura and Spire Hawai'i, LLP did a thorough job with their audit. I assume that you read it in detail and looked at the fifteen (15) recommendations that they made. All the recommendations were agreed upon by the prior leaders of the Department. I am assuming that you also agree with the recommendations and will be working to implement as many of those recommendations as possible.

Mr. Goble: Those are my responses.

Councilmember Kualii: Okay.

Mr. Goble: Mr. Kimura presented the draft and asked me to respond whether I agreed or disagreed with the recommendation and to indicate a plan going forward. Those are the responses from the current management team.

Councilmember Kualii: Excellent, thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. Chief Goble, thank you for being here, for your in-depth opening statement, and for all of the work you folks have done to address this issue. Also, thank you to the former Acting Chief Kanoho and Battalion Chiefs before you. I would like to reiterate the question I asked Mr. Kimura regarding the capacity of getting a notification when someone exceeds their sick leave hours compared to previous years and goes into pension spiking territory. Do you folks have that or is that something that you are working on?

Mr. Goble: It is not something that we are currently working on, but it is something that we are able to look at. Every time I open the pages to the formula for spiking, excess pension costs, and all the factors that go into it, it makes my head hurt a little. We need to build a mechanism that can track that for us. It is complex, but it is something that we can look into to see if we are able to come up with a solution for that.

Councilmember Evslin: Thank you. It would be great to coordinate with HR, such that when something does occur, there is a red flag. I also mentioned to Mr. Kimura that when someone enters that territory, they are not allowed to work shifts on the Sparky Fire House Trailer and/or off-island travel training. Some of the discretion regarding overtime that you folks have control over, it would be good to pull the reigns back when people go over. Is that something that could be appropriate?

Mr. Goble: Yes, we have some ability to do that. In specific cases, we have people who are a single resource for some of the projects that go on. However, it is something that we can monitor and work towards long-term solutions. Some of the ways and ideas to control this issue is to distribute this knowledge out across a wider group of people.

Councilmember Evslin: Thank you. I would like to briefly say that the Sparky Fire House Trailer and all the work that you do with the community, types of training, your internal training, off-island conferences, are all vitality important. I am not saying, "Do not do this." I want to ensure that is not contributing factors to spiking when there is so much "baked in" the system regarding RFR. Thank you, Chief.

Mr. Goble: Thank you.

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

Councilmember Kagawa: Thank you, Chief, for your presentation, participation, and recommendations. For the most part, I can say that a lot of this happened before your time. For me, to have a new leader who is clear of these audit findings is refreshing for me. Thank you for taking the job, coming with an open mind, dealing with this problem, and trying to fix it. The City & County of Honolulu is currently doing an audit on the Honolulu Fire Department (HFD). Some of the findings have already come out in the news where they are finding problems with overtime, not having proper approvals, and high numbers beyond reasonable expectation. Maui County did an audit three (3) years ago citing a lot of sick leave abuse that they found. Numbers jumping where it does not take a rocket scientist to say something fishy is going on. At the end of the day, the CBA allows this to happen. They have families to feed and houses to build. Is it possible that you and the other Fire Chiefs can ask HR or the Mayor to help with the next CBA to revise it so that it, does not allow for the generous provisions regarding RFR? Perhaps it is cutting it down a little and giving you folks more control for when people abuse the system, which is what is happening. Is that a possibility? The light is shining on all of the Hawai'i Fire Departments, not only Kaua'i. How do you address this with our fellow county counterparts who are also dealing with this?

Mr. Goble: You are right. The bottom line is that this is a black eye that no one wants. What I am learning about the labor environment in the State is tricky. For the CBA, the State has four (4) of the eight (8) votes that carries the day in these kinds of issues. We need to work on this and work collectively as counties to identify when items like this have a disproportionate impact to the County versus the State, those are times we need to engage with the State and have those challenging conversations about how this is impacting us and the drivers of this behavior within our organizations. I think that you are right, and we need to move on these things. I know that it is specifically in the RFR...I cannot say that I know, but I deduce from the language in the CBA regarding RFR that this change was negotiated with something towards assessing its value. The clause talking about reporting out to the Union regarding benefits and costs is clearly identified in the CBA language. That drives me to believe it leaves it open for these types of conversations. Is two hundred eighty-eight (288) hours the right number or is there room for adjustment? An example is what Kaua'i has done with the implementation of the six-month limit versus the one-year limit to help to control the last six (6)

months of someone's career. These are things that should be considered in the next round of negotiations.

Councilmember Kagawa: Thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Chief, thank you for being here. I am an advocate of the two-in/two-out. With OSHA and NFPA standards in place, it is a safety issue. I gravitate to a few things that my colleagues mentioned. One is the inevitable financial fallout that we are facing and the collective bargaining process. For me, how they intersect is regarding the long-term strategy for our public safety division. When we look at the minimum staffing manpower needs, not specifically, but you mentioned that many jurisdictions look at how to creatively meet those standards. Over the years, we had discussions about integration and cross training that I feel we inevitably must look at in order to be stronger not only financially, but from a safety standpoint. My question is if you have thought about those things moving forward. They overlap and on scene, we have police, American Medical Response, Inc. (AMR). The subject has been broached with lifeguards at the parks versus at the pool. These certifications are attainable if we look at having these discussions with our collective bargaining process and how the flexibility can be addressed. Have you thought about those things?

Mr. Goble: We evaluate those things regularly. The steps we took to not only address pension costs, but overall budget consideration, we made overall adjustments to our daily staffing level and reduced it, for that very reason. We recognized that while the recommendation and the standard is four (4) per station, we were able to look at the big picture and recognize that when we have a situation where our second-due company is in very close proximity, we are able to drop below that number in a safe way. That is one (1) of the little tweaks that we made to the system to try and address certain needs. You are right, the money tree is not exactly blooming, and it does not look like it will be blooming in the future for us. We need to continuously assess our options to create that safety margin. At the top of that list is safe operations for our people so that we can keep the community safe. Within those guidelines, we need to be creative in how we accomplish those goals.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to ask a follow-up question to what Councilmember Chock asked. At times, some of the calls are for small incidents where a person twists their ankle. When a call is placed, between the police, firefighters, and AMR, there are four (4) to eight (8) people who arrive on the scene. I recently overviewed KPD's Matrix Survey, and it may be something to consider looking at in regard to all of the first responders. If we do not have enough demand on our Fire Station so that it is fine when they get called out for a simple situation, that is great. However, when we look at expanding to increase Fire Stations, we need to reevaluate the situation when we are sending the fire trucks out for situations that do not need extensive service. Have you seen the Matrix Survey for KPD?

Mr. Goble: I have not. However, it sounds like the study that we have commissioned will be very similar to that study. We want to be able to say, "X number of our responses are for emergency medical responses." Does it make sense that we send a brush truck, an engine, and Battalion Chiefs to those calls? That would help us to answer those questions regarding our appropriate response level. We want to be smart and strategic about adding resources in the future. It makes sense if our response mix is seventy-five percent (75%) emergency medical and fifteen percent (15%) fire related, and whatever else falls in between, it does not make sense. When we open a Fire Station, do we start with a minimal EMS capable response as the starting point so that it is more cost efficient, but still be able to address majority of the problem. I think those are strategies that we should have in mind. Again, this utilization study that we will be undertaking will help us to define that better. Understanding the risk in the community, what the appropriate response to that risk should be, and ultimately resource that response requirement is the path that we need to take.

Councilmember Cowden: Thank you. I have a few questions regarding the CBA. If Matthew Bracken or Michael Dahilig can answer my questions, Chief Goble, I would like you to listen, so you are able to hear their response. If they are both listening, this question is most likely for Michael Dahilig. Is our HR person the one who attends as one (1) out of eight (8) people there for the CBA? Is that correct?

MICHAEL A. DAHILIG, Managing Director: Michael Dahilig, for the record. Councilmember Cowden, the way that the State's collective bargaining statutes are set up for each unit, each county employer is given one (1) vote and the Governor is given four (4). When you use that phrase "eight (8)," it is only five (5). Out of the five (5), the Governor has half of the votes. If one (1) county joins the Governor, it effectuates an offer from the employer collectively to the Union for any type of changes to the agreement or to make the offer official. Normally, that is how it works. Yes, our Director of Human Resources is the person who sits in the negotiations and can cast Mayor Kawakami's vote after she consults with the Mayor on what is on the table. It turns into scenarios across all collective bargaining units where the State holds half of the votes and the counties hold the other half. You would need one (1) Mayor to agree with the Governor on a particular offer.

Councilmember Cowden: I am assuming during this time of the COVID-19 shutdown...I am not sure the specific word we are calling it...safe social distancing. Is the next CBA event going to be remotely? I am asking because as Committee Chair for the Public Safety & Human Services Committee, I know that I would not have a voice, but I would like to listen. Two (2) years ago, it was suggested for someone from the Council to attend the meeting.

Mr. Dahilig: For the collective bargaining negotiations?

Councilmember Cowden: Yes, to be able to hear it. It seems like we do not even get a choice. KPD and KFD are two (2) of the most expensive Departments in the entire County. We do not have a role in this process, and we are not able to listen to what happens.

Mr. Dahilig: Councilmember Cowden, I understand what you are asking, but this is a separation of powers situation where the employer, which is the Mayor as Chief Executive Officer of the Government Administrative side is empowered to have that discussion as part of the negotiations. Where the Council comes into the result of the negotiations is that the Council can elect to fund or not fund the proposal. There have been bills that came up before the Council for consideration. Based on past situations, the Council has a say in putting money behind the agreement. If there is no money behind the agreement, then the agreement ultimately fails. That is an example of where the Legislative Branch comes into the overall collective bargaining process—they can assert its will in saying, “A particular proposal is not wanted, we are not going to fund it.” It will then force everyone back to the table again.

Councilmember Cowden: I am not sure if my next question is for you or Matthew Bracken the County Attorney. I know that your background is also in law, and you might know the answer to this question. In this CBA, can the Counties do anything to rollback or ease abusive pension spiking opportunities? RFR is important, but it sounds like only in 2015 overtime occurred, can there be a rollback in the CBA discussions?

Mr. Dahilig: Councilmember Cowden, I would suggest forwarding a formal question over to the Office of the County Attorney. As Chief Goble has alluded to, the CBA are very dense and how they actually lead to rights that the employer has and certain rights that the employee has...there is often a shade of gray in how words on paper are interpreted, hence the grievance process or the prohibited practice process before the Hawai'i Labor Relations Board (HLRB). Rather than giving a shotgun response based off of your question, I think that it is in the County's best interest to let the Office of the County Attorney to review that question and provide legal guidance to what tools the Administrative side has to hold firm on certain items or be able to enforce certain items in the CBA that seem to be abused. As the Chief mentioned, they are actively looking at things such as better monitoring of RFR payments and how to take advantage of things like the 40-hour workweek. Ultimately, as the Chief also alluded to, there is a lot better process and product when those discussions happen bilaterally with the Union rather than unilaterally from the standpoint of unilateral limitation. That discussion process with the Union as part of an understanding in how the contract is going to be enforced, makes for a better cooperation, working at cooperative environment with the Union rather than leading to a series of grievances based off of unilateral limitations

Councilmember Cowden: Okay. I respect what you are saying and the importance of having written discussion on this. The general intention of my question without needing it answered is, if the process prior to 2015 was better than now and legal, maybe we can rollback to that. I am ultimately looking at our fiscal accountability and realizing that it is a lot of management work for our Fire Chief and leadership to contain, monitor, watch, than to simply remove something that inspired less than good practice. It seems that we have an area that can use help. I am glad to hear that our Chief and leadership team want to work proactively on solving that, and I am looking if there is a way that the Councils can help. I think

that we can talk to the other counties through HSAC or a similar direction. Between the four (4) counties, we can all say, "Hey, we are all on the same team," it gives us some parity with the Governor. We will look for ways to help you folks to solve this situation. Thank you.

Mr. Dahilig: Councilmember Cowden, in response, I will say that what the audit pointed out is that we need to constantly be vigilant in adjusting to new requirements and not doing business as usual. This would not be a point of issue if it was not for the Act 153 coming in and creating penalties for bad behavior. That is essentially what we would expect from all our department heads to adjust to the new requirements and make it a financial obligation on our end. What is clear from the audit conducted by Spire Hawai'i, LLC, is that there was resistance to adjust to those norms. It is the law. We do not have a choice to not abide by Act 153, we get a bill every year, and our department heads need to be vigilant to adjusting to things that hit our taxpayers' pocketbooks. That is the message in the audit, that needs to be changed. Based on what Fire Chief Goble's response is, those changes are now welcomed within the Department, which seemed to be the most resistant to that in the past.

Councilmember Cowden: Thank you everyone.

Council Chair Kaneshiro: Are there any further questions from the Councilmembers. If not, thank you.

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

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

Councilmember Kagawa: Thank you. For me, it triggers and brings back some of the anger and frustration of previous years. It all started during a previous budget when I asked Scott to do an analysis for me on the County's largest budgets, which were KPD, KFD, and Solid Waste. I believe I asked for a ten-year analysis. KFD went from sixteen million dollars (\$16,000,000) to thirty-three million dollars (\$33,000,000) over ten (10) years. They increased approximately ten percent (10%) per year. Typically, government salaries go up five percent (5%) per year. I was thinking to myself that this seems out of control, and KPD was the same, increasing approximately ten percent (10%) per year. Over the past six (6) years, KPD has done a better job in minimizing some of the abuse with overtime, they had a lot more control under our current Chief of Police. Apart from COVID-19, I think he has done a great job. With KFD, I proposed some of my options to reduce the ten percent (10%) per year, I made cuts for KFD every year. It started at two million dollars (\$2,000,000), I did a second amendment for one million dollars (\$1,000,000), and another amendment for five hundred thousand dollars (\$500,000). It was a general cut to overtime that I felt they had a lot in other areas of their budget. When I proposed these budget cuts, former Fire Chief Westerman and the staff who were sitting in the audience were smirking at my cuts, and they were telling us on the podium that our cuts would cause public safety backlash.

Now, to receive this audit and see that it was all done because “senior employees have earned the right to take advantage of overtime as they approach retirement.” That is not right. Your right as a Fire Chief and as a Department is to spend your taxpayers’ money, protect the public health and safety of the island residents, in a prudent and fiscally responsible way. It is not to commit fraud, abuse, et cetera—which is what occurred based on the audit findings. Today, I sit here, and I knew...I knew the results of the audit would come out the way that it did. A lot of the information that I was getting was from inside personnel who did not want to be named. I continuously asked them for the past six (6) years. Councilmember Chock, a former fireman, he helped me on several occasions. Council Chair Kaneshiro, being my strongest supporter. All of you, you have all said, “this is not okay.” Mayor Kawakami, when he was a Councilmember, sat across me, he felt that the abuse was not okay. We love the good work that they all do, it is not upon the men. It was up on the management to see that this cannot continue. Who is going to end up suffering when you continuously abuse the system? The younger people are going to end up suffering when all they are trying to do is their job. The senior employees think that they have a right to fatten their piggy banks before they retire—that is not right. It is not former Fire Chief Westerman’s money to give out bonuses as people retire. He is not Santa Claus. I am more upset with the audit findings, because of the attitudes that we faced during budget. The cocky attitudes they had when saying, “How dare you tell us how to run our Department, we protect...” It has nothing to do with that. What I was asking was how do we stop the abuse and control your spending? I am worried about the future, I am worried about the *keiki*, I am worried about people who are not firemen or married to firemen, I am worried in general. It is not right, and it was never right. I hope from now on with Chief Goble, we start to get it right. Thank you.

Council Chair Kaneshiro:

Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Kaneshiro. First, I would like to thank Chief Goble for being here and having the courage. I would like to ensure that he knows my comments do not reflect what he has responded to as a result of taking this position. In the audit, he has properly responded, and to the recommendations that are being formed. I will say that, we have created a culture where everyone must realize that they have a piece and a part to play in the outcome that we are experiencing. That culture really is in acceptance of irresponsible behavior; and ultimately, it is an entitled mentality. As far as I am concerned, what we have seen was abuse of the public’s trust and mismanagement or management oversight. As we look forward in how we are going to address this, with the result of this audit, we saw how it is going to get done from a manager’s perspective. However, from a system standpoint, I think that we are very limited when we look at collective bargaining and when we look at raises. I appreciate what the Managing Director mentioned. There have been comments made, but the Council is limited how we approach this. What you have seen is a “hammer” used to try and address, to send a message saying, “This is not the way we want to approach this, can you take a look at it, it is not working.” I do not think it has happened before, but this Council has moved twice to deny raises. The only thing the Council has a say in is whether they can accept the CBA. That was a cry out for everyone to look at this. The pension

spiking was another “hammer” situation. It was very broad in the approach that was taken, but it sends a message, “This is something that we have to address, because it is not working for us.” I do appreciate Councilmember Kagawa comments regarding his intentions. My hope is that while working alongside the other Counties, we can be more “proactive,” and what I have heard is “less reactive” to how we are able to control our future, and still provide the exceptional service that our Fire Department offers our community. I think this is possible. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. I would like to echo what has been said. Number one, I would like to thank Mr. Kimura for the audit and the good work. Thank you, Chief Goble, for being transparent throughout this process, and especially today. Some of the work that came immediately before him is instituting long needed reforms regarding 40-hour workweeks for training, the Sparky Fire House Trailer, and other scenarios where there seemed to be abuse. I would like to echo what Councilmember Kagawa was saying, what is unfortunate about spiking is that it puts a cloud over the entire Department because of the abuse of a potential selective few. This came up during the CBA, and as Councilmember Chock said almost got voted down because of people who have already retired. Especially as we impact people who often probably cannot even spike in the same capacity. The other problem is when we have a two million dollar (\$2,000,000) spiking penalty, that could have gone towards affordable housing development, other public services, or to reduce taxes. This is money that is coming out of taxpayers’ pockets. This is money that does not come out of thin air. This is coming out of reduced services or higher taxes. It is incredibly unfortunate. Going forward, I would like to recognize that the audit has made it clear in some of the statements that RFR does maintain spiking into the system. Even with all the managerial reforms that we take, by someone maxing out their RFR, they are likely to spike over the next few years until we can get more RFR that are based on comparison pay. This is hard to say, but I would encourage people to be aware that if they are maxing out their RFR and are in their final years, this will come out of the public’s expense, and hopefully they do not max out their RFR. I would also hope that the Department will continue to take measures to identify when someone is exceeding their comparison pay by “X” percent, and in discretionary overtime back off on some of that. Lastly, I would like to say, as I said this to Chief Goble, this is not a knock on the work that they do in any capacity. The Sparky Fire House Trailer, the training, the community work, the off-island training all are vital. Overtime is baked into the system. The problem is when that goes above a certain percentage, and the taxpayers pay for their pension costs over and above what we should be paying. Thank you to KFD for all the work they have done to take control on this situation, and I am confident that they are going to continue to work hard.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I will not repeat anything that was already mentioned, but ditto to what my fellow Councilmembers have already shared. I would like to say *mahalo nui loa* to Spire Hawai‘i, LLC, for doing such a thorough audit, and Chief Goble, for taking this on and being willing to work on the

recommendations. I would like to thank Councilmember Kagawa for leading the way and to the Council for commissioning or contracting this audit. As we are yet to hire and recruit a County Auditor, it is critically important that we as a Council perform audits like this, so that we as a County can do better as public servants and be more fiscally responsible. As a County, it is our taxpayers' hard earned dollars that we work with day-in and day-out. I am hopeful. We have a new Fire Chief, a thorough audit with fifteen (15) different recommendations that have all been agreed to, and we will do better. I would like to see the numbers and results in the next upcoming years.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: It has been well said by all my colleagues. I am not wanting to repeat what they are saying. I appreciate and I agree with all the good points that have been made. As today is Councilmember Kagawa's last day, I think it is really fitting that we got this result. As long as I have been on this Council and prior, this has been a very big issue for you, and you were right. I want to acknowledge your persistence, I appreciate you. I appreciate KFD. When the Union came here and I felt they were twisting our arms, I think it was the angriest I got, it is important that we stand up to the Union if they overreach. This is an example where we are seeing the evidence where it was overreached. I appreciate all our firemen, and firewomen. I appreciate everyone and I am glad that we had success with the audit done by Spire Hawai'i, LLC. Thank you Spire Hawai'i, LLC, Chief Goble, and everyone involved.

Council Chair Kaneshiro: I would like to say thank you to Mr. Kimura for the audit. Chief Goble and the Administration for being responsive to the audit. Obviously, it would be more difficult if the information was not flowing freely. I have been Chair of the Budget & Finance Committee for the last six (6) years, and this has been an issue for me. Every year during the Budget Meeting, we ask the Fire Department what they can do to be efficient and cut costs. The answer is always "nothing, RFR is what it is, and it will continue to increase." This audit finally gave us the evidence to show that there are things...RFR is there, but management must take control over how they are controlling overtime. This audit identified areas where abuse did occur. The Sparky Fire House Trailer was being abused and travel training was being abused. I am glad that changes were implemented, and the major changes were implemented after this audit started. I am glad there is changes being made for the Sparky Fire House Trailer in the way they schedule, and to be fair. I am glad they recognize the travel abuse and changed the policy in year 2020. Sick leave is something that we need to watch and where there was major abuse.

In 2017, you have thirty-nine (39) shifts of sick leave used versus five (5), ten (10), and twenty-one (21) shifts from the past three (3) years. That is a red flag that something is going on. It is obvious as people are ready to retire, they do not want to lose sick leave, so they are going to use it. Sick leave is not a vacation day and it is to be used when you are sick. That needs to be watched. The audit shows that there are changes that need to be made that can help improve how the Fire Department operates. I am glad that Chief Goble is here, he recognized the issue, and made these changes. Councilmember Kagawa and I took heat the last time

Collective Bargaining came up. All we were asking was for them to be accountable. They were asking for increases and bonuses, and we were saying, "We just got a two million two hundred thousand dollar (\$2,200,000) bill for spiking, and we are going to give out bonuses?" We were looking for accountability and change, frustratingly enough, it never happened until this audit came out. For me, it was nothing against the firefighters, it is being fair, and looking out for our taxpayers' dollars. We need to look out for the entire island and we need to look out for our taxpaying residents, to ensure our money is being spent wisely. When we pay a two million two hundred thousand dollar (\$2,200,000) spiking bill for ten (10) employees, that is two million two hundred thousand dollar (\$2,200,000) that could go to a new firetruck, Personal Protective Equipment (PPE), et cetera; but no, it went into ERS, because of firemen that spiked.

When you look at fairness, majority of the spiking every year is caused by KFD. Obviously, the Collective Bargaining Contract favors the Fire Department to spike more than any other department. That is something we need to look at. Sick leave is obviously a way to abuse RFR. It would be a good step forward if we were able to go into Collective Bargaining and say, "We are okay with RFR, we know that it helps to provide consistency, but we need to take out the sick leave that is an area, which seems to be abused." That would help management manage RFR and overtime better. This has nothing personally to do with firemen, it is Department accountability. I am glad that it came out before Councilmember Kagawa left. It has been something that we talked about every year. With that, is there any further discussion from the Members? Councilmember Kuali'i.

Councilmember Kuali'i: I would like to make a comment that was not broadly shared, but it was mentioned. I would like to say that the Union is not necessarily the "bad" organization or person for this issue. The Union is the collective voice of the workers, and they are primarily there to protect health, safety, fairness; and compensation is a big part of that. When we talked about the CBA, let us remember that it is two (2) sides that come to the table, and management ultimately agrees to the CBA. If we as a County have issues that we want to change with the CBA, we need to do it from the County's end. Whether it is four (4) votes with the Governor, and the other four (4) with the Mayors from the different Counties, it is the eight (8) votes that allowed what happened to happen. The Union are workers themselves; when they come to the table, they are going to bargain for the best that they can get for their workers. We all admit, our workers work hard, and they are important to us. I wanted to share that the Union is not the bad person in all of this. Thank you.

Council Chair Kaneshiro: Is there any further comments or discussion from the Members? If not, the motion on the floors is to receive.

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

The motion to receive C 2020-283 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 2020-284 Communication (11/19/2020) from Councilmember Evslin and Councilmember Chock transmitting for Council consideration, a Resolution Urging The State Of Hawai'i To Adopt A Revised Safe Reopening Plan For Kaua'i County Due To The Coronavirus Disease (COVID-19) Pandemic.

Councilmember Kualii moved to receive C 2020-284 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We will discuss this item when the Resolution comes up on the agenda. 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 2020-284 for the record was then put, and carried by a vote of 6:0:1*.

COMMITTEE REPORTS

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2020-04) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“Communication (09/15/2020) from Councilmember Cowden, requesting the presence of the Acting County Engineer and the Acting Solid Waste Chief, to provide a briefing on Act 073 (Session Laws of Hawai'i 2020) and the implications that this legislation may have on any future planning efforts by the County of Kaua'i Department of Public Works, Solid Waste Division,”

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*.

PLANNING COMMITTEE:

A report (No. CR-PL 2020-09) submitted by the Planning Committee, recommending that the following be Approved with amendments made to the West

Kaua'i Community Plan booklet entitled "Planning Commission Draft" dated May 26, 2020 including all Appendices, as referenced in Bill No. 2797:

"Bill No. 2797 A BILL FOR AN ORDINANCE ESTABLISHING REGULATIONS, PROCEDURES, ZONING, DEVELOPMENT PLANS, AND FUTURE GROWTH AREAS FOR THE HANAPĒPĒ-ELE'ELE PLANNING DISTRICT AND THE WAIMEA-KEKAHA PLANNING DISTRICT IN CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, AND ESTABLISHING EXCEPTIONS, MODIFICATIONS, AND ADDITIONS TO CHAPTER 8 AND CHAPTER 9, KAUAI COUNTY CODE 1987, AS AMENDED, AND AMENDING ZONING MAPS ZM-K100 (KEKAHA), ZM-W100 (WAIMEA), AND ZM-H200 (HANAPĒPĒ) (WEST KAUAI COMMUNITY PLAN) (ZA-2020-07)."

A report (No. CR-PL 2020-10) submitted by the Planning Committee, recommending that the following be Approved on second and final readin:

"Bill No. 2798 A BILL FOR AN ORDINANCE AMENDING "KAUAI KĀKOU – KAUAI COUNTY GENERAL PLAN" (2018) LAND USE MAPS AND OTHER PROVISIONS RELATING TO THE WEST KAUAI COMMUNITY PLAN (ZA-2020-08),"

A report (No. CR-PL 2020-11) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2799 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, BY ESTABLISHING A NEW SPECIAL TREATMENT COASTAL EDGE (ST-CE) DISTRICT AND AMENDING ZONING MAPS ZM-K100 (KEKAHA), ZM-W100 (WAIMEA), ZM-200, AND ZM-H200 (HANAPĒPĒ) (ZA-2020-09),"

A report (No. CR-PL 2020-12) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2800, Draft 1 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, BY ESTABLISHING A NEW PLANTATION CAMP (PC) DISTRICT AND AMENDING ZONING MAP ZM-200 (ZA-2020-10),"

A report (No. CR-PL 2020-13) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2801 A BILL FOR AN ORDINANCE TO OVERLAY THE SPECIAL TREATMENT PUBLIC FACILITIES DISTRICT (ST-P) ON A PORTION OF ZONING MAP ZM-H200 (HANAPĒPĒ) (ZA-2020-11)."

A report (No. CR-PL 2020-14) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2802 A BILL FOR AN ORDINANCE AMENDING
ZONING MAP ZM-200 (ZA-2020-12),”

Councilmember Kuali‘i moved for approval of the reports, 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 these agenda items.)

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

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:

A report (No. CR-PSHS 2020-04) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PSHS 2020-03 Communication (10/22/2020) from Committee Chair Cowden, requesting the presence of the Chief of Police and the Managing Director, to provide a briefing on the County of Kaua‘i’s data resulting from the State’s reopening of transpacific travel on October 15, 2020, including the rough percentage of incoming travelers and residents who have not been tested for COVID-19, anticipated challenges with quarantine enforcement, funding and personnel strategies, and identifying agencies and departments that will be conducting quarantine enforcement,”

Councilmember Kuali‘i moved for approval of the report, seconded by Councilmember Cowden.

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

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

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

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2020-22) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2020-10 Communication (10/22/2020) from Committee Chair Cowden, requesting the presence of the Chief of Police and the Managing Director, to provide a briefing on the County of Kauaʻi’s data resulting from the State’s reopening of transpacific travel on October 15, 2020, including the rough percentage of incoming travelers and residents who have not been tested for COVID-19, anticipated challenges with quarantine enforcement, funding and personnel strategies, and identifying agencies and departments that will be conducting quarantine enforcement,”

Councilmember Kualīi 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: We have about fifteen (15) minutes until lunch, let us see if we are able to get through the HSAC Resolution. We will see where we are after that, and we may have to break for lunch, and come back for the remainder of the agenda items.

RESOLUTIONS:

Resolution No. 2020-56 – RESOLUTION APPROVING PROPOSALS FOR INCLUSION IN THE 2021 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

Councilmember Kualīi moved for adoption of Resolution No. 2020-56, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions on the HSAC Legislative Package? Many are recurring items that we have already talked about in the past. I do not think that we need an overview on this. Is there any final discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I would like to make a comment. One (1) of these items that is coming from Maui County is single-payer healthcare. I am excited that it is on our package, because it is so long overdue to be having a discussion. It is only a Resolution and it does not mean that it will happen. When I deal with the community that struggles, we may think that they are taken care of, but we do not. Instead of making an insurance claim, I hope someday I make a tax payment that supports single-payer healthcare. That will help everyone go to the doctor.

Council Chair Kaneshiro: Is there any further discussion on this?
Councilmember Chock.

Councilmember Chock: I would like to thank the Council for moving these items forward regarding HSAC. I would like to remind everyone that HSAC hired a lobbyist to help support advancing these measures. Although this gets passed here, it is only the beginning. We need to follow them closely and support them. Thank you.

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

Councilmember Cowden: I would like to also thank our team at the County who has worked hard dealing with our abandoned vehicles. It looks like we are making progress, but we have several items on the HSAC Package that are designed to help break through some of the impasses that we have had. Thank you for the work. I would like to acknowledge Councilmember Chock, our Police Department, and everyone who was a part of that effort. By moving the abandoned vehicles to where they should be is good for everyone and our environment.

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

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

The motion for adoption of Resolution No. 2020-56 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. |

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Six (6) ayes.

Council Chair Kaneshiro: With ten (10) minutes left, we will take a lunch break. Being that the next Resolution is going to take longer than ten (10) minutes, I do not want to rush through it. We will take our lunchbreak; we will be back in one (1) hour and proceed with our agenda items.

There being no objections, the meeting recessed at 12:20 p.m.

The meeting reconvened at 1:27 p.m., and proceeded as follows:

Resolution No. 2020-57 – RESOLUTION URGING THE STATE OF HAWAII TO ADOPT A REVISED SAFE REOPENING PLAN FOR KAUAI COUNTY DUE TO THE CORONAVIRUS DISEASE (COVID-19) PANDEMIC

Councilmember Kualii moved for adoption of Resolution No. 2020-57, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Councilmember Chock, would you like to provide a brief explanation?

Councilmember Chock: I will briefly share information and let Councilmember Evslin add anything thereafter. When the travel precautions were being presented, there was a lot of movement from the Council trying to come into alignment and provide input. At that time, we were a little late in presenting a Council resolution, but we submitted letters in response to our interests and in hearing from the constituents. This time around, as we have been monitoring the progress of the program, we have been seeing the need. Councilmember Evslin and I reinvigorated the original Resolution that identified the interest of having a post-test instituted. That is basically what this Resolution consists of, but it goes a little further in asking if that rule for a mandatory post-test is not put into place, we could perhaps look into opting out of the pre-travel test program. I believe since Mayor Kawakami made his statement requesting for a pause in the program, there may be a need or interest to amend the current Resolution that we are looking at today to come into alignment. I will let Councilmember Evslin continue.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro and Councilmember Chock. The Resolution is in support of either a 2-test program for incoming arrivals, or in support of the Mayor completely opting out of the Safe Travels Program. I would like to mention a few things since it was drafted and placed on the agenda last week, there have been a few updates, that mostly occurred yesterday. Number one, a peer reviewed report came out written by Dr. Darrah O'Carroll, showing that the State's surveillance testing on Kaua'i showed fifteen (15) per one thousand (1,000) arrivals on island are positive for COVID-19 after receiving a negative pretest, which is fifteen (15) times higher than the one (1) per one thousand (1,000) figure predicted by Lieutenant Governor Josh Green. The report outlines this occurs because the single test will miss up to sixty percent (60%) of infected individuals. The test does not pickup positive results in the early days of infection. It shows persuasively that with the current island's and infections on the mainland, only a 14-day quarantine or a seven-day quarantine followed by a second test are adequate safety protocols for arrivals. Yesterday, Dr. Janet Berreman, District Health Officer, penned an op-ed in the Honolulu Star Advertiser urging a complete opt out of the single test program and reinstating the 14-day quarantine until case numbers are brought down. Most importantly, yesterday, Mayor Kawakami formally requested to Governor Ige that Kaua'i will be opting out of the Safe Travels Program entirely, and reinstituting the 14-day quarantine starting December 1st. With that, the Resolution is merely supporting the Mayor's efforts to keep Kaua'i safe. As Councilmember Chock mentioned, we have a small amendment.

Councilmember Evslin moved to amend Resolution No. 2020-57 as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Chock.

Councilmember Evslin: Being that the Mayor's opting out request came after the Resolution was drafted and put on the agenda, we want to amend the Resolution to make it clear that the Resolution supports the Mayor in opting out now. This is in order to get cases under control, and to implement a science-based 2-test plan.

Council Chair Kaneshiro: Are there any questions from the Members on the amendment? Councilmember Cowden.

Councilmember Cowden: The amendment was just handed to us, and I am trying to read it quickly. Is this amendment still suggesting the 2-test plan?

Councilmember Evslin: The first Resolution stated proposing the 2-test plan, and if we are not able to do that, we would be opting out. Being that the Mayor already opted out yesterday, the amendment is opting out now, and work to develop a 2-test plan thereafter. This is being modified to say if the 2-test plan is rejected, this supports the Mayor opting out now.

Councilmember Cowden: I still see that we have a 2-test plan in here.

Councilmember Evslin: It is saying if we are opting out now, and work to develop the 2-test. It is supporting both ideas. Even if we opt out now, we still need a 2-test because we are going to be in this for however many months more.

Councilmember Cowden: Okay. As long as it can be both. If the 2-test was three (3) days, how many days is it now?

Councilmember Evslin: Perhaps Managing Director Dahilig can respond?

Council Chair Kaneshiro: The Resolution does not mention the days, it only mentions the 2-test plan. Michael, can you clarify.

There being no objections, the rules were suspended.

Mr. Dahilig: Michael Dahilig, for the record. To address the question, Councilmember, I would like to provide a background on this. We submitted a proposal to the Governor to do the post-test last week Monday. That was something that we proposed as something that needed to involve a mandatory three-day quarantine, with a test that would be administered at the cost of the traveler. Those tend to be the two (2) items that the Governor is not agreeing to. Therefore, we are in a position where we must look at the data and be able to respond accordingly. The Mayor in his judgment had to make a difficult call to say something must shift; change the paradigm.

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

Councilmember Kagawa: Michael, in reading the Honolulu Star Advertiser, the article said that it is expected that Governor Ige will not approve of opting out. Is that the same feeling that we have?

Mr. Dahilig: Councilmember Kagawa, there are ongoing conversations. We do not know where the Governor is going at this point. All we know is that we sent out the Rule yesterday afternoon, and there have been various video conferences with the Mayor and the Governor. I have been tending to Council, so I have not been able to get up to date regarding the latest information.

Councilmember Kagawa: I received calls from the community that are asking about opting out and what are they going to do with their children. I told them to hang on, and the Mayor is asking that Kaua'i be allowed to opt out. It is not in effect until the Governor approves.

Mr. Dahilig: Councilmember Kagawa, that is correct. The reality is that the opt out mechanism was proposed by the Governor a few weeks ago when this was preceding the start of the Safe Travels Program on October 15th. What we are simply doing is trying to trigger a mechanism that the Governor created prior to October 15th, by his offer in letting counties opt out of the system if they wanted to. At the time, I believe the Mayor's thought process was to see if the Safe Travels Program would work. Right now, the numbers seem to indicate that we are getting to prevalence levels that are not within our ability to safely handle if it continues on that trajectory. At this point, there are a number of cases that are in the analysis today and is in line with what we have been seeing as an upward trend in the prevalence of disease on the island.

Councilmember Kagawa: Understood. There is so much confusion with residents as they plan for their children to come home. It is hard to gauge when the County of Kaua'i is saying one thing, and the State is saying another. There are a lot of confused and upset residents. They want clarity. I am sorry to say, but this process is complicated.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Kaneshiro. Michael, thank you for being here. We need to repeat ourselves again. To be clear, we are not locking down. Travel is still available for everyone. After December 1st, if we opt out of the Safe Travels Program, everyone will need to quarantine for fourteen (14) days. Is that correct?

Mr. Dahilig: That is correct.

Councilmember Chock: A few weeks ago, prior to the plan taking place, Hawai'i County made the decision that they would opt out of the plan. That was available to the counties to make that decision unilaterally. The question is, is that still the case now with the Mayor's announcement in wanting to move in this pause, that we

have direct purview to close down on December 1st, or do we need permission from the State in order to do so?

Mr. Dahilig: We need permission from the Governor. This is a statewide program, and we do not control airlift into the County of Kaua'i. The mechanism for quarantine is also by statute under the purview of the Governor's Office, and not necessarily under the Mayor. This request to opt out is a "request," and is not something that can be unilaterally effectuated by the Mayor's authority in this situation.

Councilmember Chock: Thank you for clarifying that.

Council Chair Kaneshiro: I have a clarifying question that does not pertain so much to the Resolution. We hear information regarding the new rules. I heard something requiring a negative pre-test before flying. Did that pass, and what is the status on that?

Mr. Dahilig: That is a State requirement as part of the overall Safe Travels Program that is laid out in the Governor's Sixteenth Supplemental Proclamation Relating to COVID-19. That change was put into force and effect by the additional Proclamation made by the Governor that you need to have the test results in hand when you are coming through the checkpoints at the various transpacific receiving airports across the State. That is the case and that requirement is done by the Governor's Proclamation. We asked for that by County Rule because when the Fifteenth Proclamation was released, it did not have that item in there. We have a quarter of our travel related cases with folks who did not have test result when they arrived, and they found out they were positive after they arrived on island. When you have a quarter of those cases that are coming into your County and as a result of that particular type of noncompliance, it behooved the Mayor to submit a local rule because that is the only area of jurisdiction as Kaua'i. The Governor believed that it was something that needed to be done statewide and did a Supplemental Proclamation shortly thereafter, so it was not necessary for us to announce that rule.

Council Chair Kaneshiro: Thank you. Councilmember Cowden.

Councilmember Cowden: The way I read this, it is like leverage. It is saying, "We are going to opt out until a science-based 2-test PCR plan, a proven science-based multitask antigen plan is adopted." I would like it if somewhere towards the top of the page, on the fourth whereas, if that whereas said, "Whereas a 2-test plan with a shortened four-day or five-day quarantine, "if it was specific," will dramatically reduce infection rates." I know that a lot of people would prefer six (6) days. I am negotiable on that. If we say, "shortened quarantine or 2-test," what would not work for me if that means that they would take a test before they get on the plane and they take a test when they got off the plane. It is one and one-half days apart, and basically defeats the purpose. I feel like that fourth whereas should suggest the length of the shortened quarantine. When we go to the full fourteen (14) days, that is stopping visitors from coming again. I am trying to think about the hotels that reopened. If it is four (4) days or five (5) days, that would work; I do not think two (2) weeks will work. What I would like to see us end up with is the 2-test piece with four (4) or five (5) days quarantine.

When we do not give a length of what a shortened quarantine means for a 2-test plan, I do not feel that this has enough direction. Is there any response on that from anyone?

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

Councilmember Chock: The first thing I would like to say is that this a resolution. The Mayor does not have direct oversight on the decision process. This is a "call for action" in a specific direction. My interest in this is that as a County, we are in alignment. I am open to that, but I can tell you exactly what I want which is not a 3-day test; I want a 6-day test.

Councilmember Cowden: Okay.

Councilmember Chock: I do not know if that is the outcome I am looking for right now, because we want alignment. I would pose that question to the Manager Director, and ask him what the Mayor would agree to. They already offered a 3-day test and it was rejected. I am guessing that is most likely where they want to go. I want to leave it off the table because of that reason.

Council Chair Kaneshiro: Councilmember Evslin, and Michael if you want to answer also.

Councilmember Evslin: In addition to what Councilmember Chock said, I would briefly say that the reason it says science-based 2-test plan or a proven science-based multi-test antigen is to say that this should be something that has data to back it up. I think it would eliminate the option for a 1-day or 2-day test and will not leave many people out. As Councilmember Chock said, we wanted to leave it broad in there. I personally would support a 6-day or 7-day test, but we wanted to leave it broad for the Mayor to advocate in the best interest.

Council Chair Kaneshiro: Councilmember Cowden, are you comfortable with that?

Councilmember Cowden: Yes. Did Managing Director Dahilig have something to add to that? That is who I was asking.

Mr. Dahilig: Councilmember, there is an understanding that this is a Council resolution. Whatever is the will of the Council should be effectuated in writing, and not withstanding what the Mayor is saying on the Administration's end. I want to be clear that we understand that, and that is your right as the Council to express a policy position that may differ from where the Mayor is at. With that being said, I want to mention that the 72-hour period that was proposed is something that is dating back to late-September or early-October. It has always been looked at as a balance between the health and safety items and the need to have a reasonable period where people will be able to function in society after being able to see where the disease is going to come out as a result of the activity between the pre-test and arriving on island. We are aware that there are other schools of thought when it comes to four (4) days, five (5) days, or seven (7) days. What is key for the

Administration and the Mayor's position has been whatever the length of time should be mandatory, and that the traveler bears the costs. That gives the Council indication as to where the functional elements of the safeguards are critical for us to ensure a post-test program. They are the cost element and the mandatory quarantine element.

Councilmember Cowden: Thank you.

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

Council Chair Kaneshiro: Are there any other questions from the Members? If not, is there any final discussion from the Members regarding the amendment?

Councilmember Kualii: I would like to say that the amendment is obviously important. This has been a moving target all along. Keeping up with the actions taken yesterday is important. I am prepared to support this.

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

(No registered speakers requested to testify regarding the floor amendment.)

The motion to amend Resolution No. 2020-57 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Back to the main motion, as amended. Are there any further questions on the Resolution? If not, is there any final discussion? Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Kaneshiro. I would like to say, anything would be better than what is happening right now. I do not know how to express being as upset as I am for the direction and the exposure that we have been put into without our say, which is how I feel. For one, having people speak for us who do not live here, telling us what we should do to protect our citizens, is upsetting. How do we get to a working space where we are listening to each other and adjusting accordingly. To some degree, that is my request in this Resolution. I think that Kaua'i should have a stronger say. As you heard in today's testimony, we are very unique, and we are in a unique situation. Having Honolulu's leadership dictate what that is is troublesome to me. You have seen the overwhelming support

for this Resolution and the direction we need to take. We are all in hardship. In the last two (2) weeks, I have lost a friend and a classmate, and here we have lost people on this island. We are feeling it in all ways, whether it is financially, et cetera. It is a moving target. I ask that what we look for is to work towards more safety, and practice what is working, and recognize what is not working. We can adjust along the way, but we need that ability to make those decisions. I am hopeful that the message is heard. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. Thank you everyone for the discussion. Thank you, Michael, for being part of today's discussion. With the mainland cases spiraling out of control, "safe travel" now is an oxymoron and not possible to achieve with a single pre-test with current incident levels on the mainland. It feels as if we punctured a few holes on the bottom of our canoe, and no matter how fast we are trying to bail the canoe or how many safety precautions we take, we are not going to be able to stay ahead of the surge we are seeing right now. I strongly feel by opting out and hopefully instituting a science-based 2-test system, that we are taking a big step towards patching that hole so that we can work together to get the canoe dry. I would like to add that this is not just about keeping our island safe. That is a huge component, but it also has a lot to do with not being able to keep our children in school, to continue to allow them to do team sports, and to ensure that our businesses and restaurants can continue to survive. We continuously discuss scenarios where places have lower levels of economic activity. I feel that our Mayor, Dr. Berreman, and their team have done a phenomenal job. They are trying to keep us safe. As Councilmember Chock said, it is frustrating to see how the State comes in heavy-handed, and dictates what we do, or what we do not do. I support the Mayor in opting out. I want to be clear to anyone who is watching that this Resolution does not have the force of law, and it is only a statement of support of the Mayor opting out and getting the 2-test system implemented. I hope that we can move forward with that. Thank you.

Council Chair Kaneshiro: Councilmember Kualii'i.

Councilmember Kualii'i: I would like to say *mahalo nui loa* to Councilmembers Chock and Evslin for bringing this Resolution forward. I think our Council is one hundred percent (100%) unified in how strongly we feel about making sure we are protecting the public health and safety of our constituents and our residents. We need to continue to be supportive of the Mayor, Michael, and KEMA. We thank them for the work that they do day-in and day-out. I am thankful for Dr. Berreman, for her leadership and courage. We are unified and that is important. In putting it down in this Resolution is also important to ensure that the Governor does not miss the fact that we are all unified. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am supportive of this. I did not mean to trigger any frustration by asking about the number of days. I would like to give appreciation and I was able to visit some of the small hotels and motels that are on

the island. They remain open with ten percent (10%) or twenty percent (20%) occupancy. Seeing families flying from the other islands, enjoying a few days on Kaua'i, and creating that social distance from their family. I see a lot of good things happening for the small hotels, and they are really providing a service to the residents. I talk to people...everyone is safely distanced in the pool areas. People come over from Honolulu to get away and take a break. While I wish that we had two (2) options. Councilmember Evslin, I am respecting what you are saying that it should not be seven (7) laypeople who decide a number. It needs to be made by people with the skills to be making the right choices. We have seen great articles written by different people. Your father has written a few. When I take that deep sigh, I feel like the science has been out there. It has been with great dismay that I have seen it being ignored regardless. I have that lack of faith that someone will not say that the 2-test is good. I have been disappointed at the choice that has been made. At times, people look at an ultimatum, which I think that this is, and say, "Okay, here is the ultimatum—people can pay for another test after they get here two (2) days later." That is the reason I brought it up. It seems that there is "science" and "convenient science," and depending on what side of the argument you are on, is the choice that you are going to pick. I support it, but I do not want to shut down our abilities for families to get together and be able to enjoy time at a small hotel for a few days. I am not biased against our big hotels; I do not think that people come and pay a three hundred fifty dollar (\$350) a night room for the three (3) days...maybe they do. I do not want to give them a false start. That is why I asked the question.

Council Chair Kaneshiro: Is there anyone else? For me, I will be supporting the Resolution. I see the importance of us showing a cohesive front. The Mayor has done a good job in trying to balance the safety of the residents and our economic viability. Having more visitors on the island, I saw more businesses opening, and bringing employees back. The last thing we want to see is a 14-day quarantine. These businesses will eventually shut down again. It is difficult for them to open only to shut down. Businesses have insurance premiums that trigger when they open, and it is not easy to suspend the policy when they need to shut down. I have all the confidence in the Mayor and working with the State in trying to do what is best for Kaua'i. Our hands are tied when it comes to what the State can dictate over us. For the Council and the Mayor, we will do what is best for our island, and I will be supporting this Resolution. Is there anyone else? If not, roll call vote.

(No written testimony was received regarding this agenda item.)

The motion for adoption of Resolution No. 2020-57 as amended to Resolution No. 2020-57, Draft 1, 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:
First Reading.

Motion passes, as amended. Next, Bills For

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2814) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Residential Investor Assessed Value Reduction*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2814) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 2020, and referred to the Finance & Economic Development Committee, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions? Do you have a question for the Administration? A quick overview on this Bill. This Bill looks to reduce the amount for residential investor from an assessed home value of two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). Councilmember Cowden.

Councilmember Cowden: Hi, Reiko. I want to cover briefly what we discussed. Thank you so much for the time that we spent talking about dropping the threshold from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). As we discussed, a shack in Hanalei could easily be one million three hundred thousand dollars (\$1,300,000). Is that correct?

REIKO MATSUYAMA, Director of Finance: Yes.

Councilmember Cowden: What we also discussed was that a number of houses that might fall into this category, humble or grand, often have a free tenant living there taking care of the cats, plants, et cetera, while that homeowner is not always here. That is the discussion we had. Would you like to share your response regarding how we do not lose that basic housing...I know a good amount of people who are in these houses that might be perceived as a non-resident investor house.

Ms. Matsuyama: The intent of this Bill is not to create another revenue source or generate revenue for the County. It is really to create more housing and throw the vacant homes into the housing pool for long-term rentals. My comment to that would be that the best option for those people who have a caretaker living in a house is to create a lease agreement with that person. That would keep them in the residential tax class.

Councilmember Cowden: If that lease agreement was a nominal amount of ten dollars (\$10) or one hundred dollars (\$100) per year, if it is creating housing for those people...many of these houses require someone to be there full time.

At present, those people do not even answer the census as being in the house, because they are afraid of a problem. This is a situation that could solve both problems, right, if they can have a lease agreement as a low-paying tenant.

Ms. Matsuyama: They would submit the lease agreement to the Real Property Tax (RPT) Office by the September 30th deadline, and they would remain in the residential tax class.

Councilmember Cowden: There are not many properties. If possible, I would love to see a list. I would most likely make an effort to help them, or we would get that word out, so that no one is surprised with the heavy tax that they were not expecting. We want to be sure that we are achieving our goal without a surprise jump in the tax rate that people are not aware of.

Ms. Matsuyama: There is a lot of leeway for this Bill. We already passed the September 30th deadline, and the next deadline will not be until 2021. There is a lot of room for communication.

Councilmember Cowden: Thank you. The answers that we got in individual meetings satisfied me to support this Bill.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. Reiko, thank you for being here and thank you for doing this Bill. As you know, I strongly support it in principle. As we discussed, I have one (1) or two (2) concerns. One is the sort of arbitrary nature of the one million three hundred thousand dollars (\$1,300,000) and the big jump that would occur or someone who went from one million nine hundred thousand dollars (\$1,900,000) to one million three hundred thousand dollars (\$1,300,000). Suddenly and without them even knowing, their property taxes will increase by fifty percent (50%) or so. The other concern is that I would think that a lot of the houses that would be most likely to convert to long-term rentals would be in the one million dollar (\$1,000,000) and under range. By doing the one million three hundred thousand dollars (\$1,300,000), we are possibly missing out on potential for that. Say we go to zero, this would become a true vacant home tax. I know we have personally talked about this. I would like to hear from you, and if you could explain the rationale to anyone listening. Is there any openness to reduce that number from one million three hundred thousand dollars (\$1,300,000) to one million dollars (\$1,000,000)?

Ms. Matsuyama: For the threshold that we set at one million three hundred thousand dollars (\$1,300,000), initially, we thought one million five hundred thousand dollars (\$1,500,000) would be a good, round even number. We see your point regarding the lower value homes are the ones that are going to get traction,

and to throw them into the housing pool, which is why we chose to reduce the dollar amount. When we looked at the numbers, we saw that we could get double the amount of taxpayers into the one million three hundred thousand dollar (\$1,300,000) to one million five hundred thousand dollar (\$1,500,000) range. We would consider going to a one million dollar (\$1,000,000) threshold, which is similar to what Honolulu has done. Honolulu's residential investor is at one million dollars (\$1,000,000). We would not want to go any lower than that only because of the administrative burden that would be carried with it would be heavy. You are talking that every second home would have to submit a lease agreement to RPT by the September 30th deadline. That is where we are sitting with that.

Councilmember Evslin: Thank you, Reiko. As previously discussed, Honolulu, Maui, and Hawai'i Island only charge on the amount of assessed value over one million three hundred thousand dollars (\$1,300,000). It would be a tier system. An example is when you have two (2) neighbors, one at one million nine hundred ninety thousand dollars (\$1,990,000) and one at one million three hundred thousand dollars (\$1,300,000) having a fifty percent (50%) difference in their taxes; there would be a smoother slope going up as you go above that one million three hundred thousand dollar (\$1,300,000) threshold, and would seem to be fair. I know that we talked about some of the barriers, and if you could briefly talk about that.

Ms. Matsuyama: I think that you are right, and it would create more equity. You are talking about neighbors, one being under the threshold and one being over. Automatically the neighbor that is over the threshold gets hit with the higher tax rate for the entirety of the property. Our software has limitations and would require big software modifications. The problem that I would like to share on the floor is the assessment cap really takes up a lot of the line items. I do not want to get technical with the software because I do not even know it myself. However, if we could get rid of the tax cap, it would allow room for those types of modifications within the software. As it stands now, we were quoted almost five hundred thousand dollars (\$500,000) to modify the software to accommodate a tiered rate system.

Councilmember Evslin: I have a few practical questions. If someone purchased a home, if they are remodeling a home, and on September 30th, they do not have someone in there, would there be a mechanism for them to stay at residential? If they come in and inform you folks that they intend to rent, but they are in the process of remodeling?

Ms. Matsuyama: Yes. We have accommodations for people who are in the middle of renovations or getting tenants. This mostly happens in the long-term affordable lease program when the tenants move, and they are in the middle of getting another a tenant.

Councilmember Evslin: When someone moves from one million nine hundred ninety thousand dollars (\$1,990,000) to one million three hundred thousand dollars (\$1,300,000), what is the actual notification process for them? If they do not even know that the residential investor tax class exists, because they have been residential, by the time they get their change of use, is it too late for them to come in with their rent lease agreement? How does that notification process work?

Ms. Matsuyama: That is a good question. We are most likely going to run into that now with the assessment notices going out on December 1st. That is when they would see their tax class. I would have to get back to you whether they could then submit a lease agreement to default to residential, if for some reason their assessed value jumps over the threshold.

Councilmember Evslin: It would be great if there could be a prenotice in August to notify people that they are going to be in that category.

Ms. Matsuyama: I believe the window...we do not set values until after the September 30th deadline. It is hard, and we would have to backtrack the assessment.

Councilmember Evslin: To some capacity, I think it is vital to give people a window to submit a lease agreement, especially for those who do not know that their assessment is going to go up. If someone has a house with an illegal rental, that person gets taxed with a commercialized home use for the rental if someone is in the home. If the home is vacant, is it possible for someone to swanita lease agreement even if that rental is not permitted?

Ms. Matsuyama: We would have to look at the affordable part of it. Yes, I would say that there is a mechanism. In the RPT world, we do not look at legality, and we leave that enforcement to other County Departments. You could submit a lease agreement for something that is not permitted.

Councilmember Evslin: Great. Reiko, thank you so much.

Council Chair Kaneshiro: Councilmember Kualifi.

Councilmember Kualifi: Hi, Reiko. I have a request for a follow-up. When we met, you provided information regarding the four hundred seven (407) affected with the one million three hundred thousand dollars (\$1,300,000). Can you provide the same for the one million dollar (\$1,000,000) level? That is a question as a follow-up, thank you.

Ms. Matsuyama: Yes, we have that information available.

Council Chair Kaneshiro: Are there any further questions from the Members? Is there any final discussion? Roll call vote.

There being no further 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. 2814) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 2020, and that it thereafter be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Motion passes.

Proposed Draft Bill (No. 2815) – A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS AND NOTES; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH REFUNDING BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC; PROVIDING FOR THE RETIREMENT OF THE BONDS TO BE REFUNDED; AND AUTHORIZING THE TAKING OF OTHER ACTIONS RELATING TO THE ISSUANCE AND SALE OF THE REFUNDING BONDS AND THE RETIREMENT OF THE BONDS TO BE REFUNDED

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2815) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 2020, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Chock.

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

Councilmember Cowden: This would be for Reiko and possibly Matthew, our County Attorney. I appreciate the effort of the County working to take advantage of the good interest rates that are out there and refinancing these general obligation bonds. Reiko is that the core goal here and do you know what the interest rate is today or what we are looking at?

There being no objections, the rules were suspended.

Ms. Matsuyama:

Could you repeat the question?

Councilmember Cowden: I will do the framework, so you can answer in one statement. Being that I know about investing and interest rates, I am concerned with how long this process will take and going through the weeks that it will be at Council. I am wondering what the risk is of losing the good interest rates that are out right now. With everything going on with Inauguration, I wanted to ask you and Matthew, can we speed this up to be able to take advantage of the good interest rates?

Ms. Matsuyama: Councilmember Cowden, I appreciate your enthusiasm regarding this Bill. I, too, would like to push this along as quickly as possible. On our end, we have already started the process for procurement, assuming Council approval is forthcoming. We are not going to find ourselves in (inaudible) until we get approval. I want to get the ball rolling on the other side, and we are doing everything that we can do on our end, administratively, to push the process along. Regarding the procedures that the County Council needs to go through, I am not familiar with that. I think that there is a way to schedule a special meeting, but it may not save that much time. There are also logistical things that need to happen that might not make it worth it. On the interest rate side, I am not too concerned with it increasing. I spoke to some of our Financial Advisors. With the appointment of Janet Yellen, who President-Elect Biden has nominated to run the U.S. Treasury, the anticipation is that she is going to keep the interest rate low for the foreseeable future.

Councilmember Cowden: Okay. I do not know if Matthew has anything to add. The process for the Council is Bill for First Reading, Public Hearing, Committee, and back to Bill for Second Reading. The process is approximately a month.

Ms. Matsuyama: Yes. We would not be able to do the issuance within that timeframe, and especially with the holidays. I am all for speeding it up on our end and I will do what I am able to do without contracting anything with the County being on the hook. I do not want to speak for the Council, but it might be best for us to let it take its course.

Councilmember Cowden:

Okay.

Council Chair Kaneshiro: I would like to add that our process is approximately a month or so. For the actual Bond Counsel, Reiko is going to have to present it, they need to get approval, and that process takes four (4) to five (5) months.

Councilmember Cowden: approval? Is it worth it?

It will take four (4) to five (5) months for

Ms. Matsuyama: Yes, it could take that much time. We will try to speed up the process. Since it is only refinancing, hopefully it will not take that long and there are no complications in it. It could take that long, which is why

starting the process and getting the people engaged on our end is the roadblock that we want to keep going.

Councilmember Cowden: Okay. This is a learning process for me. I think about the points, refinancing, and if it is worth it to spread it out until the interest rate goes up and neutralizes itself. Thank you for the information.

Ms. Matsuyama: There is a risk to prolonging the situation. There is a risk that the interest rates will go up. I think that it is a worthwhile risk for the County to pursue.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there any final discussion from the Members? 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. 2815) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 16, 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. Motion passes.

BILLS FOR SECOND READING:

Bill No. 2797 – A BILL FOR AN ORDINANCE ESTABLISHING REGULATIONS, PROCEDURES, ZONING, DEVELOPMENT PLANS, AND FUTURE GROWTH AREAS FOR THE HANAPĒPĒ-ELE'ELE PLANNING DISTRICT AND THE WAIMEA-KEKAHA PLANNING DISTRICT IN CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, AND ESTABLISHING EXCEPTIONS, MODIFICATIONS, AND ADDITIONS TO CHAPTER 8 AND CHAPTER 9, KAUAI COUNTY CODE 1987, AS AMENDED, AND AMENDING ZONING MAPS ZM-K100 (KEKAHA), ZM-W100 (WAIMEA), AND ZM-H200 (HANAPĒPĒ) (WEST KAUAI COMMUNITY PLAN) (ZA-2020-07)

Councilmember Kualifi moved to approve Bill No. 2797, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received testimony on this item earlier today. Are there any questions from the Members on this item? Is there any final discussion? Councilmember Chock.

Councilmember Chock: I would like to say thank you to everyone who contributed to the Plan. Although we were delayed in our proceedings, I think that we did good work with the community. I look forward to that continuing as part of the recommendations and commitment. This comes together through our Staff and I would like to show appreciation. Jenelle, Aida, Allison...all the work that you folks do, I would like to thank you. We got one (1) more completed, and I am happy with that.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: In my first two (2) years of being here, I am proud of this collection and this Plan. By putting a lot of passive energy in attending all the meetings, events, and seeing how long it has been since the Westside has gotten this kind of focus, I think the Plan is going to make a difference for them. I think it has been a good process. I have been pleased to see Kū Kona A Ola and the new layer of community members that have engaged and got involved. In speaking for the entire host of the people in this collection, I am pleased with the Waimea Plantation Cottages piece. Each collection has done good and is going to help the Westside stay stronger for being a reflection of the existing and generational communities. I would like to say good job to our Staff, the Planning Department, everyone in here, and the community.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro. I said most of what I wanted to say at Committee. Great job to the Planning Department. They did this in-house and largely without consultants, which ended up producing a better Plan being that the planners are part of this community. In the long run, it saved the County a lot of money. The Planning Department, obviously, does a phenomenal job with community outreach. As I mentioned in Committee, where there may have been some gaps, they ended up going overboard these last few weeks to really get community buy in. There are a lot of groundbreaking things that they teamed up to come up with in-house to solve difficult problems. I think it is a good Plan, I am excited to see this move forward, and I am excited to see continued community engagement and buy-in to ensure that this Plan continues to evolve to the communities' changing needs. I am excited to get this passed.

Council Chair Kaneshiro: Councilmember Kualifi.

Councilmember Kualī'i: I would like to add my thank you, *mahalo nui loa* to Ka'āina, Marie, the Planning Department, our Council Services Staff, and the community for their participation and *mana'o* on all of these Bills.

Council Chair Kaneshiro: For me, I would like to say congratulations. Another plan completed. In my six (6) years that I have been here, we have seen a lot of plans move. For example, the Līhu'e Town Core Plan, Līhu'e Community Plan, the South Kaua'i Community Plan, the General Plan, and now the Plan. I would like to commend the Planning Department for spearheading these plans and getting a lot of input, finding the community members to be involved on the plan, and getting the community input into the plan. A lot of the plans have been very successful. There is obviously more work to be done. There is more work to be done with the implementation of the Plan. There is the 400-acre County parcel that was not addressed in the Plan. They are meeting with the community, taking this item separately, and concentrating on the four hundred (400) acres. There is a lot of work to be done. I am happy that the community is aware of this and has been involved. The changes and the delay we had in passing the Plan, it overall improved it by implementing the amendments that were introduced. Everyone was able to get a better understanding of what the Plan entailed. Congratulations Councilmember Chock and everyone who worked on the Plan. It is a lot of work to pass something like this. Congratulations. Is there anyone else? If not, roll call vote.

The motion to approve Bill No. 2797 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 APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

Bill No. 2798 – A BILL FOR AN ORDINANCE AMENDING “KAUA'I KĀKOU – KAUA'I COUNTY GENERAL PLAN” (2018) LAND USE MAPS AND OTHER PROVISIONS RELATING TO THE WEST KAUA'I COMMUNITY PLAN (ZA-2020-08)

Councilmember Kualī'i moved to approve Bill No. 2798, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

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

Councilmember Kagawa: I made comments pertaining to the Pākalā and Kaumakani housing. Those are the bricks and mortar of our plantation community.

Without these housing there, the Westside is in trouble. That is why I continue to plead with big landowners to please restore and upkeep that housing for our residents. Without that housing, it would be disasterous for the Westside community. All of our 'ohana, the hardworking laborers that built the Westside, a lot of them are still there with their family and extended families. We do not want change, we want to keep it slow, but we cannot do it without maintaining what we already have. I ask that we please *kōkua*. 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 to approve Bill No. 2798 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 APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

Bill No. 2799 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, BY ESTABLISHING A NEW SPECIAL TREATMENT COASTAL EDGE (ST-CE) DISTRICT AND AMENDING ZONING MAPS ZM-K100 (KEKAHA), ZM-W100 (WAIMEA), ZM-200, AND ZM-H200 (HANAPĒPĒ) (ZA-2020-09)

Councilmember Kualī'i moved to approve Bill No. 2799, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions on this item? We received testimony and took public testimony on this item. If not, is there any final discussion? Roll call vote.

(No written testimony was received regarding this agenda item.)

The motion to approve Bill No. 2799 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 APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

Bill No. 2800, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, BY ESTABLISHING A NEW PLANTATION CAMP (PC) DISTRICT AND AMENDING ZONING MAP ZM-200 (ZA-2020-10)

Councilmember Kualī'i moved to approve Bill No. 2800, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions on this item? We took public testimony on this item. If not, is there any final discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2800, Draft 1, 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 APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

Bill No. 2801 – A BILL FOR AN ORDINANCE TO OVERLAY THE SPECIAL TREATMENT PUBLIC FACILITIES DISTRICT (ST-P) ON A PORTION OF ZONING MAP ZM-H200 (HANAPEPE) (ZA-2020-11)

Councilmember Kualī'i moved to approve Bill No. 2801, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions or discussion from the Members? If not, roll call vote.

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

The motion to approve Bill No. 2801, 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 APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

Bill No. 2802 – A BILL FOR AN ORDINANCE AMENDING ZONING MAP ZM-200 (ZA-2020-12)

Councilmember Kualī'i moved to approve Bill No. 2802, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions or final discussion?
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. 2802, 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:

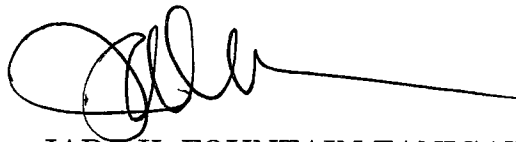
| | | |
|-----------------------|--|-------------|
| FOR APPROVAL: | Chock, Cowden, Evslin, Kagawa, Kualī'i, Kaneshiro | TOTAL – 6, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Brun | TOTAL – 1*, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

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

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:29 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

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*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).

(November 25, 2020)

FLOOR AMENDMENT

Resolution No. 2020-57, Resolution Urging The State Of Hawai'i To Adopt A Revised Safe Reopening Plan For Kaua'i County Due To The Coronavirus Disease (COVID-19) Pandemic

Introduced by: LUKE A. EVSLIN

Amend Resolution No. 2020-57 in its entirety to read as follows:

“WHEREAS, the novel Coronavirus (COVID-19) pandemic is threatening the health and economic well-being of Hawai'i in ways unimagined; and

WHEREAS, science-based public health policies and virus-proof implementation of those policies by government, as well as community adherence to those policies related to individual and group behavior, provide the safest and quickest path to controlling the spread of COVID-19, which will assist in economic revitalization for all; and

WHEREAS, the single pre-test currently used to screen arrivals to Kaua'i has allowed undetected infected people onto the island at numbers far exceeding the State's projections; and

WHEREAS, the single pre-test plan has resulted in a more rapid rise in cases on Kaua'i in just the past 30 days than we have had since the pandemic began; and

WHEREAS, the following incoming travelers are entering the State of Hawai'i infected, but not detected under the 1-test plan:

1. Infected travelers who are infected at the time of the test, but whose viral levels are not yet high enough to register positive on a test;
2. Travelers who get infected between the test and time of boarding the plane;
3. Travelers who become infected on the plane; and
4. Infected travelers who did not take a test, and would be subject to the quarantine, but intended to break the quarantine; and

WHEREAS, projections published are estimating that 1% of the United States' population may now be in the pre-infectious stage and it is known that virtually all of those persons in the pre-infectious stage will be missed by a single pre-test; and

WHEREAS, those additional cases, when added to infections already in the community, will cause untold harm to the people and economy of Hawai'i, potentially overwhelming the State's already challenged health care resources, especially on the neighbor islands, and leading to ill health, loss of life, suppression of the non-tourism economy, disruption of every aspect of life in Hawai'i, another shutdown and economic disaster; and

WHEREAS, opening schools is vital to the economy and the well-being of our students and parents, it is clear that a surge in cases will force us to close schools again; and

WHEREAS, the World Health Organization's guidelines for resuming travel states, that when a departure location “is experiencing a more intense transmission of SARS-CoV-2 virus than the country of arrival, the risk of adversely affecting the epidemiological situation in the country of arrival is higher;” and

WHEREAS, the mainland United States has among the world's highest transmission rates of the SARS-CoV-2 virus and the County of Kaua'i has among the lowest; and

WHEREAS, the World Health Organization's guidelines for resuming travel urges governments to consider whether the health system is able to cope with a resurgence of SARS-CoV-2; and

WHEREAS, the County of Kaua'i has 9 intensive care unit (ICU) beds and 15 ventilators; and

WHEREAS, a 2-test plan with a shortened quarantine will dramatically reduce infection rates; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII, that the Kaua'i County Council strongly and respectfully urges Governor David Y. Ige and Lieutenant Governor Josh Green to abandon the 1-test plan as it is unsafe and damaging to Hawaii's economy.

BE IT FURTHER RESOLVED, that the Kaua'i County Council strongly urges Governor David Y. Ige to adopt the proposed science-based 2-test polymerase chain reaction (PCR) plan or a proven science-based multi-test antigen plan and take the time to develop a comprehensive defense against entry of COVID-19 into the State.

BE IT FURTHER RESOLVED, that the Kaua'i County Council requests and supports Mayor Derek S.K. Kawakami's advocacy for a 2-test plan, where visitors pay for the second test at their own expense, with an enforced quarantine before they take the second test, regardless of what opening strategy the rest of the State employs.

BE IT FURTHER RESOLVED, [that should Governor David Y. Ige deny Mayor Derek S.K. Kawakami's request for a 2-test plan,] that the County of Kaua'i supports Mayor Derek S.K. Kawakami in completely opting out of the State's single pre-test requirement and return to the 14-day quarantine for all arrivals until a science-based 2-test PCR plan or a proven science-based multi-test antigen plan is adopted.

BE IT FINALLY RESOLVED, that the County Clerk shall forward a copy of this Resolution to Governor David Y. Ige, Lieutenant Governor Josh Green, Senate President Ronald D. Kouchi, House Speaker Scott K. Saiki, Representative Nadine K. Nakamura, Representative Daynette "Dee" Morikawa, Representative James Kunane Tokioka, County of Kaua'i Mayor Derek S.K. Kawakami; City and County of Honolulu Mayor Kirk Caldwell; County of Maui Mayor Michael Victorino; County of Hawaii Mayor Harry Kim; and all Council Chairpersons and Councilmembers in the State of Hawaii."

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