

COUNCIL MEETING

JANUARY 27, 2021

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, January 27, 2021 at 8:31 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.
Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Bill DeCosta
Honorable Luke A. Evslin (*via remote technology*)
Honorable KipuKai Kuali'i
Honorable Arryl Kaneshiro

Council Chair Kaneshiro: Good morning. Today's meetings will be conducted pursuant to Governor Ige's Supplementary Emergency Proclamations with the most recent relating to the Sunshine Law being his Seventeenth Supplementary Emergency Proclamation dated December 16, 2020. Today for our agenda, we have no registered speakers, so we will get to go through our items as usual.

APPROVAL OF AGENDA

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

(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 unanimously carried.

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

MINUTES of the following meetings of the Council:

January 13, 2021 Council Meeting
January 13, 2021 Public Hearing re: Bill No. 2816

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

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

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

The motion to approve the Minutes, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: Next item.

CONSENT CALENDAR:

C 2021-23 Communication (01/07/2021) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of August 13, 2020.

C 2021-24 Communication (01/12/2021) from Aaron D. Larrimore, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from October 1, 2020 through December 31, 2020.

C 2021-25 Communication (01/19/2021) from Councilmember Chock, providing written disclosure of a possible conflict of interest and recusal relating to ES-1040, relating to the utilization of Public Access, Open Space, Natural Resources Preservation Fund for the acquisition of real property for land conservation purposes, as he was recently on the Board of Directors for Mālama Hulē'ia who acts as stewards of the land in Hulē'ia, which is on the Public Access, Open Space, Natural Resources Preservation Fund Commission's list for potential acquisitions.

C 2021-26 Communication (01/19/2021) from Councilmember Evslin, providing written disclosure of a possible conflict of interest and recusal relating to ES-1040, relating to the utilization of Public Access, Open Space, Natural Resources Preservation Fund for the acquisition of real property for land conservation purposes, as he was recently on the Board of Directors for Mālama Hulē'ia who acts as stewards of the land in Hulē'ia, which is on the Public Access, Open Space, Natural Resources Preservation Fund Commission's list for potential acquisitions.

Councilmember Kualī'i moved to receive C 2021-23, C 2021-24, C 2021-25, and C 2021-26 for the record, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: Are there any questions or is there any discussion from the Members?

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

The motion to receive C 2021-23, C 2021-24, C 2021-25, and C 2021-26 for the record was then put, and unanimously carried.

COMMUNICATIONS:

C 2021-27 Communication (01/11/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept funding reimbursements from the Treasury Executive Office for Asset Forfeiture (TEOAF). These reimbursed funds are being offered to the County of Kaua'i, Kaua'i Police Department by the United States Secret Service based on the Department entering into membership of the Hawai'i-Pacific Cyber Fraud Task Force per Memorandum of Understanding executed on June 11, 2019. The amount offered is variable based on available Asset Forfeiture Funds each fiscal year. These funds are limited to use for digital forensics and cyber fraud investigations as needed.

Councilmember Kualii moved to approve C 2021-27, seconded by Councilmember Carvalho.

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

Councilmember Cowden: Thank you Chief Raybuck and Assistant Chief Ponce. Can you give us some background on this, please? Please tell us what this is.

There being no objections, the rules were suspended.

PAUL M. APPLGATE, Police Captain (*via remote technology*): Good morning, this is Paul Applegate, Kaua'i Police Department, Investigative Services Bureau. With me is Ms. Stephanie Regan, our Criminalist Supervisor. We will be glad to explain what this is. I will have Stephanie explain.

STEPHANIE N. REGAN, Criminalist Supervisor (*via remote technology*): Good morning. I just wanted to provide a quick overview of this program.

Councilmember Cowden: You need to be closer to the microphone. Thank you. And sorry for mistakingly identifying you. I was just reading who was noted on my agenda and did not see you online. Thank you both for being here.

Ms. Regan: Can you hear me now?

Councilmember Cowden: Yes.

Ms. Regan: This is a part of a Memorandum of Understanding (MOU)...sorry, what was that?

Councilmember Cowden: Nothing.

Ms. Regan: This is part of an MOU that we have established with the Secret Service from 2019 regarding the Hawai'i-Pacific Cyber Fraud Task Force.

Council Chair Kaneshiro: Okay, it might be easier if you use the dial-in number.

Ms. Regan: Yes.

Mr. Applegate: Yes, sir.

Ms. Regan: Is that going to be okay?

Council Chair Kaneshiro: It is coming in a little patchy.

Ms. Regan: Captain Applegate is going to call-in.

Councilmember Cowden: If you are still hearing me, the types of questions that I wondered about are whether this is a brand new program or a continuation of one? I am not familiar with it. I will probably also be curious if there are any moneys in there. This says it was executed in June of 2019, so maybe there are already some funds in there and how have we utilized it when we are looking at the Asset Forfeiture program? Is that the Asset Forfeiture on this island? Are we looking for cyber fraud implemented from Kaua'i or could it be national, international, and external forces bringing it in here? This was all unfamiliar to me. That is the type of question that I would have.

Council Chair Kaneshiro: You could maybe try a test if you folks are back online.

Mr. Applegate: Sorry, we tried to dial in, but it hung up on me.

Council Chair Kaneshiro: I can hear you clearly now.

Mr. Applegate: I can try again.

Councilmember Cowden: You are in the right position.

Mr. Applegate: We will try again.

Ms. Regan: There is still feedback.

Councilmember Cowden: You need to move over to where Captain Applegate is. Yes, there you go.

Ms. Regan: How about now?

Council Chair Kaneshiro: Yes, we can hear you very clearly now.

Ms. Regan: Okay. The Cyber Fraud Task Force set up by the Secret Service is generally a task-readiness program to be able to have all of the different islands and organizations that partner with the Secret Service, ready and able to respond to cyber incidences if they occur. Our primary role within the Task Force is

assisting with them being a point of contact with them if there were a major cyber incident on the island of Kaua'i. We are their partners on that. As part of the Task Force, I am one of the liaisons that they would get in contact with if there was a major cyber incident case that was occurring here, whether the suspects were here or it could be a foreign suspect; the victims would be local, Kaua'i victims. We would assist with them working through the case and all of that those things. The 2019 MOU established our participation in that. The only thing we have taken advantage of so far is training. They have provided trainings for us under this. Now, they are going forward after this year, because we have been participating with them, they will be giving us Asset Forfeiture funds and they are usually very small. That is why there is no amount listed on this individual request. They come across in amounts such as one thousand eight hundred dollars (\$1,800) to buy external hard drives. The most we would do with these moneys and procurement is to buy external drives for downloading digital forensics or for this particular one thousand eight hundred dollars (\$1,800) at this time, I was looking to expand our digital forensic storage servers.

Councilmember Cowden: Okay, so it sounds like currently, we do not have any real issues. I heard the word "if" many times. That means "if" it happens, but so far it has not happened, so we are just being prepared. Okay, that is my main question.

Council Chair Kaneshiro: Okay, any further questions from the Members? If not, thank you.

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

Council Chair Kaneshiro: Is there any final discussion from the Members? 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 2021-27 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-28 Communication (01/11/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$713,668.00 in State General Funds for Fiscal Year 2021, and to indemnify the State Executive Office on Aging to be used for the provision of Kupuna Care, which includes case management, adult day care, assisted transportation, attendant care, kupuna care transportation, personal care, and home-delivered meals.

Councilmember Kualifi moved to approve C 2021-28, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We did not request for Kealoha to be present. This is a straightforward item. Do you have a question or a comment?

Councilmember Cowden: I just have a comment.

Council Chair Kaneshiro: Is there any final discussion from the Members. Councilmember Cowden.

Councilmember Cowden: I want to appreciate all the work that the Agency on Elderly Affairs group does. I did check and it is obvious, the approximately seven hundred thirteen thousand dollars (\$713,000) is what came off of the last State budget. We are grateful and thankful that we will have this, and this will cover through the summer. I just want to be calling attention to the fact that this money comes from the State. I am a little worried that the State is a little short-funded this year. Well, we know it is, right? I want to be conscious and careful about what will happen next year. I am thankful for this continuance of what we had from last year.

Council Chair Kaneshiro: Any discussion from 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 2021-28 was then put, and unanimously carried.

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

C 2021-29 Communication (01/11/2021) from the Director of Parks and Recreation, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund And Golf Fund, to fund an estimated revenue shortfall of \$250,000.00, due to the golf course closures and play restrictions that resulted from the COVID-19 pandemic.

Councilmember Carvalho moved to receive C 2021-29 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We will be taking this item up later on our agenda as a bill. 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 2021-29 for the record was then put, and unanimously carried.

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

C 2021-30 Communication (01/12/2021) from the Fire Chief, requesting Council approval to apply for, receive, and expend a U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), Assistance to Firefighters

Grant (AFG) to purchase fifty (50) portable handheld Motorola radios, totaling \$660,000.00; and one (1) Ford F-550 4-Door Crew Cab 500-GPM Initial Attack Pumper totaling \$340,000.00. The total budget for this project is \$1,000,000.00, of which FEMA AFG would cover \$900,000.00, and the Kaua'i Fire Department (KFD) would be responsible for the remaining \$100,000.00, in a ninety percent/ten percent (90%/10%) cost share based on total FEMA contributions.

Councilmember Kualii moved to approve C 2021-30, seconded by Councilmember Cowden.

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

Councilmember Cowden: Fire Chief Goble, thank you and your whole team for looking for Federal funds to help supplement what we need. I know most of the Councilmembers have probably heard what this purchase is for. It seems like a good purchase, but maybe very briefly for the public, could you share what we are spending one hundred thousand dollars (\$100,000) of County funds on? I believe that amount has already been budgeted for. The nine hundred thousand dollars (\$900,000) is coming from the Federal government.

There being no objections, the rules were suspended.

STEVEN R. GOBLE, Fire Chief (*via remote technology*): Fire Chief Goble, for the record. This is an annual grant opportunity that comes to fire departments all across the country. It is the Assistance to Firefighters Grant through FEMA. It is specifically targeting firefighter response capabilities, firefighter safety, apparatus purchases, et cetera. The awards are based on the community-size. We are looking to maximize our ask for this grant opportunity with the one million dollars (\$1,000,000) total in grant funds. We put our grant committee together and that includes a group of our internal stakeholders to identify what our needs are and what fits this grant well. We have landed on our incident communications and a piece of apparatus to enhance our response. With our communications, we are looking at replacing items that are reaching its end of service life. We are also looking to expand or enhance our capabilities a little bit as well. One of the big pieces of this is a radio for our helicopter, the Air One asset that we have. That is, again, a piece of equipment...the radio is something that is reaching the end of its life. This new replacement radio is going to enhance our capabilities as well. It will not only allow us to maintain our communications with dispatch and our crews on the ground, but it will also act as an airborne repeater enhancing our radio signals, which I feel is an important consideration for us. There are areas on the island where we do not have communications, because the infrastructure is just not there to support it. This piece of equipment will allow us to put the helicopter in the air and use it as a repeater to enhance our communications in those dead areas. We are very excited about that. We are looking to also replace fifty (50) of our handheld portable radios and twenty-five (25) of our mobile radios, which are the radios that go into our apparatus. Again, these are items that reaching their end of life that are important for our overall response capabilities and our firefighters' safety. That total is six hundred sixty thousand dollars (\$660,000) for the communications piece. We are also going to apply

for three hundred forty thousand dollars (\$340,000) for an initial attack pumper. This is a replacement piece of equipment for our fire station out in Kalāheo. That existing brush truck is reaching the end of its service life. This would be a direct replacement for it. Again, it is enhancing our capabilities somewhat. We have several challenges across the island with accessibility and mobility with our apparatuses, so this piece of equipment will allow us to do that in a better way. The existing brush trucks are great equipment haulers, but what we have learned is that we have a real need to support fire extinguishment operations with those vehicles for brush fires for difficult to access areas and things like that. This new piece of equipment will be targeting that capability specifically. It allows us to have increased or enhanced pumping capability, on-water water supply, and more equipment targeting at fire extinguishment. We are very excited about that. Again, it is a one million dollar (\$1,000,000) application. We would be responsible for a ten percent (10%) match, so one hundred thousand dollars (\$100,000). We have included in our budget request or proposal for Fiscal Year 2021-2022 to incrementally replace our radio equipment anyways. We have earmarked one hundred ten thousand dollars (\$110,000) for that project, so we would just use those moneys to solve our communications issues long-term.

Councilmember Cowden: Thank you very much.

Chief Goble: That would be the end of my summary.

Councilmember Cowden: I appreciate it. I appreciate the hard work of getting money from elsewhere.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Hello, Chief Goble, how are you?

Chief Goble: Very good.

Councilmember DeCosta: It is always nice to hear a detailed explanation. I have a comment, not really a question. Is this the appropriate time?

Council Chair Kaneshiro: I will call the meeting back to order for a comment. If you have any questions, we will take the questions now. Councilmember Evslin has a question after as well.

Councilmember DeCosta: Yes, I have a question. Is that Ford F-550 4-Door Crew Cab a similarly designed truck to the one that was used to fight the Kōke'e fire up in the Waimea Heights area? Or is that a bigger truck?

Chief Goble: Yes, so that F-550 platform is the same platform that we will be pursuing with this. Again, it will be more targeted at the extinguishment side of things. That truck that was used out on that fire is one of our typical brush trucks with some limited pumping capabilities. This new piece of equipment will improve that and allow us more pumping capability for wildland fires just like that one.

Councilmember DeCosta: I can relate to the pumping capabilities. So, you will have a pump on that truck whereas the old brush truck needs a portable pump that you have to put into a body of water in order to get water from that area to the truck. Is that correct?

Chief Goble: That is correct, Councilmember.

Councilmember DeCosta: Thank you, Chief Goble.

Council Chair Kaneshiro: Any further questions from the Members? If not, thank you.

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

Council Chair Kaneshiro: Any final discussion from the Members?
Councilmember DeCosta.

Councilmember DeCosta: I have a comment. It is always nice to know the explanation of the item that you are requesting to be approved. I was able to see your firefighters in action on Friday and I am very impressed. I can relate to asking for this F-550 pump truck, the radios, and the helicopter radio, as it is important to the communication that I have seen firsthand. I was very impressed with their morale and how they all worked together. I just wanted to let you know that I commend your team for their work on the west side fire. That fire truck...I got to see the old one in action. It caused some problems with that portable pump in the water. Your firemen had to try their best to get that pump to work. At times it would not work. The wind changed and the brushfire got more intense. I totally can relate to you asking for this. It is nice to see it in action, not just approve a budget that we have to take your word for. Thank you very much, Chief Goble.

Council Chair Kaneshiro: 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 2021-30 was then put, and unanimously carried.

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

C 2021-31 Communication (01/13/2021) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to commercial uses in the Agriculture Zoning District.

Councilmember Kualifi moved to receive C 2021-31 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Again, this item will come up later on our agenda as a Bill for First Reading. Is there any discussion or are there questions from the Members?

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

The motion to receive C 2021-31 for the record was then put, and unanimously carried.

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

JADE K. FOUNTAIN-TANIGAWA, County Clerk: The next item is C 2021-32, which we do have an Executive Session related to it. Did you want to take this later?

Council Chair Kaneshiro: Actually, we can take it now. I do not think it will be that long. We also do not have anyone waiting to speak.

C 2021-32 Communication (01/15/2021) from the County Attorney, requesting authorization to expend additional funds up to \$200,000.00 for Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters. The representation will include cases in Federal Court, the State Courts, administrative contested cases, agency hearings, and arbitrations.

Council Chair Kaneshiro: My apologies. Let us skip this item and do this at the end.

There being no objections, C 2021-33 was taken out of order.

LEGAL DOCUMENT:

C 2021-33 Communication (01/07/2021) from the Housing Director, recommending Council approval of a Declaration of Covenants and Restrictions by the County of Kaua'i for the following HOME Investments Partnerships Program (HOME) and Housing Trust Fund (HTF) Assisted Projects, and to authorize the County Clerk to sign all related legal documents:

- Declaration of Covenants and Restrictions for Waimea Huakai Apartments (HOME) TMK No. (4) 1-6-008-006, (4) 1-6-008-060, (4) 1-6-008-061 (Waimea Huakai Partners, LP, Developer)
- Declaration of Covenants and Restrictions for Pua Loke Apartments (HOME) TMK No. (4) 3-8-005-028, (4) 3-8-005-029 (Pua Loke Housing Partners LP, Owners)
- Declaration of Covenants and Restrictions for Pua Loke Apartments (HTF) TMK No. (4) 3-8-005-028, (4) 3-8-005-029 (Pua Loke Housing Partners LP, Developer)

Councilmember Kualifi moved to approve C 2021-33, seconded by Councilmember DeCosta.

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

Councilmember Cowden: My question is very, very simple. This is what we talked about a couple of weeks ago, right? There is nothing new here? This is just receiving what we had already discussed, is that correct, Adam?

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director (*via remote technology*): Good morning, everyone. You approved similar documents for different projects, a couple of Council Meetings ago. These are not the same documents that you saw then and approved.

Councilmember Cowden: Okay.

Mr. Roversi: These documents are related, but are new documents for different projects. These declarations simply impose affordability and period of affordability requirements based on the amount of funding provided to these projects in the form of Federal grants.

Councilmember Cowden: What are those lengths?

Mr. Roversi: They are different. The HOME declarations, which HOME refers to a type of Federal grant...the HOME Federal funds...those funds have a twenty-year year period of affordability. Whereas the HTF, which stands for Housing Trust Fund, that is a separate Federal program...those funds have a thirty-year period of affordability. As a practical matter, because the Federal funds were also paired with Low-Income Housing Tax Credits (LIHTC), the LIHTC actually imposes a sixty-one-year period of affordability on the entire project. Effectively, the HOME and HTF periods of affordability do not really mean anything, because the LIHTC requirements are more stringent and overlay the entire project.

Councilmember Cowden: Understood. Thank you so much.

Council Chair Kaneshiro: Any other questions from the Members? If not, thank you, Adam.

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

Council Chair Kaneshiro: The motion on the floor is to approve. Any final discussion?

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

The motion to approve C 2021-33 was then put, and unanimously carried.
Council Chair Kaneshiro: The motion is carried. Next item.

CLAIM:

C 2021-34 Communication (01/11/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i, by Douglas D. Bosse, for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2021-34 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

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

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

The motion to refer C 2021-34 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

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

COMMITTEE REPORTS:

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2021-01) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2021-01 – Communication (12/30/2020) from Council Chair Kaneshiro, requesting the presence of the Acting County Engineer, to provide a briefing on the progress of the County’s road resurfacing/repaving projects, update on upcoming road resurfacing/repaving projects for calendar years 2021 and 2022, and to discuss the potential modification in scheduled projects due to reduced amounts of General Excise Tax surcharge funding,”

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

Council Chair Kaneshiro: Are there any questions or 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 unanimously carried.

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

PLANNING COMMITTEE:

A report (No. CR-PL 2021-01) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2813 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*County of Kaua'i Planning Department, ZA-2020-14*) (*Shoreline Setback And Coastal Protection*),”

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

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

Councilmember Cowden: I have a question for you.

Council Chair Kaneshiro: Excuse me?

Councilmember Cowden: My question is for you.

Council Chair Kaneshiro: On this planning item?

Councilmember Cowden: Yes. Are we going to be talking about this later?

Council Chair Kaneshiro: Yes, this will be coming up later under Bills for Second Reading.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: This is just the Committee Report.

(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 unanimously carried.

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

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (No. CR-HIR 2021-01) submitted by the Housing & Intergovernmental Relations Committee, recommending that the following be Received for the Record:

“HIR 2021-01 – Communication (12/30/2020) from Council Chair Kaneshiro, requesting the presence of the Housing Director, to provide a briefing on the County’s recent affordable housing accomplishments and an update on future affordable housing projects,”

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

Council Chair Kaneshiro: Are there any questions or 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 unanimously carried.

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

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:

A report (No. CR-PSHS 2021-01) submitted by the Public Safety & Human Services Committee, recommending that the following be Received for the Record:

“PSHS 2021-01 – Communication (12/03/2020) from Councilmember Cowden, requesting the presence of the Chief of Police, to provide a briefing on the Police Department Comprehensive Workload Study, conducted by Matrix Consulting Group, to include:

- Summary of Matrix Consulting Group’s findings;
- Synopsis of activity indicators, such as, call volume, types of calls, temporary restraining orders, warrants, et cetera;
- COVID-19 quarantine and management key points; and
- Significant successes and challenges,”

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

Council Chair Kaneshiro: Are there any questions or 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 unanimously carried.

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

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2021-01) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on second and final reading:

“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 approval of the report, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions or 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 unanimously carried.

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

COMMITTEE OF THE WHOLE:

A report (CR-COW 2021-01) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“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 approval of the report, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions or 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 unanimously carried.

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2804) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN THE AGRICULTURE ZONING DISTRICT

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2804) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 24, 2021, and that it thereafter be referred to the Planning Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We did receive one (1) written testimony on this item. Are there any questions on this item from the Members at this time?

Councilmember Cowden: Yes.

Council Chair Kaneshiro: Actually, we have an amendment.

Councilmember Chock: I have an amendment if you would like for me to introduce that first, then we can talk about it.

Council Chair Kaneshiro: Yes, please.

Councilmember Chock moved to amend Proposed Draft Bill (No. 2804), as circulated, and as shown in the Floor Amendment, which is attached hereto, seconded by Councilmember Kuali'i.

Councilmember Chock: The amendment is being distributed. This was an amendment by request. You can see the included or additional language that is being added here under botanical gardens, item number two, farmers market, and under item number three, zoological garden.

Council Chair Kaneshiro: This is to get it to...it came to us as a Bill for First Reading, we sent it to the Planning Commission. The Planning Commission made these few, little edits. I would say they are almost housekeeping in nature. They are just adding a little clarity to some of the language. By amending this in, we would create a version that is exactly what the Planning Commission recommended. Do we have any questions on the changes or amendments? Let us just speak on the amendments for now.

Councilmember Cowden: Can I make a comment?

Council Chair Kaneshiro: Yes, but I would like to take any questions on the amendments first. Anyone have any questions on these amendments? Councilmember DeCosta.

Councilmember DeCosta: Would you care to elaborate a little more on the zoological garden and the exhibition fee?

Council Chair Kaneshiro: I will have Ka'aina Hull explain it as he was sitting in on the Planning Commission meetings.

There being no objections, the rules were suspended.

KA'AINA S. HULL, Planning Director (*via remote technology*): Thank you Council Chair and Councilmember DeCosta. Some of the proposals in this Bill are really just clean-up proposals. There are a couple for us that are substantial policy changes and that is germane to the agricultural retail stand being outright permissible for products grown on the property or with the associated farm on the property. The botanical garden and zoological garden definitions, as well as even restaurant and food service definition are just a clean-up matter. Those have been referenced in the Zoning Ordinance as a use permitted in the Agricultural District via a Use Permit since 1972. They have always been listed as uses that can occur in the Agricultural District...excuse me, let me correct that. For zoological gardens and botanical gardens, those two (2) have always been listed as uses permissible in the Agricultural District since 1972 and the inception of the Comprehensive Zoning Ordinance (CZO). They just did not have a definition of them. When Council Chair

Kaneshiro was proposing the draft bill to look at specifically retail-type of aspects that may support agriculture activities, it was questioned about what is an actual definition of a zoological garden, what is an actual definition of botanical garden, and what do they encompass? A definition was added, essentially, to clarify what exactly they are and there is in fact a commercial element to it.

Councilmember DeCosta: Okay. I wanted you to explain a little more in detail about that...I am reading here, and it says, "To have animals in cages and exhibition for a fee..." Would that be an animal menagerie where local people could bring their children, have them pet an animal, and pay a fee?

Mr. Hull: It could be. Correct. I think the original proposal that came at first reading at the Council, it had a reference to animals being kept in cages or large enclosures. When it went to the Planning Commission, there were some objections to the reference to cages. That was removed in our proposed amendment so it would read, "Animals kept in large enclosures." Essentially, it could be anything from a standard zoo to a more livestock, petting zoo type of use. Ultimately, it would have to go to the Planning Commission to iron out those details if a proposal ever came to the Planning Department that fell into that category. The Department has never entertained one of these Use Permits, but it is just listed there, and it has been since 1972. This just clarifies what it can or cannot be.

Councilmember DeCosta: I would like to let you know that I would think children would really appreciate a place where they can go and pet an animal in a large enclosure and spend some animal husbandry time, getting to bond with animals. Thank you for that, Ka'āina.

Mr. Hull: Absolutely.

Council Chair Kaneshiro: In our situation, we do not have any zoos on Kaua'i. You could see maybe farm tours, where people are charging people to come onto a farm and pet animals such as sheep, horses, et cetera. That would be a farm tour and that would still need a Use Permit, just like this. Whether you are calling it a zoological garden, because you have zoo animals in a cage or enclosure, or whether you have regular farm animals, if you are charging, it is still considered either a zoological garden or farm tour-type operation, you would still need a Use Permit. It is the same process, regardless.

Councilmember DeCosta: Thank you, Council Chair Kaneshiro for that explanation.

Council Chair Kaneshiro: Any follow-up questions on this?
Councilmember Evslin, then Councilmember Cowden.

Councilmember Evslin: Thank you. Ka'āina, I appreciate the amendment here. It looks to clarify that restaurants and food services must be serving food that is grown on the property. Why is the same not required for retail sales? What is the retail sales component really meant to be? Would that allow any type of retail sales on the property? Is there potentially reason to consider trying to require that those retail sales must be from products grown on the property? If not, why was that not considered?

Mr. Hull: Thank you, Councilmember Evslin. That was considered in the retail sales aspect. Why we ultimately did not decide to pin it in the footnote in the same manner that restaurant and food services have to be associated with agricultural cultivation on the property, retail sales of farm equipment or farm supplies may be necessary on agricultural land. An example would be a feed store. We would say that may be appropriate to have a feed store on agricultural land, even though they are not necessarily growing the feed specifically on that property. At the end of the day, if you propose a retail activity on agricultural land, it still requires a Use Permit and therefore vetting via the Use Permit Standards and making sure that it still is accessory or functioning within the agricultural vein. Also, for retail sales on State Land Use agricultural land, which all County agricultural lands are within, they also have to apply for a special permit via the State process. The Planning Commission processes it on behalf of the State, but they still have to apply for a special permit. That special permit has very specific criteria where the applicant has to demonstrate that the proposal, which is not necessarily an agricultural proposal, is either related to agriculture in some manner or will not deter, detract, or remove agricultural lands from current possible production of agricultural activities or agricultural crops, or in the future, removing that land from agricultural activities or agricultural crop-type activities. It still has to go through a very thorough test of ensuring that the retail sales...is either associated with the farm or not going to remove agricultural lands from agricultural production. If somebody proposes a 7-11, Macy's, or one of these types of things on agricultural land, it still has to be vetted through agricultural criteria that would essentially provide the Commission with the standards to be able to say, "No, this is hereby denied because of these factors."

Councilmember Evslin: That is good to hear. Would there be any reason to just make it more clear in the CZO by adding another footnote to say that this has to be agricultural...exactly as you said it...that is has to be related to agricultural activity? Or would that not be necessary?

Mr. Hull: The Department's position would be that the agricultural criteria established via the Special Permit process is enough to vet that out as opposed to listing "feed or t-post or hogwire." Instead of listing it all out to grant some discretion for the Commission or the decision-makers at the

Commission-level to be able to ascertain and determine whether it is associated with agriculture.

Councilmember Evslin: Thank you. I had another question along those lines. If somebody has a farm stand, can they sell branded shirts or hats with their farm's name on it at the farm stand? Would they need to go through the Use Permit process?

Mr. Hull: Our interpretation based on what is written is that no, the branding would not be considered an agricultural product. However, I would say that the Department is open to that, because we have reviewed Use Permits in the past for retail stands that have allowed for specific brand products for the farm to be sold at those stands. We are open to that. I think that is a good point. Technically, the way it is drafted, we would not interpret it as such.

Councilmember Evslin: Great, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to bring us back for a moment to botanical and zoological gardens. That has a "U," which means it needs a Use Permit. When I look at this amendment, that means if it has paid visitors to come. Two examples that come to my mind are the food forest in Kalihiwai, which is basically a living seed bank where we have island-adapted seeds and about one hundred fifty (150) variations of tropical fruits, we basically give away those starts and seeds and trying to have a stash for the island for greater resilience. Nothing is sold. In ways, that could be considered a botanical garden, but since nothing is sold, it would not need a Use Permit, is that correct? What would a food forest be called? Just an agricultural property?

Mr. Hull: Correct. The Planning Commission clarified that with their amendments to both the zoological garden and botanical garden, saying that there needs to be a commercial element in it that would necessitate the Use Permit. Whether it is a ten thousand square foot (10,000 SF) garden or a twenty-acre garden and you are bringing people on property at no charge at all, that is no different than hosting friends or individuals just to come and see it. Once you add the commercial element to it, that is what triggers the Use Permit.

Councilmember Cowden: I am thinking about the Kaua'i Animal Education Center (KAEC). They often have injured animals that they rehabilitate. Schools go to visit them. That place has moved around to a lot of different places. The animals are somewhere between pets and zoological. They do a nice program. They used to show up at parties. I do not know if they charge, but they might charge from time-to-time.

Councilmember Chock: It is a nonprofit.

Councilmember Cowden: Yes, they are a nonprofit. Do they charge?

Councilmember Chock: It is a nonprofit so...

Councilmember Cowden: It is a nonprofit. It is a nonprofit that seems to have a place and then they move, then they have another place. Would that be something that would need a Use Permit? I would say that is a zoological garden.

Mr. Hull: We have had talks with them. I am familiar with them coming in to clarify the rules before. So far, at least the proposals that we have seen in their operations, there was not a commercial aspect to it. A Use Permit was never levied upon them.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any further questions from the Members regarding this amendment?

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

Council Chair Kaneshiro: Is there any final discussion on the amendment?

The motion to amend Proposed Draft Bill (No. 2804), as circulated, and as shown in the Floor Amendment, which is attached hereto, was then put, and carried unanimously.

Council Chair Kaneshiro: The amendment is carried. Now we are back to the main Bill, as amended. Do we have any questions on the main Bill?
Councilmember Cowden.

There being no objections, the rules were suspended.

Councilmember Cowden: Thank you again for working on this. I think this has long been needed. I have really reached out and tried to get feedback from farmers. I was expecting to have more feedback on needs, particularly on housing. I do realize farmworker housing is probably a separate bill. Were there many people who came to the Planning Commission?

Mr. Hull: I believe there was only one (1) person orally testifying, but there were numerous amounts of written testimony that came in. Much of the testimony submitted was focused on the restaurant threshold as well as

the retail sales activity. Some were in support and some were in objection to. We think that the proposal that we acted in support of, while it does not address all of the objections to the allowance of either retail sales, agriculture retail stands, or restaurants on agricultural lands, we think it gets at the heart of the issue in ensuring that it is part and parcel on agricultural operations and allows for farmers to further be able to profit on their own properties from their agricultural activities.

Councilmember Cowden: Would it be accurate to say that in a large part, this allows the mango farmer to not only sell his mangoes on his property, but he could be making mango jam and selling that as well. That is how I try to simplify this. To me, that seems like the larger intention of these inclusions of more ways to earn money. Do I have that correct?

Mr. Hull: Yes, I would agree with that assessment.

Council Chair Kaneshiro: I would add that in the past, if the mango farmer tried to sell mangoes off of his property, he would have needed a Use Permit. This Bill is making it easier to sell their own mangoes off of their property by allowing that to be outright permissible without having to get a Use Permit.

Councilmember Cowden: They can have that commercial kitchen on their property and a warehouse to make the mango jam, chutney, or whatever else they want to make.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you. This is a question for Ka'aina or Council Chair Kaneshiro. We have had some testimony come in concerned about the decentralized nature of what this Bill entails. From their perspective they feel that it is better for people to drive to a farmers market than possibly walking to their neighbor's property to buy produce. I was just wondering if you could walk us through from a land use perspective on why you think this is beneficial. I know we already went through this at first reading, but for anyone watching, why do you think from an agricultural perspective, this is beneficial?

Council Chair Kaneshiro: I can answer that quickly. The main point of this is when COVID-19 hit, a lot of the farmers, and this is not just because of COVID-19...it all depends on where the demand is from the consumers. Once COVID-19 hit, restaurants and hotels shut down, a lot of the farmers providing produce to these places were stuck with a lot of produce and they did not know where to sell it. The farmers markets were shut down. A lot of these people depending on those types of outlets did not have it. When we are looking at agriculture and making it easier for these farmers to sell, we realized that a lot of farmers started doing their popup stands around the island and on their property. When you look at the Bill,

they actually should have had to gone through a Use Permit when in reality, if you take a step back and look at it, I thought that we should be making it easier for these farmers to be able to be doing that. It was not just because of COVID-19. It is a good thing for a farmer to be able to sell what they are growing from their retail stand to the public. It allows the public to have a one-on-one interaction with the actual farmers growing their produce. You can go directly to the farmer to get your produce. That is where this came from. As we focused on that, we thought that we might as well clean up a few of the other definitions that you see. This includes restaurant and retail. It really does not change anything. If someone wanted to do a restaurant or retail sales location now, before this Bill passes, they would still need to go through the Use Permit process. All we are doing is recognizing that these are things that people might want to try and do. It recognizes that if you want to do these types of operations, you need to get a Use Permit. We could leave it off and it would be the same thing. They would go in and ask Planning about putting in a restaurant or retail sales stand on their property and Planning would tell them that they would need to get a Use Permit. Those are some of the things that we tried to cleanup. We consolidated a few of the items like specialized agriculture and putting it into the regular agriculture grouping. We thought it was a good time to cleanup other items. The nexus of the Bill came from my belief that farmers should be able to provide a small retail stand on their property to sell their goods to consumers. Ka'āina, if you wanted to add anything to that.

Mr. Hull: I agree with everything that the Council Chair just stated. I would say that from a business perspective in the eyes of many, indeed the farmers markets are going to be far more lucrative, because that is where consumer bases are gathering and that is where the market is at. At the same time, you need to leave it up to the farmer as to whether that is going to be more lucrative for their own situation. This just affords a farmer the ability in addition to going to a farmers market, which they can do today, it also says that perhaps in your situation, it may be more lucrative for your particular product or operation to go specific to the site for a nominal-sized retail stand. It frees up the option for the farmer. I can also say that some quite honestly, in opposition to these small retail stands, are coming from McMansion agricultural farm owners. To be candid, I have very little sympathy or empathy for individuals sitting in four thousand square foot (4,000 SF) mansions on agricultural land doing anything but agriculture opposing a nominally-sized retail stand for bonafide farmers. I will leave it at that.

Council Chair Kaneshiro: It is just an opportunity. I am in touch with our farmers all the time. When the hotel and restaurants were all buying produce, it really did not make sense for them to have one person, maybe them or their spouse, sit at their farm and sell produce. At a time like this, when those outlets are not open, it is to their benefit to have a retail stand. If things change and the market picks up, they may not see the value in having that retail stand or having someone stay at that retail stand all day. All we are doing is trying to provide opportunities

and options for the farmers, which I think everyone has tried to do when coming onto the Council...to make it easier for farmers to farm and to provide them with more opportunities. Councilmember Cowden.

Councilmember Cowden: Back to the agricultural use. I am just expanding on what has been said. When I do look at the opposition comments and letters that I have received, it does feel like people have moved into agricultural properties that they want it to be a neighborhood. I am all for neighborhood food production. When you move onto agricultural land, you want it to be a neighborhood, and so you are agitated at the production by the neighbor...I guess you spoke to that...when I look at this here, we have added food packaging and processing of agricultural products, I am seeing that as a very important piece to add especially as we are looking to build a resilient island, both for food and economics and to move away from tourism. Can you speak a little more to what the process was through the Planning Commission on choosing to put food processing and packaging of agricultural products as a part of this?

Mr. Hull: Yes.

Council Chair Kaneshiro: Ka'āina, I believe that started off as saying "minor food processing."

Mr. Hull: To what the Council Chair is saying, there was already a food processing element on agricultural land as outright permissible. Currently, we do allow minor food processing like the jarring of agricultural products to occur in a commercial kitchen on agricultural land as an outright permissible use. We currently do that. This is just further clarifying that you can do that, and it has to be associated with the farm activity occurring on the property.

Councilmember Cowden: An example of where there might be a restaurant or retail that come to mind include Kaua'i Coffee. We used to have Guava Kai in Kīlauea. Is this the vision behind allowing retail and food establishments...is there any kind of a size on the land...when there is a distance away...we need left-hand turn lanes and things like that...is there any limitation in here on the land size when they go for the Use Permit? Is that where that would be looked at when somebody would be getting that Use Permit?

Mr. Hull: Yes. Essentially, the way the Bill is drafted, it would come down to...sorry, I am hearing feedback...any retail sales occurring in a structure over one thousand square feet (1,000 SF) or any restaurant or food services that are associated with the property's farm activities, when they apply for the Use Permit, the threshold for the Use Permit is compatibility with the surrounding area and environment. Whether there are traffic impacts, noise impacts, visual impacts, or what have you, that goes through an assessment by the Planning Commission

during the public hearing on the Use Permit application. It really is a case-by-case situation.

Councilmember Cowden: Okay, thank you. I wanted to be able to give an official answer. Thank you for the people who are concerned. There are some who may have a two-acre agricultural piece who do not want their next door neighbor creating a breakfast eatery using the eggs on their farm. That is what it seems like to me. For people who might be worried what their neighbor might be doing, they would have the public hearing process at the Planning Commission when the applicant is getting their Use Permit. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Good morning, Ka'āina. I hope I do not confuse you with this question. I will give you a scenario and I think that will help you better answer this question. I would like to give clarification for the farming public listening. When we talk about products that can be packaged and processed on the property, does that also include meat products? For example, a sheep or goat farmer who wanted to do goat or sheep burgers, he or she would take that product to the slaughterhouse and come back with freshly ground and certified meat; using their certified kitchen and warehouse, can they package that burger in a vacuum-sealed bag at two (2) pounds per package and sell it out of their agricultural area? Would that qualify for that kind of permit?

Mr. Hull: Yes, it would. The food processing would cover the slaughter operation and the packaging of the meat. If they are just selling the product itself as wrapped up and packaged, then a retail stand of up to one thousand square feet (1,000 SF) can sell that product. Beyond that though, if there is a restaurant setting with actual cooking and serving of plates and whatnot, then they would have to go through the Use Permit process.

Councilmember DeCosta: Thank you for explaining that.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I wanted to also ask about fish. We also had that on our property, catfish and other fish, that people enjoyed that opportunity to have that. I wanted to understand if that was a part of this discussion as well for clarification. Fish.

Mr. Hull: Yes. It is a valid question. If it is a wild-caught ocean fish, there would be a hard nexus to define that as an agricultural product. If it is an aquaculture situation where it is a catfish, tilapia, or trout being raised on an aquafarm at a subject property, absolutely that would qualify as an

agricultural product. If you are looking at an ocean property in which it is abutting the particular ocean line and you have an ocean farm situation, then that could also count as well. There are a series of interfaces that would have to go on with the State processes as well.

Councilmember Carvalho: Okay. I just wanted clarification on that aspect.

Council Chair Kaneshiro: Any further questions from the Members on this? This is just first reading. We will be sending it to a public hearing and then to committee.

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

Council Chair Kaneshiro: Any final discussion from the Members?
Councilmember Kualii.

Councilmember Kualii: I just wanted to say that this is a really important Bill and I am glad that we are working on it. Thank you for introducing this Bill, Council Chair.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I too feel that this in an awesome Bill that really needed to come to the forefront. It really gives opportunity for the small, medium, and large farmer who intends to really work the land and provide opportunities that way. It also provides an additional opportunity for a business venture. I really support this. There was good discussion today.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Since we are being warm and fuzzy, I would like to say thank you Council Chair again for introducing this Bill. These are the innovative ideas that I believe need to be at the forefront for us to help the economy. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Council Chair Kaneshiro and Ka'āina for your work on this. I would also like to thank the Planning Commission for their good improvements. I agree with everyone that this is really important, because the person selling mangoes on his property is currently violating the CZO. The same goes for two (2) little girls selling lemonade on their property. We certainly need to not only rectify that, but we need to make it easier, in as many ways as we

can for people to farm and find a market for their farm produce. When we make it harder for farmers, we are making farming less viable or to be able to compete with the multi-million-dollar homes that are being built on agricultural land, this is vital from that perspective. It also helps at the community-level to help neighbors to get produce easier without driving into town. All around, I think this is a good Bill. I do want to recognize some of the concerns from the testimony we received, including comments about restaurants being built. I do think it is important that we are tying the restaurants to agriculture use. I think it is important that the agricultural stands are limited in size. Certainly, we could go overboard in the wrong direction by outright permitting too many uses which does the opposite of what we want to achieve here. It makes farming less viable, because agricultural land gets developed in other ways. I certainly think that this Bill treads that line very well, and I appreciate all the work done on it.

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

Councilmember Cowden: I feel that this is really an excellent first step in a direction to be supporting farming. It is a gentle step. For those that are worried that it is too big of a first step, it is kind of a small step. It is an important small step that people can do. I see the biggest barrier to having a viable agricultural economic sector is the cost of land that has housing density. Who can grow lettuce on multi-million-dollar pieces of property? That is the barrier. When we try to create housing on that, it gets in the way. It becomes more profitable to grow houses than it is to grow crops. To have diversified farming is difficult to do without living on the property. We have relatively cheap property with the Agribusiness Development Corporation (ADC) lands and some of the big landowners, they give a pretty good rate, but if you cannot live right next to your farm, it is very difficult to pay rent. If you must get a job to pay the rent, then you cannot go out and farm. That is the hurdle that we have not stepped past with this Bill. I think in the next couple years, we will really see how COVID-19 and the economy continues to shift our land values. Right now, they are going up. I am very supportive of the direction of this Bill as a safe but needed step. Thank you.

Council Chair Kaneshiro: Thank you. Anyone else? The hesitation in the written testimony coming in was due to the restaurants and the retail-type activities mentioned. I just want to make it clear that all of those activities, like now, still have to go through the Use Permit process. That is where you have your assurance that the type of facility is going to be compatible with the area. It must go through the Planning Commission, and it is not an over-the-counter permit. It is a permit that must be scrutinized at many different levels. You cannot just say you are going to put up a restaurant on your agricultural property and it appears. You have to go through a lot of information, studies, Planning Commission, public scrutiny, notification of neighbors, et cetera. We could have come in with a Bill that said that

agricultural operations can do whatever they want. However, we do recognize that there are certain limits to what we want to do. Restaurant-type activities or retail sale-type activities should go through the Use Permit process. That is the proper way to do it. I agree, people should be allowed to do restaurants and retail sales of their products on their property, but they should also have to go through the Use Permit process. They have to make sure the use is compatible with their property and acceptable by their neighbors. Councilmember Cowden.

Councilmember Cowden: If *The Garden Island* is listening or if there are people out there listening or watching, please let us know if you have an opinion on this matter, especially if you are a part of the agricultural community. This is an agricultural Bill meant for agricultural properties. We need to hear from those farmers if this works or does not work for you and why. We have not heard enough comments from the farmer. I have really tried hard to get people to speak up. Please testify. We are at the first reading stage. We will still have a committee meeting and second reading for this Bill. If this is not enough, we need to know.

Council Chair Kaneshiro: I did receive a lot of calls from agricultural providers. They wanted clarity on what the Bill was doing. A lot of them were in favor of it. A lot of them will not send in testimony. They will ask me what this Bill is about and what is it trying to do. Most of them said it is good with them. You are probably not going to receive anything in writing or hear them testify on it. If they did not like it, then you would definitely hear from them. If they like the Bill, you will probably not see a lot of testimony come in.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you. My constituents, many who are in the farming community and who are also constituents of yours and Councilmember Kualii's, they are excited. This Bill actually inspires people to want to farm. They are looking at ways to make this happen. If they do not have an agricultural property, they are looking at ways of obtaining one. They are looking at partnering with an agricultural property owner. It is really exciting. Thank you.

Council Chair Kaneshiro: Any further discussion? Councilmember Carvalho.

Councilmember Carvalho: Based on my personal relationship with a lot of our farmers, they too are very supportive and happy for this opportunity. I think it is very good that we are having thorough discussion. I think we are doing this the right way and taking the right steps in keeping everyone in the loop. This whole process, which happened from before, and as a new Councilmember, I am trying to

bring forward the voices of the farmers. The farmers really like the opportunity of the small, medium, and large sizes that are all on the table. The only questions they had were regarding the retail sales component. I think we clarified that for them today. Those were just my additions to the discussion.

Council Chair Kaneshiro: Is there anyone else?

(No registered speakers requested to testify regarding this agenda item.)

The motion for passage of Proposed Draft Bill (No. 2804) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 24, 2021, and that it thereafter be referred to the Planning Committee was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Next item, please.

Proposed Draft Bill (No. 2817) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND GOLF FUND *(Golf Fund Projected Revenue Deficit—\$250,000.00)*

Councilmember Carvalho moved for passage of Proposed Draft Bill (No. 2817) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 24, 2021, and that it be referred to the Committee of the Whole, seconded by Councilmember Kualii.

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

Council Chair Kaneshiro: Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: Thank you, Wally, for being present. This money bill is for two hundred fifty thousand dollars (\$250,000). Our golf course green fee is approximately fifteen dollars (\$15), I believe. Do we have that many tourists

who golf every year to be able to create this deficit? I guess residents also did not go out for a time, right? Do we normally get that from the green fees and now we do not have it?

There being no objections, the rules were suspended.

WALLACE G. REZENTES, JR. Deputy Director of Parks & Recreation (*via remote technology*): Hello. Sorry, I just got back from being on the phone.

Councilmember Cowden: Are the green fees still fifteen dollars (\$15.00)? Is that for residents and non-residents? Is it the same price?

Mr. Rezentes: We have not changed the green fee proposal. We had a proposal to increase fees across-the-board for the golf course after having discussions with staff, Kaua'i Golf Association, Dick Ueoka, and others, but we held off on pursuing it because of COVID-19. Basically, the situation that we are in now, because visitor play has drastically declined, our revenues at the golf course has come down. We are looking at plugging that gap with funds internally, as well funds from the fund balance, to make up the loss.

Councilmember Cowden: At fifteen dollars (\$15) in green fees, we have that many visitors that golf to make-up that amount of green fees revenue loss in a year?

Mr. Rezentes: I am sorry I did not hear that.

Councilmember Cowden: We have that many visitors golfing to make up that amount of revenue loss? That amount is not that much if you consider golf fees of one hundred dollars (\$100), but at fifteen dollars (\$15) were there that many visitors who regularly use our golf course?

Mr. Rezentes: Visitors regularly use our golf course. I have not actually looked at the difference percentage-wise between local play and visitor play. It used to be in the twenty percent (20%) as far as visitor play, but that is way down. The fee structure for visitors is much higher than locals, we have lost some ground as far as revenues go. Visitor play has been pretty steady throughout COVID-19 after that certain period where the golf course actually was closed. The bottom line is a lot of our revenue loss is due to the lack of visitors on the island and visitor play.

Councilmember Cowden: How much do visitors pay for a green fee?

Mr. Rezentes: I can look it up. I am sorry.

Councilmember Cowden: You do not know? Okay.

Mr. Rezentes: I can look it up.

Council Chair Kaneshiro: Councilmember Evslin, then Councilmember DeCosta.

Councilmember Evslin: Thank you for being here. I am sure I should have asked this question in advance because you may not be prepared for answering it. Do you have the total annual losses on the golf course? Not just this hole that we are filling, but overall, for the golf course this year.

Mr. Rezentes: Normally, the golf course runs a pretty significant deficit annually. The contribution from the General Fund is normally in the one million eight hundred thousand dollars (\$1,800,000) range. We would generate about one million dollars (\$1,000,000) in revenues at the golf course. The operation is about a two million eight hundred thousand dollar (\$2,800,000) operation.

Councilmember Evslin: Over time, have we been contributing more and more from our General Fund? Anecdotally, I have heard about a nationwide participation decline for golfing. Is that something we are experiencing here? I also recognize that this is a question we should probably entertain at budget time, but I just want to ensure that we do not end up with a big hole with our golf course sucking up more and more of our General Fund.

Mr. Rezentes: Yes. We have a proposal that again was ready prior to COVID-19 that we held back on pursuing. Part of that is to get more revenue from visitors and to be more in line with the private course competition. We are always a little below that of the private courses for the most part. We think we should and can get a greater share of revenue from the visitor players from the mainland and elsewhere.

Councilmember Evslin: Thank you. I agree. Do you have the trends of whether we are losing more money over time on the course or is it staying pretty consistent?

Mr. Rezentes: Over the years, if you look at maybe twenty (20) years, the gap that the General Fund has had to fill has been increasing. There has been a little reluctance to raise fees for our local users, but over time, we feel that it is necessary to supplement a larger percentage of the loss from the users. In past years, there were discussions that the golfer should pay dollar for dollar and fully fund the golf course operations. I do not think there was anyone willing or able

to go that far. I do not think we would ever get the votes to do that. The golf course has always been supported by the General Fund annually from the get-go.

Councilmember Evslin: Thank you. Maybe as follow-up before Committee, if we could get maybe five (5) or ten (10) years of our expenditures versus revenues for the golf course. I am not proposing to try to get that to even out. I am just interested in the trend line we are at here. Thank you, Wally.

Mr. Rezentes: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am not a golfing fan, but I have done a study of how money circulates and how we make revenue. If we have a fifteen dollar (\$15) fee for our local residents and if you do the calculation of the two hundred fifty thousand dollar (\$250,000) shortfall, it comes out to fifty thousand (50,000) golfers. If you divide that over three hundred sixty-five (365) days over the year, and I am not sure how many days the golf course is open throughout the year, it comes out to about one hundred thirty-six golfers (136) per day. You said we never lowered the fees from fifteen dollars (\$15) and that in fact you thought about raising it. I know for a fact there are two (2) ways to make money on a fee or a price tag. Either you hold it at that price, you can raise it, sell less, but make more money per sale, or you can lower it, have more people buy it, and make more money on that. If you have a fifteen dollars (\$15) fee at one hundred (100) golfers, you are making about fifteen thousand dollars (\$15,000). If you lower that fee to ten dollars (\$10) and you now have two hundred (200) golfers, now you have twenty thousand dollars (20,000). Did you ever do a financial study to see where these types of proposals would lie, how we can increase revenue, or could there be a COVID-19-type of financial fee right now? Perhaps if we lower the fee right now, maybe a larger amount of people would come out and golf? With the tourism industry and comparing to other courses, how do we compare and compete with the other courses, and how do we make our golf course a better entity that tourists want to golf at. Whether it is beautifying the greens or making better amenities that the tourists can enjoy when they come to our golf course, how can we better our course? That is just some food for thought.

Mr. Rezentes: Okay. The residential fee of fifteen dollars (\$15) is not as straightforward as it seems. The overlay with that is that we also have a monthly card for residents, which a lot of our residents take advantage of. Basically, that is a sixty dollar (\$60) fee for unlimited play per month. The avid golfers who play two (2) to five (5) times per week are getting a much better deal. It is well below the resident fifteen dollar (\$15) one-time fee. If you average it out, a lot of the monthly card holders pay in the five dollars (\$5) per round range or less, depending on how often they play. That was considered in our analysis and in our proposal that we held back on because of COVID-19.

Councilmember DeCosta: How does our golf course compare to other courses around the island, such as the Kukuilono Golf Course? Do we have a certain rating on our course, such as a four (4) or five (5) star rating?

Mr. Rezentes: I used to play a lot of golf from when I was a young kid. Wailua is an unbelievable layout from a public course perspective, it is one of the top public, municipal courses in the nation. There is a lot of pride in the Wailua Golf Course by the employees as well as from the people who play it. We had numerous national Public Links championships and other events held here. We annually host the University of Hawai'i at Mānoa golf team tournament where college teams from across the nation come here to play. From a course perspective and from a layout or quality perspective, the Wailua Golf Course is very, very good. It is well-received by the golfing community.

Councilmember DeCosta: Thank you, Wally.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Our excellent staff did help me to understand that for visitors, the green fee is forty-eight dollars (\$48) for weekdays and sixty dollars (\$60) for weekends. I appreciate that. It sounds like one month is the same price as one day for a person on the visitor element. How much of our wastewater ends up irrigating the Wailua Golf Course? Basically, this is an effluent area for our Lydgate wastewater. It has a really good role supporting our public infrastructure, correct? How much of the golf course is irrigated by the Lydgate wastewater system?

Mr. Rezentes: I do not have that information. I do know that it plays a significant part in assisting our Wastewater Division with flow. As we speak, our Department of Public Works, Wastewater Division is developing plans to place more R-2 water on the golf course. We are going through a process now where it will cost the golf course more in electrical and other costs to push out the water to the various locations that are receiving it. It is an ongoing discussion with the Department of Public Works on cost-sharing because we are going to need higher-level pumps to push the water to different areas of the course. It will also benefit us, because we do not have to pay for water, but the water distribution costs will go up with the increase in volume that the Wastewater Division wants to send us.

Councilmember Cowden: We learned in a recent meeting with the Wastewater Division that there is the nourishment element that is probably going to cost less in terms of enriching nitrogen or enrichment for the grass. My goal here is looking at the fact that this is not only recreation, it is also a retention basin and a place for us to deal with our cleaned up and treated wastewater rather than putting it into the ocean as the other option. There are multiple values to this. We are not

just paying for an expensive park facility. Can I give him a compliment, or do I have to wait?

Council Chair Kaneshiro: You are already going at it and we are in the question stage.

Councilmember Cowden: Okay, I will keep going. I am very thankful that this golf course is here. A number of the people that are stressed out with not being able to get their unemployment or other things, they probably do not have another sixty dollars (\$60) per month activity where they can go out there to stay healthy, hitting balls on the golf course, in the fresh breeze. It is like putting up a skatepark for our children. We are putting up a golf course for our children and for our stressed-out constituents. It is therapy. I am willing to find two hundred fifty thousand dollars (\$250,000), because I appreciate what the golf course provides.

Council Chair Kaneshiro: Wally, I know you addressed it, but I just want to make it clear that the wastewater going onto the golf course is treated wastewater. Councilmember DeCosta.

Councilmember Cowden: Yes, absolutely.

Council Chair Kaneshiro: I know you mentioned wastewater a few times. I know we know it is treated, but I just wanted to make it known to everyone that it is treated wastewater.

Councilmember DeCosta: We are not pumping it into the ocean, are we?

Councilmember Cowden: We might be.

Councilmember DeCosta: If it does not go to the golf course? Felicia, you said it goes into the ocean if it does not go to the golf course.

Councilmember Cowden: We do.

Councilmember DeCosta: We do? That is a very good point you brought up, then. We currently pay Hartung Brothers to use our wastewater that is R-1 out in Waimea. The figure actually came out to twenty-five thousand dollars (\$25,000) per month or three hundred thousand dollars (\$300,000) per year that we pay someone to use our water. If you are using our water in the hundreds of thousands of gallons, you are actually saving the County from having to pay someone else to use our water, which we are currently doing in Waimea. I am just making sure this information is made public. As Councilmember Cowden stated, people might think we are putting money to golfing, which might not be a priority hobby, perhaps they

should be doing yoga...I support golfing...but we are actually doing a great thing. Thank you, Wally.

Council Chair Kaneshiro: Any other questions for Wally?
Councilmember Carvalho.

Councilmember Carvalho: The draw from the General Fund, that has been ongoing for a long time, correct?

Mr. Rezentes: I am sorry, I did not hear the last part.

Councilmember Carvalho: What did you say about the General Fund? You said it was there for many, many years.

Mr. Rezentes: The General Fund has funded the Golf Fund to bridge the gap and make the golf course whole. The General Fund has subsidized the Golf Fund quite substantially over the years.

Councilmember Carvalho: My point is that this is a very special place on our island. There are a lot of positive opportunities for this particular golf course. I know money is an issue at this time, but we have to be clear that this golf course is a part of our island. It offers positives for not only visitors, but there is also movement by the Department of Parks & Recreation to look at the benefits for families and other local families to use the facilities for their enjoyment. It is an open space and that is another positive part of the area that we should talk about. The revenue and funding are also important. The visitor portion is important as well. I just wanted to mention that this golf course is known worldwide, and many people are just thankful for it. I know at this time, there are issues with funding, but there is another part that I want to make clear about its other benefits. There are other opportunities for our local families to use the beautiful, open layout of the golf course.

Council Chair Kaneshiro: Are there any further questions from the Members?

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

Council Chair Kaneshiro: Is there any final discussion? Council Vice Chair Chock.

Councilmember Chock: I will be supporting this allocation to keep the golf course moving forward. I support golfing. Like any other recreational activity that the County supports in our parks, it is integral to our community. I have always been very concerned about the deficit and the sustainability of this course, that has over time increased to over one million dollars (\$1,000,000) of our annual budget.

What I would like to see moving forward and when we get back to this Bill in Committee, is not only the information that Councilmember Evslin has asked for, but I would also like to see the revenue plan to address the fees. I also think that we also have to be more creative. I like the idea of having more family access to the area. The deficit is just so large. There are no sustainable golf courses. We need to look at this piece of property from that standpoint to keep this operation moving forward for the community. We need to be able to expand on what it has to offer to make it sustainable. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you. I want to echo what Councilmember Chock just said. I am asking for the revenues and expenditures for the last ten (10) years or so. I am concerned about the long-term trend here. I want to reiterate my support for outdoor public spaces in general. Yesterday, I played pickleball at Kalena Park and I bring my kids to the playground there three (3) times a week. I utilize our beach parks on the weekends probably every week. I have never paid a dime for any of that. Those are all incredibly vital places for the community to gather for outdoor physical and mental health. I would include the golf course in this bucket of necessary community gathering places for our community which requires us to pay into it. My concern is just ensuring that is sustainable. One million dollars (\$1,000,000) per year is a lot of money. I want to make sure that we can continue to provide this for the community moving forward in a sustainable manner. Those are my biggest concerns. I appreciate you being here, Wally, and I appreciate receiving more information as we move forward into the budget session this year. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: My questions for Committee that some may really need to be in our budget conversation...I would like to see a comparative analysis with other sports in our parks. It must cost us some money to have all of our softball fields, our soccer fields, our football fields with the lights, et cetera. Vidinha Stadium must gain revenue as well, but many of our parks only cost money, they do not really raise revenue for us with a fee paid. Before we pick on the golfing community too hard, I would like to see what the different parks cost relative to the sports that they house and if there is a trend line for those sports as well. It might be that every sport goes up in cost because of increased electricity, mowing fees, or whatever else is done there. What you might want to throw in there is surfing. I am someone who comes from the surfing world. Some parks like Kalapakī, a little less at Hā'ena Beach Park, certainly Black Pot Beach Park, and the ones along Hanalei and Kekaha, the bathroom and showers support that water sport. I think it is good for the entire community that we do invest money into parks. When people complain about park restrooms, these things support those sports. We need to look at how we

invest in our community and what sports are where is of value. If it cannot happen here, then I hope we have that discussion during budget. I would like to know now rather than waiting. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I will not repeat what has been said. Thank you to my colleagues. I have never been a good at golfing. The closest I have been to it is playing miniature golf. I enjoy the little putting games and I am pretty good at that. I cannot imagine golfing on the larger course. When I was younger, I thought that golfing was mainly for rich people. I am glad that we keep our prices so low that it is pretty accessible to anyone that wants to give it a try. The only thing I would say to all of our residents, and I know I experience it all the time having to drive by the golf course from Anahola every day, is the priceless value of having that open, green space along the highway and along the coast. It provides a beautiful view plane. We need to recognize the value that it brings to our island. The opposite example is the property in Keālia that was bought. When it was for sale many years ago, I wish the County or the Office of Hawaiian Affairs (OHA) could have purchased it on behalf of the people to have more open space. Now it is in the hands of the wealthy and they put up these tall almost unnatural *hau* bush type hedges that is twenty (20) feet high. All of those view planes are not available. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Councilmember Kualii, you impress me every meeting. I never really thought about that. As we drive past Wailua with my wife, she always says it is so beautiful. We did not even turn around to look at the prison side, we only look at the golf course. Thank you for that *mana'o*. These are the things that are like what Councilmembers Chock and Carvalho said earlier, making it more family-accessible by possibly planting fruit trees that grow well by the seashore. The tourists may like that so they can pick some fresh fruit and take it back to their hotel. I do not know. We can find a marketable way to make our golf course a little more prestigious compared to anyone else's. That is how we can collaborate as a Council. Thank you very much.

Council Chair Kaneshiro: Anyone else? I think everyone said what I wanted to say. In general, golf courses do not make money. I do not think there are many profitable golf courses around the world. Ultimately, we are in this situation because visitor golfers pay a higher fee at the Wailua Golf Course. With COVID-19, we have less visitors, so we get less of those revenues. That is why we are in the situation we are in. As has been mentioned, this golf course provides multiple uses and benefits for the public. It provides a recreational area for people that enjoy golfing, it provides an open space for people driving by, and it also provides an avenue for us to distribute our R-2 wastewater. We would need another place to put it if the

golf course was not there. I have heard that golf demand has increased around the United States of America. It may not have increased here so much on Kaua'i. There is potential and the demand for golf to increase here on Kaua'i. We can continue to look at what it is costing us. It is the Administration's responsibility to ensure that we are watching our budget and costs. If you look at the entire island, we maintain many park facilities with no compensation. For example, the public gets to use Hanapēpē and Vidinha Stadiums for free, but it costs us money to maintain it. I think everyone on the Council is in support of it. A golf course costs money, but there is a public benefit to all, just like all of the other park facilities around the island. I am happy that everyone recognizes that.

(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. 2817) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 24, 2021, and that it thereafter be referred to the Committee of the Whole was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Next item, please.

BILLS FOR SECOND READING:

Bill No. 2813, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE *(County of Kaua'i Planning Department, ZA-2020-14) (Shoreline Setback And Coastal Protection)*

Councilmember Kualī'i moved to approve Bill No. 2813, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Kaneshiro: I believe we received written testimony. Are there any questions on this item?

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am acknowledging that I am always first. I do not have to be.

Council Chair Kaneshiro: You are the first to raise your hand, so I am acknowledging that. If you want to be first, you need to race Councilmember Cowden and raise your hand before her.

Councilmember Cowden: Yes. Please, raise your hand. This is such an incredibly important Bill. I am just double-checking, but I believe we passed an amendment enhancing the definition of repairs the last time, that I asked for. Thank you for that. I went down and drove around again after we had this pounding surf this week. We had huge waves. I saw that in Hanalei, the waves were completely going over Kūhiō Highway in the Waikoko area. It looked like halfway up the beach. I asked the people living in those houses to take pictures for me. At that time, the road was closed into Hanalei due to the rain. I want to acknowledge that we have high rains and surf often at the same times. In the Waikoko area about five (5) big ironwood trees were downed. It looks like the Waipā area lost more land. I saw rocks across the highway. Big kudos to the Department of Transportation for always doing a very good job. Kaʻāina, can you speak to the robustness of what you feel has come from the public process while the Planning Commission has been closed. It seems like no one is on the meetings and it is only held once a month with a very limited agenda. Can you please speak to that? Do you feel confident that we have addressed the needs and why?

There being no objections, the rules were suspended.

Mr. Hull: Thank you. The Shoreline Setback Ordinance has been in effect for several years now. It is one the most robust or progressive shoreline setbacks in the nation. Over the years, there have been issues with the implementation particularly as it relates to repairs and vetting it through the process. Working with individuals from the coastal advocacy and private property protection sides, we have been able to shore-up, no pun intended, that definition of repair and how it is used to analyze things going on in the proximity of the shoreline setback area. We have received agreement and consensus with these various groups to further push the minimum shoreline setback from a forty (40) feet to a sixty (60) feet setback for all coastal properties, regardless of coastal material be it sand or rocky shoreline. There is a lot of discussion at the State Legislature, and there has been for several years, about disclosure of coastal hazards during the real estate transaction. This draft bill also addresses in its own language knowing we cannot control or regulate real property transactions, we can at least go through coastal hazard disclosure statement, which is the precursor to what is being attempted or has been attempted for several years now at the State Legislature. It has fallen through the cracks at the eleventh hour. This does address many of the issues that have been brought to the forefront from the coastal advocacy communities and

individuals, while simultaneously navigating the private property protection aspects and threats of litigation. It is not quite totally there though. This Ordinance uses a twenty (20) feet analysis as carte blanche to address sea level rise. We have data and statistics that demonstrate that in some areas it is not going to be that bad. In other areas it will be much worse than just twenty (20) feet. We have not fully smoothed the data out and gone through enough of a scientific analysis of that data to bring it to the Council, where it can be incorporated into an ordinance and still hold up judicial scrutiny. That is why I am putting you all on notice that we anticipate being back within the year, because we are going through those studies right now. I will be honest; it is not quite there. But what we can provide and can address, I think it is prudent to do so now. That is why you folks have this Bill. We will be back very shortly.

Councilmember Cowden: Thank you for that. I think this disclosure on coastal hazard is really important. I believe I am the only person on this Council that was born inland. I was born in Colorado in the uplands. You do not know that the ocean is not just a big pool if you are somewhere else until you have half-drowned yourself a few times. I have done that. You notice there is a difference between the winter and the summer. That is not obvious to people who might be buying sight unseen or buying because it is fun to live right on the beach. It really needs to be emphasized that we no longer have heavy houses built on an inch of sod right on the edge of the beach. I was not quite clear. Did you feel that our disclosure of coastal hazard is what still needs to be developed? Or did you feel it is reasonably developed in this existing Bill?

Mr. Hull: The process, I believe, is reasonably developed within this Bill as it is today. We cannot go as far as regulating and mandating that the disclosure be shared with a potential buyer. We do not have that authority within the County to require that of a real estate transaction. The State Legislature has been attempting to do so for a couple of years now and the Bill is back up at the Legislature this year and we hope that it passes. This is a first step in moving towards that direction within the authority of what the County has. Having that disclosure statement at least signed by the applicant and part of an official government record does allow at least from a real estate transaction standpoint, if they are doing a title search on a property and researching the property, it will come up. It is not mandated in the real estate transaction, but it should come up. We think it is a step in the right direction.

Councilmember Cowden: How can I help to ensure that I information does end up in the County's authority, especially in consideration of those properties next to the rivers. The rivers and the ocean together are part of that problem. I am very happy to work to introduce a bill on that. I think that it is deeply needed, and it is to the benefit of the new buyer. We are not shutting them down; we are helping them out. Can we work together on that?

Mr. Hull: Absolutely. With the studies that we have done with the Shoreline Setback Ordinance, those studies are germane primarily to the coastal erosion and coastal hazard processes. When it comes to the river and the meeting of an estuary body and the ocean, those are indeed hazardous areas as well. The studies that we have do address some of that river mouth area. However, when you go further up these rivers, streamlines, and estuaries, I will be honest, some of these studies are not quite there as far as being folded into a zoning ordinance at this point. I think the science is getting there and we should see that in the very near future. I think you could very well be a part of the County of Kaua'i Resiliency Plan that we are embarking on here this year. We are supportive of looking at further impacts that climate change will have in areas that are not just the coastline, and in particular, those riverine areas.

Councilmember Cowden: Thank you.

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

The meeting was called back to order and processed as follows:

Council Chair Kaneshiro: Any other final questions on this item?
Councilmember Evslin, then Councilmember DeCosta.

Councilmember Evslin: Thank you. I have said basically the same thing since first reading. I think it deserves saying it again. I just want to express my appreciation the Planning Department for building on one of the most progressive shoreline setback ordinances in the country and making it more progressive with increasing the minimum setback requirement, incorporating new data, and as we discussed today, the coastal hazard disclosure, which I think is an important component of it. I just want to lastly express my appreciation that the Planning Department is acknowledging and actively working on the need to include not only historical erosion data, but modeled erosion data for sea level rise going forward. It is incredibly critical to do this as our historic data is going to be increasingly less relevant as we move forward. This is something that has not received a lot of notice out there, but it is so important for our community that we have a progressive Shoreline Setback Ordinance so that we do not have houses or other types of infrastructure falling into the ocean within fifty (50) years or less. When you do have houses falling into the ocean and you have a homeowner legally or illegally trying to shore that up, that impacts our beaches and communities in all types of other way. This is incredibly important. I appreciate all the work from the Planning Department, and I look forward to the next version of it in the next year or so.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I just wanted to add a small comment to this. At the last meeting on this topic we talked about the encroachment of the vegetation that people plant and a lot of that vegetation causes a lack of beach access travel from one area of a coast to the next. I have been doing a lot of research and have been talking to a lot of grass growers. There are several types of grass such as Bermuda, Bahai, and Seashore Paspalum that all grow really well with low maintenance. They are high-salt tolerant. It still allows us to have access and even picnic on that grass. I think we should have an amendment, resolution, or a bill that says people cannot plant or obstruct access to and from different parts of the beach, as long as it is in a walkable path. I just wanted to throw that out there.

Council Chair Kaneshiro: Anyone else? Councilmember Cowden.

Councilmember Cowden: I want to thank the Planning Department for working on this. I also want to thank the shoreline advocates that really have been the driving force on this. I want to acknowledge the Kaua'i Board of Realtors who have really been a pleasant surprise for me to recognize how much they tend to want to work with the County on making Kaua'i be available for people who live here. I look forward to working with them on looking at these disclosure statements. I know they will help to do a good job on them. I want to acknowledge Councilmember DeCosta's piece about having the right grass. There are sea grapes and a number of plants that are good for planting along the waterway. We talked about tall hedges in the last piece. I am happy to work on plant elements.

Council Chair Kaneshiro: Anyone else? Councilmember Kualii'i.

Councilmember Kualii'i: I just want to say a big *mahalo nui loa* to the Planning Department. I think this is really important work. I also want to thank the activists and advocates out there who have their number one priority as the protection of our shoreline and the access. I am looking forward to what the Planning Department will do with the data that they are studying. I know Ka'aina said he would be back within the year. It is great that we have a new President and a new administration that has climate change as one of its top four (4) priorities. This resiliency work is right in line with what should be supported at the national level as well.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Ka'aina, I just wanted to mention, and you went back to that study from the University of Hawai'i. Did this start from that time as we moved forward?

There being no objections, the rules were suspended.

Mr. Hull: Correct. The data that is utilized for the Shoreline Setback Ordinance today came from that study by the University of Hawai'i at Mānoa under Dr. Chip Fletcher. Much credit to you and your Administration, funding that study was important. That study has been updated for the draft ordinance before you today. We are working with the same professor and his team to update the data to incorporate specific sea level rise exposure areas and smoothed in a manner that can be actually implemented into an ordinance level.

Councilmember Carvalho: Dr. Fletcher and his team are still involved with the Planning Department? That is great. We started from that original study and this is now 2021. It is a long process. Every step of the way now look at where we are at. That is a good thing. We have to continue to develop that process. I look forward to more discussion and we have to keep this process moving forward. It is such an important part of what we have to decide as leaders and as the community. Thank you.

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

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

(No registered speakers requested to testify regarding this agenda item.)

The motion to approve Bill No. 2813, 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:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

There being no objections, the meeting recessed at 10:27 a.m.

The meeting was called back to order at 10:42 a.m., and proceeded as follows:

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 Kualifi moved to approve Bill No. 2814 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions from the Members? If not, do we have any final discussion? Councilmember Cowden.

Councilmember Cowden: I want to acknowledge that it is never easy to raise taxes. This is a raise in taxes by lowering the threshold for the non-resident investor to one million three hundred thousand dollars (\$1,300,000) from two million dollars (\$2,000,000). That is never an easy choice for me. I do approve of this because it is important that we have fewer empty houses. If it encourages people to have someone in their house when they are not here, I support that. We need roofs over heads. I feel comfortable in that the Real Property Assessment Division said that they are going to reach out to the affected people so that they have advanced warning. There are assurance that when people have these caretakers in the homes, that that can be documented, and that that matters. There is difficulty, but I support this choice.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you. I just want to thank the Department of Finance and Real Property Assessment for thinking out of the box here and for using our property tax code to encourage and discourage different types of uses. I do think that with one (1) in eight (8) homes on Kaua'i vacant contributing to the hollowing out of our neighborhoods and lower tax revenues, and most importantly, exacerbating our housing crisis, I do think that a move in this direction is really important. There are some clear tradeoffs here and I went over some of my concerns and my hopes for this Bill in Committee. I want to do so again today. I personally would have preferred a full vacancy tax on all vacant properties. I understand some of the issues around doing that. As Councilmember Cowden referred to, I have some concerns that this Bill could lead to some issues, because people on the one million three hundred thousand dollar (\$1,300,000) margin will not know their rate until the assessment notices come out. The benefit of the full vacancy tax is that the rate is knowable in advance and I think it would do more to incentivize homeowners to find tenants for a majority of the vacant homes. I still certainly believe that this is a step in the right direction. I appreciate all the steps that Real Property Assessment is taking to ensure that homeowners have adequate notice about the rate change and adequate options to provide a lease agreement to stay at the Residential tax rate. Thank you to Brad and Reiko and the team at Real Property Assessment for working on this. We are headed in the right direction. Hopefully the next step will be a full vacancy tax at some point. Thank you.

Council Chair Kaneshiro: Are there any other discussion from the Members? We still hear it in the public in regard to what we are doing for housing. Although this is not a housing bill, this is supporting local housing. It increases the net and making it more expensive for people to own second homes. Although it is coming from the Department of Finance and Real Property Assessment, it is actually a Bill that helps housing. I am in support of this Bill and will be voting in support of it. Councilmember DeCosta.

Councilmember DeCosta: I would also like to reiterate that I support this Bill. I am actually a property owner of several homes that will be affected by this if one of those homes is not rented. I do rent to local families, and I think it is important that we do that. This will encourage homeowners with second homes on the property or in other areas to rent to local families here on the island. I will be voting in support of this Bill.

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

Councilmember Carvalho: We have rental units as well, but this is another opportunity that I totally support. This will open up the doors to more of our families.

Council Chair Kaneshiro: Any further discussion?

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

The motion to approve Bill No. 2814 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:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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 to approve Bill No. 2815 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 on this item? If not, any final discussion? Councilmember Cowden.

Councilmember Cowden: I would like to thank the Department of Finance for making an effort to be financially efficient. This is a good example of running the County like a business. We are making the extra effort to not lose money when possible. I am just acknowledging that and expressing my gratitude.

Council Chair Kaneshiro: Anyone else? This is just taking the opportunity to refinance our bonds at lower interest rates which is prevailing right now. It is a good thing and it costs the County less on the money borrowed.

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

The motion to approve Bill No. 2815 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:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

EXECUTIVE SESSION:

ES-1039 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing and request for settlement authority in the matter of County of Kaua'i vs. KAPHA North Shore, LLC, Civil No. 18-1-0031 (Fifth Circuit Court). This briefing

and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1041 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1042 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters. The representation will include cases in Federal Court, the State Courts, administrative contested cases, agency hearings, and arbitrations. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-1039, ES-1041, and ES-1042, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We will take ES-1042 right now. We will come back to open session and finish our Council Meeting which includes a vote on an item related to ES-1042. We will take the other Executive Sessions at the end of the day.

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

The motion to convene in Executive Session for ES-1039, ES-1041, and ES-1042 was then put, and unanimously carried.

The Council Meeting was recessed at 10:52 a.m. to convene in Executive Session.

The meeting was called back to order at 11:14 a.m. and proceeded as follows:

C 2021-32 Communication (01/15/2021) from the County Attorney, requesting authorization to expend additional funds up to \$200,000.00 for Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters. The representation will include cases in Federal Court, the State Courts, administrative contested cases, agency hearings, and arbitrations.

Councilmember Kualii moved to approve C 2021-32, seconded by Councilmember Chock.

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

The motion to approve C 2021-32 was then put, and unanimously carried.

Council Chair Kaneshiro: Seeing no further business and hearing no objections, this Council Meeting is now adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:15 a.m.

Respectfully submitted,

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

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:ks