

## COUNCIL MEETING

APRIL 7, 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, Līhu'e, Kaua'i, on Wednesday, April 7, 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 meeting will be conducted pursuant to Governor Ige's Supplementary Emergency Proclamations with the most recent relating to the Sunshine Law being his Eighteenth Supplementary Emergency Proclamation dated February 12, 2021.

### 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.)*

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

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

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

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

March 24, 2021 Council Meeting

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

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 this agenda item.)*

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

Council Chair Kaneshiro: The motion is carried. We have interviews next, directly following the interviews we are going to take public testimony. We have some people waiting to take public testimony on Resolution No. 2021-13, so we will do the interviews first and then we will take public testimony, we will recess our Council Meeting, take public testimony, and come back to our Council Meeting. With that, Ellen, you are up.

ELLEN CHING, Boards & Commissions Administrator *(via remote technology)*: Good morning, Chair and Councilmembers.  
Is my audio okay?

Council Chair Kaneshiro: Yes.

Mr. Ching: Thank you. I am pleased to introduce to you, Lorna Nishimitsu. Lorna has always said, when she retires she was looking forward to joining the senior centers, because then she will be the youngest one there. I laughed, but I honestly did not believe her. But true to her word, as soon as she retired she joined the center and tried out *'ukulele*, drummerice, and more—she loved it, then COVID-19 hit and everything shut down. When I finally caught up with her this past Monday, she was happy to report that the senior centers were opened again and that she just finished her senior exercise class. Professionally, Lorna has had a long career as an attorney. Fresh out of law school, she became a Public Defender, then a Prosecuting Attorney, a Deputy County Attorney for the County of Kaua'i, and finally, an attorney at a private practice. Her technical knowledge of administrative law and her experience as a former Deputy County Attorney makes her the ideal candidate for the Liquor Control Commission. We look forward to her contribution and willingness to lend her considerable talents and service to our community. Thank you.

Council Chair Kaneshiro: Thank you. Lorna, are you there?

LORNA A. NISHIMITSU *(via remote technology)*: Yes, I am.

Council Chair Kaneshiro: I did not know you retired. Do you have anything to add?

Ms. Nishimitsu: Just that when I was approached about sitting on the Commission, I refused at first because I was looking forward to the reopening of the centers, which has not really reopened, we have a pilot program going on. After putting on all this poundage from the shut down, it was refreshing to return to the forced exercises again. But I was guilted into, and I acknowledge that I have a responsibility to provide some public service to the County, which has been so good to me when it employed me in the past and I look forward, if you see fit, to

serving on the Liquor Control Commission. Just for the record, I am no longer licensed as an attorney. When I retired in May of 2019, I also petitioned the Supreme Court to surrender my license, because I had no intention of ever practicing law ever again.

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

Councilmember Cowden: Hi, Lorna. I appreciate that you are willing to serve. I am sorry that you were guilted into doing it. I know that you have a long relationship with people in the County, so maybe that is why they guilted you into it. Most of your experience, is it in real estate law?

Ms. Nishimitsu: Most of the experience is with respect to land use entitlements—that is correct.

Councilmember Cowden: Okay.

Ms. Nishimitsu: I did appear a few times before the Liquor Control Commission.

Councilmember Cowden: What is your background and knowledge with alcohol-related establishments? Have you ever had a bar or anything like that?

Ms. Nishimitsu: Have I owned a bar or an interest in a bar?

Councilmember Cowden: Yes.

Ms. Nishimitsu: No.

Councilmember Cowden: Okay. I am happy that you are willing to serve. I recognized that you have worked at Belles Graham, LLP and Lowenthal August & Graham; attorney firms that are very closely associated with the County. I just was curious, what would bring you on to Liquor? But it seems good to be able to have that knowledge. What creates interest for you in doing it?

Ms. Nishimitsu: Public service, which I acknowledged I have a responsibility to provide and I did not think that it would be appropriate for anyone to ask me to serve on the Planning Commission, because of the many years that I have served representing developers. I think there would always be a concern about whether or not I could be fair in making decisions about what development should or should not occur on the island. When it comes to liquor control, there is not that kind of controversy attached to licensing or in a position of penalties. I mean, there is controversy for the licensee when it comes to penalties, but aside from that, there is not the scrutiny that would be given to whether or not the Planning Commission acted fairly because I happen to be one of the Commissioners.

Councilmember Cowden: Yes, I totally agree. We have a great cast of people that typically are in the Liquor Control Commission, mostly concentrated in

law, so it was curious to me that we do not have people with experience in owning bars, but I am happy to affirm your appointment and I appreciate your willingness to serve and it would be interesting to have people with some experience in the topic at-hand, but thank you so much for being willing to serve.

Ms. Nishimitsu: Thank you.

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

Councilmember DeCosta: Good morning, Lorna. How are you?

Ms. Nishimitsu: Good morning.

Councilmember DeCosta: I am actually excited to have a caliber candidate like you to serve on our Liquor Control Commission. I wanted to ask you two (2) simple questions; tell me a little bit about where you grew up, if you grew up on Kaua'i and what part of Kaua'i. I am actually interested in what college you graduated from.

Ms. Nishimitsu: I was born at Wilcox Memorial Hospital a long time ago before we were a State. I went to Kapa'a Elementary and Intermediate School before it became a middle school and graduated from Kapa'a High School. I went to Lewis & Clark College for one short semester and was so homesick that my parents allowed me to return and finish up my college education at the University of Hawai'i (UH). I got my law degree at the then University of Hawai'i Law School, which is now the William S. Richardson School of Law. So we got our law learning, so to speak, in those portables in the quarry, not in the fancy building they have now.

Councilmember DeCosta: Being said, our local girl from Kapa'a, going to UH, coming back years later to serve as our Liquor Control Commissioner, and prior attorney, I am impressed. Thank you very much, Lorna.

Ms. Nishimitsu: Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Good morning, Lorna.

Ms. Nishimitsu: Good morning.

Councilmember Carvalho: I just wanted to *mahalo* you for your service. I have known you for a long time, we have gone back a long way. You provided community service back then in your own way and I know that, and now you are providing your *mana'o* and your knowledge at the table at the Liquor Commission would just add another awesome opportunity to provide good direction overall. I just wanted to *mahalo* you for your stepping up to the plate again and your public service to the people of Kaua'i, so *mahalo*.

Ms. Nishimitsu: Thank you. But you have had stellar commissioners before with Judge Nakea and Judge Matsunaga on that Commission.  
Councilmember Carvalho: Yes.

Council Chair Kaneshiro: Are there any other questions from the Members? Are there any comments from the Members? If not, I just want to say, thank you Lorna, for being willing to serve. I have all the faith in the world that you always hold everything to the highest integrity and you are going to do a good job at Liquor. I am glad that you are able to express the critical thinking that went into not being on a Board like the Planning Commission and maybe eroding the trust that the public may have with you being in a position like that and saying the Liquor Control Commission is probably a better place to be. So I really appreciate that and I know you will do a good job at the Liquor Control Commission.

Ms. Nishimitsu: Thank you.

Council Chair Kaneshiro: Is there anyone else? If not, thank you. We will be voting on this at our next meeting.

Ms. Nishimitsu: Alright. Thank you.

Council Chair Kaneshiro: Thank you.

Councilmember Carvalho: Thank you.

Council Chair Kaneshiro: Next up is, Gerald Ako for Planning Commission.

Ms. Ching: Gerald's favorite food is sushi. His favorite pastime is yardwork. Secret pleasure: he is a Grey's Anatomy junky. Most of you know Gerald as part of the Hawai'i Government Employees Association (HGEA) team on Kaua'i for the past thirty-seven (37) years, as HGEA's Division Chief on Kaua'i for the past twenty-seven (27) years, until his retirement a little over a year ago. Gerald earned his degree in Industrial Relations at UH Mānoa. What you may not know is that he was the first student athlete to receive a full baseball scholarship and was coached by Les Marukami. At the time, baseball was still at its infancy and not even part of the Western Athletic Conference (WAC). They did not even have uniforms, they borrowed uniforms from another team. Amazingly, Gerald went on to play professional minor league baseball in the United States and in Mexico before coming home. Another surprising fact is Gerald went to the Pony Baseball Colt League Division Worlds Series twice, first as a teenage baseball player and later as a coach for the Kaua'i All-Stars team. The Planning Commission is one of the most demanding commissions. We know that Gerald has the right stuff. He will bring the same focus and diligence that have been hallmarks of his life. I am so pleased that we will continue to enjoy the benefits of Gerald's knowledge, talents, and his love for this community through his participation on the Planning Commission in the labor position. Thank you.

Council Chair Kaneshiro: Thank you for the introduction. Gerald, do you have anything to add?

Mr. Ako: Good morning, Chair Kaneshiro and Councilmembers. Thank you for your time for being here this morning. For me, just like Ms. Nishimitsu, it was never my dream when I was growing up to be part of the Planning Commission and being a commissioner here; however, once you become a part of this community and you understand what the people that came before you have done, so that we would be able to have the life we have and the community we have, for me, I think it becomes just a matter of obligation that not only that we can enjoy to live in what a wonderful community we live in, but to make sure that those that follow us also come in and have the same opportunities that I think we all share here. So with that, I thank you all, too, for the time an effort that you have for our community in these trying times.

Council Chair Kaneshiro: Thank you. Do we have any questions for Gerald from the Members? Councilmember Cowden.

Councilmember Cowden: Hi, Gerald. Thank you for all the work you have done over the decades at HGEA. I have no doubt that you have the stamina to do this job, you know a lot about contracts, and you are a very hard worker. I appreciate what you have done. Our job as Council, when we are talking to people who are going to be on the Commission, is to really look and vet for what is the right position and Boards & Commissions are the check and balance in government to make sure that the common people actually have a fair stake—that is my understanding. So, when you were in HGEA, are the County lawyers typically represented by HGEA?

Mr. Ako: No, the County lawyers are not part of the bargaining union. They would not be represented.

Councilmember Cowden: I could not quite hear you. Who represents the County Attorneys? Is it not HGEA?

Mr. Ako: No, they would not.

Councilmember Cowden: Okay, who does represent them?

Mr. Ako: Regarding the Hawai'i State law...

Councilmember Cowden: They are appointed...

Mr. Ako: They have an opportunity to sign up as a voluntary member of our excluded unit, which is actually represented by American Federation of State, County, and Municipal Employees (AFSCME), but they are not part of the bargaining unit and they do not have a collective bargaining agreement.

Councilmember Cowden: Okay, that is important for me to know, because what I am experiencing when I go to the Planning Commission meetings is

that there is a prevalence of contested case hearings at Planning, so what happens with that is that these things go out to maybe one (1) to two (2) years of law and the results are that the financially dominant partners tend to prevail through the financial exhaustion of the weaker partner, so it is important to me just to be able to say to you, please make sure if something can be addressed, if it is a simple issue that can be addressed at the Planning Commission level, that it really is. Because I am getting a lot of complaints, which is why I attend the Planning Commission meetings regularly. People fear going into a contested case that they cannot afford, so I just want to make sure that this is the only opportunity that we have to interface with a potential Planning Commissioner and I will be voting for you because I hold you in utmost respect for your competence and your character, and I want to take this opportunity to say, please be vigilant that the less economically capable people are not pushed into a contested case hearing that ends up being the death now of their request. Thank you. You might have a comment, but you do not have to comment.

Mr. Ako: Thank you for your kind words. Interestingly, when you work for the Union, when you work for an organization like HGEA, pretty much, we become advocates for...I guess what we call the working people—those that all the times are overshadowed, as you have mentioned, lawyers out there, the big administrators, big corporations, that I think in terms of giving everyone a voice is very important for me. It is not easy for someone to come in front of the Commission, it is not hard for anyone to take the time out to be there and hopefully I can be someone that takes the time to look at the perspective of everyone who has or will be impacted by any decisions that are made.

Councilmember Cowden: I appreciate that. I think that the Planning Commission is probably almost as important as the County Council. It is a lot of work. You have thousands of pages that you need to review and it is unpaid, so I deeply appreciate your willingness to serve. Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you, Chair. Good morning, Mr. Ako. It is good to see you and I hope you are enjoying retirement. I cannot see why you would jump into this outside of your heart of service, so I want to thank you. I do think for the labor position, you are very befitting of the role, so I will be completely supportive of your application. I do have a question for Ellen. I was wondering if you might be able to give me an update on the other positions and where they are. If you could remind me again of the different roles at the commission that we fill. There is environmental, business...

Ms. Ching: Councilmember Chock, thank you. Let me just pull out my thing. We have seven (7) members on the Planning Commission and they are appointed by the Mayor and confirmed by Council and they are staggered three-year terms. Two (2) are environmentalist. Two (2) need to come from Business, two (2) need to come from Labor, and there is one (1) At-large position.

Councilmember Chock: Great. In terms of filling all the positions and forthcoming open vacancies, do you have any forecast?

Ms. Ching: Typically, every year there will be two (2) vacancies. This year, I did a 90-day holdover, so Roy Cole, was in the labor position and he ended his term at the end of March, so that is why we have Gerald in front of you today to fill that position.

Councilmember Chock: Okay. I have two (2) Environmental, two (2) Business, one (1) Labor, and one (1) At-large.

Ms. Ching: Correct.

Councilmember Kualii: Two (2) Labor.

Councilmember Chock: Okay, that makes sense.

Ms. Ching: I was saying it is two (2), two (2), two (2), and one (1). So, two (2) Environmental, two (2) Business, two (2) Labor, and one (1) At-large.

Councilmember Chock: Councilmember Kualii, is setting me straight here, thank you.

Councilmember Kualii: I heard two (2), two (2).

Ms. Ching: Thank you.

Council Chair Kaneshiro: I have a follow-up from Councilmember Cowden.

Councilmember Cowden: Yes, for Ms. Ching. I had thought that one (1) of these positions had a tie to Hawaiian cultural understanding that it is another area that we are consistently having a lot of stress; do you have a Commissioner right now, that has a strength in that direction? I have always assumed it, because typically there is one. Does one of these overlap that has Hawaiian cultural practices in their wheelhouse of knowledge?

Ms. Ching: I am bound by what is prescribed, so it needs to be two (2) environmentalists, two (2) from business, two (2) from labor, and then one (1) At-large, so it may be that some of the individuals have some understanding of our host culture or is a practitioner or may have some knowledge of it, but for the most part they must be able to fulfill the categories of having some knowledge or experience as an environmentalist or in the business field or as laborer—those are the three (3) main categories, and the At-large is nominated by the Boards & Commissions, but it can be from outside of those categories.

Councilmember Cowden: That is a good answer for Councilmember Chock's question. My question was, do we have someone right now that has that knowledge? When we are hearing that our commissioners did not ask to have this responsibility, they were asked to have the responsibility. I am wondering if there is a look towards Hawaiian cultural practices, because as we have more young people



graduating from college and law school who went through immersion schools and can speak the Hawaiian language, this is becoming a stronger demand on the Commission and we have been fortunate to have a handful over the years that are there. I am wondering and asking, not what the law is or what the requirements are. I am asking, what do we have? Does any of our naming commissioners have that strength?

Ms. Ching: I would not be able to respond to that at this point. I will certainly take that under advisement and look to the future and moving forward.

Councilmember Cowden: Thank you so much for that, because again, those concerns are what call me to spend my Tuesday's at the Planning Commission meetings by phone. It is a consistent, persistent, strident need in our community. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you. This is geared towards Mr. Ako. Good morning, Mr. Ako. Hello, Gerald.

Mr. Ako: Good morning.

Councilmember DeCosta: I know we have a little bit of history—you and I. I do not want to make you feel old, but you come across as being an elder to me and an elder in our community, and I know the word "elder" across every ethnic background means someone who has extensive wisdom, has been around the block several times, and has a lot of *mana'o*. I am not a Hawaiian, but I married a Hawaiian girl and I believe that is knowledge and I know you come with that. So I want to shed a little bit of light on my colleague, Councilmember Cowden. Gerald, tell me about your son, where did he go to high school?

Mr. Ako: My son, Brevin, went to Kamehameha Schools at Kapalama, O'ahu.

Councilmember DeCosta: Thank you for that. Who was his classmate in the dorms with him?

Mr. Ako: He had a classmate in the dorm with the last name of DeCosta.

Councilmember DeCosta: There you go. So with that being said, Gerald, do you believe in the Kamehameha values, culture, what we bring to the forefront with Hawaiian issues? If not, you probably would not have sent your son to that school, am I correct?

Mr. Ako: Yes. We just feel very fortunate that we had the opportunity to send him to Kamehameha Schools and we are just so fortunate too, that they were willing to accept him there.

Councilmember DeCosta: Correct.

Mr. Ako: But yes, I am not going to say that I am an expert about the Hawaiian culture or anything like that, but by being part of the Kamehameha Schools system, it has opened my eyes up to a lot of the concerns that are out there...it has opened my eyes up to a lot of things that I never knew. I am Hawaiian too, yet, did not necessarily grow up in a Hawaiian household, per se. My father was Chinese and Hawaiian, and my mother was Japanese, so all along I think there were Hawaiian values in me and yet, it was only probably until recently that I began to understand a lot better, in terms of a lot of the Hawaiian culture that are out there.

Councilmember DeCosta: Thank you. You made a very important point about people who came before us that has set the stage, and the people we are looking out for that your job and the rest of the other six (6) commissioners are looking out for our youth going forward. Like my colleague said today, it is very important that we have good people on the Planning Commission and I have no doubt in my mind, I will be supporting you, you are a good man. I can vouch for that because your son was raised as a proper gentleman. I would like to add one more thing before I close, I would like to say, in the future we are going to make better decisions like some of the stuff that we have done in the past with subdivisions and Condominium Property Regime (CPR); the common folk would like *mauka* and *makai* access. So, anytime you folks are working on a subdivision, CPR, or any type of planning for our youth for the future, please put the access availability in the back of your mind and your constituents' mind there at the Planning Commission. Thank you, Mr. Ako, and thank you for being our elder.

Mr. Ako: Thank you very much.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Mr. Ako, thank you so much for sharing that piece of your history. I did not want to bluntly ask you if you had background in Hawaiian studies. It means a lot to me and I just want you to understand why that is. A very big part of my focus is the at-risk youth, the people who are houseless, the people who are adjudicated—I am the Committee Chair for Public Safety & Human Services and I speak regularly to a disproportionate number of our struggling, emerging generation who are of part-Hawaiian ancestry, drug abuse, and all kinds of challenges are there, and I see them very much layered into the lack of access to their own cultural practices. The lack of ability to have a home. The lack of access to mountain or sea. I know that we are supposed to be having a very lightweight interview of our candidates, but I appreciate that you would value what I am saying. Your wife has been a big part of the college. We work together with the youth investment act, so she knows carefully our kids that are kicked to the side. I have focused on this youth at-risk for decades and I see planning decisions as being a very big part of what pushes them out of our community. I would say our community is in a crisis right now. The public trust is being privatized and prices of houses are becoming so unaffordable for anyone living here. The Planning Commission, this is a deep time for this job and I think that you will be a good person for that task. I just

did not want this moment to pass without having an authentic conversation on the importance of respect for the Hawaiian culture and for the struggling people of that ethnicity to have access to fair process into the Planning Commission, which is often set aside if it goes to a contested case hearing, which they cannot afford. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Good morning, Gerald. I just wanted to say *mahalo* for you to stepping up to the plate. I know you bring a wealth of knowledge to the table and I know you from all the different hats you have worn in the community, of course with HGEA, and I know that whether it be cultural, environmental, or business, that you are aware of what is the right thing to do overall, at least in discussions. I appreciate you stepping to the plate. I look forward to opportunities to talk story, but at the same time *mahalo* for just being able to give back. I know you are going to do a great job there, so *mahalo*.

Mr. Ako: Thank you, Councilmember.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I want to thank both Lorna and Gerald for their willingness to serve here. I know that both bring a lot of integrity and a wealth of experience to the table here. Certainly, they are going to do a great job in their volunteer capacity on both of these commissions. Thank you, Lorna and Gerald.

Council Chair Kaneshiro: Is there anyone else? If not, thank you again, Gerald for serving. I know your son is not the one being interviewed, but I was going to ask what college he went to. Being that I know the answer, it is Pacific University and both Scott and I in this room went to Pacific University, but good job on that. Gerald, I have all the confidence in the world that you are going to do great at the Planning Commission. You are very knowledgeable about the County process, you have been around the block here for a long time, and I think all of that knowledge is going to be very helpful for the Planning Commission. With that, thank you.

Mr. Ako: Thank you. I think I will be the first to say that I am not an expert in terms of land use and land development and all of that, but I think from working at HGEA I will say this, one thing that I have learned is that there are so many different perspectives in where there are so many different people that come and try to bring all of that together so everyone can see the same picture—for me, it is very important and I just want to thank all of you for all the work that you do, and thank you for all of your County employees for the work that they do that goes unnoticed.

Council Chair Kaneshiro: Thank you. With that, we will be voting on it at the next Council Meeting. At this time, I will recess our Council Meeting and go to our public hearing. We have a public hearing for Councilmember DeCosta's Committee.

There being no objections, the meeting recessed at 9:04 a.m.

The meeting reconvened at 9:40 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back to our Council Meeting. We are going to take public testimony for Resolution No. 2021-17, the CDBG funds and this is a video testimony. We are on page 1, Consent Calendar.

*(Due to technical difficulties, Council continued with the agenda as follows.)*

CONSENT CALENDAR:

C 2021-79 Communication (03/10/2021) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing A Crosswalk On Kakela Makai Drive Near Pua Melia Street, Kōloa District, County Of Kauaʻi.

C 2021-80 Communication (03/17/2021) from the Director of Finance, transmitting for Council information, the Period 7 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of January 31, 2021, pursuant to Section 21 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2020-2021.

C 2021-81 Communication (03/17/2021) from the Housing Director, transmitting for Council consideration, a Resolution Authorizing The Filing Of The Kauaʻi County 2021 Action Plan (Community Development Block Grant) With The Department Of Housing And Urban Development, United States of America, For A Grant Under Title I Of The Housing And Community Development Act Of 1974 and 1987 (Public Laws 93-383 and 100-242), As Amended.

C 2021-82 Communication (03/29/2021) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor's Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation to Kauaʻi Soil Conservation in the Department of Public Works – Grant-In-Aid, as he is a Director for the East Kauaʻi Soil & Water Conservation District.

C 2021-83 Communication (03/29/2021) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor's Proposed Operating Budget for Fiscal Year 2021-2022, regarding any applicable appropriation to Puhi Metals Recycling – Soil Testing General Liabilities in the Department of Finance – Administration and any applicable 800 MHz Radio Site Lease appropriation in the Emergency Management Agency, as he is a Project Manager employed by Grove Farm Company, Inc.

C 2021-84 Communication (03/29/2021) from Council Vice Chair Chock, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor's Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation for Leadership Development & Training in the Office of the Mayor, as he is a volunteer and facilitator for the annual Leadership Kauaʻi adult

class. Additionally, Leadership Kaua'i and his company, Kupu a'e Leadership Development, are partners in leadership initiatives on Kaua'i.

C 2021-85 Communication (03/29/2021) from Councilmember Kuali'i, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor's Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation to Sexual Assault/Domestic Violence Community Program in the Office of Economic Development – Administration, as he is the Director of Operations for the YWCA. The YWCA may be a potential applicant for these funds.

Councilmember Kuali'i moved to receive C 2021-79, C 2021-80, C 2021-81, C 2021-82, C 2021-83, C 2021-84, and C 2021-85 for the record, seconded by Councilmember Chock.

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 2021-79, C 2021-80, C 2021-81, C 2021-82, C 2021-83, C 2021-84, and C 2021-85 for the record was then put, and unanimously carried.

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

#### COMMUNICATIONS:

C 2021-86 Communication (03/01/2021) from the Office of the Mayor, transmitting for Council approval, the donation of a 50-foot utility pole valued at \$1,900.00, from Kaua'i Island Utility Cooperative, to replace the existing utility pole that is timeworn and requires replacement at the Hanalei Police/Fire Station, which holds the radio antennae that is critical for public safety communications on the North Shore of Kaua'i.

Councilmember Kuali'i moved to approve C 2021-86 with thank-you letter to follow, seconded by Councilmember DeCosta.

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

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

The motion to approve C 2021-86 with thank-you letter to follow was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. We are going to hold item number C 2021-87, until the end of the day. We will move on to item C 2021-88.

There being no objections, C 2021-88 was taken out of order.

C 2021-88 Communication (03/12/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept on-going Federal fund reimbursements from Immigration and Customs Enforcement, Homeland Security Investigations, for the Kaua'i Police Department's roles and responsibilities when working through coordinated efforts with local, State, and Federal law enforcement agencies via a Memorandum of Agreement.

Councilmember Kualii moved to approve C 2021-88, seconded by Councilmember Carvalho.

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

Councilmember Cowden: I have a simple one.

Council Chair Kaneshiro: Okay.

Councilmember Cowden: Do I ask you or do I ask the Chief? Okay, this is just repeat, right? This is something that happens every year?

Council Chair Kaneshiro: Yes, ongoing Federal fund reimbursements.

Councilmember Cowden: Okay, I am just clarifying that.

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

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

The motion to approve C 2021-88 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-89 Communication (03/15/2021) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in the amount of \$25,000.00, from the State Department of Labor and Industrial Relations (DLIR), to work with the Department of Education (DOE) – Natural Resources Pathway and Future Farmers of America (FFA) programs in providing summer internship programs for students to work on Kaua'i farms, ranches, and agriculture-related businesses.

Councilmember Kualii moved to approve C 2021-89, seconded by Councilmember Chock.

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

Councilmember DeCosta: Is Nalani on?

Council Chair Kaneshiro: Do you have a question?

Councilmember DeCosta: I have a question.

Council Chair Kaneshiro: I will suspend the rules.

Councilmember DeCosta: It is a discussion/question.

Council Chair Kaneshiro: It sounds like a question. I will suspend the rules and you can ask Nalani.

There being no objections, the rules were suspended.

NALANI K. KAAUWAI BRUN, Director of Economic Development (*via remote technology*): Aloha.

Councilmember DeCosta: Good morning, Nalani.

Ms. Brun: Good morning.

Councilmember DeCosta: Thank you for all you do. I participated in this program about two (2) years ago. This is an excellent program that you run. I am so impressed and I wanted to know, how many of our economic farms that we have on the island are participating in this and I wanted to recommend to make sure that Mr. Jerry Ornellas participates. The kids really enjoy Jerry and this year I cannot participate, because I am currently a Councilmember, but I wanted to know if you folks have Jerry onboard with this program.

Ms. Brun: We will be reaching out to the farmers and ranchers very soon. Basically, the process is we go to the farms and they actually have to be fit by the Department of Agriculture (DOA) and I know Jerry has been approved prior, so I am sure that would not be a problem. But right now, we are just trying to get the funds from DLIR, so we can do the program again this summer. It looks like it is going to be twelve (12) kids each from Waimea and Kapa'a; Kaua'i High School was not ready this year. Then we are going to be doing six (6) farms.

Councilmember DeCosta: Thank you for mentioning Waimea, that is my alumni, and I would really like to see them get out there with Josh Uehara and Hartung, if that is a possibility. I know that is a great operation out there and growing our alfalfa is very important. Thank you very much for that, Nalani.

Council Chair Kaneshiro: Nalani, are the farms already chosen for this program?

Ms. Brun: No, not yet.

Council Chair Kaneshiro: Okay, but you are going to be looking for six (6) farms for the interns to participate at.

Ms. Brun: Yes.

Council Chair Kaneshiro: Okay.

Councilmember DeCosta: I have one more.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Nalani, only because I have a little bit of experience. Being that farm placement for the students, it seems like they love livestock, so if you could get one (1) or two (2) farms that have cattle, sheep, goats, or even chickens; it seems like animals teach empathy and the students really gravitate to the livestock ranches—I would have to say more so than the fresh produce farms—just throwing that out there for you.

Ms. Brun: Thank you. We will take that into consideration.

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

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

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

The motion to approve C 2021-89 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-90 Communication (03/19/2021) from Councilmember Evslin and Council Vice Chair Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To Transient Accommodations.

Councilmember Kualii moved to receive C 2021-90 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is just the communication. We will see the item come up later in the agenda. 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 this agenda item.)*

The motion to receive C 2021-90 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-91 Communication (03/23/2021) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to fund the anticipated second half of the year shortfall in Transient Accommodations Tax (TAT) revenue through June 30, 2021, due to COVID-19.

Councilmember Kualii moved to receive C 2021-91 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Again, this is just a communication. We will also see this item come up as Proposed Draft Bill No. 2823 later in the agenda. 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 this agenda item.)*

The motion to receive C 2021-91 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-92 Communication (03/24/2021) from Council Vice Chair Chock, requesting Council approval to submit an application for the 2021 Vacant Property Leadership Institute (VPLI) on behalf of the County of Kaua'i, to include receipt and expenditure of awarded program funding.

Councilmember Carvalho moved to approve C 2021-92, seconded by Councilmember Kualii.

Council Chair Kaneshiro: If Council Vice Chair Chock wants to give us a brief description on this program.

There being no objections, the rules were suspended.

Councilmember Chock: Thank you, Chair. Councilmembers, sorry for this late request for submitting this application that is due this week. As you know, our grant applications run through our approval process. This is a little bit unorthodox to have an application run through Council; however, I was approached from another Council from Hawai'i Island for us to take a look at this, so we submitted

a letter of interest about a month ago and was invited to submit for this application. We have put together a team, in coordination with the Administration, made up of Housing, Planning, and Real Property Tax to look at the application and are in the process of completing that. This does not support receiving any funding; however, if accepted, it would put a delegation together from each of the four (4) Counties to attend a symposium that would be made up of this delegation from the State of Hawai'i to look at vacant properties in seeing how we can affect policy and other needs to transition them into productive use. If you have any questions, I am happy to answer them.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Are the "vacant properties" any vacant property? Could it be privately-owned or government-owned?

Councilmember Chock: Correct. We have generated a list of potential properties that we are looking to include in this application process.

Councilmember Cowden: I have looked through this and I like it.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I have a clarifying question.

Councilmember Chock: Yes.

Councilmember DeCosta: Let us say, if you have agricultural land and you are not growing agricultural products on it, but you are still getting the agricultural dedication, would be looking at enforcing that they grow agricultural products? Is that part of this?

Councilmember Chock: No, I do not believe so. Agricultural dedication is completely separate.

Councilmember DeCosta: How do you put that into making it more productive, because you used the word productive?

Councilmember Chock: Sure. This is an application focused on abandoned and vacant properties that are not currently being utilized, so the outcome would be somewhat of a coordination between what the interests of the private organizations wants or needs are for that property to be rehabilitated—that might be included in the process as one of the remedies to it, but that has not been identified.

Councilmember DeCosta: I want to follow-up, so this could even mean State land or State pieces that are not in the rotation of agricultural lease and those that are just sitting there vacant; we can get that out to people who would like to farm, possibly.

Councilmember Chock: Perhaps. Case and point, I was looking at a vacant experimental station that is overseen by College of Tropical Agriculture and Human Resources (CTAHR), University of Hawai'i, in Wailua; however, that is still up for question. We have still been trying to identify and contact some of these owners who oversee the property.

Councilmember DeCosta: I am very impressed with this and it excites me that we can put more pieces of property into the rotation to become more productive for our community to benefit. Thank you so much, Councilmember Chock.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: When I am looking at this, it looks to me like it is predominantly considering for housing, rather than farming; is that correct? I mean, you can put farming right around the housing neighborhood agriculture, but is this primarily...

Councilmember Chock: It is not limited to housing.

Councilmember Cowden: Okay.

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

Councilmember Chock: Chair, I would like to share that if Members are interested in the details of it, I am happy to share the application answers with you at the time of submittal.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am interested in that and I am very supportive of whatever we can do to be making whatever we have more productive for our people, so thank you for taking this on and I am happy to help in whatever way is appropriate.

Councilmember Chock: Thank you.

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

Councilmember Evslin: I want to thank Vice Chair Chock for taking initiative on this, it seems like a great program and anything we can do to build capacity within the County and maybe even identify some funding sources to figure out some productive uses of our vacant properties here would be helpful, so I

appreciate all the work into this and I am looking forward to some good outcomes here.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I, too, want to say, I support this strongly and I am especially excited about what it could mean for affordable housing and what we have been talking about as one of the solutions of bringing everyone to the table is taking advantage of making these vacant properties come back online so people can have housing. I have already followed-up with trying to identify properties and sharing that with Councilmember Chock and I talked to native Hawaiian homestead organizations and they are excited because this has been a long-time issue for them too and they have been pushing with the Department of Hawaiian Home Lands (DHHL) to not let these vacant homes sit idle for sometimes many years, so now they are trying to do something about it and they say this is an opportunity. If not, necessarily, to purchase directly to get some of the strategy and training, but to maybe indirectly get it from those County leaders who do end up going and bringing that back to our County. Wherever we can we need to get more housing for our people, so I am excited about this.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2021-92 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

#### CLAIMS:

C 2021-93 Communication (03/19/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Sandra I. Rivera, for personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-94 Communication (03/19/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Kaua'i Island Utility Cooperative, for personal property and property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2021-93 and C 2021-94 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 these agenda items.)*

The motion to refer C 2021-93 and C 2021-94 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.

### RESOLUTIONS:

Resolution No. 2021-16 – RESOLUTION ESTABLISHING A CROSSWALK ON KAKELA MAKAI DRIVE NEAR PUA MELIA STREET, KŌLOA DISTRICT, COUNTY OF KAUAI

Councilmember Kualii moved for adoption of Resolution No. 2021-16, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions from the Members? I will suspend the rules. Mike, if you can just give us a brief explanation on this Resolution. It looks like a crosswalk that heads to their clubhouse and pool, probably to make it safer for the residents to get there, but if you want to give a brief explanation.

There being no objections, the rules were suspended.

MICHAEL MOULE, Chief of Engineering Division (*via remote technology*): This is Michael Moule, Chief Engineer. This Resolution is to create a crosswalk there in Kakela Makai. It was at the request of the Homeowners Association, it is located at their club and pool area, and also right near the school bus stop that is used for the neighborhood children. This was at their request, we reviewed it in the field, and we said, "Yes, this makes sense." There is already concrete swales in the area, so there is no need for concrete ramps, so we are able to install it with nothing but the signs and the markings. It is straightforward with a very low cost for the County to install.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am not quite familiar. What is the name of the subdivision? Is it called Kakela Makai?

Mr. Moule: That is right. It is Kakela Makai subdivision in Kalāheo.

Councilmember Cowden: In Kalāheo or Kōloa?

Mr. Moule: It is in Kalāheo. Kōloa district, but it is in Kalāheo.

Councilmember Cowden: Okay.

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

Councilmember Carvalho: Just following-up, Mike, is this a lighted crosswalk?

Mr. Moule: We do not anticipate putting in flashing beacons with this crosswalk—that was not part of the request and we have a street design manual that indicates when we should put in the flashing beacons on higher volume busier roads. This is the collective street for this neighborhood, but there is only half the neighborhood passes there and the only traffic using that road is the neighborhood traffic, there is no through purpose for that for Kakela Makai Drive in this area—it is just access for the neighborhood.

Councilmember Carvalho: I just wanted to follow-up because I have been getting some requests from other current crosswalks where it should be lighted and maybe we need to talk about that, but I just wanted to make sure that we look at that as we move forward in crosswalks.

Mr. Moule: Yes, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I just have a follow-up. It is one thing to have the flashing crosswalk signs, but is there a street light near it? Is there a street light on the street that illuminates the area?

Mr. Moule: That is a good question. This is located...not at the intersection, because of where the entrance to the intersection...it says it in the Resolution, the exact distance, which I do not have in front of me, because I was dealing with an issue this morning on something else. But that intersection does have light, so it is near the light, but I do not know the exact. I can take a look and measure, but it is definitely a lighted intersection and is near those lights.

Councilmember Cowden: That was just my...that was a great question Councilmember Carvalho and just wanted to know if there is light somewhere in that area, because sometimes there is a crosswalk and it encourages people to think they

can cross with less care, so as long as there is a street light somewhere—it seems like that would be good.

Mr. Moule: Yes, there is nearby.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Hi, Michael. Thank you for everything that you do. I wanted to tell you that I know this area. I know of the community that lives there and that crosswalk is much needed. Also, I wanted to shed a little bit of light, maybe our County can save a little bit of money if we were thinking about putting in an extra light. I do know that the Association has a clubhouse, it is fairly close, it goes all the way up to the fence, which is right on the side of the street, and they have electric and power there, so maybe we can talk to the Association and maybe we can run an outdoor type of spot light that shines towards the crosswalk and motion sensor, so when they reach the crosswalk the light will automatically go on and will save us a little bit of money. I just wanted to throw that out there. Thank you, Michael, for everything you do as our engineer. Thank you.

Mr. Moule: Yes, that is a good idea. We certainly can work with them on that to see if we do need more lights in the area, but again, I am looking right now to get a sense of how far the light is away. Actually, there may not be a light, but we will work with them on that and if we think it needs lighting we will see about having something connected to their clubhouse.

Councilmember DeCosta: That suggestion is very simple and easy to wire up.

Mr. Moule: Right.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I think I am familiar with this area, so after school the kids are running back and forth across the street to go the pool, if this is the neighborhood that I believe it is. So in the daytime, light is not so important, but thank you for looking into the light.

Mr. Moule: Okay, there is a light pole on the clubhouse side.

Councilmember Cowden: Okay.

Mr. Moule: Right at the intersection, I am looking at it now from the street view in Google. It is located about 60-feet, I believe, from where

the crosswalk would be. So it should be enough to light up the crosswalk. It is not completely dark in the area.

Councilmember Cowden: Okay, thank you.

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

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

Council Chair Kaneshiro: I will say, I am in favor of the crosswalk. I am familiar with the area. I know that the clubhouse and pool is used frequently. As far as lights go, for me, I do not think it is that necessary. If the Association wants to put a light there or do something, I think it would be in the Association's purview to do that. For us, as a County, just having the crosswalk there is a good thing, once the crosswalk is there people are going to be driving by it, they are going to notice a crosswalk there, and crossing a crosswalk takes two (2) people; it takes the driver and it takes the people to both be careful, just because a crosswalk is there it does not mean people should just cross, they have to be careful when they cross the crosswalk. I think having the crosswalk there, the drivers are going to know—they will be looking if people are at the crosswalk anytime they drive by it. I am happy and fine with what is proposed here. Is there any discussion from the Members? If not, roll call vote.

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

The motion for adoption of Resolution No. 2021-16 was then put, and carried by the following vote:

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

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

Resolution No. 2021-17 – RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2021 ACTION PLAN (COMMUNITY DEVELOPMENT BLOCK GRANT) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AND 1987 (PUBLIC LAWS 93-383 AND 100-242), AS AMENDED



Councilmember Kualii moved for adoption of Resolution No. 2021-17, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We do have video testimony that we are going to play right now, so I will suspend the rules.

There being no objections, the rules were suspended.

AMBER MIREY (*via prerecorded video*): It is my pleasure to represent the Kaua'i Junior Youth Squad (KJYS). *Aloha*, my name is Amber Mirey. Our main goal is to make this small part of Kaua'i better. Our first proposal is Hanamā'ulu Park.

SANDY LOPES (*via prerecorded video*): Hi, I am Sandy and I am one of the kids working on upgrading the park. I just wanted to take this time to thank you for listening to what the community has to say about the environment and surroundings. It means a lot that you can hear us out about giving us a better place to play and hangout. The park is fun and all, but sometimes we have to use the bathroom and we have to go all the way back home to use the bathroom. I just wanted to thank you so much, because now kids and adults can have fun without having to rush home. Thank you. I hope you have a great day.

BENZI MIREY (*via prerecorded video*): We hope that our request will be approved by the County of Kaua'i. You are the best. Thank you so much for giving us your time. I hope you have an amazing day. *Mahalo*.

Council Chair Kaneshiro: I believe that was regarding the Laukona Park improvements. While the rules are still suspended, do we have any questions on the Community Development Block Grant (CDBG) funds? Adam is not available today, but we do have Kerrilyn Barros online. Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: I actually could not understand what the kids were saying. We have these unexpended funds from last year...I see that we want to put solar panels on Kealaula, Americans with Disabilities Act (ADA) improvements on Hale Ho'omalū, and Laukona Park improvements. These are just simple public works types of changes that we are going to use these moneys for? Is that correct? It is not like we are building new homes anywhere.

KERRILYN BARROS, CDBG Coordinator (*via remote technology*): *Aloha*. I am the CDBG Coordinator for the Federal program. You are correct, these projects fall under the CDBG public facilities and improvements categories. They are not new housing. Laukona Park improvements will improve the existing park for this low- and moderate-income area neighborhood. Kealaula will provide a photovoltaic

system for those who are transitioning out of homelessness. Hale Ho'omalū will be making ADA improvements, and that is also a neighborhood center that serves low- and moderate-income individuals and families.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I was hoping we could get a little more detail on the Laukōna Park improvements.

Ms. Barros: Sure. Some of the proposals for the improvements will include ADA sidewalks, more lighting for the park, improving the court there, and any seating area. A restroom is also being proposed.

Councilmember Evslin: Is there any playground equipment or other recreational-type of equipment being planned?

Ms. Barros: No, not at this time. I think it is only to improve the existing basketball court.

Councilmember Evslin: Great, thanks.

Council Chair Kaneshiro: Councilmember Kualī'i.

Councilmember Kualī'i: I had a general question about the pot of money in total. Are these CDBG funds utilized for community nonprofits? Is Hale Ho'omalū Family Center Expansion a community nonprofit? Could they then come to the Housing Agency to apply through you to access CDBG funds? CDBG funds could go to the nonprofit or they could go direct to the County? This Laukōna Park improvements, that is being given directly to the County? That is a County park, correct? It is all the same pot of funds? Do we have a breakdown of how much is usually for the County and how much is put out to the community for grants? Is it a grant?

Ms. Barros: Yes. The County receives an annual allocation from the United States Department of Housing and Urban Development (HUD) and normally, it is about seven hundred thousand dollars (\$700,000) in grant funds. The Housing Agency also has two (2) housing programs that are a revolving loan fund grant program and nonprofits can apply. We have an annual application process so nonprofits can apply, as well as County departments.

Councilmember Kualī'i: Thank you.

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

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

Council Chair Kaneshiro: Any final discussion? Council Vice Chair Chock.

Councilmember Chock: Kerri, thank you so much. I have been following the CDBG grants that you have administered. They are always diverse and I am really happy with us investing and honoring the youth voice with Laukona Park. I appreciate the work that you are doing and am happy to support this.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I just want to thank you. Writing grants is a very important part of our system being able to take care of ourselves economically and when we are keeping our areas in top shape where our kids are growing up in low-income areas, I think it helps their whole sense of self-worth and self-esteem. I thank you for your work.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Since we are doing thank yous, I want to highlight the photovoltaic for Kealaula. I think it is really important that this new project is off and going, and successful in helping some of our most needy families. We are not only giving them affordable units, but we are now bringing down their utility bills by taking advantage of the sun in putting in photovoltaic. This is an awesome investment. Thank you.

Council Chair Kaneshiro: Anyone else? Councilmember Evslin.

Councilmember Evslin: Thank you Kerri, and everyone else involved with these projects. The Laukona Park project is one that had a long public engagement process involved. There is a strong sentiment in the community about improving that park, especially the bathrooms. I appreciate all the work that has gone into this and I am excited to see these projects get off the ground.

Council Chair Kaneshiro: Anyone else? If not, we will take a roll call vote.

The motion for adoption of Resolution No. 2021-17 was then put, and carried by the following vote:

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

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

#### BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2822) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TRANSIENT ACCOMMODATIONS

Councilmember Kualii moved that Proposed Draft Bill (No. 2822) be referred to the Planning Commission, seconded by Councilmember Chock.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I will just be giving a brief overview of this Bill and ask Councilmember Evslin to dive deeper into the technical aspects of it. This Bill attempts to further define uses on Open-zoned and Agriculture-zoned properties related to transient use, and specifically related to any commercial activity. It relooks at the definition of “Developed Campgrounds” versus “Undeveloped Campgrounds.” It spurs the question about what we want to see in our open spaces and in our agricultural properties. If passed, this will go to the Planning Commission and back to the Council. Councilmember Evslin.

Councilmember Evslin: I just want to add that the primary intention is to close what could be seen as a loophole in our Comprehensive Zoning Ordinance (CZO) when it comes to transient accommodations on Agriculture- and Open-zoned properties. Developed campgrounds potentially represents a pathway for transient accommodations to occur that are not necessarily appropriate on our agriculture and open land. What the Bill does is that it primarily removes the possibility of a Use Permit for a developed campground for Agriculture- and Open-zoned properties. It does allow those activities to occur by right on Resort- and Commercial-General-zoned properties. It changes the definition of developed campgrounds slightly, just to clarify that permanent structures and private bathrooms could be allowed on a developed campground. It changes the definition of undeveloped campground to clarify that there can be no commercial activity or transactions, so people can actually camp on a piece of property, but people cannot be charging for people to camp on their Agriculture- or Open-zoned properties. It also clarifies that single-family and multi-family transient vacation rentals (TVRs) cannot occur on Agriculture- and Open-zoned properties, even in the Visitor Destination Area (VDA). That is what the Bill does.

Councilmember Chock: The General Plan has explicitly said, as it relates to VDAs, that is where we want to have this type of transient activity, and by not addressing this loophole, we could be moving in the opposite direction in opening an activity that could be counterintuitive to what the Plan is suggesting. Thank you.

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

Councilmember Cowden: Yes. Just for strong clarification, this would not allow any kind of "paid for camping" in Open or Agriculture, regardless of whether they are in the VDA or not; is that correct Director Hull?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director (*via remote technology*): Sorry, was that question directed at me or Councilmember Evslin?

Councilmember Cowden: It could be directed at either of you. Councilmember Evslin, would you prefer to answer that?

Councilmember Evslin: Again, yes, that is the intent. Ka'āina could probably go into more detail.

Councilmember Cowden: I know that there is some strident, recent concern about ideas in that direction. Is it largely directed at those recent concerns that have been out there in the community?

Councilmember Evslin: Is that a question for Council Vice Chair Chock and me?

Councilmember Cowden: Sure, yes.

Councilmember Evslin: Yes. It is somewhat. I think there has been some recent buzz about these potential activities that at least illuminated the possibility that this loophole exists in our CZO, and that represented a threat islandwide to our agriculture and open properties. The impetus for me was the buzz about proposed camping facilities.

Councilmember Cowden: I support that intention. I just want clarification on possible unintended consequences. As you all know, I have had a lot of focus on people who have been displaced from their housing. Once people are displaced from their housing...if you get evicted, you almost cannot even rent anywhere, even if you have the money. You cannot get back into it. As we have displaced people from the parks, and I am following up with them on where they are going...even when people are

camping on agriculture property that is owned by their family, they are receiving complaints. If somebody owns their own land, will this in any way keep them from being able to set-up a tent and camp on their land?

Councilmember Chock: No.

Councilmember Cowden: Director Hull, can you confirm that also? If they cannot quite afford to build a house yet...I know when people cannot quite afford to build a house and they are living in a semi-permanent tent to save money to build the house on the land that they bought, a lot of times they are hiding when they are doing it. Is there a law against camping on land that you own?

Mr. Hull: There is no specific wording in the CZO that prevents someone from camping on their own property and is not using it for compensation purposes from the public. Camping in general is used for a recreational or a temporary situation. When you get into people habituating in a camping-type structure...where they often run afoul is relating to Department of Health standards for sanitation and what have you, they could possibly be in breach of those rules and laws.

Councilmember Cowden: I am in full support in what I believe is the intent of this Bill, which is not having temporary camping sites on Agriculture- and Open-zoned land. That sounds great to me when that is basically visitor arrivals. I just want to make sure that there is not any mistake in here that I would be making if eventually I either support it or encourage support for it, that it would be a vehicle that would make it such that someone could not have their family member or friend take refuge on their larger piece of property for a few months. I hear that they have to have the appropriate place to go to the bathroom and so on. As it relates to the transient accommodations page, we are not going to worry that this is going to hurt people struggling to have a home if they were to camp on a private piece of property. These people have to go somewhere. You do not want them on the side of the street. We are saying they cannot be in the parks. They are still human and they are still breathing. They have to go somewhere. I want to make sure I do not inadvertently support something that would have that unintended consequence of further limiting a place for people to be. Director Hull, do I have that right?

Mr. Hull: As I read it, if the Bill is passed on first reading and sent to the Planning Commission, I will get a lot more intimate with the Bill and will be able to give it a more thorough assessment and analysis. In my tentative review of the draft Bill, it aimed at prohibiting transient accommodation-type camping facilities that are used for compensation purposes. That is the thrust and intent of this Bill as I read it. I want to be clear again that there are rules and laws that prevent or stop people from habituating without the necessary infrastructure already on vacant lots or on open lots. Those are in place. If some of those are violated the respective

agency may go after the property owner. That already exists. This Bill, as I read it, is specifically aimed at transient accommodations for camping-type facilities for compensation purposes. In discussions with the Councilmembers that introduced this Bill, the Planning Department was very clear that there is a need to highlight that compensation figure, so that we do not run afoul of people essentially camping on their properties.

Councilmember Cowden: Okay. Council Vice Chair Chock, I just have one more question.

Councilmember Chock: Absolutely.

Councilmember Cowden: Can you commit to me that when you are looking at this...the fact that it says "transient accommodations" at the top to me, means that we mean transient accommodations. Please commit to me that I do not need to be worried about this, but that I want to be heavy in your awareness that...this week, I am dealing with people who do not want to keep living, because there is nowhere for them to go. I just want to be sure that this does not further that.

Councilmember Chock: Thank you.

Councilmember Cowden: These are the same people I was asking about in the Commission piece. They are people that are multigenerational here. I care about everybody, but these are people who I watched grow up and they are just ready to die. We had another suicide this week. I just want to make sure that we do not ruin anybody.

Councilmember Chock: Thank you. I do not know what I can say. The intent of this and our read on it, has not shown any indication that this would displace people in that way.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I want to shed a little bit of light on this. I am in support of this Bill going forward with Councilmembers Chock and Evslin. It is not targeting our agricultural operations. I believe that our agricultural operations...I will be working with the Planning Department and the Kaua'i County Farm Bureau to come up with some kind of amendment or bill that ensures that a bonafide agriculture farmer will be able to do some kind of camping even if it results in agriculture or agricultural tourism, where they can actually charge people to camp, but that funding that they receive does not suppress the money that they make from the agricultural farm. We keep them bonafide and we keep the revenues coming in on the farm product that is

being raised higher versus the camping that is being charged to the person. I believe we have this covered.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: In short, I have gone through this too and I have asked questions. The intent of the Bill is in a good place. Getting it over to the Planning Commission is another issue. For here, the intent is in the right area and it will not displace people. It is just another chance or opportunity to look in this area. I am hoping that we continue discussions about this. It is in the right place for me.

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

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

Council Chair Kaneshiro: Is there any final discussion? Again, the motion is to refer this Bill to the Planning Commission. Can I get a roll call vote?

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

The motion to refer Proposed Draft Bill (No. 2822) to the Planning Commission was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: The motion is carried. With that, we are at 10:30 a.m., so we will take our ten-minute caption break.

There being no objections, the meeting recessed at 10:30 a.m. for a caption break.

The meeting reconvened at 10:42 a.m., and proceeded as follows:



Proposed Draft Bill (No. 2823) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Transient Accommodations Tax Revenue Reduction (Second Half of the Year)* – \$7,467,500.00)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2823) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 5, 2021, and that it be referred to the Committee of the Whole, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: Are there any questions or discussion from the Members on this item? I will suspend the rules. I believe we have Reiko or Ken available.

Councilmember Cowden: This is just what is left over from the last budget?

Council Chair Kaneshiro: Actually, this is money that we are not going to be getting from the State, the second-half of it. They are amending the budget to reflect that we are not going to be getting it.

Councilmember Cowden: I get it. I do not have any questions.

Council Chair Kaneshiro: It is a reduction in our revenue. When we did our budget last year, we budgeted for the full amount knowing that we may or may not get it. This is the correction to it. We know we are not going to get the second-half payment for it.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I am not sure if Reiko or Ken is available, but I was wondering, with the American Rescue Plan (ARP), do you know if there was any talk or any possibility of the State coming back to the counties and giving us the TAT funding? Or is that off the table for the remainder of this budget year?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Mike Dahilig would probably be the best to talk about this. I have not been in the conversations. I think there is still some negotiations that could happen, based on the State receiving their share of the ARP. I do not know at what level these talks have

been conducted. I do not know how much “whole” we are getting when we are talking to them from our side.

Council Chair Kaneshiro: Are there any other questions from the Members? Councilmember Kuali'i.

Councilmember Kuali'i: Perhaps this is a “Mike” question too, but...the current budget reflects not including this revenue, correct?

Council Chair Kaneshiro: The budget that we have in front of us now?  
Councilmember Kuali'i: Yes.

Council Chair Kaneshiro: It includes approximately fourteen million dollars (\$14,000,000) in Transient Accommodations Tax (TAT) revenue.

Ms. Matsuyama: Yes.

Councilmember Kuali'i: This seven million dollars (\$7,000,000) that we are not getting...it is not in this budget?

Council Chair Kaneshiro: This is for last year...Fiscal Year 2020-2021. We budgeted and approved it as if we were going to receive the fourteen million dollars (\$14,000,000) in TAT.

Councilmember Kuali'i: Right. This deficiency was covered with surplus?

Ms. Matsuyama: Are you talking about Fiscal Year 2020-2021?

Councilmember Kuali'i: Wherever this seven million dollars (\$7,000,000) applies to, that we are not getting.

Ms. Matsuyama: The amount is for January 1, 2021 through June 30, 2021. It anticipates that there would be no lapse. It is too hard for us to project what a lapse would be at this point in the fiscal year.

Councilmember Kuali'i: In prior fiscal years, our typical or average lapse has been significant enough to cover this? Or have we just been...

Ms. Matsuyama: In prior years, yes, for half the year. It would not have covered the full year. We already did the first-half transfer for the fiscal year. What we are doing is to remove it for the second-half of the fiscal year, because we do not know what the lapse is going to. We still want to show that it is needed at this point.

Councilmember Kualii: If we have significant potential expenditures that are deferred maintenance, that may be important, but they are deferred because we do not have the money...if ARP Act funding comes through, because it was supposed to help us with our revenue shortfalls, we could then go back and utilize those moneys to do some of the maintenance that we do need to do? Is that correct?

Ms. Matsuyama: It is possible. It is hard to commit to that now. We only have seven million dollars (\$7,000,000) for the next two (2) years. We only have seven million dollars (\$7,000,000) per year for the next two (2) years, so fourteen million dollars (\$14,000,000). One (1) year of TAT will wipe that entire amount out. At this point, the ARP money that we are getting is not significant enough to say that it could cover some deferred maintenance, especially when we want to get some of that out into the community. I think that is a conversation to be had at the Mayor's level and with the Council involved, at how the ARP is going to be spent. It is too premature to say that it could be used for any kind of deferred maintenance.

Councilmember Kualii: Okay. My last point is then it becomes more important too that if we cannot get it out of our measly fourteen million dollars (\$14,000,000) that hopefully we can get something from the State from the four hundred eighty million dollars (\$480,000,000) that they are projected to have. Especially when this is TAT revenue that we were supposed to be getting from them as our share. Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members on this item? This is just for first reading. If not, I will call the meeting back to order.

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

Council Chair Kaneshiro: Is there any final discussion? Could I get a roll call vote?

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

The motion for passage of Proposed Draft Bill (No. 2823) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 5, 2021, and that it be referred to the Committee of the Whole 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: The motion is carried. Next item.

EXECUTIVE SESSION:

ES-1049 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and/or decision-making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.

ES-1050 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 consult with the Council's legal counsel regarding the stipulation related to the Board of Ethics complaint against Councilmember Felicia Cowden. 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-1049 and ES-1050, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions or discussion?

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

The motion to convene into Executive Session for ES-1049 was then put, and unanimously carried.

The motion to convene into Executive Session for ES-1050 was then put, and carried by a vote of 6:0:0:1 *(Councilmember Cowden was recused)*.

Council Chair Kaneshiro: With that, we are going to take our Executive Sessions and Communication C 2021-87, at the very end of the day. With that, I shall recess our Council Meeting and we will go into our Committee Meeting.

There being no objections, the meeting was recessed at 10:52 a.m.

The meeting reconvened at 2:36 p.m., and proceeded as follows:

*(Councilmember Cowden was noted as recused from C 2021-87.)*

C 2021-87 Communication (03/05/2021) from Susan Burriss, Chair of the Board of Ethics, referring to the Council, pursuant to Kaua'i County Charter Section 20.05, Complaint No. BOE-20-001, a Stipulation Related To An Ethics Complaint Against Councilmember Felicia Cowden.

Councilmember Kualii moved to receive C 2021-87 for the record, seconded by Councilmember Chock.

Council Chair Kaneshiro: I will make a statement before we move on. If anyone wants to say anything they can or we will take a vote on it. Just for some background on this item. The Charter establishes the Code of Ethics and provides the Council and the Board of Ethics with the responsibility to enforce it. Violations of the Code of Ethics are grounds for a fine, suspension, or removal from office. The Board of Ethics function as it relates to ethics complaints is to initiate, receive, hear, and investigate complaints of violations of the Code of Ethics, and to transmit its findings to the Council, which they have done. The Board of Ethics is the finder of fact and it is their responsibility to adjudicate or make a formal judgment or decision. The Council cannot reopen this matter to conduct additional fact-finding. The County had one (1) opportunity to develop the facts and try this matter. That was done by the Board of Ethics. The Board had a complete record in front of them, they held public meetings, received public testimony, they conducted their investigation, prepared a complaint, held additional closed meetings, and ultimately entered into this stipulation. In this situation, the Board of Ethics found that a fine was sufficient remedy. The Board did not transmit exhaustive findings and they did not recommend suspension or any additional penalty. Out of fundamental fairness to Councilmember Cowden and to respect the stipulation from the Board of Ethics, a motion to receive would be the most appropriate action at this time. Are there any questions or comments from the Members?

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

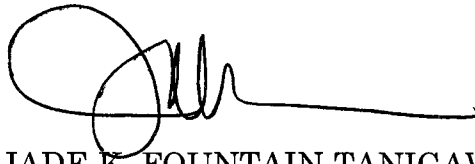
The motion to receive C 2021-87 for the record was then put, and carried by a vote of 6:0:0:1 *(Councilmember Cowden was recused)*.

Council Chair Kaneshiro: The motion passes. That concludes the business on our agenda. Not seeing or hearing any objections, this Council Meeting is now adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:38 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:jy