

COUNCIL MEETING

APRIL 21, 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, Lihue, Kaua'i, on Wednesday, April 21, 2021 at 8:33 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
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 Nineteenth Supplementary Emergency Proclamation dated April 9, 2021.

APPROVAL OF AGENDA.

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

(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 meetings of the Council:

April 7, 2021 Council Meeting
April 7, 2021 Public Hearing re: Resolution No. 2021-13

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 these items 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: The motion is carried.

CONSENT CALENDAR:

C 2021-95 Communication (03/19/2021) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointments to various Boards and Commissions for the County of Kaua'i:

a. Liquor Control Commission

- Lorna A. Nishimitsu – Term ending 12/31/2023

b. Planning Commission

- Gerald T. Ako (*Labor*) – Term ending 12/31/2023

C 2021-96 Communication (04/06/2021) from the Director of Finance, transmitting for Council information, the Period 8 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of February 28, 2021, pursuant to Section 21 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2020-2021.

C 2021-97 Communication (04/06/2021) from Mark L. Bradbury, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from January 1, 2021 through March 31, 2021.

C 2021-98 Communication (04/12/2021) from Councilmember Cowden, providing written disclosure of a possible conflict of interest and recusal relating to C 2021-87 and ES-1050, as these items involve a stipulation agreement that she was a party to.

C 2021-99 Communication (04/14/2021) from Councilmember Evslin and Councilmember DeCosta, transmitting for Council consideration, a Resolution Supporting Digital Equity And Urging Development Of Broadband Infrastructure To Bolster COVID-19 Recovery And Foster Economic Development.

Councilmember Kualifi moved to receive C 2021-95, C 2021-96, C 2021-97, C 2021-98, and C 2021-99 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 2021-95, C 2021-96, C 2021-97, C 2021-98, and C 2021-99 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Clerk, we are going to go to page 4, and we are going to take public testimony on Resolution No. 2021-13.

There being no objections, Resolution No. 2021-13 was taken out of order.

RESOLUTIONS:

Resolution No. 2021-13 – RESOLUTION AUTHORIZING THE ACQUISITION OF EASEMENT INTERESTS IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, WAIPOULI, DISTRICT OF PUNA, COUNTY OF KAUAI, HAWAII, AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

Council Chair Kaneshiro: I will suspend the rules. Again, please state your name for the record when you start your testimony. You will have six (6) minutes total. If you can see the light, the light will turn green when you start, it will turn yellow when you have thirty (30) seconds, and it will turn red when your six (6) minutes are up. I will interrupt you when you have thirty (30) seconds left and when your time is done. Also, if you want to continue watching the meeting after providing testimony, you can go to www.kauai.gov/webcastmeetings. With that, we will start with Thomas Noyes.

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

THOMAS NOYES (*via remote technology*): Aloha, Council Chair Kaneshiro, Council Vice Chair Chock, and Members of the Kaua'i County Council. In the 1990s, then—Councilmember Bryan J. Baptiste convened an advisory council to provide stakeholders a forum to shape what is becoming Ke Ala Hele Makalae, the twenty-mile path that goes by the coast. That advisory council evolved into Kaua'i Path, a 501(c)(3) nonprofit, and I serve as the Executive Director of that educational nonprofit. Over the years, Kaua'i Path has collaborated with the County of Kaua'i; the State Departments of Transportation, Education, and Health; the Federal Highways Administration; the Centers for Disease Control and Prevention, as well

as Wilcox Health Systems, and Kaua'i Veterans Memorial Hospital (KVMH) to improve safety and awareness of people who walk and bicycle in our communities. As a major federally-funded infrastructure work in progress, the team designing and building Ke Ala Hele Makalae have complied in good faith with the stringent environmental review process that entailed taking the concept for a coastal trail through the Environmental Assessment (EA), securing a Finding of No Significant Impact (FONSI), developing an exemplary *ho'oponopono* process led by cultural practitioners, and meeting all of the criteria for Special Management Area (SMA) and shoreline setback variance permits for the Planning Commission and the Planning Department. The portion of the project under consideration this morning is now at the land acquisition stage. Kapa'a's topography determines the path's elevation. Although a historical commercial hub, Kapa'a was built on drained coastal swamp lands. All of Kapa'a is close to sea level, hence all of Kapa'a is at risk of sea level rise. Despite this fact, it is the host community for the Royal Coconut Coast Association members and is a fast-growing visitor destination. The opportunity to invest Federal Transportation dollars for a walking path system that bolsters our local economy, while benefitting the resident population is coming to fruition. We all agree that Ke Ala Hele Makalae is awesome, as confirmed when it placed fifth in USA Today's competition for the best recreational trail in the nation. Since April 8th, Kaua'i Path has collected and submitted three hundred forty-seven (347) petitions from residents and visitors in support of Resolution No. 2021-13 to the County Council. Of the two hundred eighty-five (285) Kaua'i residents responding, eighty-eight and four tenths percent (88.4%) identified as registered voters. I am still receiving more petitions as we speak. We all agree that sea level rise and coastal erosion are serious concerns and we want to build a durable facility for the benefit of the entire community. I urge you to trust in the expertise of the University of Hawai'i (UH) Sea Grant professionals providing testimony on these concerns during the Council Meeting. We all agree that the safety of people who walk and bicycle on or near the path is paramount. The time has come to make a decision. I urge you to move forward with this project. This is a difficult and nuanced decision and now is the time to act for the public's benefit. *Imua!* Thank you. Tommy Noyes, Executive Director, Kaua'i Path.

Council Chair Kaneshiro: Thank you, Tommy. Next up, we have Larry LaSota.

LARRY LASOTA (*via remote technology*): Good morning, Councilmembers. Thank you for giving me the opportunity to give my testimony in regards to the path. I have been following the progress of the coastal path since the first announcements I read in The Garden Island back in the 1990s and I was very pleased that former Mayor JoAnn A. Yukimura came up with this concept that has been followed through the years. As an avid cyclist and dog walker, I have enjoyed the path on many occasions, at least four (4) times a week at various stages. As a Committee Member of the Friends of Kamalani and Lydgate Beach Park, enjoying the path within Lydgate park, as well as all the way to "Donkey Beach." Having done the creation of

Kamalani Playground back in 1994 and personally (inaudible) that this golf course to Lydgate in 2018—I have been part of the many who have contributed sweat equity of over sixty-seven thousand (67,000) volunteer hours since 2001 and (inaudible) more than two million five hundred thousand dollars (\$2,500,000) in Federal funds to enhance the park. Speaking today as a Kamalani Committee Member, and in my personal opinions the County should go forward with the purchase of the easement in front of the Islander on the Beach and continue “the path that runs along the coast,” Ke Ala Hele Makalae, from this point northward. Whether you are walking or on a bike, the best, safest, and ethically, aesthetically pleasing access to the rest of the coastal path would be to purchase this easement in front of the resort. If you are heading north on the path from Wailua Beach along Papaloa Road, it is a widened sidewalk with many trees and safe for both walkers and bikers, but once you get to the Kapa‘a Shores Resort Condominiums property it all stops and becomes a complete debacle. You are first in one parking lot in one direction, then you are either in the Coconut Marketplace parking lot, or you are on the street with cars coming at you in both directions—whether parked or in motion, it is just chaos. Aleka Place is a point of much confusion until you get to the circle at Aleka Loop. On a bike, when you traverse Aleka Place you are in the middle of the road and cars are coming at you in both ways—it is a very dangerous situation to be there and I have been a serious cyclist for over fifty (50) years and I find that every time I am in this small section of road—it scares me, cars are coming out of nowhere and they could care less whether you are a biker or walker. Therefore, I believe it is imperative that the County acquire this land to have that access easement in perpetuity for the safety of all those who enjoy the coastal path. If not for the path today, I think a lot of people would have been deprived of the recreation facilities and the general exercise. The path is a beautiful thing, it needs to come back, it needs to be safe, after all, the name of it is “the path that runs along the coast,” not “the path that runs through parking lots and shopping centers.” Thank you all for hearing my testimony today.

Council Chair Kaneshiro: Thank you, Larry. Next up is Tom Summers.

TOM SUMMERS (*via remote technology*): Good morning, Councilmembers. My name is Tom Summers and I live on the bike path in Kapa‘a Town right next to Pono Kai on the Keālia side. From my house, there is just the bike path and then the ocean, so I have enjoyed watching tourists, local people, people walking their dogs, and bicyclists, just enjoying life on the path next to a lot of people that are using the path to just get out and exercise, especially local people. I see them out there in the mornings or the evenings and it is really a draw and it also shows everyone on Kaua‘i and all the tourists the beautiful coastline we have on the coconut coast here on the east side of Kaua‘i. I strongly recommend that the Council pass the Resolution to purchase this easement in front of the Islander on the Beach and I think that is the only connection we need that is going to make it a continuous path. I think on one side of the Islander on the Beach, we have already received commitments from the path and the other side where Coconut Marketplace is, we also have that easement

already taken care of. There are also developers that have granted us easements through their property and I think there are one or two that are in agreement that help pay for the path itself. Where I live, the path is as far back from the ocean as it could possibly be and there is no threat. Even if it was to erode, some of the beach must have moved back, which it has in the last twenty (20) years it moved back inland a little bit. In my situation there is a lot of room between the bike path and where the beach and sand is. At Pono Kai, there is a wall there; the bike path is just on the other side of the wall, so that wall needs to be restored a little bit, but I am still in favor of getting this easement to the Islander on the Beach. I think it is very important and I think the funds that have been allocated to move this project forward...that is why this project needs to be approved immediately, so they can keep the funds that are in place to make the improvements to go through the Islander on the Beach easement. I strongly urge the Council to pass the Resolution to go forward and purchase this easement on behalf of the bike path. I just wanted to say, I ride the bike path every day, my wife walks her dog on the path two (2) or three (3) times a day, and I see all kinds of people and I enjoy watching the people, and waving at people just saying, "Hi." I see how much enjoyment people are getting when I am on my deck watching everyone go in front of my house—it is a total pleasure for me and I hope everyone else sees it that way. Thank you very much for listening to my testimony. *Aloha.*

Council Chair Kaneshiro:

Thank you, Tom. Next up is Trisha Sears.

TRISHA SEARS (*via remote technology*): *Aloha* and good morning, Kaua'i Council. My name name is Trisha Lei Sears, also known as Patti Sears. I would like to point out a serious problem of the planned section of the pedestrian and bike path fronting the Kaua'i Coast Resort at the Beachboy on the Islander on the Beach, which will be right up against the natural vegetation next to the beach, and also where the shearwaters nest, and it is nesting season right now. All the analysis and research that went into its environmental impact on the coastline were done years ago—it has literally expired. The huge increase in global climate evolution has rendered it virtually irrelevant. Considering the rising tides, beach erosion, and endangered wildlife, I think that adding twelve (12) feet of concrete and all the traffic it will bring to this small area will just accelerate with what Mother Nature is already doing. Another problem is this narrow area will not have the room to dodge the environmental bullets that the path already completed along the coast just north of here has, because of having enough room to be placed over twice as far from the beach. What good reason is there to not turn the path out to the street and have it going around the sensitive area, then reconnect with its original route. I ride my bike every day and I do not mind going around the Kaua'i Shores Resort in town where there is not room to put it on the coast. It is high time we start heeding the most obvious lesson we can learn from the Native Hawaiians—the coast is to be enjoyed, not built on. The easement in question is just adding a few feet to what is already there. We already have an easement coming up to the beach, and it is used daily by all the

residents who want to come and walk through here or even ride their bike through to get to the five-foot path that is parallel to the shoreline. This is about just adding a few feet, so two (2) bikes go perpendicular to the path in a dangerous corner where the carts from the Islander on the Beach, groundsmen, maids, luggage racks, and maintenance carts are coming around the corner at the same time and would literally have to be riding on that section of the path that is in question today. So I urge all of you Councilmembers who have not been out here, and I know you all have not been out here, to come and look for yourself. The pictures I sent you yesterday—come stand on that dangerous corner, it is the south east corner of the Islander on the Beach, and see for yourself how dangerous it would be. We pay enough in taxes. All of you who have spoken in favor of the path, you have high-paying jobs, realtors, you can pay the high taxes that is going to incur. What about the white collar worker on Kaua'i who struggles to make a living and will be paying these high taxes to either get it repaired or will not be repaired, such as Lydgate, sitting there for so long now, where it is fenced off with the orange plastic fence, I have to get off my bike and walk it around that area—no fun, it comes out of taxpayers' money. We pay enough in taxes. We do not want it. I ask that you defer this judgment today until all of you have come out here and see how dangerous this situation is and see the erosion that is happening already on our coast, which would be putting the planned path right next to...we already see what is happening across from Coco Palms and at Lydgate, also across from Pono Kai, where Tom Summers lives right behind, has major erosion there also where they had to put a wall up. Who is paying for that? Us taxpayers. No more taxes. I urge you to defer this until you all get out here to make an honest vote for us people of the island, the citizens who voted you in. Thank you very much for your time. *Aloha*.

Council Chair Kaneshiro: Thank you, Trisha. Next up is Rick Powers.

RICK POWERS (*via remote technology*): *Aloha* and good morning. First of all, I would like to thank all of you for hearing my testimony. I also want to comment before I start, that I know there is opposition to the people who are trying to reroute this path. We do not want to kill this bike path and I believe a lot of the signatures that you have from the Kaua'i Path people who want this to go through were gotten by deceit, by telling people that we are trying to kill this bike path—that could not be further from the truth. We want this bike path. We think it is essential to the community. We are just asking that you use good judgment in trying to access this path through this narrow coastline. With that being said, I will read my testimony to you now.

Aloha and good morning, to the Members of the Kaua'i County Council. I made a brief testimony before you at the Council Meeting on April 7, 2021. In brief, I implore each and every one of you visit this section of the shoreline where the proposed bike and pedestrian path is slated to be routed through the shore here. If you did so, you saw it for yourself, the delicate ecosystem that exists along this coast,

the erosion that is consuming the shoreline, the nesting grounds of the endangered shearwaters, and the disaster safety issue that routing the path past those two (2) buildings would cause, especially the south east corner of the Islander on the Beach. You also saw two (2) beachfront resort condominiums at less than fifty percent (50%) capacity with residents, guests, and local community peacefully enjoying the path, the small stretch of lawn, and the beaches. I have had the fortunate privilege to meet three (3) of you at the site and I thank you for taking the time to see the situation here for yourselves. *Mahalo.*

Today, you are voting on Resolution No. 2021-13, to use eminent domain to acquire property from the Islander on the Beach, so that a ten-foot wide cement path can be routed along its southern border. This path is intended to connect to the twelve-foot wide cement path along the shoreline. The Resolution states the acquisition of easement interest in land required for public use. Also, declaring the necessity of acquisition thereof by eminent domain. This is not about public access to the shoreline. There already exists an easement and public access to the shore and there has been for years. There also exists that hard surface multi-use path that is five-foot wide used every day by the people. This path is absolutely and perfectly proportioned up to the landscape between these two (2) buildings and the beaches they face. Building along the shoreline is always fraught with problems—erosion is the most significant. If the above access to the pathway did not currently exist here, we would have a tough decision to make whether or not to use eminent domain to take private land for public access, because even then, whether or not to route this path along this fragile shoreline is still risky. But your choice is easy here. There is no requirement or necessity for eminent domain, because the public access already exists. There is a public pathway that serves the community and there are alternative routes that are safer, less costly, and completely mitigate the erosion issue entirely. There is no necessity to pour concrete on our coast and as a bonus, merchants at the Coconut Marketplace gets much needed visibility and are overwhelmingly in favor of this. This is your win-win scenario. Please, vote “no” on Resolution No. 2021-13. As Patricia said, at the very least, have an updated erosion study done before making such a landmark decision regarding our shores and look at the current and most recent data. Thank you very much.

Council Chair Kaneshiro: Thank you, Rick. Next up is Padraic Gallagher.

PADRAIC GALLAGHER (*via remote technology*): Hi. I will be short and sweet, because I have another meeting I have to run to. I just want to give my support for Resolution No. 2021-13. I have been an avid cyclist on Kaua'i for over ten (10) years. I have used several paths and we really need something that is going to be away from traffic. Bike paths along the roads are great, but they do not eliminate the potential for bike accidents. Over the past year, I have seen so many more people out on the bike path, whether they are walkers, joggers, cyclists, or walking with their

kids, that type of thing, because of this pandemic I really think that we need to move forward with this Resolution as soon as possible. Any delay is just going to extend that and it is one of those things where we just keep extending something, this opens the door for other problems that may come up, if we delay this now. We really need this for our community because we want to really work on that healthy community and I think this path is fundamental for that. Thank you for your time. I am sorry I have to run. Thank you.

Council Chair Kaneshiro: Thank you. Next up is Thomas Christy.

THOMAS CHRISTY (*via remote technology*): Good morning. My name is Thomas Christy. First of all, I want to say *aloha* Chair Kaneshiro, Vice Chair Chock, and all Councilmembers. I am currently the Vice Chair for Kaua'i Path. I am seventy-eight (78) years old. I bike three (3) to five (5) times a week and I attribute my good health to that path. I want to take a little different approach and tell you some of the other values of the path. I am also a member of...we teach safety classes to our children in elementary and middle schools. Mainly, we teach them safety issues and how to ride safely. We teach them the basics. Some kids can hardly balance when they start. We also teach adult classes. It is a little more advanced course and what it does is teaches all riders who use the road, and we teach this to the kids too, to follow rules of the road. Being visible, being respectful, and being predictable—things like that—we teach you all these things. The path provides an excellent space with no traffic to hone the skills that you are going to need to move onto the highways, that you can perform safely, not just to protect yourself, but to protect others—other pedestrians, vehicles, motor vehicles—your predictability helps save them from a possible problem. So these are some of the values of the path and that path provides a safe place for all who use it. As I ride, I also say hello and wave to everyone I pass. I pass courteously and we try to teach everyone to do that to who they come across. First of all, I would like to mention that the goal is to provide a continuous path—it has been for many years—from the Kapa'a area into the Līhu'e hub and I would like to compliment this Administration, the Council, and past Administrations that have worked so hard to improve road conditions by placing bike lanes throughout the Līhu'e hub and also the Transportation Investment Generating Economic Recovery (TIGER) Grant development of Rice Street; I actually live on Rice Street and I can tell you that it is a blessing to be able to ride my bike safely using the bike lane and share roads that have been done, and the improvement that it has done to traffic flow. With that said, I would encourage all of you to know that many...just ridding along our beautiful coastline and enjoy watching the whales jump, to parents ridding cycles with their seven (7) and nine (9) year olds, because it is safe. I would encourage you to pass the acquisition acquiring the land in front of the Islander on the Beach. I want to thank you for this opportunity for allowing me to testify and I hope that you can make a decision today to move this effort forward without delay, because I think we all agree that when things are delayed, they are not just delayed for a week, month, or even a year sometime, but maybe they are

delayed way too long and that would hamper the full development of the goal that has been foreseen by many members of our government and our island to move forward. So with that, I thank you for this opportunity to make my testimony. *Aloha*, and I wish you all well. Thank you.

Council Chair Kaneshiro: Thank you, Thomas. Next up is Mary Ransbury.

MARY RANSBURY (*via remote technology*): The biggest decision that this Council is going to have to make is the ability to restrain from making a decision. As I listen to all the testimony in front of me, I am perplexed by the misinformation many of these people are testifying, who do not understand what this is about—the Resolution the acquisition of the south side, it has nothing to do with what is in front of the Islander on the Beach. When we talk about cyclists, we are talking about riding a bicycle less than thirty (30) seconds, this is what the space and the land we are discussing. What I am asking is that the Council just take this opportunity to pause. I am hearing how we have to have another environmental study—that is not true, that is not factual. First, I want to address the notion around rerouting the bike path; it is on record now, there is a safer path that has been offered and an alternative path through the Islander on the Beach, which actually is not the parking lot. There is an area between us and the Coconut Marketplace that is a natural course; it is already loaded with cement, it is safe, and there is not through traffic to where you are talking about that thirty (30) seconds we are discussing right now in front of the Islander on the Beach where you have over eight hundred (800) people in less than a thirty-second space crossing over on to the beach. There is nowhere else on this bike path that we are talking about with such high dangerous area where it is high density housing. The “automatically require the new environmental impact study to delay the construction”—that is not true. Councilmembers, I am just asking that...we spoke to Tom Isen at the Office of Environmental Control yesterday, and I believe you have his E-mail in front of you to the effect that it is up to the Kaua'i Department of Public Works whether we have to have another environmental study. I am just asking that we move forward. First of all, I would like to think about all of us losing the Kaua'i shoreline—it is unprecedented. What is occurring right now with the amount of shoreline erosion...I mean history speaks for itself. North of us and south of us, it is chunking away into the ocean. We cannot bring back the bike path once it is out into the ocean. The amount of money that will be spent by tax dollars to be able to repair the orange cones and the orange fences that are going to be riddled over our shorelines, because we are pushing this because of all of the money. I am just asking, “Kauaians” deserve better, they need better, they need a sustainable bike path that is beautiful that is going to last. In regards to the one thousand (1,000) feet of the shoreline path, which is the subject of debate here, as bad as the erosion problem is along the short section of the bike path, there is another far more dangerous problem. In order to understand the magnitude of the other problems, I would ask you to consider this: if you go ahead with this shoreline section of the path in front of the

Islander on the Beach and Kaua'i Coast, you will be constructing a path situation that exists nowhere else on Kaua'i, or the State of Hawai'i, or for that matter, anywhere in North America. The reason it does not exist anywhere else is because it is simply far too dangerous. The reason it is far too dangerous is every week you will be forcing an upwards of one thousand (1,000) people, including young children, to cross the concrete path on a way to the beach in front of oncoming cyclists. It is one thing to educate the cyclists, but we are not talking about educating cyclists. We are talking about people who are just out to enjoy the beach with their buckets to make sand castles or who are listening to music. I am asking, and I think you can readily see that the unmitigated recipe for disaster gets worse. We got a legal opinion from Milton Motooka, which I believe we have sent—who is a highly respected Hawaiian legal mind—it says, "The Mayor and Kaua'i Council should seriously consider the risks they are placing the residents, the visitors, and the resort guests, including young children in by forcing them to cross a bike path to get to the beach, when alternative paths are available. It is difficult to understand why they have chosen a path, which poses such a threat to human life and safety. Should any injury occur where a cyclist injures a pedestrian attempting to access the beach, the potential liability will be substantial. The fact that the County has been put on notice of the risks will expose greater potential liability. Most importantly, the injury will receive substantial national media scrutiny. We are not opposed to the bike path. We want the path, but we are talking: if you are riding a bike, it is thirty (30) seconds that we are talking about that path. If you have walked that path and you have to be able to turn on that *makai* side of the north end of the Islander on the Beaches "Moloka'i" building, it is insane that they are trying to force that through. That is all.

Council Chair Kaneshiro: Thank you, Mary. Next up is Brian Curll.

BRIAN CURLL (*via remote technology*): Aloha, Councilmembers. Thank you for allowing me to speak today. My name is Brian Curll. I am the Vice President of Hui O Mānā Ka Pu'uwai Outrigger Canoe Club (Pu'uwai Canoe Club), and presently sit on their Board of Directors. I am a member of the Kapa'a Rotary and Lion's Club here on Kaua'i. My organization, the Pu'uwai Canoe Club, has been serving our community on Kaua'i for a good thirty (30) years. We offer a multitude of programs for adults and children. We have taught over four thousand (4,000) children in the Kawaihau District over this time. We are in support of the path. We are in support of a midsection of the path. We believe that enhances the already wonderful opportunity for residents and visitors alike. I believe it is in our best interest to move forward. Pu'uwai Canoe Club supports the community. We have, over the last year, with the Kaua'i Independent Food Bank, provided twenty-nine thousand (29,000) pounds of food, potable water, and supplies to those at-risk in our community who have been displaced. We are looking forward to helping them get into permanent housing. The community of Kaua'i is one of service to each other. Individuals, all of us, occasionally have to give up a little something so that everyone else can have a little something added to their plate. I think it is important that we

move forward. I believe that you have the Federal support across the board, at least in my organization, and I will certainly let everyone know how much we love the island and all the opportunities provided for people moving here. I have one comment about the shearwaters; the greatest danger to them is light pollution and the light from the windows along the shoreline. They are also in danger from feral cats and rats. Those are the big dangers; if you are interested in protecting shearwaters, you need to control the feral cat population. Thank you for your time, *mahalo*.

Council Chair Kaneshiro:

Thank you, Brian. Next up is Julio.

JULIO MAGALHAES (*via remote technology*): Good morning and *aloha*. My name is Julio Magalhaes and I am here to testify on Resolution No. 2021-13. I am a member of the Executive Committee of the Sierra Club of Kaua'i. I am here to represent the Executive Committee's position. *Mahalo* to Council Chair Kaneshiro and the Council for this opportunity to provide oral testimony. I am only able to participate via audio today. I wish it were otherwise, but of course, it is the words that matter rather than seeing me. Earlier this week we submitted written testimony expressing our opposition to this Resolution. I would like to direct your attention to that written testimony. Out of respect to your time, my oral remarks will only focus on two (2) of the most important concerns with respect to that letter. The first concern is the contradiction between the proposed routing of the multi-use path and the conclusions of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report. That report was issued by the Hawai'i Climate Change Mitigation and Adaptation Commission in 2017. I will elaborate on that concern momentarily. The second concern is making sure that the County has learned the relevant lessons of the extensive and rapid erosion of Wailua Beach next to the multi-use path segment there. Focusing on our first concern, which is the contradictions with the Vulnerability and Adaptation Report, if you look at the Report, which is publicly available and easily accessible on the web, the Report includes several figures covering the coastal area to which the Resolution refers and the location of the proposed path segment is well within the sea level rise exposure area or even the minimal sea level rise considered of one and one tenths (1.1) feet, as well as the three and two tenths (3.2) feet scenario. It is important to note that the one and one tenths (1.1) feet sea level rise is a very minimalist approach. Both of these scenarios are considered quite conservative amounts in current planet-change science. The Sierra Club of Kaua'i believes it is irresponsible to locate the multi-use path in a sea level rise exposure area. I want to repeat that for emphasis. The Sierra Club of Kaua'i believes it is irresponsible to locate the multi-use path in a sea level rise exposure area. We find that it is irresponsible for two (2) reasons: 1) The County would be placing public infrastructure funded with taxpayer dollars in harm's way, in the way of coastal erosion from sea level rise and increased frequency of strong storms due to climate change; and 2) Taxpayers' dollars would be unnecessarily wasted. Although the funding for the proposed bike path would be covered with a Federal grant, those dollars come from the dollars of the vast majority of us pay when

we file our Federal Form 1040. Moreover, all the repairs to the multi-use path, after placing it in harm's way would be up to all of us to pay with the local taxes since the Federal grant would not cover repairs. Focusing in on our second concern, the shocking erosion at Wailua Beach next to the concrete multi-use path...I know every time I go by Wailua Beach, I am shocked by the rapid erosion that has occurred and is occurring. I imagine that you, as well as everyone who is testifying today, are also shocked by it. The expansive erosion at Wailua Beach presents a cautionary tale of placing the multi-use path close to the coast on terrain that is very close to present sea level. This major erosion should give great pause to the Council as it considers Resolution No. 2021-13. The County must understand and learn the lessons of this expansive erosion at Wailua Beach before moving forward with the proposed new section of the multi-use path. In particular, the County must do a reality check on how the studies that were done prior to construction of the Wailua Beach section of the multi-use path compare to the amount of extensive erosion that has actually occurred at Wailua Beach. To do otherwise would be an irresponsible use of public moneys. Again, I want to repeat this, because I think this is critical. In particular, the County must do a reality check on how the studies that were done prior to construction of the Wailua Beach section of the multi-use path compare to the amount of extensive erosion that has actually occurred. In conclusion, we support an alternate path further inland on the *makai* side of the Aleka Loop road. This alternate path will take the route out of the high-risk sea level rise exposure area. For this alternate route, we support a design that uses the latest theory and practice of Complete Streets design, which gives equal priority and safety to pedestrians, bikers, and vehicles. This routing was also more naturally aligned with the existing interim segment of the multi-use path to the northeast...

Council Chair Kaneshiro: You have thirty (30) more seconds.

Mr. Malgahaes: ...and northwest of the proposed new section. In conclusion, the Sierra Club of Kaua'i does not support the routing included in the County Council Resolution No. 2021-13. Thus, we do not support the passage of this Resolution. A "no" vote by the County Council will send a clear signal that the Council understands the imperative of bold action now on climate change. It would also show the Council...

Council Chair Kaneshiro: Julio, your time is up.

Mr. Malgahaes: Can I just finish my last sentence?

Council Chair Kaneshiro: Okay, you can finish your last sentence.

Mr. Malgahaes: It would also show the Council has the courage to make the much needed tough decisions regarding coastal development and

mitigation that are and will be needed to deal with the climate crisis. Thank you very much for your consideration. I apologize that I went a few seconds over my time.

Council Chair Kaneshiro: Thank you for your testimony. Next up is former Councilmember and Council Chair Mel Rapozo.

MEL RAPOZO (*via remote technology*): Good morning Council Chair, Council Vice Chair, and Councilmembers. I am testifying on Resolution No. 2021-13. This is not about the benefits of the path. This is not about the health benefits, there is no disputing the benefits of the path and that it is in fact a world-class amenity. We all know that. There is definitely no objection to that statement. There are two (2) issues here. The first issue is the recent...unless things have changed...the Islander on the Beach has rescinded their offer because of misrepresentations by the County that in fact they would use permeable pavers and now it has changed to concrete. I think that is the first concern. What was once a friendly condemnation has now become a hostile condemnation. For the new Councilmembers who have not been through the condemnation process, the cost of a hostile condemnation jumps quite a bit, so I think that is one of the concerns. The Sierra Club of Kaua'i and Julio made some comments that I was going to read, but he already covered it. I just want to ask that each and every one of you reads that Hawai'i Sea Level Rise Vulnerability Adaptation Report that was issued by the Hawai'i Climate Change Mitigation and Adaptation Commission in 2017. That is relatively recent. Relatively speaking, 2017 is relatively recent. I would ask that each and every one of you read that and see exactly what Julio was talking about. In fact, the sea level rise there should be of concern there for everyone. Sally Jo Manea, who I dearly love, in the newspaper, stated, "Please do not be distracted by concerns that the physical structure would be damaged by coastal erosion. This is inevitable for all our coastal roadways and is a separate issue. The issue here is public access." I agree with a couple of the comments. The structure would be damaged by coastal erosion and that this is inevitable for all of our coastal roadways. I agree with that. But I disagree with her statement that it is a separate issue. It is all the same issue. You are making a decision that is going to impact the erosion and damage on a structure. I also agree with her that the issue here is public access. We already have public access for people to use to get to the beach. We already have it and we already hold it. We have that easement. Retired County Eastside Roads Crew Supervisor Steve Sarita who is a frequent user of the path also is quoted as saying, "The coastal erosion I have witnessed fronting these resorts would surely keep costing taxpayers money to fix it if it is not rerouted further away from the coastline than now planned." Again, a user of the path. I know last time Councilmember DeCosta asked me if I use the path, I do not have to use the path to be concerned about the cost and the impacts to our environment. That is exactly what my testimony is about today. We have to understand and accept the fact that things change every day. You all know this regardless of how long you have been on the Council. We need to be flexible to adjust to that change. The environmental processes that were done years ago may not apply

today. I think that is what Julio was talking about. We have seen the devastating impacts of erosion and sea level rise here on Kaua'i, especially on that coastline, already. SMA permits, unless things have changed, are only good for two (2) years. At the very minimum, I would think that you would need a new SMA permit to construct anything on that coastline. My request here today is that all of you please defer this. There are several pieces of information that are missing, at least to the public. What is the cost going to be? What is the cost now for a hostile condemnation? Then, what is the cost going to be for the maintenance? The last time I testified, I watched the meeting and Doug Haigh was asked about the cost. He could not provide a number. I would think that there needs to be a number attached to this request of what is the Council or County willing to pay for this amenity when in fact much has been said already that many path users are saying that an alternate path would be sufficient and beneficial. It does not have to be along an eroding coastline. I think that is my biggest concern. The Sierra Club of Kaua'i said it best that it would be irresponsible to move forward with this. For me, as a taxpayer, I am concerned about the cost. I am concerned about the cost of condemnation. That will increase significantly. I am concerned about the natural habitat of the shearwaters there—that needs to be reviewed. The studies and all of that was done to get the initial approvals may no longer be valid. I am just asking that this...I would love for this to be received and that an alternate path option be looked at. At minimum, defer this until that information can be received by the Council and shared with the public, so that we can make an educated decision. Thank you for your time.

Council Chair Kaneshiro: Thank you, Mel. Next up is Bernardo.

BERNARDO LIZARRAGA (*via remote technology*): Hello. Thank you for your time. I am a resident of this island for many years and have lived here for most of my life. I have enjoyed the benefits of the access to the coastline and I love the path. We have access to this pristine coastline. My concern is related to the erosion and the narrow pathway that exists already in this area here. I have currently been a resident of the Islander on the Beach and I have seen that more closely, the impact that it has. I am opposed to the path and locating it in this pristine area that will be dangerous. There are concerns with safety and I walk that path with my grandson and I am concerned about that. That is my opposition at this time for...I would like to see it located elsewhere and to hear a better understanding of the area to make it safer so that a better decision can be made to locate it in a place where it is safer and in an area we can all use. Safety is a big concern for me. That is all I have to say at this time. Thank you for your time. Thank you for arranging this.

Council Chair Kaneshiro: Thank you, Bernardo. Next up we have Judison. Is Judison Paleracio there? If not, that was the last testifier for this item. I would just like to thank everyone for your testimony. We will be taking this item up a little later on our agenda. Again, if you want to watch the meeting live, you can watch it at www.kauai.gov/webcastmeetings.

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

Council Chair Kaneshiro: Clerk, we were on page 2 under Communications.

COMMUNICATIONS:

C 2021-100 Communication (04/06/2021) from the Executive on Transportation, requesting Council approval to apply for, receive, and expend a Fiscal Year 2021 Federal Transit Administration (FTA) Section 5339(c) Low or No Emission (Low-No) Bus Program competitive grant, in the amount of \$2,550,000.00, and to indemnify the FTA. The 5339(c) grant will provide eighty-five percent (85%) of the cost to replace three (3) diesel-powered buses, which have exceeded their useful service lives with three (3) electric-powered buses.

Councilmember Carvalho moved to approve C 2021-100, seconded by Councilmember Kualii.

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

Councilmember Evslin: I have a question.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you for being here and for applying for this grant. If we receive the grant, when would you expect that we would actually have the buses? Also, would there be expected County costs for the charging infrastructure, or is that included in some capacity.

There being no objections, the rules were suspended.

CELIA M. MAHIKOA, Executive on Transportation (*via remote technology*): In regards to the bus receipt, we are working as part of a statewide coordinated effort that we are applying for the funds and carrying out the project along with the State of Hawai'i Department of Transportation's Planning Office. We anticipate it will likely be late next year, if not moving into the following fiscal year. However, we need to be prepared for the timeline as it comes out so we are working with the consultants in regards to the actual implementation of the project. I could not hear the second portion of your question.

Councilmember Evslin: Sorry. Would there be expected additional costs for the charging infrastructure? How would we make that aspect work?

Ms. Mahikoa: Yes, we anticipate additional costs for charging infrastructure. We are relying on the consultants that are on-board via our first Low-No Grant award that was received a couple of years ago, who are also handling the statewide initiative, to provide with the numbers on that. We anticipate needing to

identify the source for that as well. Thankfully, the Federal funds in this area...the opportunities have been more available lately. We anticipate being able to utilize either existing or soon-to-be provided funds for that purpose.

Councilmember Evslin: Great. Thank you.

Ms. Mahikoa: Thank you.

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

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

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

Councilmember Cowden: I would just like to thank Celia for her work and for looking outside of the box in getting outside funding. You are always looking to bring us in a new direction. It is important to at least experiment with these electric-powered buses. Thank you very much for a job well done.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I echo what Councilmember Cowden just said. Thank you, Celia. I know that this is going to require some heroic efforts on your Agency's part to make this transition. Certainly whatever we can do to accelerate its transition is definitely needed. I am looking forward to us getting three (3) electric buses for Kaua'i. Thank you.

There being no objections, the rules were suspended.

Ms. Mahikoa: Thank you. We greatly appreciate the support from all of you. *Aloha.*

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

Council Chair Kaneshiro: Does anyone else have any comments?

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

The motion to approve C 2021-100 was then put, and unanimously carried.

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

C 2021-101 Communication (04/07/2021) from the Fire Chief, requesting Council approval to accept a donation of five (5) Custom Surf Rescue Boards, valued at \$10,563.00, from the Kaua'i Lifeguard Association (KLA), on behalf of the friends and family of Zachary Rose.

Councilmember Kualii moved to approve C 2021-101 with a thank-you letter to follow, seconded by Councilmember DeCosta.

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

Councilmember Cowden: I remember when Zachary had the fall on the Nā Pali Coast. I would just like to acknowledge the pain to his family. I want to formally acknowledge gratitude to his family and friends in their loss for continuing to help other people not experience that type of loss. With these five (5) rescue boards, I am assuming that it is going to the five (5) different *moku*. Do we know that? That might be a question. If we do not know, that would be my presumption. I just want to *mahalo* the friends and family of Zachary Rose and certainly the Kaua'i Lifeguard Association. They are a big partner in keeping our waters safe. *Mahalo*.

Council Chair Kaneshiro: Does anyone else have anything to add?

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

The motion to approve C 2021-101 with a thank-you letter to follow was then put, and unanimously carried.

Council Chair Kaneshiro: The motion passes. Next item.

CLAIMS:

C 2021-102 Communication (03/25/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Arnold A. Lane, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-103 Communication (03/29/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Makai Water Service's, LLC, for damage to personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-104 Communication (03/31/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Leslie A. Burgermyer, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-105 Communication (04/05/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Wendy Nishida, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2021-102, C 2021-103, C 2021-104, and C 2021-105 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Chock.

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 2021-102, C 2021-103, C 2021-104, and C 2021-105 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 SAFETY & HUMAN SERVICES COMMITTEE:

A report (No. CR-PSHS 2021-02) submitted by the Public Safety and Human Services Committee, recommending that the following be Received for the Record:

“PSHS 2021-02 — Communication (03/19/2021) from Todd L. Watts, PE, PMP, Director for Real Property Investments and Deployments, U.S. Department of Defense, requesting agenda time for Dr. Buff Crosby, Charla Schreiber, and local consultant Dawn Chang, to present information regarding the Missile Defense Agency’s Homeland Defense Radar - Hawai‘i (HDR-H) Environmental Impact Statement,”

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

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 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 2021-02) submitted by the Finance & Economic Development Committee, recommending that the following be Received for the Record:

“FED 2021-01 — Communication (03/05/2021) from the Director of Economic Development, requesting agenda time to present an update on the distribution of Rapid ‘Ōhi‘a Death and status of detections across the island, as well as share the management and outreach efforts that are being undertaken to slow the spread of the disease,”

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

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 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.

Resolution No. 2021-13 – RESOLUTION AUTHORIZING THE ACQUISITION OF EASEMENT INTERESTS IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY’S PUBLIC PARK SYSTEM, WAIPOULI, DISTRICT OF PUNA, COUNTY OF KAUA‘I, HAWAII, AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

Councilmember Kualii moved for adoption of Resolution No. 2021-13 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received written testimony and we heard public testimony a little earlier today. Do we have any questions on this item?

Council Chair Kaneshiro: I think we have Doug and Troy available. Councilmember Cowden.

Councilmember Cowden: I was trying to let Council Vice Chair Chock go first. Thank you, Doug and Troy, for the work that you have done. I want to thank all the people working on the path. I agree with some of the testifiers. I believe that every one of us should look at this path. When this was done in 2012 and we are now in 2021, it is a pretty different scenario. I have a couple of different questions. You answered that the cost of the area is two million two hundred thousand dollars (\$2,200,000). Is that the correct amount that we are considering including condemnation?

There being no objections, the rules were suspended.

DOUGLAS HAIGH, Chief of Buildings (*via remote technology*): Good morning. For the area with this portion of the path we are looking at the cost as being seven hundred thousand dollars (\$700,000).

Councilmember Cowden: Okay. Can you look on page 2 of your answer to me under question 3 where you say, "The expected life of the path in consideration of undermining due to shoreline erosion varies by location. In some areas there is no threat as the coastline is accreting or has no history of erosion." I highlighted this for myself. "In areas of coastal erosion the average life of the path is three hundred fifty-two (352) years with a minimum life of forty (40) years." What about the areas where the path is clearly eroded. I can think of at least five (5) places where as one of the testifiers stated that there is orange webbing around it, what about those places?

Mr. Haigh: We have two (2) currently where we have orange fencing adjacent to the path that I am aware of. There are three (3) areas where there is coastal erosion nearby. The first area is near the Pono Kai seawall. I discussed this at the last meeting. The Pono Kai seawall issue is a seawall problem. The problem was created by the seawall. During our repairs of that seawall, we tried to extend the seawall to minimize more erosion. The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), denied our request to extend the seawall. They said that we were just going to move the problem. I think they were right, appropriately. We ended up working out an agreement with them and they approved our beach nourishment program. We coordinated with the State Boating Division and they have given us sand twice now from when they dredged the nearby canal for boating access. We have set up a program to nourish that area. The coastal erosion there varies over time. We went for a whole year without having to do any beach nourishment. Right now it is ripe for some nourishment. There is a good beach there, so it would be a good time to do nourishment and there is still sand available. That is that situation.

Wailua Beach is the most significant one. I think we are all hurting looking at what has happened at Wailua Beach over the last year. But, while it is frustrating and hurtful, it is not shocking. That beach has had a history of having episodic erosion events. Actually, right before we were doing the final design of the path in that area, we had a significant erosion event at one part of Wailua Beach, where it came within ten (10) or fifteen (15) feet of where the path was going to be. At that time, we totally redesigned the path in consideration of that in conjunction with the State Department of Transportation. The path there is located in the highway right-of-way and is located in their shoulder. It incorporates a safety bumper for the highway there. We designed it so that it is removable. Is it cheap to remove it? No. It could be removed. Regardless, if that path goes...it is kind of like a canary...if they

lost the path, they will lose a travel lane because it is such a narrow area there. It is really a State Highways question about protecting the highway and the path is incidentally there as a part of the highway.

The other area where we have erosion is at Lydgate Beach Park. That erosion was from stormwater erosion. Unfortunately, it was not repaired as part of the emergency repair project, which would have been okay. My memory is that it occurred during a disaster-declared storm event and it could have been repaired under emergency rules. They are going through the regulatory rules and it takes a long time to get through the regulatory process.

Councilmember Cowden: Thank you. At the very south end there, it is struggling also, where the little *hale* is located at the end of the park. At Lydgate Beach Park where we have the Bynum Bridge, how is that area? Am I remembering that correctly? It seems like that area is having a hard time? Maybe it is just the building?

Mr. Haigh: The Bynum Bridge is Tim Bynum's legacy. He was very much into Americans with Disabilities Act (ADA) access. He spent a period of his childhood with accessibility challenges. He was very sensitive to ADA access. What we did is we created this ADA outlook at that pavilion by the bridge. We built it as furniture, not as infrastructure, because we knew it was in a very sensitive environment. That is the one area where you are seeing erosion. It is not a part of the path. It is a piece of furniture that if it eroded, it would be time to pull it out and we at least got to enjoy it for a little while. That is not a part of the path.

Councilmember Cowden: Okay. I have a short "yes" or "no" question and then another hopefully short question. The Federal grant is not paying for repairs, is that correct? The County Department of Public Works will be paying for repairs when we do them? Is that a "yes" or "no?"

Mr. Haigh: Federal Highways will not be paying for repairs.

Councilmember Cowden: Okay. This area along the shoreline and the easement that is perpendicular, we already basically own that. The condemnation is just for a little small easement piece, is that correct? Do we own both the walkway and the area along the coast?

Mr. Haigh: We do not own the area along the coast. That is a requirement of the regional subdivision that they install and maintain lateral access. We have a six-foot wide easement between the two (2) hotels there for the vertical access. We need a minimum of eight (8) feet for a shared-use path in that area.

Councilmember Cowden: Okay.

Mr. Haigh: That is why we are acquiring a little bit of land from Islander on the Beach and a little bit of land from Kaua'i Shores Resort. I always forget which one it is. I am sorry.

Councilmember Cowden: When one of our speakers talked about thirty (30) seconds for bikes, that is what I thought when I went by it. It is just a heartbeat before you are right out there again. What if our path diverged and pedestrians, strollers, and things like that stayed along the coast where it takes more time and then they can make that right-angle turn easily without running anyone over? Our bikes can go inland for thirty (30) seconds earlier. I was hit by a truck when I was twelve (12) years old and had very serious head injuries. I get the fear and the problem of cars and traffic. We are talking about thirty (30) seconds of additional challenge. Can we have bikes go one way and walkers go the other way?

Mr. Haigh: What we have done there for safety is providing signage for that narrow corridor for cyclists to dismount. That is already a part of the path plans. Safety is a primary issue for us and developing the path in conjunction with the Hawai'i Department of Transportation (HDOT), Highways Division. We looked at those issues and in conjunction with them, we came up with the idea that the cyclists should dismount for this narrow corridor. That is what we have there for that safety issue.

Councilmember Cowden: I understand what you have. That was not the question that I asked. I asked can we have walkers go one way and bikers go another?

Mr. Haigh: The challenge with having the bikers go the other way...this is interesting to me...in 2019, we were working with one of the board members at Islander on the Beach, and they requested us to look at going on the *mauka* side of their property. In order to do that, to get the safe width of a path, we would be taking out about twenty-seven (27) parking stalls from their hotel. When we responded back to them that this would be the consequences, they responded and said, "Never mind." Now, I am hearing them saying, "Go use someone else's land." We have looked at that. Aleka Loop was looked at. I think you recently talked to other property owners or had correspondence with other property owners in the area, the Aleka Loop option is not an easy thing to do. To just divert it, there is really not enough room to easily do it there. It will be a significant challenge to do it safely.

Council Chair Kaneshiro: Are there any other questions from the Members? Council Vice Chair Chock.

Councilmember Chock: I have a bunch of questions. Doug, because there has been a lot of discussion, my main question is about the timing of this request and how time-sensitive it is for our process to consider if we can deliberate further on it or not. Are there any hard-pressing deadlines that we need to consider in making this determination today?

Mr. Haigh: You should have a copy of the April 19, 2021 memorandum from the Department of Public Works requesting Council to take action on this item today. In that memorandum I lay out the time-critical issues. I will do it here. We were recently notified by HDOT, Highways Division that we have to have all of our project documents in by May 31, 2021 in order to secure the Federal Highways funding for this year. We are looking at securing one million five hundred thousand dollars (\$1,500,000) for this project. The Resolution document is necessary for the right-of-way certification, which is one of the documents that has to be completed by then. The issue is that our right-of-way certification...I need to put together a package. When we put together this package, we send it to HDOT, Highways Division, Right-of-Way Branch, and they review and approve our right-of-way certification. That usually takes two (2) to three (3) weeks. We are really at that time-critical period in order to secure this funding. If we do not meet that deadline, it is very likely that we would not be able to receive the funding. They said that this is the deadline. That means that we do not use those funds this year and we will have to go back on the State Transportation Improvement Program (STIP) list and reapply. Currently, the County of Kaua'i Department of Public Works has put off funding for future bike path projects until Federal Fiscal Year 2026, because we have other priority projects that we need to spend the money on. Basically, we would be deferring...if we did not meet the deadline and secure the funds this Federal Fiscal Year, we would be waiting until Federal Fiscal Year 2026, which starts in October 2025.

Councilmember Chock: Thank you. In your second paragraph you talk about the alternative boardwalk construction, can you explain that a little more in detail?

Mr. Haigh: Okay. We have been continually sensitive to the erosion issue. During the SMA process we made changes to the path to move the path further from the coastline. We have always selected concrete as our number one choice for the path for long-term maintenance issues. We have looked at doing crushed coral and asphalt, but concrete was the least cost and since we had the frontend cost paid by the Federal Highways, it was in the best interest of the County to go to the option that had the least maintenance cost, which was concrete. Now, looking at coastal erosion issues, if we...what I said there is that we want to work with the Planning Department and look at the current view of potential impacts. We do not have that final information yet. In the worst case scenario that we are looking at much sooner coastal erosion events than we were previously planning on, which if

you look at that memorandum that we sent you, it included a 2017 study and comments we brought to Council, we were looking at fifty (50) years or so, was the minimum life of the path based on sea level rise impacts on coastal erosion. We were comfortable that concrete was good. We are seeing now that...and I have talked with our Sea Grant Specialist and there are some new assumptions being made. We are going to explore those. We are going to have an expected life now with sea level rise impacts of maybe ten (10) to fifteen (15) years, then it makes a lot of sense to look at an alternative boardwalk type of construction. If you look at the Kawaihau elevated boardwalk, your decking would be like that, but of course it will not be twenty (20) feet in the air. It will be on top of the sand. With that type of structure, if you get erosion, you could easily dismantle it, move it, and put it back with much less effort than concrete. I also included there an option that we may need to get an additional erosion reserve easement. If we see that sea level rise and the changes as to how people are looking at sea level rise is a much shorter life, then it would be responsible for us to secure another five (5) or ten (10) feet of easement for future erosion so that we have a place to move the path more *mauka* if we get serious erosion. I am sure the Islander on the Beach would not be happy with that, but if the facts or the latest review...in coordination with Planning determines that this is a serious concern, then I would be going to Federal Highways and HDOT to say that we should be looking at this additional easement to be funded for this project because of the expected life. Of course it would be up to the courts to decide if it is in the public's interest to get that additional easement.

Councilmember Chock: Okay, thank you for that. It brings me to one of my main questions. When can we expect a little more direction...I asked the Planning Department and Ruby to be present...do we know when we might be able to get some of that impact information to make a better determination? Doug, you might be able to answer that, and if not, perhaps Ruby or Ka'aina could answer that.

Mr. Haigh: It is a two-step process. Someone is already working on the numbers. Then, we have to spend the time looking at the design and cost. The process afterwards is anywhere from two (2) to four (4) weeks to do the review on the design and cost side, but I will defer to Ruby on what is the expected process to get this additional analysis.

RUBY PAP, University of Hawai'i Sea Grant Coastal Land Use Agent (*via remote technology*): Before I speak, I just want to...for those that I have not met or talked to, I just want to explain Sea Grant's role in all of this. We do not advocate one way or another on developments or anything. We like to think of ourselves as neutral purveyors of information. My involvement in this path over the years...I have been on Kaua'i working in this position for nine (9) years and have seen different changes on different parts of the path. I came before you when Wailua was being discussed. We typically take the strategy of providing different options and scenarios for consideration and what the pros and cons would be. I just wanted

to fully disclose that I am a cyclist and I have used the path. I am not advocating one way or another. I just want to give you the information that you need. With that being said, I will say that...and I know that this is probably more than what you asked for...when this first came up and was requested in 2017, to get an analysis of path life based on sea level rise, that was before the Hawai'i Sea Level Rise Vulnerability and Adaptation Report came out. I did reach out to the University of Hawai'i at Mānoa (UH) Coastal Geology group scientists who are involved in the erosion projections and she did some calculations for us based on a scenario of three and two tenths (3.2) feet of sea level rise by 2100. A lot of times when you are projecting into the future, especially with sea level rise, you have to look at different scenarios because there are different uncertainties associated with different projections. At that time, when she did the calculations, the path life in front of the Islander on the Beach ranged from fifty-seven (57) years to hundreds of years depending on the erosion rate. In some places in front of the Islander on the Beach, the erosion rate is near zero (0). In areas where it was historically eroding, she calculated fifty-seven (57) to seventy (70) years. This is just one scenario with three and two tenths (3.2) feet by 2100. Since then, there have been the publication of the Vulnerability Report for Hawai'i and the more recent sea level rise projections that suggest that three and two tenths (3.2) feet might be a more of a mid-range or mid-century scenario. Again, it is all about the timing. The path estimate that she provided could be a little more conservative. It also did not take into account the variability in the erosion data the way the sea level rise data does. There are some differences as Doug described. I have reached out again and the Coastal Geology group will be recalculating the path life for us. I have requested they look at a couple of different scenarios. When you are talking about planning for scenarios, scenario-planning is really the best way given the uncertainty with various projections. You could pick an extreme projection and a conservative projection, then it is on the decision-makers to really discuss your tolerance for risk within those scenarios based on the nature of the development proposed. In this case, it is the path. This is a coastal access path that could easily be removed. There are stipulations about no future armoring. Again, what is the County's tolerance for risk with looking at those scenarios. You could compare that conversation to one if we were putting in a road or a wastewater treatment plant, that might be very different than looking at a public access path. I just wanted to set up that stage for you as well, based on my experience with planning. There are further analyses to augment the previous analysis that resulted in fifty-seven (57) to seventy (70) years.

Councilmember Chock: Thank you. With what we are working with now, our next shot at this would be in five (5) years if we do not approve this right now. How far do you think, along the lines of our studies on sea level rise and its impact, will we have come in five (5) years in order to make a better determination?

Ms. Pap: I see your question. That is difficult to answer. I think we will have better information, especially if we do more monitoring along the coast, but we have a lot of good information now.

Councilmember Chock: I appreciate that. What I am hearing from you is that you are comfortable with what is being proposed based on the information you have now and that is really what I want to clarify.

Ms. Pap: Yes, I would clarify that I would be comfortable...there are pros and cons. Obviously, if you put the path where it is now it could be undermined and we are not just talking about sea level rise, but if there is a storm. That is the case with any section of the path. The fact that there is a commitment not to armor to protect that path, because that is really where we get into the damage of beaches. There seems to be a commitment to relocate. That makes it definitely a better option, whereas if there was not a plan or acknowledgement of that, there would be fear that there would be more seawall construction or armoring to protect assets when we knew there was already a threat. I also think that if there is additional monitoring of the shoreline erosion...if there was a contracted geologist during regular beach profiles or drone work, that would actually really help the planning process. When you add that in, there are enough safety nets there to put in this public access amenity. I also think that if the decision were to be made to reroute it, obviously I would say that the path would be much safer in that location, but then you lose the potential coastal path. There are cons to that as well.

Councilmember Chock: Thank you. Sorry, I have a couple more questions, but if you have to interject, please do.

Council Chair Kaneshiro: No, you may proceed.

Councilmember Chock: This is a Doug question. There is now the possibility of moving the path even a few feet further inland. I was under the assumption that we were up against as far as we could possibly go to the building. Can you clarify this, Doug?

Mr. Haigh: Yes. It really goes back to our negotiation process and our relationships with Islander on the Beach. The very first EA that we did in this area was in 2007. We were looking at this section and during that time I remember I took Phase "D" out of the EA and Tim Bynum was mad at me at the time. He said, "Doug, why did you do that?" I told him that one of the hotels was giving us resistance and I wanted as little resistance as possible so that we could get moving forward with what we can move forward at the time with. One of the managers of those hotels was saying that they were concerned that bike path users are going to go into their units and steal television sets and whatnot, because all of a sudden you are going to have a lot of public access where you did not have it before. That is why

we did not at that point. Now we have to come back and when we made the decision to move forward with this section of the path, Phase D, we had to redo our EA. I am so sorry, I got lost. What was your question again?

Councilmember Chock: I was under the impression that we were not able to move the path any further...

Mr. Haigh: Okay. As we moved into this Phase D section, I started discussions with Islander on the Beach. There have been different managers there and different board members. We had approval of our path from the President of the Board and they signed approval of the alignment. That alignment was based on a negotiation. Two things. We are trying to minimize the land that we are going to get from them. We are taking five (5) times seven hundred (700) or whatever the length is in front of that hotel. You owe us that amount of easement for the public, therefore, we are going to meander in and out with our path and use some of our property and some of your property so that we minimize the impact of having to pay for the land and minimize the impact to your hotel. We are sensitive. They approved that. We were working as partners. We were moving forward. Even as recent as last June, we got confirmation from the new President that they were comfortable, accepted the alignment, all is good, they were good with the Property Adjustment Agreement, and that we could ahead and do a concrete path between the two (2) hotels as long as we provide them their wall. We were good. If you look at the document that I sent to you that you received on April 19, 2021, and I show you the potential offsets...you are looking at a five-foot offset or a ten-foot offset, there is room there. The Islander on the Beach is not going to be happy about it, I do not think. It brings the path closer to their buildings and it is really significantly close to their buildings in a couple of places with the ten-foot offset. This is just a quick stab at it. If we are really going to look at this coastal reserve, we would look at these future erosion rates that we are going to do in our study and see where the most sensitive areas are, making sure we are getting the area to retreat in the most sensitive way. Right now we know that the closest or most sensitive area is right at that southeast corner. There is plenty of room between their property line and their building. To move in ten (10) feet there, it would not be that big of an impact on them. Do we do that now before we start construction? That is a big challenge. I would rather stick with our original agreement with the Islander on the Beach. "We agreed to this and this is how we are going to put it now, but in the future, if we are subject to erosion, we are going to change the design so we can move it easily. We are going to move it in this area, but for your current enjoyment of your resort, we are going to keep it as we agreed to."

Councilmember Chock: Thank you, Doug. That was the specific question that I had when we first heard this...our ability to interject within the condemnation, the ability for us to move this, because so much of this is sensitive to what sea level rise will incur upon us.

Mr. Haigh: Just to clarify that, this would have to be a separate condemnation resolution. To do this additional easement, if we are going to use Federal Highway funds, we have a process we have to go through. We would have to do additional appraisals, we would have to contact the owner, and negotiate. I would expect that would take us three (3) to six (6) months to be able to come back to you with a resolution for the expanded coastal erosion buffer reserve area.

Councilmember Chock: To confirm, does that mean we would pay an additional amount to what it is we are currently planning in order to move that?

Mr. Haigh: Absolutely. I just did a rough calculation based on the current appraised value of fifteen dollars and forty-six cents (\$15.46) per square foot. For a five-foot easement it will be approximately ninety-one thousand dollars (\$91,000) and for a ten-foot easement it is about one hundred thirty-seven thousand dollars (\$137,000). I would be looking at getting Federal Highways funds to pay for that, because if we do this study and it shows that we are at risk, then this is a responsible thing to do. I am optimistic that both HDOT and Federal Highways would say that that is a reasonable request to include in the project.

Councilmember Chock: That is helpful. This leads to my second question about the condemnation process. Particularly, because this is not, as former Council Chair Mel Rapozo said is not an amicable condemnation. They are not in agreement. I am a little skeptical on the process of this in our ability to move forward on it. Can you explain that? Typically, these condemnations that are challenged become litigious and take years of back and forth. I am skeptical on the timing that we are being requested, which is the end of the month, to complete this and our ability to act on it.

Mr. Haigh: First, I have not seen a formal letter from the Islander on the Beach Board telling us that they are no longer supporting the condemnation. I know there are members and residents of Islander on the Beach who have felt very strongly in presenting this. I have not seen a document from the Board. There have been some interesting communications. The Property Adjustment Agreement to build the wall...that is not related to the condemnation, but that is really the only thing that they have actually corresponding with me on. I think on Sunday, I received an E-mail from the Board President assigning one (1) individual as the spokesman for the Board on the issue. I got an E-mail from that individual saying that the Board is rescinding the rescindment of the Property Adjustment Agreement if we agree to maintain the pervious concrete per a certain standard. I do not think we are going to have any problem committing to that maintenance because it is the right thing to do. We need some time to review that and respond back to them. I think the Property Adjustment Agreement rescindment will be rescinded. The latest communication I have is that they will rescind it if I agree to say that we agree to maintain it. That is kind of a given anyhow. I think that is still good. Going

from a friendly to a non-friendly condemnation...I reviewed this with the County Attorney, but you might want to get it directly from them. We go to the courts and we pay the value of the land. The value of the land, they could contest that. We go through a very thorough process of our appraisal of the land following HDOT and Federal Highways rules and regulations. We actually do two (2) appraisals. We do a first appraisal and then we have a second appraiser come in to review the first appraisal to confirm that it is correct. We are pretty solid on our pricing. Since the County Attorney will be doing the legal action on this, if it is unfriendly, I would have to defer to them to tell you how that complicates the process once it gets to court. Once it gets to court and is accepted by the judge, then we have access to it. We have the land. It is the price of the land that gets contested in court. Even if it turns out that the price is going to be a little bit higher, we still have funds from Federal Highways right-of-way moneys to pay for a higher cost.

Councilmember Chock: Okay.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: This is back to Ruby, if possible. Is there any evidence or reason to believe that the path leads to higher erosion rates?

Ms. Pap: Does the path itself...sorry.

Councilmember Evslin: Yes, that the path itself...in the areas where the path is existing, has that increased erosion possibly? If we look at Wailua where there is unprecedented erosion, anecdotally, people believe that. Could you address that concern?

Ms. Pap: I do not believe the path contributes to erosion rates, no.

Councilmember Evslin: Okay. That is all, thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: This question is for Doug. My mind is spinning right now. It seems like we are trying to satisfy two (2) groups of people. I believe my job is to make sure that the overall constituents of Kaua'i are satisfied. It seems like a big outcry to continue this bike path is important. What worries me a little bit is the talk about sea level rise and the damaging of this concrete bike path if the ocean deteriorates the sand while the Islander on the Beach hotel might sooner or later lose their oceanfront or even the access to have that building reside there. Are they going to depend on the County for us to put a wall that protects their building from being washed away or possibly we have to condemn the building and

have them move elsewhere? There are a lot of things that play a role in my decision. We always talk about hypotheses, studies, and what can we do to do a better job. Is it building the sidewalk using concrete, using removable boards that we can move with the sea level rises, et cetera? How about a sidewalk with a retaining wall or pillar that goes underneath the path so it is not seen, but it is there in case the sand erodes? We will not have a cement pad that is floating on the sand, but we will have some kind of pillar or wall underneath that protects the path from erosion. Yesterday, Councilmember Evslin and I went out there and we saw an area that looked around five (5) feet deep by the ironwood tree that looked like the sand eroded. It has not been touched for about three (3) years and we came up with that judgment call because the vegetation grew back and the driftwood was there. It seems like the ocean does many strange things. I know we have geologists doing studies, but we are so unique in the world. There are no other islands in the Pacific Ocean like us to do these studies, except here in Hawai'i. Over time, we can make a judgment call. We do not have anywhere else in the world to grab our data to compare it to. What Councilmember Evslin and I looked at was if there was cement that went under the sidewalk, whether it is two (2) or three (3) feet deep in certain areas that look like it might wash away in two (2) to five (5) years, we might actually build a bike path that could be resilient to sand being removed by the ocean. That is the question that I want to ask you. Did we talk to our engineers, including you, if there was some kind of bike path like that that we could take a blueprint and draft a bike path in case there is something like this in the future, five (5) years out, we would still leave the bike path there without removing it?

Mr. Haigh: Thank you for that question. I want to just state that in the recent 2020 study for the Planning Department on coastal erosion rates, and this does not include consideration of sea level rise, but it does include historical data, we are looking at a three tenths (0.3) feet erosion rate per year. Three tenths (0.3) feet erosion is four (4) inches. We are losing four (4) inches per year. That is the maximum in that area. Some of it is at one tenths (0.1) feet or two tenths (0.2) feet. According to the historic data, and I think it was updated maybe in 2018 when they actually pulled the data, historically we have not started going faster in that area again. Your proposal is a creative and cool idea. Sorry, we cannot do that. We cannot harden the coastline. That was our commitment through the environmental process and in our SMA permit, that we would not harden the coastline. That was from day one. We had these same discussions for Kapa'a-Keālia and at Kapa'a Beach Park. I remember Councilmember Rapozo being very concerned about that area and he was upset because Chip Fletcher said that the path will not cause coastal erosion, because we were not hardening the shoreline. He said it is okay as long as you do not harden. We are not hardening the coastline. It is a cool idea, but that would be a seawall in disguise and we want to stay true to our commitment to the public and to the regulators that we are doing what we said we would do.

Councilmember DeCosta: Thank you, Doug.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I have a quick follow-up and this would be directed to Ruby again. Doug just mentioned the historic erosion rate being three tenths (0.3) feet per year and we have heard often from Chip Fletcher and others that the historic rate will become increasingly irrelevant moving forward. I know that a little bit is sort of magic thinking in that I am going to be asking you to pull a number out of...if you had to give your best projection for how long a path there could last based on everything that you know, what would you say that range would be?

Ms. Pap: I cannot say. I can say what I said earlier, which was that we have some estimates about fifty-seven (57) to seventy (70) years, and that was based on a particular sea level rise scenario of three and two tenths (3.2) feet by 2100. I can say that that scenario of three and two tenths (3.2) feet could happen earlier based on more updated sea level rise, projections that say that up to six (6) to eight (8) feet is actually physically plausible by 2100. As you go up in those more extreme projections for sea level rise the uncertainty gets higher and higher. You are looking at modeling of ice sheet loss and that is a science that is still developing, but getting better. I would rather wait to see what comes out from the actual modelers who are doing this work for us. Based on the work that was done before and the fact of fifty-seven (57) to seventy (70) years, and the fact that it is a low-eroding coastline historically, I think you have a few good years, assuming we do not get a hurricane or something that takes the whole thing out. That is very possible. I will say that other sections of the path have higher erosion rates. Next door at the Kaua'i Coast Resort at the Beach Boy they have higher erosion rates there. I will also say that there is a fringing reef. That makes the area more stable compared to somewhere like Wailua. It is a rapidly evolving science. That is my answer, sorry that it is not more definite.

Councilmember Evslin: Was that fifty-six (56) to one hundred (100) years, was that just a "bathtub analysis" at three and two tenths (3.2) feet or did that include the data that...

Ms. Pap: Tiffany Anderson was the researcher, she was the one that contributed to the sea level rise exposure area and the erosion lines. I am not a mathematician, but she used an algorithm that included historical erosion rates, future sea level rise projections, beach slope, and a very big mathematical equation that is done to calculate the future erosion.

Councilmember Evslin: Thank you, Ruby.

Council Chair Kaneshiro: Okay, we have a few more questions. We have about five (5) more minutes before we have to take a break. I do have a follow-up question for Doug. It is just a clarifying question. Councilmember Cowden asked what is the cost of construction for this portion of the path and you said, "seven hundred thousand dollars (\$700,000)." I wanted to clarify a little further that that is not money out of the County's pocket. From what I heard earlier, we will have to pay some fee to acquire portions of the land which is in the twenty-four thousand dollar (\$24,000) range, and then everything else will be paid for with Federal money based on our types of matches. Can you please clarify that? As I was listening to a lot of the testifiers, they were worried about the cost to the taxpayers on building this section and if it ends up eroding...can you clarify the cost to the County again?

Mr. Haigh: That is correct. The cost to the County besides my labor is zero dollars (\$0). Federal Highways is paying for all the path improvements and the right-of-way acquisition costs. Our attorney's costs we are paying for and our regular salaries, we are paying for. The actual cost of the path is one hundred percent (100%) funded by Federal Highways. That is because we have had this soft match. It all started with volunteers on the Lydgate Bynum Bridge. Those hours were the soft match to allow us to start the path at Lydgate Beach Park. Then, it was the Keālia Kai land donation that kicked us off and created our soft match. Since that, we have had various other donations that have further increased our soft match amount in order to pay and to get one hundred percent (100%) Federal Highways funding for the projects.

Council Chair Kaneshiro: With that, we will take our ten-minute caption break and we will come back to this. We still have more questions from the Councilmembers. We will take our break and we will be right back.

There being no objections, the meeting recessed at 10:28 a.m.

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

Council Chair Kaneshiro: Welcome back. I have a question from Councilmember Carvalho.

Councilmember Carvalho: I have a question for Doug. Thank you for all of the information. There is an emotional side to the path as we all know. I just wanted to dive into the communication that you sent.

There being no objections, the rules were suspended.

Mr. Haigh: I am here.

Councilmember Carvalho: Back to the one million five hundred thousand dollars (\$1,500,000) that you mentioned and the need to secure that per your

communication, I wanted to clarify that and more importantly, to clarify what you mean by, "Working with the Planning Department" and what some of those follow-up details will entail overall as you continue to work together once we secure that funding and everything moves forward. I wanted to get more specific details on that.

Mr. Haigh: In developing the path, the Planning Department is the key regulator for the shoreline area. It is in the SMA permit process that we really deal in-depth with the shoreline issues. We expect that within the SMA process we may have to modify our design based on the feedback that we get. We did that. In fact, our Sea Grant Specialist wrote a report on the path as part of the Planning Department's review. We reviewed that and because of that information we moved the path further *mauka* in a couple of places and probably most at the Kaua'i Coast Resort at the Beach Boy property. The owner there was agreeable after he saw the explanation of why we wanted to move it a little more *mauka*, so we did. In her initial report, she was talking about the boardwalk option, so that is where I came up with...I did not pull this boardwalk option out of thin air. I got the information in the process and that was a softer way of potentially doing the path. That is where I got that idea from. Since they are the regulatory agency, any changes we make to the path, we need to do in conjunction with their approval. I look at them as the experts of regulating this area. The County Council has passed the laws that has given the ordinance and the power to the Planning Department and Planning Commission to regulate these areas. We follow the permitting process to get the permits and in accordance with the approval of the Planning Commission, and if we are going to make any modifications, we are going to want to be hand-in-hand with the experts, which to me is the Planning Department. We work together. We are all a part of the County government and we know each other. We have worked together. With those relationships, it is easy for us to look at the best information that we have to-date. Getting the Sea Grant Specialist and her connections with UH geologists to do further studies, that is awesome. To be able to get that kind of help is awesome. We could not do it on our own. We could not have our consultants easily go out and get that information. There are resources within the County and the Planning Department has the strongest resources for the coastal environment, so we want to work with them in partnership to do the best that we can to answer and address coastal erosion concerns.

Councilmember Carvalho: I want to clarify that working together internally is very important, as well as securing whatever resources we can abroad, which is why the resources came back home so that we can move forward on this opportunity for Kaua'i. I just wanted to clarify the importance of that so people watching understand that there is that relationship that is strong and moving forward as we work towards addressing this entire discussion. Thank you.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I have mostly clarifying questions. There are just some things that I do not understand fully. This first question is for Doug. Can you clarify for me...condemnation centers on public purpose, correct? It is not about land value. We would condemn because there is a public purpose, is that right?

Mr. Haigh: That is correct. That is what allows you to condemn land...if there is a public purpose; the court will determine if there is a public purpose for the condemnation.

Councilmember Cowden: Does this condemnation have to be complete by May 31st for the HDOT approval? Will it be completed by that time? How long does it take for this condemnation to be completed?

Mr. Haigh: It will not be completed. How long it takes is very hard to say. As soon as we file with the court and the court accepts the documents, my understanding is that we then have legal access rights to use the property. As far as our right-of-way certification, HDOT Right-of-Way Branch has accepted the Council's approval of the Resolution as an adequate document to secure that the County has a commitment and is in the process of gaining the land.

Councilmember Cowden: Okay, so we have to be in-process? It does not have to be complete.

Mr. Haigh: Correct.

Councilmember Cowden: Is "SMA" Special Management Agency?

Council Chair Kaneshiro: Area.

Councilmember Cowden: Special Management Area. We use all of these acronyms and I do not even know what we are talking about. We have a Special Management Area permit. Is that permit only for two (2) years or is it ongoing?

Mr. Haigh: It varies. We actually had a contested case for this SMA permit and variance approval. There were conditions and we had to start the process within a certain amount of time. We have confirmed that we have started that process. The SMA permit covers from Papaloa Road all the way to Uhelekawawa Canal Bridge over by the Waipouli Bridge Resort. The Sheraton Kauia Resort at Coconut Beach has actually already built the path on their property. They agreed that they would build it at no-cost to the County, but they want us to pay for the easement. We are still in the process of...it is a Land Court issue and we are stuck in Land Court trying to get our mapping approved for the easement. That process is ongoing. They actually built it. We started the SMA work within the timeline that was required to start the work.

Councilmember Cowden: Okay.

Mr. Haigh: We have provided documentation to the Planning Department that we are progressing along adequately for the project.

Councilmember Cowden: Just for clarity, Doug, thank you for all of your work. I have spent about three and a half (3 1/2) hours in the past week or so on the path. Half that time with proponents and half with opponents. I have really walked a significant loop. I saw the cool design that Councilmember DeCosta suggested, that is being used a little bit further inland just where they took out some tennis courts, it had that perpendicular piece right there. They were pouring it when I looked at it. That is behind what is now called the ISO Hotel. How about the two (2) undeveloped resort lots between Kaua'i Coast Resort and the Sheraton? Is that part of this two million two hundred thousand dollars (\$2,200,000) bill? Is that where it would be meeting up with the Sheraton portion of the path?

Mr. Haigh: What you saw by the Mokihana area is actually a privacy wall that we are putting in for the Village Manor. It is part of the path project, but it is not part of the path. That is a privacy wall through a Property Adjustment Agreement that was approved by the Council. That is what is going on there right now. The two (2) vacant parcels, and I also have a challenge remembering the names for all of these different ones...we have already come to Council and the Council already approved the easement for that. The easement agreement is that they are donating the land and they are also going to donate the construction costs to build the path. Once that resort moves forward, we have a recorded easement document that says that they are going to build the path. The path and that section is a part of their SMA permit.

Councilmember Cowden: Okay, we are solid on that piece. We see that it has already been wet while I have been over there between the ISO and the Sheraton. If I am remembering right...the reason I am asking about that is...getting back to the condemnation...if we put a concrete path along those hotels and then it comes up to Kaua'i Coast Resort at the Beachboy, that first building, what if we condemn the land, but we do not commit to the concrete? Can we do that? Can we just condemn the land and not commit to putting concrete on it? There is already that five-foot piece. Having spent a number of hours there plus I walked this coast and I ride the coast...for Tommy, I get it that it is harder once you go inland a little bit. Can we do the condemnation without committing to the concrete? People could just use that five-foot path that is already there? It is right in that area. Can we not just do that for this commitment today? Can we take that out?

Mr. Haigh: The condemnation is for the easement. We are acquiring the land. I do not believe, and I would defer to the County Attorney,

that our improvement...well, in a way our improvements are required because we are condemning it for public use. We are telling the judge that this is how we are going to use the land. Whether we can say that we want this corridor, but we have not decided how we are going to build it yet...I would defer to the County Attorney.

Councilmember Cowden: That is what I am asking.

Mr. Haigh: If we did go that route, it is going to throw a big "monkey wrench" in our funding for the project, our commitments, and all of our environmental work that says we were going to build a path there. We could secure the land, yes, but if it is not being secured for the project that has been approved, Federal Highways may not pay for that condemnation if we are not doing it for the project that is currently being funded.

Councilmember Cowden: There are natural traffic-calming devices there right now. You say that you are going to put in signs that tell people to get off their bikes or skateboards, when there are already the trees and the plants that are still there, it is going to be naturally calming. People will have to get off their bikes and skateboards. It gets rid of a lot of the injury, the lack of safety, and other concerns. If you are building the path the rest of the way, if we do not do this we are going to lose...I am trying to find a middle-ground here. You can think about that before you say, "No." I can say "No" and I think you might get a "yes" from everybody else, but I am trying to look at what can I live with. When I look there, if that is concrete that is going to be filled with water and it is going to basically be a culvert down to the ocean. We could ask Ruby in a moment here, but even if she feels that...I hear a lot of hope, but also a lack of commitment, but even if she feels that that shoreline will be okay, would it be different with...it is saying six thousand (6,000) square feet...I do not think it is that much, or however many feet of concrete, it is going to be flowing water down there. Ruby, will that create water runoff that might create what you called stormwater erosion? Every time it rains we are going to have that come down there. Those parking lots are flooded with even just a little bit of rain.

Ms. Pap: That is a good question. I think in the environmental review they covered stormwater impacts of the impervious surface. I did not review that. We see examples of scour from stormwater at other sections of the path that Doug already described at Lydgate. In those cases, there are significant slopes *mauka* of the path channeling the velocity of the water; when it hits the path it scours out the beach. I am not sure that would be the same experience here. I am stepping outside my expertise, I did not review that part of it. Doug or his consultant might have reviewed it.

Councilmember Cowden: I have another Ruby question. When I walk along that pathway there...along the edge of the water...I see ironwoods bent, falling,

fallen, et cetera. The root balls come out and rip out a chunk of land. When we are talking about little incremental sea level rise and erosion pieces, if a tree falls down and washes out, then we get a big chunk that accelerates erosion. It seems like most of those trees are leaning significantly. I saw it in front of the Sheraton that a lot of those trees had simply been removed. When we are looking at those trees, what is the impact for you of removing those trees or having them fall? They are at clear risk of being at the end of their lives. If those trees are either removed or fall down, how is that going to impact the coastal edge?

Ms. Pap: The ironwood trees are nonnative and they have impacts...well, you can see what they do to the erosion scour when they fall down. They become very top heavy and they do not allow natural dune vegetation or anything else to grow underneath them. I am not a fan of ironwood trees.

Councilmember Cowden: I am not really asking if we like them or not. There are a lot that are laying there on the shore. I am saying that as they come down, will it make the coastal edge more or less vulnerable?

Ms. Pap: I do not think it will be significant. The historical erosion data that we are using, the coastal geology group analyzed the toe of the beach and how that has changed the watermark over the past one hundred (100) years. They used aerial photos and they used that as a proxy for the erosion rate. They did not use the vegetation line. They could have, but they used the toe of the beach because that cannot be as manipulated. That is how the erosion rates were determined over a century...by analyzing historical photos. Whether an ironwood tree falls and that exposes...I think you have to look at the overall rate of erosion rather than that event occurring.

Councilmember Cowden: That might be my unskilled eye seeing tree after tree falling down with those big "C" shapes cutting away leaving two- to three-foot drops between the grass and the new sand below it.

Ms. Pap: Yes.

Councilmember Cowden: At an anecdotal level, there is a very clear and evident impact. My next question...

Council Chair Kaneshiro: There is a follow-up question to that.
Councilmember DeCosta.

Councilmember DeCosta: This is a follow-up question to the ironwood trees and the invasive species. I think we should not get overly excited about removing invasive species like ironwood trees. I spent hours out there myself and I spent some time with Councilmember Evslin, and what we noticed is that if the

ironwood trees are cut and made smaller, their root system in place is key. Again, I am going to tell you it is key to keeping our shoreline intact. Let us not get excited about removing invasive species right away. We did that in Hanapēpē with the *hau* bush and now the streambanks are falling down. We did that in Hanalei on the road to create that grid with the wire mesh and the whole side of the highway fell. Let us take it into account that roots in certain areas, whether they are native or non-native trees, as long as they are maintained, they can be good for our environment and erosion.

Ms. Pap: I think that we do not have any scientific study on that. Any experience that we have with that is anecdotal in seeing that. I certainly would not recommend removing a bunch of ironwood trees without replacing it with native plants or doing a dune restoration. I think there are a lot of sections of our east side that are subject to wind that is great for dune restoration and bringing in more sand and native plants. Again, there is a debate about whether the roots are holding things in place. It is an outcome of the way we have developed in what we are left with. Whether it is the ideal situation for the coastline, I think is obviously a different matter.

Councilmember Cowden: Councilmember DeCosta is in agreement with me that anecdotally at Waipa, Waikoko, Hanalei, and even in Kalihiwai, as we see these ironwoods go down, it coincides with the coastal edge receding. That is what I have seen over the years. When we are walking along the path there, you can see where the Sheraton is, there is just a clean, smooth, and green grass where basically a forest was removed. We see along the land ownership different pieces or types of vegetation. My next questions and it is pretty much my last question, is for Troy or Michael Dahilig. This is about the STIP, is that on a two-year or a five-year cycle?

TROY K. TANIGAWA, Acting County Engineer (*via remote technology*): Thank you for the question. The STIP program is a five-year program. It lists projects that have funding and have various phases for the five-year period.

Councilmember Cowden: Okay. Thank you. I do not know if this is for you or for Doug. Are we finished with the soft match portion? He mentioned the piece about the families volunteering. I was one of those volunteers. It was a wonderful three (3) days down there when we were doing art on the Bynum Bridge. You said that soft match was the beginning. Have there been incremental soft matches that go along with this or are we done?

Mr. Haigh: No, we still have additional funds in the soft match. This is something that we manage with HDOT. We have a spreadsheet that tracks the soft match coming in and the funding going out. HDOT keeps track of that for us.

Councilmember Cowden: Okay, thank you. Those are my questions that I was unclear on.

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

Councilmember DeCosta: This question is probably for Troy or maybe Doug. It is more of an engineering-type of question. I do not presume to be an engineer, but I do have some experience in that. I remember building powerlines on O'ahu when I was in college. We had to build some concrete landing pads on top of the ridges in Pearl City and 'Aiea. A lot of those open ridges were subject to rain and water runoff, similar to what you have if there were sand erosion. Doug, I brought this to you about the seawall underneath. I get it that we are not going to construct a seawall. I think there is a big concern with doing concrete or trusses, we do need some stability underneath that path, whether it is a concrete slab or a track boardwalk type path. Would we be able to sink some kind of pillar every so many feet with the engineering *akamai* from your Department? I am only bringing the construction part of it. You do not need an engineering degree to know something about engineering. I think whether it is truss or concrete, we need to sink some kind of pillar every six (6) or ten (10) feet that ensures that if there was some sand that was removed, we do not have to go and put the orange netting right away. The path would still be secure with a little bit of erosion, because underneath we had one of those circumference cardboard things that you can pour concrete and you can build your houses to two (2) stories that they have in Hanalei, I am sure that would not be eroding or would obstruct the coastal erosion. If we did truss, we could sink some kinds of redwood posts. I think redwood lasts fifty (50) to one hundred (100) years. We would still be able to not have to condemn our path if it lost a little bit of sand over the next five (5) or ten (10) years. It is always harder to go back in and do it than to just do it when the construction is first taking place. In our design, do we have some kind of pillar that can be in place whether we do concrete or trusses to ensure that if there is a little bit of sand that erodes in the next five (5) years, we do not have to put that orange netting and we can still use our path?

Mr. Haigh: It is another great idea, but our environmental commitments, and this is due to the archaeological nature of the area, this is working with the State Historic Preservation Division and Native Hawaiians through the Section 106 process through Federal Highways program, there are a lot of cultural deposits and potential burials in the area. We committed to minimal excavations. In order to do something like that, we would have to go back and redo some of our environmental work and get the approvals from the State Historic Preservation Division, which is something we certainly do not want to do. For example, we are waiting to just get approval of a sign. They came back to us in October, we responded in November and we still did not get a response from them on a simple sign. That is a challenge. It is a good concept and I hear exactly what you

are saying, especially for the boardwalk-type construction. That would be normal. In the boardwalk, we have to look at what is the maximum depth of the foundation that we can do. It is going to be driven by the cultural and archaeological issues, not by the engineering issues.

Councilmember DeCosta: Thank you for answering that and I am sorry for bring that forward. Sometimes common sense plays a bigger role than just the engineering document. This is common sense construction mentality. Thank you.

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

Councilmember Cowden: Some of our earlier testifiers asked that everyone go out and look at the area. I am hearing that Councilmembers DeCosta and Evslin went. Did anyone else go out and give it a look? Did you go recently, Councilmember Chock? And you too, Councilmember Kualii?

Councilmember Carvalho: I have been on it this whole time.

Councilmember Cowden: Have you gone recently?

Councilmember Carvalho: Yes.

Councilmember Cowden: Have you gone?

Council Chair Kaneshiro: I did not have a chance to get out there. I know where they are talking about. I have been there before.

Councilmember Cowden: I know when I went there, I appreciated all of the comments that people were making, but I thought that I would go and who would want a big path in your front yard? I expected that. When I looked at it, to me, it looks overwhelmingly like it is too vulnerable to put what is planned there. I think that concrete pathway...the perpendicular pathway with the six- (6) foot wall, does not make good sense at all, when I look at how much depth of water sits in one of those parking lots. In high rain, it is quite deep there. I feel like it is not common sense to support what is here. It is very difficult for me. I would like to be seeing something where we could hold that land and not put that commitment to concrete, it takes out every plant pretty much between those two (2) buildings. You are not going to have all of that absorption that comes from having the roots, plants, et cetera.

Common sense says that this is a bad idea to put what they are suggesting there, even though I want it to be there and I fully support the path. I do not support that plan.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: In a perfect world, maybe we would have the choice between the coastal path or on Aleka Loop with full analysis done for each with perfect sea level rise modeling. Obviously, we do not have that choice. We are choosing between a coastal path or waiting six (6) years for funding and maybe nine (9) years for another Environmental Impact Statement (EIS), putting the future of the path on hold. We do not have great sea level rise modeling for the area. Lots of the alternative analyses have been done in the past already. Given that, we have some imperfect options here. My opinion is that it is our responsibility to choose from the best of the imperfect options, which in my mind is supporting this Resolution today. For me, it is because I support lateral access along the coast, I strongly support the bike path as a whole, I support the vision of a connected path between Kapa'a and Līhu'e, and I know the vital importance of the path as a gathering space and a space for community exercise. I do not want to put that on hold for six (6) plus years here. That said, while I will be supporting the Resolution, I still hope that there can be more work done looking at Aleka Loop at least as an alternative if and when this part gets washed out. How can we then retreat and make this other area a viable option? Maybe we could possibly have two (2) routes through there, one going above that goes to the Coconut Marketplace and one along the coast. I will be supporting the Resolution today. Lastly, I heard reassurance from Doug that there is nowhere else along the entire proposed route that comes this close to the coastline. I just want to urge that that be the case, that we are not stuck in this position again trying to approve a Resolution of a path well within the shoreline erosion exposure area. Thank you all.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: This path is important to Kaua'i and the example that it sets throughout the state and the world. Having been involved from day one and understanding all the different issues we had to go through to ensure that we are doing it the right way and to ensure that we could secure the Transportation Investment Generating Economic Recovery (TIGER) grant, we had to ensure that we had the documentation and planning details in line. This is just the next step. I understand both sides and I am having difficulty here and there. Overall, to follow through and understand the need to continue this connection and with all of the details and understanding what is the responsible or irresponsible thing to do, the responsible thing to me is to complete it, knowing that there are adjustments that have to be made along the way. We knew that sea level rise was going to be an issue, but at the same time, we are a team. Everyone completed it with the right

information and the right documentation. For me, I will support this Resolution and the continuation of the path knowing some of the challenges that we have. We knew that from day one. I think we now have the opportunity to adjust, receive, and secure additional support for funding, because we followed the right path to complete Ke Ala Hele Makalae. Ke Ala Hele Makalae is the “path that goes along the coast.” I want to support this effort.

Council Chair Kaneshiro: Does anyone else have any comments?
Councilmember Kualifi.

Councilmember Kualifi: I primarily want to thank Council Vice Chair Chock for all of his questions. They were my questions as well. I want to thank the Administration for all of the information. I appreciate all of the time that we spent on this. We definitely got all of the information, not only from the Administration, but from testifiers as well. I have the exact sentiments as Councilmember Evslin. I think this is a tough decision, but we have to go with what is before us. I think supporting it at this time is the right decision. I will support this Resolution.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I have to concur with Councilmember Kualifi. This is a tough decision. Council Chair Kaneshiro, you forgot to tell everyone that I did FaceTime you out there. He was out there with us. We all did what we had to do to see that area. It is important that we do not just take it lightly, because there are only a few residents in the Islander on the Beach and most of them are vacation rentals or tourists. Most of our Kaua'i people enjoy walking and riding along the bike path. Everyone is important. Every voter, non-voter, or resident of Kaua'i is important. The big picture like Councilmember Carvalho said, we had a vision, we set it in place, we are going to continue it, and we had much cries out to complete this project. A lot of people enjoy this project and I personally enjoy it. The point I want to make here is that when we decide to go with the concrete versus the truss, please use your best judgment which would be the most cost-efficient for removal if we need to remove it a little or to tweak it, as sea level rise comes into play. With that being said, I am going to be supporting this Resolution. I am very sorry if there is a group of residents from the Islander on the Beach that may not enjoy their lemonade out on their front lawn because the bike path is going there. At the same time all of the people on their bikes will be enjoying the beach and enjoying walking their dogs. A lot of them have to go back to a rural area and they do not have beachfront property. Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I want to thank my colleagues for indulging me on the questions that I had today. I want to thank Doug Haigh, because I think

he was really able to clear up a lot of the information that I was trying to grasp over the last week in looking at some of the issues that have been emerging. Ultimately, the time sensitivity is one of the major factors that I think we need to consider. Just like every Council decision, it is risk versus benefit. Oftentimes our decisions are not easy and we always have to figure out if it leans in one direction or another. Particularly, that is where I was today. I can tell you that I have had huge concerns from the standpoint of us as a County being an example for our residents of what is forthcoming. We are going to expect our residents to retreat. By us not being able to model it is problematic. That is what has been heavy on my heart and head here in making this decision. That being said, I am and have always been a huge advocate of the bike path. I think everyone around the table has clearly voiced their support for it. Based on the *mauka-to-makai* access request for this condemnation, I am supportive. I think we need to take any opportunity we can in order to secure those. The biggest piece for me has been the lateral piece with the concerns about sea level rise that have emerged. I am pretty confident and I wish I was a little bit more confident with some of what I have heard from the studies piece and I wish I had more time for this. However, what has helped me through this is sort of the recognition that there are some other options available to us. What I have received in writing here from Doug is saying that the boardwalk could be an option. I think it is a really good option. If I could put that into this Resolution, I probably would. I will not, because I will tell you what it does not say in this Resolution...it does not say "cement" in here. It says "pathway." I think that is also defining for me...it is keeping that open and I need to trust and I will trust Doug and his team and everyone else at the Department of Public Works to make the right determination when it comes to where we are a little further down the road and what kind of construction should be there. I am of the mind that it should be in something temporary like a boardwalk that can be easily removed. The last piece was the condemnation process and it holding us back in terms of the time that we have to act on this. I am hearing that there may be more of a compromise occurring within this week. The fact that the condemnation does not have any bearing on this and that our vote does here is really telling for me. I would really recommend on behalf of the Islander on the Beach residents, consider what their requests are for the permeable options. I think that will go far in meeting people halfway. I also would agree that I like some of the options that were put on the table today by my colleagues as far as keeping other routes open, because I think...this is a multi-use path and we need to be able to figure out multiple ways for people to travel not only by bike, but by walking. I think the safety concerns raised by being open to multiple routes will be helpful to all of us. With that being said, I will be supporting this Resolution.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden:

Can I have Doug back on?

There being no objections, the rules were suspended.

Council Chair Kaneshiro: Do you have a question?

Councilmember Cowden: It is relative to what Council Vice Chair Chock just said. I do not feel at all that I heard any flexibility in the options. I felt like I heard a firm "no" that we are doing concrete, we are doing a six (6) foot wall, and we are going to put concrete on the beach (inaudible) feet wide. I heard there is no flexibility. Am I right, Doug, or are you flexible? I felt that I heard "this way and no way else."

Mr. Haigh: To talk about the easement between the two (2) properties, we are right now looking at using pavers or pervious concrete. We have designs for both. We are now reviewing the maintenance issues with those two (2) options and we will be talking with the Islander on the Beach. They have come back in their latest communication that they were okay with pervious concrete, if you maintain it. That we are flexible with either way. We have the design either way and we can plug in the final design to move forward. In front, we will be proceeding with our final design and obligation of funds based on the concrete option. But, we are going to be reviewing the alternative option of a boardwalk based on further studies that the Planning Department is going to help us with. I do not see any problem with making the change from the concrete to the boardwalk after approval of the funds, before construction, and even during construction we could always do a change order and make a modification. I am confident we will have a decision made prior to us being ready to go out to bid. I already have our consultants working on what a boardwalk structure would look like. Fortunately, with the way the plan documents are set up, if they give us the details, it is very easy to change the plans. You have a layout of the path and where there is concrete or a boardwalk, the layout stays the same, it is just the details on what that path actually looks like. Making that switch to the construction documents is not that difficult. We are flexible.

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

Councilmember Cowden: Thank you. I feel completely irresponsible to say "yes" to this. I want to speak to the larger picture. When I walked with Tommy Noyes from Kaua'i Path, we looked at the different hotels that are going in. There is clearly openings for two (2) more hotels to go in. As we see shopping centers go in...we looked at the canal between what is now called the ISO, right next to Bull Shed, it is sand. We are not taking care of our watershed well. I know that I will not win, and I know that will lose a lot of happiness with people who really want this to happen, but I feel pretty confident that we are going to ruin the beachfront right there, particularly where the lateral path is going to be turned into a hardened surface. If someone was doing this right in front of my house, I would feel very awful that it was going to erode away that piece of the beach. I watch that happening everywhere. I

do not have faith that the study that was done in 2012 was accurate and it missed at least three (3) places that we are talking about, that there is erosion. I know that we are working on a holistic watershed plan that hopefully will help fix this. As we have all these trees coming down Wailua River and washing up against the shoreline, I am not comfortable with it. I really want to be unanimous on this, but I really cannot vote to be unanimous on this. I want the path to continue, but I need greater flexibility than I heard. I need quite a bit more. I did not hear about a boardwalk down that little pathway. That might help that water from shedding in a difficult way. I did not hear that option. I am really uncomfortable and I wish I was comfortable. You hear the pain in my voice because I am fully supportive of the path. Tim Bynum, Bryan J. Baptiste, Bernard P. Carvalho, Jr., JoAnn A. Yukimura, and I think even Maryanne Kusaka was a part of this. I have been a part of this throughout, providing light support. I cannot go along with this.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: I just wanted to mention one more thing that is really important to me. *Mahalo* to all of the people who volunteered their time. The sweat equity that was placed into this entire project, I cannot tell you how many hours were invested. A big *mahalo* to all of the people who volunteered their time and effort to help support and who continue to support this entire path. We will make adjustments along the way as we continue to move forward. Thank you for that.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I just wanted to say one more quick thing. When Councilmember DeCosta talked about people who live away from the coast having the ability to utilize the path to enjoy the coast, I think that is really important. The majority of our residents do not live on the coast. I know for myself personally, my friends, neighbors, and family, the ability to get on the path and enjoy that has been really important. The sea breezes and the ocean brings up a healing and calming energy that is important for us to continue with this access. In regards to the example of retreat with facilities and structures having to retreat, the ability to get on the path and access the coast becomes even more important. Thank you.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: I said a lot earlier, but I would like to sum up my thoughts. This is why we become Councilmembers. We run for a vision for certain issues on our beautiful island. People elect us because they believe we are going to make the right decision. Today, there are two (2) types of decisions that will possibly benefit two (2) different groups of people. We have to be okay with what we do. I am okay with supporting this Resolution. I need to provide a little bit of experience to this erosion process. I have lived on the west side for my entire life. A lot of you know, when going out to Waimea, Kekaha, or Polihale, there has been a lot of erosion

on the beach. State Highways back in the 1970s installed a large boulder rip rap wall to ensure that we would not lose our highway. If you look at it now, we have some beach sand that came back. I know we depend a lot on our geologists and our studies, but we do not really know what Mother Nature holds for the future. This placement of concrete on top of sand will not ruin the beach or erode the beach. It will not ruin the beach, again, if you lay concrete on top of sand. If anything, the ocean waves will undermine that concrete and we may have to remove the concrete or remove the truss depending on what Doug and his group recommends, to do the right thing, like Council Vice Chair Chock ensured. With that being said, please go out to the west side to look at what happened over the last sixty (60) to seventy (70) years. Beaches come and go, they installed the rip rap wall, and there are ways to ensure that we can stop the erosion. I will be supporting this Resolution. Thank you.

Council Chair Kaneshiro: Is there anyone else with final discussion? If not, I guess I am the last to comment. I am in support of this Resolution. One of the biggest issues during my time on this Council and what we hear from the public is about maintaining and perpetuating access to the ocean, access along the coast, and *mauka-to-makai* access. For me, that overrides any decision. We hear all of these concerns about birds and safety, but ultimately, our residents and the public deserve to have a nice, improved way to get to the ocean in that area. That is why I am in favor of the Resolution. In this case, I heard about cost being a big factor. We are actually getting federal funds to do a lot of these improvements. Granted, the public can go to the area now, but it will be improved even better. That is good for the residents. I heard about concrete-hardened surfaces and I think Councilmember DeCosta addressed that already. A concrete-hardened surface does not cause erosion. Climate change, sea level rise, and changing tides cause erosion. It just so happens that your concrete is there and it will get affected. Those factors that we have no control over are what is going to cause sand to erode from the beach or to refill the beach. We really have no control over that. I am just looking at the bigger picture. No matter where we go around the island, we always hear the resounding noise from the public that they want to preserve our coastal access and our *mauka-to-makai* access. In this case, this is going to be an improvement and something that the public will enjoy for years to come. Will erosion happen? It probably will, but I am willing to say that I am in favor of voting for this now and giving our residents the opportunity to enjoy that coastline. We need to finish that little section and actually have a wider and improved *mauka-to-makai* access. That is where my vote is. I have heard all of the concerns. There is no way to satisfy everyone. The overall picture for me is to give all of the residents and everyone the opportunity to get to the coast. Is there any final discussion? If not, we will take a roll call vote.

The motion for adoption of Resolution No. 2021-13 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Chock, DeCosta,	
	Evslin, Kualii, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Six (6) ayes, one (1) no.
The motion passes.

Council Chair Kaneshiro: Next item.

Resolution No. 2021-18 – RESOLUTION CONFIRMING MAYORAL
APPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Lorna A.
Nishimitsu*)

Councilmember Kualii moved for adoption of Resolution No. 2021-18,
seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Does anyone have any questions or is there
any discussion? Councilmember Cowden.

Councilmember Cowden: I want to start by acknowledging the gift that
comes from the people who volunteer. I appreciate all of them. I will be supporting
Lorna. She is a very bright and brilliant woman. I am wanting to speak for a moment
because it was not lost on me that she did not volunteer, but was selected. She worked
with the Boards and Commissions Administrator's husband for decades. I struggle
with these types of relationships that get built. This is an industry in distress and
that is due to State and County COVID-19 response policies. On that very important
Commission, as long as I have gone to those meetings...they have really incredible
people on there. What I have not seen to my knowledge is someone who works in that
industry. I think that we need to be having people who worked in the industry. They
spend one percent (1%) of their gross sales. These restaurants and bars are lucky to
net five percent (5%) at the end of the year. I think what we need, is that I want to
be looking at a Charter Amendment to allow a transparent application process. That
is what we need. I want to know that people want the job and that they have a
background in it, and when they come to the table, they are going to be bringing
knowledge from different parts of the industry and different parts of the island. They
will be coming together to be able to assist what is happening. When I go to the
Liquor Control Commission meetings, it is mostly about the amount of the fine that
they are getting. There is no strategizing about how to help the industry. Thank you,
Lorna, if she is listening, for being willing to spend your time. I do not think it will
be too stressful. I appreciate your willingness to serve and for your brilliance and
ability to do the job. I think we need to be looking at having people want the job and
having it open to other people. We should not be hand-selecting people from a small
pool of people.

Council Chair Kaneshiro: Does anyone else have any discussion?
Councilmember DeCosta.

Councilmember DeCosta: I am a little confused with your statement,
Councilmember Cowden. I believe Lorna had the ability to defer or reject her
appointment, did she not?

Councilmember Cowden: Yes, sure.

Councilmember DeCosta: Apparently, she wants to be there.

Councilmember Cowden: Do you want my clarification? I know on different commissions, there are people who apply and would like to be on different boards and commissions. In the future, I would like to see a way that we change the system so that there are people who have background, knowledge, and an eagerness to serve who are the ones serving, rather than the ones who selflessly will say that they are willing. I would like them to be wanting. There is a difference between willing and wanting.

Councilmember DeCosta: With that being said, I know that the Mayor appoints them and we elect our Mayor for a reason. We believe in them when they run for Mayor to elect them. As Council Vice Chair Chock recently stated about believing in the Planning Department and Doug that they will make the right decision for the bike path, we have to be able to believe in who we select as Mayor to make the right decision in his or her appointees. I did some research on Lorna and we talked about it the last time. She is a very well-qualified candidate. I personally like her and know her. She is a great Kaua'i resident who grew up in our system. She is a local girl who came up through our public school system. Her accomplishments are impeccable, and I am honored to have her serve. Thank you.

Council Chair Kaneshiro: Does anyone else have any comments? 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. 2021-18 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.

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

Resolution No. 2021-19 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Gerald T. Ako – Labor*)

Councilmember Carvalho moved for adoption of Resolution No. 2021-19, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Does anyone have any questions or discussion? Councilmember Cowden.

Councilmember Cowden: Similarly, the Planning Commission is a really challenging job. I invite all of you to watch the video from the last Planning Commission meeting. I ask you to look at the video at the one hour and forty-three minute mark. You will see the critically important questions that these people face. I am going to support this very capable and quality person. He did not reach out to have this job, and I hope that he was able to see it. I have gone to the Planning Commission meetings for years. For years, very rarely do the people appointed to these positions attend previous meetings. Right now, our community is in a crisis. Properties are flying away. This person is going to be stepping in to a very difficult choice that ended in a 3:3 vote. We had former Attorney General Marjorie Bronster against recent County Attorney Mauna Kea Trask, basically putting the Commission of asking for a contested case intervenor status for a very wealthy neighbor to stop a two thousand (2,000) square-foot home to be built. These are the kind of items that are going before our Planning Commission. It is powerful in what it means. At the end of it, there is a time where our former County Attorney asked to have one last round and when the vote came out 3:3, he with the authority of the County Attorney that he was, basically told that Commission that he won. He determined the outcome for them. We had a Deputy County Attorney who was staffing the Commission meeting who stood her ground, and it is coming back again on their agenda. What happens with things like that is powerful. It takes away the ability of our own Planning Commission and Planning Department to do their jobs. I implore all of you to watch it. This is critical as to what is going on our island. We have very wealthy people come in and we are asking so much of these people doing the work. We have a responsibility as a check and balance on these appointments, and we have the responsibility for their budget. When we have these things going to contested case hearings, it costs a lot of money. We have people who are parties to this paying one million four hundred thousand dollars (\$1,400,000) as a small restaurant trying to get parking. It is crazy. The party with the deepest pockets often wins. We exhaust the financial capacity of our people and we really need to take a deep look at...Kaua'i is the only County that has our Planning Department Director be chosen by the Planning Commission. The person who chooses those Planning Commissioners to guide them, when that person is married to someone very key, the Mayor cannot even undo that. We are different than the other counties. It gives just an extraordinary amount of power in the wrong direction. We have a problem and we need to take a look at this. It is not about a very qualified or amazing individual. It is the fact that we have these people express to us during their interviews about what they like to eat, where they would like to go on vacation, or how they like to shop. We need to take this seriously and ask them real questions. We need to have people who are aware and support them so they know what they are getting into. I think we need more staff in the Office of Boards & Commissions and I think we really have a challenge there. You can hear that I am upset. If I do not ever speak up, then I do not ever speak up. We are not supposed to be a rubberstamp. We have a problem happening and we are losing our land for our local people because of it. Whoever has the most money wins at Planning. I hope that there is more training. I went to that last Planning Commission meeting, and I had gone to every single place that was on the agenda. Every single agenda item was very significant, and I do not

think anyone in that room had gone to look. What is on paper is not the same thing as what is reality. Councilmember DeCosta, you talked about common sense or a regular person. We are not having a government that serves the regular person anymore. It is really important to me that we think about that. I am using this opportunity to state that distress that I have. I have brought it up many times. It is consistently ignored. I am finally saying it on camera. Yes, I support this individual. I do not want to put his name with the tone in my voice. I think he is a great guy. I do not think we have a great system and we need to improve.

Council Chair Kaneshiro: Does anyone else have any discussion? 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. 2021-19 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.

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

**Resolution No. 2021-20 – RESOLUTION SUPPORTING DIGITAL EQUITY
AND URGING DEVELOPMENT OF BROADBAND INFRASTRUCTURE TO
BOLSTER COVID-19 RECOVERY AND FOSTER ECONOMIC DEVELOPMENT**

Councilmember Kualii moved for adoption of Resolution No. 2021-20, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received written testimony. Councilmember Evslin, did you want to lead us into this item? I know you have some resources available. We will let you take it from there. If they have a presentation, we can take that, then we will hold our questions until that is completed. Councilmember Evslin.

Councilmember Evslin: Councilmember DeCosta and I can give a brief introduction to the Resolution. We have two (2) resource persons here, Burt Lum and Ken Hughes. Burt Lum is from Hawai'i Visitors and Convention Bureau (HCVB), and he may have had to leave. Ken Hughes may also have to leave soon. I am going to try and keep my introduction comments brief. If you have specific questions on the Broadband Hui or the declaration, those can be addressed to either

us or Ken Hughes. The Resolution is straightforward. It recognizes that there are vast inequities in access to the internet. These inequities were exacerbated during the COVID-19 pandemic, preventing residents from accessing employment, education, healthcare, civic engagement, emergency preparedness, and other critical services. There are many facets to the issue. One of the main drivers of inequitable access is that a lot of the companies providing broadband services are for-profit companies. Infrastructure is expensive so they are investing in infrastructure in population centers. Rural areas like the outer islands, especially the rural parts of the outer islands, are then not getting the broadband infrastructure that they need, because the companies cannot pay off their investment. Honolulu has great access to the internet, while the outer islands do not. There are other facets to the problem including: low-income communities that do not have computers or any internet access and the state suffers from aging fiberoptic cables to the mainland and interisland. In response to these issues and others, the State developed the Hawai'i Broadband Strategic Plan, which has four (4) primary goals: 1) Ensure robust broadband infrastructure to all Hawai'i residents; 2) Expand digital inclusion in adoption to achieve digital equity; 3) Enable Hawai'i to thrive through a digital economy; and 4) Strengthen community resilience through broadband. The Digital Equity Declaration, which this Resolution would sign us on to, sets the foundation for ensuring that equity, affordability, and accessibility remain at the forefront of our move towards expanding broadband. The Declaration is built on three (3) pillars of digital equity: 1) Affordable quality broadband for all; 2) A baseline of digital competence for all; and 3) Societal systems effectively leveraging digital opportunities to improve lives. I will try and wrap this up really quickly. I think one of the primary threads through both the strategic plan and the Digital Equity Declaration is that the private sector alone cannot solve these problems. We need public-private cooperation. For example, if it is not profitable to install hardware in rural areas, that hardware will not be installed without some type of public subsidy. As I see it, the purpose of these two (2) documents is to recognize the importance of broadband internet and to recognize that public subsidies are critical to ensuring equitable distribution. Most or a lot of this is targeted towards the State and how we are going to best utilize federal moneys coming to us in ensuring greater resiliency. There are some County-targeted items, especially in the Digital Equity Declaration. There are things including: ensuring that all public buildings are offering free WiFi twenty-four hours/seven days a week (24/7), ensuring that we have the ability to receive online testimony, even post-COVID-19, ensuring there is a single online portal for online government services, et cetera. There are things in this that I think the County could take out of this more than just supporting the State in moving forward. I will pass this on to Councilmember DeCosta. We also have Burt online and he will be a great resource.

Councilmember DeCosta: I just want to echo what Councilmember Evslin said. In our rural areas, there is no financial incentive for private companies to invest in them. You all know many people who live on Kaua'i in rural areas where

the internet service is really weak or poor. You still pay the same price as everyone else. Let us not forget when our undersea cable was severed and we had a blackout on Kaua'i. Our infrastructure is almost at its lifespan. I believe within the next two (2) or three (3) years, that will have to be replaced. Hawai'i is not the hub like it used to be. Now they are running underwater sea cables from the west coast all the way to Japan. We do not want to be left behind. This Broadband Strategic Plan will improve robust infrastructure, digital equity, and digital economy. It will strengthen the resilience of everyone. Remember, our children now are studying abroad. They can go to college on the East Coast right out of their own living room. They can wake up at 4:00 a.m. and make a 9:00 a.m. class. It is frustrating when that student in a rural area gets cut off in his or her class at 10:00 a.m. at Yale University because they are studying at home on their laptop because of the internet service. Let us remember this Strategic Plan. With that, I will turn it over to Burt.

Councilmember Evslin: Burt or Ken, if you would not mind giving a quick overview of the Board of Education and the rationale for developing the Digital Equity Declaration, then we can open it up after that for questions from the Councilmembers.

There being no objections, the rules were suspended.

BURT LUM (*via remote technology*): We would be happy to. Aloha, Council Chair Kaneshiro and Councilmembers. I am the Strategy Officer for Broadband here at the State of Hawai'i. Councilmember Evslin asked me to provide some background on what we have been doing in light of the COVID-19 pandemic. When I first took this job back in 2018, it was really focused on how to make sure we stay connected to the global internet and looking at key infrastructure. That is how I met Ken. I came over and was doing a presentation on Kaua'i. In March of 2020, when the world was sequestered at home, what we did was we called together some of the stakeholders. In the early days of the pandemic, we were looking at what the carriers were providing that will help to enable the students in education, that were now sequestered at home, to access distance learning. At the beginning, they were not really consistent with what it is that they were offering. We wanted to get everyone on the call, including those from the Department of Education (DOE), Hawai'i Association of Independent Schools (HAIS), the private schools, as well as the University of Hawai'i and other colleges, to hear that information directly from the carriers. That helped put the carriers on the spot to explain how they are participating in at the time it was called the Keep Americans Connected (KAC) program under the Federal Communications Commission (FCC). We continued to commit to meeting every week. I have the meetings every Wednesday, and this Wednesday, the meeting took place at 9:00 a.m. It is our fifty-sixth (56th) consecutive week of meeting. We have expanded the discussion to include the wireless carriers, as well as nonprofits, stakeholders, legislators, councilmembers, and we even have Congressional representation. We are all basically on the call trying to understand

what are some of the gaps that exist in our communities and how can we bring together the right resources to help address those gaps. Believe me, over the course of the fifty-six (56) weeks...you have to remember that back in 2020, we were under a different administration. We were following closely what President Trump was doing. At the end of 2020, there was the Consolidated Appropriations Act and before that it was the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We had to make sure we could address the existing gaps given some of the funding that was becoming available. You fast-forward to 2021, and now you have the American Rescue Plan (ARP). There is a recognition by the Federal government that more funding is going to become available and realizing that the State itself is cash strapped, we cannot depend on the State to put money in towards infrastructure to digital equity programs. There is a recognized value in what the Federal government can make available. As the Broadband Hui continues to meet and discuss, and of course, all of the counties are invited to join us, we are on a constant weekly quest to address what are some of the issues and resources, and how can we bring the two (2) together to achieve these goals that we have set. Part of the guiding principles that Councilmember Evslin has talked about were set towards the end of summer of last year, the Hui got together and talked about what we were going to do as our guiding light. That is what really prompted the creation of the Digital Equity Declaration. We came together and formed subgroups, we identified some of the key goals, and that is what you see in the declaration. During the process, we also had legislators on the call and they agreed that this is really important. What they have consequently done is, they have passed several Senate and House Resolutions recognizing the digital equity integration, the week of October 4th through 8th to be Digital Inclusion Week, and in another bill heard this past week, was to work with the Executive Office on Aging to ensure that we do not forget about the *kūpuna* in terms of literacy access as well as the access to hardware. Our goal here is to help marketize technology. How do we get it as far and wide as possible for people to take advantage of for their education, health, and work, but also, how do they now participate and hopefully excel in the digital economy? That is going to be the key to Hawai'i's survival going into the 21st century. How do we leverage our connectivity to the rest of the world? As everyone knows, we are in the middle of the Pacific Ocean, and we cannot depend on any of our neighbors. We have to do it ourselves. That is what we have done with the Hui and with some of the documents, whether it is the Declaration or the strategic plan, and getting others, like yourselves, onboard with what it is that we are trying to do. It is basically creating a unified movement to make sure that Hawai'i is a very active and successful participant in this digital economy. That is what I wanted to share with you all. I am available for any questions you might have. Thank you.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: I just need to apologize to Burt. I think I said you were from HVCB, but you are actually from the Department of Business, Economic Development, and Tourism (DBEDT), right?

Mr. Lum: Correct.

Councilmember Evslin: My apologies for that.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you. As a former teacher, I definitely experienced one year where I had a big plan using Khan Academy to support it, that over half my students did not have internet when they went home. Many of them were actually trying to use their parents' cell phones when they were somewhere to do any of the online work. I want to recognize that there is a serious challenge. I have been a proponent of the houseless encampments. Pretty much all of them are in locations, except for Waimea, where the access to internet was very limited. There is so much of this that I really support. When I look on page 3, the six (6) items that are the area of focus, I only struggle with one of them. If it is okay with you, I want to say thank you. I know you do not have a lot of time, at least that is what I have been told. I was the one really asking. Number 3 says, "Wireless broadband deployment, including 5G small cells." Can you tell us what those 5G small cells will be and where they will be?

Mr. Lum: We try to be technology-neutral. We recognize that 5G is the next generation of wireless technology. We definitely support the wireless industry's evolution from 3G to 4G to 5G. We are not necessarily advocating that communities embrace that regardless of any of the local interest. We try to be, again, neutral with the technology. What we do want to enable is all of the communities to be able to access the benefits, whether it is broadband, the access to the internet, or the application and services. One of the things that we have tried to do is, and you mentioned homeless communities...two (2) of the really shining examples of what we were able to do included connectivity at Pu'uhonua O Waimānalo, which is Bumpy Kanahele's group. We were able to do that with strong participation by the Internet Society. We were able to get them set up with WiFi access. We are also in the process, and we received funding, to help connect Pu'uhonua O Waianae. This was also through funding provided by the Internet Society as well as from the Weinberg Foundation. The goal of that project is to connect the community with fiber, but also distributing WiFi inside the community so that they can have WiFi accesspoints and the ability to connect their laptops to the network. We are neutral to the actual wireless technology. I want to point out that whether you are talking about WiFi, 4G, or even 5G, the wireless frequencies that are being used are consistent across those technologies. To call out 5G is probably not fair in terms of...the frequency is currently being used in 4G as well as in WiFi. 5G is just the protocol. The protocol uses a variety of different frequencies. That is

what is enabling the faster speeds with technologies like 5G. I want to make sure that when people start to get fearful of wireless technologies, the wireless technologies are already there and are already being used. I think they are being used quite successfully in distributing connectivity into our communities. I just wanted to say that.

Council Chair Kaneshiro: I have a follow-up question from Councilmember Evslin, then we will go back to Councilmember Cowden.

Councilmember Evslin: I just wanted to quickly clarify that the area in the Broadband Strategic Plan that Councilmember Cowden was referencing, it references wireless technology only as part of the continuum of broadband. I think the fact that we all use our phones to access the internet, it is clear that is part of the continuum there. I am just clarifying that that is how it is referenced in the Plan.

Councilmember Cowden: Yes. Burt, thank you. Since before I was elected...there are a lot of people who are concerned about 5G. I understand that it is a protocol. They tend to have a different type of distribution system, that is my understanding. They are smaller cells and a shorter wavelength. I am hearing you say that if we agree with this, it is not committing to 5G, is that correct? Can you speak to the people who are afraid of 5G to let them know the difference of what this is? It is the internet of things. It is not just a step up from 4G. This involves the internet of things. Can you speak to that for a moment?

Mr. Lum: Sure. The Resolution is not obligating the County to deploy 5G. That is not the intent. To your question about 5G and the technology that it uses...just like when you have...forgive me for being technical, but when you talk about radio frequencies (RF), the higher frequency also corresponds to a smaller wavelength. That wavelength is affected by objects, whether it is leaves houses or other potential physical obstructions, those wavelengths will have their paths broken by those objects. In the case of the 5G small cells, where 4G can traverse longer spans of distance, 5G, because of its small wavelength, will need to be more frequently, in terms of the small cells, be placed so that there are...the chances of running into obstructions over a longer distance is minimized. It is just like your in-house WiFi. Your in-house WiFi has a frequency that it uses that could be obstructed. With 5G and using frequencies in the gigahertz range, there is a potential for obstruction. That is why there is a need for more of them and that is why it refers to the small cells. I hope that made sense.

Councilmember Cowden: Okay. Yes, that did make sense. I have been following this pretty closely because there is a deeply concerned community. They have not really had the opportunity to weigh in, that I saw. Are you familiar with Starlink?

Mr. Lum: Yes.

Councilmember Cowden: Is Starlink part of the Keep Americans Connected group?

Mr. Lum: Starlink recently was awarded something by the FCC called the Rural Digital Opportunity Fund (RDOF). RDOF was an auction over various telecom broadband providers to service an area. In Hawai'i, the two (2) companies that got RDOF auctions was Hawaiian Telcom as well as Starlink. Starlink is the low-orbit Earth satellite project that is spearheaded by SpaceX and of course, you all know Elon Musk. Starlink is part of SpaceX. They are launching satellites that will orbit the Earth and provide wireless internet connectivity. The reason I bring it up in terms of RDOF, is that they won the contract or the auction for delivering internet to Ni'ihau. That will be received directly in your backyard and in your County.

Councilmember Cowden: That is an area where people have concerns. I believe they are planning to have maybe one thousand six hundred (1,600) satellites up in orbit by the end of 2021. Is an agreement with this document here in any way giving a green light to...I think it is going to happen regardless, correct?

Mr. Lum: The signing of this Resolution does not have any part in the Starlink, RDOF, FCC agreement that has already been signed with the Federal government.

Councilmember Cowden: I think Starlink's goal is...were they approved for forty-two thousand (42,000) satellites? Is that correct? They had twelve thousand (12,000) approved and they are almost finished with another thirty thousand (30,000). They are going to be up everywhere, correct?

Mr. Lum: They are in the process of deployment, correct. They have announced preliminarily that they will be in service by the end of the year.

Councilmember Cowden: We hear from people who deeply fear this like a dystopian story. You are never going to get away from it. I know that the military has the surface of the Earth mapped in real-time. There are low-level satellites all around the planet right now. This is just essentially doing this for the private-sector. The military knows where we are at any time. I have gone to those meetings and had those presentations. Starlink is independent of this paper, but this has to be connected somehow, correct? It is part of the funding that is coming out of the Federal government right now.

Mr. Lum: Councilmember Evslin? I do not see the connection between Starlink and the Department of Defense.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I have two (2) quick responses. I hope we do not get too sidetracked with conversations about 5G. It is clearly technology-agnostic in this Resolution. I just wanted to point out on page 20 of the Broadband Strategic Plan, which might help reassure Councilmember Cowden a little bit, it says "submarine fiber is currently and for the foreseeable future, the only practical technology to enable reliable, high-speed broadband access to broadband subscribers to all islands." At least for me, that is not saying that it is lifting up satellite technology over other technologies. It would also reassure Councilmember Cowden...I would like to clarify that the World Health Organization (WHO) has a big section on their website about 5G. It says, "To-date and after much research performed, no adverse health effect has been causably linked with exposure to wireless technologies. As the frequency increases, there is less penetration into the body tissues and absorption of the energy becomes more confined to the surface of the body, provided that the overall exposure remains below international guidelines, no consequences for public health are anticipated." Again, I do not want to go too far down that road. I think it is important to clarify. Someone watching could get the wrong impression here.

Councilmember Cowden: I am going to follow that...it has not been causably linked because it has never been tested. It is not possible to test it and it has never been tested. When they said that it has not been proven or linked to a problem, that just simply means that it has not been tested. If it has been tested, they say, "It is tested and these are the results." It has simply not been tested. That is the kind of thing that upsets the trust. I will raise it back beyond 5G now. It is a little alarming to get six (6) days notice and to have to vote on this today. I know the people who are passionate about this topic, they picket in front of our building, it feels like every other week, and are called "For Our Rights." People call them the "Anti-Maskers." It is not about the mask. It is about 5G. I feel like when we are doing something like this, it would be good if we had had outreach where these people have a chance to be able to hear about it, digest it...I really love the part that says that this is going to help everyone. I really want a new cable, for sure. When we are up in these places that are in the far reaches of the valleys, I do not know how we get that cable up there. It is not very cost effective to put a tower up there. When I looked at Starlink's website, they use very similar words. When I look at the Starlink discussion, they use very similar words to helping the indigenous people. I am very much someone who cares deeply about those who live closest to the earth, and I pay close attention to it. It is a challenge. I like the warm and fuzzies of all of this. Where do we find Keep Americans Connected? If people want to watch some of the recorded Wednesday meetings, is there a website?

Mr. Lum: The primary website that I have is www.broadband.hawaii.gov. I try to post some of the links to the videos of the meetings. If people wanted to see a specific week, they can just E-mail me and I can share the videos.

Councilmember Cowden: Can people join? Can they become a part of the group or is it by invitation only?

Mr. Lum: The Broadband Hui is open. We try to encourage constructive discussion about how do we move forward with identifying the gaps and finding resources to address those gaps.

Councilmember Cowden: Thank you. That is what is important to me. I do not want to always be the conduit between the distressed and the policy. I want people who are concerned to be able to watch and learn in a way that is comfortable for them. I was very surprised by this and only had six (6) days. I wish that we had another meeting before we were to confirm this so that anyone who did want to talk, they would feel like the door was open to them and they would be able to listen. I read it and I liked everything it said. The only thing I was picking on was on page 3, item 3. I just wanted to make sure that we were able to talk about that.

Council Chair Kaneshiro: This item was posted like any other item we post.

Councilmember Cowden: Yes.

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

Councilmember Evslin: I think Ken might have wanted to say something. You are on mute, Ken. I have had the same thing happen to me many times on Council Meeting days. Before we lose Ken and Burt here, I just want to thank you for staying on all day and being here to answer all the questions. I really appreciate it. This Resolution was brought to us by Ken after every other island had passed it. I really appreciate that, Ken.

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

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

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I just wanted to thank the introducers and those on the call. It is really a timely discussion. The digital equity divide is really prevalent everywhere. We need to do what we can. This is sort of one of those risk versus benefit topics. I am thankful to Councilmember Cowden for bringing up some of the concerns as well. What I am really looking forward to is how the private sector embraces this. They play such a big role in being able to provide this. When I first looked at this, one of the first things that jumped out was the study that you all did and how it is that we are integrating the public-private partnership. Without it, we will continue to suffer. We are in the middle of the ocean, so we need to do everything that we can to ensure that the connectivity is accessible to everyone. Thank you so much.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I also wanted to thank the introducers. I think this is a very important Resolution and I think it is really important that we all put some time and resources behind broadband connectivity, especially when it comes to digital equity. When you look at the map you will see...even on Hawaiian Homesteads land in Anahola, it is darker shaded so it has less connectivity. I just want to tell you too, that it is National County Government Month, and you should go to the National Association of Counties (NACo) website, www.naco.org, and you will find many resources about broadband there as well. They started a tested application back in 2019. It is not only important that you have connectivity, but what level of connectivity you have, how fast is it and is it good enough at a minimal level so that you can do what you need to do? NACo has a Broadband Task Force that they just started last October. Last month in our Legislative Conference, we heard from the FCC Acting Chairwoman, Jessica Rosenworcel, and she told us about the Emergency Broadband Benefit and the three billion two hundred million dollars (\$3,200,000,000.00) Congress directed to the FCC to establish this program. It is a new program that could bring fifty dollars (\$50) a month for internet service to low-income households and up to seventy dollars (\$70) a month for low-income households on tribal lands. I know that the tribal lands issue also includes Hawaiian homestead lands. As long as you qualified for the Lifeline Support for Affordable Communications program in the past, you received free or reduced-priced lunches in the past, have had a Federal Pell Grant, or had a substantial loss of income since February of 2020, you could qualify. The annual income eligibility levels are ninety-nine thousand dollars (\$99,000) for single and one hundred ninety-eight thousand dollars (\$198,000) for married filing jointly. This is actual money in your pocket to help with this. If you did not know about the Lifeline support benefit, which has been in place for a very long time...since 2005...they updated it in 2016 to include broadband connectivity. That could be up to nine dollars and twenty-five cents (\$9.25) per month discounted off of your bill. More information can be found at

www.lifelinesupport.org. I fully support this Resolution and we need to do as much as we can.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: *Mahalo* to the introducers of the Resolution. This is a very important area of discussion. I like the details and the layout of the Resolution and the added information. I really like that it involves everyone from *keiki* to *kupuna*, as we really have to include that entire spectrum. When I heard about the elders part of it, they need a lot of support there, too. That is the part that really got to me. Thank you for the Resolution. I look forward to more discussion.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Our remote work time during the stay-at-home orders through COVID-19 has really exemplified how valuable remote work can be. We are seeing many people both moving here and bringing more types of funding into the economy. It is not opening up a new industry. They are bringing their industries with them. What my hope is that we can learn for our young people, whether they go to college or work on the ground in the continental United States, that they can pretty quickly come home and work remotely with solid employment that helps them compete at a national level. I think there is so much value that is possible. I have been jumping up and down wanting a new high-speed cable over here. We do all of our remote meetings. There is a high demand. We here on Kaua'i clearly need to upgrade our technology. I am behind that. I am behind really all of it. I will support this. I am kindly asking that if there is not a deadline on this...like the last Resolution we had a deadline...I would like to have had two (2) weeks on the Resolution regarding the bike path near the beach...if we could just wait two (2) weeks so that people, when they read about this in the newspaper or when they hear about this, that they will feel that they had a time to be included and to learn. I think when people are shocked with something, then they lose trust in government. I know that was not the intention of any of this. This was so beautifully written. I am grateful for all of the people who are a part of our Keep Americans Connected group and the opportunities that this brings to the future. I do support this. I will vote for it regardless, but I am respectfully asking my colleagues to consider including the population in being able to know about it. I would like many people to be excited about it, instead of just finding out that it happened and it was over. My role seemingly in this community is that I usually hear from the people who are the least happy. I know that Council Vice Chair Chock and I have spoken to the same groups of people since before I took office, that this might feel unsettling to. I would like to have that opportunity to be able to share it with people so that they are not unsettled and they feel happy. That is my position. That is my request, if you could consider that. Thank you both, Burt and Ken. Ken, I would like to talk to you later about this as I know you will be a beautiful resource on-island. Thank you.

Council Chair Kaneshiro: I am ready to vote on this now. We posted it properly and we followed the process that every other resolution goes through. I understand that maybe it did not reach as many people you feel it should have reached. I am ready to vote on the Resolution right now. When looking at the Resolution, if we put it off another two (2) weeks, I do not think any of the contents of the Resolution would actually change, including any type of amendment to the wording or the exhibit. Nothing in the Resolution will change and we can always get the information out to everyone. This can be shared with anyone at any time. That is just my opinion. Councilmember Kuali'i, then Councilmember Evslin.

Councilmember Kuali'i: I just wanted to add that when Councilmember Evslin talked about public buildings offering free WiFi, during COVID-19, it became more apparent how important that was. I believe that the County is working towards that end. I think it would be good to know how we are proceeding with that in terms of whether our neighborhood centers are equipped with free WiFi. I assume that the State libraries have been. I will add that maybe there is a way to incentivize and encourage other public types of buildings to do the same. I know our homestead facilities at our marketplace and our open-air pavilion café in Anahola has free WiFi for the public as well. That is important. I am happy to support Councilmember Cowden's request. I do not know if there is any kind of urgency from the introducers. It would just give us another opportunity to provide more information and perhaps to hear from some of the people she is afraid that have not had the chance to comment. I know it is unusual.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you for all of the discussion today. Thank you again to Burt and Ken for being here. My hope is that we can pass this today. I do not think there is anything huge or hidden in here in that it really clearly supports that as we make this transition, to make sure that we are not leaving people behind and that we are prioritizing equity, affordability, and accessibility in broadband deployment. If there are people who are opposed to those things, I would be happy to meet with them afterwards. I was not aware that there were groups opposed to that. Most people that I see understand the importance of that. I would be happy to meet with anyone who wants to discuss these things. For me, personally, I used to live kind of in the mountains. I used to connect to the internet through tethering my iPhone to my computer. It was a nightmare for seven (7) years to not really have internet. I received an online Master's degree and I could not even attend a class at my home. Every day to go to class, I would go and sit at Coffee Bean and Tea Leaf. All day Saturday and Sunday, I would be at Coffee Bean and Tea Leaf trying to take a test...it is not the greatest place to be. Now that I live in a house in Līhu'e, it is amazing, almost like magic that I can connect to the internet in a second. It is also amazing how quickly you end up taking it for granted. For those of us who

have really good internet, we can sometimes forget what it is like not to have great access to internet. That is really what this is trying to support.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Thank you, Councilmember Evslin, and I much appreciated working on this with you for the betterment of the people here on Kaua'i and in the State of Hawai'i. Sunshine Law prohibits us from working outside of two (2) people. We were not able to talk to anyone else about this. We put this on the agenda like any other item, six (6) days prior. We did our due diligence. With that being said, we were open to any negative or positive testifiers. We had none. Our job is to look into it. I went out to my constituents as you did and I did not hear one negative comment about this. In fact, I heard a lot from our rural areas and they are crying for better internet service. The children are going to college on the East Coast. They do not want to have to go to Starbucks to take a 3:00 a.m. class at Yale University, because that is the only time they can get internet service. They can now do it out of their bed at 3:00 a.m. or 4:00 a.m. The East Coast time difference is about six (6) hours. People are trading stocks and commodities in New York, and they are doing worldwide business. This is a no-brainer. We understand that there are some passionate cries out there about health issues. Councilmember Evslin and I did research, and the National Cancer Institute (NCI), the National Institute of Health (NIH), and the National Toxicology of Program (NTP) did many studies and none of them showed that RF energies show any type of cancer in any type of human beings. We would be willing to talk more with constituents out there. I am ready to vote on this and move forward. Thank you.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: All of those studies are acute studies and they are not long-range studies. It is also an invalid study. We are a democracy or in theory that is what we are. When we do our normal notification of six (6) days ahead, very few people know what any of this is about. I try hard to get the word out. Most people who are not paying attention do not know. When we have non-COVID-19 times, when this building is open, there are people in here. There are reporters here. There are people who are involved and we hear from them. They are not involved right now. What we are doing is making a whole lot of choices that people find out about after-the-fact. Our role is to include the public. Most things that go on the agenda—we have a first reading, a committee meeting, a second reading, et cetera. A resolution goes through really quickly. I am going to respectfully move to defer to May 5, 2021.

Councilmember Cowden moved to defer Resolution No. 2021-20, seconded by Councilmember Kualii, and failed by the following vote:

FOR DEFERRAL:	Chock, Cowden, Kualii	TOTAL – 3,
AGAINST DEFERRAL:	Carvalho, DeCosta, Evslin, Kaneshiro	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Kaneshiro: We are back to the vote on the Resolution. Again, for me, this is just informational. It is not going to change the world. It is a Resolution. It is an agreement of the Council and what we would like to see moving forward. It does not hold any weight as far as whether we are going to stop or move forward with this proposal. If we want to get the information out, we can still provide this information to the public. I could see if this is a decision that the Council was making that would affect our County or a decision that was going to impact our residents...this is a Resolution and I feel like we have talked about it, we heard the information, we can have people watch the meeting on the webcast, they can access the documents that we have here, and we can move on. I am ready to vote on this. Is there any final discussion on this item? Councilmember Cowden.

Councilmember Cowden: For those who did not get a chance to hear about this, I respect you, I respect how important it is to include you, and I am sorry.

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

The motion for adoption of Resolution No. 2021-20 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.

Council Chair Kaneshiro: The motion is carried. Next, let us read ourselves into Executive Session. We will then take the public hearings and then take lunch. We will not need to be back on camera. Everything will be in Executive Session after lunch.

EXECUTIVE SESSION:

ES-1051 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-1052 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 on workforce housing requirements for Tax Map Key No. (4) 2-8-014-032. 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 into Executive Session for ES-1051 and ES-1052, 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-1051 and ES-1052 was then put, and unanimously carried.

Council Chair Kaneshiro: 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 12:38 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk