

COUNCIL MEETING

AUGUST 18, 2021

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, August 18, 2021 at 8:41 a.m., after which the following Members answered the call of the roll:

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

Council Chair Kaneshiro: Good morning. Today's meeting will be conducted pursuant to Governor Ige's COVID-19 Response Emergency Proclamation with the most recent relating to the Sunshine Law dated August 5, 2021. For the record, we have no registered speakers today for any of our agenda items.

APPROVAL OF AGENDA.

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

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

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

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

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

MINUTES of the following meeting of the Council:

August 4, 2021 Council Meeting

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

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

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

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

Council Chair Kaneshiro: The motion is carried.

CONSENT CALENDAR:

C 2021-182 Communication (08/04/2021) from Councilmember Kualii, transmitting for Council consideration, a Resolution Authorizing The Acquisition Of Land For Public Use, To Wit: The 23.5-Acre Parcel Of Land, Situated At Kilauea, District Of Ko'olau, County Of Kaua'i, Hawai'i, TMK (4) 5-2-005-024, And Determining And Declaring The Necessity Of The Acquisition Thereof By Eminent Domain.

Councilmember Kualii moved to receive C 2021-182 for the record, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: It will be coming up as a Resolution later on in the agenda. Are there any questions or is there any discussion from the Members?

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

The motion to receive C 2021-182 for the record, was then put, and unanimously carried.

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

COMMUNICATIONS:

C 2021-183 Communication (07/08/2021) from the Chief of Police, requesting Council approval to partner with Corteva Agriscience on a Public Safety Messaging campaign, whereby Corteva Agriscience, would make direct payments totaling approximately \$9,000.00 to KONG Radio Station (KQNG FM 93.5), for radio airtime over the course of the remaining 2021 calendar year, and the Kaua'i Police Department (KPD) would create and read messages on the radio covering various topics (i.e., traffic safety, ocean safety, crime prevention tips et cetera) directed at residents and visitors to Kaua'i, in return stating sponsorship by Corteva Agriscience.

Councilmember Kualii moved to approve C 2021-183, seconded by Councilmember Cowden.

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

Councilmember Cowden: Aloha, Chief Raybuck. Can you explain this? It seems a little unusual. What inspired it? Tell us a little bit about it.

There being no objections, the rules were suspended.

TODD G. RAYBUCK, Chief of Police (*via remote technology*): Good morning, Chair, Councilmember Cowden, and all of the Councilmembers. Thank you for the opportunity to speak on this this morning. This came about in a conversation with Ms. Laurie Yoshida. We were discussing a variety of topics and one of the things that we were discussing was the increase traffic and traffic issues on our island that had risen since the increase in tourism. In that conversation, she mentioned that Corteva has in their annual budget funds to be used for public safety, so she had asked if the Kaua'i Police Department (KPD) would be interested. The plan was for Corteva to identify areas of concern in our community and use those funds to try to increase safety on our island, so she had asked if KPD would be interested in partnering and recording some messages that we could share, as the memorandum stated with both our residents, as well as persons visiting our island. On occasion, KPD does radio spots with both KONG Radio, as well as Star 94.1-those messages are by invitation, often by the radio station and this would be an opportunity for us to reach the community on a more regular basis. As the memorandum also mentioned, none of these funds are coming to KPD. These are funds that were already earmarked for public safety messaging, funds that would go directly to KONG Radio. We were just simply invited to assist in recording and sharing those messages, as well as inviting our other emergency safety and first responder community to record messages, as well.

Council Chair Kaneshiro: Are there any further questions, Councilmember Cowden?

Councilmember Cowden: Not right now.

Council Chair Kaneshiro: Councilmember DeCosta.

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

Chief Raybuck: Good morning. Thank you. I am doing well.

Councilmember DeCosta: I find it a little unique, myself, that a large business like that would put nine thousand dollars (\$9,000) towards advertising for something that the Police Department would want to convey the message. Do not get me wrong, I appreciate the donations from these large companies, but at the same time, I hope there are no private interest in Corteva and our Police Department. I do know that they bring in many workers, not only our locals, but I think they do bring in many import workers. With that being said, I am hoping that there is no conflict of interest with this little donation and it is transparent.

Chief Raybuck: Thank you, Councilmember. That is the reason why we are here before you today, so that it is transparent and the community knows that these funds were not offered to KPD, these funds were set aside for Corteva's use in public safety messaging. We were simply asked if we would like to participate in these messages. I do recognize or it appears that this may be unusual or new, that a company would ask us to partner or sponsor messages for us to partner

with community safety messages. I know that other law enforcement agencies have done this in the past, as well. I do not have a “public safety messaging budget for radio advertisements” and the like, so this is an opportunity for us to partner in that realm and communicate with our community on a more frequent basis. During the COVID-19 operation, we were fortunate enough that the Kaua‘i Lifeguard Association invited and sponsored KPD to offer public safety messaging during the time of quarantine. KPD does not have a foundation. I assume that the Kaua‘i Lifeguard Association receives funds from multiple types of entities and then uses those funds indirectly to support public safety messaging as they have for us, and those messages are critical in communicating with our community and helping us to increase our community safety and save lives. Year to date, we already have had three hundred ninety-four (394) accidents on the island, one hundred fifty-seven (157) of those accidents are injuries, where two hundred fifty (250) people were injured on our roadways. So I hope that these types of messages will help us increase our ability to communicate directly with our community and visitors to make our roads safer.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I certainly appreciate the generosity from Corteva, it is very kind and I send my gratitude out to Laurie Yoshida and I can see how conversation just evolves and good offers like this happen. Are you aware of the level of community conflict that existed about six (6) to eight (8) years ago with the predecessor of Corteva and the community?

Chief Raybuck: I am aware that sometime before my arrival here, that there were issues. I am not all that well versed in what the prior history is, other than some of the challenges and issues there, but as I have mentioned, I do not know the full depth in scope.

Councilmember Cowden: The marches that occurred were larger than the Mauna Kea marches. Thank you to the Police Department for being so caring for the Mauna Kea marches. We had four thousand (4,000) or three thousand (3,000) people marching, which is a lot for this population. There is also, what I believe Councilmember DeCosta was referencing, there is often conflict, not necessarily with Corteva, but with the industry in general with their harvesters who are mostly male that come for extended periods of time and there are complaints of what is considered inappropriate harassment of women and particularly girls.

Council Chair Kaneshiro: Councilmember Cowden, we are trying to figure out how this is a question and relating to the donation of the money for the radio.

Councilmember Cowden: I do not see how it is difficult, so maybe I need to ask Matt Bracken, but the thing is that the perception could be that this puts the police in line with that industry, so there could be perception issues. I agree that the need is good. I agree that the generosity is an integrity. There just might be a perception. Is Matt Bracken on?

Council Chair Kaneshiro: Why do you need Matt on? What is the legal question you are going to ask?

Councilmember Cowden: I want to ask if there is any potential conflict that we could have later, if there was a call regarding the industry, is there a challenge that could be there, is there anything that makes it be that we cannot do this?

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): The purpose of this item being on Council's agenda is because it is a donation or a gift, so Council's acceptance of going through this public hearing process is what we do on all gifts, so I do not have any concerns, because it is going through this public process and being accepted through this public process.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Maybe I can shed some light for you, Councilmember Cowden. Chief, later on can you give us a report, I would like to share with our Council a report on Corteva employees in the last three (3) years who have been in trouble with the law. Would that be possible to get that type of record? If they were actually arrested. We are not asking for something that is not a public record. I think that is where you are going with this, is that what you are wanting to do?

Councilmember Cowden: I just wondered if he was aware, because I know he is new. I appreciate the integrity. I appreciate the intention. I appreciate the outcome. I just think it needs to go on record that it is a little uncomfortable.

Council Chair Kaneshiro: I think we are getting way off topic. We are requesting criminal records on a topic where we are supposed to receive a donation. Basically, they are being transparent, getting Council approval for this donation, and if any Councilmember feels uncomfortable with it, then we vote "no." That is what it comes down to. We have received money from all types of organizations and we have never asked for criminal records.

Councilmember Cowden: I did not ask for that.

Council Chair Kaneshiro: I am just saying, it feels like we are getting off topic. It simply is that they are providing the money directly to the radio station for the advertisements, it is not going to the Police Department.

Councilmember Cowden: I am just bringing up the perception challenge given the history. I just wondered if he was aware of it when the idea came up. Sounds like you were not really aware of the past challenges of any depth. That was really what my question was.

Council Chair Kaneshiro: Are there any further questions from the Members regarding the donation? Councilmember Carvalho, if it is a comment, we can wait.

Councilmember Carvalho: Question to the Chief. Can you reinforce again, that you are not receiving any funding. You just came to the table to clear any perception that we are trying to get the message out to our people in every single way possible and in this particular discussion, no funding is coming. I appreciate you folks coming to the table. I just want you to reiterate again, what is the process. Explain that one more time, for me.

Chief Raybuck: Thank you, Councilmember Carvalho. That is correct. KPD is not receiving any funds. This is not a donation of money to KPD or the County. These are funds that are being paid directly to KONG Radio. The invitation was that KPD provide recorded messages directly working with the radio station that would provide public safety messaging to the entire community. That messaging would include that the spot was paid for by Corteva. The purpose of coming here today was to be transparent in the community and be able to say that we have been asked to partner with the public safety messaging through Corteva's generosity. My understanding is that this is an annual budget line item that Corteva has for public safety messaging in their annual budget. Because of the ongoing challenges that we have had, particularly fatalities on our roadways, impacting our local residents, and family members, they offered to allow us to share KPD's message on their platform at their expense, so KPD is not receiving any funds. Clearly, I do recognize and appreciate Councilmember Cowden's concerns. Perception is a reality for many people. I do not want to dismiss the challenges of the past, I was not here, I did not personally witness any of those activities. I have certainly have never received reports of mistreatment of employees and things like that. Typically, that is not something that would come to the Police Department, unless it was a criminal matter, nor would I condone that type of activity if I was aware of it. As has been mentioned, this has been an opportunity for us to communicate directly with our constituents about the importance of safety on our island to save lives and help us get our message out.

Councilmember Carvalho: Thank you, Chief.

Council Chair Kaneshiro: Are there any further questions from the Members? 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: I just want to make it very clear that this funding is going directly to the radio station. They asked if the police wanted to use any of that time that they have purchased at the radio station for their own messaging. Police said they are going to use it for various topics, such as, traffic safety, ocean safety, crime prevention tips, et cetera. They are being completely transparent, bringing it to the Council floor, having us vote on this, and we can talk perception or whatever. Basically, they are allowing some type of air slot at the radio

station for the police to send out their message. I am totally in favor of it. I am thankful that messaging is not having to come out of the Police budget and I will be voting in favor of this. Is there anyone else?

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

The motion to approve C 2021-183 was then put, and unanimously carried *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Cowden was noted as silent, but shall be recorded as an affirmative for the motion).*

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

C 2021-184 Communication (07/23/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnification language contained in the subscription service agreement for use of the Garmin GPS devices by Kaua'i Police Department detectives for search and rescue efforts.

Councilmember Kualii moved to approve C 2021-184, seconded by Councilmember Cowden.

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

Councilmember Chock: Thank you, Chair. I support this. I wanted more insight on how the GPS system works for our operations, if you do not mind sharing with us.

There being no objections, the rules were suspended.

PAUL N. APPLGATE, Captain, Investigative Services Bureau *(via remote technology)*: Good morning, Councilmembers and Council Vice Chair Chock. Paul Applegate, Captain, Investigative Services Bureau. How this works is a fairly new technology. Traditionally, you would have a GPS or a cell phone communicator, cell phone texting, or a satellite phone. What this unit does is combine the features of texting and GPS. This unit is relatively inexpensive and the subscription is relatively inexpensive compared to a traditional satellite phone. With this unit, an officer in the field, such as in search and rescues in Kalalau and Kōke'e and out of range of cell phone or radio service, we can text messages to each other to cell phones or other units. I actually have my own personal device that I bought with my own money that I use for safety when I go into the mountains or on a boat. I also bought a unit last year for my daughter who lives in Oregon; when they had the wild fires and the cell phones went out, she would text me often. So this is really good technology that combines features of GPS and texting.

Councilmember Kaneshiro: Are there any other questions from the Members? If not, thank you. Is there any final discussion from the Members? Councilmember Cowden.

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

Councilmember Cowden: I just want to acknowledge my gratitude and appreciation for the many ways that our first responders, including our Police Department, are becoming more effective for the benefit of our community. I am very pleased to hear this and thank you.

Captain Applegate: Thank you.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2021-184 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried.

C 2021-185 Communication (07/23/2021) from the Life's Choices Kaua'i Coordinator, requesting Council approval to apply for, receive, and expend additional State funds in the amount of \$110,000.00, and approval to indemnify the State of Hawai'i, Department of Health, Alcohol and Drug Abuse Division (ADAD), Partnership for Success (PFS) grant, for the reoccurring grant period of September 30, 2021 through September 29, 2022, to support coordination for a Substance Abuse Prevention System (SAPS) and provide services to build capacity of the substance abuse prevention system and support implementation of efforts to address underage drinking.

Councilmember Kualii moved to approve C 2021-185, seconded by Councilmember Cowden.

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

Councilmember Cowden: Again, I just want to express my appreciation for the important work that is continued. No questions, because this is a continuation, but I want to particularly acknowledge Theresa Koki, but the entire Office of the Prosecuting Attorney for continuing work to help solve the problem not just attack the crime. Thank you very much.

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

Councilmember DeCosta: I would like to “piggyback” on that. Ms. Koki, thank you for an excellent job. We are lucky to have you. The *mana’o* and the compassion you bring to this topic is at the forefront. Thank you very much.

There being no objections, the rules were suspended.

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

THERESA KOKI, Life Choices Kaua’i Coordinator (*via remote technology*):
Thank you.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2021-185 was then put, and unanimously carried.

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

C 2021-186 Communication (07/27/2021) from the Housing Director, requesting Council approval to receive and expend Federal funds, in the amount of \$3,050,000.00, from the Homeowner Assistance Program as authorized by the American Rescue Plan Act (ARPA) of 2021 (Public Law No: 117-2), to mitigate financial hardships associated with the Coronavirus pandemic by helping homeowners at risk of losing their housing with payments for qualified expenses related to mortgage and other housing costs. The total subsidy per household may not exceed \$30,000.00.

Councilmember Kualii moved to approve C 2021-186, seconded by Councilmember Cowden.

Council Chair Kaneshiro: I do believe we should have Adam give a brief overview of this item and what qualifies residents for this money.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director (*via remote technology*): Good morning, Council Chair. Adam Roversi, Housing Director for the County of Kaua’i. Thank you. This homeowner’s assistance program is a Federally funded program. The State has received a total allocation of fifty million dollars (\$50,000,000) and the County of Kaua’i has been allocated three million fifty thousand dollars (\$3,050,000) of that fifty million dollar (\$50,000,000) total. We have also been selected along with Hawai’i County to be the first Counties to start the program under early funding. The State received an early pilot program funding and they have not yet received the bulk of their funds, so they have given us and Hawai’i County the initial funding to get started early. We are targeting to get this program up and running by October 1st. We are still working through the agreement with the State, as well as agreements with a nonprofit

provider who can run the program for us. As you will see, compared to the twenty-two million dollar (\$22,000,000) rental assistance program that we began back in May, this is a much smaller pool of money. Because of the financial constraints, unlike the rental program, the focus of this is going to be mostly on making small payments to incentivize refinances, deferrals, and various sorts of mortgage workouts, as opposed to simply making large cash payments to mortgage holders and service providers, because we do not have enough money for that. Some of the broad requirements is it has to be for primary residents only, you cannot own more than one (1) house, so you can only own one (1) piece of real estate. There are some income qualifications, although they are not as restrictive as the Rental Assistance Program. I believe it can help people who make up to one hundred fifty percent (150%) of Area Median Income (AMI), but sixty percent (60%) of the funds have to go to people earning one hundred percent (100%) of AMI or below. We are tentatively planning to work with Hawai'i Community Assets and Hawai'i Community Lending. We are required by the Federal program to work with a Community Development Finance Institution (CDFI), I could have that acronym wrong, but it basically is a United States Department of Housing and Urban Development (HUD) certified community lending entity that has HUD-certified housing counselors who are qualified to work with borrowers, who are well versed enough to deal with loan service providers. That is the broad overview, unless you have any other questions. As I have mentioned, we are working to get it up and running in October. We will have much more detailed information as the State agreement is finalized, and our agreement with the nonprofit entity is finalized, and of course do a public relations campaign, so the public is generally aware of how to apply, where to go, and what the requirements are, but we do not really have all those details worked out quite yet.

Council Chair Kaneshiro: Yes, that was going to be my next question, whether the County was going to implement it or we were going to do what we did with the Rental Assistance Program. It sounds like we are going to try and find an entity outside of the County to implement this program.

Mr. Roversi: Correct. We do not have County employees who are HUD-certified housing counselors, and that is one (1) of the requirements of Federal funding.

Council Chair Kaneshiro: Thank you. Councilmember Kualii.

Councilmember Kualii: When you said, "Sixty percent (60%) of funds would go to what AMI?"

Mr. Roversi: One hundred percent (100%) and below.

Councilmember Kualii: October 1st is right around the corner, but you are talking with potential nonprofit CDFIs now.

Mr. Roversi: Yes, we have already shared draft agreements and are working through the details of how the program is going to operate. The State is similarly working on their own grant agreement with us. It is a little bit of a convoluted story, but in order to get any funding, the State had to submit an action plan

to the Federal government. The guidelines for what that action plan needed to contain were not shared with the State until last week, so it is sort of a "chicken and an egg." We were offered this funding, racing to get it out, but not being provided with all the information necessary to actually implement the program yet, so we are doing work, then wait to hear from the Federal government, we do a little more work, we wait to hear from the Federal government. It seems that everything is finally starting to line up. The State is going to be submitting its plan, I believe by the end of this week, which will trigger the release of the funds and allow the State to finalize its agreement with us to provide us with the funding, which will then allow us to finalize the agreement with our nonprofit provider.

Councilmember Kualii: The three million dollars (\$3,000,000) needs to be awarded and expended by what time period?

Mr. Roversi: I might have to get back to you with that specific date, Councilmember Kualii.

Councilmember Kualii: Okay.

Mr. Roversi: I believe we have well over a year, but I do not have the specific date in front of me. Given the small amount of money, unlike the Rental Assistance Program where we are struggling to spend down our pool, I do not think there will be any difficulty spending down three million dollars (\$3,000,000) for mortgage assistance.

Councilmember Kualii: I could not write fast enough when you were talking about how the money would be spent. You said, small payments to work out refinancing and not necessarily to make mortgage payments, but it says, not to exceed thirty thousand dollars (\$30,000). What are the kind of expenses that are involved with small payments and refinancing?

Mr. Roversi: We are trying to deal with the reality that three million dollars (\$3,000,000) will not serve that many households, if we are trying to make people entirely whole on their mortgage. For example, if they have not made a mortgage payment in the last year and a half, they are going to be tens of thousands of dollars behind. So an example of what the funding could be used for productively, is to pay down all the late charges on a mortgage, so that a lender is more comfortable offering a deferral, or some sort of a work out, or refinance by clearing up some, but not all of the mortgage holders debt.

Councilmember Kualii: Thank you.

Mr. Roversi: If we are able to successfully do that, we will be able to serve more people, and keep more people in their houses, as opposed to completely paying down loans for a small number of people. The State agreement with us is tentatively targeting or requiring us to serve approximately eighty (80) homeowners with the three million dollars (\$3,000,000).

Councilmember Kualii: Thank you. That makes it a little bit clearer.

Council Chair Kaneshiro:
Chair Chock.

Councilmember DeCosta, then Council Vice

Councilmember DeCosta: Adam, I have a question for you. Maybe you can clarify this for the homeowners who have a mortgage with a rental unit, "*ohana* unit, or a second home attached to their home. For example, we had a deferral where your mortgage company gave you up to three (3) months to defer your mortgage. So a lot of mortgage owners applied for the rental assistance, so now they have their rental assistance moneys, and those moneys are now to be used to pay back their mortgage, but can that mortgage holder also apply for this three million dollar (\$3,000,000) pool, because they had a month of deferred mortgage, or they have already received their money from the Rental Assistance Program and they would not qualify.

Mr. Roversi: I believe, at least preliminary, that those are sort of "apples and oranges." In theory, the assistance that they would have received from the Rental Assistance Program would have been on behalf of a tenant in an '*ohana* unit, in the example that you are talking about, whereas they could seek assistance through this program for their primary residence.

Councilmember DeCosta: Thank you, Adam.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you, Chair. Adam, I want to confirm, are there any limitations, for instance, publicly subsidized developments, or government developments, like Department of Hawaiian Home Lands (DHHL) mortgage holders, would they be able to apply for such a program?

Mr. Roversi: I will need to dig through some of the fine print, but the goal of this program is to keep people in their homes. For example, if someone has a United States Department of Agriculture (USDA) loan, and the USDA has already put them into a workout program or a deferral program, so they are not at risk of losing their home or being foreclosed upon and for example, the loan provider has moved ten (10) months of payments just to the end of your loan, so instead of your loan being thirty (30) years, your loan is now thirty-one (31) years. The program is not designed to go out and find those people and payoff those mortgage payments that have been pressed into the future, because that homeowner is not at risk of being foreclosed and kicked out of their house. Our goal is to keep people in their homes, so we are targeting people that have not been able to already find those deferral and workout programs with their current lender.

Councilmember Chock: Thank you. Oftentimes, there is commingling of government funds that do not jive and I just wanted to make sure that was not one of the hindrances. Thank you.

Mr. Roversi: I want to be clear that, because we do not have the final State agreement that really gives us all the "nuts and bolts" of exactly how we need to operate this program, some of my answers may be a little bit tentative, to my

best understanding based on the guidance that we received, but I do not have all the details in “black and white” quite yet.

Council Chair Kaneshiro: Councilmember Cowden.
Councilmember Cowden: This might be a little vague, because you are saying you do not have the details. With the twenty-two million dollars (\$22,000,000) for the rent help that went to the landlord, you do not give it to the people applying for it. You make sure it gets paid to the utilities or the rent, correct?

Mr. Roversi: Broadly speaking, there are some exceptions, where if we have an uncooperative landlord, we can make payments directly to a tenant, but the program is set up with a preference that payments go directly to landlords or directly to utility providers. Similarly for this Mortgage Assistance Program, when checks are written, they are going to be given to the loan servicer not to the homeowner, so that we are certain that the funds are going to the purpose of the program.

Councilmember Cowden: The CDFI, are they the ones that will be working directly with the loan providers in all of this? You are saying that organization is going to be doing most of the work and not the Housing Agency.

Mr. Roversi: Correct, they will essentially be the middle person between the mortgage holder and the loan servicer, helping to negotiate terms of any sort of a workout, refinance, or a deferral program and handling the request for the issuance of payments to the loan servicer on behalf of the mortgage holder.

Councilmember Cowden: I want to thank you and however we got this and the fact that you are trying to just be right on top of it, as early as possible, because this is so long needed and long overdue. The mortgage forbearance has been a problem, so many houses are already sold and families have had to leave the island, but when we can help keep our people in houses, and I know you are working so hard to do. I am happy this is here. Do you have any sense if there will be more money coming? We have had some rental assistance a few times, then we finally received a big pot, is there a sense that there might be something behind this? Like more money coming.

Mr. Roversi: I am aware of more money coming for additional rental assistance, but I am not aware of any additional mortgage assistance funding in the pipeline.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Adam, you said one hundred percent (100%) AMI or lower, do you know if the other forty percent (40%) has additional limitations? It would be kind of crazy, if the rest of it was no cap at all and no one can access this money.

Mr. Roversi: My understanding is the remainder can be used for homeowners that make up to one hundred fifty percent (150%) AMI.

Councilmember Kualii: One hundred fifty percent (150%) AMI is the top.

Mr. Roversi: Correct.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. Adam, I have heard, in regards to the Rental Assistance Program, and I know this is a Nationwide issue, but mainly, as I understand, is because of the Federal requirements they cannot get funding, because they mostly have to jump through...One anecdotal example I heard was, if someone's landlord is not paying excise taxes, then the tenant cannot get access to funding. I do not know how true that is, but certainly a lot of people that might need it are having a hard time getting it. So this goes to both programs. The County does not have any additional restrictions on top of what the State and Federal government might require that we have, right? We are not putting these hurdles in place, these are all things that the State and Federal government are mandating that we follow.

Mr. Roversi: Broadly speaking, with rental assistance, correct. The Federal funding agreement requires that we have to demonstrate a certain level of fiduciary responsibility for the funds and account for where they go. We did establish just procedures as to how...we were given broad outlines, we were given specific guidance, then we have to fill in the blanks, so working with Kaua'i Government Employees Federal Credit Union (KGEFCU) we did establish procedures, which were lenient. For example, when people are not able to show...perhaps their employer is now out of business and they cannot get a letter from their former employer that they were laid off, we are allowing people to do a sworn affidavit instead. We created that more lenient option; it is not part of the Federal program. So we have had to create some of our own rules, but I think by and large, we always have tried to err on the side of getting more money into people's hands, as opposed to set up restrictions. There have been a few situations where we have unfortunately have had to say "no." If someone has always paid their rent in cash and the landlord has never deposited any of it in the bank, so there is no record of anyone ever paying rent or the landlord ever receiving rent, except what these two (2) people have to say. That is difficult to give someone twenty-five thousand dollars (\$25,000) when there is no record of any sort of rent payments, rental agreement, or deposits in a bank account. There are situations where people may fall through the cracks because of documentation and record issues, but I think it is the exception rather than the rule.

(Councilmember Chock was noted as not present.)

Mr. Roversi: As I have mentioned to Councilmember Cowden, while the non-payment of General Excise Tax (GET) by landlords are certainly an issue, that is not an issue that we have concerned ourselves with when giving out rental assistance. That is not something we are checking. We are not demanding any information about GET. I know anecdotally, that some landlords are hesitant to cooperate, because they are aware that the State may have access to some of this data

later on, which is correct, but like I said, in instances of uncooperative landlords, we can provide payments directly to tenants.

Councilmember Evslin: That is great to know. It is good that we can counter that myth out there, because I have heard it a few times, in regards to the excise tax payments and landlords not wanting to be cooperative with their tenant for that reason. It is also good to hear that you folks are being as lenient as possible. I do not mean to call out the County in any capacity for not spending these funds down as quickly as we can. I read something that about three (3) municipalities in the country are spending the funds at the rate expected, so nobody is able to spend this money very well. That is all the questions I have. Thank you, Adam.

Mr. Roversi: I will "toot our own horn" and say, I think we are spending funds down faster than any of the other neighbor islands. Honolulu is definitely far above everyone else and they have a million people and far more renters than we do, but at half the population, we are still spending our funding down faster than Maui or Hawai'i Island.

Council Chair Kaneshiro: That is good news. Are there any further questions from the Members? Councilmember Kualii, then Councilmember Carvalho.

Councilmember Kualii: One last quick question. With the COVID-19 Rental Utility Assistance Program, there is going to be a round two. I am not sure if that is what Councilmember Cowden was asking and if you answered. Beyond this three million dollars (\$3,000,000), will there be a round two?

(Councilmember Chock was noted as present.)

Mr. Roversi: I do not have any information about additional funding for mortgage assistance.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Adam, just one quick question. I wanted to clarify the October 1st date. What does that mean? That date is the start date, you are going through the process, or you feel confident that the October 1st date, once upon approval, because everyone is sitting and waiting, and I just wanted to get a better understanding of that date you put forth.

Mr. Roversi: Our hope is that on October 1st there will be a website that someone can go to and start filling out an application.

Councilmember Carvalho: Okay, start filling out an application.

Mr. Roversi: Again, that is an optimistic hope. There is a lot to get done before that date, but we are going to do our best to meet it.

Councilmember Carvalho: Okay, I just wanted to clarify that. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? Is there any final discussion from the Members? Councilmember Kuali'i.

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

Councilmember Kuali'i: I just wanted to say thank you. I think it is really important that we get as much assistance out into our community as possible. I appreciate all the work that you folks are doing to get this done.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2021-186 was then put, and unanimously carried.

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

C 2021-187 Communication (07/28/2021) from the Fire Chief, requesting Council approval to receive and expend State funds, in the amount of \$344,962.00, to provide lifeguard services at Kē'e Beach, Hā'ena State Park, from July 1, 2021 through June 30, 2022.

Councilmember Carvalho moved to approve C 2021-187, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Do we have any questions from the Members on this item? Chief, if you could give us a brief overview of what these moneys will be going to, I think that would be helpful for the public to hear.

There being no objections, the rules were suspended.

STEVEN R. GOBLE, Fire Chief (*via remote technology*): Good morning. Thank you, Council Chair and Members of the Council. I just wanted to put this item before you to receive and expend these funds from the State, specifically for lifeguard services out at Kē'e Beach. Ultimately, this number is derived from the number of positions required to staff that location three hundred sixty-five (365) days a year. That is four (4) of our Ocean Safety Officers and one (1) part-time Ocean Safety Officer. Again, that provides that coverage for the entire fiscal year and accounts for the payroll and fringe costs associated with those positions.

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

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

Councilmember Cowden: I, for one, would imagine that we are all very thrilled to be getting this funding back from the State. We are very happy for this and thankful to have the lifeguards continuing there at Kēʻē Beach. It is the very end of where people might be swept out and floating, and the next stop would be down the Nā Pali Coast. It is truly a life-threatening area. It is a beautiful, attractive nuisance in terms of bringing vulnerable people there to swim. It is super important. Every day we value our lifeguards, our ocean safety people, as they are the “bull riders” of the County. Thank you.

Council Chair Kaneshiro: Is there any other discussion? Councilmember DeCosta.

Councilmember DeCosta: Thank you, Chief Goble. I just wanted to say thank you for the lifeguards across Kauaʻi. You made it apparent that Kēʻē is the most treacherous area of ocean that we have. Those lifeguards out there at Kēʻē, we really appreciate them, big time. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chief Goble for coming to us with this and for giving us the opportunity to briefly talk to you about this last week. Lifeguards at Kēʻē are obviously so vital. I was just there and spent the day there. There was a little bit of a north swell. There is such a strong rip just coming off that current and I do not think people realize that. Thankfully the lifeguards there did not have to make any rescues, but they are constantly telling people to get away from that channel or you will get swept out to sea. With a little bit of a swell, people are constantly falling on the reef. I was shocked that no one got hurt while we were there. Kēʻē is an amazing treasure for Kauaʻi, but it can also be treacherous. Ensuring that there are lifeguards there is vital. Ensuring that the State pays for it, because it is a State beach park is also vital. I appreciate this on all fronts.

Council Chair Kaneshiro: Does anyone else have any final discussion?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Council Chair Kaneshiro, can I make a clarification on the dates?

Council Chair Kaneshiro: Okay.

Ms. Fountain-Tanigawa: It should read July 1, 2021 through June 30, 2022.

Council Chair Kaneshiro: So noted. Is there any other discussion from the Members? I also want to say that I appreciate us getting the money from the State. It is one of those circumstances where we have County lifeguards at a State beach. It does make sense that the State gives us money to lifeguard that beach. I am very appreciative of that money.

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

The motion to approve C 2021-187 was then put, and unanimously carried.

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

C 2021-188 Communication (07/29/2021) from the Deputy Planning Director, transmitting for Council approval a request to apply for, receive, and expend Transit Oriented Development (TOD) Capital Improvement Program (CIP) Planning Funds in an amount of up to \$500,000.00, for pre-planning, master planning, other planning studies, and infrastructure assessment for TOD projects and TOD infrastructure identified through State-County consultation, coordination, and collaboration aligned with shared TOD goals and objectives, and to indemnify the State of Hawai'i in accordance with the State of Hawai'i General Conditions (AG-008 103D) for administering the subject program.

Councilmember Kualii moved to approve C 2021-188, seconded by Councilmember Chock.

Council Chair Kaneshiro: I will have Jodi or someone else explain the money and the TOD.

There being no objections, the rules were suspended.

JODI A. HIGUCHI SAYEGUSA, Deputy Planning Director (*via remote technology*): As mentioned, we are seeking your approval to apply for, receive, and expend TOD CIP planning funds for up to five hundred thousand dollars (\$500,000). These funds must be used for planning, design, and/or infrastructure assessments to support State or County transit-oriented development projects. The proposal we are considering for this funding opportunity is a plan to analyze the feasibility and barriers to redevelop portions of the Lihue Civic Center to include a measure of mixed-uses. Encouraging mixed-uses within the Civic Center and the Lihue Town Core, and in close proximity to the recent Eiwa Street transit hub that was created and the improvements funded by the Transportation Investment Generating Economic Recovery (TIGER) grant aligns with the transit-oriented development objectives, as well as the General Plan and the community plan policies that encourage mixed-use development in these areas. The size and magnitude of any development would really depend on this study and what may be feasible. That is just a really brief overview of what we are considering. I can pause now for any questions.

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

Councilmember Chock: Thank you, Jodi, for the overview. I am excited about the opportunities that we have discussed in the past for expansion. I am just curious as to some of the vision...there has been discussion for housing potential, as well as parking needs, for the Lihue Town Core. Of course, our departments are pretty squeezed in, and your department in particular. I am just curious if all of those aspects have been or are being taken into consideration at the initiation of this study.

Ms. Higuchi Sayegusa: Right. Last year we came before you to seek approval to apply for this same pocket of moneys. We were awarded two hundred fifty thousand dollars (\$250,000) and those moneys are going to be used for a mobility hub program or a mobility plan. That will assess parking demands, parking needs, and also other transit hub needs, whether it be possibly in the future to include other amenities like a car-share program, bike-share programs, and those types of things. That is already being studied. Part of that is going to be studying the parking requirements and demand, and possibly in the future, how to reduce emphasis on parking and encouraging people to use other modes of transportation. These moneys is looking at specifically the possibilities of redevelopment and would include the possibility of some housing, but also a childcare facility, and to understand the barriers of redeveloping a public-owned property with various management and other uses. These projects are aimed at looking at the possibilities of what could be and how this area could be redeveloped going forward. The emphasis is also to keep the Civic Center uses as-is to accommodate the existing government uses primarily, but to also give us the different options and how feasible is it to include other mixtures of uses. The magnitude of such would be really dependent on this study.

Councilmember Chock: My only other question is when is the feasibility study slated to be completed?

Ms. Higuchi Sayegusa: I am sorry, I could not hear the last part of your question.

Councilmember Chock: When do you intend to complete the study?

Ms. Higuchi Sayegusa: The feasibility study would have to be done by 2024. We are looking at a couple of years out. The deadline for the project would be January 2024. Of course, if we are able to secure the funding, we would have to go through the procurement process.

Councilmember Chock: Thank you.

Ms. Higuchi Sayegusa: I just wanted to clarify that the previous moneys was also in partnering with the State and evaluating the needs of the State properties around the County as well.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: We were basically given a copy of this maybe a year ago. Is that correct?

Ms. Higuchi Sayegusa: Last year we came before you with a proposal for the mobility hub piece, which we were able to secure funding for. The emphasis this year is to focus on studying the feasibility of the redevelopment itself.

Councilmember Cowden: It looks like this is a less detailed drawing. If I remember last year it was replacing the Central Pacific Bank building, involved the

building and building housing where the old Police Department building was, and to take down the State Department of Health building. Am I remembering that correctly?

Ms. Higuchi Sayegusa: Again, the background and the reason we brought that up as a part of the proposal last year was because there are various needs surrounding the Civic Center, including possible redevelopment of the State properties, including that old police station and the Central Pacific Bank or the Līhu'e Plaza property that is currently being redeveloped. Again, that would be relevant to the scope of the mobility needs or the possibility of expanding upon the 'Eiwa Street transit hub or using the property between the Historic County Building and the State Building, and maybe that would be site for a mobility hub that would include connections to bus, another bus stop there, or other types of transit facilities that are located at that location. We included that in the proposal last year, because there are going to be various needs to plan future transit options.

Councilmember Cowden: Okay.

Ms. Higuchi Sayegusa: These current moneys are looking at the redevelopment itself.

Councilmember Cowden: Okay, thank you. I think I saw Lee Steinmetz' name on the screen somewhere. If he is there, I just want to say that I appreciate all that you do.

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

Councilmember Evslin: Jodi, I have heard ongoing concerns from business owners along Rice Street that if they are trying to redevelop that often minimum parking restrictions end up making redevelopment hard and maybe work counter to the idea of a walkable Rice Street when you have to dedicate so much of your land space to parking stalls. There has been ongoing concern and talk about trying to better connect some type of municipal parking lot like the Convention Hall. I think the Līhu'e Community Plan even references the idea of a parking structure somewhere as sort of somewhere people can come and park, and Rice Street will not need to have all of this parking. Is there any consideration to try to tie that into this in some capacity? Or is this looking at something else entirely?

Ms. Higuchi Sayegusa: Again, that would be a part of the scope of last year's funds that we are currently going through the procurement process for. Again, we are going to procure consultants to look at the parking needs primarily within the Civic Center area, but also serving the needs of Rice Street and Līhu'e Town Core. I think immediately, the Convention Hall parking area is currently available to support Rice Street for parking right now. Again, last year's funding and the project that we are working on procuring a consultant for should also take into account those other needs.

Councilmember Evslin: I think the Convention Hall is perfect. There is a large lot that is empty all day long. It is just hard often to park there. It feels like

you are trespassing on a couple of the properties to get from the Convention Hall to Rice Street. There is not a clear access to Rice Street. Thank you. This all sounds exciting.

Ms. Higuchi Sayegusa: Thank you.

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

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

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

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

The motion to approve C 2021-188 was then put, and unanimously carried.

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

C 2021-189 Communication (07/29/2021) from the Deputy Planning Director, transmitting the Planning Commission's recommendation to approve the petition to amend Ordinance No. PM-2006-383, as amended, by Ordinance No. PM-2009-394, Relating to Zoning Designation in Nāwiliwili, Kaua'i.

Councilmember Kuali'i moved to receive C 2021-189 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Again, this is just the Communication. This item will come up later on our agenda. Are there any questions or discussion from the Members?

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

The motion to receive C 2021-189 for the record was then put, and unanimously carried.

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

C 2021-190 Communication (08/03/2021) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5, Section 5-2.4, Kaua'i County Code 1987, As Amended, Relating To Motor Vehicle Certificate Of Ownership And Registration Fees.

Councilmember Kuali'i moved to receive C 2021-190 for the record, seconded by Councilmember Cowden.

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

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

The motion to receive C 2021-190 for the record was then put, and unanimously carried.

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

C 2021-191 Communication (08/03/2021) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 17, Section 17-1.1 Kaua'i County Code 1987, As Amended, Relating To The General Provisions Relating To Motor Vehicles And Traffic Regulations.

Councilmember Kualifi moved to receive C 2021-191 for the record, seconded by Councilmember Cowden.

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

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

The motion to receive C 2021-191 for the record was then put, and unanimously carried.

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

C 2021-192 Communication (08/04/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$210,453.00 in State General Funds for Fiscal Year 2022, and to indemnify the State Executive Office on Aging, for Kupuna Care services (\$187,843.00) and Elder Abuse Case Management services (\$22,610.00), for the period starting July 1, 2021 through June 30, 2022.

Councilmember Kualifi moved to approve C 2021-192, seconded by Councilmember Carvalho.

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

Councilmember Cowden: Is Kealoha there? I was just wondered about the twenty-two million dollars (\$22,000,000). I know this is reoccurring and I appreciate this so much. What does the twenty-two million dollars (\$22,000,000) mostly go to? I am so sorry, it says twenty-two thousand dollars (\$22,000). I am sorry, I am seeing too many zeros.

Council Chair Kaneshiro: I wish it said twenty-two million dollars (\$22,000,000).

Councilmember Cowden: Okay, never mind. Thank you.

There being no objections, the rules were suspended.

LUDVINA K. TAKAHASHI, Executive on Aging (*via remote technology*): The Elder Abuse funds of twenty-two thousand dollars (\$22,000) will go towards helping us address scams. We are working with a consultant, Paul Greenwood, along with our Police Department and Office of the Prosecuting Attorney to address scams and cases that we come up with. Those funds will help us to put out some educational seminars and radio announcements to help the community be aware that scams are there, it is real, and we also would like to investigate some of the cases that are reported to us so that we can follow-up on them.

Councilmember Cowden: Thank you and thank you for all the good work that you all do. Forgive me, my eyes did not read that right. I was thinking, how did I miss that.

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

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

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

The motion to approve C 2021-192 was then put, and unanimously carried.

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

C 2021-193 Communication (08/05/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$38,782.00 in State General Funds for State Fiscal Year 2022, and to indemnify the State Executive Office on Aging; funds will be used for the provision of the Aging and Disability Resource Center (ADRC), which includes staff development, outreach, awareness, education, and collaboration with the No Wrong Door (NWD) Network.

Councilmember Kualii moved to approve C 2021-193, seconded by Councilmember Cowden.

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

Councilmember Cowden: I just want to acknowledge that we are getting this money. I will be honest that when we were in our shutdown time and during our budget, I was a bit worried that we would be shorted a bit on our State funding. I am

very thankful that our State funding for Elderly Affairs has continued. I am glad for that. Thank you.

Council Chair Kaneshiro: Is there any other final discussion?

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

The motion to approve C 2021-193 was then put, and unanimously carried.

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

C 2021-194 Communication (08/11/2021) from Councilmember Evslyn and Councilmember Carvalho, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To The Comprehensive Zoning Ordinance, And Chapter 22, Kaua'i County Code 1987, As Amended, Relating To Public Health, Safety And Welfare

Councilmember Kualii moved to receive C 2021-194 for the record, seconded by Councilmember Cowden.

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

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

The motion to receive C 2021-194 for the record was then put, and unanimously carried.

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

LEGAL DOCUMENT:

C 2021-195 Communication (08/04/2021) from the Acting County Engineer, recommending Council approval of a Grant of Easement made by and between the County of Kaua'i and 4253 Rice Street LLC, conveying Lihu'e Town Core Project Easement Portion of Tax Map Key (TMK) No. (4) 3-7-009:036, Lihu'e, Kaua'i, Hawai'i, for a perpetual non-exclusive easement to build, construct, reconstruct, rebuild, repair, maintain and operate electrical infrastructure, curb, and sidewalk improvements for public access purposes.

- Grant of Easement (Easement A-1, "Fairview Business Tract")

Ms. Fountain-Tanigawa: We received a notification from the Department of Public Works that they would like this item received for the record.

Councilmember Chock moved to receive C 2021-195 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: There was an error in this Legal Document so the Department of Public Works asked to receive this item for the record and they will send it back to us later. Are there any questions or discussion from the Members?

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

The motion to receive C 2021-195 for the record was then put, and unanimously carried.

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

CLAIMS:

C 2021-196 Communication (08/03/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by McKenna Allen, for towing fees, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-197 Communication (08/04/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Foster Lee Brown III, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-198 Communication (08/04/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Russell Morita, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-199 Communication (08/09/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mia Melamed, for towing fees, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2021-196, C 2021-197, C 2021-198, and C 2021-199 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

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

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

The motion to refer C 2021-196, C 2021-197, C 2021-198, and C 2021-199 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.

RESOLUTION:

Resolution No. 2021-27 – RESOLUTION AUTHORIZING THE ACQUISITION OF LAND FOR PUBLIC USE, TO WIT: THE 23.5-ACRE PARCEL OF LAND, SITUATED AT KĪLAUEA, DISTRICT OF KO‘OLAU, COUNTY OF KAUAI, HAWAII, TMK (4) 5-2-005-024, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

Councilmember Kualii moved that Resolution No. 2021-27 be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and that said Resolution be referred to the October 6, 2021 Council Meeting, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Adam, if you want to give us a brief overview of this Resolution.

There being no objections, the rules were suspended.

Mr. Roversi: Aloha Council Chair and Councilmembers. At the last Council Meeting two (2) weeks ago, you considered a companion item related to this and approved the procurement of Special Counsel to handle a potential eminent domain proceeding to acquire this property. The property referenced is just under twenty-four (24) acres immediately adjacent to the existing Kilauea Town Center, next door to the Post Office. It is designated in both the Kilauea Town Plan and the General Plan for the expansion of the residential area of Kilauea. Specifically, it is requested in the Town Plan to address affordable housing needs in the area. The Housing Agency's intention in seeking acquisition of this property is to develop affordable housing both for rent and for sale gradually over time with in-depth feedback and communication from the neighborhood and community as to exactly what they would like to see there. The acquisition of this property now is partly triggered by approximately nine million dollars (\$9,000,000) in Community Development Block Grant-Disaster Recovery (CDBG-DR) Federal funds that will allow us in the relatively near term to develop a portion of this property as affordable rental housing with the majority and the bulk of it land banked for slow growth over time with further community development as funding becomes available. We have had multiple conversations with the landowner and have been unable to come to an agreement on the purchase price of this property. This eminent domain proceeding simply provides a vehicle by which the County could acquire it with the court involved in deciding what a fair purchase price would be. The Council's approval is procedurally just the first step in this process. It will require further consultation with the outside counsel that Council approved at the last meeting and ultimately potentially would lead to the filing of eminent domain proceeding in court. That has obviously, not yet happened as this Resolution is a pre-requisite for being able to do

that. If you are interested, I could share my screen to show you exactly where this property is located on an aerial image.

Council Chair Kaneshiro: Yes, you can do that, Adam.

Mr. Roversi: I have highlighted the parcel in question in red. This is not a current photograph. This area where my cursor is that is dirt is now the fully developed commercial center in the heart of Kilauea. This area here is the existing Post Office and the main road that my cursor is moving on now is Lighthouse Road. It goes from the highway out to the Kilauea Point National Wildlife Refuge. Notably, the future Kilauea access road that I believe the County has just taken ownership of in connection with the subdivision of this property here will broadly speaking run along this road and then curve through here down to the main highway again. At some point in the future this will be a developed road by the County. I am happy to answer any questions.

Council Chair Kaneshiro: Thank you for sharing that map.
Councilmember DeCosta.

Councilmember DeCosta: I have a question and I think I might be addressing Matt. For the community watching today, please explain to us eminent domain and what is the meaning of that.

Mr. Bracken: The County has the authority to take and purchase private property for a public use. Any sort of public use. It could be for constructing a park, for affordable housing, for a bus stop transit center, et cetera. Any public use or any use that the County Council decides is a public use, the County could then condemn the property. If we go through the formal condemnation process in court, we go to court, we bring assessors to assess the property and the County pays for the value of the property. We can basically force the sale of a property for public purpose.

Councilmember DeCosta: Thank you, Matt. I need a little clarification. You did not mention agricultural production. Could we condemn property and purchase it to do agricultural production if the land is sitting there without agricultural production on it?

Mr. Bracken: We have to condemn it for a public purpose. It would depend on why we would need agricultural production.

Councilmember DeCosta: The public purpose is to grow food.

Mr. Bracken: Generally agricultural production is done by the private industry. I am not sure why the public would need additional agricultural

production. That one I would be leaning towards no, but I would need additional information.

Councilmember DeCosta: You can take agricultural land, condemn it, and rezone it into residential land, correct?

Mr. Bracken: You could if we are doing affordable housing like Adam is trying to do here, you could do something of that nature.

Councilmember DeCosta: Okay, thank you for that clarification. Adam, my question for you...this is obviously going to help out the North Shore community with housing, correct?

Mr. Roversi: Correct, that is the intent.

Councilmember DeCosta: Is it safe to say that we have a housing shortage throughout Kaua'i and in every town?

Mr. Roversi: We certainly do and that is why we are pursuing housing development on the west side in Waimea on the Waimea 400 acres, why we are pursuing housing development in 'Ele'ele in Lima Ola, and why we recently completed housing projects in Kōloa and Līhu'e. The North Shore has been left out of the process for about the last decade, so this is an attempt to shift some, but certainly not all of our focus to the North Shore and spread some of our housing efforts.

Councilmember DeCosta: Nice. Thank you for that clarification.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Is this Community Development Block Grant Disaster Relief (CDBG-DR) funding that came out of the 2018 floods, is that correct?

Mr. Roversi: Part of this project is connected to those funds, that is correct. The acquisition will not be entirely based just on those CDBG-DR funds.

Councilmember Cowden: Because some of it is affiliated with the CDBG-DR funds with damage that happened in Hā'ena, Wainiha, and Hanalei, will there be some earmarking in those rental houses that could be for people that have been displaced when there is a pecking order for how people are chosen or prioritized? Will they be able to be prioritized?

Mr. Roversi: Most definitely. That would be a requirement of the funding source. When I mentioned that in the near term, we hope to develop a portion of this property using those CDBG-DR funds, the portion of the property that is developed with those funds will definitely have a preference for those people who were impacted by the flooding back in 2018. You might wonder why are you building housing in Kīlauea for people who were affected by flooding in Wainiha and Hā'ena primarily, and in Hanalei? We went through a long project selection process in cooperation with HUD. HUD frowns upon rebuilding homes in flood areas that have been impacted by floods. For example, it is not really feasible to rebuild homes in the Wainiha floodplain that had been destroyed or severely damaged by floods. The preference for the HUD programs is to relocate people from those areas where it is safer and the development and use of the funds will not be then subject to flooding. Kīlauea is outside of the flood zone, outside of tsunami impact areas, and is close enough to the areas that were directly impacted that HUD recognizes that this is an appropriate relocation area for people who were impacted by flooding and whose homes we could not otherwise rebuild where they stood.

Councilmember Cowden: I thank you for that. As a twenty-year member of the Kīlauea Neighborhood Association (KNA), I just want to acknowledge that the design and location is consistent with what the community has planned. For the most part it will be very welcomed and the people who might be repopulating from Hā'ena or Wainiha are our direct *'ohana*. It is a welcomed community and will be a good match. I am appreciative and supportive of this.

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

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

Councilmember Kualii: I just want to say thank you for your work on this. I think it is important that we work on affordable housing in this part of the island that will serve a greater area as well.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I just want to follow-up on that and the importance of offering housing in each *moku* of our island. Now we are in the last *moku* area, which is great. More opportunities will come from there. *Mahalo* to the team for continuing to look at all different opportunities, securing the funding, and then going with the bigger picture. *Mahalo* for that.

Council Chair Kaneshiro: Does anyone else have any discussion? If not, it is going for a public hearing and then to another Council Meeting. Could I get a roll call vote?

The motion that Resolution No. 2021-27 be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and that said Resolution be referred to the October 6, 2021 Council Meeting was then put, and carried by the following vote:

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

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2831) – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, AS AMENDED BY ORDINANCE NO. PM-2009-394, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUAI

Councilmember Kualī'i moved for passage of Proposed Draft Bill (No. 2831) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and that it be referred to the Planning Committee, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received written testimony on this item. We have no one registered to speak on it. Do we have any questions from the Members on this item. This item came from the Planning Department, so Jodi, did you want to give us a brief overview of the item?

There being no objections, the rules were suspended.

Ms. Higuchi Sayegusa: This petition involves amending the County zoning for three (3) parcels within the overall Hōkūala resort property, which is also known as the Kauai Lagoons Resort development. Two (2) parcels identified as subdivision 1 and subdivision 1A that total approximately fourteen and two-tenths (14.2) acres are being rezoned. They are both currently in the County's Residential R-2 District and are now proposed for the R-4 District. The remaining parcel is referred to as Lot 10C and is about two and six-tenths (2.6) acres. Lot 10C is currently in the County's Resort RR-10 District and is now proposed to be downzoned to Residential R-2 District. The subdivision 1 and 1A areas will be developed into forty-two (42) single-family residential units, but no dwelling units are proposed or

planned for in Lot 10C. All three (3) parcels are within the Visitor Destination Area (VDA) and the proposal and the petition are subject to all of the twenty-five (25) conditions that were already imposed by way of Ordinance No. PM-2006-384 as amended by Ordinance No. PM-2009-394, including the overall density cap of seven hundred seventy-two (772) dwelling units that governs the resort property. That is a real brief overview of the proposal. I or the applicants, who are also here, can answer any questions you may have.

Council Chair Kaneshiro: Thank you, Jodi. Do we have any questions from the Members? Councilmember Evslin.

Councilmember Evslin: I have a number of questions. Just to preface them a little bit. As I have expressed to the applicant, I think this property is a total gem for Līhu'e. It has amazing walking paths and provides such a critical source of outdoor recreation for Līhu'e. Līhu'e, unlike other towns on Kaua'i, we do not have great beaches or great hiking trails nearby. The walking paths throughout Hōkūala are just such a critical space for the community and they are very well-utilized. I appreciate the applicant for helping make these paths open. I do have some questions regarding the original conditions and some of the status of those. Condition 7 in the original zoning amendment references easement documents in favor of the County providing for non-motorized bicycle access from Kapule Highway to connect with Easement 1 within one hundred eighty (180) days from the enactment of the original ordinance in 2008. Have you checked if those documents have been executed?

Ms. Higuchi Sayegusa: If you do not mind, if I could let the applicant answer that question?

Councilmember Evslin: Sorry, yes, the questions will be for the applicant. Sorry, Jodi.

MICHAEL BELLES, Applicant Representative (*via remote technology*): Good morning, Council Chair Kaneshiro and Members of the Kaua'i County Council. I am representing the applicant. If you can see us on the video, sitting across of me is Rebecca Candilasa, she is the Senior Planner with Wilson Okamoto Corporation, and they were responsible for having prepared the rather substantial document that you were all given copies of, the application for the zoning amendment, which Ms. Higuchi Sayegusa briefly summarized. Sitting behind her is Gary Siracusa, who is the Director of Construction for the project and is involved in all things Hōkūala, since he has been here for well over ten (10) years. My understanding in going through today's meeting is that we will provide a brief overview similar to what Ms. Higuchi Sayegusa had provided earlier, and that we would be getting into specific discussions on matters that you broached, Councilmember Evslin, at the time of the Committee Meeting. As we met and discussed this for the first-time last week Tuesday, as we explained, it is still necessary for us to do additional research to better define the documentation underlying

this. Many of these items date back to the project not only when it was first built in 1960 for the old Kaua'i Resort, but it also goes to the 1987 development as approved by Hemmeter, and then subsequently in 2006 and 2009 ordinances as was referenced by Ms. Higuchi Sayegusa. We have not completed identifying those documents and do not have them in-hand currently. We were able to share with you the one (1) document that we were able to locate, which was the deed restrictions relative to the open space issue. If it pleases the Council and Council Chair, I would like to recommend that questions like this be reserved for the Committee Meeting, which again, was my understanding when we would be in a better position, as will the County Council, to research the issue in consultation with affected County and State agencies, and have a more full-throated, deliberate, and complete discussion about those issues and matters. Again, if that pleases the Council.

Council Chair Kaneshiro: Again, we do not need another summary of the project. If a Councilmember asks a question that you are not able to answer now, maybe just note it and let us know that you will get back to us on that question in Committee. There may be questions that you can answer right now. We will open it up to questions and if you do not have the answer, just say you will get back to us in Committee. I will say we should move forward like that.

Mr. Belles: As to this issue, the responsibility was a joint one with the County of Kaua'i working together with the applicant. It is my understanding that the document in question has not been executed.

Council Chair Kaneshiro: Okay, thank you. Councilmember Evslin, did you have any further questions?

Councilmember Evslin: Yes. I have other questions, but if the applicant wanted to give more an overview before I dove into those questions...again, if you cannot answer any now, certainly, we can dive more into that in Committee. I just want to put those questions out there.

Mr. Belles: We will begin then, as we had originally anticipated and allow Ms. Candilasa an opportunity to give a little more in-depth summary of the project to complement or supplement what Ms. Higuchi Sayegusa has already stated on the record. I will turn it over to Ms. Candilasa.

REBECCA CANDILASA, Senior Planner, Wilson Okamoto Corporation (*via remote technology*): Good morning and thank you. This is a brief overview of what is before you today, similar to what Jodi had mentioned, but with a little bit of additional details. The application before you is a petition for County Zoning Amendment to reclassify the zoning designation of an area totaling approximately sixteen and eight-tenths (16.8) acres located within the Hōkūala Resort. The sixteen and eight-tenths (16.8) acre area is made up of approximately fourteen and

two-tenths (14.2) acres situated within the R-2 Residential District and approximately two and six-tenths (2.6) acres located within the RR-10 Resort District. Within the R-2 Residential District are the proposed sites for subdivision 1 and subdivision 1A, which were previously approved for development as nineteen (19) single-family residences under prior land use approvals for the Master Plan for Hōkūala Resort. The petitioners are now proposing to amend the zoning district designation boundaries to R-4 Residential District allowing for twenty-three (23) additional dwelling units to be developed for a total of forty-two (42) dwelling units. I would like to emphasize that these twenty-three (23) additional dwelling units are units that have been reassigned from other approved development within the Hōkūala Resort that are expected to be developed at lower densities. More importantly, the reassignment of density would have no effect on the currently approved density cap of seven hundred seventy-two (772) dwelling or hotel units. Thus no increase in the overall density is being required. Under this zoning amendment an area of two and six-tenths (2.6) acres currently within the RR-10 Resort District would also be reclassified and this area referred to as Lot 10C would be reclassified from the RR-10 Resort District to the R-2 Residential District. As mentioned, no units are being proposed to be developed at Lot 10C. The proposed downzone and density as allowed under the Kaua'i Comprehensive Zoning Ordinance (CZO) would drop from fifty-two (52) hotel units to five (5) dwelling units. The intent behind this is to ensure that an appropriate balance of development is maintained within the Resort. All design and construction will be undertaken in compliance with the CZO and the design guidelines included as Exhibit "K" of the application. No adverse impacts on the availability and adequacy of public services and facilities are anticipated with the proposed reassignment of density. The potential impacts of development have been evaluated and accounted for in previously prepared and existing technical studies. Additionally, the applicant will continue to coordinate with the appropriate agencies regarding any updates or any improvements that may be required. That concludes my brief overview of the project. If there are any more specific questions, we would be happy to answer them.

Council Chair Kaneshiro: Councilmember Evslin, do you have any further questions?

Councilmember Evslin: Yes, I do. Could you give an update on condition 7 where it references the construction and maintenance of public restrooms and shower facilities at both the former Fashion Landing and near Running Waters? What is the status of those and were those completed within two (2) years?

GARY SIRACUSA, Director of Construction, Hōkūala Resort (*via remote technology*): Those are complete, Councilmember Evslin. Yes, you are correct. There are two (2) constructs that are essentially parallel to the ocean and shore in the conservation area. We have a shower and picnic opportunities and are fully developed structures along the shoreline. There is also the public shoreline access parking that is

provided. We do have another toilet facility up by the old Fashion Landing as well that is available to the public. Does that answer your question?

Councilmember Evslin: I guess I am a little confused. I know that there is a shower facility by Running Water. The one at Fashion Landing, I know there is a shower there, but I have not been able to find a bathroom. As I walk there and actually my daughter had to use the bathroom, I could not find one. If you could elaborate on where the bathroom is located.

Mr. Siracusa: Sure, there are temporary toilets that are in the parking area. There were permanent toilet facilities underneath the old Sharkey's Restaurant building that were developed. Previously, those were closed and remain inaccessible at this point in time, because of public welfare and some illegal activities that were taking place. Until we actually get some density and get that property reopened at that end, that is the concern. There were needles found in the restrooms and other activities that...from my understanding there were people who were accosted...that is just something that is not acceptable overall in terms of public welfare and safety. In the interim, until that area is developed, we provided the temporary facilities up top in the parking lot.

Councilmember Evslin: Unfortunately, I am not sure if you are aware, but the portable toilets actually state that it is not a public restroom, and they are currently locked or at least they have been locked when I saw them.

Mr. Siracusa: I would be glad to check into that and get those signs removed. That was not the intent or the purpose of those. They were supposed to be left open.

Councilmember Evslin: I had assumed those were for the construction workers that were on-site. Again, certainly we can dive more into this at Committee, but I do have concerns that it seems that condition 7 maybe has not been fully met yet. The other questions that I had I already asked you before when we met. Those are really trying to navigate the different terminology used for the public access areas. The first sentence of condition 7 states that, "Public access is allowed on all existing public vehicular and pedestrian public accessways on the subject property." Then on page 23 of the application it says that there is ten (10) miles of improved pathways and trails throughout the resort development that are regularly used by the public. Then there are some maps, figures 9 and 10 which sort of show different trails. I know you are aware of this question and are working hard on it. I am trying to get a better understanding of where exactly public access is allowed or will be allowed perpetually through the original amendment. I just wanted to see if you had any update on that or if you would rather we get into that at Committee.

Mr. Belles: Mr. Siracusa will have to continue his discussions with Mr. Doug Haigh of the Department of Public Works. He has been the principal contact previously as we had mentioned to you. It is going to be requiring additional work. As it stands right now, we are contemplating preparing a memorandum of understanding (MOU) with the County and the developer that would be covering...you referenced ten (10) miles...I do not know precisely how much land is involved. It is going to require some level of research to determine what has been codified, documented, and then sitting down with the applicable County representatives and continuing the dialogue and discussions on how best to come up with a proposal that is agreeable.

Councilmember Evslin: Great, that sounds good. I appreciate you continuing to work on that. I have one (1) more question regarding lateral access. Condition 7 references lateral access according to the roadway and public access plan. It looks like it is between the two (2) shower facilities. Where is that lateral access. Is that the pathway that goes down to the beach, or is there lateral access along the golf course?

Mr. Siracusa: The lateral access is in the conservation area, there is a trail system all along the shoreline. It is not improved, of course. We maintain the access going from the upper level down to the shoreline in a safe condition. Once you are down on the shore along the conservation area, it is not a maintained area, although it is pretty well identified just from use down there.

Councilmember Evslin: Just to confirm, the lateral access is not along the bluff. It is going down the trail to the rocks and the sand, that is the lateral access?

Mr. Siracusa: Yes, if I am understanding the question correctly, that is correct. Access is provided to get down to the shoreline in the conservation district area.

Councilmember Evslin: Go ahead.

Mr. Belles: The intent from the very beginning was to provide safe access down to the shoreline, but not to make improvements along the shoreline. As you know and as most of the Councilmembers know, for us to do that, we would probably need conservation permits, permits from the Department of Land and Natural Resources (DLNR) since that is under their jurisdiction, as well as working closely with the County's Planning Department, that would require, if it was ultimately deemed to be desirable to make any more physical improvements and to leave it more in its natural state, that was the original intent when the original entitlements were crafted back in 2005.

Councilmember Evslin: Okay, thank you. I am not necessarily looking for an improved trail there, I am just trying to get a better understanding of where it actually is. When you look at the roadway and public access plan, it shows a public access dotted line between those two (2) rest stations.

Mr. Siracusa: That is in the conservation district along the shoreline and the narrative on that explains that it is from the old Inn on the Cliffs to Fashion Landing. That is the extent that it runs along the shoreline.

Councilmember Evslin: That is the one down on the beach and not the one on the edge of the golf course, is that correct?

Mr. Siracusa: Correct. There is not an actual path along the bluffs or golf course from the Fashion Landing to the old Inn on the Cliffs, which is now Timbers Resort.

Councilmember Evslin: My last question is not a public access question, but condition 1b of the original zoning amendment states that, "No ADUs or guest houses are allowed," but it does not reference ARUs, which came into existence after the original amendment. If an individual homeowner were possibly to construct an ARU, would that be counted towards your overall density cap? This might be a question for Planning as to how they would be looking at an ARU being constructed there.

Ms. Higuchi Sayegusa: Similar to guest houses, ARUs are additional residential units and are considered accessory to the main dwelling. It may not, but it kind of goes to the intent of the ordinance and the restriction that was included in the ordinance itself. Again, it does say, "No additional dwelling units and no guest cottages," so we would view it similar to the guest houses where it may be included in the permission, but it may be something that should be clarified in the ordinance.

Mr. Belles: If I may, Councilmember Evslin, I would like to emphasize and repeat what Ms. Higuchi Sayegusa just said. Essentially, any dwelling unit by whatever name whether it be an ADU, guest house, residence, resort unit, et cetera, the intent is not to exceed seven hundred seventy-two (772) which is the cap and anything built by whatever name is going to be considered one of those for a lack of a better word right now, "units" and therefore we would not be trying to avoid the seven hundred seventy-two (772) cap by having additional dwelling units or guest houses or anything else that would exceed the total number of seven hundred seventy-two (772).

Councilmember Evslin: Thank you. That is good to hear and it makes sense. Maybe we can work with the Planning Department to make sure that is clear in the Bill that ARUs would count towards overall density if they are constructed. I have a single question for Matt Bracken. Matt, if for any zoning amendment, if a condition is not met over time, what actually happens?

Mr. Bracken: The Planning Commission has the authority to enforce zoning conditions. Generally, if a zoning condition is not met, the Planning Commission will issue an order to show cause, which then brings in the applicant to explain why they have not met the required condition. Depending on how it proceeds, the person could be subject to fines or revocation of the permits. That is the general process.

Councilmember Evslin: Okay, those are the only questions I had. We certainly have some work to do before we get to Committee. I am interested in diving in more certainly during Committee. Thank you.

Council Chair Kaneshiro: We are at a caption break, so we will take the caption break and come back. If any other Councilmember has a question we can take that and final discussion. We will take a 10-minute caption break.

There being no objections, the meeting recessed at 10:32 a.m.

The meeting reconvened at 10:47 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Again, while the rules are still suspended, are there any further questions from the Members regarding this item? If not, this Bill is scheduled for public hearing and it will be referred to the Planning Committee where we can ask further questions. If you have questions it may be good to send it in writing ahead of time, so that they can be prepared to answer any questions in the Planning Committee. If there are no further questions, I will call the meeting back to order. Council Vice Chair Chock.

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

Councilmember Chock: I am looking forward to having this item in the Planning Committee. I would ask that Mike Belles and Gary Siracusa, if you could give me an update prior to the Committee Meetings as to the status of some of the questions that are being worked on, so we could have an indication where we will stand at Committee? I would appreciate that. I realize that this is a re-zoning amendment and we are not asking for more density here, but a movement of density. I do think it is an opportunity for us to come back to together as stewards of the community to see that all of our conditions are met and so we can do the best that we can for the public's sake. I appreciate the questions that were asked today, so that we can do the job on our end. Thank you.

Council Chair Kaneshiro: Is there any other final discussion from the Members? Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: I look forward to continuing to learn more. I appreciate the quality of the documentation that was given to us and the respect of the individual meetings. I thought that I learned a lot when I walked the property for almost two (2) hours. It is very beautiful. It seems consistent with the land use

commitment for Hōkūala. I appreciate softening the density. I am looking forward to learning more from my colleagues of what ideas or concerns they may have. I personally liked the forty-two (42) new units, which looked like twenty-two thousand (22,000) square foot houses. It seemed like a tasteful and appropriate use of the area. I appreciated the positives that I saw. I just wanted to make sure to acknowledge that. They also have beautiful public trails. I am happy to learn more about the public trails.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Just to reiterate what I opened my questions with. I just want to say, what an incredible property it is. I walk there many times a week along with hundreds of other Līhu'e residents. It is such a resource for the community. I think that is by design and by intent. I appreciate Hōkūala for being so open to the community using this property in this way. Part of the reason for drawing some attention to some of the original conditions is just that I think, regardless of what Hōkūala's intentions are...and I think they have the intention to make sure that the public can use the property, you never know what is going to happen to a property in the future. Obviously, on Kaua'i, we have this steady trend towards losing access to special places, especially when access traverses private property. I want to continue to work with Hōkūala and with you all to ensure that this is not one of those places that we lose access to over time. I appreciate the applicants for being so open at the original meeting. I think they are working diligently to really codify and ensure that it is clear where there is perpetual access to. I look forward to this dialogue over the next few weeks and certainly when we get to Committee. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: In my discussion with the Hōkūala team, the big thing here for me is public access and continuing the access to this wonderful place. A lot of our families walk, bike, and use this area. There are also the opportunities for housing. As far as Hōkūala, the intentions are good and I think they have a good team in-place. Balancing out, I am looking forward to the next steps as we continue to map out this with making sure public access is at the forefront as well. I want to *mahalo* everyone as well and thank you for looking at opportunities down the road.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I just want to echo what Councilmember Carvalho said about the public access. It is nice to see things transparent and that we are trying to soften the density. We do not need more crowded areas. Thank you for doing a quality job on the design.

Council Chair Kaneshiro: With that, we will take a roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2831) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and that it be referred to the Planning Committee was then put, and carried by the following vote:

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

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

Proposed Draft Bill (No. 2832) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2832) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and referred to the Finance & Economic Development Committee, seconded by Councilmember Carvalho.

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

Councilmember Chock: I just wanted to see if we could get the Department of Finance to give us a brief overview during the introduction of this Bill. That would be appreciated.

Council Chair Kaneshiro: Reiko, if you could give a brief overview, that would be great.

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Good morning, Councilmembers. What we are trying to do with these Bills is to increase the fees. Countywide, we have to increase the fees through all of the various departments. The primary one that we control here in the Department of Finance is with the Division of Motor Vehicles (DMV). The fees that we have now in-place have not changed since 2009. We are comparably less to all of the other counties. The underlying rationale is that we like to keep up with inflation, we want to cover our administrative costs, and

we want to keep our fees aligned with the other counties throughout the state. For the motor vehicle fees, we are requesting what we feel are very minimal increases. We would like to go from five dollars (\$5.00) to ten dollars (\$10.00) to transfer a vehicle and get a new title. From five dollars (\$5.00) to ten dollars (\$10.00) for duplicates, titles and registrations. For these, Honolulu and Maui are both at ten dollars (\$10.00) as well. We would like to go from fifty cents (\$0.50) to one dollar (\$1.00) for duplicate emblems. We also think that that one is a minor change. The larger one is the County registration fee. Right now, we are currently at seventeen dollars (\$17.00), which is the lowest of all four (4) counties. We would like to take that to twenty dollars (\$20.00), which is an increase of three dollars (\$3.00). This would match the next lowest county, which is the City and County of Honolulu. We would still be below Hawai'i County, who is at twenty-four dollars (\$24.00), and well below Maui County, who is at forty-five dollars (\$45.00). That is the gist of this Bill. We are requesting the increase, because we feel that it is nominal and we want to do the increases in small increments, as opposed to waiting and having the increases be more significant. We are just trying to prevent us from having to make those major jumps. That may happen if we postpone the increase any longer.

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

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

Councilmember Cowden: I feel like these fee increases were reasonable. When we look at just the inflationary costs of everything, it is...I do not want to say, "minor," but it is kind of minor. I appreciate all of the work that the Division of Motor Vehicles is doing, and I am supportive of this.

Council Chair Kaneshiro: Is there any other discussion from the Members? We are talking about a five dollar (\$5.00) increase, another five dollar (\$5.00) increase, a fifty cent (\$0.50) increase, and a three dollar (\$3.00) increase. It is nothing very significant. Obviously any increase people feel it, but again, I think we get into the motion of being comfortable with our fees for a very long time, and when it comes time to readjust fees, oftentimes it is a big punch to everyone, because we have not changed fees for twenty (20), thirty (30), or forty (40) years. Relooking at the fees every ten (10) years is a good thing. Is there any other discussion from the Members? If not, we will take a roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2832) on first reading, that is be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

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

Proposed Draft Bill (No. 2833) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17, SECTION 17-1.1 KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE GENERAL PROVISIONS RELATING TO MOTOR VEHICLES AND TRAFFIC REGULATIONS

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2833) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 15, 2021, and it be referred to the Finance & Economic Development Committee, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: I will suspend the rules. Reiko, please give us a brief overview of these fee changes.

There being no objections, the rules were suspended.

Ms. Matsuyama: Sure. This one is for the Driver's Licensing side. It is two-fold. It might look like bigger increases if you are looking at it percentage-wise. This is because we have stricter requirements now for REAL ID compliance. The two-fold aspect is that there is a fee increase side, but the other side is that we are trying to change the written test from a paper-based to a computer-based system. If you look at the straight fee increases, we have different tiers of rates for different renewal terms. If you are between the ages of twenty-five (25) and seventy-one (71), that is the big one. Those are eight-year renewals. We also have four-year renewals and two-year renewals depending on age. We are lower straight across-the-board on all three (3) tiered rates. Basically for the big one, the eight-year one, we are going from thirty-two dollars (\$32.00) to forty dollars (\$40.00). At thirty-two dollars (\$32.00), we are obviously the lowest. Forty dollars (\$40.00) would equal that of the City and County of Honolulu and Hawai'i County. Maui County is at eighty dollars (\$80.00). They are double. At least that would match the next two (2) lowest counties. That goes across-the-board for the other increases as well. In Section 1.1(b), we are actually trying to cover our costs to move to a computer-based test practice. We are trying to modernize. To move to a computer-based system, there are many benefits

that you could probably figure out. This includes accuracy, security and compliance, the ability to offer alternate languages, et cetera. It is going from two dollars (\$2.00) to ten dollars (\$10.00), which sounds like a large increase, but this is a one-time fee when they come in to take their written test. We are not making any money off of this. We are going to have to pay the vendor that money. That is the rationale behind that one.

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

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

Councilmember DeCosta: I would like to comment on the job that you did. I have been following this increase. They always say that Kaua'i is kind of like Maui. I am really glad that we did not piggyback on Hawai'i County's and Maui County's higher costs. We always went with the next lowest cost. Thank you for that. It would have been really easy to say, "Let us jump to the highest class like Maui County and call it even across-the-board." Thank you for being conscientious of our local people here on Kaua'i. Everyone is struggling. We as a County are struggling as well. Thank you for that, Reiko.

Council Chair Kaneshiro: Is there any other discussion? If not, we will take a roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2833) on first reading, that it be ordered to print that a public hearing thereon be scheduled for September 15, 2021, and that it referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

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

Proposed Draft Bill (No. 2834) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUAI COUNTY

CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE

Councilmember Kuali'i moved that Proposed Draft Bill (No. 2834) be referred to the Planning Commission, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We did receive written testimony on this item. We have no one registered to speak on this. Councilmember Evslin, did you want to give an overview of the Bill?

There being no objections, the rules were suspended.

Councilmember Evslin: Yes, I can give a brief overview of the Bill. I know this is just first reading and it is going to go to the Planning Commission before it comes back here for first reading again. I do not know how deep you want to go into the intent and the rationale, but I am happy to dive as deep or as shallow as you all want. The brief overview is that this Proposed Draft Bill came directly out of the current General Plan Update from an action item in there, which is to, "Prohibit future subdivision and development from restricting construction of Additional Dwelling Units (ADUs) in their deed and covenants." The Proposed Draft simply states that covenants and other agreements that run with the land shall not limit or prohibit long-term rentals, ADUs, additional rental units (ARUs), or guest houses. This does not apply to existing covenants with those restrictions in-place. It would be applied to future covenants for future developments or if there are existing covenants without those restrictions that are made stricter, then this would apply to them. I would be happy to dive deeper if you would like as to the rationale, or Councilmember Carvalho, if you had more to add to that.

Councilmember Carvalho: I just wanted to add to the opportunity overall. The existing versus the future...this is all about the future. Whatever is in-place right now, that will not be affected. This is looking into the future and giving more opportunities. The other thing was that this was meant to reach out into the community to give other opportunities within the overall...that was a big part of our discussions. We have been in discussions with different community organizations and groups. This is first reading and we will see what happens. Overall, I think this is a positive step forward.

Council Chair Kaneshiro: I do have a question or something to think about. I know that it is going to the Planning Commission. Councilmember Evslin, as you mentioned in our previous item regarding Hōkūala, they are residential units, they are in the Visitor Destination Area (VDA), and we are asking if they were going to increase their density with guest houses or ADUs. This would say that they would be allowed to do that and there is nothing that the covenants that Hōkūala could put in there that would prevent someone from buying in there and adding an ADU, guest house, or ARU. A consideration might be to add that this does not include residential

units in VDAs. Again, I do not know. That is just a suggestion as far as listening to one of the issues that came up today. I have Council Vice Chair Chock, then Councilmember Cowden.

Councilmember Chock: Thank you for that. I was wondering for that as well. The other question that came up for me. I like the intent of the Bill so I am supportive of it. I do see guest house is included. It has been a big question as to how we want to support guest houses. I see that you have transferred the meaning of guest house to ARUs, and I am curious if that is what you had intended to do under Chapter 8. Could you explain that piece for me and if you vetted that as well with the Administration?

Councilmember Evslin: So you are saying that the definition of guest house in here says, "Shall have the same meaning as additional rental unit under Chapter 8 of the Kaua'i County Code." That might have been a mistake.

Councilmember Chock: Okay. I see it on page 4 of our current Bill. Is that true?

Councilmember Evslin: Sorry, what was that follow-up question?

Councilmember Chock: I just wanted to confirm what I was looking at. It was on page 4 under the third paragraph.

Council Chair Kaneshiro: Councilmember Evslin, you might want to double-check that if that needs to be corrected. You can always let the Planning Commission know as it goes to the Planning Commission that that might be a housekeeping item that may have been overlooked.

Councilmember Evslin: I am almost certain it was. We will talk to our staff and Matt after. A quick answer to your question, Council Chair, regarding this how this applies to Hōkūāla. As soon as I saw the Hōkūāla item on our agenda, I asked Matt the same question. As I understand, because those restrictions were a condition in the zoning amendment, Hōkūāla's covenants could reflect the amendment to say, "The County restriction is against these, so our covenants will also." There would be no barrier to that occurring. I do think it is probably a good discussion to have regarding these types of restrictions in the VDA as I think you were implying. As part of the Hōkūāla restrictions is that we do not necessarily want to be adding all of this housing, which is visitor-occupied housing in some sense. Some of the concerns though that we have heard about this type of policy directly impacting is from people within the VDA. We received testimony from two (2) individuals who live in the VDA. They bought their homes with the expectation and the legal right to long-term rent a portion of it. The homeowner's association (HOA) ended up changing their rules so that they could not rent a portion. They ended up

having to kick their roommate out. Now they are having a harder time in theory paying their mortgage. That is another person that has to look for a house and another unit that is off the housing market. That is within the VDA. That is certainly something to talk about more as we work through this.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I appreciate the explanation, because I was confused when I read it. Certainly, in your second paragraph talking about why we need it...we need to have increasing housing opportunities. You know that I am one hundred percent (100%) behind that effort. With both of these communications from people testifying, I feel almost certain these are in Princeville, which is a VDA. I know the condominium, at least that one of them is speaking of, when you have more Transient Vacation Rentals (TVRs) in a condominium set than you have residents in there, it can become very high pressure on a family that has children or wants to rent a room. Where is the language in here that really says, "You can long-term rent." I guess it is just in Section 8-1.2 (6), is that correct? On page 3?

Council Chair Kaneshiro: On page 4, Section 22-28.2 has the language.

Councilmember Cowden: "Covenants, conditions, and restrictions..."

Council Chair Kaneshiro: "...shall not limit or prohibit long-term rentals..."

Councilmember Cowden: Okay. I see that as a big problem. When I think about this Hōkūala development, I am just asking the question. I am not positive in a position. When I looked at where they are laying this out along the lagoon, if they wanted that mother-in-law unit right on that, I think if it was always known that you could have it, maybe some people would never buy the property there. They would want to buy where they knew it was not going to get dense. Other neighborhoods like my neighborhood it is a little game of Tetris. All of these units are coming onto properties. It is fine. I am fine with it. I am not putting one on mine. It creates a lot of community unrest. I prefer people to have housing than the unrest. So you are saying that you could not build a Hōkūala or a determined new neighborhood that could ever keep that density from ever happening on a quarter (1/4) acre piece of property? Is that what this says?

Councilmember Evslin: Yes. Because Hōkūala's is reflected in their zoning amendment, in theory, if somebody were trying to come in for a zoning amendment to try and build some sort of resort property or something, that could still be a condition of the zoning amendment and then reflected in their covenant. If someone is just using the density that they have to do a residential development and

the Planning Department does not impose that as a condition, then no, they would not be able to restrict against ADUs, ARUs, guest houses, or long-term rentals.

Councilmember Cowden: So, again, I am just seeing if I hear it right. There is a ten-acre parcel and it gets built at an R-4, and there is not a special zoning amendment, it would then be allowed on that. Whereas, if there is a special zoning amendment that says you cannot, that is the difference?

Councilmember Evslin: As I understand it, yes. It would be allowed to the extent that the Comprehensive Zoning Ordinance (CZO) allows it, right? It is not like someone could build all of these things because the CZO does not allow you to do all of that on a single piece of property. If you are allowed an ADU, an ARU, et cetera, then you could do it.

Councilmember Cowden: Do we not already have that?

Councilmember Evslin: You cannot build a guest house, an ARU, and an ADU off of each of them. You can only build a guest house or an ADU. It is not saying that you could just do all of these things on your property. It is saying that the covenants cannot restrict against it, so if the CZO allows it, then you can do it.

Councilmember Cowden: What my confusion is, is when we had the ADU and ARU language that we put forth maybe two (2) years ago, how come that does not apply? Why do we need something extra? I just do not understand. Before, we said you can have an ADU next to your house. This is saying, "You cannot say you cannot," but we already said, "You could." I do not understand the distinction.

Councilmember Evslin: That is the intention here. The CZO allows, by right, at least four (4) housing units per residential piece of property. You can always do a main house, either your second density or an ADU, and then an ARU off of each of those. As long as you have the wastewater capacity, you can do four (4). Many residential neighborhoods in their covenants restrict ADUs. A lot of the new development that we are seeing restricts them as well. Even though the CZO says you can do these units, the covenants for that community says that you cannot do these units. What this Bill is then saying is that new covenants or amended covenants cannot restrict against these types of things.

Council Chair Kaneshiro: Those are the same covenants that say when someone does a large development, it tells you the colors of the houses have to be approved by the HOA...those are the covenants that dictate that you cannot park your car on the street. Some of those covenants also say that you cannot add an ARU, although you have the density, you cannot put a guest house. This Bill will say that we are going to supersede those covenants as far as them being able to add units to a development.

Councilmember Cowden: Again, if we are looking at Hōkūala, the difference is it is not just a covenants, conditions, and restrictions (CC&R), it is in the zoning amendment.

Councilmember Kualii: They are grandfathered. First and foremost.

Councilmember Cowden: Alright, I think I understand. Thank you.

Council Chair Kaneshiro: Councilmember Kualii, then Council Vice Chair Chock.

Councilmember Kualii: My question was going to be along the lines of at the risk of over simplifying. All of the zoning and density requirements are in-place. This Bill is coming as a result of when we did the ADUs and all of that, we did not necessarily get everyone who wanted to take advantage of them, to take advantage of them, because they had covenants with their local association that prevented them. Any talk of any prior organization with covenants would not apply, because this Bill can only go forward, so this would pertain to new developments. The idea is to not have covenants that would prevent this from happening. Is that correct?

Councilmember Evslin: Yes, exactly. Thank you for explaining that.

Councilmember Kualii: If they do currently have a covenant that restricts it, and they update their covenants, and they do not restrict it...at some future date they want to restrict it again, would this law apply? Or could you make it so that it does apply?

Councilmember Evslin: That would be a question for Matt?

Councilmember Kualii: Or maybe that is something to consider as we work on this Bill.

There being no objections, the rules were suspended.

Mr. Bracken: The way that it is written, if they were to update or amend their current HOA restrictions, then it would apply. If they were to amend that section...let us say that it prohibited it...yes, they could not go back and forth. If they messed with that section at all after this goes into effect, it cannot then prohibit it. If it is in-place, untouched, then they are fine, but if they somehow change or tweak it at all, then this comes into play and they have a problem.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you. I know we are only at first reading. Is Planning here? I can send my questions in. I will just state them for the record. I do think my experience in working with the Administration is the question of continuing to advocate or utilize guest houses as a means to increase density. I just wanted clarification about that. The second question is that our County is not taking a stance on enforcing on or regulating covenants in the past. It has been a separate entity of which we do not touch. My question is about enforcement and how we intend to follow through on this policy change as it is something new. Again, I am supportive of the intent, we need the housing. I want to provide this opportunity. I am not clear as to how this follows through. Thank you.

Council Chair Kaneshiro: Are there any further questions?

Councilmember Evslin: I can chime in here and if Planning wants to respond in writing or more in Committee. We did have extensive conversations along those lines. This is touching Chapter 22, which is the public health and safety chapter. This does relate to homelessness and the health and safety concerns around homelessness. Chapter 22 seems like the appropriate place to put it. What that also means is that Planning will not be enforcing it. In the Bill under the enforcement section it states, "Failure to comply with this Ordinance creates an independent right of action." It will be up to an individual homeowner or a group of homeowners who have been impacted to take it up with their HOA or developer in civil court. Matt might have more to say on that topic.

Mr. Bracken: Just to add on to that. That is the way it was drafted. It gives a person the ability to file their own action and their own enforcement.

Councilmember Evslin: It is a little confusing because it references Chapter 8 in here and that is why it is going to the Planning Commission. There is a section tied to Chapter 8. The only reason that that section is in there is because in that section in Chapter 8 currently, it states, "Nothing contained in this section shall affect private covenants or deed restrictions." If there is a developer who is looking to do a new development, if they look at this section on ADUs and they see that nothing in this section impacts CC&Rs, then we are good to go. It was meant to add clarifying language that nothing in Chapter 8 impacts CC&Rs, but Chapter 22 does, so refer to that section.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Councilmember Evslin, I am not sure if you or Councilmember Carvalho can answer this question. I heard a lot of our constituents ask, agricultural lands in upper Kapa'a and Kalāheo that have been condominium

property regime (CPR), they are large parcels of two (2) acres or more, they have one (1) dwelling on it, does this increase the density for those kind of people that have large CPR parcels that have one (1) dwelling? They have two (2) children, and they are looking to put another home on there. Does this help them or does this not apply?

Councilmember Evslin: The baseline CZO is still going to be in-place. It would impact them if for some reason they are doing this...and Ka'āina and Matt can correct me if I am wrong. If they are doing some development on agricultural land and for whatever reason they restrict...someone is going to get that guest house on that development. For some reason they are restricted and it says that no one is going to get this guest house, my understanding is that it would come in to play. Otherwise, it would not give them a guest house where they were otherwise not entitled to one through the CZO.

Councilmember DeCosta: Since Ka'āina is here...

KA'ĀINA S. HULL, Planning Director (*via remote technology*): Sorry, I was not monitoring the Council side of things. I was in another meeting. I do not know what the question is, but I am here for any questions that you may have.

Councilmember DeCosta: Never apologize. Your presence is graced upon us. I know on the north side of the island, we did not want to allow anymore additional dwellings so they could make a higher priced property. Now you have two (2) homes on the property and they try to sell it. That would cause the market value to go up. There are a lot of local people who have CPR lots that they have one (1), two (2), or three (3) children and they are going to add another home, but they cannot. They are sitting on a two (2) acre agricultural lot in Kalāheo with one (1) dwelling on it, and they have two (2) children. How do we help those kinds of families? They are not going to ever sell their land, but they cannot add another home, because the property was already CPR'd. Ka'āina?

Mr. Hull: Is the question about providing additional density? I am sorry Councilmembers, I was not listening to any of the conversations going on at Council before this.

Councilmember DeCosta: Councilmember Evslin, keep him abreast right now.

Councilmember Evslin: I think the main question is whether this would impact an individual homeowner on agricultural land who does not have the rights to a guest house or an ADU. He was looking for your clarification on that.

Mr. Hull: Sorry, again, I do not know what Bill you are talking about.

Councilmember Evslin: This is the CC&R Bill.

Mr. Hull: Okay, sorry about that. On properties that already have existing CC&Rs, my understanding from Matt's read is that it would not affect those, because those are already in-place as-is. Now, if an existing CPR wanted to update or amend their CPR map, this could potentially affect that updated CC&R where they might have to remove any restrictions that are in there. Concerning ARUs and guest houses...ADUs and ARUs are now exclusively possible only within the Residential Zoning District. This would primarily apply to the Residential Zoning District because you cannot have ARUs or ADUs on agricultural land anymore. You could never have ARUs, but you cannot have ADUs anymore. This would not apply to agricultural zoned lots or open zoned lots, because you cannot have those entitlements. It would be solely focused on the Residential Zoning District.

Councilmember Kuali'i: I think the other part of the question was about potential concern about enforcement against illegal TVRs.

Mr. Hull: I think if you go back to when the ADU Bill was passed decades ago and the ARU Bill was passed several years ago, the whole thrust of those two (2) ordinances is to provide mom and pop property owners to increase their ability to have housing units on property and increase the inventory particularly during a housing crisis. The same concern was brought up back then, Councilmember Kuali'i, is does this provide a new opportunity for property owners to illegally vacation rent these units. Yes, because it is a dwelling unit and they can put it on Airbnb. I would say that our enforcement program has gotten fairly robust over the past few years and we are certain that we could identify any of these folks that try to put them online. We would put them through the enforcement process as we would do other violators. Like I said back during the ARU discussions, the fear of TVRs should not outweigh the need for allowing the possibility of more inventory on these mom and pop properties. If we do see a large boom of illegal TVRs through these ARUs and ADUs that are now permissible, that is what I am here for. You are to hold me accountable, if you will. So far, we have been pretty successful in our enforcement program with the stick, if you will, with the notice of violations, but as well with our memorandum of understanding (MOU) that we have executed with both Airbnb and Expedia to remove those illegal operators from the third-party platform websites.

Councilmember Kuali'i: Because this only applies to new subdivisions going forward and we do not necessarily have a lot of that happening, any potential for any kind of increase you could handle with your current operations, correct?

Mr. Hull: That is correct too, Councilmember Kualii. I would not say small CPR projects can restrict ARUs and ADUs from being constructed, but generally, you only see these types of restrictions on CC&Rs in large subdivisions. The three hundred (300) or four hundred (400) unit subdivisions that restrict or limit certain properties within the subdivision from having a guest house or ADU. You only see this with the larger ones. We would like to see more quite honestly. We would love to see more subdivisions during this housing crisis with local style housing, but we are averaging maybe one (1) every seven (7) or eight (8) years right now. There would not be a mad rush to the door, if you will.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Regarding applicability, what is the rationale for excluding the County of Kauai, State of Hawaii, or United States Federal government from being a part of this Bill? Page 4, Applicability. Why are we exempting ourselves from something we are going to make private developers do?

Mr. Bracken: Part of the concern was what you just saw in front of you. Hōkūala, depending on when the conditions go through, it could potentially be problematic. The language in here makes it very clear that the agreement between Council and the developer, this ordinance would not apply. This ordinance would not conflict with that potential problem. The other issue was the Housing Agency, from what I recall, at times does put certain restrictions on affordable houses. It has been a while since I looked at it. It is when we do the purchase and the resell. I think we do put some restrictions on the property. It is really meant, so we do not mess with our affordable housing projects. That was the purpose of keeping the County out of it. The State was in a similar situation. They primarily have responsibility for affordable housing and a shared responsibility for affordable housing. Any projects they have would be similar to ours. The Federal government, generally our laws would not apply to them anyway. It is making it very clear that it does not. For instance, our zoning laws do not apply to the Federal government. It was making it very clear that it would not anyway.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: This question is probably for Ka'āina. You mentioned that you do a really good job at going to the websites of the TVRs who are outside of the VDA and doing illegal rentals. I also know that there are people in the VDAs that actually do subleasing. When they are full with putting guests in their units, they throw guests over to other TVRs that are illegal and they do not even have to advertise it. They have people in TVRs that are advertising for them. Do we have anything in-place to infringe on those kinds of illegal activities for bookings?

Mr. Hull: Yes, we are aware of the catfishing process that some individuals are using in the vacation rental industry to advertise on a legal site and then somewhat push the transient over to a different unit outside of the VDA. Those are trickier to handle, because of the fact that there is no paper trail on the world wide web concerning advertisements. We do push through them. They are trickier to handle because of the need to collect evidence and the lack of avenues there. We are aware it is there and we are attempting to address that.

Councilmember DeCosta: Thank you.

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

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

Councilmember Cowden: I am still a little confused. I appreciate the intention of this. I will continue to learn more. I understand why it is important to create housing, including very much on the North Shore for families that have two (2) acres are often very much wanting that. The typical conflict is the agricultural zoning. Yes, I am going to vote for it for right now.

Council Chair Kaneshiro: Anyone else? I think for me personally, I think it is a little overreaching for us to be superseding CC&Rs. It is not going to help anyone that has complaints now, because their CC&Rs are already existing. Anyone that has complaints about not being able to do these things, it is not going to help them. This is only for future developments. I think by exempting the County from this restriction is like saying, "Do as we say, but not as we do." I think it is going to open up a can of worms when it comes to CC&Rs. I think there is a lot of different things that happen in a CC&R. It can restrict your building coverage, which it does not need to abide by. It could make it smaller than what the County allows, which will make it harder to add a unit. It could restrict the number of kitchens or do a whole bunch of things. I think it is going to be very difficult to pinpoint and nail down everything to prevent something in a CC&R. For me, I do think it is a little overreaching. I care about housing and I know we are in a housing crisis, but in the end, I do think it is a little overreaching. I think when people develop areas, they try to create a certain look or feel and the CC&Rs are what is used to create the look and feel. By doing this, I think it is going to be very difficult to try and create a development within the confines of this. Anybody will be able to build, add, or do whatever they want. Yet, it is going to affect their footprint, the number of vehicles on the road, et cetera. There are just a lot of things that go into keeping a certain look or feel to a development. That is just my own personal opinion. Council Vice Chair Chock.

Councilmember Chock: I support the intent of this Bill as well. I will be voting in support of it to see it to the Planning Commission. I would agree with the Council Chair that we are opening up a can of worms. I also see it from the opposite side as well. That can of worms has been pretty exclusive and far reaching. I have stories of CC&Rs imposing restrictions on agricultural activity on agricultural land. The question I have is, what are the parameters of what government should be enforcing for use and the way properties are zoned? If we do venture down this road, can we ensure that we are doing it fairly, with equity, and are we able to follow through on it? This layer is something that I think is something we really have not opened the door to. It is something that I think we need to be prepared for. I will be supporting this on first reading. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am still not sure what way I am going to vote. I am glad that you brought this to our attention. There are a lot of questions. I am more like Councilmember Cowden, I need to be more abreast of what is happening. I do know that we have a really nice subdivision right across of Home Depot and Costco. One time I brought my horse trailer and horse there for a birthday party. A lot of the neighbors were wondering what I was doing in their neighborhood with a horse trailer and bringing the horse on pony rides. There is a community out there who likes living like that. They like the luxurious style of houses. We have nurses from Wilcox, doctors, firemen, and policemen. With that being said, I would like to know more. I do not want to see a subdivision like that become an overcrowded area where now...I am not saying higher end people, but I am saying the people that can afford that...they are lucky they can. They did things right in their life to set them up. I do not want to see that subdivision not exist now, because they are overcrowded with buildings on top of buildings. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I just want to address some of the concerns that came up and especially some of the confusion around the Bill. Just to clarify again, our zoning code allows at least four (4) homes by right on all residentially zoned lots. CC&Rs or other forms of covenants or restrictions that run with the land very often end up restricting what can actually get built in a neighborhood. Even though all of the work of our General Plan and our community plans to say what the density is going to be in a certain area, a developer or a neighborhood association can come in and say after-the-fact, "No, we do not want any of this density now that we are living here and no one else can live here." I think that when that happens and when a family cannot build an ADU, an ARU, or a guest house, or partition their house, that often ends up locking all but high-end convertors out of certain neighborhoods. The only way I could afford a house is by turning half of that house into an ARU to help pay my mortgage. I think most non-homeowners on Kaua'i are in the same

position as me. It is really going to be really difficult to afford a house unless you can get some income out of that house. When your neighborhoods have restrictions that are locking all of these people out of these communities, it reduces the supply of housing, which obviously contributes to our housing crises and homelessness. It makes it harder for multi-generational families to live together or for *kūpuna* to age at home, because they cannot partition their house or add on something new for their children to come and live with them as they age. I think it has huge and compounding impacts islandwide. Certainly, it is not going to make a difference for these places that already have it. We are probably not going to see much come of this for the next five (5) years or ten (10) years even, but down the road, it will start to make a difference as we try to ensure that Kauaʻi can remain...or not even remain because it is not right now...but as we try to get Kauaʻi to get to a place where Kauaʻi residents can afford to live. That is the intent.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: When you look at long-term rental inside a house, when you have a housemate, that seems like it should not be in a CC&R. I guess I understand why it could be in there. I think of when it used to be, when you look at when a homeowner's association changes, all of a sudden it ends up being in things. Building another house is quite a bit different than having someone else help share the rent with you, that is a slippery slope. It is not very easy on where these edges are. It seems like it is worth a good conversation. It does not seem like a clear-cut and simple topic.

Council Chair Kaneshiro: This is going to go to the Planning Commission to be vetted there. We are only voting to get it to the Planning Commission. I know the topic of the houses across from Home Depot came up. If we did this, someone with one (1) house there could build a four-plex essentially. They could build their unit and could connect a smaller ARU to it. They can build an ADU and connect a smaller ARU to it. Instead of seeing houses the way they are there, you could potentially see someone using all their density since no one can restrict anything in their CC&R. Every single lot there could be a four-plex. I think we are a little bit overreaching in trying to control the way the neighborhood would look like. Maybe some people do not want to buy a property and have a four-plex surrounding them. That is where I think this is a little overreaching. We will see how the Bill goes. Councilmember Kualiʻi.

Councilmember Kualiʻi: That is exactly what I was going to say. It is easy to support today's vote, because it is to refer it to the Planning Commission where they can vet through it further and provide us with more information. I do share the concern, and I did hear Matt say what he said, but I want to hear more about the County exempting itself and what specifically are the concerns with the

Housing Agency. There is probably a way around it without us exempting ourselves. I am hopeful that there is. I will support this today.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Overall, this Bill ties back to the General Plan. It gives us another option. For me, when looking at the different options, I think we have an opportunity to take this to a different level where it can go to the Planning Commission and get vetted there. We can bring this back to see where the discussion points were. I know there are a lot of questions about this, but overall, I see this as an opportunity that ties back to the General Plan. It was not created out of the blue. In the discussions that I have had with Councilmember Evslin, that is what the intent was. Hopefully everything can move forward. Thank you.

Councilmember Kualii: I am also interested to hear and see how the Planning Commission deals with the concerns that Council Chair has expressed about the density and these larger units. I think we, as a County, should determine the density and the zoning. If we think that is an appropriate place for that and that will bring us more units, then maybe we should be making these CC&Rs line up with what we put in-place as the density and the zoning. I am looking forward to hearing from the Planning Commission and planners.

Council Chair Kaneshiro: Any further discussion from the Members?
Councilmember Evslin.

Councilmember Evslin: I just want to recognize what you said, Council Chair Kaneshiro. I think most people still probably want to live in a single-family home if they can afford to do so. If they already own that home and they are living in it, it is not going to unleash the floodgates of people wanting to build a four-plex. I live in a neighborhood where they are allowed. I do not think there is a single four-plex in our neighborhood. It is giving an individual homeowner the ability to build out in accordance with the CZO without their neighbors or a developer who is no longer involved in the project dictating what they can or cannot do with their property. With that said, I look forward to talking more in a few months when this comes back to us.

Council Chair Kaneshiro: Is there any final discussion on this? Again, this will go to the Planning Commission.

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

The motion to refer Proposed Draft Bill (No. 2834) to the Planning Commission was then put, and carried by the following vote:

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

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

EXECUTIVE SESSION:

ES-1059 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, on behalf of the Council, requests an Executive Session to consult with the County Attorney on matters related to the Governor's Emergency Proclamation Related to the COVID-19 Response, specifically the vaccine and testing requirements for County employees. 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 Kualii moved to convene into Executive Session for ES-1059, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions or discussion from the Members? May I have a roll call vote to go into Executive Session?

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

The motion to convene into Executive Session for ES-1059 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro That concludes the business on our agenda. Not seeing or hearing any objections, this Council Meeting is now adjourned and we will go into Executive Session.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:47 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a large loop at the start and a long horizontal stroke extending to the right.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:jy