

COUNCIL MEETING

FEBRUARY 24, 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, February 24, 2021 at 8:39 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 Arryl Kaneshiro

Excused: Honorable KipuKai Kuali'i

Council Chair Kaneshiro: Good morning. Today's meeting will be conducted pursuant to Governor Ige's Supplementary Emergency Proclamations with the most recent relating to the Sunshine Law being his Eighteenth Supplementary Emergency Proclamation dated February 12, 2021. Today for our agenda, we have no registered speakers, so we will get to go through our items as usual.

APPROVAL OF AGENDA.

Councilmember Carvalho moved for approval of the agenda, as circulated, seconded by Councilmember Chock.

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

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 6:0:1 (*Councilmember Kuali'i was excused*).

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

MINUTES of the following meeting of the Council:

February 10, 2021 Council Meeting

Councilmember Chock moved to approve the Minutes, as circulated, seconded by Councilmember DeCosta.

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 carried by a vote of 6:0:1 *(Councilmember Kualii was excused)*.

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

INTERVIEW:

BOARD OF ETHICS:

- Ryan de la Pena – Term ending 12/31/2023

Council Chair Kaneshiro: With that, I shall suspend the rules. We should have Ryan and Ellen on.

ELLEN CHING, Boards & Commissions Administrator *(via remote technology)*: Good morning, Chair.

Council Chair Kaneshiro: Hi, Ellen.

RYAN DE LA PENA *(via remote technology)*: Good morning, everyone.

Council Chair Kaneshiro: Hi, Ryan.

Ms. Ching: Good morning, Chair and Councilmembers.
Do I hear an echo?

Council Chair Kaneshiro: Okay, you should be okay now.

Ms. Ching: Is that better?

Council Chair Kaneshiro: Yes.

Ms. Ching: Good morning, Ellen Ching, Administrator for Boards & Commissions. This morning, I am happy to introduce Ryan de la Pena. Ryan is a proud Kapa'a High School graduate. Before returning to Kaua'i he earned his degree in Computer Engineering at the University of Notre Dame and his Master of Business Administration (MBA) from University of Hawai'i Mānoa. He and his wife Sharon are very proud parents of two (2) very energetic sons, Luke and Noah. Luke is a high school senior this year, a canoe paddler, a cross country runner, and a golfer. His younger son, Noah, plays baseball and soccer. As the saying goes, "The apple does not fall very far from the tree." When Ryan is not ferrying or chasing after his very active sons, given his druthers he would be hiking or mountain biking. His favorite food is pizza, not just any kind of pizza, but Chicago deep dish pizza. For pizza connoisseurs, is there any other kind? I am really a "tech dummy." In my simplistic mind, this is how I would characterize Ryan's profession, basically, he is a brainiac and he supervises a whole bunch of other brainiacs like him that work on

computers and data systems, and please do not ask me what that really means, because as I said, I do not quite understand it. But at any rate, I am grateful that Ryan is willing to lend his time and talents to the Board of Ethics. Thank you.

Council Chair Kaneshiro: Thank you. Ryan, do you have anything to add to that introduction?

Mr. de la Pena: Good morning, everyone. No, I think Ellen summed it up quite well.

Council Chair Kaneshiro: Do we have any questions from the Members?
Council Vice Chair Chock.

Councilmember Chock: Thank you, Chair. Thank you, Ryan for being here and thank you for your continued willingness to serve on the Board of Ethics. How many terms has this been for you now on the Board of Ethics?

Mr. de la Pena: Good morning, Vice Chair Chock. I was on the Board of Ethics for two (2) terms and took a year off. Prior to that I was on the Civil Service Commission for two (2) terms, as well.

Councilmember Chock: Right. Well, I appreciate it. Do you have any specific interests or plans for your leadership? I know you have been Chair and have served us well at the Board of Ethics, do you have any specific focus on the next go around?

Mr. de la Pena: No specific plans. I have been out of the loop for about a year, but I would just like to continue serving, volunteering, and following the Code of Ethics, County Charter, State Constitution, and Hawai'i Revised Statutes, as they apply to the Board.

Councilmember Chock: Thank you, again, for serving. I appreciate this Board's very important role and look forward to it being proactive and fair, of course. When hearing Ellen's description, it reminded me, not only when she talked about your sons, but of our time in elementary school. Ryan was the smartest kid in our class—in fifth and sixth grade, so it does not surprise me that he continues to be that person, so whatever you have to offer in terms of service we really appreciate you and you have my support. Thank you, Chair.

Council Chair Kaneshiro: Councilmember DeCosta.

Mr. de la Pena: Thank you.

Councilmember DeCosta: Is this discussion time?

Council Chair Kaneshiro: Any questions first.

Councilmember DeCosta: I will wait for discussion.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you. It is interesting what kind of pizza you like, but what inspires you? Really being on point with what the Board of Ethics is about...how do you see your role and understand your role in terms of really looking where we have accurate and fair examinations of the ethics of our people? It is more than pizza. I appreciate the humor, but I would like to hear what you have learned and how we need to be effectively understanding how we affect careers and how we make sure that our County is operating in an ethical way. Thank you for your effort.

Mr. de la Pena: Thank you for your questions. I try to be fair, unbiased, and try to follow the code of ethics as closely as possible. There are a lot of opinions and so many parties involved with issues that face the Board, but our responsibility is to be as fair and unbiased, and follow the code of ethics as closely as possible.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Any further questions from the Members? If not, final discussion from the Members? Councilmember Carvalho.

Councilmember Carvalho: Good morning. Thank you so much for your service. I know you and your *‘ohana* for a long time and I know when you get to the table, you come there with a good heart and understanding of what needs to happen, especially now with the Ethics Commission. Now that, as a dad, and hearing all of your stories there too, but more importantly the role you play or you have on the table of Ethics—that is important. Obviously, your background and your experience ties that in, so *mahalo* for your service and thank you for jumping in and being part of the team.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Hi Ryan, how are you? I do not know your professional side. I am a new Councilmember, but my son grew up with your son, playing soccer and paddling canoe in high school, and I would like to think people are always measured by the children they put out into the community, and both of your sons are standup gentlemen in our community. I was actually very honored that my son friended your son about two (2) years ago during a paddling competition. If you are any example of who your sons are in the community, I am one hundred percent (100%) behind you. Just a little bit of advice, as far as ethics go, there are opinions, and I know sometimes there are a slight gray area, but trust in your judgment, because there are many who believe in you and you will make that right decision to benefit our community, so thank you very much Ryan.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Ryan, for your willingness to serve here. With a son named Luke who likes to paddle canoe, you have my ringing

endorsement here. I am just kidding. I know you will continue to do an awesome job on the Board of Ethics. I am glad you are returning, and as Councilmember Carvalho said, you have a good heart and as everyone else has said, you are a brainiac overseeing brainiacs, which has two great attributes to bring to the table here. I appreciate your willingness to serve and continue to do great work on the Board of Ethics.

Council Chair Kaneshiro: Is there any final discussion from anyone else? I just want to say thank you, Ryan, again, for your willingness to serve and volunteer for the County. You have served a lot of terms on different Commissions. Obviously, no one gets paid on those Commissions, it is volunteer time, and some of these Commissions are tough. I know the Ethics Commission is probably pretty tough. You will get some issues that will have you making very hard decisions and it is not an easy Commission where you just show up to. I appreciate your time and effort for that. Councilmember Cowden.

Councilmember Cowden: Thank you for the work that you do. Just having to have experience, it is really important to me that we have Commissioners that read the material and really focus on it. It is very important that when there is material that it is read and fairly assessed. So I am hoping that is a policy. Thank you.

Council Chair Kaneshiro: Is there anyone else? I have had to go in front of Ethics before. I may not have agreed with all of these decisions they made, but I know they were prepared, they read the material, they voted the way they did, and I accepted whatever decisions came out of Ethics and respected the Commission's decisions.

Councilmember Cowden: I have had the experience of no readings.

Council Chair Kaneshiro: With that, thank you, Ryan and Ellen. The vote for this will come up at our next meeting.

Mr. de la Pena: Thank you, Council.

Ms. Ching: Thank you, Council.

Council Chair Kaneshiro: Next up, is the Consent Calendar.

CONSENT CALENDAR:

C 2021-40 Communication (01/28/2021) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of November 12, 2020.

C 2021-41 Communication (01/29/2021) from the Hawai'i State Association of Counties (HSAC) President, transmitting for Council consideration, HSAC's slate of officers for the remainder of the current Fiscal Year 2021 term, pursuant to Section 5 of the Bylaws of the Hawai'i State Association of Counties, Inc.

C 2021-42 Communication (02/17/2021) from Councilmember Chock and Councilmember Evslin, transmitting for Council consideration, a Resolution Urging The Governor To Resume In-Person Education For Grades K-12, Interscholastic Sports Competitions, Organized Youth Sports, And Adult Recreational Sports For The State Of Hawai'i.

Councilmember Chock moved to receive C 2021-40, C 2021-41, and C 2021-42 for the record, seconded by Councilmember DeCosta.

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

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

The motion to receive C 2021-40, C 2021-41, and C 2021-42 for the record was then put, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused)*.

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

COMMUNICATIONS:

C 2021-43 Communication (02/05/2021) from Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept and expend Domestic Cannabis Eradication/Suppression Program funding, in the amount of \$25,000.00, which will be used for payment of overtime, renting vehicles and aircraft, training, equipment, and technology for conducting drug enforcement operations both on the island of Kaua'i and with other State, County, and Federal law enforcement agencies in the fight against drug- and gun-related crimes.

Councilmember Carvalho moved to approve C 2021-43, seconded by Councilmember Chock.

Council Chair Kaneshiro: Do we have any questions? I will suspend the rules. Councilmember Cowden.

Councilmember Cowden: Thank you, Chief Raybuck for being here. Twenty-five thousand dollars (\$25,000) is a relatively small amount when we are looking at what is being needed. I would like to hear what the money is spent for and I have sent a list of questions, I do not know if you were able to give that consideration.

There being no objections, the rules were suspended.

TODD G. RAYBUCK, Chief of Police *(via remote technology)*: Aloha kakahiaka, good morning, Chair and Councilmembers. Are you receiving feedback on your end?

Councilmember Cowden: Not too bad.

Council Chair Kaneshiro: We can hear you okay.

Mr. Raybuck: Okay, I will try to talk slow, so if there is feedback it can mitigate itself. Thank you for the opportunity to be here this morning on behalf of Kaua'i Police Department (KPD) and the acceptance of these funds. To give you a brief overview, the Domestic Cannabis Eradication/Suppression Program is the only nationwide law enforcement program that exclusively targets drug trafficking organizations that are involved in cannabis cultivation. The Kaua'i's participation in this Program is a multi-law enforcement effort between the KPD, the Honolulu Police Department (HPD), State Narcotics Enforcement Division, Department of Land and Natural Resources (DLNR), and the Hawai'i National Guard counter drug programs to target illegal marijuana grows on the island of Kaua'i. KPD's participation in this Program has eradicated illegal grows on private and public lands, including near Mount Wai'ale'ale. Illegal marijuana grows not only draw individuals engaged in other criminal and drug activity, they also pose an environmental threat to our island. Marijuana cultivation requires a significant amount of water and chemicals. Illegal marijuana growers often divert natural streams and water sources to provide irrigation to their crops. Marijuana grows on public lands destroy and impact natural flower and fauna and impact natural wildlife habitats. It is common for marijuana growers to use chemicals and herbicides that damage the environment, and often these growers on public lands leave behind the chemical containers and rubbish to pollute and cause further damage to the environment. This funding will be used for helicopter services, rental vehicles, overtime training, equipment, and technology for conducting this cannabis enforcement, and I hope that the Council will approve these funds, so that we can continue to protect the island of Kaua'i from these illegal grow operations.

Council Chair Kaneshiro: Thank you. Councilmember Cowden.

Councilmember Cowden: Did you get my list of questions?

Mr. Raybuck: I did. Would you like me to go through these questions individually?

Councilmember Cowden: Yes, I would.

Mr. Raybuck: I am sorry, I did not hear your response.

Councilmember Cowden: Yes, please.

Mr. Raybuck: Okay, the first question, how was the presence of pot different than alcohol and events like suicides and other crimes? I do not have the data in impact on suicides. I do not know if that data is actually collected. As far as crimes, marijuana is an intoxicating substance. So much like alcohol, it does create a significant impact on impaired driving and related crashes in our community. Unfortunately, we have seen in most recent events the appearance of alcohol and cannabis in drivers involved in serious and/or fatal collisions. Because it is an intoxicating substance, it is often involved in other criminal activities or is a factor in other criminal activities. I do not particularly know how to differentiate between

alcohol and/or marijuana. Both substances have their own individual harms and impact on crime.

The second question is, what percentage of crimes that have evidence of cannabis use also have alcohol present? It is very common, particularly for intoxicated drivers to have both substances involved. Again, I do not know of any specific studies that identify what percentage of crimes have the evidence of both, as those would require either studies that engage individuals that admit to it and/or are tested for it. I know that in the past there have been studies that have gone into prison populations and jail populations to interview employees, but I did not have time to research that prior to today's meeting, so I cannot answer fully to that question.

Recreational use has been legal in Nevada since 2017, was there a spike in crime that coincided with that policy change? That is accurate. At the time that the marijuana became recreationally legal in Nevada, I was the Organized Crime Bureau Commander, so I was actively engaged in the discussions and the review of the impact of marijuana and its recreational use. Las Vegas Metropolitan Police Department did in fact see crime associated with marijuana increase. For example, drug-related homicides involving marijuana increased significantly shortly thereafter and continues to be a factor in the community. We also saw a spike and increase in robberies involving individuals that participated both in legal and illegal marijuana delivery systems, where individuals would call under the guise of ordering marijuana, and then they would rob and/or injure the individuals who arrived to provide that. We saw a significant increase in illegal black market activity. This illegal activity brought other types of crime along with it. It created a challenge and still creates a challenge today, for law enforcement to effectively address illegal and black market marijuana operations. Once this substance was made legal, it made it very challenging for prosecutions, as juries would be more sympathetic to not pursuing and convicting individuals for illegal activities associated with the legal product. So it is hampered and damaged the ability to hold people accountable for their illegal activities. That is just a basic response to your question.

Councilmember Cowden: I really appreciate that response. You would have an opportunity to see a before and after in your experience in Las Vegas. I am told that cannabis or marijuana of the present is quite a lot different than it used to be. Decades ago here, people just went up and put the crop and the plant in the ground and went back months later and harvested it—this was an industry area, decades back. When we had Green Harvest, it was devastating, to at least the side of the island that I lived on, because we ended up with crack, heroine, and methamphetamine, which are much more dangerous, much more criminal element type of drugs. I mean the change in the community was palpable. I did not see any statistics, but I appreciate hearing what you are saying. I know that across the nation...I am telling you a little bit, but I just...that is why I asked about the suicide and the other crimes because last year when I was reluctant to pass this, I was told that marijuana was linked to different crimes. I just see the trend at the Legislature and across the nation is towards decriminalization of this drug. A lot of times the criminalization of a drug is what creates the problem. I do not know if you have any response on that observation, but alcohol seems more violent than pot. With pot, people usually do nothing. It is a sedative, right? It is not something where people will go and beat their wives when they are stoned, do they?

Mr. Raybuck: Thank you for the opportunity to respond to your comments. The relationship between illegal cannabis eradication and the assumption that removing marijuana has led people to harder drugs—I do not know is statistically and factually accurate. Anecdotally, there may have been some sort of a transition that was apparent that anecdotally one may conclude that; however, drug trends often ebb and flow. Marijuana use has continued to increase despite some of our efforts to eradicate marijuana from the black market, particularly so, now that there has been much more discussion about acceptance and legalization in the sales of marijuana. As far as your second point, which I apologize was, if you can refresh my memory.

Councilmember Cowden: I think my second point was, alcohol seems to be a stimulus that creates aggression and violence, while marijuana seems to be a plant—it is a sedative. So just anecdotally between a completely legal product and a product that gets criminalized, it seems like we are criminalizing the wrong one. I am not suggesting we need to criminalize alcohol, but when you see the comparative, it is a profound difference. When we have needles in the bathroom and the toilet paper in the public parks behind my house, at least here on Kaua'i, there was nothing subtle about the change, it was profound, but that was decades ago. I am admitting, I do not really understand this industry very well, but I do know what it was like to live in a community that eradicated marijuana and what was a very evident change that happened within a year or two. I think I had asked if there was different statistics on a crime, but I appreciated just being able to have the dialogue with you. I am not a police officer. I have not had your job, doing what you do. I was a sports retailer right in the center of all of this—that was our clientele by the way, a lot of discretionary income and free time when that industry was here. I just saw the profound difference that happened. I am reluctant to get excited about continuing to pursue this, especially when I see how much legislation we have across the nation and in this State, and we are a lagging State—to decriminalize it. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Mr. Raybuck: If I may.

Council Chair Kaneshiro: Go ahead Chief.

Mr. Raybuck: Chief Raybuck for the record. Just to clarify, marijuana is not a sedative. Marijuana is an intoxicating hallucinogenic drug. As we have seen recreational use and production and legalization of the drug, the tetrahydrocannabinol (THC) content, which is a psychoactive, mind-altering drug, or component of marijuana—the percentage has increased dramatically. In fact, the current legislation before this State would allow any percentage of THC to be sold recreationally here in Hawai'i. What that would mean is that cannabis oil, which sometimes can produce up to ninety-eight percent (98%) pure THC, would be available for use. The consumption of high levels of THC produces significant hallucinatory effects. I would defer to the organization, Smart Approaches to Marijuana (SAM), you can Google: learn about SAM; they have comprehensive information on that website. It is a nonprofit entity that is bipartisan that provides information and research regarding

the impact of marijuana on our communities and I would be happy to forward that information to the Council for further review.

Councilmember Cowden: Thank you.

Mr. Raybuck: One of the things that is interesting about legalization and recreation of marijuana that I have witnessed as a parent and a citizen in Nevada when this was legalized, and that is quality of life issues that come along with the increased use, production, and sales of marijuana. It was interesting to hear the previous speaker speaking about his neighbors that have cut irrigation lines and threatened to burn down crops and cause physical harm, because of the odor of coffee, because the odor of marijuana, as anyone that has ever smelled such, is very distinctive and pungent. One of the byproducts of legalizing marijuana in Nevada has been that it has created significant odor issues that are often complained about in communities. People who hold birthday parties in their backyard, while the neighbor next door is growing and smoking marijuana and the children are being exposed to that odor and that smoke—it is those types of issues that are often overlooked by people who are concerned about addressing the legal status and approaching the opportunity to receive tax moneys for that. It is a very complex discussion and I also appreciate the opportunity to be here today just to share some of my insights and experience with the issue.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Questions? Councilmember Carvalho.

Councilmember Carvalho: Good morning, Chief. I just wanted to follow-up on the use of the funding. I know you have mentioned vehicles, air craft, and so forth, but can you explain to me the purchase of new technology, and what does it mean?

Mr. Raybuck: I will defer that to Assistant Chief Ponce about what technology that might be.

BRYSON PONCE, Assistant Chief of Police, Investigative Services (*via remote technology*): Good morning. Bryson Ponce, Assistant Chief, Investigative Services Bureau, Kaua'i Police Department, for the record. Although, I cannot go into the specific technologies that we purchase for our cannabis operations, the technology we do acquire is basically to help with spotting and allowing our people to go into different fields if we need to put them in there, and just those things to help us detect, because a lot of times when you are in the air, it is difficult to see—you really need to train your eye. I have talked to several people in the hemp industry to utilize their fields for training to help our new officers to see what they are looking for, but there is technology out there that helps us with identification to be able to see, because we are trying to cover the entire island—every aspect of the open lands on the island.

Councilmember Carvalho: Okay, thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you, Chair. Chief, what do we expend annually on the enforcement of marijuana? What is our budget in its entirety?

Mr. Raybuck: Chief Raybuck, for the record. Thank you, Councilmember Chock. I do not have specific broken apart statistics on what we spend on marijuana. Predominately, as far as focused efforts on marijuana, it would be this twenty-five thousand dollars (\$25,000). This twenty-five thousand dollars (\$25,000) will support, essentially, two (2) operations to detect and identify illegal grow operations on public and private lands. Other than that, the priority focus of our drug enforcement efforts are focused on drugs such as, marijuana, methamphetamine, heroine, and those drugs that we see as predominant issues in our community, so that is where the largest portion of our efforts are associated in our spending.

Councilmember Chock: Thank you very much.

Council Chair Kaneshiro: Councilmember DeCosta.

(Councilmember Chock was noted as not present.)

Councilmember DeCosta: Aloha, Mr. Ponce and Chief Raybuck. I just have one question. Do you have a breakdown on the cost of flying a helicopter that you folks use to spot those marijuana patches that are being illegally grown? I know a helicopter is quite a bit of an expense to our Fire Department, so I was wondering, twenty-five thousand dollars (\$25,000) does seem like a small amount if you are going to put that into the use of a helicopter. Do you have a number of times that you fly throughout the year and use the helicopter as a way to spot the illegal growing?

(Councilmember Chock was noted as present.)

Mr. Raybuck: Chief Raybuck, for the record. Thank you, Councilmember DeCosta for the question. I do not have the specific cost of the helicopter services. We utilize a contract provider out of Maui to provide those helicopter services. We rent two (2) helicopters—those are utilized over a 2-day period throughout the year and we also obtain the assistance of the Hawai'i National Guard and their resources. Department of Land and Natural Resources (DLNR) also provides some resources, as well. While I cannot give you the specific dollar number for the helicopter services, it is the predominant bulk of this twenty-five thousand dollars (\$25,000).

Councilmember DeCosta: Chief, it should be simple to get us the cost of leasing a helicopter for two (2) days out of Maui. I am sure they have a price per hour. Maybe next time you could have that figure. I am just trying to run numbers in my head and see if twenty-five thousand dollars (\$25,000) is an adequate amount or you folks might need more. I do not know, but thank you.

Mr. Ponce: Councilmember DeCosta, I have the numbers in front of me. Today, operations would run just under fourteen thousand dollars (\$14,000).

Councilmember DeCosta: Thank you. We do not have enough to do two (2) interisland travels throughout our native forests to look for marijuana. This twenty-five thousand dollars (\$25,000) might only give you folks one (1) 2-day throughout the year to do an investigation of where plants are being grown, am I correct?

Mr. Ponce: That is correct.

Councilmember DeCosta: Okay. Thank you.

Council Chair Kaneshiro: Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: Thank you for the information you are giving. I am curious, because I sincerely do not know. On public lands or private lands in these bigger places, are we still seeing many large grows? I know they used to look before with infrared. How many large grows do we typically find in a year?

Mr. Raybuck: Chief Raybuck, for the record. Councilmember Cowden, thank you for the question. Fortunately, we have seen a dramatic decrease in the grow operations on our public and private lands. I would like to attribute that to the fact that we utilize these funds and have used this operation in order to eradicate and address these illegal operations, so that has been a deterrent for the ongoing grow operations that we have seen in the past, so we have seen a significant decrease in those. I participated in this operation just soon after being appointed to Police Chief and over the course of that operation, we found a few areas that may have been problematic, but did not identify any significant grow operations.

Councilmember Cowden: Thank you for that. One of my takeaways from what I am hearing is that when people are given permits to grow their small amount in their yard for medicinal use that is therapeutic for an identified medical challenge, sounds like for the most part, that medical legalization is addressing the need, does that sound right? Some people have blue cards or whatever it is called—they grow it in their yards, right?

Mr. Raybuck: Chief Raybuck, for the record. Yes, the permits provided to medical patients does allow them to obtain the marijuana that provides them the relief that they seek through that substance. The operations that we conduct, at times, do identify locations where marijuana is being grown on private land and it allows us to confirm whether or not those individuals are actually permitted and/or if they are in compliance with their permit. On occasion, there are individuals who grow more marijuana than they are permitted and those individuals are addressed based on that information.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chief Raybuck and Assistant Chief Ponce for being here today and answering the questions. Is any of the money used for enforcement or investigation into small-scale possession or is it all targeted towards larger-scale grow operations?

Mr. Raybuck: Chief Raybuck, for the record. Thank you, again, for the question. Good morning, Councilmember Evslin. No, these funds are not utilized for the investigation of private use. In fact, it is not KPD's priority, nor do we focus on personal use. Our enforcement strategies and Vice operations are to identify and dismantle drug trafficking organizations and individuals responsible for distributing dangerous drugs to our community that cause addiction, crime, and problems in our society. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Councilmembers? If not, I will call this meeting back to order. 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 really appreciate the Kaua'i Police Department being here and discussing it. I am going to vote "yes" on this. In general, I would like to see this continue to be decriminalized, but I feel comfortable that the use of this funding is making sure that we do not have an overgrowth or an unfair scaling. When we have public lands, it should not be abused, so I think that there are...this does not seem disproportionate, this is not intended to hurt people's lives and that is the main point that I would have as a concern. There are veterans and different people that I know this helps, at least it seems that they truly believe that it is what helps them, so I just wanted to make sure. To go look in that helicopter, I see that yellow helicopter, check that we are not abusing our public lands for allowing something to become large scale—that is comfortable with me, it does not sound like it is going to something that is small level possession, so I will be voting "yes."

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

Councilmember DeCosta: Thank you, Council Chair Kaneshiro. My comment to this is that I support this. I think it is a very small amount. As a pig hunter, I spend a lot of time in the forest and I do not like to incorporate or walk through a marijuana patch. There are some things that do go down and I do not appreciate it, so I think that allowing people to grow in their backyards, who have cards, and everything goes through the system where they have their permits is good. I do not think that this would make a big impact on what is happening out there in the forest, so I appreciate it and I am going to be voting "yes" on this. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair Kaneshiro. I will be voting "yes," as well. I do want to echo a little about...I have concerns, I think there has been

growing evidence around the country around the impacts of criminalization for small amounts of possession on minorities and low-income groups. I think that Chief Raybuck and Assistant Chief Ponce, and in the past we had Justin Kollar here, have spoken really well to that, as far as where they are targeting their enforcement efforts and this money is clearly going towards large-scale growing operations and trafficking organizations on the island. Also, while some of our conversation was circling around the correlation between marijuana use and crime, there is also a clear correlation between marijuana use in teenagers and psychosis and other types of mental health impacts and long-term impacts on teenage brains. I think especially, because as Chief Raybuck referenced increasing THC levels, it ends up disproportionately impacting teenagers' brains. I am concerned also about conversations around normalizing marijuana use. With all of that said, it has clear medicinal uses. I know a lot of people who rely on it for medicinal purposes and for those people, that is a clear avenue that they can go to be able to legally use marijuana for those uses. So I am in full support of going after these types of funds and targeting larger scale drug trafficking organizations and growing operations on the island. 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 2021-43 was then put, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused)*.

Council Chair Kaneshiro: The motion passes. Next item.

C 2021-44 Communication (02/08/2021) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in a total amount of \$310,173.00, and to indemnify the United States Department of Labor and the State Department of Labor & Industrial Relations, regarding the following Kaua'i Workforce Development Board – Workforce Innovation & Opportunities Act (WIOA) programs:

- Adult Program (\$81,505.00);
- Dislocated Worker Program (\$111,879.00);
- Youth Program (\$85,773.00); and
- Administrative Costs (\$31,016.00).

Councilmember Chock moved to approve C 2021-44, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We did receive a memorandum from the Office of Economic Development to defer this item.

Councilmember Cowden moved to defer C 2021-44, seconded by Councilmember Chock, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused)*.

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

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

C 2021-45 Communication (02/09/2021) from the Housing Director, requesting Council approval to receive and expend Federal Emergency Rental Assistance funds (Pub. L. No. 116-260), in the amount of \$22,000,000.00, and to establish a special account for those funds, which will be used for the payment of rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears, and other expenses related to housing incurred due to the COVID-19 outbreak as defined by the Secretary of the Treasury.

Councilmember Carvalho moved to approve C 2021-45, seconded by Councilmember Cowden.

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

Councilmember Cowden: Director Roversi, can you give us an overview of when, how, and to whom, this money is going to be distributed? I am really happy to see twenty-two million dollars (\$22,000,000)—thank you so much for whatever you did to get that—it is deeply needed.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director (*via remote technology*): Sure. Aloha, Chair Kaneshiro. Adam Roversi from the Housing Agency. This twenty-two million dollars (\$22,000,000) is part of Coronavirus round two (2) assistance being distributed by the Federal government. The State of Hawai'i received two hundred million dollars (\$200,000,000). Kaua'i has been tentatively allocated twenty-two million dollars (\$22,000,000) of that two hundred million dollars (\$200,000,000). It will come to us in an initial allocation, I believe, of ten million dollars (\$10,000,000) and subsequent distributions from the State will be dependent on how fast we can get that money out the door to citizens on Kaua'i. Currently, we are preparing to publicize a Request for Proposal (RFP), which will solicit for a third-party nonprofit organization to administer the program similar to the way the State administered the original round one Coronavirus Aid, Relief, and Economic Security (CARES) Act Rental Assistance Program. The rules for this Program are slightly different though. Broadly speaking, these funds can be used to cover rental and utility costs going back to the beginning of the COVID-19 emergency, so all the way back to March 2020. The funds will need to be expended by September 30, 2021, so we have a relatively short window to get these funds into the hands of residents. There is no set limit on the amount of rent that can be covered by these funds or the utility costs. Some of the limits are that any individual can only receive twelve (12) months of assistance total. There are some special caveat exemptions and certain circumstances that can allow it to go for more than twelve (12) months. One of the other catches is, in order to qualify, it is only for rent not for mortgages, which was not necessarily the case in all prior programs. In order to qualify, an applicant has to be eighty percent (80%) of

Area Median Income (AMI) or below and they can demonstrate that income level either based on their 2020 tax returns or on documents available at the time they apply. Even if they may have made more than eighty percent (80%) of AMI in the past, as long as they are financially impacted at the time they apply, they can still qualify. But that is going to be a barrier to some who have too much income on paper, even if they may have rental in arrears, so it will be narrow in that sense. That is in brief, the way the program will operate. Like I said, we are hoping to release our RFP this afternoon upon the Council's approval and begin the process of getting the nonprofit partner on board. We have a shortened response period, so we will be seeking responses from nonprofit organizations on their proposals within just a couple of weeks and hope to have a contract with a selected provider completed—we are keeping our fingers crossed—before the end of March, so that we are prepared to begin taking applications as soon as the end of March or early April, because, like I said, there is a time limit to expend these funds, so the sooner we can get this rolling the better.

Councilmember Cowden: Thank you on that. When we are getting the RFP out, will there be more than one (1) nonprofit? I believe there was three (3) last time and it is a lot of work, there will be many people, there will be a lot of applicants. I am hoping that there is the capacity to spread it a little, such that servers do not go down, or busy phone numbers, or something like that. We have seen a lot of “choke” on the front end of almost all the assistance programs that we have had. Is there a thought towards that, so we can “hit the ground running” and get everyone taken care of as easily as possible.

Mr. Roversi: Sure. We have not predetermined that it will be just a single provider nor have we predetermined that we need it to be multiple providers. There is a little bit of tension between, yes, we want as many...we want a multitude of methods and means of people to apply so that there are not busy phone lines and applications not reviewed in a timely fashion, but at the same time, we are required by the Federal government to ensure that there is no duplication of benefits to applicants and that was a significant problem during the State's CARES Act round one (1) relief program. They had so many service providers administering the program that it became impossible for them to coordinate among themselves to be sure that people were not being double paid and it has, for better or worse, for the Hawai'i Housing and Finance Developing Corporation, which was the primary administrator of that CARES Act program, it has turned into an accounting nightmare for them to go back and try to catch duplications and they very likely may be required to pay money back to the Federal government. So, yes, we want to make this as easy as possible for people to receive the funds, but at the same time, we have an obligation to be able to track and monitor the program, so we are going to have to carefully select the provider and ensure that they can adequately account for the funding and that will only become more difficult the more providers we have involved in the program.

Councilmember Cowden: Thank you for that important clarification and just acknowledging for all of us—State and County—this is a learning experience, so *mahalo* for that piece.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Hi, Adam. Thank you for all you do. I am excited to see this twenty-two million dollars (\$22,000,000) going to our economy. I just have a couple of questions. I am a little worried about...you said twelve (12) months total if you go with the County's assessment of what is an affordable 2-bedroom or 1-bedroom, you are easily talking between one thousand two hundred dollars (\$1,200) to one thousand seven hundred dollars (\$1,700) multiplied by twelve (12)—you are talking close to fifteen thousand dollars (\$15,000) in someone's pocket. Now, does that go to the renter or to the homeowner who the renter did not pay the rent to and they could not kick the renter out of their home, so now, how do you justify who applies for that money? Second of all, I know our Kaua'i Island Utility Cooperative (KIUC) and our Department of Water (DOW) could not shut off power or water and there are a lot of people who are back on bills. Does the money go into the hand of the resident or KIUC and DOW to pay that bill that they did not pay for twelve (12) months? Some key questions that I would like to get information on. Thank you.

Mr. Roversi: In the first instance, the program calls for payments to be made directly to a landlord or the utility company, not to the renter themselves to go into their bank account. There is one exception to that requirement. During the CARES Act round one (1), they found that there were many—I do not have exact data, but many landlords who refused to participate in the program to receive moneys on behalf of their tenants, because they were effectively operating illegally and not paying their General Excise Taxes. So even though there was, essentially, free money available to tenants, the landlords refused to accept it. In instances like that, recognizing that the most important thing at this point, is to keep people in their homes, if there are landlords who are refusing to participate, there is an option to provide the payment directly to the tenant, then it becomes the tenant's obligation to use that funding to pay the rent. But the primary directive is that payments go directly to a landlord who has to provide their tax information and they receive a W-9 tax form summarizing the payments that they have received. If payments are made directly to a tenant, because of a difficult landlord situation, then the tenant themselves has to provide their tax information and will also receive a W-9, documenting the funds that they have received.

Councilmember DeCosta:

How about the utilities with KIUC and DOW?

Mr. Roversi: My understanding is that those payments will be made directly to the utility companies on behalf of a specific tenant who qualifies under the program.

Councilmember DeCosta: A bulk of this money actually might go to KIUC or DOW, depending on how many outstanding bills that were not paid for during the pandemic, correct?

Mr. Roversi: I have preliminary numbers from KIUC and they indicated that currently they have a delinquency on the high end of approximately one million dollars (\$1,000,000)—that is just a rough number. Of the one million dollars (\$1,000,000) owed to KIUC, presumably, not all of the delinquent

account holders will qualify based on their income to participate in this program, so I cannot tell you that the entire one million dollars (\$1,000,000) that KIUC has in delinquencies will qualify for payment under this program, but I would estimate a large part of it certainly would. Relatedly, again, this is just a preliminary estimate, it is not a detailed number, but the DOW indicated that they have current delinquencies of approximately seven hundred fifty thousand dollars (\$750,000). Again, a large portion of that would likely be payable under this program, but there certainly would be some, I imagine, that would not qualify for one (1) reason or another.

Councilmember DeCosta: Thank you, Adam. That is all.

Council Chair Kaneshiro: Councilmember Chock, Councilmember Evslin, then Councilmember Carvalho.

Councilmember Chock: Thank you, Chair. Thank you, Adam. Today we have a briefing on the transition of the houseless in our parks and I am curious to know if this twenty-two million dollars (\$22,000,000)—it is not very clear to me, it certainly speaks to those in arrears, but I am wondering if any of the houseless from the parks, who might be eligible, who have been adversely affected and put into the parks, would be eligible to get some support to get back into a home. Do you know the parameters of this fund as it relates to that situation?

Mr. Roversi: Yes, so these funds can be used for rental arrears, but they can also be used for future rents and you do not necessarily have to have a current rental delinquency to qualify for future rent payments. Here is a hypothetical situation that could work within this program; if an individual who is currently homeless, whether in a County beach park or not, was able to secure a location to move into and have a rental agreement or lease agreement in hand and could at the same time demonstrate that they have been economically impacted by COVID-19, the funds from this account could be used to assist them in their rent moving forward. One of the catches, when paying future rents, as opposed to back rents, is that we can only use the funds to pay rent in 3-month increments, so if someone came to us on April 1st, they have a new rental agreement for a home, but they are financially impacted, we can pay three (3) months of their rent under this program, but to continue beyond the three (3) months, they would have to regularly update their income documents to demonstrate that they are still being financially impacted. I believe that they have to do that every three (3) months.

Councilmember Chock: Thank you very much.

Mr. Roversi: That presents a little bit of a chicken and an egg conundrum, in that someone who cannot afford rent will have difficulty entering into a rental agreement or a lease agreement that would enable us to begin paying their rent if they do not have any money, so it is a...I am not too sure about the details of exactly how we will work that out. Again, this is a brand new program and there are no doubt numerous situations that may arise that will require a little "head scratching" and fine tuning of the application process and the documentation requirements. The Federal government has imposed broad outlines of what we need

to do, but not every single detail has been filled in. We get new frequently asked question guidance from the Treasury Department every week, sort of filling in some of the blanks, so this is an evolving program.

Councilmember Chock: Thank you. Can the funds be matched by a nonprofit, say, Catholic Charities, to assist with the front loading of a program to get people into a home, then this funding could kick in? Is that something that could be done and has it been looked in to?

Mr. Roversi: To be honest, I have not specifically looked into that, but just knowing the outlines of the program, I do not see any reason why that would not work. The only thing to look out for would be to ensure that a tenant was not receiving double payments for the same month from a Federal funding source. A lot of the programs for instance, Catholic Charities and Family Life Centers, are paid for by Federal moneys. So if, for instance, Catholic Charities paid the May rent for a new tenant, we would just have to be sure that we were not double paying their May rent, but nothing would stop us from assisting them in June, July, and August.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. Thank you Adam, for helping explain this program—twenty-two million dollars (\$22,000,000)—sounds like it is going to be a good program. To build off of Vice Chair Chock's question, do you think it would be possible to have a preclearance form or something that someone could get cleared for the program that they could then bring to a prospective landlord to show them, "If I get this rental agreement, then I can go back and get this funding." Because I think the chicken and egg problem that you said is obviously going to be a major hurdle for anyone to get a lease agreement.

Mr. Roversi: I would have to look into it a little more—dig through the treasury guidance. We have a twenty plus (20+) page handbook that we have been provided by the State that has been amended several times, so I cannot give you a clear answer, but it is definitely something to think about. From the Housing Agency's perspective, I would like to find ways that these funds can be utilized to assist homeless people in becoming housed and not simply paying back rent for people who are already in a house situation.

Councilmember Evslin: Of the twenty-two million dollars (\$22,000,000), will a portion of that go to pay administrative fees to whoever the third-party is that administers it, or will the County be paying for that separately, or does all the money have to go out in rent relief?

Mr. Roversi: No, the Federal law permits that up to ten percent (10%) of the total amount of funding provided can be used for administrative expenses.

Councilmember Evslin: My last question, do you have any idea if twenty-two million dollars (\$22,000,000) is going to be adequate, more than we need, or not enough?

Mr. Roversi: As this program was being discussed, each County essentially made an ask to the State for what we thought our funding requirement would be, and on the very high end, we were estimating around twenty-one million dollars (\$21,000,000) with an understanding that it was probably a relatively high estimate. I think it would be a challenge to administer this much funding, no matter whether it is one (1) nonprofit or many. As a comparison, during the first round of COVID-19 rental assistance that the State was administering, I do not have the exact number in front of me, but my recollection was that it was something around five million six hundred thousand dollars (\$5,600,000) that was distributed on Kaua'i and that was by two (2) separate organizations with multiple sub-organizations assisting them, that was over many months and they got to a point of exhausting applications. Comparatively this is four (4) times as much money to try and get out the door quickly, so if we can successfully administer this funding, it should effectively wipe out rental delinquencies for people who are income qualified on Kaua'i.

Councilmember Evslin: That is huge. Thank you, Adam.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Adam, thank you for all the information. Just a quick question and wanted clarification on the timeline, because we are talking about everything, but I want to make sure that we can meet all the goals and the timelines within this period of time. What was the timing again?

Mr. Roversi: We are hoping to issue the RFP today, receive proposals within two (2) weeks, have a contract with a provider entered into—keeping our fingers crossed—before the end of March, and have them be able to begin receiving applications. The funds that we are going to receive need to be—not necessarily expended, but they need to be allocated to applicants by September 30, 2021. Any funds that we have not allocated to recipients by then have to be returned to the Federal government. So we are in a race to get as much of this money out to the community as we can before September 30, 2021.

Councilmember Carvalho: Adam, I know a lot of work has come from the Housing Agency with the team there and the houseless coordinator, do we have information ready to go to with a listing of people who we can just get out there and go or do we still need to capture everything working with the nonprofit? I am talking about the Housing Agency's ability to get in there and begin.

Mr. Roversi: The Housing Agency itself does not have a list of people with rental arrears, but we are going to do a full court press in partnership with whoever our service provider or providers are to get as much public information out as quickly as possible. The service provider will be required to have both an online method of applying, as well as in person "boots on the ground" on Kaua'i to accept

people's applications and help work with people who do not have web access or who cannot navigate the online process—that was something that was largely lacking during the round one (1) CARES Act assistance. That was also recognized and that was the height of the COVID-19 emergency—there was really no in-person assistance; there was just phone numbers to call and keep your fingers crossed that you received a return phone call and an online process that was difficult for a lot of people to navigate. So one (1) of our requirements will be that there will be physical staff on Kaua'i to assist people in-person to work through this process. There will also be a website with an electronic application process. We are at the State's urging and requirement. We are prioritizing entities that were involved in prior rental assistance programs, so we are looking for a partner that is not having to reinvent the wheel and start from square one. We are looking for a partner who has experience doing this based on prior programs and has systems in place, a web presence in place, the ability to deal with the data collection, accounting, and so forth. We will not be starting from scratch, entirely, aside from the fact that some of the parameters of this assistance program and the rules that are imposed on it are different from the past programs, so there is some differentiation that will have to be worked through and no doubt some growing pains.

Councilmember Carvalho: The thing in addition to the technical side, I like the "boots on the ground" part, but you need to get out there, because I think if we can really do a great job in administering the funds, more will come within this timeframe and as we continue to address the community at-large. *Mahalo* for the work and keep going.

Mr. Roversi: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

(Councilmember Carvalho was noted as not present.)

Councilmember Cowden: This is kind of a small question, I do not know if in the RFP that we define a little bit or if we are going to make sure to fund for larger servers. I think many people can apply online, especially on their phone. I think if we have apps or something that makes it easy and there is some pre-thought that there is enough servers in place that they can use some of this money to get the servers up, so that we do not have the server failure, like with what happened the last time.

Mr. Roversi: To my understanding, the administrative funding can be used for the infrastructure required to implement this program, so it is potential that it would be used for additional website capacity or storage capacity or whatever IT infrastructure is required to run the program.

Councilmember Cowden: Is that question on the RFP? When we are looking at who we are going to pick, I would like to pick someone who has the capacity, so I am just wondering if that is on the RFP? If there is attention to that. Just suggesting. You can think about that—that we want to look at an applicant that can actually manage the volume.

Mr. Roversi: The RFP does specify that they need to have the IT infrastructure and ability in place, but it does not go into such detail as to demand that they have a certain level of server capacity. It is a more generalized request and we will have the flexibility and discretion in analyzing the proposals to make comparisons among the different providers that are interested in operating the program.

Councilmember Cowden: Okay, thank you.

(Councilmember Carvalho was noted as present.)

Councilmember DeCosta: Hi, Adam. Councilmember DeCosta. I have a couple key questions, possibly even some solutions, but I do not want to see our money going to anyone just because they have an agreement from a landlord that is a piece of paper that is not notarized. I want to be able to know that lease agreement is binding, whether that landlord had a General Excise license that is paying taxes to prove it and also the people that we give this money to. I am all about helping the homeless—do not get me wrong, but a lot of our homeless choose to be homeless and I do not want to see money going into hands that want to get a home for just three (3) months, do not have a job, and returns to living at a park or some kind of homeless area. I would really want to see the transition of this funding going to people that have a job, that are possibly living in their car now, or possibly living at the park. Does the first three (3) months of rent, go to them personally or does it go to the landlord that provides the lease agreement? That is my concern, I just do not want to see a repeat of the first round of CARES Act money means of distribution, because we had to spend it before we lost it. I want to see more accountability for the Federal funding.

Mr. Roversi: Understood. In the first instance, all payments will go directly to a landlord or a utility provider, not as essentially cash payments to an applicant. Only in special circumstances will funds go directly to an applicant. The tracking method of this funding has largely to do with tax reporting, so the funding going to landlords will be tracked based on social security numbers or Employer Identification Number (EIN), and it will be documented in W-9s that are delivered to the recipients. Any funding going to applicants will also be tracked based on their social security numbers, and tax information will be required and provided to them. There is always going to be a tension between trying to get as much money out to the public as possible and the thoroughness of documentation. Some very simple examples; some businesses have gone out of business, gone under water, so an employee for a company that no longer exists may have a difficult time getting a letter from their employer that they were let go on such and such date if that company does not exist anymore. So there is an option within this program to simply allow the applicant to submit an affidavit—a sworn affidavit attesting that they worked at so and so business and they lost their job on such and such date. Our hope would be that we can have firm documentation from the employer, but if that employer does not exist anymore, our primary goal is to provide assistance to the employee who is suffering. I would prefer to err on helping those folks, than eliminating them from qualification based on their paperwork issues. As long as we are meeting the Federal requirements of the program and ensuring that we are exercising our fiduciary

responsibilities from an accounting perspective. So, I hear your concerns and we will do our best to answer them as the program rolls out.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. Adam, one final question from me and I think the answer is “no,” but is there any way for a family who, say, covered all their rent, they qualify from every perspective, they are in the income category, and they have had a significant loss of income, but they were able to cover their rent, say, by taking out a loan or borrowing money from sketchy payroll advance places, or selling their car, is there any way for them to get reimbursement through this program or do they have to be in arrears?

Mr. Roversi: There is some grey language in this program that we are really going to have to analyze a little more deeply, so arrears are not required, necessarily, but I hear you that to some extent, it is penalizing people who have bent over backwards to fulfill their financial obligations and providing a benefit to people who have, even if they perhaps could have but have not paid their rent because they know they cannot get evicted at the moment. There is some grey language in which the funding can be utilized to help people who have economically suffered with regard to their housing resources—it is vague language and we are going to have to drill down on how we are going to define that in the program and the permissible ways in which those funds can be used to help the sorts of people you are talking about. It may be more appropriate that rather than trying to repay them in the past, but we can help them with their rental situation moving forward if they can still demonstrate their economic losses and that they are income qualified. It may not provide a solution that is going to go back in time to repay them, but it could assist them in the future moving forward, so that some of the income that they do have could be used to offset the pain that resulted in the high interest loan that they had to take out or the loan they got from their aunt and uncle or their parents or whoever else in the past.

Councilmember Evslin: That is good to hear.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Thank you so much. I am very happy with what we are hearing. I do not need a detailed answer on it at all. Just a simple “yes” or “no.” I am happy for what this is doing for this particular group. I know that there are many people out there who have been in abatement, like they have not been paying their mortgage for months, will there be anything, anywhere, some other way to help address the people who are living in a home that they own with the bank that they are very likely to be facing foreclosures? Is there any other pot of money that we are going to be expecting for that?

Mr. Roversi: Not that I am immediately aware of. I have heard rumors that President Biden is obviously pushing for an additional one trillion

nine hundred billion dollars (\$1,900,000,000,000) in additional Coronavirus relief funding. Whether there will be programs within that pile of money to assist mortgage holders—I have no idea. But this current collection of funds is expressly barred from assisting people with mortgages for better or worse, so that is the choice the Federal government has imposed on us and we do not have much choice in the matter. But there may be additional mortgage assistance coming in future Federal programs, but I have no information about that.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Is there any further questions from the Members? If not, any final discussion from the Members? I just want to say, thank you Adam. I see this number of twenty-two million dollars (\$22,000,000) and I truly believe it is going to help a lot of people on the island. It might not help everyone that we want to help, but if you are looking at someone that is making eighty percent (80%) and below and renting, I think this type of money is going to be able to help a majority of those people who are in that category. So I am very hopeful and I just ask that as information comes out, you just let everyone know, let the Councilmembers know, and maybe have a cheat sheet as far as the requirements go for people to apply for the money. I am super excited for it. I know there are a lot of people who need help right now and this would be a huge help, so thank you for this opportunity. Councilmember Cowden.

Councilmember Cowden: Just very simply, I am very happy to be approving this today. I have an entire list of people that I want to text and tell the good news and I appreciate the many different ways that this was thought out, so this will help many people who really need it, so I am delighted.

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

Councilmember Carvalho: Me, too, just the opportunity to really get the “boots on the ground,” I am thinking and really reaching out and giving people that second chance; sometimes they are at the break of just not knowing what to do. Great opportunity, great management, and pulling together resources and getting that out into the community—that is the big thing here that we are discussing, so thank you Adam and the team, and keep going.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I am echoing everything that has been said. Thank you Adam, for this. I am optimistic that this is going to be a good program. It is going to certainly help out a lot of people, and I agree with what you were saying, Adam, about trying to reduce the barriers and make it as flexible as possible. I would think that it is going to be a challenge to get all twenty-two million dollars (\$22,000,000) out there in the community and I think the more that we can get out there, not only the more that we can help, but we also help our economy in the near-term and the long-term bounce out of this when we are fusing

outside money into it. So whatever we can do to get this money out there and please use us as a partner to help spread the word, however you need.

Mr. Roversi: Will do, thank you.

Council Chair Kaneshiro: Is there anyone else?

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 2021-45 was then put, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused).*

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

C 2021-46 Communication (02/10/2021) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$71,330.00, and to indemnify the State Executive Office on Aging, for the provision of home-delivered meals for the period of December 1, 2020 through September 30, 2022.

Councilmember Carvalho moved to approve C 2021-46, seconded by Councilmember Cowden.

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

Councilmember Cowden: I just want to appreciate Kaua'i Economic Opportunity for providing the food and the Agency on Elderly Affairs for continuing to help our *kūpuna* have food. It is a good program that is continuing and I just want to acknowledge its success.

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

Councilmember DeCosta: Thank you for that Councilmember Cowden, that is very nice to recognize. I want to say, not only the meals, but the conversation piece and what they do for our *kūpuna* when they are out there and checking on them—it is huge. It is more than just the meals, it is actually having another set of eyes and another set of social and emotional interaction with our *kūpuna*, which I think is very important and my mom is personally one (1) of those people. I know firsthand that this is a great thing. Thank you for recognizing that, Councilmember Cowden, and thank you for doing that for our *kūpuna*. Thank you.

Council Chair Kaneshiro: Again, this is seventy-one thousand dollars (\$71,000) of Federal funds of home-delivered meals. Is there any further discussion?

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

The motion to approve C 2021-46 was then put, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused).*

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

LEGAL DOCUMENT:

C 2021-47 Communication (02/09/2021) from the Housing Director, recommending Council approval of Release and Indemnity provision, Use and Occupancy Agreement No. 432 for Tax Map Key (TMK) No. (4) 2-1-001 between the County of Kaua'i and the State of Hawai'i Department of Transportation, including the Release and Indemnity to install necessary waterline infrastructure for the Lima Ola project within the Kaumuali'i Highway right-of-way.

- Use and Occupancy Agreement No. 432

Councilmember Carvalho moved to approve C 2021-47, seconded by Councilmember Cowden.

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

Councilmember Cowden: Can you just give us a quick response? This is the waterline and Lima Ola is in 'Ele'ele, just a little bit and that is enough for me.

There being no objections, the rules were suspended.

Mr. Roversi: Sure. Aloha, Adam Roversi, Housing Director. Thank you. Yes, in short, this permits the County to make the waterline connection from the main waterline that is in the State's right-of-way along the highway to connect into the Lima Ola subdivision. It is a relatively narrow strip of land that allows us to install our connecting pipe within the State highway right-of-way.

Councilmember Cowden: Thank you.

Mr. Roversi: For the Lima Ola subdivision, which as you have mentioned, is located in 'Ele'ele above Hanapēpē Town.

(Councilmember DeCosta was noted as not present.)

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

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 2021-47 was then put, and carried by a vote of 6*:0:1 *(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember DeCosta was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmember Kualii was excused).*

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

CLAIMS:

C 2021-48 Communication (02/04/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Sarah Lohrey, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2021-49 Communication (02/05/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jaime Villatora, for injuries sustained by her minor child, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Carvalho moved to refer C 2021-48 and C 2021-49 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Chock.

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

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

The motion to refer C 2021-48 and C 2021-49 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6*:0:1 *(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember DeCosta was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmember Kualii was excused).*

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

RESOLUTIONS:

Resolution No. 2021-10 – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES SLATE OF OFFICERS FOR FISCAL YEAR 2021

Councilmember Cowden moved for adoption of Resolution No. 2021-10, seconded by Councilmember Carvalho.

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

Councilmember Cowden: My question is for Vice Chair Chock. I know you have put some work into this—thank you—and thank you for what you are committing to on behalf of our Kaua'i County Council. Can you please help us understand who is on this slate and what is your vision?

(Councilmember DeCosta was noted as present.)

There being no objections, the rules were suspended.

Councilmember Chock: Sure, thank you Councilmember Cowden. The slate is made up of myself presiding as President. Vice President would be Kelly King from Maui County. Secretary would be Heather Kimball from Hawai'i County and Treasurer is Tommy Waters, City & County of Honolulu. At current, Councilmember Tommy Waters is the sitting President. This Resolution is also going out to other Counties for approval. I believe Hawai'i County will be meeting in March, so if and when that passes, this will move into effect, so we can anticipate this slate being in office probably in April or so. Also, dependent on our annual meeting that we have scheduled. I can just tell you that there are some bylaw changes that are forthcoming, in order to look at the timing of the slate to change that. Other than that, some projects that we want to focus on in the next year and a half that are just going to help HSAC be more proficient in meeting their mission as an intergovernmental entity.

Councilmember Cowden: To your knowledge, are the other islands in agreement? Sometimes we have a little bit of tension and a little bit of a tug-of-war. Being the HSAC President, being in Kaua'i's position is a good benefit for us in terms of our National Association of Counties (NACo)—it has a lot of responsibilities associated with it. I appreciate it and it might have value for people who do not understand the role of HSAC just to have a little bit more knowledge, because I want to thank you and I am recognizing the importance of this.

Councilmember Chock: Thank you. One of the bylaw changes is recommending for moving us in a direction of rotation for executive officers positions. There are some sort of continuing issues that have occurred in the last term that relate to some accounting that we are trying to clean up with the organization. I would agree that is has been sort of a push and pull in vying for these seats. When we met on this last meeting—I am not sure if the minutes are included in here, but they can be provided for you—there was strong interest from Maui County to move out of the Treasurer position due to the accounting issues and subsequent to that a difficulty in trying to maneuver everyone into the right positions. I can say that throughout our process in determining this particular slate, basically everyone was up for the Presidency and voted upon. Of course, what this means is that all four (4) Counties need to agree and I think by default, I was the only one who was able to get

the four (4) votes from the executive board to move forward. That is one of the reasons why I accepted graciously. I think it is as you have said, "A very important role." Again, I will be able to provide, once I am in that position, a little bit more of what I would like to focus on in the next year and a half.

Councilmember Cowden: Thank you Councilmember Chock, and thank you, Councilmember Carvalho for being the alternate.

Councilmember Carvalho: Thank you.

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

Councilmember Carvalho: I am very happy that Vice Chair is the HSAC Chair. HSAC is an important...having to wear my different hat and connecting and keeping everyone at the table throughout the State and having presence is important, number one; number two, the leadership part, because there are a lot of stuff that go back and forth and I think it is a good opportunity to really clarify and understand the process and the importance of accountability on everyone's part. So serving as alternate, it is great to have Vice Chair Chock at the table as the President. He knows a lot of the team players already in place and is connected to Maui, Hawai'i Island, of course, and O'ahu, so I look forward to listening in again, and whatever we can do collectively, because more things happen statewide that we need to stay connected on and this is where all the information flows. Sometimes they will learn from us and we learn from them and we move back to our individual communities, then NACo is the next level, but statewide, I have the opportunity to be there alongside Vice Chair Chock, so I just wanted to mention that and *mahalo* for that.

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

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

Councilmember DeCosta: I would like to echo what everyone said, I am actually honored to know that Council Vice Chair Chock is in charge and it is going to bring great networking between the Counties. He knows this better than anyone else, going to a private school like Kamehameha, they have a lot of networking, so I know that your leadership will bring that to the table and I know we are in great hands. Our alternate, former Mayor Bernard Carvalho, I am very impressed to have you on that team, so thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I will echo what Councilmember DeCosta said, great to have Council Vice Chair Chock as President and Councilmember Carvalho as his alternate there. I have been learning more about what an important role HSAC plays and how important it is for all of the Counties to collaborate at some capacity, so

this is vital for us and I am confident in Vice Chair Chock's abilities as taking the helm here at HSAC, so looking forward to what we are all going to accomplish here.

Council Chair Kaneshiro: Is there anyone else? Maybe it was not a surprise for me and I do not think it was default either, because when we originally put the slate together, I was very confident in our Kaua'i delegation with Council Vice Chair Chock going in and Councilmember Carvalho as our alternate, I truly believe we had the strongest delegation going into HSAC. I am still confident with what we brought and it is probably why Council Vice Chair Chock was able to get the votes, because they see that Kaua'i is bringing a sense of continuity, we have Council Vice Chair Chock who has been involved with HSAC for a while. We have Aida who has been involved with HSAC for a long time. We bring leadership and we bring collaboration, so for me, I was going to assume that we were going to take leadership there also. There are a lot of new Councilmembers from the outer islands that are on HSAC and I think that it is good for them to see the leadership that comes from Kaua'i and frames how we move forward as HSAC, so that they see this is how it should be run and it is running smoothly. I know in the past it has been a little up and down there and I think that Council Vice Chair is looking into it—how do we provide a little more continuity with HSAC knowing that members are on and off and you have new members in, it is really difficult for new people to come in and figure out what they are doing and I know that is going to be a big sticking point on how we move forward and trying to just provide that framework, so HSAC can continue to move forward in a smooth manner, because it is important for all of our Counties and the entire State. Again, I stand by it, when we originally put Council Vice Chair Chock and Councilmember Carvalho up there, I knew we put a good team together to get to HSAC. Councilmember Cowden.

Councilmember Cowden: I want to acknowledge how important HSAC is. It is a formalized place where the neighbor islands really have a routine reason to be coming together. We as neighbor islands tend to have more overlapping needs and issues and when we have Honolulu County as part of it, it helps keep the State policy from being quite so "O'ahu-centric" and we are so lucky to have our legislative team and really lucky to have the Senate President be our one (1) Senator. So I look forward to Kaua'i's needs being well represented in our united efforts, having our great group ahead of HSAC, and a really united group of legislators from Kaua'i. Thank you.

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

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

The motion for adoption of Resolution No. 2021-10 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: With that, let us take a 10-minute caption break and we will come back with our final item on the agenda.

There being no objections, the meeting recessed at 10:17 a.m. for a caption break.

The meeting reconvened at 10:28 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We are on page 3, Resolution No. 2021-11.

Resolution No. 2021-11 – RESOLUTION URGING THE GOVERNOR TO RESUME IN-PERSON EDUCATION FOR GRADES K-12, INTERSCHOLASTIC SPORTS COMPETITIONS, ORGANIZED YOUTH SPORTS, AND ADULT RECREATIONAL SPORTS FOR THE STATE OF HAWAII

Councilmember Chock moved for adoption of Resolution No. 2021-11, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We did receive written testimony on this item and we have no one registered to speak. Council Vice Chair Chock.

There being no objections, the rules were suspended.

Councilmember Chock: Thank you, Chair. If you do not mind, and if it pleases the body, I will just give a briefing on the purpose of this Resolution and how it came to be, and I will ask co-sponsoring Councilmember Evslin to talk about the content of the Resolution. This has been an ongoing discussion, particularly for Kaua'i as we have done fairly well with the COVID-19 response and our status, so this discussion about education has been ongoing with how much we can open up and so forth. Without getting into the weeds, I think all of us are well aware that Resolutions are nonbinding, they are there to serve as a means for us to have a discussion and share where we can support and what we would like to see. In particular, in recent news, all of you have seen and heard discussions about the Safe Travels Program and the direction of possibly going under a unified approach to it. House Bill (HB) 1286 is in particular focused on that, so we felt that this discussion was coming to a head and at the very least, what myself and Councilmember Evslin would like to do is share with our State Legislation and our leaders around the State that we have an interest with education as a priority, prior to opening up more fully. I can tell you that Councilmember Evslin has been focused more on the educational aspect and more recently, I have been involved in discussion with Councilmember Andria Tupola with the City & County of Honolulu on her safe sports Resolution. I have taken that aspect and combined it with the education aspect to make a request for us to consider how we might be able to put a priority on moving forward with education. For this, we do not go into any detail as to how or when this should

happen, because that is really outside of our purview. The message focuses on the fact that there are some guidelines out there for us to follow and because of it, we think that Kaua'i is in a good position to be able to move forward. Also, we have met with our leaders from the Department of Education and had a lengthy discussion with Superintendent Zina. We went line by line through this Resolution, and he did make some suggestions of which we have responded to and made changes to. We have also spoken to our Regional Health Director Janet Berreman, who are both supportive of this Resolution moving forward. With that, I will give it over to Councilmember Evslin to talk about the details of it.

Councilmember Evslin: Thank you, Vice Chair. Just to give a quick overview of what is in the Resolution. It is simply a statement of support for our teachers and for the important role that they play and provide for our community and a statement of support for resuming fulltime in-person education and outdoor sports and extra-curricular activities on Kaua'i for elementary and secondary school children, based on guidance from the American Academy of Pediatrics (AAP), the Centers for Disease Control (CDC), and the Hawai'i State Department of Health (DOH), all of which are urging a return to full-time in-person education, especially in communities with low levels of community transmission, such as Kaua'i. The CDC's advice, updated two (2) weeks ago, goes as far as saying that in-person schooling should be the first thing to open, as we open up our economies and the last thing to close if we have to close our economy again. The CDC and the DOH have both developed risk based metrics based on the level of community spread of COVID-19. Since Kaua'i is among the safest counties in the country, due to the hard work of our entire community, both metrics clearly say that based on our low level of transmission here, that with appropriate safety protocols such as, universal masking, cohorting, distancing when possible, and adequate ventilation, that full-time in-person education should resume. The intent of this is to simply mirror that advice to say that we as a Council support a resumption of fulltime in-person education, extra-curricular activities, and sports. As Vice Chair Chock said, I just want to reiterate and to be clear for anyone watching, that Resolutions of this nature are of course nonbinding, so if it passes it is just a statement from the Council that based on the best available evidence, we support in-person schooling, et cetera, as long as we remain within the safe metrics developed by the CDC and the DOH. That said, we have a small amendment.

Councilmember Evslin moved to amend Resolution No. 2021-11, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment, seconded by Councilmember Chock.

Councilmember Evslin: This amendment just amends the title. As Vice Chair Chock said, this Resolution actually grew out of similar resolutions on O'ahu and Maui, both of which were really targeting the resumption of sports and those specifically targeted the Governor to convene a task force to try and resume safe sports, so as this Resolution evolved, we kept the original title even though as we expanded it to include education. So this amendment just broadens the title to say that we support resumption of in-person schooling and does not necessarily target it at the Governor, because there are a lot of decision makers involved in the decision to reopen.

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

Councilmember DeCosta: Hi. Thank you, Council Vice Chair Chock and Councilmember Evslin. Before I ask my question, for the record, I am a State Department of Education (DOE) teacher. I went into the classroom two (2) weeks ago to be a substitute teacher for the day when Kekaha School had eleven (11) of their teachers receive the COVID-19 vaccine, so I had the opportunity to go into the classroom and participate in synchronous and asynchronous learning with twelve (12) students in the classroom and twelve (12) at home online. My biggest question—and for the record, I want to say I support going back to school. I support putting sports programs back into effect. It is time our children go back to school. With that being said, a very important question I would like to ask my Vice Chair and Councilmember Evslin, what is the plan to go back to school? If you folks produced this Resolution, there are procedures, guidelines, and protocols that need to be in place in order for this to work. Just speaking to our Superintendent Paul Zina and the other entities that make the DOH or the CDC guidelines that you folks investigated, there are numerous principals, teachers, Hawai'i State Teachers Association (HSTA) union, United Public Workers (UPW) union, Hawai'i Government Employees Association (HGEA) union—that if we did not talk to them and did not have a plan in place, this Resolution in my belief, might divide our communities even more than what it is right now. I know as government leaders our job is to bring people together. So I am all for putting school back in place, but the question I want to ask you folks is, what is the plan to carry out this action?

Councilmember Chock: I will take a stab at that and Councilmember Evslin can elaborate on it. In my discussion with Superintendent Zina, not only was there clear alignment on the timing for this Resolution to move forward, but there was a considerable amount of discussion on the plans that he and the principals have started to initiate. This is not something that is just happening, they have been working on this for many months now; one (1), in adapting to the current situation, but also what are the steps necessary to move forward. That being said, I cannot speak to the details of a plan, nor do I think it is within our purview or oversight to move in that direction. Specifically saying that the message from our DOE leaders was not get caught up in the operational aspects of this with this Resolution, we can support this broadly. It is the right direction that we all want to go, but the operational pieces that are connected to this plan are things that Mr. Zina has been working on and are forthcoming. What I can tell you—I do not want to speak for him—is that there is movement already occurring to look at different aspects of opening up. I believe that is different at every school, because every school has different capacities and interests. It seemed to me that secondary schools would be more difficult to open up. Again, I am just relaying—I do not want to go into any details—that is the reason why we have kept this broad and not wanting to go into the weeds and I would defer those details to our leaders in the DOE.

Councilmember Evslin: Thank you, Councilmember DeCosta for the question. The Resolution does reference just abiding by the mitigation measures outlined in specific detail by the CDC and AAP and further than that as Vice Chair Chock said, we did not want to lay out this and that because one (1), this is not our

purview and two (2), we did actually have more detail and as Vice Chair Chock said that was removed at the request of the DOE—to leave it up to them to figure out how to best implement this. Again, merely it is just a statement of support as soon as reasonably possible to resume in-person education.

Council Chair Kaneshiro: Before we go too much further, I do want to bring us back to the amendment and then we can talk about the full Resolution in greater detail. I did not want to make you have to repeat that question and I do not want to take us too off track of the questioning, but I would like to get the amendment voted on and then we can talk all we want and question about the actual Resolution. Do we have any questions on the change getting rid of the “Governor to resume” and adding “to resume” in here, are there any questions on that? Is there any discussion?

The motion to amend Resolution No. 2021-11, as circulated, and as shown in the Floor Amendment, which is attached hereto as Amendment was then put, and carried by a vote of 6:0:1 (*Councilmember Kualii was excused*).

Council Chair Kaneshiro: Now back to the main motion as amended. Councilmember DeCosta, you have the floor.

Councilmember DeCosta: I am sorry to get so detailed on this, but I am that teacher can be an advocate. Also, Council Vice Chair Chock, you did mention you spoke to Superintendent Zina and the principals and for clarification, I spoke to many principals over the last couple of days and their views are a little different than just the views of resuming to school in this fourth quarter. With that being said, the number one (1) thing, is any time we do a plan of action, that action has to have a plan to follow, and I do not want us to be the group that looks like we have a good idea or good action, but we do not provide the plan, and they do not have a plan either. I tell you folks what, HSTA will not let this happen and if you talk to HSTA you need to get a Memorandum of Understanding (MOU), they need to get a Memorandum of Agreement (MOA), and that will not happen. I am all for putting children back into school. My own son is struggling. We have children out there with five (5) or four (4) Federal guideline plans, and with Individualized Education Programs (IEP) that are not being met. I just do not want us to be that governing body that puts this idea out there and we have no protocols, procedures, or guidelines to support these principals who need to make things happen. With that being said, let me tell you something that is very unique about the fourth quarter. The fourth quarter is a benchmark and curriculum assessment piece that transitions children into the next grade level. Coming to school in the last fourth quarter will be like going to school at the beginning of the year. Children have not seen each other since August. Children will be all excited to see each other in the classroom, which I believe they need to be socially and emotionally connected—that is a big piece of school, but most teachers spend the first two (2) to three (3) weeks putting guidelines, rules, and regulations in the classroom. Now, they are going to have an influx of at least half of the amount of students that were originally home in asynchronous learning on the laptop when the other half—twelve (12) to fifteen (15) were in class doing synchronous learning. We cannot mandate all parents send the students to school during this time, so you are still going to have a small group at home and a larger group in the classroom and that teacher will deal with the task of teaching, now twenty (20) students with maybe

three (3) or four (4) at home. I am not saying it cannot be done. I am not saying it should not be done. I believe it should be done, but if we are going to make that Resolution as a governing body, we need to get a plan, we need to get the procedures, and the guidelines to go into that plan, and if we do not, maybe we need to go out and support the schools at that level and see what they need—do they need funding for shields on the desk? Do they need masks? Do they need people on the playground to supervise the children when they are playing? Do you know elementary school students serve lunches at the cafeteria? They serve lunches. We cannot have the students serve lunches, so where is the staff to serve? Elsie H. Wilcox Elementary has seven hundred plus (700+) students, do they have the room to sit at the table? We do not even sit at the table this close, can you imagine? Councilmember Evslin, you do not even come into the meeting and sit here with us, now we are going to send our children back to school. I am just saying there is a plan—we do not have it. If you talk to the principals—they do not have it. I am just saying that my piece here is that I would like to see us bring our community together, parents who are struggling at home not working, because they need to watch their children, I believe they need to go back to school, but if we are going to do this I would have liked us to maybe approach all the principals, have meetings with them, gather more data, and let us come up with a plan that can work, not just an idea. Thank you.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: Thank you, Chair. I really appreciate the comments and your experience as well, Councilmember DeCosta in DOE. I just want to bring it back to one (1), what this Resolution, and really what a resolution stands for in my mind is it is a statement of what we as a body can agree to. We cannot have this discussion on the floor until we get something on the floor and that is what this provides us, right. I think that if we take a step back from all the details that you are discussing, which I totally agree with—we should have a plan. Then the seven (7) of us can broadly say, we would love to advocate for our children to whatever degree is possible, have that kind of in-person school experience, because it is beneficial for our children in every single way. This Resolution does not say we need to go back in the fourth quarter. It does not say the details of how it should or how it should not occur for any school or every school, and while I agree and appreciate the fact that we do need a plan, we are far removed as a County in making those decisions. In fact, I would say even stepping on too far, in one direction in saying how it should happen. However, with that being said, I think that this initiates that discussion, I think it initiates us for us to say that we would like to see this move in this direction and now, we have people talking about how that can occur. So I would advocate for that to occur, post this determination if we can just agree of moving in a direction. Thank you.

Councilmember DeCosta: You make a good point, Council Vice Chair Chock. You are right. This did spark the discussion and I am impressed that you two (2) folks have put this Resolution on the table and I am impressed that you value some of the points that I have made, because the points that I made are key points that are stumbling blocks to making this happen. Thank you.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I also appreciate having the Resolution as the opportunity to have an important discussion. Too often, we are not able to have these highly needed discussions without an agenda item. I had called the HSTA, the President was the first contact I had on this issue. They helped me to understand how difficult it is. Councilmember DeCosta discussed the MOU and the process of changing, I think the one (1), two (2), three (3), four (4), five (5), six (6) board members from the HSTA for Kaua'i; I think they gave us a really good letter of why they are not prepared for us to pass this yet, I did call Superintendent Zina's office a couple of times—you must have talked at a different time than me, I showed them where on the website it was and had them print it out—to be able to have the discussion, so I was hoping that we would have heard directly from them—I had asked. I am glad that you had that conversation with Superintendent Zina. I know as we move forward today, I will be asking for us to finish this in another couple of weeks, because my understanding is the soonest they are able to have any kind of discussion amongst the staff is this Friday, meaning amongst the Principals is this Friday, but what I do not want to have happen is most people do not understand the political nuances, so when the Council does a unanimous approval of "let us go back to school" I am on that page. We have zero (0) to one (1) cases average a day and have had seven (7) in the hospital. I love to see the children being able to be in school. I get it—intuitively it feels like, yes, let us make it happen, but I think that we need to be doing this in concert in step with them because I know a number of parents want the schools to be running again, both for the babysitting aspect, the childcare, and because the children miss their friends, so those are really good important reasons. As you have said, Councilmember DeCosta, I do not want to create conflict. If the Council unanimously approves this, then for parents to be mad at the teachers and schools, when this is something that they cannot do, so I am glad that we are talking about it. I would have liked to have seen more communication, I think we had one (1) letter from one (1) parent by this weekend, I went out and tried to get testimony and let us let the Principals talk to each other on Friday and see what they come up with and let us be able to give them that resounding piece, so we can walk in step with them for whatever they do come up with, rather than to make a statement that might embarrass and make things difficult due to challenges...I have forgotten about the other unions than just the HSTA—that is who I called.

Councilmember DeCosta: There is HGEA and UPW.

Councilmember Cowden: Yes, when you say it, of course I realized that is the case. Vice Chair Chock, do you have any response on that, because I so appreciate the beautiful intention behind this Resolution?

Councilmember Chock: I would agree that I think all the points that you are making are really important and I want to be a part of those discussions. I just want to make it clear that this is not a mandate. A Resolution is nonbinding in any way. It does not tell them they have to do this. It merely says where this body is in agreement on, if we are to pass it. I guess what I am hearing is perhaps a recommendation for a deferral, and what I would say is, can we agree if you read through all the "whereas" and "further be resolved" that this is the direction that we all agree on? I think the HSTA has also said that they agree with this direction, that it be followed up with perhaps a communication where more dialogue with them can

occur. No one else votes on this. This is just us as a body and I just want to make that clear.

Councilmember Cowden: Yes. You asked a question, yes, I read it, I think it is very well stated and when we are done with our discussion, I will be moving to defer, because I think if we have another couple of weeks, we can work more in step with greater conversation and in an alignment that is comfortable. We know that it is just a recommendation and it has no authority, but I am not sure whoever is reading the newspaper headlines understands that.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: My only response is, I am happy to hear from everyone and where they stand with this, in terms of voting on it today. Again, I agree that we can continue. If we can pass this today, I am supportive of that and I would suggest that we create another agenda item for a communication on the actual plans, so that we can talk about that. This does not reference a plan in any way, shape, or form, so that is what I would be advocating for. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Interesting and emotional—I can feel it. My daughter is an elementary school teacher. I have four (4) grandchildren, so I mean, coming from that perspective. I appreciate the discussion. The Resolution is on the table. It lists our, as decision-makers, and I totally hear you, Councilmember DeCosta, how important a plan is, but the purpose of a Resolution is just something to talk about, it is on the table, we make a statement, we all agree. Knowing that there are a lot of other factors involved that could take it in a different way, maybe, but there is a need to get our children back to school—I believe that. But the timing, we are in the fourth quarter, in football terminology, fourth quarter, you need to buckle up and go. In this particular case, we need to be careful in whatever statement we make as a Council, but the Resolution, I thought was more like a statement to say this is what we are thinking about as a team or is it like you said, Councilmember DeCosta and Councilmember Cowden, does it hold us accountable for this statement; I am not sure, this is the first time. Anyway, I just wanted to share that part, that I totally agree with what is being discussed, but the resolution part, I thought was just us introducing an idea, it does not hold us to anything, it does not say, “Fourth quarter, you need to do this.” It might be throughout the whole next school year, maybe, that is what I am hearing, so I just need clarification, but the point on the table is very well heard for not only us, but everyone watching. Is this the time now to do this Resolution and begin with the planning and get all the right people or should it really start from this table or this team? That is where I am at right now, because I totally understand, again, my daughter is a school teacher and I know. I will not go into specifics, but I know. I just wanted to share that.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you, Councilmember Carvalho. I am going to wrap it up real quick. You know when I first ran for Council, I ran because

I felt like I have the personality and the dynamics to be able to take a situation like this, shed light on it, and even though I am not a leader among us seven (7), I am a leader in our community and I am speaking on behalf of our community. I do one hundred percent (100%) believe children need to go back to school. I have spoken to retired Principals, retired Superintendents, and two (2) doctors at Wilcox Memorial Hospital—"school needs to open," but when we do something like this...I know we are bounded by the Sunshine Law, where Councilmember Evslin and Councilmember Chock could not come to us and we all have a discussion, which is sad, because maybe we should have had a discussion like that. We all could have gone with the magnificent seven (7) with Councilmember Kualii, and talked to Superintendent Paul Zina and talked with those elementary Principals, talked with the unions and get everything in place, but we did not. I believe the message that we send to our community is that when we vote on this Resolution, we are letting them know that the Council has the pressure on the State to open schools and I believe they need to open. Now, whether they will open now or fourth quarter when the teachers planned out the school year...think about it, when you do something and plan a vacation in Europe, you plan your vacation. These teachers had planned their type of learning. The asynchronous, the synchronous learning. Fourth quarter, let me tell you what happens if you folks do not know, maybe Councilmember Cowden knows because she has been a teacher, but there is Smarter Balanced Assessments (SBA) testing, so these students need to go into a computer room and use the computer to test. We do not have enough computers to seat those students 6-feet apart. We are going to have to miss every computer. We do not have the buildings. We do not have the personnel to support the non-mask wearing when they are out on the playground. I want them to go back to school. I do not want to be the only person that does not support the Resolution. I support it one hundred percent (100%) and I hope the community is watching and the decision is going to be tough today, but I do not want...I am going to speak like how Councilmember Carvalho taught me, we need to bring people together. This is not a time to show that the Council—look at what they are doing, look who is not doing it—I think if we can come as a force and talk to these Principals on Friday. They have a meeting. Maybe we need to buy time. Let them have the meeting on Friday, let them hash things out, let them tell us what they need in the classrooms, let them tell us what they need at the school, then from there at the next meeting we can say, we have enough information, they have the plan, they have the procedures, they have the guidelines, and they have the protocols, because right now, they do not have all of that in place. If they think they are going to resume back to school like how it was a year ago, it is going to be a little different, because in fourth quarter, they are developing, delivering curriculum, and benchmarks to take them to the next grade level and the teachers did not prepare for that. When you bring an influx of students, social and emotional, the first two (2) weeks of school in the fourth quarter, it is going to be a wash of learning in the classroom, because they are all going to be excited and they need that excitement—I am sorry they do. I support the idea. I even support the Resolution, honestly. I just do not know if right now is the time. If we can buy a little more time to hear from those Principals and unions and see if we can get something in place and if not, maybe I am in the wrong and I would like to say I am sorry—that is just my feelings. Thank you.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: Thank you, Chair Kaneshiro. I really appreciate the dialogue here and the insight that everyone has made into this conversation. I want to be clear that the intention here was never to be divisive, it was never to try and antagonize any group, it was simply to mirror the advice of organizations such as CDC, AAP, and the DOH. There is nothing in the Resolution that does not come directly from those organizations and all that it is saying is that we support what these organizations are saying in moving forward toward full-time in-person education. I think from the feedback that we have heard from all of us around the table and even from HSTA, DOE, DOH, I do not think there is anyone that disagrees with any of this. I think to echo a little bit of what Councilmember Carvalho was trying to say, the idea is just to say, this is the direction that we are hoping that we go in, based on the expert advice out there. Again, that was really the intent here.

Council Chair Kaneshiro: Are there any other questions from the Members? I will call this meeting back to order. I have heard the conversation, I am trying to count votes. If the intent was to come with a full front all Councilmembers in approval, I do not think we are going to get that. We do have the option to defer and maybe some other Councilmembers will feel a little more comfortable with that. For me, it is up to the introducers, what you folks are feeling. The way I am looking at it, I think a deferral would probably be the best for this Resolution. It could also end up in a 3:3 vote resulting deferral anyway; we do not have Councilmember Kualii here either, so I am open to hearing...I think that is the problem with resolutions, especially with a resolution like this. It is regarding State matters, it is not really our *kuleana*, but the perception is going to be that we are telling the State what to do. Although the Resolution does not hold any weight, I have taken blowback from a lot of resolutions before and I think Councilmembers are in the stage where they are hearing from both sides and they are a little nervous to be picking a side on an issue that really is not our responsibility to be dictating. So just from what I am hearing, it sounds like if we do a deferral, we might be able to get more Councilmembers on board. With the deferral I do not know if there will be some amendments to the Resolution that makes everyone more comfortable with it, but I am open to hear what the body wishes. Council Vice Chair Chock.

Councilmember Chock: Of course I want the Resolution to pass and of course I would like all seven (7) Members to be in support of it. There are two (2) questions that come to mind; one (1), if we wait two (2) weeks, we have a meeting with the Principals, would anything change in this? From my perspective, at least in my own interest for why I have put this forward, I do not see that happening. Can there be more clarity and buy-in for it? Perhaps. And what we would be doing is letting them know what our process and parameters are as it relates to the Resolution. The other thing I would say is that if there is an interest to change this Resolution and add details into it from a perspective of a plan, then I would be absolutely against it. I will be against it because it is not within our purview and that is not my intent for this.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Can I make a comment? Council Vice Chair Chock, I will have to disagree with what you said on waiting until the next meeting—it will not make much of a difference, I will tell you why. We have only three (3) weeks left in this third quarter, before we moving into fourth quarter. Two (2) weeks, teachers will be on Spring Break—they are not bound to work during Spring Break, so they cannot set up the classroom and social distance, so this would move us into fourth quarter, then this Resolution would not have any weight on moving students back into school in fourth quarter. The school will not change their agenda in a quarter, so they would do it now, we would force them to do it now, over the next two (2) weeks, so they can get in-person learning in the fourth quarter, but if we wait, then they will probably follow what State Superintendent Kishimoto wants, which is full-time in-person learning come August. Again, I want our children back in school, please do not confuse that, and I know Councilmember Cowden feels the same.

Council Chair Kaneshiro: I just want to clarify that this does not require the State to do anything. Councilmember Carvalho.

Councilmember Carvalho: I just wanted to follow-up with Councilmember DeCosta. From my understanding and background, it does not hold us accountable to that. It is more of a statement. However, there is an emotional side to this happening as well, with the leadership overall. Resolutions are cool—you put it to the table and talk about it and the best thing to me, would be everyone agree on this, but unfortunately, not this time. I am just listening to the conversation and maybe a deferral is on the table.

Council Chair Kaneshiro: Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: Vice Chair Chock, you said you know why you did this now and I want to hear why that happened now? For people who do not know, we do not get to talk, so this was a surprise to me last Friday—we have six (6) days, so I did not know this. Why is it important that it happens today, rather than in two (2) weeks? I would love to see this be unanimous support.

Councilmember Chock: Sure, let me answer. When I said that I do not see any significant changes happening to the Resolution, I mean from the content of this Resolution. I personally think that it makes a statement and as leaders, we need to be able to make statements about where we stand on things. Do I believe that this will have the kind of impact that I am hearing it will, which will forceably make school go back into session, absolutely not—I do not think that is even feasible. Why now? One (1) of the reasons why I chose to move forward on this—like I said this was talked about months ago—is really what is happening at the State level and the discussion around opening our community and when I read about the CDC's recommendation about advocating for, this should be the first thing to be put back into service and the last thing to be taken out. I would like our State leadership, who are making decisions about bills to reopen, take into consideration where the priority is for this community and that is the message that I am advocating for. Again, we can wait two (2) weeks, we can have a discussion, will this change? My hope is not,

because the *kuleana* of that is within the State Legislators and for the DOE to make. My hope is that this supports, and I think that if you read every single word here, it does support where they are already going.

Councilmember Cowden: I did read every single word—that was really helpful for me. When I read it, my instinct was, “Yes, this sounds good. I am all in. I wonder if the teachers are, I wonder if the schools are.” So the next day I was doing a food distribution at one of the schools and I bring it up and I did not get, “Oh, yes, thank you that would be a great idea.” I just see this “voomp” that it did not bring joy. They were not rude about it, they were sullen. So I made some calls and the calls were from teachers who I thought would absolutely be behind it, who were really bitter about the closing of schools. For everyone it is complicated, but what you just said to me resonates and that I do follow legislation, the timing is very significant, it is like a sprint at the beginning of the legislative season, so I hear that and I personally think that we can all write letters—this is a thought—to our House and Senate saying, “We need to open schools.” What I do not want to do is disrespect our teachers or our faculty in the schools. That was what my takeaway was, in the calls that I had made. I was even surprised with different parents. I had more parents not want it than did, but it is a small sampling, right. But I really try hard to research anything I am going to vote on, but thank you for letting me understand why this was so instantaneous, because I missed that.

Councilmember Chock: If I could Chair. I did speak to teachers, as well. I can tell you that there are a couple of instances and stories that...I can understand where the confusion and conflict comes from. They have been forced into a direction, they had to adapt to it, and change is difficult. If it is the intention of this body to ensure that there is one hundred percent (100%) buy-in—there probably will not be, is my point, and I can accept that. Of course I would like more buy-in and I think that this initiates that conversation, but I think we are missing another point here and that is, what is best for our children as well, so it is a difficult decision for our teachers. They have had to change and again, this is not saying that...I think that a hybrid in some respects is out, it will be good moving forward given the situation. This is not even saying any of those things. Anyways, I think I had some mixtures in there, but I can tell you that when I ask the question, is it better for our children? The answer was, absolutely yes, this is what our children need more—not all, but most of them do, so that is what I am speaking to, as well.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair Kaneshiro. I think part of what is resonating here, circling around is the idea that we do not have any responsibility over telling the State what to do and that is totally true. On the other hand, I think we do have a responsibility to advocate on behalf of our community on certain things that are within the State’s purview and that is all I believe that this Resolution is doing—simply a piece of advocacy. I do want to reiterate a little bit the timing component that Vice Chair Chock spoke to and that in my mind there was three (3) or even four (4) things pushing the timeframe. Number one is certainly the State looking at trying to take control over our local ability to enact rules that keep COVID-19 counts low on Kaua‘i. That is part of the reason that we can open here is,

because we have had resounding success in the measures and the sacrifice that we have taken as a community and that we are largely unique in Hawai'i. Based on the DOH's metric, we have been the only island that has been clear in the green for in-person education for months. I believe Hawai'i County, just as of last week, went into the green. But we are uniquely situated for in-person education and that relates directly to measures that we have taken as a County and I think the need for us to retain the ability to control our direction here. The other three (3) reasons for moving forward; one (1), is that the CDC advice became much stronger. The week before or as we were drafting this, the new CDC advice came out and very clearly says, schools should be the first thing to open as the economy opens and that was based on new studies that had come out the week before, showing little community spread or no increase in community spread in places with schools open. The other two (2) reasons were Maui and O'ahu both passing their Safe Sports Resolutions; the initial framing of this was just a build on those efforts, so those had all passed recently—the component in here advocating for safe sports. The last one (1), two (2) weeks is just two (2) weeks. If we were to defer this and maybe delay schools' openings more or pushes it back to next year, there is potentially a cost there. So I thought it was important to try and get our voice out for this—loud and clear—based on the evolving guidance that is out there.

Council Chair Kaneshiro: Do you want to defer?

Councilmember Evslin: I do not want to defer. My hope is that we can pass this today.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: For anyone listening, CDC, Center for Disease Control. AAP, American Association of Pediatrics. DOH, Department of Health. I think it is really important that we communicate in a way that people understand. You went through that so fast, Councilmember Evslin, you were saying the CDC, you were saying the CDC is urging schools to be the first to reopen and the last to close, because our children are so vitally important. I do want to just one (1) more time make the statement, we have had seven (7) hospitalizations in approaching a year. We have had one (1) unfortunate passing here and we have between zero (0) to one (1) illnesses a week—we are doing great. Where I am in alignment is when we have taken such an enormous hit economically. It would be great, I am happy when I see the children playing in the park behind my house, it seems like we should be able to be more normal. When we have a legislature that is trying to take away our ability to take care of our own island that cannot happen right, until the end of the school year? Is that right? The Governor can decide, right, can he? How at the end of the gun are we? I feel threatened that we cannot make our own choices. Does anyone have a good answer to that? Can they change it? If we open up schools and they open it up and we have a ton of people coming, then will we have to pull back again? How likely is that? Who knows?

Council Chair Kaneshiro: I am not really sure what your question is. As far as opening up schools, it is the State's prerogative on how they decide that.

Councilmember Cowden: How likely is it that the Governor can force us to go back to being open like the rest of the State?

Council Chair Kaneshiro: The island or the school?

Councilmember Cowden: The island.

Council Chair Kaneshiro: I do not know how to answer that one (1).
Councilmember Evslin.

Councilmember Evslin: I believe the answer to that is the bill for the State references June or July, but that obviously could be amended at any point as it moves through the State Legislature. Again, the point here was to try and influence that process and the thinking over trying to take away our local ability to keep ourselves safe.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Vice Chair Chock.

Councilmember Chock: Yes.

Councilmember Carvalho: You said that if there is a deferral, it does not change the content of the Resolution.

Councilmember Chock: Anything is possible. I guess, my point is, if we go back and the intention is to defer, go back out, hear from everyone, say whether or not they support it or not, or make changes to it—I may have some issues with that in terms of support. The reason is, my interest is to keep it broad, not be more specific.

Councilmember Carvalho: Yes, I think that is the whole point of this Resolution.

Councilmember Chock: I do agree we should have a plan, by the way. That is my only point. What happens from here is asking the question, why deferral? What is my reason for deferring? Because we could easily, as I have said, if we agree on the content of this, broadly speaking, we can pass this as a body and we can have a communication that would bring the stakeholders together. We could ask Superintendent Zina to be here and give us a briefing. Maybe they are not ready in two (2) weeks, they might be ready in four (4) weeks, and that is fine. Do I think this is going to push the State into compliance? I highly doubt it. I think it says, "We support this direction." Which is the direction they are already moving. I just do not see it as problematic, but I give it to the body to decide, if you want it could be voted up and down. To me, this is a statement of where you are and I understand some of the challenges where people are on it—respect it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I will try to be very quick. If we did a deferral for two (2) weeks, in two (2) weeks it will not be hard for me to say “yes,” because I one hundred percent (100%) agree that the children’s interests are most important. When I watch the students at the private school—I understand there is a difference, I have been in a couple of private schools—everything seems to be going good. I feel if I had to vote today, I might vote “no” and I feel like it is much better when we do a resolution when it is unanimous. When we have a unanimous resolution—that is really where the power is. I took a lot of hard hits for the last Resolution that we did on backing up reclosing. I support our teachers and our schools. It is really hard for me to not allow them to use their voices beforehand, when the Principals are going to be meeting on Friday. I rather let them make their statement first. That is my hope.

Councilmember DeCosta: I am not afraid to say sorry if I was a little bit passionate, so Councilmember Evslin and Councilmember Chock, I am sorry. You made a very valid point, Councilmember Chock and I caught this right now. It does make a huge impact, actually, if we vote this Resolution now and it only came to me now. This will put a little bit of pressure to start fourth quarter with in-person learning and this could give the children a little bit of what they needed the whole year long. We should give the Principals, the teachers, and the unions time to get the plan, but we are going to cut out fourth quarter—nothing will happen until next year, but if we vote on it now, this might put a little bit of pressure to put students back in school for the fourth quarter experience. I told you folks, as a teacher, what is important—social and emotional learning is just as important as curricular learning, so do not mistake that. When students first go back to school—and I am only speaking, because I am the expert here, and if it were something that you folks were an expert on, I would most definitely listen. When it comes down to accounting, Council Chair Kaneshiro will take the lead, but school teaching, I am the lead here and I am telling you folks, students will come back to school and that social and emotional learning will be so important. They might even savor the last part of this school year that they do not have. Seniors will graduate without anything in their yearbook. They may have a few pictures their last month of school or last quarter of school. With that being said, it excites me to think that maybe we can go to the table, get them all on the same page, and make this happen, but there is a little pressure on teachers who have been teaching this style of curriculum in the classroom and online—asynchronous, synchronous, and now they have to uproot their whole plan to try and integrate something new and you might think that is how school was—it should be easy. I will tell you, there will still be parents who will not send their children to school—maybe it is only ten percent (10%), but it is going to be one (1) like Councilmember Evslin on that screen at home learning, I am the teacher teaching all of you. Despite the chaos that might happen in the fourth quarter when students come back to school, which is important, we still need to worry about the students at home. I am ready to make the decision if you need. I am also ready to defer if you need. We are not going to make everyone happy. I hope our constituents can understand we are here to articulate conversation, help each other grow in areas that we do not have the knowledge to grow, and at the end of the day, we did it for the betterment of our community. So I will look you in the eye and I will look at our constituents out there and ask, what is the better decision to make today for our community? If it is to send our children back to school in the fourth quarter, this Resolution better hold some weight, otherwise, I do not want to deal with it, the

Resolution needs to hold the weight, otherwise, there is no reason we have a Resolution. So it will put pressure on our State to come together at the table, make a guideline, procedures, and protocols, put our children back to school, then I will vote on this today, right now, but if this is not going to hold no weight and they do not need to do anything that we are saying, HSTA is going to say, "We are not going to listen to you, because my teachers are not going to go back to work in the classroom." They can do that and you know they are going to do that—we spoke to them, you and I, Councilmember Cowden. With that being said, it is up to you. You tell me right now, Councilmember Chock and Councilmember Evslin, you take the lead and I will vote on your behalf, but if you folks think that this will do more harm than good, then maybe we should defer. Pretty tough discussion, right now.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I can just briefly answer that. Thank you, Councilmember DeCosta. I think you said that all really quickly and that gets to the heart of what we are trying to decide today. I do certainly believe wholeheartedly, that by passing this Resolution it can move this process along—that was the point of doing this. If it increases the chances of in-person school happening and saying that we support this happening. Is it going to force the issue? No, by no means, it is just a statement of support.

Council Chair Kaneshiro: For me, I am trying to count the votes. I am trying to figure out which way this is going. I do not really have a good reading on which direction this is going. Again, that is the nature of the game of the Resolution. We do not have control over the DOE and the Resolution does not hold weight as far as an ordinance or a rule. We do have to end up taking responsibility for our vote on it and that is the difficult part in this situation. I am hearing this is not a clean break, not everyone is in favor of it, whether we take a stand for or against, someone is going to get dirt on their face with this Resolution, and in the end, is this Resolution going to be the sword that pushes this whole thing forward and creates in-person education—you need to take the Resolution for what it is. For me, it is a difficult Resolution to vote on, because I do not have a child in school, I am not a teacher, I am not familiar with any of how the teaching is going, how the students are doing in school—I have zero information on that. What is best for the children? I do not know, so it is hard for me to vote on a resolution like this. I do relate this Resolution to Council, in a sense that we have received a lot of information about people wanting to testify and come back into the Council Chambers again and it would be the same as the State telling us, "Council, you need to open up the Chambers. People are suffering. They enjoy coming into Council. They want the one-on-one. They are not able to get their voice out. They do not have internet elsewhere. This is the only place they can express themselves." Again, the State does not tell us what to do. We are kind of bounded trying to keep everyone safe here and it just ends up being a difficult situation. We are going to get the State trying to tell us what to do. If someone sends a Resolution, open up the Council Chambers and let people testify, but we know here we are trying our best to keep people safe and that is kind of the same way—we are sending a Resolution to the State saying, do this, well, they are kind of in a bind, too. They are trying to keep people safe, trying to keep distances in classrooms, trying to keep the teachers happy. In the end, someone will have dirt on

their face either way they vote, so I think it is up to you how you want to move forward. We could end up in a 3:3 vote with a deferral anyway. Again, I am trying to take direction on what the introducers want. If you want to vote on it now, we can just vote on it, then Councilmembers will take the vote. If it gets deferred, it gets deferred. But again, what kind of message is that sending on a Resolution. If we take the vote and it is three (3) up, three (3) down, a deferral anyway—is the Resolution really doing what it is supposed to do. Council Vice Chair Chock.

Councilmember Chock: I think what I heard clearly from my co-introducer is that he would like to move forward on it, so I am going to stand behind him on that and see where it falls. If you want to make the motion to defer and see where that lands, that is fine. Then we can vote on the Resolution as it is, but I think we should move this along.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I think we just need to make a decision. I think we have vetted it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Did I hear the ask to check with a motion to defer first? Because I can do that.

Councilmember Chock: It does not matter if it is official or not to me.

Councilmember Cowden moved to defer Resolution No. 2021-11 to the March 10, 2021 Council Meeting, and failed for a lack of second.

Council Chair Kaneshiro: Did we get a second? Is there a second on the deferral? No. With that, we will take a roll call vote on the main motion as amended.

Councilmember Chock: Chair, if I could, just a discussion. I still am willing to vote on this and move towards what I hear is a concern and a need to bring people together and I am happy to be a part of that, whatever form is necessary, Councilmember DeCosta and Councilmember Cowden, if that is meeting with the Principals or what have you. Again, I think a communication is well informed for us to do such a communication and discussion, so I would support that moving forward. Of course, I will be voting in favor of this.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: With that being said, I want to echo what Councilmember Chock is saying. So we vote on this, we pass this Resolution, that means now we are going to support our Superintendent, our Principals, our schools with dialogue, we are going to bring people to the table and let us be the leaders that we need to be to help the schools get back to reopening. Not necessarily will they reopen in the fourth quarter, we need to let our constituents know—who are watching

today—that this may not encourage the DOE—even if they possibly can with all the unions that they need to approach—that this will happen, but this will set forth a motion to put it in place, whether it may be fourth quarter, Summer, or Fall. Am I correct? Is that safe to say what we are doing? Because it totally changes if we are just going to put a stigma on the DOE to say, “Two (2) weeks from now, let us open.” I do not think they can, they need time, these Principals, these schools need resources—not only funding—but they need human beings, they need building space, they need things to happen. I am willing to be the leader with all of you to bring people to the table since we are the ones who are going to promote this Resolution and be the advocate for the conversation piece that needs to happen with the leaders outside of our seven (7) and make it happen, correct? Okay. Is there anyone else?

Council Chair Kaneshiro: Is there any other discussion from the Members before we take our vote? Councilmember Evslin.

Councilmember Evslin: I just want to express appreciation again, for the dialogue we just had here. I think we had a really good dialogue from everyone around the table and certainly it is an emotional issue for many of us at this table and for so many in our community. For me, a lot of my friends have really young children and I hear almost every single day of the stresses that the parents and the children have been facing. One friend described to me how excited her daughter was to go to kindergarten and how crushing it was to watch her spirit wither as she attended school as a kindergartener on a computer. Also, I have other friends who have taken leave of absences from their jobs and I want to be really clear that nothing in here is meant to be critical in any way of the original decision to close. I think just like the importance of mask wearing and the relative safety of the outdoors, our understanding of COVID-19 has continued to evolve and one of the big lessons that we have learned and continue to learn is that children are not significant drivers of transmission here, like they are for seasonal flu, and schools that remained open did not see increases in community spread. Again, it is just meant to mirror that and to be a voice for the community and really to support our teachers, the DOE, the HSTA in saying we are ready to support them however possible in going back. Again, I appreciate the dialogue and appreciate every effort that our teachers have made through this entire process to adapt and evolve under incredibly challenging circumstances.

Council Chair Kaneshiro: Is there anyone else? Roll call vote.

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

The motion for adoption of Resolution No. 2021-11 as amended to Resolution No. 2021-11, Draft 1 was then put, and carried by the following vote:

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

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

Council Chair Kaneshiro: Can you read us into Executive Session?

EXECUTIVE SESSION:

ES-1038 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing and request for settlement authority in the matter of Trevor Wright vs. County of Kaua'i, et al., Civil No. 19-1-0061 JRV (Fifth Circuit Court). This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1039 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing and request for settlement authority in the matter of County of Kaua'i vs. KAPHA North Shore, LLC, Civil No. 18-1-0031 (Fifth Circuit Court). This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1044 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(3), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to discuss the utilization of public access, open space, natural resources preservation funds for the acquisition of real property identified by Tax Map Key No. 3-2-001-001 (55.408 acres) and Tax Map Key No. 3-1-001-012 (44.641 acres) for land conservation purposes. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-1038, ES-1039, and ES-1044, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Vice Chair Chock.

Councilmember Chock: Chair, I just wanted to reference for the record, I will be recusing myself from ES-1044.

Council Chair Kaneshiro: Yes, we have you and Councilmember Evslin will be recusing yourselves. We will talk about this item when we go into Executive Session, we may not have enough people in it to even run that Executive Session, but we will handle it when we actually go into Executive Session.

Councilmember Cowden: When are we going to do our Committee Meetings?

Council Chair Kaneshiro: Right after this. We are just reading this in.

Councilmember Cowden: Okay.

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

The motion to convene into Executive Session for ES-1038, ES-1039, and ES-1044 was then put, and carried by a vote of 6:0:1 *(Councilmember Kualii was excused)*.

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

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:39 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

(February 24, 2021)

FLOOR AMENDMENT

Resolution No. 2021-11, Resolution Urging The Governor To Resume In-Person Education For Grades K-12, Interscholastic Sports Competitions, Organized Youth Sports, And Adult Recreational Sports For The State Of Hawai'i

Introduced by: LUKE A. EVSLIN, Councilmember

Amend Resolution No. 2021-11 by amending the title to Resolution No. 2021-11 to read as follows:

**“RESOLUTION URGING [THE GOVERNOR TO RESUME] IN-PERSON
EDUCATION TO RESUME FOR GRADES K-12, INTERSCHOLASTIC
SPORTS COMPETITIONS, ORGANIZED YOUTH SPORTS, AND ADULT
RECREATIONAL SPORTS FOR THE STATE OF HAWAII”**

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

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