

## COUNCIL MEETING

JUNE 15, 2022

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, June 15, 2022, at 8:44 a.m., after which the following Members answered the call of the roll:

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

### APPROVAL OF AGENDA.

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

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify? None.

There being no one present to provide testimony, the meeting proceeded as follows:

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

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

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

### MINUTES of the following meetings of the Council:

June 1, 2022 Council Meeting

June 1, 2022 Public Hearings re: Bill No. 2856, Bill No. 2857, and Bill No. 2858

Councilmember Carvalho moved to approve the Minutes, as circulated, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Is there anyone in the audience or on Zoom wishing to testify? None.

There being no one present to provide testimony, the meeting proceeded as follows:

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

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

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

There being no objections, C 2022-131 was taken out of order.

### COMMUNICATIONS:

C 2022-131 Communication (05/11/2022) from Councilmember Cowden, requesting the presence of Thomas Williams, Executive Director, State of Hawai'i Employees' Retirement System (ERS), to provide a briefing on the following:

- A basic overview and history of the ERS;
- The overall financial state of the ERS;
- The investment emphasis of the ERS;
- A 5-year performance timeline of our investments and an evaluation of the inflationary impacts on the dollar over the same period; and
- A future financial outlook of the ERS' investments based on current and future inflationary pressures, investment concerns, and downward trends.

Councilmember Carvalho moved to receive C 2022-131 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Thank you, Mr. Williams, for being here. I want to thank Councilmember Cowden for requesting this item. Mr. Williams, if you want to start and share your screen, we do have your presentation in front of us also.

There being no objections, the rules were suspended.

THOMAS WILLIAMS, Executive Director, State of Hawai'i Employees' Retirement System (*via remote technology*): I am Tom Williams the Executive Director, State of Hawai'i Employees' Retirement System. I am delighted to have the opportunity to chat with the Members of the Council to provide an update on the Employees' Retirement System (ERS). I have a number of communications from your office, and I am hopeful to respond to those during the course of the presentation. Again, as you have indicated, you have my presentation before you, hopefully, it will be rather brief, then I will attempt to respond to questions that any Members of the Council or the public might have. As I was attempting to page down on my particular program, it does not seem to be moving, but I might ask that if you look at page 2, it has a summary of what we are going to talk about. It describes the ERS as being started in 1926; this is the ninety-sixth (96<sup>th</sup>) year of our organization. I believe

everyone is aware that it provides retirement and other benefits to employees of the State of Hawai'i, as well as all the counties. The Board of Trustees is the governing body of the ERS, it is comprised of eight (8) individuals, three (3) of whom are appointed by the Governor, two (2) of whom are required to have some financial experience, and the remainder of the board is elected by the members, by retirees, teachers, and active employees. We are a so-called qualified defined benefit plan. The Internal Revenue Code establishes certain criteria for pension plans in order for the contributions that are made to the program, as well as the earnings of the program, to be deferred. I believe now my slide may be working. This is just an overview of the system in large measure. To give you a little bit of the demographics of our system, we have about one hundred fifty thousand (150,000) members in total. I think that represents about ten percent (10%) of the population of the State, where we are about one million five hundred thousand (1,500,000) individuals. Sixty-five thousand (65,000) active employees, three thousand nine hundred (3,900) of which live on Kaua'i—that is about six percent (6%) of our active population of residents of your island. Retirees and beneficiaries—a little over fifty-two thousand (52,000) individuals are retired, two thousand eight hundred (2,800) of whom are residents of your island, as well, and that is about five point three percent (5.3%) of our entire beneficiary or retiree group. Then, of course, there are a number of people who are inactive in our system who have accrued some level of service and received some level of employer and employee contributions, and they may in fact return to work, so they left moneys and that serves as sort of a deposit or a credit in the system. Again, we have a number of inactive employees or members, as well, and those are shown there. To mention the number of retirees that we paid in 2021—one billion six hundred eighty thousand dollars (\$1,680,000,000) into the economy across the state. I think that was fairly significant, because it played a major role during the ongoing pandemic to help our economy when it was in free fall. In many respects, when tourism had reduced or stopped to zero (0), and there were forecasts significant budget deficits, and alike. Of course, the continued payment of these moneys to our beneficiaries helps to stimulate the economy during good times, as well as bad. The average pension is shown here to be about thirty-one thousand dollars (\$31,000), significant difference is obvious between the highest and the lowest, but that is the average. It indicates here that over fifteen thousand (15,000) of our members actually can retire today if they either achieved the years of service, or the age—the combination of the two (2) that are necessary to entitle them to retire. That is significant for us, because about twenty percent (20%) of these folks are teachers. As you know, there are already a significant shortage of teachers, and there were some bills in the legislature that would attempt to improve the retention, as well as the recruitment of teachers. We fully supported those initiatives, but they do have an implication for the pension plans to the extent we pay our teachers significantly more, rightfully so, I suspect. That creates an unfunded liability, or an additional liability in the system beyond what was anticipated. So, we testified to the legislature as to that deleterious impact, and fortunately they were able to allocate additional moneys to the ERS to partially offset that—not fully.

This is a slide which illustrates the actuarial condition of the system. I think it is fairly important, it shows the fiscal status, if you will, at present. What this slide attempts to do, it shows where we were in 2019, 2020, and what we expected in 2021, and what we actually experienced. Looking at the first line across the unfunded

actuarial accrued liability in billions. You can see that it was fourteen billion dollars (\$14,000,000,000) in 2019, it was expected to go to fourteen billion six hundred thousand dollars (\$14,600,000,000) in 2020. In fact, we thought it would go to about fourteen billion seven thousand dollars (\$14,700,000,000) in 2021. In fact, it came in less. It came in at fourteen billion two hundred thirty thousand dollars (\$14,230,000,000), that is three hundred fifty million dollars (\$350,000,000) less than was forecast, and that is significant because you will see two (2) lines lower than the initial one, the funding period, the numbers of years it takes based on all of our assumptions that they are fully realized for the plan to be fully funded. In other words, we will have one hundred percent (100%) of assets that are needed to pay our obligations into perpetuity. At present, it was twenty-six (26) years. We were expected to go to twenty-five (25) years, and because of investment performance that exceeded the target, we actually lowered the funding period by a full two (2) years to twenty-four (24) years. Again, if all assumptions are realized into the future, we have lowered the funding period through which you would have to make contributions at current levels by two (2) years. That is over one billion five hundred thousand dollars (\$1,500,000,000) per year, so that could represent significant savings to all the participants in the system and across our state. Below, it talks about market value of investments—the reason there are two (2) different columns here, or two (2) different illustrations is the top one is about actuarial value, and because we are trying to reduce the volatility in the rates and the returns from year-to-year, the actuarial value smooths the results, gains and losses, over a four-year period. The market value is reflective of the one-year value, and the value of what we would have based on that year's return. As you can see, the actuarial funded ratio is about fifty-eight-point three percent (58.3%). It moved up significantly from fifty-five-point three percent (55.3%)—that is a dramatic shift in a single year. As I have said, funding period from twenty-six (26) to twenty-four (24). Of course, if we were looking at it on the market value basis, we would be significantly funded more, sixty-four percent (64%), but that is volatile year-to-year, we cannot rely on it.

Assets as of June 30, 2021, and December 31, 2021, we will give you an update on the more recent performance, but you can see market value was twenty-one billion five hundred thousand dollars (\$21,500,000,000) on June 30<sup>th</sup>. We had an actuarial return of ten point six percent (10.6%), market value return of twenty-six-point nine percent (26.9%). In fact, it was the highest return in the history of the fund that we received last year that had a favorable impact in terms of the actuarial funding ratio increasing fairly dramatically. This compares to what we anticipate on an annual basis of seven percent (7%), that is the assumed investment return rate, the aggregate from all of the investments, the equities, the fixed income, the real estate infrastructure, all of our investments, different expected returns, but when we put them together, we expect on average to receive about seven percent (7%) a year. Every year we work with the investment managers, banks, economists, and others to validate whether those assumptions are accurate. To the extent long-term expectations go up or down, and they have been declining quite frankly, and are expected to continue to do so, we take that into consideration, but we test our actual assumptions against not only our actual results, but against the capital market assumptions of these other experts.

In terms of our investments, I would just characterize the ERS as having a very diversified portfolio, but with a defensive posture. In 2012, following the great financial crisis recognized that we cannot withstand the volatility of a more well-funded plan. Again, we were at about fifty-five percent (55%), and if we had experienced another thirty percent (30%) decline in the market, it could put the sustainability of our plan at serious risk. The board, on advice of investment consultants and internal staff, developed something we call diversifying strategies that tends to perform even in down markets. Most markets, most plans, particularly more well-funded plans are geared towards growth, seventy-five percent (75%) of the time the markets are appreciating, but when they are going down, they can go down significantly and put the plan at risk—we cannot afford that downdraft, so we protect our plan through these diversifying strategies. We do not fix or focus on any single aspect of our program. Quite frankly, we have a diversified portfolio, but from an inflation perspective, it is the fixed income investments that are normally most impacted. We can change our response to the fixed income investments by moving to shorter duration, or private credit, direct lending, and strategies like that. Also, we focus on real estate, core and infrastructure, logistics, warehousing, and the like—all of those things are responsive to inflationary pressures. Our diversifying strategies are intended to be uncorrelated to the growth market. I can tell you that in the decline in the markets our structure and strategy has been validated, because when the markets were down at the end of March of this year, probably the average public pension plan was down between four percent (4%) and six percent (6%), we were down just about six (6) basis points, we were almost flat. So, these diversifying strategies piece of our portfolio, which had performed about five percent (5%) while the markets were down significantly negative, so it is working the way we had hoped. There was a question about the performance of our fund over the last five (5) years and this illustrates the market value of the fund beginning in 2016 through the end of 2022 and it shows you the red line or orange line the value of a dollar that was invested back in 2016, how it would have grown to about one dollar and fifty-nine cents (\$1.59). As of March 2022, the portfolio value shifted or increased from fourteen billion dollars (\$14,000,000,000) to up to twenty-two billion four hundred thousand dollars (\$22,400,000,000), record size in growth in our assets.

This is looking at our investment performance relative to benchmarks over the various time periods: one-year, three-year, five-year, and seven-year. We have seven (7) years inception to date, so as you can see, we have outperformed our benchmarks almost over every period. Of course, March 31, 2022, we are pretty much even, but just modestly outperformed it, but that has been a negative period in the markets overall.

Asset allocation is again illustrated here very simply as it relates to the growth assets which are the ones that tend to be diminished in slow growth environments—that is the biggest part of our portfolio, but these other slices of the pie are the defensive pieces that I alluded to, and there are a lot of things involved in those like relative value arbitrage, liquid diversifying in special situations, insurance related investments, and the like, so there is a lot of ingredients inside the pie there. We have all the details available to you online.

There is also a lot of concern about inflation. I think over the prior five (5) to eight (8) years inflation has been muted. The Federal has struggled to try to get to its target of two percent (2%). While I think we overshot that by all accounts significantly in the recent six (6) months, or beginning of last fall, so inflation now is averaging about eight percent (8%). The most recent report was eleven percent (11%) or thereabouts, driven largely by food and energy prices, some other components of the index are beginning to stabilize, but we have a real challenge. Interestingly our organization investment team has been forecasting and increasing inflation for about the last two (2) years, and we have been preparing the portfolio for that. We do not modify or react to short-term phenomena, but we are investing for the longer-term, but we have some inflation response investments like treasury inflation, protective security, we talked about real estate, and floating rate bonds, and those kinds of things. The USD here is described as a safe haven in times of political turmoil, as well as economic turmoil. We find that the Federal Reserve is moving more quickly than other nations or other countries' central banks to increase rates. I have not heard what the Federal has done today. I think they are meeting as we speak. It is anticipated that they are going to increase rates by about seventy-five (75) basis points, and I understand that these are probably at least three (3) more increases expected this year into next year, which might get rates up to about four percent (4%). It is a really difficult balancing act, as you all could imagine, because if they act too quickly, it puts breaks on the economy and we might run into a recession. If they act too slowly, inflation continues to run amuck as it has. It threads a little behind the curve, they probably should have started raising rates a little earlier, but hindsight is 2020. The impacts of the decisions are deferred to longer terms. It takes six (6) to nine (9) months for the decisions that the Federal makes today to actually have an impact in the economy tomorrow—it is really a deferred impact.

How strong the dollar will be relative to others is determined by not only what we do here, but what happens in other countries. I think you will see that most countries are beginning, apart from Japan and China, to increase rates fairly aggressively. The sources of impact in our investments...we talk about seven percent (7%) assumed investment return, we did have a tremendous investment performance. We had two billion dollars (\$2,000,000,000) in reserves. They are deferred through that smoothing methodology. We would always like the market to pick up, but that tends to offset the negative effects that we are experiencing this year. The liability grows faster than we anticipated largely as a result of general employees getting salary increases, a little bit larger than what is anticipated—that changes year-to-year. Some years there are no increases, then we get a retroactive increase, but we are somewhere about three percent (3%) a year. We are visiting all of these assumptions through an experience study that we are processing as we speak.

There is an actuary of stress test that we perform on an annual basis to determine how the fund would perform in a low return environment, such as if the markets were to decline thirty percent (30%). Then we would experience not seven percent (7%), but let us say five percent (5%) for the next ten (10), fifteen (15), twenty-five (25) years, how will the fund perform? It shows that the fund is sustainable even in a significantly low return environment that we would be able to meet our obligations and pay our benefits to our members. The timeframe to full

funding might extend, but the sustainability of the system is not jeopardized as a result of a well return environment—that is good news.

As you know all too well, contribution rates are set in statute, they are now twenty-four percent (24%) for general employees, and forty-one percent (41%) for police and fire. We do not anticipate that this would change, because our investment performance illustrates that we are able to maintain the assumptions and we do not anticipate any increase in these rates. I think they are some of the highest in the nation. While they are important to getting us fully funded, we certainly do not want to see them increase any further, because there are lots of competition for limited resources.

Employer contributions from 2018 through present 2022, and estimated for 2023, we show the County of Kaua'i, the Department of Water, and in total. You can see the contributions as the rates have increased has gone up substantially from almost nineteen million dollars (\$19,000,000) in 2018 and 2019 to where they are expected to be about twenty-eight million dollars (\$28,000,000) in 2022, and going up to about twenty-nine million dollars (\$29,000,000) in 2023 and 2024—that is estimated, but it depends upon rates of hiring, salary increase, and the like.

The excess pension cost, this relates to the so-called expenses you incur as a result of spiking when individuals at retirement, largely as a result of overtime. This is largely applicable to Tier 1 employees, because for employees hired after July 2012, overtime is not included in their pension calculations, but for everyone prior it is. The earnings increases significantly above the averages over the prior ten (10) years, we calculate that differential and determine the actuarial costs of that additional pension that we are going to be paying, and that gets charged back to the employers, otherwise the liabilities would be assumed by the plan and would drive up everyone's costs, so we try to allocate those costs back to the employer based on their actual population of people who are in the service and retire from your participation. You can see how those spiking charges have gone up from 2014, when it was about two hundred thirteen thousand dollars (\$213,000) and only seven (7) people involved. In Fiscal Year (FY) 2021, there were twenty-three (23) people—that is not a lot of people, but the charges were two million eight hundred forty-four thousand dollars (\$2,844,000). In each year when I visited with you in person or virtually, there was a discussion around what can you do to get a handle on and reduce the utilization of overtime, so as to lower the ultimate cost to the island, as it relates to those charges. That really concludes the formal presentation, I do not want to take up too much of your time on the fundamentals, but I am available to answer any questions you might have.

Council Chair Kaneshiro: Thank you, Mr. Williams. Councilmember Cowden.

Councilmember Cowden: First of all, I want to say, good job. You exceeded my expectations in terms of creating stability with this retirement fund. When I have looked at what has been happening in the markets and even in my own personal life, the last six (6) months have been very turbulent, and increasingly so. I was worried we would be in a worse position, so I want to say thank you on that. I

am seeing mostly here up to 2021. Our 2022 numbers, you have put it in your estimate, you are still expecting us to be solid—that is really good.

Mr. Williams: For example, FY to-date, that was through March 2022, we had a five-point-four percent (5.4%) return. Someone had asked about the five-year return, it is nine-point seven percent (9.7%) through March 2022. We have exceeded our seven percent (7%) target. The ten-year return was nine percent (9%). For the three-year return it was eleven-point eight percent (11.8%). We are not anticipating that we are going to see that level of return this year, but again, we do not focus year-to-year. We expect significant volatility, but over time we expect some normalization in the context of our portfolio returns, and how they will impact to these variant volatile environments. There could be, and likely will be some difficult years ahead, but we think we are well suited to respond to those particularly with the defensive nature of our portfolio, which really provides some level of return even during these challenging markets. I alluded to earlier, we were up five percent (5%) when the average fund was down four percent (4%) to six percent (6%). In fact we were, at the end of March, within the top five percent (5%) of pension funds in the nation in terms of investment performance.

Councilmember Cowden: Thank you for that. I would assume April and May, as you are saying, that is more challenging. You have eleven percent (11%) is what seems like the current inflationary pressure. As we are looking at bargaining agreements, they have been agreed on. We are going to be needing to raise salaries because we cannot keep people. It is hard to keep workers on the island. When we have the eleven percent (11%) pressure, when we see the growth and gotten up to twenty-eight million dollars (\$28,000,000) or twenty-nine million dollars (\$29,000,000), part of that is spending amount is probably weaker because of inflationary pressure across the nation. Would that be consistent with your perspective?

Mr. Williams: Yes, but we do not anticipate that inflation is going to continue at these elevated levels for a protracted period. Obviously, it is all speculative as to how long this is going to last. Some thought it was going to be six (6) months, nine (9) months, no one knows for sure, but there are market cycles, and cycles in the context of inflation. You know we had a period of loose money, and artificially low rates, Feds trying to catch up now. I do not expect to see rates such as we are experiencing today for the longer term, but it does as you suggest, has an implication and influence on salary expectations, and while it is not immediate, it is baked into the system over time. Historically, we have seen periods where salary might go up six percent (6%) or five percent (5%), or assuming three percent (3%), but there will be a corresponding period where there will not be increases, so we look at those assumptions—we look at them every year to determine how they are fair into our actual results. We are not going to make any major changes based on current high inflation levels, we do make some changes in our investment programs, but not in our longer-term expectations for payroll growth in terms of numbers of people or salary. We will make adjustments as the results come in and we look at it on an annual basis.

Councilmember Cowden: I have one last question. I sent it to you on Monday, so you might already be aware of it. I was really surprised to see that over two (2) years ago the Federal Reserve reduced the reserve requirement ratio from ten percent (10%) to zero percent (0%), that shocked me to see that. You are talking about the Federal adding a little bit of basis points or interest rates. Why would they do that? To me, that is the guardrail on debt. Why would they drop the ratio from ten percent (10%) to zero percent (0%) in a bank lending ability?

Mr. Williams: That is an interesting question that I do not have inside information as to why they did that. It certainly liberalized the availability of money. I think there was an emphasis on keeping interest rates low and pouring money into the economy that had the effect of buoying the stock market, because as people were looking for a return, the fixed investments short and longer term were relatively muted to what you could get into the markets that it drove people to the equity markets. It was a historic change. I think it is important and suspect that you will see with voluntary tightening that they will reimpose these reserve requirements. It is one of the ways they stimulate or withdraw money from the economy as increasing those requirements or decreasing them. In March 2020 is when they moved to reducing to zero percent (0%), there was a stimulative environment. There was a concern, obviously COVID-19 was around, and they were trying to make sure we did not move into a recession as a result of the slow down in the economy. Again, not an insider. I have sat on the Federal Reserve Bank board in Kansas City for four (4) years, but I am not in there now, so I do not know the real rationale on why they did that. My sense at that timeframe it was concurrent with COVID-19 and expected downturn in the economy. As you described, I think it is an important guardrail. It is an important savings. It is a break and to make sure in the event that there is a need for liquidity on behalf of us, that the bank has that money and is liquid, it is in their vaults, and they can avoid certain pressure. I expect we are going to see that go back up.

Councilmember Cowden: I would hope so. You have helped me to understand more. They did this pretty much the same day as they announced our emergency nationally on COVID-19, so it coincided with that. I never did see this in the press anywhere, and it gives me the sense that the vitality that we have been able to endure through these past two (2) years is false.

Mr. Williams: I would not necessarily agree, but I do not know. The future will tell us whether it was false or not, but it was real.

Councilmember Cowden: Exaggerated.

Mr. Williams: I guess what I would say, is that it was stimulated—it was stimulative. If we had not done it, then we likely would have had significantly higher unemployment that would have rippled throughout the economy, the housing markets, and consumer spending, so we likely would have been in a recession as a result of that, so there was an effort to avoid that. There would have been pain if we had not done it, and now we are experiencing the other side of the pain—the inflation side of it, and if we do not get that right, we can slow the economy too quickly and generate that recession that everyone fears.

Right now, most of the economists that I had the opportunity to chat with believe that there will be a recession, they are a market cycle, but they think it is actually about one (1) to two (2) years out, because there is historically high employment, there are jobs available to be taken, and savings levels of Americans are really way above historic norms. I think we have savings on average of about eighty percent (80%) higher than the average savings for the American worker. It is not spread evenly across our economy, obviously, some higher worth, the net worth of individuals have more savings relative to others, but there is a sense that there is enough money saved up, that spending will not drop and the bottom will not fall out immediately, even with the increase in interest rates. But no one knows precisely when that impact will occur.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am very impressed with all your numbers and your explanation, but for the common folk who is out there watching this morning and for our employees and retired beneficiaries watching, looks like we are in a good "thumbs up" position, correct?

Mr. Williams: Yes.

Councilmember DeCosta: Perfect. I want clarification on the ERS total fund versus the benchmark. Seems like we have done well compared to what you folks have set on the benchmark, correct?

Mr. Williams: That is correct.

Councilmember DeCosta: You made a comment and it resonated with me, "the highest in the nation," you mentioned Police and Fire being "highest in the nation." Is that the Retirement Fund?

Mr. Williams: Let me hopefully clarify. I am sure the forty-one percent (41%) employer contribution rate that applies to public safety, for Police and Fire, I do not think it is the highest in the nation. In fact, if I said that...it is amongst some of the higher, because there is a significant variability for those rates because there is a significant variability in the funding levels of the plans, as well as the benefits that those plans provide. Our program is really providing very generous benefits appropriately so for all employees who are long-term and work long enough and live long enough to retire. When I think about forty-one percent (41%) employer contribution only, and employees contribute eight percent (8%) or more for that, we are looking at fifty cents (\$0.50) of every dollar going to the retirement plan alone. If this plan were fully funded, the normal cost across all groups would be closer to ten percent (10%) to twelve percent (12%). That is why we want to get fully funded, so that your yearly expenditures would go back to a more normalized level and could be incorporated into a budget that saves pressures for hospital, health care, education, and all those things that you need to fund. It is difficult to fund those if the pension plan alone...and that does not address Medicare and social security and debt service

on the state borrowings, et cetera, when you look at all of that. I am just working very hard to make sure we do not have to increase those rates. They are high, but not the highest in the nation by any means.

Councilmember DeCosta: Thank you for that. The Kaua'i Police Department (KPD) and the Kaua'i Fire Department (KFD) are the County's two (2) largest costs and we owe that to our community to make sure those funds are available to keep our island safe. Thank you for that. That is all I have.

Mr. Williams: The highest rates are not necessarily caused by KPD or KFD members themselves, it is because of the way the plan was or was not funded over several years, and that is why these costs are being paid today and they are higher than they would have otherwise been. I am in no way inferring that it is those professions that created this. This is just a mathematical cost of making up the unfunded liability and putting aside enough money to meet our future obligations and commitments. I think they are fair and appropriate.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: It has been a few years, thank you for coming and speaking to us. I appreciate the update and the good work that is coming forth. I can see that we have a light at the end of the tunnel, so to speak, hopefully. When last you were here, we talked about and explored policy change. In fact, I put a bill together in that direction and it was not very popular. Although you supported it and wanted to see at least from that end to try and address it by shortening the runway on it. I am curious, has there been any more discussion or movement in terms of policy changes that we, as Councilmembers, work with our delegation to support you in your work that you are trying to accomplish?

Mr. Williams: You have been supportive of us, and we work closely with the employers to assure they understand the various cost drivers of the system. Honestly, we do not control it on our end, we are the recipients of the experience, and we calculate the cost of that experience. I appreciate your efforts to limit the growth and the liability of the funds. We have been working with the legislature; for example, there are several smaller things that we are trying to do related to service-connected disability. That does not affect most of you, but it is a significant drain on our system because the courts have increasingly liberalized the definition. For example, it is supposed to be for people who incur hazards on their jobs, like KPD and KFD, but the courts have begun to expand the eligibility and definition, so it now applies to people in clerical jobs who get carpal tunnel and they are saying, "they are typing at their jobs and it is service connected," and we pay a larger benefit. They get a thirty percent (30%) higher benefit, they do not have to have any minimum years of service, they pay no federal income tax on it, and we see it as a growing area. We had a bill last year that would have defined it to comply with the original legislative intent that says that it really has to be related to your actual work and resulting from an accident or an unforeseen event. It went through the house, but did not get to the senate because there was a resistance to support bills this year that would in any way reduce or would be perceived to reduce benefits for employees. The sense, at least what I heard, is that the employees have sacrificed for

the last couple years with no raises, et cetera, and while this might have made sense, they just did not want to deal with it in an environment where employees are perceived as "carrying the bigger burden." So we will introduce it again next year. We would appreciate the support that you and your colleagues have provided for the system. We hope to continue to earn that support.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: On page 4, it says, "Over fifteen thousand (15,000) active employees can retire today," do you happen to know how many in Kaua'i can retire today? Do you have that breakdown?

Mr. Williams: No, we do not. I think the retirees...Kaua'i represents about five point three percent (5.3%) of current retirees, so it might be five point three percent (5.3%). That would be a rough...

Councilmember Cowden: That would be seven hundred fifty (750)? Do I have that number right?

Mr. Williams: Yes, that is approximate. We do not have it broken out by each, but we know there are fifteen thousand (15,000) and you are about five-point three percent (5.3%) of the retirees today. That is one quick look.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, while the rules are still suspended, is there anyone in the audience wishing to testify? Lonnie.

LONNIE SYKOS: For the record, Lonnie Sykos. I would like to thank Councilmember Cowden for getting this on the agenda, "tip of the hat." I have been hearing these updates for fifteen (15) years now, and I would have to say that this is the best report I have ever heard. Fifteen (15) years ago, it was doomed. He was looking at, "We are going to go bankrupt paying retirement," because of the overtime issue, which the state legislature finally dealt with, and so we are only digging out of a hole that ended in 2012, I believe. Since 2012, the overtime is not figured into the retirement. To Mr. Williams, excellent report, sir. Thank you very much. Your office has always done an excellent job of presenting this information in a way that an average person ought to be able to understand what the trends and the big picture details are. I am very happy to see that the number of years that it is going to take to get caught up has been reducing over the last decade and appears to be accelerating, which is partly because of the economy and partly because of how well this fund is being managed. Thank you very much to everyone at ERS and thank you to the Council for this excellent presentation to the public.

Mr. Williams: Let me thank you as well and suggest to you that I enjoyed my time here, but none of this is accomplished by any single individual, you did not suggest that, but we have boards and investment staff and the legislature,

and all of you have positioned us to have this success. It is a team effort, and I am grateful for your support.

Council Chair Kaneshiro: Is there anyone in the audience wishing to testify? Is there anyone on Zoom wishing to testify? Are there any further questions from the Members? Is there final discussion from the Members? Council Vice Chair Chock.

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

Councilmember Chock: I want to thank Mr. Williams and the ERS system. I completely agree with the testifier. We were looking at dismal outlooks a few years ago and I really feel like since he has come onboard, he has literally been able to shift us, and I realize it is a team effort. Full disclosure, I am on service-connected disability recipient and to that end when we look at policy changes what we really need to take into consideration is how we all are giving back and trying to contribute to the problem that we created. To that end, I support any type of legislative changes that will help us be more accountable towards that end, which means that we all do something about it. It is not popular, and it may hurt, but I think that is sort of where I would like to see the mindset be instead of...not to say that our employees do not deserve everything they can receive, but this is a problem that we have to address and the sooner we can address it the better footing we can be on for moving forward.

There being no objections, the rules were suspended.

Mr. Williams: The employees are not taking advantage of the system. The rules are being interpreted in such a fashion that this is the outcome. But it is beyond what the legislative intent was initially, and we are just trying to clarify, so that we can provide benefits where they are warranted, but not do so when they are not. I do not want to suggest in any way that people are doing something wrong. There are things we need to clarify and to tighten up, and that is just one small thing, quite frankly.

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

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Councilmember Cowden, thank you for getting this on the agenda. Mr. Williams, thank you for this detailed report. It is really well written and put together. I had the opportunity to serve in the County since 1986 and wearing different hats, but it is all about the employees and ensuring that they have stability, in whatever level they are at. It does not matter. I really appreciate this very detailed, very well put together report. I may have some questions later, but for now, I really appreciated this. *Mahalo*.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I feel much better now that I know this, because this has been something that has been eating at me through our budget system. It has been eating at me relative to how we are managing our revenue. I am so thankful that this happened first before we talked about some other elements on our agenda. I will just quickly say thank you very much. This made me feel better. When I look at some of these things we need to decide on today, it is so valuable to have this confidence, because as I watched the deep turbulence in the markets, and I anticipate that will continue I would think at least another year or so, that we are going to be able to be making our payments to our retirees and encouraging our newer or younger workers, who are in here since after 2012, they are paying more to receive less as we move forward, I am glad that there will be something for them, is what it looks like. Again, good job.

There being no objections, the rules were suspended.

Mr. Williams: I do not want to prolong this but let me share with you that the board is going to look at the effect of the 2012 changes. I think they have been very positive. We have about forty-four percent (44%) of our members, who have come on-board since 2012, but they represent three- and one-half percent (3 ½%) of the liability. The moneys that are being contributed focused on paying off the debt, the unfunded liability, and we want to make sure that the people who are hired subsequent, that they get a fair shake out of this plan, quite frankly. There is a tiered vesting, a lower multiplier than others, and while that might be necessary and appropriate from a fiscal perspective to shore up the plan to avoid the hemorrhaging, the purpose of the plan is to provide adequate retirement benefits for state and county employees. If you end up with a significant number of our citizens working for eight (8) or nine (9) years and getting nothing out of a system, that is a huge gap in their economic security, because a typical working career is said to be between twenty-five (25) and thirty-five (35) years. If you take ten (10) years out of that and get something short of ten (10) years, then you get zero (0) for it, that is a gap that must be made up because people will not have adequate income in retirement and those costs get shifted. We are going to have a study this summer to review the impacts of that financially as well as attempt to determine its implications for recruitment and retention, because we are losing a lot of employees to the private sector, because they do not get the benefits that at one-time differentiated us. We could not pay as much, but you got top tier benefits and retirement and healthcare and the like, but the retirement benefit has been reduced, necessarily, but we want to understand the implications of that.

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

Councilmember Cowden: Thank you. Well said.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I do not want to beat a dead horse, but you brought up an excellent point. We do not attract qualified people into the County, because we cannot match the private sector pay, so hopefully with the benefits of the

retirement and the medical, we can offset that. It is so important for us to have our revenue base, so maybe one day we can pay these top officials or top employees, or any position, the money they deserve, so we can attract. I am going to say this again in defense for KPD and KFD because I always think that they come under the scrutiny of the highest source of our revenue that goes to them, and it does... Council Vice Chair, you were on the Kaua'i Fire Department at one-time and we do not appreciate them, KPD and KFD, until we need them to rescue our family members. Whether they are drowning or in a burning home or whether they need to take a bullet in their vest for us. So with that being said I think we have to honor them and if that is our biggest expense, we have to continue to make sure we have revenue to support them. That is all. Great presentation in a nutshell.

There being no objections, the rules were suspended.

Mr. Williams: I share your sentiment as to the importance of public safety officials across the state and the Country, quite frankly.

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

Council Chair Kaneshiro: Is there anyone else? If not, yes, I want to say thank you, Mr. Williams, on what you presented in front of us the past six (6) or seven (7) years. We did not present through the pandemic, obviously. The markets were high at that time, and everyone was having a difficult time with the pandemic, but it is good to get an overview from you on where we are today. Today, the markets are down, but I am glad that you talked about how you were able to limit our exposure to the market. You did not say it, but in the past unfortunately the State Legislature had the ability to raid the pension fund and they did. Years later, this was way before any of our time, we realized that that really crippled the pension fund and that is why now we are trying to make up for it. We had to pay increased employer contributions. I do not know any private sector that pays forty-one percent (41%) of an employee salary into retirement, but the County does. I do not know anyone that even pays twenty-four percent (24%), but that is because the fund was crippled a long time ago and that is the importance of funding the fund. You know that in good times, the funds will go up, but you do not take the money out of it, because there might be a bad time where you have to level out that curve. That is the reason why we ended up in the situation we are in. I am glad that we finally got to the top point of our employer contribution, which is in forty-one percent (41%) for public safety, twenty-four percent (24%) for all other employees. We do not anticipate any more increases in that contribution, which I am proud of, and yes, there has been major changes to try and get the pension fund back. As mentioned, in 2012, they redid the way pensions were calculated. They pushed any excess pension liability due to spiking on to the counties, they limited the amount of retirement employees can get to their base salary versus the total compensation, which had spiking. There are changes and again, yes, I am glad Mr. Williams mentioned that. Those changes do affect employment, because at the time we could probably offer a lower wage than the private sector was paying, but we had way better benefits or a way better retirement package. As we try to fix these things, you start to see our employment erodes because people are starting to say, "that benefit package is not as good as it used to be, the salaries are

not as competitive,” and we get into this balancing act. I am happy and impressed and just proud to have Mr. Williams here representing our ERS and presenting the reality of where we are on it. It looks like we are heading...we can actually see the light at the end of the tunnel. It is a thirty-year, twenty-six-year light, but we are better than where we were at in the past, where we were saying, “we have a huge liability, what are going to do with it.” I just want to thank you, Mr. Williams for all of your hard work and I really appreciate what you folks have done.

There being no objections, the rules were suspended.

Mr. Williams: Let me thank all of you for putting the invitation and the opportunity to meet with you. I am really grateful.

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

Council Chair Kaneshiro: Thank you. Is there any further discussion?

The motion to receive C 2022-131 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: Based on timing, we will need to do our Executive Session.

There being no objections, ES-1075 and ES-1076 were taken out of order.

#### EXECUTIVE SESSION:

ES-1075 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and 92-5(a)(8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and decision-making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to State or Federal law, including the Health Insurance Portability and Accountability Act.

ES-1076 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Kaua'i County Housing Agency, requests an Executive Session with the Council to provide the Council with a briefing regarding the proposed acquisition of private property for affordable housing. 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 Cowden moved to convene in Executive Session for ES-1075 and ES-1076, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience wishing to testify on this? Lonnie.

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

Mr. Sykos: For the record, Lonnie Sykos. I do not know what you are allowed to disclose to the public, but I would be most interested in the name of this employee, and the reason that I request that is because if the employee has been here publicly testifying about their health issue incurred working for the County, if they have been publicly testifying, if there has been newspaper articles written about them, it would seem only an excuse to keep the public ignorant of what was going on, if in fact any of this is already public information. I do not know who this is, but I do know that the County has some very serious cases in front of them and looking at this, I would assume that this might be Chucky Rapozo. If it is not, he will be on this agenda sooner or later. This is a recurring problem for the County of having to pay our employees for things occurring during their employment that should not have occurred. As part of this, the need to figure out how to prevent these things from happening and if it is a failure within the Department of Human Resources (HR), you need to use your bully pulpit and bully the administration into fixing whatever is wrong with HR. There is something extremely wrong in HR given...show us a graph of how much money we pay every year and if there is a growth curve in settlements with our own employees. This is very disturbing that you want to raise taxes, you want to get money from other places, but we hemorrhage money in legal expenses and settlements with our employees. If you have one in a million or two dollars (\$2) a year, clean up whatever the problems are that continually cause these lawsuits. As someone who is experienced other counties' operations, it is utterly inexcusable the amount of money we spend because of HR's failures to protect our employees from the managers. Thank you.

The motion to convene in Executive Session for ES-1075 and ES-1076 was then put, and carried by the following vote:

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

Council Chair Kaneshiro: This is a workers' compensation claim. We are not able to disclose the name, we do not even have the name in our file. We take the cases based on an individual. We do not know anyone's name. It does not bias our decision. I just want to make that clear. I know you mentioned a name out there, but we cannot confirm or deny if that is the person we are looking at, because we do not even have a name in our file. We would never be able to disclose the name to the public anyway. With that, we are going to recess our meeting here. Is there anyone else in the audience wishing to testify?

There being no objections, the meeting recessed at 9:48 a.m., to convene in Executive Session.

The meeting reconvened at 10:05 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back to our Council Meeting. Next up we have interviews. Our first interview is with John Venardos for the Salary Commission.

#### INTERVIEWS:

##### SALARY COMMISSION:

- John P. Venardos – Term ending 12/31/2024

Council Chair Kaneshiro: Ellen, I will give you the floor.

ELLEN CHING, Boards & Commissions Administrator (*via remote technology*): Good morning. I am pleased to introduce John Vernados. John and his wife Ann were both born in Alton, Illinois (hometown of the legendary jazz trumpeter Miles Davis). John attended Illinois Wesleyan University, where he received a Bachelor of Arts (BA) degree in Political Science and Southern Illinois University, where he pursued a Master's of Science (MS) in Mass Communications.

John has had a long and successful career involving food, pharmaceuticals, and dietary supplements. He joined Herbalife Nutrition in 1997, eventually becoming the Senior Vice President of the Worldwide Regulatory & Government Affairs Department, working with government officials in seventy-one (71) countries. During his tenure there, he was involved in growing the company from twelve (12) to over ninety (90) countries and hired, trained, and mentored thirty-eight (38) employees worldwide. As the Senior Vice President (VP), he oversaw a budget of twelve million dollars (\$12,000,000) and was involved in the development and enhancement of the quality control department's budget of one hundred fifty million dollars (\$150,000,000).

Shortly before his retirement, he became the Vice President of a company called Vitalize, which is more commonly known as Bodybuilding.com and was the largest E-Commerce company in sports nutrition supplements. There, he led a team of nine (9) E-Commerce employees with a budget of seven million dollars (\$7,000,000).

Although professionally John traveled a lot, he has always been drawn to Hawai'i. Since the early '80s, John and his family have been vacationing on Kaua'i. In 2016, as he was nearing retirement, he and his wife decided to build a home here and were able to visit at least four times a year. Finally, in 2019, they moved to Kaua'i full-time.

John is an avid outdoorsman and waterman. He enjoys walking, swimming, and scuba diving. With all the family vacations here, it should not be a surprise that his eldest son, Peter, also moved to Kaua'i and met the love of his life while surfing

at Pākalā's. Peter and his life partner, a local born nurse, is expecting their first child in September!

John's depth of experience with managing personnel, measured against Key Performance Indicators, and his ability to attract the "best and the brightest" in a competitive worldwide market will be most welcome on the Salary Commission. I look forward to his contributions and I'm thankful for his willingness to serve.

Council Chair Kaneshiro: Thank you, Ellen. John, do you have anything else you would like to add?

JOHN P. VENARDOS (*via remote technology*): Good morning, ladies and gentlemen. Thank you very much. When we moved here several years ago, we became friends with retired Air Force Major General Mary Kay Hertog, she is a neighbor here in Kōloa where we live. I explained to her that even though we now have our family here with us, our older son and his life partner, now that I do not have to work any longer for a living, I wanted to give back to the community and asked for what she might suggest. She had been serving for a number of years, as you probably know, on the Police Commission, and she suggested that I speak with Ellen and explore what other volunteer opportunities exist. It is with her encouragement that I applied with Ellen for the Salary Commission, and I look forward to trying to answer any questions you might have.

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

Councilmember Cowden: First of all, thank you for volunteering and being willing to do this. I am seeing something on your form here that is interesting. It says you were a security cleared trade policy advisor to the Obama Administration Secretary of Commerce and United States (US) trade. That seems like an interesting piece.

Mr. Venardos: Yes. When I was with Herbalife, I oversaw the Herbalife Washington, District of Columbia (DC) office which had a staff of six (6). I was not a registered lobbyist myself, therefore, I applied for, and after eight (8) months of secret service investigation was cleared for serving within the Office of the President on an organization called International Trade Advisory Council (ITAC). This has existed through a number of Presidential Administrations, and what it entails is twelve (12) different ITACs. My particular assignment was on an area called distribution services where we would provide advice to the Secretary of Commerce and to the US Trade Representative based on our personal and professional capacities in matters such as the transpacific trade partnership and the US-European bilateral trade dialogue. Some of these matters ultimately manifested themselves as agreements, others did not, but it was a stimulating opportunity to participate in those confidential conversations.

Councilmember Cowden: Thank you for that. One of the elements that you have to do that is a major piece of being on the Salary Commission, we have something called salary inversion. Our appointed positions...

Mr. Venardos:  
please.

I am sorry, can you speak a little louder,

Councilmember Cowden: It is called salary inversion like Department Head and the Deputy Department Head is appointed, so they are not backed by the union or our bargaining agreements, so a challenge that we have is our number one and number two positions in many different parts of the county get paid less than the number three position. So, you are going to get to be a part of what is a real conundrum for us too here. Have you heard of salary inversion before? That is something big that you will face.

Mr. Venardos: I have heard of it. This goes back to my early professional career. As Ellen mentioned, I am from Illinois and had the opportunity early on in my twenties to work for the then Illinois Governor Dick Ogilvie in an area of local department affairs. Although those particular departments were not unionized, public school systems were and it was obviously an issue for my then hometown of Springfield, Illinois. So, I have distant recollections of it, Councilwoman, but I do not have current knowledge here on Kaua'i, and I will learn from fellow salary commissioners, and from the Council, and try to make appropriate recommendations.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members? Is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: Thank you very much, sir, for volunteering. I would note that you are relatively new here. I am very impressed that the Administration is bringing in people not from Kaua'i, but the newcomers who come with extraordinary life experiences. Many people like this gentleman have had a life of not just successful business for himself, but service for others. I am very appreciative to see a new face on the island on the board or a commission so rapidly. A man appears to be overqualified for the position, which is a wonderful thing for us. In regard to salary inversion, that is the result of a structural problem, and it is not going to be resolved without changing the structure of how pay works. The issue is the Fire Chief and the Police Chief are on salary and do not earn overtime. Their assistants have smaller salaries, but they are allowed to accrue overtime, and it is the accrual of the overtime that leads them to make more money than the Chief does. The problem is not being able to control the amount of overtime the assistants make to keep their wages below that of the Chief. Without controlling the overtime, you will never be able to keep the Chief's salary above the amount of overtime they can earn. I will not hazard now what my personal solution would be, but I will point out that this salary inversion is a structural problem in how pay is set up and without dealing with the structural problem the only solution is to keep giving everyone more money, but it is a "ponzi scheme." One guy gets more money, so the other one gets more, now he gets more, and it is endless, relentless, and quite expensive. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Is there anyone on Zoom wishing to testify?

Council Chair Kaneshiro: Is there any final discussion from the Members? I will just say, thank you John for your willingness to serve. I know you are retired and it is always a pleasure to have someone that is willing to serve their time and provide community service being on some of these boards. My personal opinion, inversion might happen whether we like it or not. You might have an employee who works at the County for twenty-five (25) or thirty (30) years and their base salary is going to be higher than the Police Chief. Should the Police Chief who comes in and has been on for two (2) years get paid more than the person who has worked thirty (30) years at the county? I do not necessarily think all inversion is bad. I think if an employee has served their time, they have increased their roles, they become an Assistant Chief, they have a high base salary, they are able to collect overtime, that is their right, they worked through the county that entire time, so it is a balance. I do not this we just say, the highest employee at Police gets this, so we need to bump the Chief's pay up to this and the Deputy's pay up to that. I think you need to look at it holistically and see what everyone is getting paid in the state, what is comparable, what are other factors that are affecting who we are getting as a chief versus...I know collective bargaining has a big part of it. If anyone from Kaua'i retires or is part of the Hawai'i collective bargaining retires, they are not going to want to become a chief, because their collective bargaining gets affected. That is why you see a lot of people who retired from the mainland are able to collect their pension, they come to Kaua'i and they are able to collect more, and it is two (2) different pensions. Those are some of the things that affect that type of hiring practices. Department Heads are different. I do not think all inversion is bad. There are definitely cases where employees have earned and deserved the right to get paid what they are. That is all the considerations, John, that you folks are going to have to make when looking at salaries and where you think salaries should be for Department Heads and everyone on the Salary Commission. That is my opinion on it. I know you will come with a breath of experience and knowledge, and it will be great for the Salary Commission.

Mr. Venardos: Thank you.

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

Mr. Venardos: *Mahalo.*

Council Chair Kaneshiro: Next up, we have Jerry Ornellas for the Planning Commission.

#### PLANNING COMMISSION:

- Jerry Ornellas (*Environmental*) – Term ending 12/31/2022

Ms. Ching: Today, I am honored to introduce an icon, someone who really needs no introduction, Jerry Ornellas. Jerry was born and raised

on Kaua'i, attended St. Catherine's, and is a proud Kapa'a High School graduate. In high school, Jerry was an active member of the Debate Club, Future Farmers of America (FFA) Club, and also played football.

The Future Farmers of America Club focuses on leadership development, personal growth, and career success through agriculture education. Every year, the club activities were funded by the crops that were raised and sold. The activities included all expenses paid for neighbor island conferences and FFA jackets for each member. Jerry credits the FFA with giving him a good foundation that has served him throughout his life. Jerry was born into a farming family. At one time, his family operations included a dairy farm. When he was just a junior in high school, his dad passed, but Jerry continued to run the family farm business and complete his high school education.

Jerry joined the National Air Guard in 1968 and took his first flight to the mainland. He landed in what seemed like a foreign country in the middle of the civil rights battle after the assassination of Martin Luther King, Jr. He recalls someone asking him about "interracial marriage" and he did not know what they were talking about. For the next six (6) years, he trained and worked in Lackland, Texas, Virginia, Hickam, and eventually back to Kaua'i in Kōke'e.

In 1990, Jerry started working with the State of Hawai'i, College of Tropical Agriculture and Human Resources (CTAHR), University of Hawai'i at Mānoa or CTAHR until he retired as an Agricultural Research Technician in 2011.

He has served on many agriculture-related boards and committees including the Hawai'i State Farm Bureau, founding member and President of the East Kaua'i Water Cooperative, Neighbor Island Advisory Committee under Governor Linda Lingle, the State Board of Agriculture under Governors Lingle, Abercrombie, and Ige and the Hawai'i Community Foundation's Fresh Water Council.

Jerry is sought after as a commentator, panelist, and contributor on documentaries, papers, and videos on a wide range of subjects like invasive species, water systems, and climate change. Jerry is a study of a man in constant motion, he has never stopped farming and is currently working to revive the growth of rice as an industry. In his rare free moments, he enjoys reading. His favorite food is blackened ahi, Chinese or Japanese food, and he would love to find the time to travel to Japan again.

It is my understanding that Jerry has been asked several times to serve on the Planning Commission. I am so thankful and grateful that he is finally willing and able to share his life-long experience and knowledge with this Commission in the Environmental position.

Council Chair Kaneshiro: Thank you, Ellen. Jerry, do you have anything more to add?

JERRY ORNELLAS (*via remote technology*): No, I will waive any opening statement, because it is a nice day out there, and I do not want to take up anymore

of the Council's time than I have to, but I am able to answer any questions you may have.

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

Councilmember Cowden: I want to thank you for all that you have done for so long. I do want to say that I am excited to have someone with as much agricultural background on the Planning Commission, because a lot of what comes before you has to do with reuse of agricultural. The Farm Bureau or any of these boards that you have sat on including CTAHR when you had that job. Can you give us a briefing, so you can go out into the sunshine? For the benefit of the public, what is your experience in small farms, diversified agriculture, and what you see in the value of continued small farms?

Mr. Ornellas: Thank you for your question, Councilmember Cowden. I am sure you are all aware that agriculture is not doing well. I think in our economy it is like the sick man of our economy. We really need to work very hard at making it profitable. I wish I could report otherwise, but we really have our work cut out for us. In many of the problems we face are related to land, land tenure in particular. Hopefully, I can add my voice to this discussion on the Planning Commission.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions for Jerry from the Members? If not, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: Mr. Ornellas has an extremely impressive resume. I am an ex-farmer from Hāna, Maui, myself. I got out of commercial agriculture in about 1990. My last year, I exported over one hundred thousand dollars (\$100,000) worth of tropical flowers and foliage. I have been a passionate proponent for export agriculture for a variety of reasons. Filling the empty containers to cut down the cost of the full containers coming in, as well as export provides the best opportunity to make a living wage for farmers. When you sell locally, you are in competition with everyone else and as the number of people competing for the local market increases the market itself does not, so you are taking a pie and cutting it into smaller pieces until people go bankrupt, then someone ends up being the market dominator. This is the history of the economics of agriculture. My question for Jerry is, with his background, what does he see as the future for creating what would now be an entirely new sector of agriculture devoted to export crops? What is it that we could have the county assist in the development of a new branch of agriculture which would give us export crops? That is a really tough question, I do not expect him to have a full answer for it, but for the Planning Commission, we are stuck between exporting property title, or exporting agriculture. I would prefer to export agriculture as an alternative to increasing our tourism and real estate speculation part of our economy. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify? Is there anyone on Zoom wishing to testify? Are there any further questions from the Members? Is there any discussion from the Members? Councilmember DeCosta.

Councilmember DeCosta: Hi, Uncle Jerry. Thank you for all you do. Thank you for being a mentor to myself coming out of college. I was very impressed with my dad knowing you and wanting to be a farmer like you. I do not think I can walk in your shoes, but I do know when I brought him the lychee that you shared with me and Councilmember Evslin, we had a conversation that our wives said that was the best lychee they ever had. I do not know what I am doing wrong with my lychee trees and what you are doing right with yours, but I would like to learn. Uncle Jerry, you are a prime example of our local grown boys and girls who go through our school system and go away to get highly skilled in the military or at college and come back, just like how Lonnie gave a lot of preps to John being so *akamai* with his background coming from Illinois, I would like to believe you are the “*akamai* local guy” here willing to serve for us. Thank you very much, Uncle Jerry. I think that question that Lonnie asked you, I do not think you need to answer it, because I do not know how you would answer it. Anyway, it is a tough one. Thank you, Uncle Jerry for everything you do on Kaua‘i. We are lucky to have you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Just to echo Councilmember DeCosta’s comments. I am really deeply appreciative that you are willing to serve, Uncle Jerry. I remember when I first moved back from O‘ahu to Kaua‘i, I went to a conference at Kaua‘i Community College (KCC), I do not remember anything that happened during the day, but I remember hearing you speak about the state of farming on Kaua‘i, and I quickly took out my phone and started writing down everything you said and it is still on my phone here. I have notes on my phone from that day that must have been in 2012. You talked about twenty-eight percent (28%) decrease in farms with one (1) to nine (9) acres, so small farms. Decline of seven thousand four hundred (7,400) of tillable land. You said, “We are the only county in the state with a decrease. We have not made progress. This is a systemic problem. Farming is only marginally profitable, if the farmers cannot make money, they are not going to farm.” I have heard you say similar things over the years. You are such an important truth teller. Not only are you communicating the dire state of farming, but you also come to the table with solutions. You are obviously “walking the talk” by experimenting with rice and amazing lychee, et cetera. I am really impressed that you have the time here to dedicate to the Planning Commission, but I think that your perspective is going to be so incredibly valuable in that what happens with our agricultural lands really helps dictate the future of farming on Kaua‘i, and there is so much pressure to develop agricultural land. There are farmers saying that we need more density in agricultural land for their farm workers. At the same time, there is this other need to ensure that we are not developing agricultural land, and we are not increasing density, because it is going to increase the value, and how do we balance this? We need really smart farmers like yourself on the Planning Commission to help direct us. I really appreciate your willingness to serve here. Thank you.

Mr. Ornellas: Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: *Aloha*, Jerry. Thank you so much. We have gone through many conversations in the past, and I am going to follow up with what Ellen said. You are an icon. Let us get it straight. At the same time, I remember, Bob Yotsuda, our teacher at Kapa'a High School, and he did the Future Farmer Program there. That was another exciting time that we all were part of in high school and I know you had a lot to do with that too. I want to *mahalo* you again. I know we can go into many different topics and areas of discussions, but you bring to the table a wealth of knowledge and understanding what needs to be done, and the connections that we need to bring back home. *Mahalo* for your service. I look forward to talking with you again, and your presence on the Planning Commission. *Aloha*.

Mr. Ornellas: Thank you very much.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: You have my full wholehearted support and vote for this. I find it hard that you would subject yourself to the Planning Commission with the intense *kuleana* that comes with it. I am so appreciative that you would, because as everyone has said, you have a huge amount to offer us, the island. As a voice for agriculture, which I feel like is really a hole that we have been struggling with and not given enough support and/or attention to in the past term. I am really excited that you will be on the ground with and close to our Planning Director, Planning Department, and some of the local leaders in order to problem solve how we can indeed move the needle forward. It sounds like we need the needle moved really far. *Mahalo nui*. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am also eager to have you on the Planning Commission. I appreciate all the different people who are on there, so you will really help to round out that panel. I am used to just about anytime that you speak or have something to say after you say that you are not worthy of saying. You put out things that I think you can practically teach a college course on. Your insights and your ability to connect the dots across the different range of things, I have no doubt will go much further than your ability to bring agricultural knowledge to the table. I think you will be able to help with so many different elements, and I feel like you are an ally to everyone. It is something I try to be is to see the best in all people. We are having more large land purchases that sometimes makes me nervous when I see big blocks of land getting continued to be tight. You have my wholehearted support. I am very happy. As we are mentioning our prior candidate John, these are two (2) really good choices today to be strengthening out what we need. Both new insights and long-term understanding as you know the whole community. People really respect you, so that also makes it easier to hear someone give *mana'o* on difficult decisions. As Vice Chair Chock said, that is a tough job, Planning Commission, so I thank you for stepping in the ring.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Aloha, Jerry. I, too, want to add my voice to the voices of gratitude. *Mahalo nui loa* for your willingness to serve our community in yet another important role. Thank you so much.

Mr. Ornellas: Thank you.

Council Chair Kaneshiro: I think everyone said enough. I just want to say you are a trusted voice in the community. You are one of Kaua'i's biggest advocates for agriculture and protecting our environment. Planning Commission is a difficult board, but I think you bring balance and a rational approach, and you will be great on the board. Thank you for your willingness to serve.

Mr. Ornellas: Thank you.

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

Mr. Ornellas: Thank you all.

Council Chair Kaneshiro: Next up, we have the Consent Calendar.

#### CONSENT CALENDAR:

C 2022-128 Communication (05/12/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Lauren O'Leary to the Civil Service Commission – Term ending 12/31/2024.

C 2022-129 Communication (05/17/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Tom Shigemoto to the Board of Water Supply – Term ending 12/31/2024.

C 2022-130 Communication (06/01/2022) from Councilmember Evslin and Council Vice Chair Chock, transmitting for Council consideration, a Resolution for a Charter Amendment Relating To The Housing Development Fund, which proposes to earmark a certain percentage of certified real property tax revenues to the Housing Development Fund for the purpose of affordable housing.

Councilmember Kualii moved to receive C 2022-128, C 2022-129, and C 2022-130 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on these items. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify? Seeing none. Is there any final discussion from the Members?

The motion to receive C 2022-128, C 2022-129, and C 2022-130 for the record was then put, and unanimously carried.

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

There being no objections, C 2022-132 was taken out of order.

COMMUNICATIONS:

C 2022-132 Communication (05/20/2022) from the Deputy Director of Parks & Recreation, transmitting for Council consideration, a Bill For An Ordinance Amending Chapter 23, Article 4, Kaua'i County Code 1987, As Amended, Relating To County Business Licenses, clarifying that a County license is not required for peddlers and concessionaires.

Councilmember Kualii moved to receive C 2022-132 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Is there anyone on Zoom? If not, are there any final questions from the Members? Is there any final discussion?

There being no one present to provide testimony, the meeting proceeded as follows:

The motion to receive C 2022-132 for the record was then put, and unanimously carried.

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

C 2022-133 Communication (05/26/2022) from the Executive on Aging, requesting Council approval to receive and expend State funds, in the amount of \$26,247.00, and to indemnify the State Executive Office on Aging, to be used by the County of Kaua'i, Agency on Elderly Affairs to support the functions of the provision of the Aging and Disability Resource Center (ADRC) and be used for staff development, outreach, awareness, marketing, education, and collaboration with the No Wrong Door (NWD) Network, for the period June 1, 2020 through May 31, 2025.

Councilmember Carvalho moved to approve C 2022-133, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Do you have a question?

Councilmember Cowden: No, just a statement.

Council Chair Kaneshiro: Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: If not, final discussion from the Members.  
Councilmember Cowden.

Councilmember Cowden: My comments right now are going to be for all three (3) of these items, which are continuing grants that they have to get step by step. I do not want it to pass without acknowledging the great job the Agency on Elderly Affairs does. Thank you for staying on top of these grants. I do not know what we would do without our team there. It is a needed service. *Mahalo nui.*

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: I want to echo the great job. I was able to meet with Laurie Jean and talk about the programs that are offered. They are exemplary. In looking at this, my only fear is how reliant we are on external funds to provide needed services to *kūpuna*. To prepare for that time in the future when we may not have that kind of support is important to me. Thank you for the good job.

Council Chair Kaneshiro: Is there anyone else? If not, the motion on the floor is to approve.

The motion to approve C 2022-133 was then put, and unanimously carried.

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

C 2022-134 Communication (05/27/2022) from the Executive on Aging, requesting Council approval to receive and expend State funds, in the amount of \$200,651.00, and to indemnify the State Executive Office on Aging, to be used for the provision of Kūpuna Care, which includes case management, adult day care, assisted transportation, attendant care, kūpuna care transportation, personal care, and home-delivered meals, for the period July 1, 2019 through to June 30, 2025.

Councilmember Carvalho moved to approve C 2022-134, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify? If not, is there any final discussion from the Members? The motion on the floor is to approve.

There being no one present to provide testimony, the meeting proceeded as follows:

The motion to approve C 2022-134 was then put, and unanimously carried.

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

C 2022-135 Communication (05/27/2022) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$17,901.00 for the third allotment, of the Fiscal Year 2022 Nutrition Services

Incentive Program (NSIP) provision of congregate and home-delivered meals (total amount of funds including the previous approved awards is \$29,360.00), and to indemnify the State Executive Office on Aging.

Councilmember Kualii moved to approve C 2022-135, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience wishing? I will suspend the rules. Lonnie.

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

Mr. Sykos: For the record, Lonnie Sykos. I would like to echo the Councilmembers who complimented the Agency on Elderly Affairs, the entity within the administration that deals with these issues. I would like to point out that my mother and stepfather live in North Carolina. They are in their '90s. It is their wish that I remain here where they encouraged me to come when I was nineteen (19). I would be in North Carolina cooking meals for them, but they get "Meals On Wheels." The value of this to the elderly is beyond the comprehension of young people, to be able to stay in their own home, and hopefully die in their own bed. As morbid as that may sound, when you reach that point in the life, your perspective will change from what it is when you are young. My gratitude to the County for taking care of the elderly. I receive a tremendous break on my real estate taxes for my home. I am blessed that I do not need County assistance with food or transportation. For the people who are not as blessed as me, this makes a huge difference in their life. I thank all of you. My gratitude to the Executive for being diligent and looking after *kūpuna*. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience?

Councilmember Cowden: I have a discussion piece.

Council Chair Kaneshiro: Is there anyone on Zoom? Final discussion from the Members. Councilmember DeCosta.

There being no further testimony, the meeting proceeded as follows:

Councilmember DeCosta: Lonnie, thank you for bringing light and hindsight to the elderly *kūpuna* care...it is our responsibility to take care of. I am a little worried when they brought up the grants and if something happened to the funding. We need to make sure we have the funding to support the *kūpuna*. That is one of our responsibilities. Thank you for bringing it up and thank you to *Kūpuna* Care for doing that. My mom receives two (2) meals a week. It is amazing what they do for the elderly. It is our job to continue providing that service. I will make sure you get that when you are not able to cook for yourself.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Lonnie said so much. I was thinking before that on how that contributes to all of us. When we help *kūpuna* have dignified and independent living, it keeps the load lighter on senior care facilities and adult apartments. When people are able to stay home and have a happy life, it is money well spent and able to save a lot on the other end. The diligence from the Executive on Aging...this is coming from the State and Federal because they are really good at grant writing and looking ahead. Kealoha, I do not know what we would do without you. I want to acknowledge the whole team and office is excellent. I am so happy to go to the monthly meetings, I love everyone in it, and it is a great group.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: *Mahalo* Kealoha and the Agency on Elderly Affairs, for all the work you do, reaching out into the community, and trying your best to keep everything flowing for *kūpuna*. That is the biggest part for all of us. *Mahalo*, to you and the team.

Council Chair Kaneshiro: Is there anyone else? If not, the motion on the floor is to approve.

The motion to approve C 2022-135 was then put, and unanimously carried.

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

C 2022-136 Communication (06/01/2022) from the Acting County Engineer, requesting Council approval to apply for and receive a technical assistance Waste to Energy (WTE) grant from the Department of Energy, valued between \$6,000 to \$12,500, to address knowledge gaps, specific challenges, decision-making considerations, planning, and project implementation strategies related to WTE.

Councilmember Carvalho moved to approve C 2022-136, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. I will suspend the rules. Allison, if you want to give us a brief overview of this grant money and what it will be used for.

There being no objection, the rules were suspended.

ALLISON FRALEY, Solid Waste Program Development Coordinator (*via remote technology*): Aloha Councilmembers. Allison Fraley, Solid Waste Division, for the record. Yes, thank you. A brief overview. This is a Technical Assistance Grant that is provided by the Bioenergies Technologies Office at the Department of Energy. Their strategic goal is to develop efficient, economical, biological, and chemical technologies to convert biomass feedstock into energy-dense liquid transportation fuels. I know this is big language. Basically, the portion of WTE technical services that we would be getting from this grant would be looking at solutions for organic food waste, wastewater sludge, and what is known as Fats, Oils, and Grease (FOG). The Office of Department of Energy is willing to provide up to

forty (40) hours of technical subject matter assistance, which is what we are requesting approval for.

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

Councilmember Chock: Thank you, Allison. I support the direction that you are headed here. My understanding is that you have gone out for a request for proposal (RFP) or request for information (RFI) on some waste to energy options. How does that tie into how this fund will be utilized, if at all?

Ms. Fraley: This is a separate project. As you noted, we have a separate contract for waste to energy. This is a separate project looking at a specific area. Whereas we do send out a letter of interest for general WTE that includes mass burn, alternative technologies, and sorting technologies. That is still in progress, but this is very specific, and they are separate projects.

Councilmember Chock: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I think this is great. We get the forty (40) hours. Where are these people giving it? Will it be Zoom or virtual from Washington D.C.? Where are they coming from to help us with this?

Ms. Fraley: Yes, I believe it is a Federal Program, so it could be from Washington D.C., but there are experts all over the Country. They are going to be meeting with me and the team on Zoom, looking at our specific information, and providing that technical assistance.

Councilmember Cowden: Thank you for working on this. We know that we need to figure out every possible way we can to manage our waste. A plug to everyone out there, make less waste.

Ms. Fraley: Yes, thank you.

Council Chair Kaneshiro: Is there anyone else for final questions? While the rules are still suspended, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: For the record, Lonnie Sykos. Allison, you are one of my favorite employees. Your competence always brightens my day. I always enjoy hearing you speak. I am not from Kaua'i, and I lived in other counties. When I lived on Maui, I was there when the pilot project was funded by the County, I am assuming with Federal money. They developed the capacity to turn various kinds of food oils into biodiesel. I would think one of the issues at the refuse center is that pig farmers will take most of the solid food waste, but what do you do with the liquid food waste like cooking oil? Does Kaua'i produce enough liquid biowaste that it would be rational to set up a biodiesel company? A company would do it and not the County,

but the County would be involved in consolidating the oil waste so that it could be a viable economy to turn it into biodiesel. My question is, will any of this look at dealing with the liquid waste problem? Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? I will call the meeting back to order. Are there any final questions from the Members? Councilmember Cowden.

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

Councilmember Cowden: Allison, how big of a volume do you think we would have on this? If we can get waste to energy off of this, what percentage is that on our waste stream?

There being no objections, the rules were suspended.

Ms. Fraley: I do not have that off the top of my head, but I can get it to you. I can tell you this. We do not accept liquid waste. Companies have to sign up with Kaua'i Grease Trap to be on the generators of this specific material that was just discussed. Kaua'i Grease Trap would do their grease trap work and have their grease traps pumped. They are the only company, and they ship the material off island. For a short while, there was a conversion process on Kaua'i in Kekaha, but they stopped doing it. This technical assistance would be answering these types of questions. How feasible is it to convert this material? The material I am super excited about is the sludge, because that is five percent (5%) of our waste stream. We have not been able to find a solution. We are going to be looking hard at this through this process.

Councilmember Cowden: Thank you.

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

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

The motion to approve C 2022-136 was then put, and unanimously carried.

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

C 2022-137 Communication (06/02/2022) from the Emergency Management Administrator, requesting Council approval of the indemnification and attorneys' fees provisions in the Fourth Amendment of the License Agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate for the County's 800 MHz Radio site at Kukuilono Park, for the period July 1, 2022 to June 30, 2027.

Councilmember Carvalho moved to approve C 2022-137, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions? I will suspend the rules, Councilmember Cowden.

Councilmember Cowden: *Aloha*. Is this what we recently approved funding for? We approved the improvements on our system. Is this the installation of a new tower?

There being no objections, the rules were suspended.

CHELSIE SAKAI, Emergency Management Senior Staff Officer: Good morning. For the record, Chelsie Sakai, Emergency Management Senior Staff Officer. This is a lease payment for the radio site. It is an annual fee that was approved this past budget cycle. It is not a new tower.

Councilmember Cowden: It is not a new tower. Okay, that is what I wanted to know. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, while the rules are still suspended, is there anyone in the audience or on Zoom wishing to testify? Are there any final questions from the Members? Is there any final discussion from the Members? If not, the motion on the floor is to approve.

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

The motion to approve C 2022-137 was then put, and unanimously carried.

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

C 2022-138 Communication (06/07/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, a Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Tax, proposing to amend the "Residential Investor" and "Vacation Rental" tax rate classifications to incentivize long-term rentals and to shift some of the financial burden of funding government services to those more capable of paying.

Councilmember Carvalho moved to receive C 2022-138 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is just a communication. We received no written testimony on this item. Is there anyone in the audience wishing to testify on the communication? I will suspend the rules. Jeff, we will take your testimony and include it in the actual Bill. This is just the communication, the Bill is going to come up in a little while, where we will have further discussion. If you want to wait. We

will receive an overview of the Bill then. Is there anyone on Zoom wishing to testify? If not, are there any questions or is there any discussion from the Members?

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

The motion to receive C 2022-138 for the record was then put, and unanimously carried.

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

CLAIM:

C 2022-139 Communication (05/24/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by GEICO Insurance as Subrogee for Mikala Jacqueline Naoe, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Carvalho moved to refer C 2022-139 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience wishing to testify? I will suspend the rules.

There being no objections, the rules were suspended:

Mr. Sykos: For the record, Lonnie Sykos. My sympathy for Mikala Jacqueline Naoe, for her vehicle damage. I also want to say my sympathy and gratitude for Councilmember Cowden. I witnessed her tire being shredded in a pothole up in the mountain. Not only that, but the people also who hit the pothole immediately before her turned around and came back knowing how bad the pothole was. Fortunately, I was there and could change the tire for her. My sympathy to her and my encouragement to the County, please fill the potholes. Thank you very much.

Council Chair Kaneshiro: Is there anyone else wishing to testify? Is there anyone on Zoom wishing to testify? Are there any questions or is there any final discussion from the Members? Councilmember DeCosta.

Councilmember DeCosta: Lonnie, are you a personal tire person for Councilmember Cowden, or do you extend those services for myself too?

Mr. Sykos: Everyone.

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

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

The motion to refer C 2022-139 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

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

#### COMMITTEE REPORTS:

##### PLANNING COMMITTEE:

A report (No. CR-PL 2022-04) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2854 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ALL-HAZARD STATEWIDE OUTDOOR WARNING SIREN SYSTEMS (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-2),”

A report (No. CR-PL 2022-05) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2855 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO WAREHOUSES IN THE COMMERCIAL GENERAL ZONING DISTRICT (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-3),”

Councilmember Chock moved for approval of the reports, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on these items. Is there anyone in the audience or on Zoom wishing to testify the Planning Committee reports?

There being no one present to provide testimony, the meeting proceeded as follows:

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

The motion for approval of the reports was then put, and unanimously carried.

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

#### RESOLUTIONS:

Resolution No. 2022-20 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Lauren O'Leary*)

Councilmember Carvalho moved for adoption of Resolution No. 2022-20, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify? Is there any final discussion from the Members? Councilmember Cowden.

There being no one present to provide testimony, the meeting proceeded as follows:

Councilmember Cowden: Gratitude for both people; Lauren O'Leary and Tom Shigemoto will make excellent appointees for these commissions.

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

The motion for adoption of Resolution No. 2022-20 was then put, and carried by the following vote:

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

SCOTT K. SATO, Deputy County Clerk: Seven (7) ayes.

Resolution No. 2022-21 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Tom Shigemoto*)

Councilmember Carvalho moved for adoption of Resolution No. 2022-21, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony on this item. Is there anyone in the audience or on Zoom wishing to testify? Are there any questions or is there any discussion from the Members? If not, we will take a roll call vote.

There being no one present to provide testimony, the meeting proceeded as follows:

The motion for adoption of Resolution No. 2022-21 was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa:

Seven (7) ayes.

Resolution No. 2022-22 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO A HOUSING DEVELOPMENT FUND

Councilmember Carvalho moved that Resolution No. 2022-22 be ordered to print, that a public hearing thereon be scheduled for July 20, 2022, and that said Resolution be referred to the August 3, 2022 Council Meeting, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received written testimony on this item and do note that we have a Public Hearing and it will go to full Council Meeting. This Resolution does not go to Committee. With that, I will suspend the rules. If Councilmember Evslin or Councilmember Chock wants to explain their Resolution.

Councilmember Evslin: Thank you, Chair. I will be quick. The intent obviously is clear. To provide dedicated revenue for the Housing Development Fund, so that we can engage in long-term planning and help get access to low interest bonds. This came up several times as we were working through budget. We currently do not have that dedicated allocation. If we want to create a dedicated allocation, it has to go through the Charter, and through this process. The dedicated allocation will ultimately help save our county money in low-interest rates through low-interest bonds. It will help us leverage other State and Federal funds. Most importantly, it will help us build more affordable housing. We all know how big this housing crisis is and is decimating our communities. I think that we can agree that we need to continue to do more. We have done a lot on this Council and previous Councils regarding zoning and infrastructure allocations to the Housing Development Fund. This is one more step in that direction to help ensure a dedicated revenue stream. As Housing Director Adam Roversi said during budget, “Our development model is changing, and we will need to have additional funds over the long-term to be able to make that development model successful.” As he said, “There is twelve million dollar and fifteen-million-dollar projects with no identified funding source.” When that happens, like Lima ‘Ola’s infrastructure, we have to get loans through the State. Right now, we are paying five hundred thousand dollars (\$500,000) in annual interest on a thirteen-million-dollar loan for Lima ‘Ola, which will be ten million dollars (\$10,000,000) of interest over twenty (20) years. That is what happens when we do not have readily available funding for these projects, or access to low-interest bonds. Two percent (2%) would raise three million seven hundred thousand dollars (\$3,700,000) annually based on our current upcoming budget. That is the same amount we put towards the Housing Development Fund in this past budget. My intention is that when times are good, Council would allocate more on top of the two percent (2%). This represents a guaranteed floor that is necessary for long-term planning and access to a low interest bonds. Councilmember Chock, do you want to add to that?

Councilmember Chock: My hope is that this goes to Public Hearing and have two (2) readings on this. I think I would like to add that it is a straightforward proposal. It is not the first time we have seen a proposal like this at Council. I will state that when we look at what other counties have in place, we are

behind the ball in setting up a similar account. Not that we should compare ourselves, but to be on par and to understand what is out there. Maui County has it placed at a three percent (3%) allocation. On top of that, they added a seven percent (7%) additional funds to their Housing Revolving Funds. They are talking about having fifty-six million dollars (\$56,000,000) in their fund. Honolulu's allocation is at five percent (5%). While Hawai'i Island may not have that in place yet, they put nine million dollars (\$9,000,000) towards their fund, and an additional nine million five hundred thousand dollars (\$9,500,000) towards their homelessness efforts. I think what we are looking for is to establish something for when times are good, there is more to be considered. We had a good comeback. From a budgetary standpoint, it was asked earlier...I think Lonnie asked, it would be great to know where we are in our budget and how we have been increasing over the years. I mentioned in the last meeting if you want to use it as a meter, when I got here in 2013, the budget was one hundred sixty-six million dollars (\$166,000,000). After nine (9) years, we are approximately one hundred million dollars (\$100,000,000) in an increased budget. If you average that out per year, we are looking at an increase of twelve million dollars (\$12,000,000). As mentioned earlier, the majority of that goes towards our internal needs such as Collective Bargainings, ERS, and other liabilities.

For me, I have come full circle. I think it is about timing and if we have vehicles that can support the funding of such a fund that we should take into consideration, I think that time is now. In 2018, I did not vote for that earmark, I voted against it. In 2018, we were also facing challenges. The flood that occurred. That year, we put money into the Housing Revolving Fund. Mayor Kawakami and I increased the TVR taxes that formally went in that year. At that time, we did not think it was necessary to put this Charter Amendment together. It was had at that time. There is a reason for the two percent (2%). I think it is on par for what we are experiencing now. I will also mention, with the tiers discussion that is forthcoming, I think that we can look at how we are able to leverage an equitable system that can help fund our needs from the Housing Revolving Fund.

Councilmember Evslin: If I can add two (2) things. Process wise and for anyone watching, Public Hearing, and then a final vote, where it needs five (5) votes, and all that means is that it will go onto the General Election Ballot for voter approval like any Charter Amendment. For Council, we have the ability to amend this Resolution. That percentage could go up or down. Because there is a pressing time constraint, I believe this has to be voted on, up or down, at the next meeting. If we are going to amend, I believe an amendment would require it to go back to Public Hearing. If anyone wants to change the percentage rate, it should happen at today's meeting to ensure it goes to Public Hearing with the appropriate percentage rate.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I am so in agreement with this. We had a bit of an intenseness over the budget. I have been thinking about this too. I also had a Resolution that I wanted to put forward. I am putting it forward as an amendment. I would like to move to amend with an idea that I hope we can consider as we are discussing this.

Council Chair Kaneshiro: Do you want to do your amendment now, or do you want to discuss the Resolution further before you do your amendment? If you do your amendment, our discussion will be solely on your amendment.

Councilmember Cowden: We can pass it or not, but then we would come back to...

Council Chair Kaneshiro: We will come back to whatever it is.

Councilmember Cowden: Would you prefer me to wait? I can wait. He asked if anyone had an amendment, and I do.

Council Chair Kaneshiro: It is up to you.

Councilmember Evslin: I have not seen the amendment.

Council Chair Kaneshiro: I do not know what the amendment is either. We can circulate your amendment.

Councilmember Cowden moved to amend Resolution No. 2022-22 as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Chock.

Councilmember Cowden: In this amendment, I would like to look at...there are two (2) key points and three (3) points in total. I would like to take them ad seriatim and I would like to look at them separately just in case you like one part and not the other.

Council Chair Kaneshiro: Is there any questions or discussion to take the amendment ad seriatim. We will discuss them separately and vote on the separately.

Councilmember Cowden moved to take the Floor Amendment which is attached hereto as Attachment 1, ad seriatim, seconded by Councilmember Chock, and unanimously carried.

Council Chair Kaneshiro: Councilmember Kualii, do you have a copy of the amendment? Okay.

Councilmember Cowden: Can I explain it?

Council Chair Kaneshiro: Yes.

Councilmember Cowden: This is coming out of what I feel like we have battled over, not even just recently. We have two (2) tax classes that have the deepest amount of impact. Those are houses that remain empty for a good portion of the year and vacation rentals that very much can overwhelm their neighborhoods. I just want to put a point out there for visitor destination areas (VDAs), those people are even more deeply impacted by transient vacation rentals (TVRs) painfully so. What I put here is I said, "In adopting the annual operating and capital programs budgets, the council

shall appropriate a minimum of five percent (5.0%) up to a maximum of ten percent (10.0%) of the certified real property tax revenues derived from each of the following real property tax classifications: a) vacation rental and b) residential investor, to the housing development fund for the purpose of affordable housing strategies. The percentage allocation of the annual appropriations to the housing development fund shall be approved by the council.” Instead of taking two percent (2%) across-the-board, this would take five percent (5%) to ten percent (10%) and it would be up to us to decide whether we go five percent (5%) or ten percent (10%). This last budget season, that would have ended up at seven million seven hundred thousand dollars (\$7,700,000). Half of that would be less than four million dollars (\$4,000,000). A little bit less, maybe three million eight hundred thousand dollars (\$3,800,000). I wrote this up without anticipation of a bill that is coming up. I think it compliments that bill really well. When we have spoken in that bill is where we set the threshold levels of what is an expensive house versus a more simple house. I think that this and that come together very well. If there are really large changes in the economy or world environments, we are in a big war and something terrible happens, I do not want to put us towards that...we have another pandemic or something that changes us deeply, this would only be pulling from those two (2) fat elements. We had thirty-three million dollars (\$33,000,000) last year from Residential Investor and I believe forty-four million dollars (\$44,000,000) from vacation rentals. If we do not have a strong year, we will not be pulling it out from every other piece. I thought that this would be good that way. Each time that this has come up, we are wanting to tax and impact the areas that are impacting us. That is my reasoning. Does anyone have any questions on that or thoughts?

Council Chair Kaneshiro: Are there any questions from the Members on the first part of the amendment? Councilmember Evslin.

Councilmember Evslin: I am certainly open to it. My only kind of hesitation is that it is setting a maximum of ten percent (10%). Certainly in practice what would happen would be the budget ordinance would allocate ten percent (10%) and there could still be an additional allocation on top of that, correct? Not solely from this revenue source but allocating from the General Fund to the Housing Development Fund.

Councilmember Cowden: Yes. When I picked that number and the honest reason why I went five percent (5%) instead of a minimum of five percent (5%), I wanted to make sure our Department of Finance did not get too stressed over it. There is a weakness in this. Can I point out the weakness that our County Attorney pointed out? When this is so specific to something that is set in an ordinance, which are those two (2) tax classes of Vacation Rental and Residential Investor, let us say ten (10) years down the line and the sitting Council decides to rename those, they could call it “Vacation Rental 1” or restructure all of it, because this is based on an ordinance, it is different when it is in the Charter. I thought about that. Really, our job as the Council is to set the tax rates. We were not able to do what you had asked to do at the budget time because of the Charter. This has a weakness in there that a future Council could decide that they do not want this in there and change those listings without it going back out as a Charter Amendment. We could ask Matt Bracken in a moment to explain that better. I decided that I would put it in anyway.

If we had some really big change, like after World War II, there was so much movement away from the island, the extra houses were not needed. There was some change that happens where we might not need this and the Council might want to make the change. Matt, are you there? Did I explain your position correctly?

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): That is part of the concern. I think I should expand on it a little bit. I think it is best to start with the Supreme Court's definition of a proper Charter Amendment. What the Supreme Court said is that a Charter Amendment is necessary and limited in substance to amending the form or structure of government initially established by adoption of the Charter. The Court illustrated that amendments are not meant to serve or function as a vehicle through which to adopt local legislation. There has to be a distinction between an ordinance and the Charter. The purpose of the Charter is to establish our form of government. Ordinances in some way fills in the holes. The tax classifications are set by the Council. There is a bill on today's agenda where you are looking at amending the structure of one of those classes, right? At any point in time the Council can amend, delete, or remove any sort of tax class. It would be somewhat backwards to have the Charter rely on an ordinance. Ordinances generally rely on the Charter or statutory authority to establish them. This amendment is backwards in that it does not do that. This amendment would rely on tax classes that could be freely changed at any time by the County Council. It is not really the way the Charter and ordinances are set up. There should be more of a distinction between the two (2). My recommendation would be to not create a Charter Amendment that would rely on an ordinance. That is not really how they are supposed to function.

Councilmember Cowden: I understood that. Up until this point, we have not been able to do what I believe we all want to do. You all know me, I called people who have these Residential Investor and Vacation Rental properties and they all were really supportive of this. If they are paying a tax on their house and it goes to making houses for people who do not have houses, they were good with it. They were a double thumbs up on this one. I know that it is a nuance. We are constantly fixing things in our ordinances that are not in alignment with the Charter or there are little problems here or there. I could not figure out how to do what we want to do. Here is the thing that I want you all to think about. We never know where we are going to be at. We had our ERS briefing...if it had been what I was fearing, that we took a bigger hit or they had done a worse job, then we would be in trouble if we had something that was pulling money across-the-board. If when we are looking at some of these things like the Federal rate hike today...it went up...he did not know that yet, but our good staff helped me to know that it went up by three-quarters of a percentage (0.75%) point just today. In a month from now, it might go up by another three-quarters of a percentage (0.75%) point. You might have seen, but Bitcoin has collapsed in the past few weeks. You might be surprised how many of our people who come here have money that way. If we have a luxury expense, which is traveling and staying in vacation rentals and things like that, if that hits some brakes like we had during the pandemic, we will not be getting that fat tax class. If people start selling off their second homes, we will not have that fat tax class. What we have said each time we are looking at this, we want to be pulling from those areas so those turn back

into housing. If there is success in that, just like we wanted to stop illegal vacation rentals, so we went from one thousand five hundred (1,500) down to fifty (50), thank you so much Planning Enforcement, so we had success. If we have success with these other elements, then this piece might be disproportionately pulling from our core budget where we need the money. I am seeing this as a lever to be able to pull on that. I am curious if you all have any feedback on that and if not, I want to pull in Reiko. If I am allowed to. Go ahead, anybody.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: On the surface, if you are saying five percent (5%) from Vacation Rental and Residential Investor and that is equivalent to what two percent (2%) of what all of our real property tax revenue is, I see what you are saying. I do not necessarily feel like it is vital to distinguish those, especially given that there are potential legal concerns around doing so and potentially hamstringing the Council in future unknown efforts to rename these classes for whatever reasons. Again, I am still open to it, but I would certainly be concerned regarding that. I do not know if you want to add anything or if you want to ask the Department of Finance.

Council Chair Kaneshiro: I am not sure if Reiko is available. Maybe Mike or someone could answer. I think Reiko is off-island. The rules are still suspended so you can ask. I have a question from Councilmember Kualii. Councilmember Kualii.

Councilmember Kualii: My question was more about what was already stated. I wanted it to be clear. It was stated that this five to ten percent (5-10%) would be the equivalent of the two percent (2%) on everyone. Does Councilmember Cowden have the numbers for Vacation Rental, what revenue would be generated at five percent (5%), and what revenue would be generated at ten percent (10%) and then for Residential Investor, what revenue would be generated at five percent (5%), and what revenue would be generated at ten percent (10%)?

Councilmember Cowden: Yes. Based on our last year, our Vacation Rentals brought in forty-four million dollars (\$44,000,000). Ten percent (10%) would be four million four hundred thousand dollars (\$4,400,000). Our Residential Investor tax class, that was approximately thirty-three million dollars (\$33,000,000). At ten percent (10%) that would be three million three hundred thousand dollars (\$3,300,000). That is seven million seven hundred thousand dollars (\$7,700,000). Half of that, I am doing it off the top of my head, is approximately three million eight hundred thousand dollars (\$3,800,000) or closer to three million nine hundred thousand dollars (\$3,900,000). Together, that is...if you take half of that seven million seven hundred thousand dollars (\$7,700,000)...it would be three million nine hundred thousand dollars (\$3,900,000). This is about the two percent (2%) amount, right? This is higher. It is grabbing more and I put that upper boundary on it just to keep Reiko comfortable.

Councilmember Evslin: Can I just clarify?

Councilmember Cowden: Please.

Councilmember Evslin: What you are saying though is that five percent (5%) would equal three million nine hundred thousand dollars (\$3,900,000)? Five percent from both those classes would equal three million nine hundred thousand dollars (\$3,900,000)? The current, based on this upcoming budget, two percent (2%) would equal three million seven hundred thousand dollars (\$3,700,000). Marginally, it is more at the floor you established.

Councilmember Cowden: At the floor and twice at the high end. I am actually asking for more money and when we have lots of people who are coming, we have more pressures. I feel like it is something that...it is up to us. That is the way I have it set up. It is up to the Council, not the Office of the Mayor to tell us whether we are looking five percent (5%) or ten percent (10%). We would be the ones to set it.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Just one (1) more thing. The part that I am deeply not comfortable with is setting the maximum at ten percent (10%). I think the floor is the important part, right? The purpose is to set some minimum revenue that we are going to set in that ensures that the Housing Agency can do long-term planning and most importantly ensures that they can use that minimum to get access to bonds. The intent is to set up a minimum and when times are good, we add to that. When times are not good, maybe the minimum stands. I just do not see the purpose via our Charter to set up a maximum.

Councilmember Cowden: Can I answer that? This is probably a good point to get feedback from the Administration. Many people know that I have a deep passion for putting our people in housing, especially those who do not have even have a house, right? I tend to have that highest focus. You might have another zealot in there that would want to take fifty percent (50%). If I were able to take fifty percent (50%) of seventy-seven million dollars (\$77,000,000), I would be able to take a whole lot. What if they need a bridge or something else, right? We could take more than the Administration would want to share. Again, I put that ten percent (10%) in there to not want them to veto it. I want them to be on-page with this. In my discussion with the Department of Finance, this was tolerable. That is why I put it in there. We might want to ask Mike Dahilig what his thoughts were.

Council Chair Kaneshiro: Did you want to ask the Administration what their thoughts were on the amendment?

Councilmember Cowden: Yes. Mike, what do you think about this idea or amendment?

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Managing Director (*via remote technology*): As mentioned to the introducers of the measure, the process of Charter Amendments can be done two (2) ways. Either through the Council's powers or through the Charter

Review Commission. Typically, we have used the Charter Review Commission as a means of stoking any conversations necessary to adjust the form and structure of government, as the County Attorney had mentioned. The reality of what is being proposed is an interplay between what is a discussion that would be reserved for allocation and prioritization through an annual budget process versus being pot-committed to a specific priority. It would be difficult for the Administration to take a position on what is the proper percentage to dedicate via the structure of government, its revenue of a specific purpose that would normally come down through appropriations. We believe the discourse within the Council is something that should be reserved for the Council, but we are happy to provide any technical expertise necessary to shape that discussion. I would not say that we are in favor or opposed to what you are proposing, but I think it is reserved, even the function of what is being triggered as the Charter Amendment process with the Council's reserved powers that is left for the seven (7) Members around the table to have a discourse on.

Councilmember Cowden: Thank you on that. I suppose to the group, if we wanted to change that ten percent (10%) to fifteen percent (15%) or take it off, I am fine with that. The Managing Director just mentioned the Charter Review Commission. The Charter Review Commission got extended indefinitely a few elections back. That was not the intention of how the Charter was set up. It was supposed to be ten (10) years on, ten (10) years off. As we interview commissioners who are willing to volunteer, there has been several that were not even familiar with the Charter before they were even put on the Charter Review Commission. I go to those meetings from time-to-time and we could look...there was almost no public input and no public awareness. I think that it is in the Council's purview to set up a ballot amendment. I want us to be doing this here and not push this over there. Plus, they do not have the time now because of where we are at. If Councilmember Evslin, your concern is that ten percent (10%) maximum, I am unattached to that. I did that out of...I always look at who I am going to hurt. Who am I going to hurt? Their ability to utilize this money. That is why I put it there. I have no attachment to that. I put this in here because if it takes two (2) years to get back on the ballot and we are in a big crisis, let us say we are in some huge crisis, this allows the Council to pull that lever to use Council Vice Chair Chock's words. I would say that is our lever. I am trying to create that lever, so we do not set ourselves up for something where it is too much gets pulled.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: Maybe we should have had the other discussion first. Obviously, I want to pass something. I think that requires five (5) votes. I want to take the conversation more broadly into getting into a sense of where people are around the table in order to come to some agreement. I can really appreciate the amendment. I am a little concerned from the legal standpoints and how it is being directed. I am a little concerned about the ten percent (10%), so I am willing to work on this more, but I feel if we take a step back, I want to be in a position where we are going to get the five (5) votes, so I want to hear from everyone.

Councilmember Cowden:

Perfect.

Councilmember Chock: That will determine if we should be working on this or not.

Councilmember Cowden: For the sake right now, we can pretend that whether we are at two percent (2%), five percent (5%), or whatever, how people might feel about setting up...can we talk about that?

Council Chair Kaneshiro: Right now, the question on the floor is, do we change it from two percent (2%) to this five percent (5%) to ten percent (10%)? That is what we can talk about.

Councilmember Cowden: Are we going to have to fail this piece to go back to the other thing, or can we do both?

Council Chair Kaneshiro: Yes, we need to vote it down to get back to two percent (2%), unless there is another amendment on top of it that wants to change this amendment. I saw Councilmember Kualii with a question.

Councilmember Kualii: I had a question for the Housing Director, but it is a general question that applies to this, or the original motion, and it is basically having to...do we have the Housing Director with us?

Council Chair Kaneshiro: Adam is on.

Councilmember Kualii: Hi, Adam. Basically, with two percent (2%) from the original motion we would generate the three million five hundred thousand dollars (\$3,500,000) annually. What minimum amount would we want as a recurring guaranteed year after year, or would we need to be able to leverage, like you said we could go after other pots of money if we for sure had a dedicated amount each year? What is the low end of what we absolutely need at a minimum to go after additional funds?

ADAM P. ROVERSI, Housing Director (*via remote technology*): Aloha, Chair, Councilmember Kualii. Adam Roversi, Housing Director for the County of Kaua'i. That is a difficult question to answer. I can say that since 2018 the Housing Agency has operated its programs with an annual allocation of two million six hundred thousand dollars (\$2,600,000) to two million seven hundred thousand dollars (\$2,700,000), and that allowed us in the time period since 2018 to build...I do not have the exact number in front of me, I think just under three hundred (300) housing units using those funds, and to do many other things, to acquire projects for future property so it is not just simply building those housing units, but it is also doing long-term planning and many other activities. As we have discussed many times in front of Council, the estimated need for housing on Kaua'i is far in excess of three hundred (300) units over a four-year period. The last study that we put together in 2019 said we needed upward of four thousand (4,000) new housing units to meet demand for housing on Kaua'i. The current level of funding and activity is certainly not sufficient to meet that estimated need. The idea of having a dedicated source of funding as Councilmember Evslin mentioned as opposed to a fluctuating annual allocation is the benefit of having that dedicated source. It at least opens the door to be able to utilize

that essentially guaranteed source of funding to underwrite the potential issuance of revenue bonds, which allow a one-time issuance of a large amount of bond funds to do large projects that can be paid off slowly over time from that dedicated source of funding. As to the exact ratio, interest rates are changing as we speak, so I cannot give you a snapshot today. Referring to the Maui housing study that the Maui County contracted two (2) years ago, it was put out early last year, if I remember correctly. The numbers that they used, and I am not vouching for the accuracy, but they estimated a ratio of revenue to potential bond issuance of about five percent (5%), so your revenue has to be a minimum of five percent (5%) of the total bond issuance. Real numbers using that, if we had one million dollars (\$1,000,000) of dedicated funding that was used for nothing but paying interest and principal payments on the bonds, my understanding based just on those Maui numbers, which may have changed as interest rates have changed, is that it could underwrite a twenty million dollar (\$20,000,000) bond issuance, and that million dollars would be sufficient over a 30-year payoff period to support that bond. Let us say, the motion on the floor is proposing a change that would allocate approximately three million five hundred thousand dollars (\$3,500,000) or three million seven hundred thousand dollars (\$3,700,000) to the Housing Agency assuming some of that needs to be utilized for ongoing programs and operations, if we were to set aside a million dollars (\$1,000,000) of that, we could do a twenty million dollar (\$20,000,000) bond issuance, if we were to set aside two million dollars (\$2,000,000) of that we could do a forty million dollar (\$40,000,000) bond issuance. With a caveat that it is based on the Maui study that is from where interest rates were and the bond market was two (2) years ago, those numbers may not be exactly accurate, so I would have to communicate with bond counsel and confirm that information.

Councilmember Kualifi: In our Housing Development Fund, you said since 2018 we have had an annual allocation of two million six hundred thousand dollars (\$2,600,000) to two million seven hundred thousand dollars (\$2,700,000). So that means for the last four (4) years even during COVID-19 we got through with a good floor; however, because it is not dedicated, you cannot use that history to say the likelihood of us having that kind of money again year after year.

Mr. Roversi: I do not want to hold myself out as a bond expert, but my understanding is that when investors are going to purchase a bond, they want to be guaranteed that they will be paid back. If the funds that will be utilized to pay back those bonds are fluctuating or are not guaranteed in some way, the investment is not attractive, and it would be difficult to put together the bond issuance and sell the bonds. Revenue bonds broadly require to have a dedicated source of revenue to underwrite the bonds, whether that is in the Kukui'ula infrastructure improvement district, it is a surcharge added to the properties in that area which is guaranteed funding to pay off the bonds, or municipalities use revenue bonds to do things like build a toll road and you have the guaranteed funds that will be paid in tolls to pay off the cost of the road over time. There are many different ways that you can structure a dedicated source of revenue, but some assured source of revenue is required to utilize revenue bonds.

Councilmember Kualifi: Thank you. That was the exact information I needed. It seems that any amount that we end up with will be better than zero (0) as

far as a dedicated amount. That one million dollars (\$1,000,000) could get us twenty million dollars (\$20,000,000), I think that is great in the bond issuance.

Mr. Roversi: Again, I do not know these exact numbers, but there are certain economies of scale, as I understand it, and doing a bond issuance. A bond issuance has to be at a certain size before it is worthwhile doing. In our preliminary discussions with bond counsel regarding our pending private activity bond issuance, which is a different category of bonds. They have preliminarily indicated to us just "ballpark" numbers that you need to get around twenty-five million dollars (\$25,000,000) for a bond issuance before it is worthwhile, because whether you are doing a bond issuance of ten million dollars (\$10,000,000) or one hundred million dollars (\$100,000,000) you have a certain amount of fixed costs, so you need to get about a certain level to make it worth your while to spend the fixed cost to hire bond counsel and do the legal work, and so forth, to make it worthwhile going through the effort in the first place. Otherwise, your cost of borrowing for a small bond issuance is more than it is worth to do it. Again, that is "bonds for dummies" given my level of expertise.

Councilmember Kualiti: Thank you.

Council Chair Kaneshiro: I have a follow up on bonds. I guess we are going to beat it to death now. What is preventing us from going after bonds now? We have a county bond fund, we have CIP money, if you wanted to go out for a twenty-million-dollar bond and needed a million dollars (\$1,000,000) every year, what is preventing you from doing that now?

Mr. Roversi: Good question. We regularly submit requests for the Housing Agency projects within the administrative framework for inclusion in the CIP budget list. Sometimes those are accepted, sometimes not. For example, the current Phase I work at Lima Ola is being partly financed by a five-million-dollar CIP bond that was issued back in 2018, I would have to go back and confirm exactly what that was, so there are still funds remaining from that. I guess the difference for CIP to the extent that those are...that is a possibility, let us just say that. I do not want to get too deep into the weeds about bonds, because I do not feel like I am enough of an expert to offer truly informed opinions about the different varieties of bonds. I am truly just beginning to educate myself from last year.

Council Chair Kaneshiro: It is important to know if we are basing our decision on a Charter Amendment and bond funding that if we are not able to do it now, then there are reasons to pass the Charter Amendment, but if we are able to do it now, then what is the urgency to pass the Charter Amendment for it. I think that is an honest question we need an answer for. That is just me.

Mr. Roversi: The Housing Director under the current County Code and State law has the statutory authority to issue bonds to fund housing projects. However, there is no practical ability for the Housing Director now to issue bonds, because there is no source of dedicated funding that we could rely on to pay those funds, or to underwrite those funds. That is separate from whether we want to try to fund housing projects via the County's general obligation bond issuance, that is not dealing with...there is an array of tax exempt bond types set out in State law that the

Hawai'i Housing Finance Development Corporation (HHFDC) can authorize and issue. The Housing Director under State law of each county has those same authorities, which is sort of a different creature from just the general obligation bonds that the County can issue underwritten by its General Fund.

Council Chair Kaneshiro: I guess the question of liability of us issuing bonds, what the bonds are for, what type of project it is for, et cetera, is a whole downhill battle of questions and answers.

Mr. Roversi: To be clear, even though the Housing Director, as a matter of law has the authority to issue bonds, any actual bond issuance at any time in the future would all require both the Administration's and Council's approval. It is not something that a future Housing Director could do "willy nilly." It would require multiple levels of approvals and review.

Council Chair Kaneshiro: We received a Dwelling Unit Revolving Fund (DURF) loan from the State. We are required to pay interest of five hundred thousand dollars (\$500,000). What would be the difference if you said we need five hundred thousand dollars (\$500,000) or one million dollars (\$1,000,000) for a bond? We are doing it with that loan debt already and it is in the budget.

Mr. Roversi: In either case, we are still having to pay it back, right? I can use the private activity bond issuance that we are currently working on as an example. Historically, projects on Kaua'i that we are almost always doing in partnership with private entity, whether it is a for-profit or a nonprofit developer. Historically, those have always been dependent on applying to the State through their once a year competitive annual application process. Some years our projects receive bond funding. The HHFDC issues and controls most of the housing financing in the State and not the counties. Our projects...I say "our projects" because we are in partnership. We are not applying to the State directly almost all of the time. It is our development partner that we have an agreement with and we are partnering with. We are providing them some subsidies and we are providing them vouchers and so forth. They go to the State once a year to apply for funds. If we keep our fingers crossed, they win. In those instances they are receiving bond funding to develop their projects. However, the reason that we wanted to do this special private activity bond issuance, specifically to fund our Lima Ola project and the vertical construction of homes there, is because it frees us from the control of the State to be blunt. We can utilize those funds on our schedule and we can dedicate them to the projects that we deemed most worthy on Kaua'i. We do not have to go to the State in a competitive application process with twenty (20) developers from every other county and keep our fingers crossed that we would get funding. We could have done that at Lima Ola, but then we would have faced even the potential possibility that we do not get any funding and our project sits doing nothing until the next funding year comes along. Doing this private activity bond issuance, which I want to be crystal clear, is separate from...it is not a type of revenue bond and it does not require the funding that you are talking about right now. The purpose of doing that ourselves, instead of relying on the State as we have traditionally, on a certain level even if it requires more work on our part, it allows us to have a greater control over our own destiny. This includes what projects get funded, when they get funded, and how much funding they receive, so that we can rest assured that projects

that we are trying to push forward on Kaua'i can happen in a timely fashion and not be beholden to the State's annual process.

Council Chair Kaneshiro: I guess I want to go back then again. Why can we not do that now?

Mr. Roversi: Well, we can apply to the State now. Our projects on Kaua'i now can apply for bond funding. Last year we had two (2) projects apply and both projects were denied financing and neither moved forward. That is just an example of a year that the State process did not work out.

Council Chair Kaneshiro: As far as going out for our own bonds, why could we not do that now?

Mr. Roversi: The Housing Agency does not have a source of revenue, a dedicated source of revenue that would underwrite a bond issuance now.

Council Chair Kaneshiro: But the County has real property tax revenue that could underwrite a bond for the Housing Agency, right?

Mr. Roversi: Pardon me, I did not catch that last part.

Council Chair Kaneshiro: The County has real property tax revenue that could underwrite the bond for the Housing Agency.

Mr. Roversi: The County could take some separate action outside of the Housing Director's authority and do a bond issuance and dedicate a source, I presume, or dedicate a portion of real property taxes to pay off a bond for housing, roads, or for anything that you wanted to do. Yes.

Council Chair Kaneshiro: Okay. Are there any further questions?  
Councilmember DeCosta.

*(Councilmember Chock was noted as not present.)*

Councilmember DeCosta: It sounds like you need to have an in-depth conversation with Mike Dahilig on this one. It seems like the communication gap fell short. I am having a hard time follow this. I can only imagine the people watching us. Apparently, you are telling us, Adam, you need a set amount in your Agency, so you can go and get a bond, because right now the bonds that you are after you cannot get it because there is no source of funding to pay it back. Council Chair is telling us that you go to the County and the Department of Finance can underwrite for that bond and they can support your application to receive the moneys that you would need to put your project on the forefront. I am kind of uncomfortable voting and feeling rushed. Apparently there are questions that are not being answered right now. I feel like we have been asking some really good questions and we do not have concrete answers. Furthermore, I believe we mentioned on the floor that we had money from the TVRs and Residential Investors going into the General Fund and the Mayor had the decision to use that funding for housing or for something else, depending on the pandemic or

natural disasters. We are now going to guarantee a certain amount to go to the Housing Agency and then the Mayor and his Administration cannot use those moneys if something were to happen, including a natural disaster. When we heard Lonnie speak today, we mentioned a whole bunch of items like Kūpuna Care operates off of grants. What happens if that grant disappears? We talked about our retirement system that needs adequate funding. We have a sewer system problem with aging infrastructure. We just had meetings about that. Our Wastewater Division and the Lydgate facility is almost deteriorating as we speak. We have so many issues. Do we want to take away the power from the Administration make the decisions where the funding has to go? I do not know. I feel rushed. Until someone can give me a little more concrete questions and answers, that is how I feel.

*(Councilmember Chock was noted as present.)*

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I have a follow-up question that I am asking Adam. I am hoping that it helps to answer your question. Adam, if I heard you correctly, are you saying that if you had a dedicated funnel of money into the Housing Revolving Fund, it makes it easier for your Housing Agency to go ahead and get those bonds? If you have it, it makes it easier in a more reliable way than to wait every year for the Council to do it? Is that what I heard?

Mr. Roversi: A little point of historical context. I do not want to opine on the relevant merits of funding housing versus roads versus a new fire station or anything else. As the Housing Director, my job is to work on providing affordable workforce housing. That is my job. I am not going to pretend that I know better than the Office of the Mayor or the Council about competing budgetary needs. I can just say broadly that housing projects do not happen in a budget year. They take many years of planning, permitting, and zoning. Completely irrespective of whether the Housing Agency were to ever issue bonds or not, a reliable source of funding allows the Housing Agency to plan for projects of significant scale over multiple years as opposed to simply keeping our fingers crossed that each year we are going to receive funding from the Council and the Administration. For historical context, the Housing Development Fund was established in 1982 by the Council and by ordinance. The stated purpose was to provide a stable and continuing source of moneys to be utilized for planning, administrative, and construction of government affordable and workforce housing projects. From 1982 when that Fund was established until 2018, no money was put into that Fund. The amount of annual contribution to that Fund was zero (\$0). Only since 2018 and it is a great thing that they did, the Administration and the Council have put an annual allocation of between two million six hundred thousand dollars (\$2,600,000) and two million seven hundred thousand dollars (\$2,700,000) into that Fund. This year, the Council just approved a record-high contribution to the Housing Development Fund, which I think is great. It was a three-million-dollar infusion from the General Fund. That will allow us to move forward on projects and I am thankful for that. I will leave it at that. It could be zero (\$0) next year, which makes it difficult to plan long-term for infrastructure projects, property acquisition, and so forth. I do not want to opine further on bonds or the issuance of bonds or other types of

bonds simply because I do not think I am well-enough placed to offer an expert opinion on it.

Councilmember Cowden: Thank you. I feel that you answered my question.

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

Councilmember DeCosta: You made a clarification with a timeframe. Can you do the math for me really quickly? I forgot the beginning date. I know the ending date was 2018. What was the beginning date where you said this was set-up as a Fund and zero dollars (\$0) went into this Fund? Give me a timeframe.

Mr. Roversi: The Council established the Housing Development Fund in 1982.

Councilmember DeCosta: So in 1982 until 2018, and our former Mayor is sitting here, Councilmember Chock and Council Chair Kaneshiro, you folks have been here the longest, we have not put any money into that Fund? Either two (2) things happened, either that Fund is not that important to receive any money over that timeframe until 2018, with the rise in housing costs, so it made it apparent that our local people need help or our Mayor and past mayors and councils felt the moneys were better spent someplace else for services that our overall community needed. I am just a little dumbfounded to figure out that for twenty plus (20+) years we did not put any money in there. We are not blaming anybody, but we have to figure out why were the moneys not appropriated in there. It could be that mayors like Councilmember Carvalho felt that he had more important things to do with the funding or more important services that he had to pay for. Again, I am worried that if we hold that money to your Agency and Mayor Kawakami needs it for something else or something happens in the future, you cannot use those moneys. Am I correct? If that money sits there and we have a natural disaster, you cannot go and take that money. There is no emergency ordinance that could be passed to give them that authority, those moneys have to sit there, correct? What happened? I do not know if I am asking you. I was asking them.

Councilmember Cowden: Yes, sorry. I had an answer, but I am sorry. Go ahead.

Councilmember DeCosta: What happened? When did you come onboard?

Mr. Roversi: I will have been the Housing Director for three (3) years in September.

Councilmember DeCosta: So, prior to you in 2018 and beyond that, you were not around?

Mr. Roversi: Correct. I was working at the Office of the County Attorney previously.

Councilmember DeCosta: I just think there are quite a bit of questions that have to be asked. I want to know from...maybe I can ask Councilmember Carvalho. Did you feel there were other more important things that you had to use that funding for other things?

Councilmember Carvalho: Yes. As the Mayor you have to make decisions. My understanding in this discussion is to see...the decisions are made. This is an opportunity whether we dedicate or let it fluctuate, to secure funding for housing. That is where I am at right now. I am sure the Administration can come across the street and say that this is an important issue for us and ask how we can secure the funding. They need to allow the Housing Agency to be able to have it. It is not fluctuating, it is dedicated. We are moving. Then that way, if we agree, I appreciate what you are putting on the table and the amendments and the two percent (2%), to me it is the beginning. It is something that I think will bring in the funding to start and say it is dedicated here and let us go. I understand what Councilmember DeCosta is saying. You are correct. The Mayor has the authority to...God forbid if another disaster happens, you have to go and find funding to assure that you can help the people. Here, this is all about housing. For me, I am hoping that we can get to that point where we can say that this is what it is, this will be dedicated and not fluctuating. I know, if you have funding that is coming, then you can match that funding and secure funding from the Federal government, State government, and wherever else. They know that this will bring in additional funding into that account so that we can move, if housing is at the forefront. That to me is my understanding. That is where I am at.

Council Chair Kaneshiro: I have a follow-up question for that first and then I have a follow-up question for Mike. Do you not think that every department wants dedicated funding?

Councilmember Carvalho: Of course.

Council Chair Kaneshiro: If Wastewater had dedicated...right now Wastewater gets General Fund moneys, but if they had dedicated moneys they could look at how they could expand, what they could do, et cetera.

Councilmember DeCosta: Solid Waste Division and the landfill.

Council Chair Kaneshiro: I think every department would want dedicated funding.

Councilmember Carvalho: Okay.

Council Chair Kaneshiro: Is that the policy we are going to go towards as far as how we budget, dedicating money toward every single department or go through a year-to-year budget and fund things based on priority, need, where we are at, et cetera. I think that is the philosophical question.

Councilmember Carvalho: I totally agree, Council Chair. In my mind, I think housing is a big issue for us and is at the forefront. There are much more. That is why I am going with that. I am willing to listen and understand that and go.

Council Chair Kaneshiro: I have a question for Mike. I know that it was mentioned that the Housing Agency never got money until 2018. Were there other sources that provided moneys to the Housing Agency? I am sure we created housing. We received Community Development Block Grant (CDBG), Federal, State, and other sources. Could you elaborate on that?

Mr. Dahilig: Just in response Council Chair Kaneshiro, the fact that moneys were put in specifically to a Fund, it creates a level of...we look at our budget on an annual basis. We get revenues that come in based on projections and we have to do that because of market conditions both in our real estate market, what the Legislature gives us, and how fees go up and down per year. When we take a look at a Fund that is created by ordinance, what that is, is an authorization from the Council to have the money roll. The money will continue to roll once moneys are put into that Fund, so that it will continue to roll and not be subject to the annual reappropriation and push money towards something that is moving very quickly that is in the best interest of his mission. In a lot of other cases, cash was just given in the budget prior to 2018 for a lot of specific projects in the CIP budget that was funded by General Obligation Bonds and cash. It was also just given as cash to the Housing Director to use as part of his or her budget for specific projects throughout the year also. To what Adam's point is, you are going to hear that same ask from every single department head that deals with infrastructure or deals with projects. They wish they would not have to deal with it at an annual budgeting system. The number of Environmental Impact Statements (EIS) that have not been acted on based off of an inability of funds for things like roads, bridges, sewers, even the golf course, vertical structures, renovations of the Lihue Civic Center, et cetera, any department head will tell you that they would be able to benefit from being able to have long-term planning in the fiscal process every year. While we may have different opinions as to what is a prioritization year-to-year as market conditions change, what the effect of this particular proposal would do is, it would galvanize in perpetuity based off of a Charter Amendment that housing comes first no matter what. That is what this is looked at. It would be similar to what the State Constitution has as its amendment within the overall structure of the State Government that the very first bill you pay is the retirement system. Once the retirement system is paid, then everybody else gets money. That is what the effect of this is that regardless of water, sewer, roads, et cetera, that the very first bill that gets paid is housing. If that is the will of what the Council wants to put to the electorate, that is fine. It would behoove me to mention that while Adam is asking as one (1) department head on the call and saying, "Hey, I can always benefit from long-term revenue sources." You are going to hear that from our County Engineer, Director of Parks & Recreation, the folks that run our vertical construction around the County through project management, Elton when it comes to radios, Police Department because they need new buildings, Fire Department because they want another fire station somewhere, et cetera. All of these projects are the same type of analysis where you are going to have annual budgets juxtaposed with long-term development and anybody's life here on this side of the street would be made a lot easier if they had the benefit of not having to deal with annual budgets. Again, having annual budgets is the nature of the revenue source. That is how we would interpret it...the Council's desire in this case in perpetuity is to have housing be the first bill to be paid no matter what. We already do that with the Public Access, Open Space and Natural Resources Preservation Fund, so that bill is the first one we pay no matter what before we get to all the other things

that have to be weighed in, in a budget process on an annual basis. I just want to put that into context. We are not taking a position per se as to whether this should be the budgetary policy of the County in perpetuity, but that is in effect what this would do. The Housing Development Fund would be given money in perpetuity first before all the other bills get paid.

Council Chair Kaneshiro:

Council Vice Chair Chock.

Councilmember Chock: I appreciate that. I like the perspective that you both have played out. I think at least from my seat, I would love to be able to see dedicated funds to where all of our high-priority needs are. The General Plan outlined that and I think that is why there was such a big push after twenty (20) years of not having a General Plan to outline where we were in the housing crisis. I just wanted to ask, we have dedicated funds such as the G.E. Tax Fund that goes to roads, correct?

Mr. Dahilig: The G.E. Tax Fund is a ten-year authorization from the State Legislature that once those moneys lapses, you will need another authorization and another ordinance from the Council to do so in ten (10) years. The money is not specifically for roads. It is for transportation purposes, so that is where the budget that was just passed by the Council also includes some portion of the G.E. Tax Fund to support activities related to our transportation system. Those are the parameters of what we can use the moneys for, but it is not just for roads. It is only good for, again, a ten-year period.

Councilmember Chock: Right. Thank you. My point is that we have funds that go towards priorities that we have, whether it is the Transportation Agency or the Roads Division, just as we have Transient Accommodations Tax (TAT) funds that are directed...well maybe not solely directed, but definitely have been...and an increase of that to that end in the last year, because now we have our own means to develop the TAT. We have these funding mechanisms available to us now that we ultimately need to manage, correct?

Mr. Dahilig: I will confirm that, but I will add that it is a specific additional tax that was initiated in 2018 so the Legislature allowed councils to raise taxes on the public for a specific purpose. The difference in this proposal is that it would earmark general revenues from real property taxes and the TAT, which is considered a general revenue source to go to this specific Fund. It is in that effect, yes, there was moneys dedicated based off of State law for a specific function within the County's civic portfolio, but it was predicated upon the County actually increasing taxes on the overall public in order to do so and create those moneys.

Councilmember Chock:

Thank you. I appreciate that.

Council Chair Kaneshiro:  
DeCosta.

Councilmember Evslin, then Councilmember

Councilmember Evslin: Just a quick follow-up. Thank you for mentioning the G.E. Tax Fund. It is also worth mentioning that that is six (6) times more allocated towards transportation through the G.E. Tax than what we are talking

about here with this allocation. Also, at it relates to emergencies, this was introduced as Council Vice Chair Chock said, in 2018, this conversation regarding emergency relief moneys came up at that time too, and the Fund can be used for emergency measures, temporary housing, and those types of things. It is valuable to have money available in times of natural disasters for housing purposes which these can be used for. I think that was a good question Councilmember DeCosta.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Mike, you mentioned that the first bill we pay is for open space, am I correct?

Mr. Dahilig: Yes. Based off of an existing requirement, one-half of one percent (0.5%) of the real property tax revenues has to go to this Fund.

Councilmember DeCosta: That is all I wanted to know.

Mr. Dahilig: It is not...sorry.

Councilmember DeCosta: The Public Access, Open Space and Natural Resources Preservation Fund benefits everyone on Kaua'i, right? When we purchase an access to the beach, it benefits everyone, and not just a certain group of our taxpayers, am I correct?

Mr. Dahilig: It does. The difference with that specific Fund is that the moneys still have to be reappropriated for a specific purpose.

Councilmember DeCosta: Okay.

Mr. Dahilig: The moneys are for the general welfare for the overall county, in order to spend moneys out of that particular allocation, it still has to go through a full money bill before the Council in order to meet the appropriations test. There was a Supreme Court case, and Matt can also refer the Councilmembers to that regarding the County Attorney suing the Mayor and that was related to how tax revenues are essentially needing to go through an appropriations process before your body, because that is a fundamental element of our separation of powers democracy set up by the Charter.

Councilmember DeCosta: For this next question, I just want a simple yes or no, Mike. Our G.E. Tax Fund moneys goes towards roads. Whoever drives a car benefits from that road improvement, correct? Yes or no?

Mr. Dahilig: Everyone uses roads.

Councilmember DeCosta: Perfect. What I am alluding to is the Charter in our government set up to build housing for everybody on Kaua'i? Will this money benefit every taxpayer on Kaua'i that wants a home? Or are we targeting a select group. Let me finish. Are we targeting a select group of people based on financial income that qualify and the ones that go on and go to college with a better job, they do not qualify?

I want to make sure that our County's moneys are going to be utilized for everyone on Kaua'i and not just for a select group. That is what I was trying to distinguish between the open space benefitting everyone, the roads benefitting everyone, money allocated for the landfill will benefit everyone, et cetera. Will these funds benefit everyone who has a dream of owning a home? Who is going to answer that question?

Council Chair Kaneshiro: Councilmember Evslin looks like he wants to answer it.

Councilmember Chock: He is excited.

Councilmember Evslin: Yes. If you are building housing, even if it is workforce housing dedicated for people making under one hundred twenty percent (120%) area median income (AMI), that is for our teachers, blue collar workers, et cetera. One hundred twenty percent (120%) AMI is our own salaries if we do not have second jobs. That is a large contingent of the island that qualifies for workforce housing. You are giving those people...I put my Additional Rental Unit (ARU) up for rent on Craigslist and I got ninety (90) responses for a market rate rental. Many of those people competing for my market rate rental could have qualified for workforce housing. If you are providing housing for them, that takes less competition off of our market rate homes. The Housing Development Fund can be utilized to build infrastructure for affordable housing development, which can tie into other market rate developments nearby. Yes, for sure it benefits everyone on Kaua'i.

Councilmember DeCosta: The workforce housing cannot be bought by any mainland investor who comes here and because our workforce housing community that we are targeting cannot afford to get the mortgage loan, does this amount of homes that we are building now, is it open for the rest of the mainland market to come and purchase? Can they purchase these homes?

Councilmember Evslin: You will have to ask the Housing Director for details on that.

Councilmember DeCosta: Adam, did you hear that?

Mr. Roversi: Councilmember DeCosta, are you asking if a mainland investor purchase a County-produced workforce housing unit? Was that the question?

Councilmember DeCosta: Pardon me? What did you ask me?

Mr. Roversi: Are you asking if someone from the mainland or a mainland investor can purchase a County-constructed workforce housing unit? Was that the question?

Councilmember DeCosta: Yes.

Mr. Roversi: Let me quickly say that ninety-five (95%) of what we have built in the last five (5) years are rental units for people that meet certain

income qualifications and are not for-sale. To the extent that we have purchased existing homes, rehabilitated them, and resold them at affordable prices to homebuyers, the purchasers of those homes must be Kaua'i residents and they need to be on our Homebuyers List. To be on the Homebuyers List, you also have to be a Kaua'i resident and you have to have taken a homebuyers education class. The homebuyers are selected based on their priority on that list. Most of the people that have low numbers who would then receive priority have been on it for quite some time, five (5) or ten (10) years even. Those are the folks that are preferred purchasers based on that Homebuyers List.

Councilmember DeCosta: Most of our housing that you have built with funding that went into your Agency is for workforce rental units and not workforce ownership homes, correct?

Mr. Roversi: Correct.

Councilmember DeCosta: We are creating rentals?

Mr. Roversi: Generally, that is correct. We are moving forward with building thirty-eight (38) single-family homes at Lima Ola, and that will really be our first significant family-type home project since the early '90s when the Housing Agency was building more single-family homes.

Councilmember DeCosta: Okay.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: This is not really a question. I just want to see him for a second. Can I summarize some answers to what has been brought up that is essentially summarizing...my amendment, I appreciate that we have been talking about everything, whether it is my amendment or not. I thought I might be able to summarize it so we can have that completion if we like it or if we do not.

Council Chair Kaneshiro: That would be good. We have two (2) other proposals in addition to this one. That would be a benefit to us to get somewhere near a decision.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: We will not finish the whole Resolution, but we can at least get through the amendments, then can get back to talking on the Resolution or the Resolution as amended.

Councilmember Cowden: Okay. This first portion of the amendment is a nuanced funding structure. It is a Resolution for anybody that just tuned in that will be a ballot amendment. An amendment that the electorate is going to vote up or down on. Right now we are voting up or down whether it will go on the ballot. This is a nuanced funding structure to a special housing fund, that in my view, is putting our policy where our mouth is. Since I have been on the Council, we have had a clear message of our priorities to be that we have to keep people in their homes or we have to

create housing. This has been a long-running housing crisis. As we see, it even came up in 1982. Where it is different, Councilmember DeCosta, is what Councilmember Kualii and I saw when we just went to the Rural Action Caucus of the National Association of Counties (NACo). This is a crisis now across the nation in rural counties. Everywhere there is a race to rural, because we have had profound economic changes and the ability to work virtually, where people have left the urban core and they have gone to rural places, not just the Garden of Eden, which is Kaua'i. This has been a long problem, but now, the heat on it is turned up really hard. The amendment that I am proposing offers more potential than the original proposal and while it is not structurally ideal, it is still legal for us to do it. It is just not structurally ideal. That anomaly of where it is a little different than how the Charter would not be tied to something that could be changed with an ordinance, I think that is actually really a great piece of it and why I decided to still do it. It creates the needed flexibility in these times of potentially continued high inflation. We heard Mr. Williams tell us that up to eleven percent (11%) right now. We might have this economic volatility when we have a three quarters percent (0.75%) change this month in June and maybe another one next month. We could go into what is called stagflation. We are arguably already in a recession. We do not know where things are going to go. This allows us to be able to move it around. What we are doing with my amendment is shifting the burden of the Housing Development Fund onto the tax classes that are creating the very pressure that is pushing people out of their housing. Our long-term renters or homeowners are getting pushed out because of how desirable our housing is. It is a financial instrument. When I brought up some of these Federal Reserve challenges, people do not even know where to put their money. Putting their money into real estate with a house on it is one of the safest places to put it right now, unlike 2008 when that was a debt bubble. These are cash buys. Again, addressing Councilmember DeCosta's statement that maybe Councilmember Evslin did, without the less than rich people, we will not have anyone to work to take care of the rest of us. As I said regularly, we cannot have everyone riding in the cart. Someone has to pull it. We all benefit by people being able to have a home and be stable, and not falling apart in the bushes on the side of the road. We need people to be healthier.

I want to speak to the landfill argument. The landfill in my view is an equal priority. It is like a number one priority in terms of what we are chartered to do. We are going to have garbage everywhere if we do not find a solution. That problem is not so much funding, it is just that we do not have any viable land that we can develop with all the rules. That is not an apples-to-apples situation. We do not have land that we can choose to put it on, that is our problem. It is not that we could not find the money. Infrastructure is chartered by the County. Even when we came up with forty-nine million dollars (\$49,000,000) the last time, our Administration put it largely towards deferred maintenance, which is what we are supposed to do. We are supposed to do that. Even though it might seem like Council Vice Chair Chock, and Councilmember Evslin and I have a little tug of war over some of this stuff, we have the same goal. That goal is, we have to put people in a place to live. When we are putting this ballot amendment out there, we are basically helping the Administration by Charter, be able to put this priority in, where we have a Housing Director be able to apply for some sort of other additional funding, that we have a relatively stable foundation of money to be able to make it happen. I think we are solving a lot of these problems. With our deferred maintenance on our infrastructure, that is where we have to be able to, with our main

General Fund, to address that. That comes first. Without this side piece, this special fund, housing is going to keep being set aside. It takes years to get these places built. We are not going to have anybody left. It is a crisis. It is a tragedy. It is beyond a crisis. That is my reason for doing this.

Council Chair Kaneshiro: Okay. Let me get to this point. This is one (1) big floor amendment. I want to get all of our questions on each one now, so that once we get our questions out on every single portion, we can take public testimony and then we will take the vote on it ad seriatim on each one. I am looking at the time. I do not know if we are going to finish in time, but we are not obligated to have to finish by lunch. We can always come back.

Councilmember Cowden: Okay. I can give the discussion on these other two (2). Are you saying you want me to explain these other two (2)?

Council Chair Kaneshiro: I read them. I do not need clarification on it, unless someone else does.

Councilmember Cowden: The public might.

Council Chair Kaneshiro: Okay.

Councilmember Cowden: The second part, I put, "Any unencumbered balance in this fund at the end of this fiscal year shall not lapse but shall remain in the fund accumulating from year to year," which is what was in the original. I added this portion and this came from the Administration, because I had not thought of it. "After a five-year period of no expenditure from the housing development fund, the annual appropriation shall cease. Annual appropriations shall continue after expenditures of affordable housing strategies are encumbered. Any unencumbered balance in this fund shall not be used for any other purpose except those listed in this paragraph." That is saying, say we just keep building moneys in there and there is sixty million dollars (\$60,000,000) sitting in there and we need to fix something else, we cannot just sit it in there and keep holding it. We might want to save it for a few years, but this cannot just sit there, get fat, and not get utilized. There is this lever to stop it and it also has the less than ideal element that it is tied to an ordinance that can also be a lever. There are two (2) levers to roll this back to be able to allow this money to go into the regular budget if it is not being utilized right or if it looks like it cannot be utilized or is needed. That is the other piece. It is just a safety brake.

Council Chair Kaneshiro: Did you run that one by the County Attorney?

Councilmember Cowden: I think I did.

Council Chair Kaneshiro: In reading it I am thinking that the Charter does not state that. The Charter just says that the moneys go into this Fund based on a certain percentage. The actual Charter Amendment does not state that if it does not get spent within five (5) years then it can be taken out.

Councilmember Cowden: I added that. Matt, you said it was okay, right? Tell me. I cannot remember, but I think you said it was fine.

Mr. Bracken: I reviewed slightly different language. My analysis was based on slightly different language and the combination of the two (2) pieces, right? You had the first piece and the second piece. I did actually recommend a change that was made to it. I am actually less concerned about the amendment in number 2 to paragraph 3. I am more concerned about the first amendment to paragraph 1. It is just in terms of legal defensibility, right? The original Resolution language, defensibility-wise if I had to put percentages on, I would say ninety to one hundred percent (90%-100%) defensible. If I had to put a percentage on someone legally challenging this because of the way that it refers to the ordinance and tied to it, I would put it at less than fifty percent (50%) defensibility. For paragraph 3, with the language as it is now, I do not really have any concerns with that and I think that is probably okay.

Councilmember Cowden: Can I ask him one (1) more question?

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: When you say "defensibility," usually I think about that in the context of if we were sued for something. Where is this going to get challenged? Someone could say that we could not put it into housing, because we have to build a new bridge? Is that what we would have to be defending? When you say "defensibility" just help me understand the use of that word.

Mr. Bracken: Yes. That is exactly what it is. When the County is sued...a taxpayer could challenge legislation, law, Charter Amendment, et cetera. If someone challenges it on the grounds of legality, that is what I am talking about with "defensibility." Can I defend this if someone challenged it, less so than the original language.

Councilmember Cowden: We could fix it pretty quickly without the lawsuit, right, because of the weakness in how it is?

Mr. Bracken: I am sorry, could you ask that question one more time?

Councilmember Cowden: Let us say that someone had a real big issue there, it would not be hard for the Council to just fix it. It would not have to go back on the ballot.

Mr. Bracken: No, it would. If the proposed Charter Amendment language is adopted, sent to the voters, and the voters were to vote in favor, then it is placed in the Charter, and it is very difficult to change. There is no quick fix if it is completely adopted.

Councilmember Cowden: The policy could be fixed. The weakness in this is that we could fix the policy so the problem would be gone. We could fix the policy...we

would not fix the wording, but we could fix the policy. That would undermine whatever the lawsuit would be by changing the ordinance. Then all of a sudden there is no issue.

Mr. Bracken: Not necessarily, right? The way the courts look at it...what you are kind of describing is mootness. When the court looks at something and then you fix the policy behind it, is it actually moot or will the court still consider it? When you are talking about a Charter Amendment, say you were to somehow fix the policy and you were going to delete the Vacation Rental tax class and Residential Investor tax class that nullifies this Charter Amendment, the fact that the language is still in the Charter, the courts still might consider it saying at any point in time, the Council could put those two (2) classes back in there, so we are going to take up the legality of that Charter provision.

Councilmember Cowden: Okay, thank you.

Mr. Bracken: I do not really think there is a quick fix to it. If it is challenged, it is basically up to a court to decide. I think they would have grounds to continue the case even if it was somehow fixed via policy by deleting those classes.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I have a follow-up question for Matt. Matt, it just crossed my mind right now. How do you become a resident of Hawai'i? Let us say that this workforce housing...teachers from California or from Idaho want to come to Kaua'i and get a job. What qualifies them as a resident to apply for this workforce housing? What legal ramifications can we ensure that our local school teacher from the University of Hawai'i who is going to relocate from O'ahu to Kaua'i to get that job versus an Idaho teacher who claims that they have a driver's license on Kaua'i for a year and now they qualify as a resident on Kaua'i? What is the legal way to be a resident in Hawai'i?

Mr. Bracken: Usually it is just changing your driver's license and registering to vote.

Councilmember DeCosta: Perfect. Thank you. Perfect.

Council Chair Kaneshiro: Are there any further questions on this Amendment #2? If not, we can go to Amendment #3. Councilmember Cowden.

Councilmember Cowden: It says, "Shall a minimum of five percent (5%) up to a maximum of ten percent (10%) of real property tax revenues derived from each of the real property tax classes of vacation rental and residential investor be placed in a housing development fund for the purposes of housing strategies."

Council Chair Kaneshiro: That is to be consistent with Section 1.

Councilmember Cowden: Yes. That is the question that would end up on the ballot. That is what the people would vote on.

Council Chair Kaneshiro: Are there any further questions from the Members on these amendments? While the rules are still suspended, is there anyone in the audience wishing to testify on the amendment?

Mr. Sykos: Is this just the amendment or the whole thing?

Council Chair Kaneshiro: Just the amendment.

Mr. Sykos: Later, can we talk about the whole thing?

Council Chair Kaneshiro: Yes.

Mr. Sykos: I will wait until later to talk about the whole thing. Thank you.

Councilmember Cowden: The amendment would be all three (3) elements, right?

Mr. Sykos: Right now we can talk about all three (3) elements?

Council Chair Kaneshiro: Yes.

Mr. Sykos: Okay, I will testify. My thanks to Councilmember Cowden for making these changes. Prior to the changes, I was utterly against this and I would campaign publicly against this amendment. The reason is, why are you going to tax the poorest people on the island in order to build workforce housing and not tax the companies that need the workforce? The original amendment was two percent (2%) out of certified real property tax revenues, which includes everyone that is poor that owns property. You want to gouge me for another two percent (2%) and it is not a new percent, but do not shake your head at me. The money is getting shifted within your budget and thus this two percent (2%) is not available for anything else. Why do you want the public to build housing for the tourism industry? My problem with this thing is that you should have started out taxing resorts. Think about the amount of money you would get if you taxed resorts and it is the resort industry that drives the need for the employees. What you are trying to do is tax the employee to build the employees' own housing which is just a Ponzi scheme. It is an impossibility that the workforce can pay the taxes to come up with the money to build the housing for them. That is nuts. That is elementary school-level politics. It is not even the high school council level. It is horrible. Tax the people that bring the workers in. Tax the people who need the workers. They make a profit. This island exports hundreds of millions of dollars a year in profit leaving this island to offshore shareholders, when you should be taking some of that money and building housing. I have three (3) more minutes later.

Council Chair Kaneshiro: Is there anyone else in the audience wishing to testify on this?

JEFF LINDNER: *Mahalo*, Councilmembers.

Council Chair Kaneshiro: Jeff, I know this is probably one of your first times here. The light will turn green when your time starts. It will turn yellow when you have thirty (30) seconds left. It will turn red when your three (3) minutes are up. If you do need more time, we are going to go around the room to see if anyone else needs three (3) minutes to testify and if anyone on Zoom wants to testify. You can then come back to testify. State your name for the record.

Mr. Lindner: Because of the importance of the funding and the Residential Investor was brought up...the intention of the Residential Investor tax classification in Bill No. 2549 was to impose a tax rate higher than the prevailing rate for others in the same class. The purpose of it was to extract the tax on the wealthier residential landowners who had improved dwellings, but did not qualify for the exemption. I believe the lowering of the threshold...it was two million dollars (\$2,000,000) and is now one million three hundred thousand dollars (\$1,300,000)...and set to go lower...the classification is no longer a wealthier person with the rise in property tax. It includes other people now. The question is, who are you extracting from? Not only that. The rate was originally set at eight dollars and ten cents (\$8.10) and in 2021 it went up to nine dollars and forty cents (\$9.40) per thousand dollars (\$1,000). To go back to the original intention, just to make clear that it was looking for particular...separating the same class. The Residential Investor tax rate is higher than the Residential tax rate. It is currently the highest rate the County charges on property except for Hotel & Resort and Vacation Rental. The tax class was even compared to a luxury tax by the Council when it was created. The Committee Report for Bill No. 2549 indicates that the Bill was designed to create a separate category for the Residential Investor class when the property is used for residential purposes. The Bill was compared to a luxury tax on million dollar properties where the owner did not live there and was either a second home or a long-term rental. Former Councilmember Bynum stated that he favored increasing taxes on those who could afford to pay for homes in Po'ipū. During the Council Meeting to amend the Bill to raise the threshold from one million dollars (\$1,000,000) to two million dollars (\$2,000,000) former Councilmember Yukimura stated that the Bill was intended to apply to high-end property. She went on to say that we needed the category...

Council Chair Kaneshiro: Sorry, Jeff, that is your first three-minutes. You can come up again for another three (3) minutes.

Mr. Lindner: Now?

Council Chair Kaneshiro: No. I have to go around the room again.

Councilmember Cowden: Do you think he is on a different item?

Council Chair Kaneshiro: Yes.

Councilmember Cowden: He is talking about taxing the Vacation Rentals and Residential Investor taxes.

Mr. Sykos: I think he conflated the two agenda items. This is such a difficult issue for the public to wrap their head around. I started following politics here when I read, in probably 2005 when you were down in Nāwiliwili, that the bond industry had forced the County to get rid of our arcane plantation era accounting process and we adopted General Accepted Accounting Principles (GAAP). The newspaper informed me that the County had discovered that they had a sixty-four-million-dollar surplus that they did not know they had. That number got adjusted downward as various internal auditing found that moneys had been counted twice. There was at least fifty-four million dollars (\$54,000,000) or fifty-five million dollars (\$55,000,000) in surplus from 2005 on. We bought a helicopter. If I remember correctly, we hired five (5) new cabinet-level positions and the staff for them. We did not put any money to housing. We have spent all of that money. The Mayor is fully aware of it. Had it not been for COVID-19, he would have been looking at a massive economic hole to fill. He is blessed and fortunate, as we all are, that the Federal government gave us a ton of money because of COVID-19. We had the opportunity for decades to put money into and build housing. It was the choice of the Council and the Administration not to do so. We sit here today with a distinct lack of faith in the Council. We started this year's budget season with the Council telling us that you were not going to raise taxes and you did. I sat through I do not know how many hearings that created the Public Access, Open Space and Natural Resources Preservation Fund, in which the entire consensus was, the only thing that money was to be used for was to acquire property and that all of the subsequent development would be funded by the Council providing money to build a path, take a survey, protect the birds, or whatever it was. The County says that this is our position and does this one hundred eighty degree (180°) flipflop. We do not know what to believe. Everything I have heard is, we do not need this in order to accumulate money and use it to get bonds. I am over it. I do not support this at all. I support the intention of building housing, but I do not think this is going to change things.

Councilmember Cowden: I have a clarifying question.

Council Chair Kaneshiro: Councilmember Cowden, clarifying question.

Councilmember Cowden: I have a clarifying question about the budget process.

Mr. Sykos: Yes.

Councilmember Cowden: You said we were not going to raise taxes and then we did.

Mr. Sykos: Correct.

Councilmember Cowden: I do not recall that we did raise taxes beyond the fact that the valuation of the houses went up. We did not, to my knowledge, raise taxes. Where did we raise taxes?

Mr. Sykos: The Councilmember is correct. You attempted to raise taxes and the four (4) of you voted it down. Thank you, thank you, thank you very much for voting down the tax. Yes, we need housing. Unfortunately, it is election year and we end up with election politics being conflated with the political process of running the County.

Councilmember Cowden: I have another clarifying question. Are you saying that either the Resolution or the amendment to the Resolution is raising taxes? I see that it is just redirecting taxes. Where do you see that this is raising taxes?

Mr. Sykos: It is not raising taxes, it is redirecting taxes. It is a solution to a problem that apparently does not exist, because both the Council Chair and the Administration apparently has told me, if they wanted to get bonds issued, they could. What is the point of this? It is like the process exists to do what you want to do. Why are you creating a new process? That is my question in this. I do not get it.

Councilmember Cowden: I have one (1) more clarifying question.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to say that to me, the problem that exists that we are struggling with all the time is that our people do not have housing. You are not suggesting that that problem does not exist...

Mr. Sykos: That problem definitely exists. The problem I am trying to identify is when the County has had money...

Councilmember Cowden: I have another clarifying question. I will make this simple. If I am hearing you say that the Council and the Administration do not have the political will to help the people with getting housing, when we put a ballot amendment on there, this is up to the people. Having heard the people say over and over, yourself included, that we do not hear you and we do not prioritize housing, when we have a ballot amendment, does this not really give it to the people to make the decision?

Mr. Sykos: It kicks the can down the road, because the problem was the lack of political will to take the money that existed in the past and build housing. The political decision was to spend the money on other things...

Councilmember Cowden: Okay, understood.

Mr. Sykos: I will point out that your budget this year put millions of dollars into the Office of Economic Development, and I challenge any of you to show me a single job created by our Office of Economic Development. It is packed with tourism-industry people and it is incapable...

Council Chair Kaneshiro: Lonnie, I think you are going past Councilmember Cowden's question. Thank you for your testimony.

Mr. Sykos: Thank you.

Council Chair Kaneshiro: Jeff, did you want your final three (3) minutes?

Mr. Lindner: Do I have to state my name again?

Council Chair Kaneshiro: No, we have it already.

Mr. Lindner: I want to move on. I just think that the Residential Investor proposal will trap lower income people within that. What I hear is a concern about the money and how it is spent. Market forces is a better way to go as far as to provide housing. As it currently stands now, the County does not assess density in the real property assessment. When you do not assess density in the real property assessment, then basically...take urban land...you have converted agriculture to residential, residential is going to be one (1) per acre or forty (40) per acre...if you do not assess that and tax the owner for the higher valuation or highest and best use, then basically you are losing that revenue and you are also not putting an incentive on that landowner-you have to use that density, pay for it, or you have to develop it. You have to put it out for the people. The fact that the County and I guess that is not a rule, it is an unwritten rule that is happening. The County is not assessing and so you have agricultural land that has five (5) houses per acre. Residential can have forty (40). Those are market forces. Those are market forces of the people who own the land. Tax the density. Tax the density of the owners who have that. Also, you could also pass laws that when you change or upzone from agriculture to residential, those permits are only good for one (1) or two (2) years. They have to do something and should not hold onto it for ten (10) or fifteen (15) years while the market goes up. I believe and it is my understanding that that is what is going on. Real Property Assessment is not taxing for density.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? If not, I will call this meeting back to order.

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

Council Chair Kaneshiro: I do want us to be voting on these amendments and we are going to have to take lunch and come back. That is my main goal to get through voting on these amendments. Are there any further questions on the amendments we will be voting on ad seriatim? Councilmember Evslin.

Councilmember Evslin: On the second amendment, that is saying a five-year period of zero (0) expenses from the Housing Revolving Fund.

Councilmember Cowden: Yes, it is. It could get adapted. This I was hearing from the Administration in our discussion. I do not remember exactly where it went. What can happen and one of our testifiers said, if we are looking the other way and whatever happens and that money just keep building up, we want to have a mechanism to not make that happen. Why I chose "no" and I would be fine to make it a percentage there...they have five (5) years here...is that sometimes they do have to

save or maybe they are waiting on something. If you are not going to use the money, you cannot keep getting it is what this says.

Councilmember Evslin: Okay.

Council Chair Kaneshiro: Are there any further questions? We will vote on these ad seriatim. The discussion would occur on each one. Is there any final discussion on the first change? Councilmember Evslin.

Councilmember Evslin: I like the intent. I certainly cannot vote for something that the County Attorney is telling us would have a less than fifty percent (50%) chance of surviving a legal challenge. Ultimately, I think the outcome is basically the same either way. We are looking at similar amounts raised either way. The only reason we can even allocate two percent (2%) right now...the question came up why has the County not allocated the money before...the reason this came up now is because TVR taxes got raised in 2018 and the structure and the rate of the Residential Investor tax has changed over the last few years, right? We have more revenue coming in from these two (2) classes, which now gives us the ability to, in my mind, dedicate a proportion of real property tax revenue towards the Housing Development Fund, which would be at a similar value than your proposal would allocate. In a perfect world, I do like the idea of being able to say only money or five percent (5%) from these two (2) classes would do it, but given the legal concerns, I cannot support it. I appreciate your work here.

Council Chair Kaneshiro: Does anyone else have any comments? Council Vice Chair Chock.

Councilmember Chock: I really like it, too. I think it has some problems and needs more work. I also think that we could probably work some of it into an ordinance. If the Charter Amendment were to pass, we could actually go back to how it is structurally directing it versus the other. I am worried about the liability piece that I heard. I probably will not be supporting this.

Council Chair Kaneshiro: Does anyone else have anything to add? For me, I will not be voting for this amendment. I do see and understand the issue that Matt brought up. If we do a Charter Amendment that classifies Vacation Rental and Residential Investor in the Charter and anything changes, then the only way to change the Charter is to do another Charter Amendment and hopefully the voters understand that change. It gets messy. A lot of times, we need to be really careful on what we do with the Charter. We really do not want to put anything in that just muddies it. For me, I completely understand Councilmember Cowden's rationale for it. She is trying to tie the Residential Investor's and Vacation Rentals' impacts to affordable housing. They are taking away housing. She wants those folks impacting housing to be the ones fronting the bill for the housing. I completely understand it. As far as using it in the Charter, I do foresee that there may be issues if there are any changes in naming. The Charter is our holy grail or Holy Bible. I really do not want us to muddy that part up with something like that. That is my opinion on that. Does anyone else have any comments? If not, we will take a roll call vote on this first amendment.

The motion to amend Resolution No. 2022-22, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 (Part 1), was then put, and failed by the following vote:

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

Mr. Sato: Part 1 of the amendment fails.

Council Chair Kaneshiro: That proposal fails. Is there any discussion from the Members on the second part? Councilmember Evslin.

Councilmember Evslin: I would like to hear everyone's thoughts on this before voting. My own ideological perspective is that changes to the Charter should be as simple as possible and as concise as possible. I do not imagine a possible realm where the Housing Development Fund is not being utilized. We are going to be in a housing crisis forever. Even if we can solve our housing crisis, we still need to be building housing for lower income people. I do not really see it not being used and this getting triggered. I do not necessarily think it is necessary, but I do see the value in easing the minds of people over it. I am somewhat ambivalent, but would be interested in hearing other thoughts or seeing where the vote lands.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have over the years, for decades been involved in different issues. You think there is something that is never going to be a challenge with like in the '90s we had so many people looking for jobs, right? I was on the Workforce Investment Act group. I was the outlier. I was the complete outlier then and now. I said, "Hey, we will not have an unemployment problem if you keep up with your policies because we are going to lose all those unemployed people." People thought I was a little out there. In fact, guess what? We went from twelve percent (12%) down to four percent (4%) and I could go around anecdotally...they went to jail, died, or they moved away. Very few of them actually got a job. Then it ended up being that there is not even enough people out there to do the work. What I see with the way our policy is, is that with the level of commitment we have to addressing it, particularly the people who fall out of housing...people look down on the houseless, but I see the people as they first get in to being houseless and they cascade into despair really quite quickly. I meet with people regularly who are selling or moving away. We are losing people. I think, if we do not just have fortitude to make things work, we are not going to have anybody. We are not going to have anybody. When I hear this effort to put in...I forgot, but it involved dormitory-style housing so you can bring people in to work there for shifts and then they fly away. I do not think we will really need all this housing. Just like we got rid of all the people who were not working, we may do something where we devastate our people. You look at the government try to make the pandemic out of everything, whatever they try to do. I do not have the trust and faith that we will not have unintended turbulence and that we need to have something to keep us...we need to

have stopgaps. We can have turbulence. I cannot remember. It came out of our conversation with the Administration. It is an important piece and important enough that I put it in there.

Council Chair Kaneshiro: Okay, does anyone else have anything to add?

Councilmember DeCosta: I had a clarifying question.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: You used the comparison that back then you were alone or out there and even like now.

Councilmember Cowden: Always.

Councilmember DeCosta: Hang on. Like right now with you being outvoted 1:6? Is that what you are saying? Yes or no.

Councilmember Cowden: Sure. Yes. Sure. On your terms, yes. I could say more than that.

Councilmember DeCosta: The reason why is your job is to convince us to vote with what you believe is the right decision for our community. That is why we vote no, because we do not believe it. Just like when I introduced my Tree Bill and you deferred it. You did not believe in it, right? We have that right here on the floor. Do not play the victim right now, please.

Councilmember Cowden: I am not playing the victim. There are a lot of ways that I look at things that never make it to the floor. I think in general, I am a little bit...

Councilmember Chock: Just stick to this.

Councilmember Cowden: Yes, let us stick to this. I was not playing the victim. I think it is important to have a stopgap in case there is a problem. That is all.

Council Chair Kaneshiro: Okay. Are there any further questions? Is there any final discussion from the Members? For me, I will not be voting for it. I understand Councilmember Cowden's purpose. It is to "hold their feet to the fire." We are not going to put money in this account and have it accumulate. For all practical reasons I believe they are going to spend the money every year. Even if they do not, they can spend one dollar (\$1) or two dollars (\$2) and get away from having the money lapse. Again, it goes back to my philosophy on budgeting. I think we deal with it during every single budget versus trying to put all of this money into the Housing Agency. I think there is a way to get around this amendment. They would spend one dollar (\$1) on something. That is the reason I will not be voting for it. Does anyone else have final discussion? If not, we will take a roll call vote.

The motion to amend Resolution No. 2022-22, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 (Part 2), was then put, and failed by the following vote:

FOR AMENDMENT:	Chock, Cowden, Kuali'i	TOTAL – 3,
AGAINST AMENDMENT:	Carvalho, DeCosta, Evslin, Kaneshiro	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato:

That item fails.

Council Chair Kaneshiro: We are now on the third item. I believe the third item goes with the first item. Because the first item fails, the third item would have...if the first item passed, the third item would have to pass to make it consistent. In this case the first item did not pass. There is no rationale to have the third one pass. We would then have a major inconsistency in our language. Do we have any questions on this third item from the Members? Any final discussion from the Members? Councilmember Carvalho.

Councilmember Carvalho: I just want to say that I appreciate you putting this on the table. I totally understand where you are coming from. At the same time, I just felt that we need to stick to the original format. Your intentions were there. I think what we have right now is the one that will take us to the next level.

Councilmember Cowden: Thank you. If I can respond, I just felt it was really important for us to be in integrity for what we have said throughout at least the past year if not three (3) years. I wanted to bring it into integrity so that it would be consistent with all our purposes. The original proposal I believe is out of integrity with what we are saying.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: I just want to also thank you, Councilmember Cowden. I do think that was a valuable conversation for us to have. I do think it is clear to establish, as we have through that discussion, the intent here is not in any way to raise this money through taxes on residents. We have the revenue sources through the Residential Investor and the Vacation Rental property tax rate even if via the Charter, we are not explicitly saying that five percent (5%) of these have to be dedicated that we can still do the exact same thing at the end of the day via this other thing. Also, it is through a commitment to look for increases in those tax classes first, if there is ever a time we cannot fund this two percent (2%). By having this discussion, I feel that we set up the framework but the intent is to always have this revenue in some capacity be coming from those tax increases. We have not increased resident taxes in years in any other class. The only classes that we have increased certainly in my term and the previous years before my term was Residential Investor and Vacation Rental. Thank you again.

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

The motion to amend Resolution No. 2022-22, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 (Part 3), was then put, and failed by the following vote:

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

Mr. Sato: That item fails.

Council Chair Kaneshiro: With that, we will take our lunch. We are probably way past lunch. The captioner needs a break. We will return to this Resolution. I am sure there will be more discussion on this Resolution. We are going to take a one-hour lunch break and come back.

There being no objections, the meeting recessed at 1:06 p.m.

The meeting reconvened at 2:10 p.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We are still on the Resolution proposing a Charter Amendment relating to a Housing Development Fund. Councilmember Cowden had some amendments. They did not pass. We are back to the main Resolution. Do we have any other questions on the Resolution? Councilmember Cowden.

Councilmember Cowden: I have a process question. If we vote yes on this today, it goes to a public hearing. When it goes to a public hearing we do not talk about it again?

Council Chair Kaneshiro: Not at the public hearing.

Councilmember Cowden: What is the second phase? If we say yes today...

Council Chair Kaneshiro: It will go to a public hearing and then it will come back to the full Council. At the full Council, we will talk about it, vote on it, and that is going to be the up or down vote on it.

Councilmember Cowden: Okay, so we have another chance.

Council Chair Kaneshiro: Yes.

Councilmember Cowden: Okay, so I do not have any more questions.

Council Chair Kaneshiro: Is there anyone else with questions on the Resolution? I have a question for the Administration if maybe Mike is available. The question is, passing a Charter Amendment like this, does it affect our bond rating,

because we are obligating moneys ahead of time? I can always send that in writing as well to Reiko.

There being no objections, the rules were suspended.

Mr. Dahilig: Council Chair Kaneshiro, that probably would be something that we would have to have our Bond Counsel, as well as our Bond Advisors, that could probably give some indication on. I know in the past when I have gone through discussions on prospectus types of things that they do prefer...the more liquidity the better and to be able to pay the debt and the more taxes, the better. That is what we tend to hear. As it relates to this specific issue, I would probably have to refer this to our Bond Counsel. I could give you a more accurate answer then.

Council Chair Kaneshiro: This is just first reading. I will send the question over. Hopefully, we can get it back before this comes back to the full Council.

Mr. Dahilig: I will keep an eye out for it, Council Chair.

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

Council Chair Kaneshiro: Are there any other questions from the Members at this time? If not, is there anyone in the audience wishing to testify on this Resolution? Is there anyone on Zoom? If not, Councilmember Kuali'i, did you have a question or final discussion?

Councilmember Kuali'i: I have another amendment. My amendment is very simple. In an effort to get more votes and hopefully a unanimous vote, if possible, it is to lower the percentage from two percent (2%) to one percent (1%). I think it is critical that we establish some kind of minimum commitment or dedicated allocation as a commitment to leveraging and giving our Housing Agency a tool to get more housing done. I think this is just simply a policy call. It is us as a Council giving up some of our flexibility. At one percent (1%), we are only talking about one million seven hundred fifty thousand dollars (\$1,750,000) per year. I am really confident that we would be doing that anyway. At least if we have a floor, the Housing Agency can use that as a dedicated source of funding. My hope of course is that the Council and the Administration will then add on top of that each year. I recognize the Council Chair's and Administration's arguments about having that flexibility, so by lowering that percentage, it just gives more flexibility. Ultimately, I think this is a chance for the public to have a say in guaranteeing at least that minimum amount, so that even in a difficult year, we would guarantee that. The public has decided years ago to dedicate one-half of one percent (0.5%) to the Public Access, Open Space and Natural Resources Preservation Fund. I think the public would also be interested in dedicating one percent (1%) to affordable housing. It is our role as the Council and the Administration to make sure that we build on that. Clearly, we need three million dollars (\$3,000,000) to five million dollars (\$5,000,000) minimum per year to do even small amounts of what we need to get done. I am just putting this proposal forward with the hopes of getting at least five (5), but hopefully seven (7) votes.

Councilmember Kualii moved to amend Resolution No. 2022-22, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: Are there any questions from the Members regarding this proposal? Councilmember Evslin.

Councilmember Evslin: I guess I have a question for the other Members. I am certainly willing to vote yes on the original two percent (2%), though I do agree that one percent (1%) is better than no allocation at all. My vote on this amendment really depends on where everyone else is at. I do not know how appropriate it is to ask everybody where those who are skeptical at all, could this bring you to a yes vote? Does that get us to five (5) votes or seven (7) votes? Or could we have gone with the original two percent (2%) and get five (5) votes. If it is okay with you all, I would like to hear from the other Members on where they are at here.

Council Chair Kaneshiro: Philosophically, I think you know where I stand on it. My question is, what prevents us from putting this amount of money into housing each year, rather than having a Charter Amendment? That would be my question on both and the two percent (2%) allocation. What is preventing us from putting this amount of money into housing?

Councilmember Kualii: Nothing prevents us, of course. We have been doing that. What this does is, the Council changes you know. The Mayor changes. What this does is it gives the voters a chance to say at a minimum, we want this amount dedicated to housing. It is a very small percentage of our entire budget. It is something and something to build on. Again, like I said, I hope that the future Councils in budget every year and future Administrations will put a lot more than just this one million seven hundred fifty thousand dollars (\$1,750,000). Nothing prevents us from doing that now. We have been doing it. We need to do more and I think we need to give the voters the chance to guarantee that future Councils will at least build on that.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I had a couple of follow-up questions. Again, I told you as a Council that I felt a little rushed when you said we had to make the decision so that we could get it on the ballot. A couple of things...our Housing Director has the ability to meet with the Managing Director and Director of Finance to float bonds that way. They do not need a set amount in their Fund. Our ex-Mayor sits right next to me and he knew that when he was there for ten (10) years, he needed the flexibility to use the moneys for other things and it showed. It was not mismanaged. Our Mayor now, since I believe 2018, he put money into the Fund and a lot more than one percent (1%). I asked the County Attorney what qualifies a workforce housing applicant and all it takes is a license. It just takes a driver's license that a person from the mainland can relocate to Kaua'i and qualify for that rental unit or for housing, because they just became a resident of Kaua'i. Am I correct?

Councilmember Chock: You are specific to one (1) aspect of it. There are many.

Councilmember DeCosta: I understand. I am just asking, is that...

Councilmember Chock: Ask the question is what I am saying.

Councilmember DeCosta: Do you want me to ask that question? I thought I did already.

Councilmember Chock: Please. I did not hear you ask that question.

Councilmember DeCosta: Who can I ask that question to? How do we discriminate...I do not want to see us fall into a situation where we have an open market now of people wanting to relocate to Kaua'i, because we built this workforce housing. Yes, maybe it is a teacher or a nurse, but do we want them from Idaho or New York, or do we want them from here in Hawai'i? I do not think we have the i's dotted and the t's crossed. I am asking if those applicants that are applying for this workforce housing that we want to put our taxpayers' moneys into, can we be assured that our local families are getting it?

Council Chair Kaneshiro: That would probably be a question for Adam, I think.

There being no objections, the rules were suspended.

Mr. Roversi: This is an item that we have discussed several times in the past. I will reiterate. It is unconstitutional to discriminate on the basis of duration against people who have moved to Kaua'i from out of state. We can narrow the category of people that can benefit from our housing, whether it is rental or for sale housing to Kaua'i residents, but as a matter of law, somebody can move here and become a resident in a relatively short order. They can vote for you all and for the Mayor, and get a driver's license to declare themselves a Kaua'i resident. If we were to say that someone must be a resident, let us just say as an example, for five (5) years, you must be a resident for five (5) years, we would be enacting a regulation that was unconstitutional and if we were sued, I could virtually guarantee that we would lose.

Councilmember Chock: I have a follow-up, please.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you. Adam, so along with the residential stipulation, I believe we also integrated other stipulations that have helped us narrow the field, is that correct?

Mr. Roversi: Correct.

Councilmember Chock: Can you explain what those are?

Mr. Roversi: In addition to being a resident, specifically for any of our housing units that are for sale, you must be on the County's Homebuyer List. To get on the Homebuyer List...currently we have nine hundred eighty (980) people

waiting on the Homebuyer List. They are ranked. You receive a number when you get on the list, number one (1) through nine hundred eighty (980) something. That is the priority list for any homes that become available for sale. By its nature, the people who have the highest priority had to have been a Kaua'i resident when they signed up. The people who are number one (1) signed up shortly after that list was created with the Housing Policy back in 2008. They have been Kaua'i residents as a practical matter for fifteen (15) years or so. The way that that Homebuyer List is set up, it functions to create a preference...not an absolute mandate, but a preference that the people who have been on the list the longest receive priority for Kaua'i County Housing projects. For rentals, admittedly, we do not use that Homebuyer List. That List is just for homes that are for sale. We still impose residency requirements. We also can permissibly impose preferences for people who already work in a particular area. For example, at the Koa'e affordable housing project, when the rentals were made available, there was an allowable preference for people who already worked and/or lived within the Kōloa tax map area. That is permissible to have those items as a preference, we could similarly and other states have done this too, provide preferences for school teachers, fire fighters, or broadly for County employees. As long as it is a preference and not an absolute requirement, it is less constitutionally problematic. If it is simply a black and white requirement, it is my understanding that is illegal.

Councilmember Chock: Thank you. One last question, do we have enough projects under our belt now where we know how many have served in-state and on-island population versus mainland population? Could you give us any indication of what those figures are?

Mr. Roversi: I have firm information for one (1) of our most recent projects at least. Partly, we did the research because of complaints. For the Waimea Huakai affordable housing project that was developed next to the park in Waimea, after it was fully occupied, there was a rumor in the community that it was mostly occupied by non-residents who had just moved here. To respond to that, we worked with the developer and management company...the County participated in that project, but it is not a County-owned project. We wanted to get to the bottom of that rumor. Out of the thirty-six (36) units, there was one (1) individual who had recently relocated from the mainland and one (1) individual who had recently come from O'ahu. Everyone else was a relatively long-term resident of Kaua'i. The sense in the community that we had built the housing project for a bunch of non-residents who just showed up here, even though it was a vibrant rumor, was false in practice.

Councilmember Chock: Thank you. Is it not true as well with the Hanamā'ulu housing development that was recently done that the similar outcome or claim was being made, but in fact the majority or even super-majority of it was in-state and on-island residents that had purchased that housing. I cannot remember the name of it. I am sorry.

Councilmember Cowden: Ho'oluana at Koheā Loa.

Councilmember Chock: This is mid-level housing and not County housing.

Mr. Roversi: In that project there was a specific percentage of the units that the developer was required to set aside as workforce units. It is my understanding that those were all sold to Kaua'i residents and none to outside buyers.

Councilmember Chock: Thank you.

Mr. Roversi: There were other market rate homes and I have no data on who those were sold to. The workforce housing units were exclusively sold to Kaua'i residents.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you for those figures and thank you, Council Vice Chair for bringing that to my attention. I feel a lot better, although again, what qualifies a person to be a Kaua'i resident, Adam?

Mr. Roversi: You need to declare Kaua'i residency, you get a driver's license, and some proof of an address that you have a permanent Kaua'i residence. That allows you to as we mentioned, get a driver's license, and the same requirement is there to get a driver's license as it is to vote.

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

Councilmember DeCosta: I was just wondering how that rumor surfaced and whether it was local people in the area who saw unknown people that is not from their community there. How did it actually surface? I was just wondering. I put the two (2) together...driver's license, proof of former residence, and then you qualify as a Kaua'i resident. Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you. I have a different question for Councilmember Kuali'i. I appreciate us trying to find middle-ground here in order for us to get the most votes and see something implemented. I am curious, you went with one percent (1%) as opposed to one and one-half percent (1.5%). Is there any reason why you would not find the median between the two (2)? The reason why I ask, obviously, is that the two percent (2%) was driven on the idea that we would meet the current standard that we have been putting in. Obviously, the one percent (1%) would be a decrease in the first iteration.

Councilmember Kuali'i: I have to just say that I am only trying to establish a minimum. I am trusting that again, future Councils and Administrations will of course put in more to get us to current levels and beyond. I want to see us be at somewhere more at like three million dollars (\$3,000,000) to three million five hundred thousand dollars (\$3,500,000), and maybe even get higher to five million dollars (\$5,000,000) or higher in good years.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Can I just answer Councilmember Evslin's question? He asked around...

Council Chair Kaneshiro: Yes.

Councilmember Cowden: Whether it is one percent (1%) or two percent (2%) would not influence my vote.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Are we giving our position on how we feel?

Council Chair Kaneshiro: We can still ask questions or give your position if you want. We are going to have to vote on this anyway. If we are all ready to vote, we can state our positions.

Councilmember DeCosta: Can I ask you all a question? Not Councilmember Carvalho, because he is as new as me, but I want to ask everyone that have been on the Council in the last four (4) years, and for you two (2) for the last eight (8) years. Did you cut the budget, personally, an area of the budget to put moneys into housing? How come? Were there areas that you could cut or were the budget managed so efficiently and fiscally responsibly that there were no extra moneys to cut?

Councilmember Cowden: Are you asking?

Councilmember DeCosta: Yes. If housing is that important, why did you not cut the budget to put money into housing?

Councilmember Cowden: I will say ahead of time that housing is my priority. We have had a flood emergency that we were dealing with, we have had a pandemic emergency...ever since I got in to office, we have been in an emergency up until maybe two (2) or three (3) months ago. This is the first budget that we have had where we have not had a crisis.

Councilmember DeCosta: Okay.

Councilmember Evslin: I have tried to allocate money to housing twice. Both times it was based off of an increase to...the first time it was an increase to Vacation Rentals, Residential Investor, and the Hotel & Resort tax classes. Partially going that route is because I believe ideologically, as I think you all probably know, that Vacation Rental tax rates should be higher and should be equal to Hotel & Resort. For me, that is the low-hanging fruit on where this money should be coming from. I have tried that twice and failed twice.

Councilmember DeCosta: I understand, but I asked if you cut the budget at all to put money towards housing. I am not asking whether you proposed something to increase taxes to get the money. The question was did you cut the budget to find money to put into housing.

Councilmember Evslin: If the assumption is to make this three million seven hundred thousand dollars (\$3,700,000), we need to cut services, repair and maintenance costs, or the budget somewhere else to be able to make this amount, the answer to that is no, because the money can easily come from tiered property tax rates, which we will get to in a second, or by increasing the Vacation Rental tax rate. No, the money is there if we need it.

Councilmember DeCosta: Did you want to respond?

Councilmember Chock: I can answer just from my perspective. There are a couple of things...one, the General Plan was completed in 2016...I cannot remember, but it was not that long ago when we passed the General Plan. I believe that the biggest indicator or outcome of that was the highlight of the housing crisis that we are facing. For me, personally, that is when it came to light. Learning how it is you navigate towards it is a difficult thing. To that realization that we came to understand what are the areas that we could make a difference to save some funding to go towards that crisis...the Housing Development Fund became more prevalent. It is probably why it was not looked at for twenty (20) years up until that point, because we did not know how much attention we needed to put to it, and then we needed to look at the vehicle or the way we could help from the Council side. I can tell that in my nine (9) years here that and every budget that I have been a part of, I think the most we have been ever been able to cut and it was like pulling teeth was about two hundred thousand dollars (\$200,000). When we make a cut, we are always looking for and it was probably done for a specific reason for something we wanted to get done. It was not until again in 2018, where we actually raised the taxes in order to put that into the Housing Development Fund, where we saw we could make a difference and quite honestly we did make a difference with that kind of move. I think we are learning as we move here and we are at this point. It is hard...I think that is more context into why cutting the budget is not necessarily the best tool to answer that need.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Also, and somebody who has been around longer like Councilmember Carvalho or Council Chair Kaneshiro could correct me, but I believe there was something like forty-one million dollars (\$41,000,000) that came for affordable housing after Hurricane Iniki and that was what the Housing Agency was running off of for a long time. They built an incredible five thousand (5,000) units or some huge amount of units off of that funding. The money then dried up. You did the tax increases that now has funded this program and all we are saying here is that that should be funded in perpetuity at these levels.

Council Chair Kaneshiro: As far as I know, I have not heard Housing say they needed more money. When they did get more money, they did actually ask for more money. I think in the past, we had Kamuela Cobb-Adams who never asked for money. He came in and he said that "These are the tools I am using, including the State and Federal funds that I am leveraging." He never did ask for money. He said that this is what he is doing and what he is going to do. We got the Lihu'e Town Homes. I am not sure what it is called now. He did a whole bunch of development not asking for any moneys. I think when Kanani Fu was the Housing Director, she finally said that she

could do more if she had more money. She said this is the kind of money that she needs. At that time the Council put more money into housing. That is where the tax increase came in and that is where the money went, towards housing. During each budget you gauge, do we need more money and what is it going to be used for. Again, there are a number of swings that you can take at it. Housing can take a swing in his initial proposal. He could specify that he needs a certain amount for his projects. How many of those get funded before it gets cut. Housing did get three million dollars (\$3,000,000) plus five hundred thousand dollars (\$500,000) to pay for the Lima Ola loan expense. That budget comes in, you get another swing. They could ask the Councilmembers or plead to the Mayor that they have an opportunity and need a certain amount of money to do that. They can plead with the Councilmembers that if they were to have another million dollars (\$1,000,000) or higher that this is what they could do. If we are not able to convince the Council, then the budget comes out again. At that point, our options are what Councilmember Evslin did, try to increase real property taxes to fund housing or we can cut. For me, this past budget, I did not hear that they needed money. If they needed money and they needed two million dollars (\$2,000,000) then we would go through the Capital Improvement Projects (CIP) list and cut projects off of the CIP. We put a lot of money into Information Technology (IT) and we could probably have said that we do not really need money for this IT project for this year and let us cut one to put it into housing. To me, I did not hear that need. I heard that he has a lot of projects going forward and that the three million dollars (\$3,000,000) was covering it. He said many times that part of that fifteen million dollars (\$15,000,000) was not shovel-ready and it was dependent on getting these studies completed. All of the studies were funded by the three million dollars (\$3,000,000) that was in the budget now. That is the process that we have. My philosophy is that I enjoy that process. I want someone to say that they need that money. We can try to move it and allocate it. I think with a Charter Amendment, we really tie our hands together on being able to provide where money is needed. That is where I am at as far as a Charter Amendment versus budget. If you think about it, another big project we could do is put money to expand our sewer system. We could put money to expand our sewer into Wailua Houselots or into Kekaha. All of the sewer systems have capacity. We would get those residents off of cesspools or septic, and it would give them the ability to do ARUs. That is something that can happen if we had the money or flexibility. A Charter Amendment really ties our hands on the front-end. For me and the way I budget, I rather have the flexibility. I think as the Mayor, he would want the flexibility to put the money where it is needed. No one has ever said that the Housing Agency does not need money. I think it is reflected in the budget. The Housing Agency has been getting money. Again though, we cannot just give money away to every single department. Every single department is going to say that they need money. If we told Police today that we have an extra two million dollars (\$2,000,000) they would take it in no time. If we told Fire that we had an extra two million dollars (\$2,000,000) they would take it. If we told the Department of Public Works, Wastewater Division that we had an extra two million dollars (\$2,000,000), they would take it. That is why our budget process and the way it goes is important. I am leaning on the side of not wanting a Charter Amendment, because it really does bind our hands. We will say that we are putting it into the hands of the voters, but how many voters have actually come to be a part of our budget process? Lonnie is here the whole time, but I do not think anyone else is actively looking at our budget. Ultimately, we are the ones responsible for the budget. We should be responsible. If we do not fund

Housing and Housing needs money, then it is our responsibility. We take the blame for that. That is kind of where I am at on it. Council Vice Chair Chock.

Councilmember Chock: We are in discussion, right, Council Chair?

Council Chair Kaneshiro: I think everybody was trying to... Councilmember Evslin asked the question about where everybody was at on the Resolution. Councilmember DeCosta was kind of getting a better feel for it. We are pretty much in discussion. You heard where everyone is leaning to.

Councilmember DeCosta: I just wanted to make my point as to why I asked that question. I was not trying to believe in the philosophy that we do not need housing. Of course we need housing. It just never surfaced... seriously in 2003, the prices doubled. I know because I sold a house for twice as much as I bought it for. Then I bought a place and my place doubled since that time in 2012. It never just surfaced. The price of housing has been escalating for a long time. The point I am trying to make is when Council Vice Chair Chock and Mayor Derek S.K. Kawakami imposed that tax increase, they put a bunch of money into the Housing Development Fund, right? In the next year we did not, because we had all of these natural disasters and uncontrollable unforeseeable things that happened. When we tie our hands, there can be other things in the future that can happen and now your Mayor or Administration do not have the flexibility to use the moneys. We are going to try and fix something that is not broken? If it is broken, then it is our job to put money into housing. When we looked at the budget and we did not make any cuts, it is our fault. If the Housing Agency needed the money and Adam expressed that he needed the money, which I did not hear him say that. That is why I asked that.

Council Chair Kaneshiro: Okay. If we are at a point of discussion... do we have any further questions on this amendment? The amendment is basically dropping it from two percent (2%) to one percent (1%). Are there any further questions on that?

Councilmember Cowden: I have a question regardless of whether it is one percent (1%) or two percent (2%) and it is for Council Vice Chair Chock.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Council Vice Chair Chock, you said when I had what I wanted, that there was a way to do an ordinance to shift it. How would an ordinance shift it?

Councilmember Chock: I think what I heard from our County Attorney is that the Charter, we want to keep it broad because it is a Charter. It is very difficult to change. If you insert items like this or like the Public Access, Open Space and Natural Resources Preservation Fund, I believe that you can also manage it with additional ordinance language. I thought that is what I heard from Matt as well. If you want to get further into the details that are related to it... we have an ordinance and then we have the ability to do administrative rules.

Councilmember Cowden: Actually, one of our people said that I am in agreement with...I do not want to tax the average person who barely can...or redirect the tax from the person that can barely make it, or even if they can make it, I do not want to redirect their tax funding away from fixing infrastructure when we have "fat money" that we are targeting on two (2) classes that they start to help solve that problem. When you said that we could even fix even if we did this two percent (2%), in my mind I do not see how we could write an ordinance that would change that. I do not know. Matt, can we?

There being no objections, the rules were suspended.

Mr. Bracken: Your question is, could you prepare an ordinance that would direct the spending? Is that your question, sorry?

Councilmember Cowden: No, not the spending. What I want is the revenue, really, to come from the impacting tax classes. If we pass this Resolution the way it is, we cannot write an ordinance that is going to really siphon the money just off the two (2) tax classes that are impacting our housing to go to the Housing Agency...right...or maybe we could say that only that percentage is...I do not see how we could do it. Councilmember Chock said we could do it with an ordinance after-the-fact. I do not see how we can.

Councilmember Chock: Sorry, I just want to say that I think there are aspects of what you are trying to get done that could be addressed with an ordinance.

Councilmember Cowden: Alright. I can drop it. I just do not see how that is the case.

Council Chair Kaneshiro: Are there any further questions on the amendment? If not, while the rules are still suspended, I will take public testimony. Does anyone want to speak on the amendment dropping the percentage from two percent (2%) to one percent (1%). Lonnie?

Mr. Sykos: Council Chair Kaneshiro, I am really going to miss you when you are gone. You present a very unbiased view of what is going on. You have the ability to look at all the different sides and articulate that to the public. I utterly agree with the attempt to build more housing. I simply disagree with this attempt to do it through the Charter. I do not think that the pressure because the Charter Amendment Resolution has to go in so quickly in order to get on the ballot, it seems like you are rapidly running out of time to iron out the problems that seem systemic in it. On the one hand you want to tie the Administration's hands and force them to build housing should they not want to, for whatever political or economic reason and on the other side tying their hands and forcing them to do it could be disastrous depending on whatever else is going on around the County. From what the Administration has said and what I have heard here, it seems like without changing the Charter, that the question is, the political will to continually send the money to the Housing Agency. I will be honest, it does not matter what you do with the Charter Amendment. If they do not touch the money for five (5) years, then no more gets collected and as Council Chair Kaneshiro said, all they have to do is spend one

dollar (\$1). Whatever kind of constraint that you put upon them, it is going to be very easy to get around. That is the demonstration of history in politics. I do not see how this is going to affect any change that could not be affected solely by political will, that the Administration and Council can get together and create a different policy than has existed in the past and direct the money. It is all faith that the money is going to go where we want it to go. Rather than trying to tie the Administration's hands and force them, convince the public to have faith that they will do the right thing, which is to put the money into housing, and that the money comes from the correct place, which is not the people that need housing. I totally agree with Council Chair Kaneshiro, it is wrong to take my tax money from property taxes and build affordable housing with it, when I am not the one responsible for the need for affordable housing. It is your industry that brought the employers here...

Council Chair Kaneshiro: Sorry, Lonnie, that is your first three (3) minutes. Is there anyone else in the audience wishing to testify? Okay, you can your final three (3) minutes.

Mr. Sykos: Just to cut this short, I understand the problems this is trying to address, I just do not think it is the right vehicle. Thank you to Council Vice Chair Chock for having said earlier that this definitely needs some work done to it. The question is whether you can get it done today. I believe you need to get it done today in order to get it onto the ballot. The time constraint is enormous. In this case, it is better to do nothing than to do the wrong thing. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify on the amendment? If not, I will call this meeting back to order. Is there any final discussion on the amendment?

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

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Yes. I am going to speak I guess to the amendment and some broader discussion that I think ties into my thoughts on the amendment. I support two percent (2%) rather than one percent (1%). I will ultimately vote for this amendment if it is the only way that we are going to get to five (5) votes on this. I think that the two percent (2%) is better because as Adam said, if they are going to go for a revenue bond, if one million dollars (\$1,000,000) gets us access to twenty million dollars (\$20,000,000) in bond funding yet there are high fixed costs in getting that bond, and two million dollars (\$2,000,000) could get us to four million dollars (\$4,000,000) in bond funding with the same fixed costs, I think there is value there in having the higher allocation for those purposes. Again, part of the purpose here, aside from just easier access to revenue bonds is the ability to do long-term planning based on that funding. At one million five hundred thousand dollars (\$1,500,000) a year or something, that is not saying much. I think the long-term planning comes from being assured that we are going to have three million dollars (\$3,000,000) or more as revenue goes up four million dollars (\$4,000,000) or more per year so that they can do the long-term planning for bigger projects, right?

Long-term planning based on one million five hundred thousand dollars (\$1,500,000) per year, I do not think is going to get us to where we want to go. I certainly support the two percent (2%) over the one percent (1%). I do want to respond to some of the comments that have been made. I will not respond to all of it. Regarding everyone having needs...Police, Fire, they all have needs and everyone wants a dedicated allocation. The difference here I think is just in the scale of what the Housing Agency is looking at. We have three (3) large properties all of which need...Waimea, Kīlauea, and Lima Ola, all of which need just to get off the ground twelve million dollars (\$12,000,000) to fifteen million dollars (\$15,000,000) in infrastructure investments. Obviously the scale of the problem, with the housing crisis being the number one crisis we face on Kauaʻi. When we are talking about things like sewer that we need dedicated revenue sources for sewer, I agree and I think ultimately once we start expanding sewer into existing residential neighborhoods, the way we are going to do that is through a sewer facilities district or community facilities district, which will be a surcharge on the property taxes in that district, which will create a dedicated revenue source for sewer to be expanded into that neighborhood. It will result in a dedicated revenue source to expand sewer. That is the way that we do it. We need a dedicated revenue source and hopefully we get there. I think the insinuation that we should be cutting services to do this or that the fact that we have not cut services to try and allocate it or the insinuation that this will result in a tax increase on residents, those are both "red herrings" in my opinion or false arguments here in that again, this is to say that tax increases which have already been implemented by the Council in the past and through future mechanisms like tiered taxes, that that revenue will perpetually be dedicated towards housing...no cuts necessary. Certainly no tax increases on resident-occupied homes are necessary.

Lastly, regarding the Housing Director not saying that he needs more money, during budget he said again, "Our development model is changing and we will need to have additional funds over the long-term to be able to make that development model successful." He also said, "With more money, we could do more, more quickly." To me, that is clearly him saying that with more money we can move more quickly on these projects. It has come up a bunch of times why through the Charter and why not at the budget process? It was said repeatedly at our last budget process when we talked extensively about allocating four million five hundred thousand dollars (\$4,500,000) towards the Housing Development Fund and raising the transient vacation rental (TVR) tax to do it, essentially everybody who voted against the proposal cited that one of the reasons was that there was no guarantee that that four million five hundred thousand dollars (\$4,500,000) would get continually allocated and that the money would likely, in the future, get absorbed back into the General Fund. This was a response to that concern which I think is a valid concern in ensuring that we have a perpetual allocation. With all that said, I am at two percent (2%) based on everyone's discussion today during this final round to see where everyone else is at. I might vote for the amendment if that is what it takes. Thank you.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: I just wanted to say that my decision is based upon what is happening today. Yesterday we had land, which is Lima Ola. Today, we need to build. That is where I am at. My experience has been securing funding without

having to go anywhere. We had to go and secure the funding for Lima Ola in a different way. We did not need funding from this side. My point is that I am basing my decision off of what is happening today. Whether it is one percent (1%) or two percent (2%), I support the two percent (2%). If it is one percent (1%) then let us move forward. For me, in the experience that I have gone through and want to bring to the table, based on the situation that we have today, we need housing. We need to fulfill what we already have in our backyard if you know what I mean and we need to start to build. That is where I am at and I look forward to the vote. Thank you.

Council Chair Kaneshiro: Does anyone else have anything else before we vote? Councilmember Kualii.

Councilmember Kualii: I just wanted to say that I put this forward because I respect the argument about giving up our flexibility and by putting a lower amount we are giving up less of our flexibility. That puts the responsibility back on us and future Councils to make up that gap. I do think it is really important that we create some kind of minimum. It is us holding ourselves accountable and saying once and for all that we will put action behind our words. Year after year, whether it is a campaign year or not, we say we support affordable housing and we always lift up, recognize, and feel good about the projects that do get done out of our Housing Agency, but when you count the units compared to the desperate need for units, it is nowhere close to what we need. One hundred (100) more units, two hundred (200) more units, whatever more we can do by investing more money is critical. It is all needed. There are good programs. Like Councilmember Evslin referred to two (2) of them. Land was always a big issue. Now we have land in place, but let us accelerate getting people on that land in housing by investing some funding. This funding, whether it is one percent (1%) or two percent (2%) is a very small percentage of our overall budget. It is that floor commitment and something that we should build on. I am willing as a Councilmember to give up a little bit of my flexibility and to give the voters the chance to hold me accountable to investing in affordable housing. This is merely putting it before the voters. The voters ultimately will decide. If you think about it, what we are giving up is still very little. We still have a lot of room to balance our budget each year. Granted the two percent (2%) would have been a lot easier to support if we had already passed the tax increase on vacation rentals to equal the Hotel & Resort tax class during the budget a few weeks ago. I am moving between both because I am trying to support...I agree with a lot of what you said Council Chair Kaneshiro, and some of the sentiments that we received from the Administration. I also think that we have to do a minimum commitment to affordable housing. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I prefer two percent (2%) to one percent (1%). I just want to say that. I am in agreement with what has been said. I do not like that it is coming out from every area. Currently, we are doing about what is two percent (2%) and I think we can at least hold that. I prefer two percent (2%) to one percent (1%) and we just have not helped the people enough. It has been a burning, passionate issue for me. I do not like how we are doing it. I liked how I proposed doing it. I am going to be straight up about that. I feel like as uncomfortable as it is for me to do an

across-the-board piece, it is better than nothing. It is an uncomfortable compromise for me. I do want to see some money set aside.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I appreciate the amendment. I feel like the two percent (2%) has support and I am going to go with that. The only other thing that I will say is, I really agree that these other priorities are at the top of our list, including our Solid Waste Division. As Councilmember Cowden said, we need to find the location before we start putting away money for it. The same thing goes for our Wastewater Division. We did ask for a Sewer Expansion Study, so that we know where it is and where we want to expand. That groundwork for all of these divisions need to happen before we start putting money in those directions. We have a listing of housing that is already on the table that we know we can move forward on. For those reasons, I think it is time. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I have a question for Matt. My understanding is that if the percentage were to get increased beyond two percent (2%) that it would need to go back to a public hearing. Say hypothetically we waited until...say there was no amendment today, we go through the public hearing, and get to our final reading for this and at that point, based on more discussion and community feedback, et cetera, there was an amendment made to reduce it to one percent (1%) or one and one-half percent (1.5%), would we be okay or would it have to go back to a public hearing with a reduction?

There being no objections, the rules were suspended.

Mr. Bracken: I would say the reduction would be fine. The purpose of the public hearing and all of this is to give the public as much notice as possible of what you are working on. At this point, they know you are working on a potential amendment that would go in front of them as voters. Amending and reducing the amount that would then be presented to them as voters, I do not see as problematic at all for it to be amended at the final reading on this.

Councilmember Evslin: Just a quick follow-up and not a question. Based on that, my own vote on the amendment will be "no" as well. Keeping it open, assuming this does move forward to the public hearing and a final reading, I do feel that keeping it open to possibly amend next time based on more conversations and community feedback is where I am going.

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

Council Chair Kaneshiro: I will call the meeting back to order. Is there any final discussion before we vote on this amendment?

The motion to amend Resolution No. 2022-22, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, was then put, and failed by the following vote:

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

Mr. Sato:

The amendment fails.

Council Chair Kaneshiro: We are back to the main Resolution that has not been amended. Again, there was good information discussed in this meeting. If this Resolution moves forward, it will go to a public hearing, and then come back to the full Council where we will have to vote on it again. This is not the final vote on it by any means or the last time we are going to have discussion on it. I do know that if you have any questions for the Resolution, you should send your questions ahead of time. When it comes back to the full Council, that will be the time when we have to make a decision. I do not think we will be able to defer it based on the timing. Are there any further questions or discussion on this Resolution before we vote? Councilmember DeCosta.

Councilmember DeCosta: I wanted to further discuss the reason why I did not support this the last time when there was a 3:4 vote. It was partially because the funding would not be designated each year with some kind of ordinance or law. This is what is going to prevail this to happen. Also, I was really worried about our local residents who own a TVR and who have had it in their family for years, that with this increase, they may be forced to sell. I told you that we had our own family members from Hā'ena that had to sell a family home. You know that saying that when we help one (1) kid on drugs, we helped to save someone very important. If we help one (1) family on Kaua'i save their home, we have done well. I told you many times that I have two (2) rental homes. I could rent those homes for a lot more money than I do, but I keep them at a low-income rental for our local families. I do not think we made this bullet proof. Councilmember Cowden made an excellent argument about the flood. If you watch the local or national news, we could be headed towards a recession. If you raise TVR taxes, raise the Residential Investor tax...

Councilmember Cowden:

I did not say that.

Councilmember DeCosta: I am saying that if we do or if we lower the threshold, which will bring in more revenue...and for some reason we need more revenue, where is the next tax that we cut or raise? Is it the residential homeowner? To be a Kaua'i resident, remember, it was said many times by our attorney...you just need a driver's license. We will be building rental units for supposedly Kaua'i workforce housing, but all it takes is a license to be a Kaua'i resident to apply for that. Council Vice Chair Chock, we proved that all the people in Waimea since the investigation were Kaua'i residents and also at the Hanamā'ulu project. They said those were all bought by Kaua'i residents. How many of those people that were claiming to be Kaua'i

residents were actually born and raised to families from here and not here just a year or for six (6) months. It is arbitrary. We do not really know that number. We had our Mayor testify that he needed flexibility to spend the money how he felt. For ten (10) years he had that flexibility. Mayor Kawakami showed us a commitment that since 2018 he and his Administrative team have put moneys towards the Housing Agency. We have a process. We are that process. If that is the case, we do not need the Council. For every issue and every department, let us just let the voters allocate a portion of our taxpayer dollars and let them run the County. I believe they vote us in to office for our intellectual level and that is how I feel. I am going to be voting no against this.

Council Chair Kaneshiro: Does anyone else have final discussion before we take a vote on it? For me, I think you heard my stance on it. I will be voting for it to go to a public hearing and back to the full Council for further discussion. I think I made my points clear. In the past, we worked really hard on our Reserve Fund Resolution to say how much we wanted in our Reserve Fund. We could have done an ordinance for it and tied our hands to make us, as a County, have to put in that thirty percent (30%) reserve no matter what. If we did not reach that Reserve Fund amount, we would have to raise taxes. I never wanted to bind our hands that tightly. I fully believe in us having a reserve and I fully believe in the number we decided on, but I realized that I did not want to bind our hands that tightly to the extent of creating an ordinance...

Councilmember Cowden: A Charter Amendment.

Council Chair Kaneshiro: We could have done an ordinance at that time for it.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: I am kind of in the same position with this. I believe in the Housing Agency and I believe they should get money. I am not willing to bind our hands and have it be a Charter Amendment per se. If the Housing Agency asks for money, then by all means we will look for more money. What do they need the money for? When do they need the money? Do they need it right now? Let us go look for the money. We have moneys coming in from all over. We have nine million dollars (\$9,000,000) from the Community Development Block Grant (CDBG) program sitting in a fund right now. That is for the Kilauea project. I think we have another eight million dollars (\$8,000,000) coming from the State for Lima Ola. That is going to go towards that fifteen million dollars (\$15,000,000) that Adam said we needed for that community center and some other projects. There are other moneys out there as well. As the County, we should not be the sole providers of affordable housing. Affordable housing is important, but we have to realize, we are never going to as a County, reach four thousand (4,000) affordable housing or housing units. If we think we can reach that, we are way out of this world. As a County, we have to do what we can with the resources we have. With the budget process we have, that is where we try to do what we can with the resources we have. I believe it is a fair process and I believe it is the right process. That is my stance on it. I am open to the conversation and I am open to having this Resolution go to a public hearing. I am sure we will see a lot in the newspaper and hear a lot of bashing about not caring for affordable housing, but I am

willing to let it go through the process. I am still going to stand on where I stand on it based on my philosophy. Does anyone else have anything to add before we vote? Councilmember Kualii.

Councilmember Kualii: Just one last thing. For me, this is about investing in our affordable housing and giving our Housing Agency leverage, so that we can go after a lot more funding. It is also about making affordable housing a priority truly. Not just talking about it, but committing a small amount of moneys towards it year-in and year-out. Ultimately, it is up to the voters, but I think they recognize too that affordable housing is that critical of an issue and that we have to take action. It is just a small action and hopefully we can build on it as we do better. I think it is really important and that is why I am supporting it. Does anyone else have anything to add? If not, roll call vote.

The motion to schedule a public hearing on Resolution No. 2022-22 for July 20, 2022, and that said Resolution be referred to the August 3, 2022 Council Meeting was then put, and carried by the following vote:

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

Mr. Sato: Seven (7) ayes.

Council Chair Kaneshiro: Next up we have Bills for First Reading.

#### BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2871) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COUNTY BUSINESS LICENSES

Councilmember Carvalho moved for passage of Proposed Draft Bill (No. 2871) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 20, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony on this item. I will suspend the rules. Pat or Wally, if you want to give us an overview of the Bill, please.

There being no objections, the rules were suspended.

PATRICK T. PORTER, Director of Parks & Recreation (*via remote technology*): Basically, this is just the third part of our cleanup effort in the peddlers and concessionaires side of things. This Bill adds in a line. We are keeping the existing language and adding in one (1) line. The reason for that is that this Section talks about a County license, and like we mentioned before on our other proposals, the

County of Kaua'i does not issue business licenses. We issue permits. We met with the Director of Finance and went through this. We do not see any future plans to do business licenses and we are going to stick to permits. We left the language in there just in case down the road if at some point the County wanted to issue licenses. We also added a line just saying that otherwise provided in the Kaua'i County Code, so that language allows us to issue permits instead. It is just a clean up measure.

*(Councilmember DeCosta was noted as not present.)*

Council Chair Kaneshiro: Are there any questions from the Members on this? If not, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: When I came here to Kaua'i in 2003, I went down to the County and I actually purchased from the County a peddlers permit. When I asked for a copy of the rules, they told me there are no rules. They said they could sell me a permit, but that they had no rules. This is one of the things that I do, I grow gourds and I do gourd art. The technique, not the design, is unique to the island of Ni'ihau. I would sit at various County parks with a live gourd doing the initial cutting of the skin and the artwork on it with no sign, no nothing. I would just sit there and people would come up and talk to me, including locals and tourists. I made really good money teaching tourists how to do this. What I would do is get them started. The initial process takes over a week and so I would teach them how to cut the design and then finish the gourd for them and mail it to them. In the course of that though, I taught them how to do this. Most of the people that paid me to do that belonged to gourd art societies on the mainland. Now they are back on the mainland teaching people how to preserve the Ni'ihau style of dying gourds. When there were only park employees, I did not have a sign and I was not soliciting business. I was simply sitting there engaged in my art activity. It was a business activity because I made money off of it. When the Park Rangers came on the scene, that is the last day I ever went to a County park. They were brutal. They had guns out and upset that you are doing business in the park. I had tourists tell them that they would testify that I was not doing business. I did not have a sign and did not solicit anything. They would tell them that I was just sitting there and that they solicited me and that I did not solicit them. I do not need the *pilikia* so I moved my business onto my own property. I just do business differently. The reason I am up here is, the parks would be an excellent way to get money to the local people. You would have to create an ordinance. When I was young, in Waikiki, with the street kids in Waikiki, I used to sell leis on Waikiki Beach. That made me really good money. You try and do that today, the kid would go to jail. Our beach parks, we do not want them to be overrun with uncontrolled...

*(Councilmember DeCosta was noted as present.)*

Council Chair Kaneshiro: Lonnie, that is your first three (3) minutes. Is there anyone else in the audience wishing to testify on this item? Okay, you can have your second three (3) minutes.

Mr. Sykos: Thank you. We do not want our parks overrun with uncontrolled business activity. The fact of the matter is, if you want to

address housing, you have to address that the people that need housing do not make enough money to pay for the housing. How do you get more money in their pocket? One way is to use your bully pulpits and beat up their employers to raise their wages. That is tough and politically liable. How do you get money into your targeted population's hands? One of the ways is to use the beach parks. You do that at Spouting Horn. You do not have to build a big facility like that. You can do it out of your truck or at a park table. You have to control the number of people. It cannot be a free for all, or it will self-destruct. With the peddlers permit, I understand they are just cleaning up language, but it is actually an opportunity to generate economic development. To the Administration, if you are listening, I would be more than happy to talk to anyone from the Office of Economic Development about how to actually do economic development. That is my forté in life. Thank you.

Council Chair Kaneshiro: Thank you. Is there anyone on Zoom wishing to testify? Seeing none. Are there any further questions from the Members? Is there any final discussion? Councilmember Cowden.

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

Councilmember Cowden: I will just be very brief. What was said about no rules...the rules relative to peddlers, is that coming up in the next piece...concessionaires...it seems like those rules have not been developed yet. That is something that makes me nervous. This to me seems like a housekeeping issue basically. I do not have an issue with it. It just seems like a simple piece in here. We have another Bill that is a little bit stronger.

Council Chair Kaneshiro: Is there any further discussion from the Members? If not, roll call vote.

The motion for passage of Proposed Draft Bill (No. 2871) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 20, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

Mr. Sato: Seven (7) ayes.

Proposed Draft Bill (No. 2872) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tiered Residential Investor & Vacation Rental Tax Classifications*)

Councilmember Carvalho moved for passage of Proposed Draft Bill (No. 2872) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 20, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received written testimony for this item. Councilmember Evslin or Council Vice Chair Chock, if you wanted to just go over the Bill.

Councilmember Chock: Thank you. We have a PowerPoint and a few slides. I will be as quick as we can. The tax tiers have been something that I have been looking at for multiple years. The Real Property Assessment Division and the Director of Finance have agreed to work with us on this. We put this together. I will just give a brief outline of what it does. I will start off by saying that this Bill does not identify any tax rates. It does not set any tax rates, which I think can work to our benefit on how we would like to manage this. What I think this does do is to make sure we have an opportunity to have an equal and fair way to manage our Tax Code. The first slide identifies the Residential Investor tax class at the current rate of nine dollars and forty cents (\$9.40) per one thousand dollars (\$1,000) in assessed value. Its definition is tax rate classification in Residential Investor shall be applied to properties that do not qualify for a home exemption, are improved with a dwelling or dwelling units, not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more. That is what it currently says. It means that any owner-occupied properties which are Homestead or Commercialized Home Use rates are not considered Residential Investor. That has not changed in the new version. Also, any long-term rentals valued at over one million three hundred thousand dollars (\$1,300,000) need to submit a long-term lease agreement that is for six (6) months or more annually to the Real Property Assessment Division to remain at the Residential tax class. For the changes here, there are no changes to the definition of TVRs. The new definition for Residential Investor includes properties that do not qualify for the home exemption, are improved with a dwelling unit or units, not vacant land, are not being rented on a long-term basis, and has an assessed value of one million dollars (\$1,000,000) or more. That is the next slide, I am sorry. Basically, the only change here is that we are looking at lowering the tax class to one million dollars (\$1,000,000) from one million three hundred thousand dollars (\$1,300,000). This establishes three (3) tiers within this particular section for Residential Investors. Tier 1 applies to values of one million dollars (\$1,000,000). Tier 2 applies to values in excess of one million dollars (\$1,000,000) up to three million dollars (\$3,000,000). The third tier would be applied to values in excess of three million dollars (\$3,000,000). Again, I will repeat, this Bill does not establish any rates for the three (3) tiers. That would happen during a future budget process. My hope is that when we look at that, we will be able to more equally...as we know, the markets have increased, so we can adjust it accordingly to make it more appropriate for those tiers.

Councilmember Evslin: On this next slide, the blue line is our current Residential Investor tax rate. It shows that as the value of a home increases, as soon as the value of a vacant home crosses the one-million-three-hundred-thousand-dollar threshold, its property taxes goes up by fifty-five percent (55%). That is because the

entire assessed value of the home is taxed at the higher Residential Investor rate. We talked about a bit before when talking about Residential Investor, but if you have two (2) vacant homes side-by-side, one (1) that is valued at one million two hundred ninety-nine thousand nine hundred ninety-nine dollars (\$1,299,999) and one that is valued at one million three hundred thousand dollars (\$1,300,000), the one-million-three-hundred-thousand-dollar home is paying fifty-five percent (55%) higher property taxes than their neighbor. The tiered proposal fixes this. Next slide. It eliminates that cliff because it is only taxing the higher rate on the value of the house over the tier. That is how income tax works, right? If your house is valued at three million five hundred thousand dollars (\$3,500,000), you will have one million dollars (\$1,000,000) of that house taxed at Tier 1. You will have two million dollars (\$2,000,000) of that house taxed at Tier 2, the value between one million dollars (\$1,000,000) and three million dollars (\$3,000,000). Everything over three million dollars (\$3,000,000) will be taxed at Tier 3. The intention, again we are not setting rates here. The only intended rate that I will mention, Tier 1, the intention is intended to be approximately similar to the current Residential tax rate, so that the value of the house under one million dollars (\$1,000,000) would be taxed at the lower Residential rate. If that were to occur, you can see what a potential graph would look like. Please go back to the first one. This orange line, the graph starts at one million dollars (\$1,000,000). All homes would be taxed...all homes without a home exemption would be taxed at the same rate up to one million dollars (\$1,000,000), if it would be equivalent to the Residential tax rate, that first tier. Sorry, even if it is not equivalent to the Residential tax rate. As soon as it crosses the threshold above one million dollars (\$1,000,000), then all of the value above one million dollars (\$1,000,000) will be taxed at Tier 2. You can now see that compared to the current Residential Investor tax rate, you can see that homes between one million dollars (\$1,000,000) and one million three hundred thousand dollars (\$1,300,000) would likely be taxed marginally more, depending ultimately on what that rate is. The important part is that it gets rid of that cliff. There is going to be no new spike. You are only taxing the amount over the threshold at the new rate. I know this is confusing. Again, I did not want to get us set on any particular rate or any particular graph here because that is all set during the budget. I just showed a couple other examples of what it could look like again with the rates set during the budget. The next two (2) slides are a high and low potential. All the rates would be determined at budget. Regardless, even with a high tax potential here, it still makes the system more fair by getting rid of that cliff. I will say that if you look at the graph and look at the high tax scenario, homes valued between one million three hundred thousand dollars (\$1,300,000) and between one million five hundred thousand dollars (\$1,500,000) or even two million dollars (\$2,000,000) will see their taxes go down under this new scenario. If your house is valued at one million four hundred thousand dollars (\$1,400,000), right now your entire value is taxed at the higher rate. Under this proposal, only four hundred thousand dollars (\$400,000) would be taxed at the higher rate. Does that make sense? I think the graphs help illuminate how that would work. Sorry, I know it is incredibly confusing, but hopefully the graphs help tell the story better than I can. That is all it would do. Again, the graph is only showing Residential Investor, because Residential Investor has that big cliff at one million three hundred thousand dollars (\$1,300,000). The TVR rate is easier to imagine without that big cliff.

Councilmember Chock: I will just add that other counties have implemented the tiered system successfully. I think it is about timing and our Department of Finance appears to be supportive. They are here as well.

Council Chair Kaneshiro: Are there any questions for the introducers?  
Councilmember Cowden.

Councilmember Cowden: Christiane, could you hand out my little handout? I put out something just to illustrate my thoughts. I talked about this Federal Reserve element earlier. This is just so you have a copy. That was not me just deciding. The Federal Reserve did...it was a very extraordinary step two (2) years ago. You have that piece there. I brought that up. Even Mr. Williams liked my metaphor being the guardrail on the level of debt that our country can go in to, which influences inflation. If you turn to the next page, I just did a Zillow search looking for the cheapest houses in Kapa'a and North Shore. We had two million eight hundred thousand ninety-five dollars (\$2,895,000) for a one (1) bedroom and one (1) bathroom home that is one thousand one hundred (1,100) square feet. That was there. That is at 'Anini. We had a condominium selling for one million two hundred seventy-five thousand dollars (\$1,275,000) that is under nine hundred (900) square feet. There was also a one (1) bedroom, one (1) bathroom five hundred (500) square-foot house in Kapa'a selling for just about one million two hundred thousand dollars (\$1,200,000). One million dollars (\$1,000,000) is just a house. Depending upon where on the island, it might just be a tiny unit and not a house. These are tiny units. Not today, but in our Committee Meeting, expect an amendment from me looking at these numbers. I did not think it would be as high as three million dollars (\$3,000,000) for the cheapest house that I could find. A week ago, the cheapest house that I could find for sale on that whole half of the island was one million eight hundred thousand dollars (\$1,800,000) and it was not an extraordinary house. On the other side I just put a couple little pictures...if I go to the grocery store, I am seeing empty shelves and the price went down...six dollars and twenty-nine cents (\$6.29) for a can of soup. This picture is showing how Taco Bell is advertising positions for fifteen dollars (\$15) per hour. There was a Pizza Hut advertisement for twenty-five dollars (\$25) per hour for a delivery person. They cannot find people to work at those prices, because everything is so very expensive. How does that relate to this? This relates to this in terms of our economic...our price points, right? One million dollars (\$1,000,000). I hope that one million dollars (\$1,000,000) is a lot of money for a house. I do not think it is. It is not much at all. Pretty soon it will just keep going up. I have a concern that even super well intended, these numbers are still going to tax people really hard. When you get that low rate, when you have an affordable rate, unless you bought your house a long time ago, you cannot do the affordable rate for the long-term. In theory, if you have the lease on it, it will work. I am just worried, that is all. I am just telling you that. Any thoughts? Council Vice Chair Chock?

Council Chair Kaneshiro: These are houses that are not being lived in.

Councilmember Cowden: Supposedly that is what it was already. If people do not do their paperwork right, it is them too. We have to force people into getting their paperwork right. What I have found when I have tried to chase this

down is people who have just been doing a cash rental or something like that, cheating sort of, all of a sudden they are busting themselves for having done a cash rental for somebody. It can be very problematic. When we think one million dollars (\$1,000,000) is an expensive house, it does not even buy you a five hundred (500) square foot one (1) bedroom, one (1) bathroom house. When I just did a real estate search yesterday, that is what appeared. That was kind of a question for Council Vice Chair Chock, but it was not well-framed. I just wanted to hear your thoughts.

Councilmember Chock: My response is that we are talking about two (2) tax classes that are outside of owner-occupied homes, as the Council Chair mentioned.

Councilmember Cowden: In theory.

Councilmember Chock: There are remedies to these two (2) tax classes that exist. While they may not be processed properly, like you had said, that to me is a separate issue that needs to be addressed. Whether it includes education and/or assistance, I do not know if we are comparing the two (2) properly.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I wanted to respond to part of that. I understand the concern and when we were first looking at lowering Residential Investor from one million three hundred thousand dollars (\$1,300,000) from two million dollars (\$2,000,000) it was a concern that I shared, too. You could be a homeowner at one million two hundred thousand dollars (\$1,200,000) with a tenant in that house. Your assessed value goes up to one million three hundred thousand dollars (\$1,300,000) and you do not realize you had to submit a lease agreement, because you did not have to before since you were at the Residential tax rate, then all of a sudden you see this fifty-five percent (55%) spike because of it. I had always felt that the biggest impact were on those whose assessed values crossed the threshold over time and did not understand that they were supposed to submit it. This system, in my opinion, becomes much more fair. Those who cross the one-million-dollar-threshold...you are long-term renting it and all of a sudden you cross the threshold to one million dollars (\$1,000,000) and say you are valued at one million fifty thousand dollars (\$1,050,000), only the fifty thousand dollars (\$50,000) is getting taxed at the higher rate. Your property taxes, as you cross that threshold is going to go up by very little instead of going up by fifty-five percent (55%) before you can do anything about it. Then the next year you figured out why am I getting taxed at the second tier, I just have to turn in the lease agreement to get rid of it.

Councilmember Chock: Thank you.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Just for clarification so that I can understand...we lowered that threshold from what I believe was two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000). How long ago did we do that?

Councilmember Cowden: Two and one-half (2½) years maybe?

Councilmember DeCosta: So now we want to lower it even more now to capture a little more revenue?

Councilmember Evslin: No.

Councilmember DeCosta: We are not capturing revenue?

Councilmember Evslin: No. Not necessarily. Part of the reason to lower it even more to one million dollars (\$1,000,000) is based on the recognition that under any rate scenario, homes valued between one million three hundred thousand dollars (\$1,300,000) and say one million six hundred thousand dollars (\$1,600,000) are going to see quite a bit of a significant reduction in their property taxes under the tiered structure. Again, at one million three hundred thousand dollars (\$1,300,000), you are paying three hundred thousand dollars (\$300,000) at the higher rate instead of one million three hundred thousand dollars (\$1,300,000) at the higher rate. Part of it was just to ensure that we could smooth out that line. The Council could amend this at Committee and it is something that probably could be discussed. The reason we did not go in this direction is if the tiers started at one million three hundred thousand dollars (\$1,300,000) then all these homes at one million three hundred thousand dollars (\$1,300,000) would all of a sudden see a huge tax decrease, because the tiers starts at one million three hundred thousand dollars (\$1,300,000). You are at a value of one million three hundred thousand dollars (\$1,300,000) and now you are basically taxed essentially at the Residential tax rate. It would result in a significant decline in revenue unless the rate got jacked high enough up that that line became steep enough to recover it, if that makes sense. If we start at one million dollars (\$1,000,000) it allows us to set lower rates through Tier 2 and Tier 3 while recapturing some of our revenue.

Councilmember DeCosta: This is only for Residential Investor properties, correct?

Councilmember Evslin: And TVRs.

Councilmember DeCosta: No one is living in it. If you had a second home and you have it rented out to a local family and you qualify with the paper from the County, this would not affect you, right?

Councilmember Chock: For this tax class. This is for the Residential Investor tax class and Vacation Rental tax class.

Councilmember DeCosta: The Administration and Director of Finance are in support of this?

Councilmember Evslin: Yes.

Councilmember Chock: You should ask them. I think Michelle is on.

There being no objections, the rules were suspended.

MICHELLE LIZAMA, Deputy Director of Finance (*via remote technology*): How is it now? So the question was, is the Administration in favor or in support of this?

Councilmember DeCosta: Yes, that is the question.

Ms. Lizama: Okay.

Mr. Dahilig: Michelle, do you want me to jump in.

Ms. Lizama: Yes, go ahead.

Mr. Dahilig: Sorry. I do not know if we are having audio-visual issues. In concept, and I know we have had discussions with both Councilmembers Evslin as well as Council Vice Chair Chock about the setting of tiers...the Residential Investor threshold is already a tier in concept, right? Fundamentally we do this already if you look at what that is. The idea of creating more equity within the overall tax system is not something we are opposed to have dialogue on. We would caution that the "devil is in the details" particularly when you look at what the specifics of the proposal entail. One (1) thing that we would point out is that we believe there should be more dialogue regarding the tiered proposal is that shift from one million three hundred thousand dollars (\$1,300,000) to one million dollars (\$1,000,000) is something that should be carefully considered given that the one-million-three-hundred-thousand-dollar figure was already recently changed from two million dollars (\$2,000,000). Just because it may facilitate a smoother sine curve or a line that looks a lot smoother, we view that the policy should necessarily be equitable because it looks equitable. It should be because it financially is equitable. That change from one million three hundred thousand dollars (\$1,300,000) to one million dollars (\$1,000,000) is a pretty significant change that I think should, through the process, go through more intense dialogue, since there will be more people that are going to be scooped up in a higher tier than simply being above or below the line. That should be something that should be considered. Something else to consider is that when we look at the implementation factors, ultimately that will require more work from our Department of Finance staff to be able to facilitate some of the analysis on this if you are pulling more parcels or properties into the analysis. The dialogue when the tier was dropped from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000) when we did the Residential Investor bright line did bring some discussion regarding what work would be entailed by the Real Property Assessment Office to do that type of effort. Again, keep in mind that the more that is involved with the analysis, the more manpower and tools that our team at Real Property Assessment are going to need to be accurate. We would just point those things out as the dialogue begins on the matter. I believe the Mayor has stated in many scenarios that having an equitable tax system is a good objective, but what

that means from a granular standpoint is going to be in the details of what is put in the Bill.

Councilmember DeCosta: I just wanted to understand and that is why I was asking. We already lowered it to one million three hundred thousand dollars (\$1,300,000) from two million dollars (\$2,000,000) and two (2) years later we want to lower it further to one million dollars (\$1,000,000) when house values are going up and escalating. Why did we not just keep it at one million three hundred thousand dollars (\$1,300,000) to categorize everyone already in that category and then go to two million dollars (\$2,000,000) then to three million dollars (\$3,000,000)? Why was it a big rush to drop an extra three hundred thousand dollars (\$300,000)?

Councilmember Evslin: That one-million-dollar threshold was worked out in coordination with the Department of Finance over two (2) years of work, along with the implementation concerns. I just wanted to state that. This is something we can address in Committee. It is a policy question. If you go to one million three hundred thousand dollars (\$1,300,000), unless the Tier 2 and Tier 3 rates are very high, if you could just imagine drawing...now the departure happens here under that cliff, if under a normal rate it means that everybody between one million three hundred thousand dollars (\$1,300,000) and two million one hundred thousand dollars (\$2,100,000) are getting a significant tax decrease based on the current system and a significant loss of revenue for the County between all of these properties. In order to make it up, you have to go relatively steep off the line. That means as soon as you go past the one million three hundred thousand dollars (\$1,300,000), that curve has to be pretty steep based on a higher rate. Again, the hard part about this is that we are discussing this without any proposed rates on the table. If you explore the different scenarios, it is hard to create a very equitable structure if we started at one million three hundred thousand dollars (\$1,300,000).

Councilmember DeCosta: I am trying to understand this. You have one million dollars (\$1,000,000) and you said anyone assessed over this amount would only have to pay the second tier on the price above one million dollars (\$1,000,000). If the house was one million two hundred thousand dollars (\$1,200,000), one million dollars (\$1,000,000) would be assessed at one rate and two hundred thousand dollars (\$200,000) would be assessed at the next rate. The same thing would occur if you had a home at one million four hundred thousand dollars (\$1,400,000) on the current tier. You would have one million three hundred thousand dollars (\$1,300,000) taxed at the first tier and the extra one hundred thousand dollars (\$100,000) would be assessed at the second tier. I just do not want to see us double-taxing people in the last two (2) years when we already changed it from one million three hundred thousand dollars (\$1,300,000) and we are going to go down to one million dollars (\$1,000,000) and you capture a whole bunch of people who own homes who already had a shift change from two million dollars (\$2,000,000) to one million three hundred thousand dollars (\$1,300,000).

Councilmember Evslin: Because the majority of the homes in this class are between one million three hundred thousand dollars (\$1,300,000) and two million dollars (\$2,000,000), if we started at one million three hundred thousand dollars (\$1,300,000)...

Councilmember DeCosta: We are going to lose revenue?

Councilmember Evslin: ...under the normal rate, it is not until they get to two million dollars (\$2,000,000) that they are actually paying more than they are currently. Everybody between one million three hundred thousand dollars (\$1,300,000) and two million dollars (\$2,000,000) is now paying less than the current system. It is significantly less for the one million three hundred thousand dollars (\$1,300,000) to one million five hundred thousand dollars (\$1,500,000) group. In order to recover that, it means that the Tier 3 has to go pretty high. It ends up being "wonky" because we lose a lot of these one-million-three-hundred-thousand-dollar to one-million-eight-hundred-thousand-dollar properties.

Councilmember DeCosta: Do we have numbers on the amount of homes that are local residents, but do we have numbers of those homes that are sitting vacant?

Councilmember Evslin: The Department of Finance has very clear data for the one-million-three-hundred-thousand-dollar homes and above. They have been doing it and have sent us a spreadsheet on that. Between the one million dollars (\$1,000,000) and one million three hundred thousand dollars (\$1,300,000) we do not really know. If you are taxed at Residential right now, you do not need to show proof that someone is renting that home. We do not know how many homes are between the one-million-dollar and one-million-three-hundred-thousand-dollar thresholds. My final point is that I am not super strongly opposed to going to one million three hundred thousand dollars (\$1,300,000). I think it just means that once we actually get to setting rates, that it is going to I think create a less fair tax structure that is going to be pretty steep after the curve.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: We do not have to be the same as last year, right? It is not like we have to hit that, right? We put in a lot in our CIP projects, because we have this unexpected forty-nine million dollars (\$49,000,000) extra. What we saw between going from two million dollars (\$2,000,000) and one million three hundred thousand dollars (\$1,300,000) is we moved up from sixteen million dollars (\$16,000,000) to thirty-three million dollars (\$33,000,000). We had a whole lot. As I said, the eye on that net was too small. We did not just catch the big fish. I doubt we are going to get complaints from our constituents if they have a little bit of a reprieve in an excessive tax. I think they are going to be able to cope. If I remember correctly, our goal was not so much to collect more money, other than to be putting it into affordable housing, but it was to encourage more people to put their homes into long-term rentals. That was what was stated at the time. We do not have to have a steep curve. We could just adjust it. We do not have to make thirty-three million dollars (\$33,000,000) just because we made it last year. We made way more than we had expected to. Okay, that is sort of a question. Do you agree with that? What are your thoughts?

Councilmember Evslin: No. The stated intent with moving the one-million-three-hundred-thousand-dollar amount was because the bulk of the homes

that are likely to convert to long-term rentals are the one million three hundred thousand dollars (\$1,300,000) to two million dollars (\$2,000,000) group of homes. The guy with a twenty-million-dollar home is not going to care. He is not going to put a tenant in there just to get a tax break. The homes that are one million three hundred thousand dollars (\$1,300,000) to two million dollars (\$2,000,000), they more likely will. Again, the concern is, if we start the tier at one million three hundred thousand dollars (\$1,300,000) and we can talk more about that at Committee, then it is going to be less of an incentive for all of the one million three hundred thousand dollars (\$1,300,000) to two million dollars (\$2,000,000) group of homes to get a tenant in there. They are going to see the tax break on even a revenue-neutral tiered proposal.

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

Councilmember Carvalho: Just for clarification, the one million three hundred thousand dollars (\$1,300,000) to one million dollars (\$1,000,000) and then the whole tiered part will be done during the budget. It still may go back?

Councilmember Evslin: What happens during the budget is that we would be setting the rates for Tier 1, 2, and 3. What that determines and how it factors back into the one-million-three-hundred-thousand-dollar conversation is because what the rates are determine when we cross the line of the one-million-five-hundred-thousand-dollar house paying more or is it the two-million-dollar home now paying more under the new system. It is a nebulous conversation because we do not have the rates to talk about now. That is again why we created this graph showing a couple of different scenarios. You could envision the green line being a high-tax scenario. The purple line is a low-tax scenario.

Councilmember Carvalho: Yes.

Council Chair Kaneshiro: Are there any further questions? If not, while the rules are still suspended, is there anyone wishing to testify on this item? Lonnie.

Mr. Sykos: Thank you. Members of the public, someone else come to these meetings, so I do not have to come up here all the time, please. Thank you, Councilmember Evslin for this. I like totally get your logic in this. It is counterintuitive to the public. Intuition would tell you that if you lower that rate down to one million dollars (\$1,000,000), that the guy is going to end up getting gaffed by taxes. What actually occurs is, like you make your payments to the Internal Revenue Service (IRS), your first whatever the limit of the tranche is, you pay a lower rate, and then when you make more, you pay a higher rate. We are actually reducing the rate on three hundred thousand dollars (\$300,000) of the home, if I understand this correctly. Tip of the hat. I, personally, have no animus at all to people who have second homes and vacation rentals. It is a huge problem for my community and for me, but the fact of the matter is, the State in general and the County in particular, have promoted real estate speculation since I first came to Hawai'i in 1968. This is the outcome of what has been fifty (50) years of real estate speculation. To blame the investor for what the person selling the product did is kind of wrong. It was not the

investor that created the problem. It was the people selling to the investor that made the problem. Tax the rich. It does not make any sense to tax the poor. They do not have any money. You have to tax the rich and thus I agree with what you are doing. I was less than kind earlier today in my political speech and I will try to be more than kind right now and thank you very much, Councilmember Evslin. I believe you put two (2) years into this.

Councilmember Evslin: It has been a while.

Mr. Sykos: Council Vice Chair Chock and whoever has been involved in this, thank you very much. This is actually a very important piece for us to talk about. Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify? Jeff.

Mr. Lindner: We see that affordable housing is tough. I appreciate this Bill. The effectiveness of it, as far as if it will provide enough money and will that money be applied to affordable housing...this is about people renting as I understand it and vacant houses are going to be turned over to people that want to rent those to people. That is not really clear to me. The bigger picture is, the density going forward and it does not address middle-class people or people buying property. I think there is missed opportunity a long time ago. We saw in 1990-2000 that there was seventy thousand (70,000) acres of agricultural land that was sold. It was sold probably from three thousand dollars to five thousand dollars (\$3,000-\$5,000) per acre. That would have been an ideal time for someone to say, "Let us go and set something aside for the local worker" and we missed that. Then from 2000 we had the General Plan Update. It was really tough on agricultural land. Since 2000, I do not believe there was one (1) agricultural subdivision from Keālia to Hanalei or to Kīlauea. Within that General Plan Update, they talked about clustering, reducing infrastructure costs, et cetera. There were things in there that would have been very helpful. We could have done that. What happened was, nothing happened and now what we have is, of the twelve thousand (12,000) acres from Keālia to Kīlauea, we have twelve thousand (12,000) acres owned by three (3) or four (4) people. That is not going to come back. I do not believe that is going to come back for farming or for agricultural dwellings. It is not going to come back. What is the density that is left? That is why earlier, when I was misspeaking at the wrong time, there is density. Is the density determined now because it is so tightly held? I guess the question is, can you extinguish all of that agricultural density and no one ever has to bring that back? There should be some duty for the County that if there is density gone, then somebody is going to move somewhere else.

Council Chair Kaneshiro: Jeff, that is your first three (3) minutes.

Mr. Lindner: Okay.

Council Chair Kaneshiro: Lonnie, did you want to speak. Jeff, you can have your final three (3) minutes.

Mr. Lindner: Right. So, that goes back to the idea of what can we do for the middle-class or for the density...is the density already determined by the urban land people who sort of control all of the development rights. We are just going to measure it out for the rest of perpetuity, which is why I want to bring back my discussion earlier. I think I am correct that the County and Real Property Assessment does not assess density. That is not a rule. No one set that up. That is just something that they do. What that means is, you start assessing the potential density of zoned land real property revenue is going to go up extremely significantly and the pressure is going to be put on those people who have that density, because there is no more in agricultural land. All of the agricultural land around here can be upzoned. That is the thing that the 2000 General Plan Update said. You can only convert agricultural land to commercial or residential if it is...what is the incentive for the sixty thousand (60,000) acres around Kōloa and Līhu'e to ever be turned into anything related to agriculture? Someone could make the argument that there is no more agricultural land left anymore. That is why to be able to put pressure on people who have that density, if you cannot get them to turn it over for residential use, then at least you are getting moneys that you can put into affordable housing.

Councilmember Cowden: I have a clarifying question.

Council Chair Kaneshiro: Are you done with your testimony?

Mr. Lindner: Yes.

Council Chair Kaneshiro: Clarifying question, Councilmember Cowden.

Councilmember Cowden: I am trying to tie it in to this tiered Bill here. You responded to this particular Bill twice now.

Mr. Lindner: Right.

Councilmember Cowden: When we are looking at the tiered rate structure for Residential Investor, am I hearing you correctly saying that it is completely missing the mark? Is that what I am hearing you saying? It is missing the mark because it is not getting density...help me understand how you are tying that to agriculture. This is not dealing with agriculture.

Mr. Lindner: First, the tiered investor is an extraction of the...it is the same class as Residential. You are separating it from Residential. The purpose was for wealthier people, right? There is nothing wrong with that. That perfectly makes sense. Lowering it down to another level raises the question about who are you extracting it from? The other issue as I understand it is that it says that you have to qualify for a home exemption. You have to qualify. There are people and locals who have two (2) homes holding them for their children. Maybe they are not totally rented or do not go to the extent of getting a lease from their daughter or something. That is not clear. The point is that it says, "qualify." If someone lives here and they have two (2) houses, they do qualify. They can go from one house to the other house. It is not clear as to why they used that language. Why did they use that language as opposed to the homeowner's exemption before you get it.

Councilmember Cowden: I have one more clarifying question. You were talking about large agricultural properties. Am I hearing that there should be some sort of tiering on those large agricultural properties depending on how they are utilized? I am hearing you say that we are losing or locking up our land for agriculture, because there are these big parcels being bought and not being utilized. I am trying to tie that back. Are you suggesting tiering also on agricultural land if there is misuse?

Mr. Lindner: No. I was just saying it is a very little...you are going to get little out of this, because it is only for affordable. The bigger issue is that there was density that was not taken advantage of...

Councilmember Cowden: That was lost.

Mr. Lindner: It was lost. Whatever density is out there now, there should be an effort to try and get that back.

Councilmember Cowden: Okay.

Councilmember DeCosta: I had a clarifying question.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I want to understand you a little more. You got me excited. Help me understand this. You are saying that so many thousand acres on the North Shore is owned by three (3) people and they have it in agriculture. We are going to have no more land to build houses. You are saying we should tax them on the amount of homes that can go on the land instead of basically taxing them on the agricultural rate of just the land.

*(Councilmember Chock was noted as not present.)*

Mr. Lindner: No, I am saying that the County operational method is not to assess density. If someone were to make the law to read that we are going to assess density, yes, it would affect everyone's land. The land that it would affect the most is the land that has development rights to it. On agricultural land, you can really only build five (5) houses, so it really would not affect that. I am stating that there is no...there is an unwritten operation that they do not assess density. If you were to change that law, that would affect real property revenue and would put pressure on the people who have that density or are getting taxed. They will have to either pay more money or they will end up selling it, because they will not be able to hold it freely. Right now it is just being held without any repercussion.

*(Councilmember Chock was noted as present.)*

Council Chair Kaneshiro: I think we are getting way off topic regarding assessment of density.

Mr. Lindner: Okay.

Councilmember DeCosta: He brought it up. I just wanted to understand what he was saying.

Council Chair Kaneshiro: I want to get us back on the topic. Are there any further clarifying questions? If not, Lonnie, did you want a second round?

Mr. Sykos: Thank you, Mr. Lindner, that was very interesting. Stop me if I am violating the rules.

Council Chair Kaneshiro: Stop. Just kidding. Go ahead.

Mr. Sykos: I am going to tie this into Councilmember Evslin's theory of doing this tiering. What he was pointing out was...and I will use agricultural land. Here in Līhu'e, we changed the density and it used to be R-32 and now it is R-64 or something, and yet nothing has been built. The developer that owns it is sitting on this potential wealth. It is an absolute guarantee that they are going to get that wealth or some wealth in the future. In the meantime, we are subsidizing their investment because the land could be valued under a different system at the potential of the highest scale versus today, it is at the lowest scale that is currently being used. There is the opportunity for the County to force and this was now about the agricultural land...the three (3) owners who own all that land are filthy rich and have zero (0) incentive to engage in agriculture which creates liability for them. They do not want agriculture. It creates liability. They only want agriculture if they have to have it for property tax protection. What he is pointing out is, if you own one thousand (1,000) acres of land and you broke it up and could put a subdivision with five hundred (500) houses and fifty-acre lots or however the zoning allows it to be broken up, this one thousand (1,000) acres that we are saying are worth three dollars (\$3) an acre or something at agricultural rate, actually has the potential of one hundred thousand dollars (\$100,000) per acre tomorrow if they decided to sell it. Why are we taxing them at three dollars (\$3) per acre, the low rung, when you could scale this thing up and say that a portion of this should be at the third tier, which is the twenty thousand (20,000) potential affordable housing units on the land. This is a complete reset of how you approach property taxes, is what he is talking about. Currently, density has zero (0) to do with the value of the assessment, but the potential density is everything for the future value of the land.

Council Chair Kaneshiro: Okay, that is your time. Is there anyone on Zoom wishing to testify? Seeing none. Are there any further questions from the Members?

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

Council Chair Kaneshiro: Is there any final discussion? If not, roll call vote.

The motion for passage of Proposed Draft Bill (No. 2872) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 20, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

Mr. Sato:

Six (6) ayes, one (1) no.

BILLS FOR SECOND READING:

Bill No. 2854 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ALL-HAZARD STATEWIDE OUTDOOR WARNING SIREN SYSTEMS (*County of Kauai Planning Department, Applicant*) (ZA-2022-2)

Councilmember Carvalho moved to approve Bill No. 2854 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions on this item? Is there anyone in the audience wishing to testify on this item? Is there anyone on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

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

The motion to approve Bill No. 2854, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

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

Mr. Sato:

Seven (7) ayes.

Bill No. 2855 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO WAREHOUSES IN THE COMMERCIAL GENERAL ZONING DISTRICT (*County of Kauai Planning Department, Applicant*) (ZA-2022-3)

Councilmember Carvalho moved to approve Bill No. 2855 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Any final discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2855 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

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

Mr. Sato: Seven (7) ayes.

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

#### ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 4:03 p.m.

Respectfully submitted,



SCOTT K. SATO  
Deputy County Clerk



(June 15, 2022)

# FLOOR AMENDMENT

Resolution No. 2022-22, Relating to a Charter Amendment for the Housing Department Fund.

Introduced by: FELICIA COWDEN, Councilmember

Amend Resolution No. 2022-22 as follows:

1. Amend proposed Charter Section 19.15, paragraph D.1., as follows:

“[1. In adopting the annual operating and capital programs budgets, the council shall appropriate a minimum of two percent (2.0%) of the certified real property tax revenues to the housing development fund. In any fiscal year, the council may make appropriations to the housing development fund in addition to the two percent (2.0%) required herein.]

1. In adopting the annual operating and capital programs budgets, the council shall appropriate a minimum of five percent (5.0%) up to a maximum of ten percent (10.0%) of the certified real property tax revenues derived from each of the following real property tax classifications: a) vacation rental and b) residential investor, to the housing development fund for the purpose of affordable housing strategies. The percentage allocation of the annual appropriations to the housing development fund shall be approved by the council.”

2. Amend proposed Charter Section 19.15, paragraph D.3., as follows:

“[3. Any unencumbered balance in this fund at the end of each fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. Any unencumbered balance in this fund shall not be used for any purpose except those listed in paragraph 1 of this Section.]

3. Any unencumbered balance in this fund at the end of each fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. After a five-year period of no expenditure from the housing revolving fund, the annual appropriations shall cease. Annual appropriations shall continue after expenditures for affordable housing strategies are encumbered. Any unencumbered balance in this fund shall not be used for any purpose except those listed in paragraph 1 of this Section.

3. Amend the ballot question in Section 4 as follows:

“[Shall two percent (2%) of real property tax revenues be earmarked for the purpose of affordable housing?]

Shall a minimum of five percent (5%) up to a maximum of ten percent (10%) of real property tax revenues derived from each of the Real Property Tax classes of Vacation Rental and Residential Investor be placed in a housing development fund for the purpose of affordable housing strategies?”

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

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(June 15, 2022)

FLOOR AMENDMENT

Resolution No. 2022-22, Relating to a Charter Amendment

Introduced by: KIPUKAI KUALI'I, Councilmember

Amend Resolution No. 2022-22 as follows:

- 1) Amend proposed Charter Section 19.15, paragraph D.1., as follows:

“1. In adopting the annual operating and capital programs budgets, the council shall appropriate a minimum of [two percent (2.0%)] one percent (1.0%) of the certified real property tax revenues to the housing development fund. In any fiscal year, the council may make appropriations to the housing development fund in addition to the [two percent (2.0%)] one percent (1.0%) required herein.”

- 2) Amend the ballot question in Section 4 as follows:

“Shall [two percent (2%)] one percent (1%) of real property tax revenues be earmarked for the purpose of affordable housing?”

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

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