

COUNCIL MEETING

FEBRUARY 23, 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, February 23, 2022, at 9:00 a.m., after which the following Members answered the call of the roll:

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

Excused: Honorable Bernard P. Carvalho, Jr.

Council Chair Kaneshiro: Today's meeting will be conducted pursuant to Act 220, Session Laws of Hawai'i 2021 and Governor Ige's Emergency Proclamation Related to COVID-19 (Omicron Variant) dated January 26, 2022. Please note that we have registered speakers for some of our agenda items this morning. I will read the agenda and take public testimony. Staff will appropriately incorporate the testimony into the record. After public testimony, we will proceed with our Council Meeting, followed by our Committee Meetings, and conclude with our Executive Session.

APPROVAL OF AGENDA.

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

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

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

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

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

MINUTES of the following meetings of the Council:

February 9, 2022 Council Meeting

February 9, 2022 Public Hearings re: Bill No. 2842 and Bill No. 2843

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

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

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

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

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

INTERVIEWS:

POLICE COMMISSION:

- Monica L. Belz – Term ending 12/31/2024

ELLEN CHING, Boards & Commissions Administrator *(via remote technology)*: Good morning, Chair and Councilmembers. I have been trying get a hold of Monica. I am not sure if something is wrong with her technology or anything like that. If I could ask you and the Council if you would be willing to move to the next nominee and we will try to get a hold of Monica before this portion ends.

Council Chair Kaneshiro: Yes, we will move to the next nominee and if Monica does not come on, we do have her application and information, so I am sure we will be able to move forward on it and if there are any questions, we can always send the questions over, prior to voting on it, but we will give Monica a chance to try to get on, so we can move on to Rose.

BOARD OF ETHICS:

- Rose Ramos-Benzel – Term ending 12/31/2022

Ms. Ching: Thank you so much, I really appreciate it. Good morning, everyone. Ellen Ching, Boards & Commissions. I am pleased to introduce Rose Ramos-Benzel. Rose was born in San Francisco and grew up in the Monterey area. Upon her graduation from high school, she attended San José State University and earned a Bachelor's degree in Health Science. Rose is one of the few

people I know that got her degree in something that is a life-long passion; health and fitness. Her career started off with positions at Runner's World and Women's Sports magazines. When Rose first moved to Kaua'i in 1987, it was to accept the position as the Head of This Week Kaua'i. She has also been a group fitness instructor for over thirty (30) years. On Kaua'i back in 1987, she took a Jazzercise class from a woman whose husband was stationed at the Pacific Missile Range Facility (PMRF). Before this woman left the island, she asked Rose to take over her classes. So just one-year later in 1988, Rose became an instructor. She continued teaching for the next twenty-five (25) years on Kaua'i, even back on the mainland when she returned to be near her family. Rose always wanted to return to Kaua'i and she got her chance in 2014 when she was recruited as the Director of Development at Kaua'i Community College (KCC) for the University of Hawai'i Foundation. She has combined her professional interests at Kaua'i Community College as a Grant Administrator and as a fitness instructor of PiYo. If you are like me, I did not have a clue. PiYo is a fitness curriculum that combines the strengthening benefits of Pilates with the flexibility enhancing effects of Yoga. It is hard to imagine this active woman is a "foodie"—when she is not working out, she loves to cook, travel, sleep, sit in the sun by a pool, read fiction and personal development books, and entertain friends. Rose's dad's career was in military service, she grew up in the military. Her dad planted a foundation of loyalty, duty, respect, selfless service, honor, integrity, and personal courage. With the unfortunate events of the past few weeks with former legislators, the duties of the Board of Ethics are more relevant than ever. In 2020, the Board of Ethics proposed a Charter amendment that was ultimately adopted to expand the number of County employees that are required to file financial disclosures. In the following year, the Board in partnership with this Council adopted an ordinance to implement the expansion. The Board is now in the middle of obtaining those financial disclosures. Rose has never served on a Board or Commission. Should she be confirmed, she will be at the forefront along with her fellow Board members in reviewing these disclosures for any conflicts of interest. I appreciate her willingness to contribute her time, talent, experience, and values to the Board of Ethics. Thank you.

Council Chair Kaneshiro: Thank you for that introduction. Rose, is there anything you want to add?

ROSE RAMOS-BENZEL (*via remote technology*): Good morning and thank you for allowing me to serve. I am really humbled and honored to be nominated for this position.

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

Councilmember Cowden: First of all, I want to say I am really excited to see you nominated for this, having worked with you for a good number of years in

your role at KCC. Great job. I feel like you have had a good amount of exposure to the community. Have you been able to watch any of the Board of Ethics meetings or have you been involved in any of it? You said you have not been on boards before. I am sure you will be able to figure it out.

Ms. Ramos-Benzel: No, I have not. The role of this Board and the work that they do really resonates with me, because like Ellen said, I grew up in a very strict military family and it was drilled into me about how important integrity and honesty is in following the rules, so I really look forward to learning from the other Board members. I also have a very service heart, so I really do love being a part of the community and being able to give back.

Councilmember Cowden: Thank you very much for that. This one is a particularly important Board to me, because sometimes it can be misused, so I think it is important that you are able to really have true inquiry when something is in front of the Board, both for misuse, as well as a good level of questions being asked. I do review the Board of Ethics' minutes, and very often there is a shockingly low amount of dialogue or discussion, and it is important that we have our disclosure statements in the minutes and they are really accurate. I know you have attention to detail, so I can count on you for that.

Ms. Ramos-Benzel: Absolutely. I am looking forward to learning from the other members, as well. Usually, when I start something new, I kind of sit back and observe and absorb as much as I can to learn. I am looking forward to doing that.

Councilmember Cowden: Thank you.

Ms. Ramos-Benzel: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Hi, Rose. Nice meeting you.

Ms. Ramos-Benzel: Aloha. Nice to meet you.

Councilmember DeCosta: Thank you for your vast knowledge in education and your fitness realm. You brought this up, and I wanted to ask you, what one (1) value or moral resonated with you growing up that your parents and grandparents instilled in you, that you could bring to this Board of Ethics?

Ms. Ramos-Benzel: Integrity, definitely integrity, because my dad always said that if you cannot follow through on your word, you have nothing. So that was really instilled with me. Even if I cannot do something, if I commit to

something, or there is a problem with it, then I always make sure that the organization, the person that I committed to knows, because my word is gold—that is it. I will give you an extra answer, followed by that is honesty, because the best thing I can say is do not tell me your deepest, darkest secret, because if I ever had to, I would give you up. I am sorry, but I am really honest, and if I get asked a direct question, I will give you an honest answer, and living in integrity is it for me, because if I cannot do that, then I cannot live with myself.

Councilmember DeCosta: Thank you for that explicit definition. Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? If not, thank you, Rose.

Ms. Ramos-Benzel: Thank you so much, I appreciate it.

Council Chair Kaneshiro: Is there any discussion? Ellen, I see Monica on now.

POLICE COMMISSION:

Monica L. Belz – Term ending 12/31/2024

Ms. Ching: Sure. Ellen Ching, Boards & Commissions. I am pleased to introduce Monica Belz. Monica spent most of her childhood in the great northwestern states of Oregon and Washington. After high school, she attended college at Vanguard University in Newport Beach. During her junior year, she spent a year abroad in Saint. Petersburg, Russia studying the language, business relations, and politics. Upon her return, she earned her Bachelor's degree in Communication with a minor in Religion. Instead of "diving" into the work world, she moved to Florida, went to scuba school and got a Professional Association of Diving Instructors or PADI license, allowing her as a Master diver to teach all specialties. There is a trend here, sunny weather and beautiful beaches. It is understandable, if you know that Monica's grandparents lived in Tonga and Hawai'i. Since the age of 11, she often visited and lived with them. Initially, Monica moved to Maui and worked in marketing, real estate, and was a diving instructor. While on Maui, she explored all of the islands. On one trip, she hiked to Kalalau and fell in love with Kaua'i. Monica has traveled widely working extensively on education and disaster relief. Just to name a few of the projects, she has worked in Africa on Acquired Immunodeficiency Syndrome (AIDS) prevention, in India in the Himalayas on access to education, in Nepal on the earthquake, and in the Philippines on the typhoon disaster. About ten (10) years ago, Monica moved to Kaua'i to raise her children and care for her grandmother until she passed. She returned to school and obtained a Master's degree in Business Administration from the world famous, Thunderbird School of Global

Management. Monica's educational and professional experience in working with nonprofit organizations and businesses all came together when she accepted a position at a credit union, a not-for-profit bank. She is currently the Chief Executive Officer (CEO) at Kaua'i Federal Credit Union (KFCU). Here is a little Jeopardy knowledge that I picked up from Monica, credit unions were formed to help people get loans to build assets or capital, people who were unable to get loans from existing institutions. Basically, it is economic social justice. For someone who has traveled so much, is there a favorite trip? It is a family tradition, a special trip for each child on their tenth (10th) birthday with just mom. A trip to Germany to spend time with family and another trip to Nazaré, Portugal, home to the biggest surfable waves in the world. As an ocean lover, it should not be a surprise that her children share her love of surfing as well. In this era of heightened sensitivity given the death of George Floyd, I appreciate Monica's experience and knowledge of best practices in education and cultural sensitivity. She has never served on a Board or Commission, given her background, I am not surprised, but I am grateful for her willingness to contribute to the Police Commission. Thank you.

Council Chair Kaneshiro: Thank you, Ellen. Monica, do you want to add anything to that?

MONICA L. BELZ (*via remote technology*): Aloha, everyone. Thank you for letting me be here. I am also very humbled and honored for this invitation, so thank you very much. I hope to serve to the best of my ability. The only thing I will add is I have three (3) children on this island, I am raising them on this island, and I deeply appreciate the public and the police force and everything that you folks do for us. I am especially honored to serve on the Police Commission. It is near and dear to my heart. I was a firefighter growing up, so I worked very closely with the police, fire, and first responders, and I have a special affinity for all that they do, and all the sacrifices their families make, so thank you.

Council Chair Kaneshiro: Thank you, Monica. Are there any questions for Monica from the Members? Councilmember Cowden.

Councilmember Cowden: It is combined with a comment. Again, I am really thrilled to see you as a nominee for this position. I want to recognize what a hard worker you are and what a brilliant mind you have for exploring every new element that you get through. You are like talking to an encyclopedia, so I have a lot of confidence that you are going to be able to rise to this occasion—it is a very important time. I would think you have experience with mediation, especially the type of grants and elements that you work with at the credit union, but mediation and balance, sometimes the Police Department has a little bit of tension internally. Can you speak to your experience with mediation?

Ms. Belz: Sure. Thank you, Councilmember Cowden for the kind comments and the question. As you know, I am President and CEO of KFCU and a leader in the community. I think when it comes to leadership, I would say that mediation, active listening skills, and empathy are key to be a successful and good leader. I am also a mother; I think those skills are also incredible as a mom/parent. So, my mediation skills on the playground are quite effective. They are a much different skillset than the mediation skills in the board room or during any kind of controversy. I think COVID-19 was an incredible time, and honestly, in any crisis, mediation skills rise to the top. I have been working in disaster relief, emergency relief work, and now through almost two (2) years here of a global pandemic, so I appreciate really good mediators. One (1) of my mentors is a professional mediator, and sometimes I just want to be a fly on the wall and listen in, because she is so good at it. So, I aspire to grow those skills. I use them frequently and I have developed them throughout the years.

Councilmember Cowden: Thank you.

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

Councilmember Cowden: I am going to apply this to her and the one before. Just working with both of these women, I just cannot give higher congratulations to these nominations—very good. I have a lot of confidence that both have the right temperaments for these particular boards. I am very supportive of her.

Council Chair Kaneshiro: Is there anyone else? If not, thank you Monica.

Ms. Belz: Thank you so much. *Aloha*.

Council Chair Kaneshiro: Thank you. Next up, we have Buffy.

CHARTER REVIEW COMMISSION:

- Coty “Buffy” Trugillo – Term ending 12/31/2023

Ms. Ching: Ellen Ching, Boards & Commissions. I am happy to introduce you to Coty Trugillo, most people know her as Buffy. She is a west side girl, born in Waimea and raised in Hanapēpē. Buffy attended Kamehameha Schools and upon graduation continued with her education at the University of Portland, earning her Bachelor’s degree in Communications and her Master’s degree in Psychology and Counseling at Chaminade University. For four (4) years, Buffy was a school Counselor for the Department of Education at Chiefess Kamakahelei Middle School and then Waimea Canyon Middle School. Buffy then served as a Dorm

Advisor at Kamehameha Schools – Kapālama campus for seven (7) years. Although this counts as her favorite job of all time, when a position opened on Kaua‘i, Buffy jumped at the chance to return home. On Kaua‘i, she assumed the position of Kamehameha Schools’ Resource Center Manager. In a recent statewide reorganization, Buffy was named as the Community Strategist. As such, Buffy oversees a small team of program managers and analysts that makes recommendations and implements how and what work and investments are made in our community. It is lucky that Buffy’s favorite thing is family time, with six (6) kids ranging in ages from sixteen (16) to twenty-six (26), and two (2) grandchildren, there are lots of kids to spend time with. They enjoy bowling, making TikTok videos, and having everyone—grandkids and grandparents—together. Prior to COVID-19, Sunday suppers were a regular gathering. If there is a motto that exemplifies Buffy, it is “the family that plays together, stays together.” She is great example of what we hope for our *keiki* that after getting their education, they will return to us to help make Kaua‘i the best it can be. She has never served on a Board or Commission. As a seasoned working mother, we appreciate and look forward to her fresh perspectives and contributions on the Charter Review Commission.

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

COTY “BUFFY” TRUGILLO (*via remote technology*): Nothing to add. That was a lot. Just thank you for having me here.

Council Chair Kaneshiro: Thank you. Are there any questions from the Members for Buffy? Councilmember Cowden.

Councilmember Cowden: Again, thank you for volunteering to do this and it has been a joy to work with you and your role at Kamehameha Schools, so I appreciate that. How familiar are you with the County Charter?

Ms. Trugillo: To be honest, I am not extremely familiar. I am smart enough to have read the website and to read a little bit in the article that created the Charter Review Commission, and Ellen has explained a lot to me and answered questions when we first talked about what the Charter Review Commission responsibilities were.

Councilmember Cowden: I am sure you know it relates to County government in a similar way that the Constitution relates to the State government or the Federal government.

Ms. Trugillo: Yes.

Councilmember Cowden: With both of those, they do not have a Constitutional Review Commission, so what I would like to be able to share or make sure there is an understanding of, is that the Charter is not something that should easily be changed. So, in attending meetings over the years, it can be, in some ways hard work as a Charter Review Commissioner to do a lot of work and then not move forward on it. But the majority of the changes to the Charter come from within the County, so as a Councilmember, I am asking you to hold in your mind an awareness of what it is to change the Charter, because most of the changes that occur remove power from the electives, which is a form of removing power from the people. As this is my only opportunity to really be able to speak with you on this, I am just trying to help you understand that whenever you are looking at it, the Charter both has to structure government and protect the citizens. I do not know if that has been called to your attention, but can you make sure to hold that in your mind as you are endeavoring in this job position? I appreciate your work.

Ms. Trugillo: I appreciate you saying that. Decision-making around what is best for Kaua'i as a community, and the health and well-being of our *'ohana* that live here will always be top of mind, so when decision-making happens, it is not going to be done or taken lightly ever in my decision-making. It is just not the way I work, so thank you for saying that and I look forward to the opportunity to learn, have influence, and listen, as well.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions for Buffy? If not, is there any discussion for Buffy? Councilmember DeCosta.

Councilmember DeCosta: Very honored to have you sitting there Buffy. I have high expectations for you and what you are going to bring to this Commission. Being a graduate of Kamehameha Schools and our own born and raised girl to become an industrial, powerful, and educated woman, thank you for doing this and thank you for having Kaua'i in your best interest.

Ms. Trugillo: Thank you, Councilmember DeCosta.

Council Chair Kaneshiro: Is there anyone else? If not, thank you Buffy. Last, we have Jerry Nishihira.

BOARD OF REVIEW:

- Jerry M. Nishihira – Term ending 12/31/2023

Ms. Ching: Ellen Ching, Boards & Commissions. One of the wonderful things about my job is getting to meet people. I have always thought that for a little island in the middle of nowhere we have so many treasures that not

many know about. Jerry is one of those treasures. Let me introduce Jerry Nishihira, a graduate of Kaua'i High School. He earned his degree in Education at the University of Hawai'i at Mānoa. Jerry spent the next seventeen (17) years teaching on O'ahu at Kaiser High School, Waimānalo Elementary and Intermediate School, and Kalāheo High School. Although he was a math and physical education (PE) teacher, in 1996, he accepted the position as a math and science teacher at Waimea High School. The only hiccup was that there was a math and science grant awarded and he would need to develop a curriculum that would meet the guidelines of this grant. In his first year, the students built bridges with popsicle sticks and did a stress test on all the different models. Now everyone, everywhere has heard the drum beat about needing more STEM or STEAM curriculum; science, technology, engineering, art, and math and project-based learning. As for project-based learning, Jerry had the best explanation I have ever heard, projects that illustrate the practical applications of what students are learning. In his second year, way back in 1997, Jerry decided literally to "shoot for the moon" and started a rocketry class and engaged the students, parents, and the engineers at PMRF. If you Google "rocketry classes in public schools" you will see a lot of links, the earliest link was in 2007. This was the humble beginning of the rocketry program on Kaua'i. You are looking at a bonafide pioneer and innovator of STEM education. Under Jerry's tutelage, Waimea High School was the first to put a camera on their rocket and put their launch on the internet. Both camera and rocket were entirely built by students. This video was watched by people around the world in Fiji, Pakistan, Spain, Canada, and Japan. Talk about one (1) person making a difference and inspiring the world. Since his retirement in 2017, Jerry has more time to devote to his love of the ocean, surfing, diving, and fishing. He also enjoys cooking. When asked what his favorite thing to cook is, he immediately responded, "whatever my wife wants." Jerry has never served on a Board or Commission. With the Board of Review, there is a lot of expertise in real estate, market values, and comparatives. With Jerry, I look forward to his knowledge and experience, but also his perspective as a retiree with respect to tax appeals. Thank you.

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

JERRY M. NISHIHIRA (*via remote technology*): Thank you for the background, it sounds a little too much, but thank you.

Council Chair Kaneshiro: I thought she was going to add your softball statistics to your introduction. It is okay. Are there any questions for Jerry?
Councilmember Cowden.

Councilmember Cowden: Thank you, Jerry, for your willingness to do this. It is a really important position. I appreciate your math background, because

math is an essential skill and understanding elements with the tax basis. What is your experience with real estate? Do you have much in that direction?

Mr. Nishihira: My wife is the expert with finance and real estate, she is a Certified Public Accountant (CPA). I am good with numbers—algebra and trigonometry, but if you put a dollar sign in front of it, I am not that sharp, but I am willing to learn.

Councilmember Cowden: I appreciate the innovation that she highlighted—that learning is a form of innovation, so I have confidence in that. What is your understanding of the role of the Board of Review?

Mr. Nishihira: Talking with Chris White, it is just the review of appeals and coming to a consensus among the other board members and making decisions collectively. This is new to me, so I am a little uncomfortable, and I hope to do my best; just being honest.

Councilmember Cowden: If I could share a little bit of perspective as a Councilmember, so that asking from you on your commitment on the other end of it, as Council we tend to hear from the citizens, so what is familiar to me is hearing from people who are having a difficult time with the Board of Review. So, people who have the assets to have a lawyer have an easy time having everything done right, people who do not have the assets to have a lawyer make mistakes and sometimes they have a difficult time. I have a concern that we are able to have compassion and patience as applications are made, and I am asking you to have a heart for some of these people who are not skilled in real estate, nor skilled with our rules, because that is who I worry for and who I try to advocate for. Can you speak to that? Any knowledge of people struggling to hold on to their homes, like a bad decision or just a decision to not look at an item can result in the loss of a home? Can you speak to that?

Mr. Nishihira: Understood.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: What was your question Councilmember?

Councilmember Cowden: My question was, how is your knowledge? You probably lived here your whole life, is that right? Have you lived on Kaua'i your entire life?

Mr. Nishihira: I lived on O'ahu.

Councilmember Cowden: But a long time here.

Mr. Nishihira: I do have compassion for people who, like you said, do not have representation and it is important to listen to their side of the story with an open mind. I am not sure if that is what you are asking.

Councilmember Cowden: That is what I am asking. I want to make sure when you come in there that you are...I am highlighting on the front end to be aware that there are some people who will have things very well presented, because they are well represented by someone who has the skillset to know, because they can pay for that. Then, there is another group that does not have that skillset and cannot pay for that. I am just trying to help you be aware to be looking for that difference, because we are losing a lot of residents in our community, and I want to make sure that the Board of Review functions as it is supposed to. For example, when there is a problem, they are able to have a citizen group that helps them to be able to review the challenge in a way that is fair.

Mr. Nishihira: I see, yes. As a teacher, you learn to empower others and those that are not able to speak for themselves as much, and maybe that part of teaching will bring out the compassionate side in decision-making.

Councilmember Cowden: Okay, yes, compassion and patience. Thank you so much.

Mr. Nishihira: Thank you.

Council Chair Kaneshiro: Are there any other questions for Jerry? If not, are there any discussions for Jerry? Councilmember DeCosta.

Councilmember DeCosta: Hello, Jerry.

Mr. Nishihira: Hello, Mr. Bill.

Councilmember DeCosta: I worked with Jerry for ten (10) years at Waimea High School. I speak on his credibility, his ethics, and his patience, you all know math is a highly skilled educational background and Jerry could probably make a lot more money working for an engineering firm or cost estimator for large construction companies here, but he chose to be a teacher. He managed to keep his house in an upscale area of Kalāheo, which I am very impressed, because you are surrounded by very wealthy homeowners. You and your wife have done an excellent job. Great mentors in our community and after hearing about your launch and camera—I remember being there at Waimea High School when that happened. Jerry, I wish you the best and thank you for putting yourself out there.

Mr. Nishihira: Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I want to take the opportunity to thank all of our applicants. We have such an amazing group of well-rounded, diverse, and dedicated community members willing to serve here—Monica, Rose, Buffy, and Jerry—I am excited for the work that you folks are going to do. I am always so deeply thankful for anyone willing to volunteer on a board or commission—the work that you folks do is really important. Thank you for your willingness to serve and the next thing I do after this meeting will be to search for the Waimea High School rocket launch—I am excited to see that video online. Thank you all.

Mr. Nishihira: Thank you.

Council Chair Kaneshiro: I am going to speak on Jerry's behalf, I know he is being extremely humble right now, but Jerry is more than capable and competent to look at each individual case that comes up to Board of Review. I know he is going to make a reasonable and rational decision on it. I have known him for many years, he is very reasonable, he is very rational—that is the type of person we need on this type of board—look at each individual situation, know what our law is, and then follow it. I think Jerry is going to do a great job of that. I am more than confident in Jerry and his ability in being in this position and succeed. Council Vice Chair Chock.

Mr. Nishihira: Thank you.

Councilmember Chock: Thank you, Chair. I want to thank Ellen. I think you presented us with a group of great candidates. I know each one of them in a different capacity—indirectly and directly. While they might not all come with many years of experience in each of these commissions or boards, I do think they are great people that will stand up to the needs and represent the community well. Thank you very much.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I, too, want to chime in my thanks and say *mahalo nui loa* to all of these very well-qualified candidates and dedicated community servants, so *mahalo* for your service going forward. I look forward to crossing paths with you. *Mahalo*.

Council Chair Kaneshiro: Councilmember DeCosta, then Councilmember Cowden.

Councilmember DeCosta: Thank you, Ellen, for all of what you do. We sometimes do not thank you enough. I wanted to piggyback on Councilmember

Evslin, when we talk about great candidates, no doubt, Jerry is at the top of the list, but let us give it out for the women—we have an equity and diversity—that we learned from National Association of Counties (NACo) conference and we have three (3) powerful ladies joining our Boards and Commissions, so power to our women out there. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to echo the gratitude also. I want to make sure that nothing was misread, particularly to Jerry. It is not a lack of confidence that people can do a good job, I appreciate it. In this time of COVID-19, we do not get the opportunity any longer, to interact with people in different environments—this is the only chance I have to talk to you as you are starting this position and having been on three (3) boards in my history, I did not know a thing about any of them when I was appointed. It was just train as you go, so there was not that piece. I am trying to help people. I am trying to do my job as a Councilmember and for the people who are listening, that we are able to give you a little bit of our *mana'o* about what the job might entail—that is not in any way to suggest that I do not have confidence in your integrity or ability to do the job. I am actually not even sure if it is the board who turns down the applicants, or if it is something before them. I do need to find that out. I have a lot of confidence in you, Jerry, and I am very happy with all of our nominees today.

Council Chair Kaneshiro: Are there any further discussions from the Members? If not, thank you Jerry. Thank you to all our nominees for the boards. We will be voting on this at our next meeting.

COMMUNICATIONS:

C 2022-30 Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$98,500.00, and to indemnify the State of Hawai'i, Department of the Attorney General, to support a 0.50 Full-Time Equivalent (FTE) Deputy Prosecuting Attorney who will work with the Kaua'i Police Department's Vice Investigators and focus fifty percent (50%) of their time on methamphetamine trafficking and opioid focused prosecution, and to cover a portion of fringe benefit costs and office supplies. The anticipated contract date is for the period of July 1, 2022 through June 30, 2023.

Councilmember Cowden moved to approve C 2022-30, seconded by Councilmember Chock.

(Councilmember DeCosta was noted as not present.)

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

Councilmember Cowden: I want to thank the Police Department and the Office of the Prosecuting Attorney, I think nothing could be more important right now, so I want to acknowledge the value of the coordination between the Prosecutor and the Vice Investigators to have effective barriers to this chronic problem. I would say this is the epidemic that we have on the island. I am happy to give Acting Prosecuting Attorney Like an opportunity to speak on it if she would like. I see her here. Good job. I just wanted to say that was important.

Council Chair Kaneshiro: If there are no questions on it, we can vote on it.

Councilmember Cowden: Okay, I do not have a question. I just want to say it is important.

Council Chair Kaneshiro: Okay. Is there any other discussion from the Members?

(Councilmember DeCosta was noted as present.)

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

The motion to approve C 2022-30 was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused).*

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

C 2022-31 Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$48,689.00, and to indemnify the State of Hawai'i, Department of the Attorney General, to be used for salaries/wages and supplies for the Domestic Violence Prosecution Unit. This recurring grant and funds will be utilized for the tentative period commencing June 1, 2022 to January 15, 2023.

Councilmember Chock moved to approve C 2022-31, seconded by Councilmember Cowden.

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

Councilmember Cowden: I want to acknowledge again, between drug abuse and domestic violence which are our number one and number two challenges in front of us, so acknowledging the emphasis on what is most important.

Council Chair Kaneshiro: Is there anyone else?

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

The motion to approve C 2022-31 was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

C 2022-32 Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to receive and expend Federal funds, in the amount of \$35,790.00, from the Edward J. Byrne Memorial Justice Assistance Grant (JAG) Fiscal Year 2021 Local Solicitation Grant, to continue employment of one (1) Full-Time Equivalent (FTE) Process Server to continue process serving for the Office of the Prosecuting Attorney for three (3) months, purchase office supplies, and allow officers of the Kaua'i Police Department to attend training sessions. The grant will cover expenses for the time period October 1, 2020 through September 30, 2024.

Councilmember Chock moved to approve C 2022-32, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We have a question from Councilmember Evslin.

Councilmember Evslin: I have one (1) question on the time period. It says "three (3) months," but it also gives a four-year time period, October 1, 2020 through September 30, 2024, I just want to double check that it is correct.

There being no objections, the rules were suspended.

JAMIE OLIVAS, Grant Coordinator *(via remote technology)*: Hi, Jamie Olivas, Grant Coordinator with the Office of the Prosecuting Attorney. These are formula funds that we receive every year and the period for the grant runs for four (4) years, but the funding can only cover three (3) months.

Councilmember Evslin: Okay, so do we end up reapplying every three (3) months? How does it work?

Ms. Olivas: We apply for the grant every year and it just covers three (3) months, and the remaining nine (9) months is covered by the County.

Councilmember Evslin: I got it. Okay, thank you.

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

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

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

The motion to approve C 2022-32 was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

C 2022-33 Communication (02/02/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Section 5A-11.26, And Section 5A-9.1(a), Kaua'i County Code 1987, As Amended, Relating To Real Property Tax, to repeal the Tree Farm Development Exemption, as it results in tree farm operators receiving a more substantial tax relief measure than agricultural farmers who have been granted an Agricultural Dedication under Kaua'i County Code Section 5A-9.1.

Councilmember Chock moved to receive C 2022-33 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: This is just the communication; we do have the related Bill coming up later in the agenda. Are there any questions from the Members on this? Is there any discussion?

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

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

The motion to receive C 2022-33 for the record was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

C 2022-34 Communication (02/03/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, By Repealing Article 10, Relating To Valuation Of Wasteland, to repeal the valuation of wasteland, as the last known "wasteland" designation was granted in 1991 and no such designation exists today.

Councilmember Cowden moved to receive C 2022-34 for the record, seconded by Councilmember Chock.

(Councilmember Chock was noted as not present.)

Council Chair Kaneshiro: Again, this is just the communication; the item will be coming up as a Bill later in the agenda. Are there any questions or discussions from the Members?

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

The motion to receive C 2022-34 for the record was then put, and carried by a vote of 6:0:1 *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmember Carvalho was excused).*

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

C 2022-35 Communication (02/03/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, By Repealing Section 5A-11.25, Relating To Orchard Development Exemption, to repeal the Orchard Development Exemption, as there are no active participants with this exemption and it has not been used for a number of years.

Councilmember Evslin moved to receive C 2022-35 for the record, seconded by Councilmember Cowden.

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

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

The motion to receive C 2022-35 for the record, was then put, and carried by a vote of 6:0:1 *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmember Carvalho was excused).*

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

C 2022-36 Communication (02/07/2022) from Jodi A. Higuchi Sayegusa, Deputy Director of Planning, transmitting the Public Access, Open Space, Natural Resources Preservation Fund Commission's recommendation to accept the Amended Grant of Easement and request to use up to \$1,500,000.00 of the Public Access, Open Space, Natural Resources Preservation Fund for improvements to the coastal access easement that accesses Kaumumene (Hideaways Beach) Tax Map Key (TMK) Nos. (4) 5-4-11:04 and (4) 5-4-12:11.

Pursuant to Governor David Y. Ige's Emergency Proclamation Related to COVID-19 (Omicron Variant) dated January 26, 2022, public testimony was taken at the beginning of the day and as follows:

JEFF FRANK (*via remote technology*): I would like to thank the Kaua'i County Council for allowing me to say a few words. I am Jeff Frank and I am the President of the Board of Directors of Pu'u Po'a representing the Board. There are fifty-six (56) owners of our condominium complex. The condominium is situated on a bluff overlooking Hideaway Beach. I would like to comment on two (2) agenda items this morning, C 2022-37 under Legal Documents and C 2022-36 under Communications, which are related. The County and Pu'u Po'a were named as codefendants in which a person was injured using the beach access at Hideaway Beach, which has been settled. This took place about two (2) to three (3) years ago. The access continues to be a safety risk to this day. Approximately, one hundred fifty (150) to two hundred fifty (250) people use this access daily. Over the last two (2) years, a number of people have been injured in which one (1) person broke his leg in three (3) places. What keeps me awake at night, is if someone was injured and became a paraplegic or was killed. The association through our legal counsel has prepared documents to provide a safe passage in which the association will provide an easement to the County for one dollar (\$1), in return, for the repair and maintenance of the trail. This trail does go over our property in the steepest location and where the accidents have occurred. The hotel and the County's legal counsel has reviewed the documents and provided comments, which have been incorporated into the documents before the Council. The original easements called P-1, which ran through the hotel parking lot prior to them having a parking lot, so this goes back thirty (30) to thirty-five (35) years—I am just providing a little bit of history. It needs to be changed to P-2, which is the easement being used today. What we would like to do is have the Council review the legal document that your Council has approved, as my understanding, the hotel is involved as well, and they are supporting it. This is an opportunity for the local community, visitors to the island and our owners and renters to have safe passage to one of the most pristine beaches on the North Shore in the city of Princeville. By doing nothing, we are going to have to take measures to close beach access, which we do not want to do. We paid our legal counsel to prepare the documents in order to get to this point, we had to also bring a survey company so that we could document the legal location of the path, and we are hoping that the Council will support this effort today when the agenda item comes up. It is very rare that the Council probably could do something for the community where it is a win-win. Win for the local community, the surfers, the fisherman, and Pu'u Po'a strongly feels that safe passage and public access to our beaches are priority on the island of Kaua'i. I do not have anything else to say and I want to thank you for the opportunity to allow me to share a little of the history and the concern that we should both have going forward.

Council Chair Kaneshiro:

Thank you, Jeff. Next up, we have Mike Lyons.

MIKE LYONS (*via remote technology*): Thank you for letting me say my piece about this issue. I want to thank everyone for moving forward with this. It seems that there is a wonderful consensus with everyone understanding that there is a need to figure out what is the best approach and the best plan to primarily leave the trail open and to do something that is as safe as possible without adjusting the rustic nature and without creating something that looks like it is prefabricated. I really understand what Jeff Frank was saying, it has been a difficult trail. It is more of a climb in some parts with the ropes that have been put in. So, the trail has been a problem for a long time, but regardless it is a rustic trail going down to a beautiful beach. It is no different than Hanakāpī'ai or going down to Secret Beach, or some of the other difficult trails that not

everyone should approach. So, to make it sound like it needs to be repaired to a certain degree is definitely what is needed in terms of what kind of approach and materials on how it is going to retain its feel. It is unapproachable to everyone. It is not like parking at Black Pot. It is a wonderful trail since we have been going to since kid days, since the 1960s before the hotel. I definitely want to advocate for continuing the process of what it is going to be. The hotel is definitely onboard with planning and most chats with the executives about what they feel about it. It seems like the forward motion is very solid and optimistic for the same result, so that generosity is what is making this the showpiece case for now to figure out what this looks like. It is a unique trail and area. Everyone has different concerns and different conflicts on what it should be, but I am hopeful with whatever that is going to look like is going to occur. Jodi has been wonderful. You folks have been very optimistic and generous with your considerations. The last meeting with the Commission, they were extremely generous as well, so all I can say is that I would like to keep advocating for what that looks like. It can be something safer, but then again, it is not going to be an absolutely pristine trail that would prevent injuries. I am old firefighter/Emergency Medical Technician (EMT) and I have been going down for forty (40) years and we have helped numerous people over the years with diabetic situations, or I have cut my foot many times where I had to waddle up the trail. There have been broken ankles and collar bones, but on the other hand, that occurs everywhere—all the trails—it is a concern. I do not see anyone get hurt. I hate the idea of additional liability down the road. Whatever we can do to prevent any of that and open it wide, is what I would love to advocate for. Now, within that, proper signage is super vital down there. In the parking lot and down at the beach, there is no signage talking about any of the conflicts or any of the perils that are involved with the beach, it is very isolated without a lifeguard, so that should be part of the deal, whatever the plan looks like for wonderful signage. Even Dr. Monty Downs' lifesaver down there has been altered and moved by the tides, so certain things will need to be considered and along with Surfrider coming onboard, I am hoping will be a wonderful package to accommodate all of that. It is very important, but like I said at the very beginning, it seems like everyone...and it feels correct that everyone is on the same page and wants to see this happen, and that is the part I like the best. We have a consensus and collaboration; it is a team effort with a coalition of people that want to see our rights to remain to go down to the beach—and it is our right to go down there, so whatever it takes to keep the trail open, safe, make it pleasant...the parking lot is going to be a whole other behemoth down the road. I am talking about writing to some of the people involved and I will see where that goes, but for now, thank you so much for advocating for this trail to that is for hundreds on the island that has the intentions, so we will make this the spotlight for now, and move forward once this is accommodated the right way. Thank you, Councilmembers. Thank you, Mr. Frank for that testimony, I appreciate that personally.

Council Chair Kaneshiro:
the Hideaways grant easement.

Thank you, Mike. That is all the testimony for

Councilmember Evslin moved to receive C 2022-36 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We heard testimony earlier today on this and we received written testimony on this item. Are there any questions or discussion from the Members?

(Councilmember Chock was noted as present.)

(Written testimony was received and registered speakers testified regarding this agenda item.)

The motion to receive C 2022-36 for the record was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

LEGAL DOCUMENT:

C 2022-37 Communication (02/10/2022) from Mark L. Bradbury, Deputy County Attorney, recommending Council approval of an Extinguishment of Easement “P-1” and Grant of Easement “P-2” made by and between the County of Kaua’i and the Association of Apartment Owners of Pu’u Po’a and SOF-XI Kaua’i PV Hotel, L.P., a Foreign Limited Partnership authorized to do business in the State of Hawai’i, Tax Map Key (TMK) Nos. (4) 5-4-11:04 and (4) 5-4-12:11, related to the coastal access easement that accesses Kaumumene (Hideaways Beach).

- Extinguishment of Easement “P-1” and Grant of Easement “P-2”

Councilmember Chock moved to approve C 2022-37, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received written testimony and we heard public testimony earlier this morning on this item. I will suspend the rules and have Mark give us background information on the easement.

There being no objections, the rules were suspended.

MARK L. BRADBURY, Deputy County Attorney *(via remote technology)*: Good morning, Councilmembers. If you recall this easement situation that arose back in 1975 when the initial easement, which is known as P-1 was drafted incorrectly. It has taken almost forty-three (43) years to get it drafted correctly. As the young fellow indicated earlier this morning, I believe his name was Jeff, the people in the north shore really want this easement and it did not cost us anything, but one dollar (\$1). In a nutshell, we have been waiting to get this easement and finally we have it, and we are requesting that the Council adopt it.

Council Chair Kaneshiro: Okay. Are there any questions from the Members on this easement? Again, this relates to Hideaways Beach area. It is an easement that we never finalized. As Council moves on, open space has always been a huge priority for us, and this is just another way to finalize this easement and do everything correctly—paperwork-wise. Councilmember Cowden.

Councilmember Cowden: I walked this trail again on Monday. Just for clarity, I know the easement from P-1, we used to access it at the back of the parking lot of the hotel, is it always supposed to have been between the two (2) properties?

Mr. Bradbury: Yes, I believe P-2 also goes between the two (2) properties and then makes a right, whereas P-1 goes between the two (2) properties and makes a left.

Councilmember Cowden: Okay, so this P-2 that is now going right along the fence line of Pu'u Po'a and the hotel is going to stay that way, is that what we are seeing here?

Mr. Bradbury: Yes, that portion is going to remain the same. It is when it gets to where the steps are, it will follow the steps down into the beach, as opposed to where the P-1 drifted left from that area.

Councilmember Cowden: Okay. Alright. Are we going to talk about the trail later? This is not the time to talk about the trail, is that right?

Mr. Bradbury: I believe Jodi from Planning is going to discuss the specifics regarding the trail, because she was the person that was involved with the Public Access, Open Space & Natural Resources Preservation Fund Commission (open Space).

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Jodi will talk about it when Open Space is requesting the money.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you. Mark, I want to confirm. Will the County be assuming all liability for the trail boundaries that we have identified that would go all the way to the beach.

Mr. Bradbury: Yes, we will be assuming liability, because we are taking over maintenance and operation of the trail.

Councilmember Chock: Okay, thank you.

Council Chair Kaneshiro: Are there any other questions on the easement document? Are there any final discussions from the Members? Councilmember Cowden.

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

Councilmember Cowden: I am really excited that we are moving forward with this. It is an incredibly important trail. It represents a big loss if we were not able to continue it, so I want to thank Open Space, Mark Bradbury, Pu'u Po'a, and everyone who worked on it. We had Mike Lyons speak earlier today as a testifier. Gratitude to everyone and also Surfrider. All of them have been important in this process.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Since we are thanking people, I think we should thank all our people from the west to the north, because tax dollars are going to be used for this trail and it is going to be primarily on the north side of the island. Again, we would like to thank people from as far out as Kekaha all the way to Hā'ena using their taxes towards the north side a beautiful place where others can also enjoy. Thank you.

Councilmember Cowden: I agree.

Council Chair Kaneshiro: Is there anyone else? I want to say, keeping open space and continuing to keep beach access open has always been a big priority for everyone on-island. I think this is just another example of us doing it. It has always been there, but it has never been finalized as far as an established county easement. I think moving forward, the access is going to be a lot nicer than what it was in the past. In the past, it was a trail down there. With our Bill coming up with Open Space money, it will be a lot safer access. Perpetuating shoreline access is a big thing—that is exactly what this easement does, so I will be voting in favor. Is there anyone else?

(Written testimony was received and registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2022-37 was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused).*

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

CLAIM:

C 2022-38 Communication (02/07/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Visa Card Benefit Services/AGA Service Company as subrogee for Todd Chung, for damage to his rental vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Chock moved to refer C 2022-38 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Cowden.

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

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

The motion to refer C 2022-38 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

COMMITTEE REPORTS:

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2022-02) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2022-02 Communication (12/22/2021) from Councilmember Cowden, requesting the presence of the Acting County Engineer and the Director of Finance, to provide a briefing regarding electronic plan review and the electronic building permit system to include:

- Successes (such as improvements in effectively and efficiently processing permits) and challenges with the project overall;
- Successes and challenges with the system, selected software, and implementation;
- Observations or feedback received regarding the customer experience (frustration, satisfaction, or neither); and
- Advice and lessons learned that can assist other County departments implement more electronic processes,”

Councilmember Cowden moved for approval of the report, seconded by Councilmember Chock.

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

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

The motion for approval of the report was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

PLANNING COMMITTEE:

A report (No. CR-PL 2022-01) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2834 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE,”

Councilmember Cowden moved for approval of the report, seconded by Councilmember Chock.

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

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

The motion for approval of the report was then put, and carried by a vote of 6:0:1 *(Councilmember Carvalho was excused)*.

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2845) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-11.26, AND SECTION 5A-9.1(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX *(Tree Farm Development Exemption)*

Councilmember Chock moved for passage of Proposed Draft Bill (No. 2845) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Does Councilmember DeCosta or Reiko want to give us background information on this?

Councilmember DeCosta: I will give the background. Thank you, Council Chair Kaneshiro. I have been closely working with Real Property Tax Assessment Division within the Department of Finance to see what legislative changes can be done to improve their workflow. We all know they are bombarded with less people doing more work and help them ensure that there is a fairness in equity in applying for Real Property Taxes that all of our agricultural farmers across the board are held in equity. Specifically, I have focused on agriculture, since you all know that is where our passion

lies since COVID-19, we realized how important our agricultural lands are and how important food sustainability is. While we have been talking about amending the Agricultural Dedication program, there are three (3) smaller initiatives that can be done to align the goals of the Department of Finance and set us up for tackling Agricultural Dedication and these are one (1) of them. The Department of Finance strongly supports these passage with these Bills. They have a single position track process and enforce all agriculture related tax relief programs, which includes three (3) exemptions, and these are the three (3) that are coming up.

Let me give you folks a briefing on the tree farm. The tree farm exemption was established in 1996 when Kaua'i's economy was trying to incentivize alternative agricultural incentives. Primarily, during the closing of our plantation era, we had a lot of land that was vacant. They were trying to incentivize the hardwood industry like *Koa* or Mahogany. This industry never really came to fruition, so the original intent of this exemption is no longer met. A real property that qualifies for this exemption pays zero dollars (\$0) in real property taxes until a year after the first harvest for not more than twenty-five (25) years. For example, if I was planting trees on my personal property and that tree would not be harvested for twenty-five (25) years, I would not have to pay the County of Kaua'i any taxes for twenty-five (25) years. If a large landowner leases land to a company to grow trees for twenty-five (25) years, if that tree is not harvested, that landowner would not have to pay taxes on that property. It is my opinion that tree farmers should not receive any more tax relief than a traditional agriculture farmer. Removing the tree farm exemption helps to create fairness and consistency among all agriculture operations and not grant special treatment to tree farms. They can apply for the Agricultural Dedication program like every other farmer and pay reduced taxes through that program. In addition, I believe large landowners may prefer having tree farmers to occupy their land as opposed to a true agricultural farmer, because of the real property tax savings they will receive. That means that they are displacing food farmers. This is the opposite of the direction and vision I believe we want to go in. COVID-19 has taught us that food sustainability is the most important. I know one thing; I cannot eat a branch or tree limb in my cereal bowl if I am hungry. There are currently sixteen (16) active tree farm exemptions, most of which belong to Green Energy raising Albizia trees to burn for energy. All sixteen (16) active exemptions would be grandfathered in. They would not have been able to apply for another tree farm exemption on the same property. As it is currently written in the Ordinance, we cannot get back-to-back tree farm exemptions on the same property. You are eligible for it once, and then you have to fall into the Agricultural Dedication program. It was meant to alleviate real property taxes for the period of time before you can harvest and generate revenue on the property. Once you harvest and generate income, you would then be subject to real property taxes, reduced through the Agricultural Dedication program. It was a building industry and we wanted to give them a chance to get off the ground. Now, twenty-five (25) years have gone by, and it is time to let this industry go. What we have learned in recent times, how self-

sufficient are we here on Kaua'i? Since the pandemic, our shelves have been empty. We import ninety-one percent (91%) of our food. We need to take this opportunity and point to redirect that will benefit Kaua'i instead of continuing to subsidize an industry that has no outlet for production. Thank you.

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

Councilmember Cowden: I appreciate knowing there are sixteen (16) active farmers. Have they all been notified that this Bill is under consideration? Have they been contacted?

Councilmember DeCosta: Can you direct that question to Reiko?

Council Chair Kaneshiro: Yes.

Councilmember DeCosta: Reiko is on.

Councilmember Cowden: Reiko, do you know if those sixteen (16) active tree farms have been told about this Bill?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Good morning, Reiko Matsuyama. No, they have not been. But it really will not impact them at all. As Councilmember DeCosta said, they are grandfathered in, and they would have had to convert to the Agricultural Dedication program anyway after their tree farm exemption expired.

Councilmember Cowden: Okay. That is important, because if they had to somehow cut the trees and change that direction, it would be really expensive.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Councilmember Cowden, I want you to know that most of those belong to Green Energy and they have a contract with Kaua'i Island Utility Cooperative (KIUC) to get paid on their energy that is generated. So, they are drawing revenue off an industry that there is no property tax being generated for our County.

Councilmember Cowden: I know more of the ones that are not Green Energy. Green Energy is important. I know people who might not have the tree farm exemption, but they grow the trees for their instruments. There are different reasons they are grown for. I know of different tree farms. Tree farms or orchards are

sometimes grown on a hill because it is easier. Can they still apply for the Agricultural Dedication if their trees are on a hill? Can you tell me the difference if they get Agricultural Dedication and their trees are young and they do not earn money on it for about four (4) or five (5) years until they start to produce—I am thinking cacao or a lot of different trees—how do we handle that, if someone plants an orchard or trees now, how does it work for them if this Bill passes?

Ms. Matsuyama: They could just apply for the Agricultural Dedication program and enjoy the reduced taxes that program provides.

Councilmember Cowden: But to get the Agricultural Dedication you have to be selling a certain amount of volume, right? You have to have some dollars, so if you have an avocado farm, you are not going to be yielding avocados for about four (4) or five (5) years, so you would not get that benefit, right? You would be paying the taxes, it would not go to zero (0) taxes. Even more than the cost of the taxes, you would not be able to yield the money to qualify for the Agricultural Dedication. With Agricultural Dedication, you need to qualify for a certain amount of dollars.

Ms. Matsuyama: There is no dollar threshold for the Agricultural Dedication program. The primary intent should be to raise a profit. You do submit a development plan with your petition, so if the production plan does not call for income reducing inventory for a number of years, then that would analyze with the petition on whether it gets approved or not.

Councilmember DeCosta: So we all understand, we are trying to make this fair for all agricultural farmers. When we talk about an avocado orchard that will not yield fruit in three (3) years, we can easily relate that to a cattle rancher who has a young heifer who will not be bred until she is three (3) years old, who will not produce a calf eleven (11) months later, which is four (4) years, then that calf takes six (6) months to be sold and shipped to the mainland. So, there will be no revenue on that cattle ranch with that specific mother cow for four and a half (4½) years, yet that agricultural person gets no break, but that hardwood tree farmer does. Now, in the agricultural department, if we were to retain our cattle for food security, which is what we should be doing instead of sending our cattle to the mainland at the feed lots, that cow, to be grass fed here on the island would have to live out a term for twenty-four (24) to twenty-eight (28) months, which is two (2) to two and a half (2½) years. For that two (2) to two and a half (2½) years, that rancher/agricultural farmer in cattle would not gain any revenue, yet they pay property taxes on that land. So, we are trying to be equal and equity across the board.

Councilmember Cowden: I am not trying to argue with you.

Councilmember DeCosta: I am not arguing, I am presenting you constructive information for everyone to understand. I am not arguing Councilmember Cowden.

Councilmember Cowden: Can I ask you?

Councilmember DeCosta: Me or Reiko?

Councilmember Cowden: You.

Councilmember DeCosta: Okay.

Councilmember Cowden: This is not an argument though. Does that calf have an older brother or sister that might be...that cow has a baby every year, right?

Councilmember DeCosta: If that ranch has been in operation for "x" amount of years. If it is a new rancher...

Councilmember Cowden: Okay, understood.

Councilmember DeCosta: ...he or she would have to supply their cattle, sheep, or those goats on the property.

Councilmember Cowden: Okay, thank you.

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

Councilmember Evslin: Reiko, are there any barriers within the Agricultural Dedication program for a timber farm just starting? So if someone was just planting Mahogany or energy crops, are there barriers to initially get into the program? Are there additional barriers as opposed to an avocado farmer or food producing farm?

Ms. Matsuyama: Mike can correct me if I am wrong, but there are barriers if your petition area is under five (5) acres.

Councilmember Evslin: So, additional barriers for that timber farm than there would be for a food producing farm for under five (5) acres.

Ms. Matsuyama: No, it would be equal.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I am assuming the three (3) Bills are something that Finance supports, and I agree with all the reasons why presented by Councilmember DeCosta. I am interested in, and I do not need an answer today, maybe in Committee we can look at this better. Overall, this Agricultural Dedication program has been on our table for some time, and I want to be able to understand how all these changes will fit holistically together to increase the goals that we just identified and make it productive. I know it is a big question, it might be on a tangent, but I think in looking at these Bills prior to us passing them, it would be great to understand how this integrates into that bigger vision. Thank you.

Councilmember DeCosta: I can help answer that quickly, if you do not mind that I jump in, Reiko. We can get Council Vice Chair Chock a more detailed explicit answer, but what we are trying to do right now, and you folks here as a Council help us understand our Real Property Tax. We want to incentivize growing food here in Hawai'i, and we have not done that, and we are going to do that with the revitalization of our agricultural bill. When you incentivize large landowners to lease land to grow trees, you are not growing food and that large landowner saves agriculture taxes. There is a large amount of land that is not being used right now that could be in holding to let tree farmers come on board. I believe it is going to generate more revenue for our County, it will incentivize large landowners to put food farmers, vegetables, fruits, livestock on land, and we can be a more resilient community in the future. Thank you.

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

Councilmember Chock: I get it. I totally support where the directions are. I also want to hear the opposite side of where we incentivize the outcome that we are seeking. Again, my request would be—not here—forthcoming that we can get a better review of the Agricultural Dedication program, so that we completely support it. Thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I would like a list of those sixteen (16) active exemptions. When you say it is mostly Green Energy, I want a listing of which are Green Energy and what are the others. I am assuming those exemptions were based on the old language here, which are being removed. When Reiko answered the question about under five (5) acres for Agricultural Dedication, that is for whatever you grow, it does not matter if it is trees or any other type of crop—the five (5) acres is the threshold, correct? So, with the tree development farm it was ten (10) acres...I just want to see the listing of which are using the exemptions. I do share the same concern as Vice Chair Chock in that we looked at the Agricultural Dedication and the five (5) acres and are we doing enough to support the growing of food and agriculture in general? Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Reiko and Mike, I also would like to have a copy of those sixteen (16) active tree farms. I want to support...I am always about holistic policy making, and I appreciate what Councilmember DeCosta is saying, that we want to have a certain amount of equity, but I would like to know if we have any kind of broader Agricultural Dedication bill coming up, because I want to make sure, and I am happy to help with one if we need that, but I want to make sure that we are in fact equitable, not only to the farmers, but also the needs of the island, so it is a holistic piece. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Reiko or Mike, have you seen the people who are taking advantage of this program? Are they transitioning into Agricultural Dedication afterwards and part of that, is there a regular cycle of people coming into this program, then transitioning into Agricultural Dedication, or has no one entered the program for "x" number of years?

MIKE HUBBARD, Real Property Tax Manager (*via remote technology*): Mike Hubbard, Tax Manager. The program has been in existence for twenty-six (26) years, so we may have had only a couple transition up into a 20-year dedication, and with the sixteen (16) that are in place, we have not had a lot of turnover or maturity to that first group yet.

Councilmember Evslin: The other part of that question, when was the last time someone entered the program? Have all these folks been in it for over a decade already?

Mr. Hubbard: I think we had someone enter the program within the last five (5) years. I would have to double check on that though.

Ms. Matsuyama: I am actually looking at the list right now, so I will send it to you folks. There were some in 2020. A few in 2017. The oldest one is from 2000.

Councilmember Evslin: Okay, thank you. When you furnish the list, it would be good to see when they entered it and any description you have of the farms to see who is using the program.

Ms. Matsuyama: Yes, I will send that.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a point of order question. I have something I want to be able to say that is kind of a discussion, but I really want the discussion to include them, can I speak to them, or no?

Council Chair Kaneshiro: Can you form it into a question?

Councilmember Cowden: Okay, thank you. Are you aware that in the 1990s there were, if my memory is correct, seminars and encouragement to grow hardwoods, but many people signed up for it when they began growing hardwoods, Japan was willing to buy and pay people so much per year as the overall harvest would be worth less, but people planted these hardwoods thinking they were going to get an annual payment after a certain window of time; are you aware that was something that was promoted at some point? Reiko or Mike, are you aware of that?

Mr. Hubbard: I am not aware of that program.

Councilmember Cowden: Okay. Has anyone who has a tree farm, and maybe they are no longer able to claim it, but when people were making purchases, part of that training...like when we talk about getting an additional rental unit as a way to buy the land, people bought the land with the understanding that they could do this tree farm and they had the thought of getting paid. But all of it was an essential part of the purchase of putting that tree farm in. Do you have any records about that?

Mr. Hubbard: I do not believe I have any records of industry discussion during the 1990s at my fingertips.

Councilmember Cowden: Okay, thank you.

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

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

Councilmember Evslin: Thank you, Councilmember DeCosta, for bringing this up. I am sure we will get much more into it at Committee, but I do feel like I agree with the general principle of reducing redundancy here, and ensuring that possibly we will have a single streamlined mechanism for people to take advantage of tax benefits, but I do want to be careful not to potentially create a hierarchy of food crops versus timber crops, or even energy crops. I do not necessarily think it is a zero-sum game, we have a ton of vacant agricultural land out there. We have had just a devastating decline in agriculture all around and I do not think it is the case that we have timber or energy crops taking the place of food crops. I do think timber and energy crops are both vital components of sustainability. As the cost of lumber has become a

huge barrier to home construction, especially over the last couple of years. Maybe, where the economics did not work out before, as the cost of lumber gets higher and higher, it does make the potential for timber farms here more viable. Energy crops are likely a critical component of us getting to one hundred percent (100%) of usable energy on Kaua'i. As far as I understand, Agricultural Dedication is still a good route for these folks to go down, so I am in support of it in principle, and I think we will have good discussion at Committee. Thank you, Councilmember DeCosta.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: I want to backup what Councilmember Evslin just said. I thank you for opening this up. This has long been needed for us to be looking at the different applications. We all know the different areas that we work on in our own lives. I am very supportive of neighborhood agriculture, because I find you do not need to hire someone, and you can produce a crazy amount of food if you live right next to it. With these tree farms, I know there are several small-scale mills that are under consideration to being utilized in the Kilauea area in particular where there were real estate sales that were coming out with this knowledge of being able to utilize purchases from a long distance. There are also people who have craftsmanship like being a luthier making different instruments, furniture, and having the intention to grow *Koa* and these beautiful woods for doing fine furniture, fine elements here. Some of those people have actually grown old, maybe before all their trees have hit maturity, because you have to cut the tree and you have to let it sit and dry for a long time before you can turn it into an instrument. I just want us to make sure that we do not go at it with a big, broad brush stroke, let us just stock this, we want to make sure that it can fit into something where there is the equity, but it also...we have equity and the new buzzword in the last decade is diversity. So, diversity of skill sets, a diversity of ways that we create items for export, whether it is finished product or the different skill sets, so I would like to encourage you to some of these hardwood floors, so you can see where items...or maybe I can tell you where they are, but you can see what people are doing and working on. Just to understand the mindset of these tree farmers.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Of course, I am going to support this. This is part of my discussion with Finance, but I want you to know that about three (3) years ago you would drive through Knudsen Gap or drive through the tree tunnel, and you would see a bunch of cattle on the side of the road. Today, you will see trees growing. You want to be fair and equitable. Do you know why they stopped clear cutting in the mainland back in the 1980s? Do you know what clear cutting is?

Councilmember Cowden:

Of course.

Councilmember DeCosta:

What is clear cutting?

Councilmember Cowden: When you cut all the trees down.

Councilmember DeCosta: When you cut all the trees down one time and you have bare soil exposed to our weather elements. Do you know what happens to all the sediment of the soil and where it goes?

Councilmember Cowden: Absolutely.

Councilmember DeCosta: Today, on the mainland they do selective cutting, so they can preserve the soil and the rich nutrients in the soil. Do you think a tree farmer for Green Energy does selective harvesting? The point I am trying to make, is that we have to be equitable and equal among all agricultural growers, and our County, the people who live in residential lots pay property taxes; large landowners do not pay property tax when they put tree farms there. I might be cutting my own throat here. I own ten-acres of trees in 'Ōma'o. I have a tree farm, but when I speak, I speak for the betterment and what is going to benefit the whole community, not a select few. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have to say the sports mascot for my school was the Lumberjacks and we were the Lumberjills, so yes, I understand about tree cutting deeply. I think that you always here from me, maybe to exhaustion, about the collateral damage of any bill. How do we make sure that we are focusing on the target the way it is intended to be and that seems to be part of my role, is to look at what is the potential collateral damage. How do we find that finesse point to make sure we do not have any unintended consequences?

Council Chair Kaneshiro: Is there anyone else? For me, I am supportive of the Bill. I heard the word "incentive" come up, but I do not think this is a bill that incentivizes agriculture. This is a bill that makes the dedication process fair—it charges everyone fairly. When you look at a lot of the areas that are growing timber, there is no irrigation there. So as far as having crops there, I do not think you could grow crops at a lot of the places that the tree farms are on. You might be able to have cattle there, but all the Bill does is create some type of fairness and say if some people are trying to grow a tree for twenty-five (25) years, they should have to pay some real property taxes on it and incorporate that into their business plan model. Again, you have cattle ranchers and other diversified agricultural farmers that are paying real property taxes every year and incorporating that into their business plan. For me, it is a bill of fairness, I see it, and I am in favor of it. That is my opinion on it. Councilmember Kualii'i.

Councilmember Kualii'i: I want to thank Councilmember DeCosta for bringing this forward and to thank Finance and Real Property for their work on this and their continued work as we work on it in Committee. I agree that this is about

making it fair. When Councilmember Evslin talked about not creating a hierarchy between the types of crops like timber, energy, and food, I hope this brings the tree growing back in line with the rest for the Agricultural Dedication. The only other thing I would say that as we work on this Committee, I think we should look at food and food security. Even with the five (5) acre threshold for Agricultural Dedication, what about corner parks, smaller parks, but if private landowners dedicated small pieces of land, less than five (5) acres to the community that would do a food orchard. We might still want to consider supporting and incentivizing that, because what we have seen with the pandemic is that food security has to be at the very top of our list. Thank you.

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

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

The motion for passage of Proposed Draft Bill (No. 2845) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Six (6) ayes, one (1) excused.

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

There being no objections, the meeting recessed at 10:31 a.m.

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

Council Chair Kaneshiro: Welcome back. We are on page 5, Bills for First Reading.

Proposed Draft Bill (No. 2846) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 10, RELATING TO VALUATION OF WASTELAND

Councilmember Chock moved for passage of Proposed Draft Bill (No. 2846) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Councilmember DeCosta, if you would like to give us some background on this Bill.

Councilmember DeCosta: I will give you a short background on what a wasteland is. The Valuation of Wasteland article was established in 1981 and it is believed the intent was to establish a “placeholder” or “temporary designation” on large parcels of twenty-five (25) acres or more where development options were less than desirable, such as rock piles or swamp lands. The owner was required to submit a development plan for the “wasteland” to be reviewed by the Director. Upon approval, the owner was subsequently required to commence development within one (1) year and finish the approved development plan within five (5) years. The granted “wasteland” designation meant that the owner would pay no property taxes during those five (5) years. Basically, this was a land banking tool for developers who had large plots of land that they had intentions of developing.

The original intent of the wasteland designation is no longer viable. If a developer has developed lands that are less desirable, Real Property Assessment will adjust the assessed value accordingly such that they will not pay a premium for holding those lands while they are not in pristine condition. It gives our Real Property Assessment Division that option. In other words, Real Property Assessment determines fair market value for portion of undesirable land. Once they grade and develop and put infrastructure, then the value increases.

The last known “wasteland” designation on Kaua‘i was granted back in 1991 and no such designation exists today. Further, Real Property Assessment does not have any code in their software for this designation, so if someone were to apply, they would need to pay the vendor software modification fees to incorporate this in the system. That would not be a prudent use of County funds for something that has not been used in thirty (30) years and does not meet current objectives. Thank you.

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

Councilmember Cowden: Am I hearing this correctly? There is no one using this currently. If this is not being used currently, it does not sound like a good plan. I cannot think of anywhere on Kaua‘i that could be aptly described as “wasteland.” Every place is sacred and beautiful. This is easy to support, as-is, if that is correct.

Council Chair Kaneshiro: Does anyone else have anything to add? If not, we will take a roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2846) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

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

Proposed Draft Bill (No. 2847) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING SECTION 5A-11.25, RELATING TO ORCHARD DEVELOPMENT EXEMPTION

Councilmember Chock moved for passage of Proposed Draft Bill (No. 2847) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Councilmember DeCosta, could you please give us an explanation of this?

Councilmember DeCosta: Sure. The Orchard Development Exemption was established in 1990 when Kauai's economy was trying to incentivize an alternative. The original intent has never been met, and an orchard development should not pay less in real property taxes than an agricultural farmer. A property that qualifies for this exemption pays zero dollars (\$0) in real property taxes for the duration of the Orchard Development classification. Currently, there are zero (0) active Orchard Development Exemptions, and it has not been used in many years. That being said, if there are any orchards that were interested in pursuing this exemption, they would now revert to applying for the established Agricultural Dedication program. It is my opinion that orchards should not receive any more tax relief than a traditional agricultural farmer. Removing this Orchard Development Exemption helps to create fairness and consistency among all agricultural operations and not grant special treatment to orchards. They can apply for the Agricultural Dedication program like every other farmer and pay reduced taxes through that program. Every agricultural operator is treated the same. Here are some key clarification points. The area in cultivation needs to be at least fifty (50) acres to initially apply to be classified as an orchard. I want you all to think about who on Kauai owns fifty plus (50+) acres. I believe the last one was Alexander & Baldwin (A&B), they did an orchard back in the day for the coffee and macadamia

nut operations. The coffee until today is thriving, but the macadamia nut operation did not survive after the hurricane. Thank you.

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

Councilmember Cowden: I just want to clarify with Real Property Assessment. I want to thank you for the list of tree farms. If you gave us a list of orchards, there would be no one on the list?

There being no objections, the rules were suspended.

Ms. Matsuyama: That is correct.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: When the Orchard Exemption first passed, was our Agricultural Dedication program in-place in roughly the same form, or was this previous to our current Agricultural Dedication program?

Mr. Hubbard: I believe the Agricultural Dedication program was in existence as well.

Councilmember Evslin: Is the intent...I have not gone through the legislative history for this one or the Tree Farm Exemption, but was the intent for both of these to get these folks off the ground by paying zero (0) taxes during a period where they had no crops?

Mr. Hubbard: I believe so.

Councilmember Evslin: Why do you think no one has applied in twenty (20) years or whatever that figure was?

Mr. Hubbard: I do not believe we have had many orchard developments in quite some time since coffee of fifty (50) acres or more.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: When we speak about the coffee farm, does that fall under the basic Agricultural Dedication program?

Mr. Hubbard:

That is correct.

Councilmember Cowden: For all the other orchards that we see when we drive by them, are those too small to be an Orchard Development? Are those all in Agricultural Dedication? Maybe they are residential. We see orchards, but perhaps they are not big enough, so they fall under the regular Agricultural Dedication program if anything.

Mr. Hubbard: Correct. I am trying to think of one that I drive by often. Guava Kai may be one on the North Shore. I am not one hundred percent (100%) sure if it is in the Agricultural Dedication program.

Councilmember Cowden:

Thank you.

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

Councilmember Kualii: Can you give me an estimate of the difference between having the Orchard Development Exemption, the zero (0) taxes on the fifty (50) acres versus the Agricultural Dedication taxes on the fifty (50) acres?

Mr. Hubbard:

Yes, one second, please.

Councilmember Kualii: My other question had to do with the two-year provision. It states, "No less than two (2) years...orchard crop...harvested crop...perennially from one (1) to ten (10) years." You did say, too, that no one has taken advantage of this to-date.

Mr. Hubbard: Reiko, if you heard Councilmember Kualii's second question, I can answer the first question. The amount is a difference of five hundred twenty-five dollars (\$525) annually that we are talking about by ending this program, based off of fifty (50) acres.

Councilmember Kualii:

Thank you.

Ms. Matsuyama: For the second question, I do not think that it is that no one has ever taken advantage of this. There have been some, but not in a number of years. With the fifty (50) acre restriction, it is not very well utilized.

Councilmember Kualii: The example of the five hundred twenty-five dollars (\$525) for fifty (50) acres, if that goes away, the fifty (50) acre requirement, then it could be for the Agricultural Dedication program, as low as five (5) acres, correct?

Mr. Hubbard: This Bill does not touch the Agricultural Dedication requirements or change the Agricultural Dedication program in any way. We are just basically sunseting the Orchard Development Exemption.

Councilmember Kualii: Okay. Thank you.

Council Chair Kaneshiro: 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 from the Members? Councilmember DeCosta.

Councilmember DeCosta: In closing, I would like to reiterate what Real Property Assessment just told us. Zero dollars (\$0) coming into Real Property Tax versus the five hundred twenty-five dollars (\$525) that would come in based on fifty (50) acres. That is revenue earned for our Department of Finance. If someone owns fifty plus (50+) acres, they can surely afford five hundred twenty-five dollars (\$525) in taxes. I want you to know that since COVID-19, there has been large amounts of land purchased here on Kaua'i. We do not need those large landowners to come up with an orchard. If anything, we need them to grow food. We need food that we can eat. They can pay the property taxes on their acreage. If this is not taken into consideration, they would pay zero dollars (\$0) in property taxes to our Department of Finance. Thank you.

Council Chair Kaneshiro: Is there any other discussion on this item? If not, roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2847) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

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

Proposed Draft Bill (No. 2848) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-877, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Kaumumene (Hideaways Beach) Operating Budget – \$1,500,000.00*)

Councilmember Chock moved for passage of Proposed Draft Bill (No. 2848) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Committee of the Whole, seconded by Councilmember Cowden.

Council Chair Kaneshiro: I will suspend the rules and have Ka'āina or Jodi give us some background on it. This briefing will cover this Bill and the next one. This one is basically getting money from the Public Access, Open Space, Natural Resources Preservation Fund. The next Bill is moving the money from the Operating Budget to the Capital Improvement Projects (CIP) Budget. It has to come to us in two (2) separate bills. Jodi, could you please give us some background on this?

There being no objections, the rules were suspended.

JODI A. HIGUCHI SAYEGUSA, Deputy Planning Director (*via remote technology*): Sure. There were several items related to the Kaumumene coastal access or otherwise known as the Hideaways coastal access on today's agenda. They are all somewhat related. The current matter at-hand are the two (2) bills related to possible improvements to the coastal access that leads to the Kaumumene or Hideaways Beach, which you accepted by way of the Legal Document, C 2022-37. I provided you with an aerial image to orient you to the area. I can share my screen if that is okay with you, for better reference. I am not sure if you can see this image, but basically, this is an image of the area in question. My cursor is over the parking lot.

Council Chair Kaneshiro: It is too small, but I think we all have the image. It is okay.

Ms. Higuchi Sayegusa: My apologies. The aerial generally provides an image of the parking lot, which is adjacent to the tennis courts. It is a really small parking lot. The easement traverses between the tennis court area to the right, Pu'u Po'a is on the right-hand side of the pool. The left-hand side there is a parking lot that serves Princeville. The easement goes down towards the beach. The Public Access, Open Space, Natural Resources Preservation Fund Commission discussed this matter over two (2) meetings and provided their recommendation to accept the easement after accepting the ramification of accepting the easement. Specifically, they considered what would happen next. Including the acceptance would require repairing or improving the access to some extent, especially considering the litigation that resulted from the injury

from the railings. They discussed the possible scope of the repair or improvements, and then generally what types of costs they were looking at for those types of improvements. The Commission also considered who or how the easement and how the improvements would be maintained once the County accepts the easement. Regarding the scope and potential costs of the improvements, ultimately the County would have to undergo procurement, probably by way of a design-build Request for Proposals (RFP). This approach would decline the actual scope of improvements and the associated costs. Through the Commission's research, they sought estimates from various contractors that were recommended to us by the Department of Public Works, regarding the potential costs of improvements along the coastal accesses. These various contractors proposed several options including anywhere from concrete paths and steps all the way down to the beach, to an elevated walkway made of metal, or customized construction of trek-stepping, similar to what exists at Uluwehi Falls or portions of the Alaka'i Swamp Trail in Kōke'e. Ultimately, the Commission and the suggestion provided in the dialogue from community members who attended the Commission meeting agreed that something like a decking or trek-stepping option would be best, considering the terrain and the steepness of the slope down to the beach. The prefabricated stairs would not work because there are portions of the path that are very narrow and then there are other areas that are very steep. It would require significant earthwork to install. The decking option would be customized on-site and would really depend on certain portions or the steepness of the terrain, particularly the cliffy area. The upper limit for the potential cost for that type of improvement could be up to one million five hundred thousand dollars (\$1,500,000). Not only would the construction require things to be customized and be done on-site, but also the permitting will be complicated. The permits could include a Special Management Area (SMA) use permit and either a site plan review by the Department of Land and Natural Resources (DLNR) or up to a discretionary permit before DLNR for a permit or a management plan. The SMA permit and DLNR discretionary approval could involve administrative litigation if the cases are contested. Those types of things were factored into that upper limit of the costs. We are hopeful that the project will amount to less. The Planning Department can offer assistance through the permitting processes. The RFP could be structured in a manner that makes low cost a key factor in the proposal that is eventually chosen. We also could look at prioritizing portions of the path versus putting decking throughout the flat area before it goes down to the cliff. Hopefully, there are ways that we can try to minimize some of that cost, but the one million five hundred thousand dollars (\$1,500,000) is the upper limit to provide the most flexibility as we go through the process for this project. This is really one of the most complicated types of coastal accesses for improving, given the terrain and steepness of the cliffside, and of course the complications with the permitting.

Regarding the maintenance, once the easement was accepted, the Commission explored various options. First, Surfrider Foundation has expressed their support and interest in taking on the role of a steward. They would serve as the umbrella organization that would help to organize volunteers and periodic volunteering events

through that organization. They are very uniquely suited for this type of project and role. They offer a lot of insight and experience with organizing these types of volunteering events, and they also have a lot of resources across the nation to provide guidance in developing the scope of improvements for this type of coastal access. In addition, they have expressed interest in assisting the County with appropriate signage based on their knowledge and experience of the unique hazards to this site, which is known to be a spot for experienced surfers and fishermen. Currently, we are working to get out a draft Stewardship Agreement, which they have a draft in review. Hopefully we will be able to move forward with that relationship.

In summary, there are two (2) bills before you. Bill No. 2848 recognizes the transfer from the Public Access, Open Space, Natural Resources Preservation Fund to the Public Access, Open Space, Natural Resources Preservation Fund-CIP, and then Bill No. 2849 appropriates the moneys within the Public Access, Open Space, Natural Resources Preservation Fund-CIP for the proposed improvements. I can pause now if there are any questions that I can answer on behalf of the Commission.

Council Chair Kaneshiro: Thank you. Councilmember Cowden has a question.

Councilmember Cowden: What is the financial threshold that requires all those permits. I remember that if it was not too expensive you did not have to get the SMA permit and all of that. There was a financial threshold. What is that?

Ms. Higuchi Sayegusa: It is under five hundred thousand dollars (\$500,000) if I am recalling that correctly. I can pull it up quickly.

Councilmember Cowden: Okay. Under five hundred thousand dollar (\$500,000).

Ms. Higuchi Sayegusa: It is also looking at not only the threshold of moneys, but also the magnitude of the ultimate effects to a coastal area. For something like this that involves a lot of construction in this sensitive area, we may look at a Use Permit.

Councilmember Cowden: For maintenance purposes, can this involve a Stewardship Agreement?

Ms. Higuchi Sayegusa: Yes, and that is where we are involved in discussions with Surfrider Foundation to currently review a draft Stewardship Agreement that we have developed with them. They are reviewing it on their side. It is shaping up to have that relationship with Surfrider Foundation.

Councilmember Cowden: It is not the Council's role to designate what kind of improvements go in there, or is this an appropriate time to make some suggestions?

Ms. Higuchi Sayegusa: Regarding the scope of the project?

Councilmember Cowden: Well, yes. I went down there again on Monday, and it was a dry day. It was easy for me to get down and get up easily. The bar that cut the man's hand, that is an easy thing to take out. You could just take that away and change it. I did step on a metal spike that needs to get cut off. What I found that was interesting is that while it is somewhat difficult, there were people carrying lawn chairs, beach equipment, big bags, et cetera, and someone was walking up the trail with a four-year-old in his arms. There were people of all different types of weights and ages. I did not have any trouble getting up and down, even with my injury that occurred a couple of years ago that was significant for me. It was filled with tourists when I was down there. Why I am asking is, when we are looking at it, I just want an opportunity to be able to exchange that if there is this five hundred thousand dollar (\$500,000) threshold, there are certain places where I think it would be very good to have some stairs there. There are other places where I do not think it is even needed. I think concrete or metal stairs might be a disaster. That is really where the money comes in, because you will experience scouring. When it goes to get looked at, who makes that judgement of...are you going to work with Surfrider or whoever becomes the steward? That is something that I would like to see. It would not end up costing the entire one million five hundred thousand dollars (\$1,500,000), so we could give some of that back to the West Side, South Side, or the rest of the island. Could you speak to that? I appreciate that you gave a number of pathways, no pun intended.

Ms. Higuchi Sayegusa: In regard to the process here, I am before you to have those moneys. Those moneys will allow us to be able to go through the procurement process. I foresee us going back to the Commission in seeking their input in addition to tapping the knowledge of Surfrider Foundation. In the initial discussions and meetings we have had, they did mention that there are examples in other states that they could offer guidance and learning lessons to us. Definitely, this is not going to be done without further opportunities for community input. We definitely want to do this the right way and not avoid materials or methods that would be contrary to a lot of the priorities in the coastal area to reduce erosion, et cetera, and reduce liabilities to the County. That is why the discussion went towards the customized construction on-site. There would not be the need to have a walkway all the way down. It would definitely be a stair or two here or there and then the raw pathway. It is really going to require customization.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Ka'aina, we can take a little pause, too if you wanted to move Jodi to your office. I know it is coming in a little scratchy on our end.

Ms. Higuchi Sayegusa: Sorry about that. Again, we anticipate there being further opportunities for community input, and of course, expertise of Surfrider Foundation and the Commission, who definitely has a handle on an interest to serve the community and the needs there.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: If we did not have Surfrider or someone taking on the responsibility of maintaining the easement, which department would it fall upon in the County?

Ms. Higuchi Sayegusa: Currently, the Stewardship Agreement is crafted as a part of the Adopt-A-Park program with the Department of Parks & Recreation. This is a unique and first of its kind endeavor. It does also span functions of the Department of Public Works and through our functions with seeking input and guidance from the Commission, the Planning Department, and the Open Space Planner will be involved in interfacing with the community steward. It is a joint effort amongst various departments.

Council Chair Kaneshiro: My only comment would be that the County is involved in that planning as well. Ultimately, if something happens to Surfrider or whoever we do the agreement with, I think we would eventually be stuck with having to maintain it no matter what. Getting input from everyone would be good. If we can find a steward or someone who is willing to maintain it, that is better for us. Ultimately, at the end of the day, the responsibility would fall on us if anything did happen. It would be good to have our input on it. Council Vice Chair Chock.

Councilmember Chock: My question is along the same line, but from a financial standpoint. Obviously, the Commission is supportive of using the fund and it is in our Charter now that we can use it to maintain or establish this trail. I want to understand what the Commission's stance is on ongoing support from the fund. As we continue to secure properties and trails, it will become an increasing need. I just want to know where the Department is on that from the standpoint of continual support.

Ms. Higuchi Sayegusa: As far as the use of the fund, it was clear that the purpose and the recent amendments that allow the use of the fund for improvements related only to improvements related to acquiring property at the time of acquisition or improvements to coastal access. We see this as sort of a one-time improvement, which is why we want to be sure to get it right this time and have the material and scope that could last a long time. Of course we want to set up a really good Stewardship Agreement with community stewards. With this particular improvement,

you heard from Mike Lyons, who has been very active with this access on his own and on his own dime all these years, to provide some maintenance daily. He has definitely invested and is a community steward himself. Surfrider will fold in and organize folks like Mike Lyons, who has been really instrumental and involved, and channel that in a way to help maintain the improvements so that they last and minimize some of the risks or hazards. We see the use of the fund for just one-time improvements, then setting up agreements like the Stewardship Agreement for the ongoing maintenance going forward. We also hear Council Chair Kaneshiro's concerns. We definitely need to coordinate the departments, because ultimately, it is going to be the County's function to maintain the agreement. In the longer term, if something happens with the agreement, the function will fall on the departments or the County to maintain.

Councilmember Chock: I appreciate the response. I think what I am hearing is that the intention is to make it permanent and do as little future maintenance and support financially. I think that is something that we can cross. The way you are viewing the fund itself, is for one-time fixes. If in the future, there deems necessary some support financially to maintain it or revise it, would that come from a different source?

Ms. Higuchi Sayegusa: I believe it would have to. My understanding of the development of the current amendments to the Charter and the Ordinance related to the use of this fund is to definitely make it clear that it was not for ongoing maintenance.

Councilmember Chock: Thank you.

Ms. Higuchi Sayegusa: Maintenance was initially included in the language, but it was taken out. It is really for improvements at the time of acquisition or improvements to coastal accesses, but not ongoing maintenance.

Councilmember Chock: Okay.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: This might be more of a question geared towards the Commission. I am not sure if Jodi or Ka'āina could follow up with the Commission, or should we send an E-mail to the Commission?

Council Chair Kaneshiro: You can ask the question and they can say whether they can answer it or not. If not, we can send it over.

Councilmember DeCosta: Thank you, Council Chair. Jodi or Ka'āina, I sat on this Commission back in 2002 to 2005. Back then, it was not written in the Charter to use the funds for maintenance. I will support this, but I am a little worried.

It is a large chunk of change. When we take out one million five hundred thousand dollars (\$1,500,000) from the fund, it takes away from funding any other future access that may be in need of acquisition for our community. What puzzles me a little bit, I think you said it, Jodi, was the term “coastal access.” I think the Commission was designed for coastal and *mauka* access. I want to let the Commission know that our *mauka* accesses are just as important as coastal accesses. This might not be directed to you, but I would like to get that to the Commission to make sure that they are equitable and diverse in finding access routes for both *mauka* and *makai*. I will be supporting this, but I want to be sure that the Stewardship Agreement that we have with Surfrider Foundation is brought in. When we do the procurement for the construction of the trail, it would be nice if we had some stewardship contractors join in so that the price is low. This is a community project for our community’s benefit. I do not want to see them take advantage of our County and bid the job on the high end. Thank you.

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

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

Councilmember Cowden: I am very grateful that this is being retained so that we can look at this as an inexpensive way to have a use of those Public Access, Open Space, Natural Resources Preservation Fund Commission moneys. I appreciate the one dollar (\$1) amount from Pu’u Po’a for making that core change. The one million five hundred thousand dollars (\$1,500,000) was a rather generous allocation just in the event that we had to do the most expensive option. I appreciate Mike Lyons. I did choose to walk the trail with him. I called him and walked it with him. He is one of the main, but not the only person that has maintained that trail. That trail has been maintained by the community for many, many decades, probably for as long as it has been there. The County has not had to do it. Hopefully, we will be able to have low-impact fixes on it. I trust that the Commission, Surfrider, and whoever else will be able to assist in a meaningful way. I am very excited to say “yes” to this. I am hoping that one million dollars (\$1,000,000) makes its way back into the fund.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I am in strong support of this. It is good to see this happening. I know that this is the culmination of a lot of work from a lot of different individuals, including people like Mike Lyons, Pu’u Po’a, our Office of the County Attorney, Planning Department, Surfrider Foundation, the Commission, et cetera. It is good to see their strong engagement here. It is a clear win for the voters of Kaua’i and the Charter Amendment to have the fund be used for trail improvements. It seems like it came through at a pretty good time here. I am excited to see this happening. I

think so often the opposite is occurring and we are losing access. It is good to see us gaining an access here.

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

Councilmember Chock: I just want to echo a little bit of what I am hearing in terms of support, and I will also be supporting this. I think when we think about the future of all our accesses, we really have to take into consideration not only the stewards who are forthcoming, but also how it is they can continue to do the work. Nothing lasts forever. We need to figure out ways to support them. The County cannot do it alone, so we need to reach out to our community, the public, and the groups that support these kinds of efforts. There is a silver lining in this whole thing that started from a "hand." It was an "entitled visitor," from my perspective, but I guess that is what was needed to get the ball rolling. This is the best outcome that could occur out of the whole situation. To that end, I do not think we did pay one dollar (\$1) for it. Regardless, it is here, and I am thankful that we can have it in perpetuity. *Mahalo*.

Council Chair Kaneshiro: I am in support of this. I think the change in the Charter to the fund really helps us. We are not going to abuse it. It is not going to be used for maintenance. It is used to improve public access. This is exactly what we are doing here. This is an access that the easement was never finalized, or it might have been wrong. It did not follow the correct trail. It was a trail that was badly deteriorated and difficult to use. Now, forty (40) years later, we are able to clean it up, get the easement correct, and improve the trail using Fund moneys. I think that is a great thing. Ultimately, if we were not able to use the fund moneys, it would come from the General Fund, whether improving that access is a priority or not. Who knows, it may not have ever gotten improved. We basically would have lost that access. I think we are using the Public Access, Open Space, Natural Resources, Preservation Fund correctly in improving this access to make it easier and safer for everyone to use. We are perpetuating coastal accesses in this case. I think that all falls under the Public Access, Open Space, Natural Resources Preservation Fund Commission's purpose. I am in support of this, and I am glad we are able to move it forward. Does anyone else have anything to add? Councilmember Kuali'i.

Councilmember Kuali'i: Just quickly, I wanted to say that I am also in strong support of this. I think it is really important that we add this to our public access. Even if this was in place before, the fact that it was not usable and dangerous, it is very important going forward. This is an investment. We will have this public access in perpetuity. I look forward to people enjoying it for the next forty (40) years and well beyond that. *Mahalo* to everyone involved for making this possible.

Council Chair Kaneshiro: We will take a roll call vote.

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

The motion for passage of Proposed Draft Bill (No. 2848) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Committee of the Whole was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

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

Proposed Draft Bill (No. 2849) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-878, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Kaumumene (Hideaways Beach) CIP Budget – \$1,500,000.00*)

Councilmember Chock moved for passage of Proposed Draft Bill (No. 2849) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Committee of the Whole, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Are there any questions or discussion from the Members? Again, this is just to move the moneys to the appropriate account in the CIP Budget. This involves the same discussion as the previous item.

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

The motion for passage of Proposed Draft Bill (No. 2849) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2022, and that it be referred to the Committee of the Whole was then put, and carried by the following vote:

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

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

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

BILL FOR SECOND READING:

Bill No. 2834, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE

Councilmember Chock moved to approve Bill No. 2834, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Evslin.

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

Councilmember Cowden: This question would be for Kaʻāina. We had a very significant response from the Department of Water (DOW). The way I interpreted DOW's response as it relates to fire flow and residential-use water is that any development that falls under Bill No. 2834, would have to have the capacity for that quadrupling of that density. Did that I read that correctly?

There being no objections, the rules were suspended.

KAʻĀINA S. HULL, Planning Director (*via remote technology*): It is not any development under this Bill that would qualify for say two (2) or four (4) units beyond the original zoning. It is any development within the Additional Rental Unit (ARU) paradigm which has been in place for about five (5) years now. That is the assessment that DOW goes through all the time now. To a certain degree, where the Bill speaks to is that the last thing we want is for a developer to come in, get hit up with the infrastructure, put up the infrastructure at a certain level and capacity, and then five (5) years down the line when they are finalizing things and putting Covenants, Conditions, and Restrictions (CC&Rs) that actually restrict development around the very capacity that DOW or other infrastructure agencies required. I saw the comments. It is pretty status quo for how DOW operates with developments either at the zoning amendment-level or the subdivision-level.

Councilmember Cowden: It is four (4) though, right? An Additional Dwelling Unit (ADU), an ARU, and a guest house. That is what I read in there. The developer would be required to have the right capacity of water for all four (4) potential buildouts on the property.

Mr. Hull: That is correct, Councilmember. I just want to be clear that this Bill has nothing to do with the density of the property. That is already in place. You can build ARUs, you can build guest houses, and you can build single-family dwellings right now. Today, without this Bill in-play, when I send over

for comments to DOW, a proposal for a subdivision at R-1 capability, they are already assessing it by the fact that each one-acre lot could qualify for a house, an ARU, and a guest house.

Councilmember Cowden: Okay. I have another question. In the two (2) weeks ago or whenever we last discussed it, I asked about new developments on the horizon. I was seeing on the recent Land Use Commission docket that there is a development for Princeville. Are you aware of that development underway? This is a February 9, 2022 docket for the Land Use Commission, A83-557. Are you familiar with this one?

Mr. Hull: In Princeville?

Councilmember Cowden: Yes, in Princeville. It is for Unit II. It is front of the Land Use Commission.

Mr. Hull: There are an array of different applications before the Land Use Commission, but I am not aware of a Princeville one. Sorry, Jodi generally handles the Land Use Commission petitions. I am aware of one in Keālia, one in Hokua in Kapa'a, and a possible one on the West Side. I am not familiar with the Princeville proposal.

Councilmember Cowden: Okay. I am looking at it. It is for eighteen (18) units. I would think that this would be agricultural properties. Anything under Bill No. 2834 would not pertain to agricultural zoned lands. Is that also correct?

Mr. Hull: I want to clarify again that the Bill before you today as I read it, has to do with CC&Rs and how they are structured. The ARU, ADU, and guest house potential are already established in our Zoning Code. This Bill concerning CC&Rs has nothing to do with density. It deals with the way that private landowners prohibits the density they have, but it does not enable new density. The density is there. I am not familiar with the Princeville petition, but if it is pertaining to agricultural lands, you cannot build ARUs on agricultural lands pursuant to the existing Code. I am not familiar with that specific petition.

Councilmember Cowden: Okay. This has pretty strict CC&Rs. It is agricultural lands.

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

Councilmember Evslin: Ka'āina, thank you for being here. If there were infrastructure concerns with a proposed development...say DOW said there is not enough available water for this development...through the zoning amendment process, could you, if the developer requested, limit the density based on the available infrastructure?

Mr. Hull: Yes. That has happened in the past and from a long-range perspective, feel much more of the way we see development, or even

large-scale development should happen. At the front-end, the developer should be upfront with what they intend to develop at. If they come in for an R-4 zoning, which has...or say that they come in for a R-2 zoning, which has an ADU and an ARU possibility to it, if they do not intend to develop that, we would like to hear that upfront. I will be quite frank, we have developers that have come in at R-4 and R-6 zoning, and then later they only develop at R-1 or R-2 rates. The infrastructure and the zoning were set in there. Sometimes this will appear before a body like the Council and the Councilmembers will become upset as to why they are trying to up-zone this area, this area has R-6. We will say that the developer included in their CC&Rs that they cannot even develop at an R-6 rate and they are developing at an R-1 or R-2 rate. From a perspective of having the developer at the front-end, plan out the actual entitlement and development route that they are going to do, helps us better manage the long-range growth of the island, as opposed to them getting the R-6 or R-4 zoning and then later on CC&R it out where they cannot even develop at that rate. I do not know if that makes sense.

Councilmember Evslin: Yes. To clarify this for myself, what you are saying is as you are planning for growth and infrastructure, it is better for this to occur and these conversations to occur at the zoning amendment process than to happen down the road through Homeowner Associations (HOAs)?

Mr. Hull: Yes.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: I need some clarification on this. Now I am getting confused as to what the point of this Bill is. The CC&Rs do the same thing as what the developer would do. They say, "I want to create three hundred (300) units and this is what I want them to look like. I am not going to allow anyone to do any more." They have some predictability. Now you are saying that if we pass this Bill, they cannot do that, but they can come in to Planning and say the same thing. They say, "We want to do three hundred (300) units and this is what we are going to do." You are then saying you will allow them to do that and not do the ADUs, ARUs, et cetera, after?

Mr. Hull: I think the question from Councilmember Evslin's standpoint was if the infrastructure question came up and was limited in this area, where someone says, "DOW says we can provide six hundred (600) meters and the zoning that they are looking at with ARUs would qualify them for one thousand two hundred (1,200)," would we be open to saying, "No, at the zoning amendment-level, less restrictive." Some developments have come in and said at the zoning ordinance-level that they will prohibit the ability to have ADUs.

Council Chair Kaneshiro: Say there is no water and the developer is going to develop the parcel, can they develop to whatever they want to do? Can they do three hundred (300) units and say this is how much we are willing to spend on water infrastructure, so we will limit the units that way?

Mr. Hull: Based on the density that they are asking for, yes.

Council Chair Kaneshiro: So, you would not get the extra units anyway?

Mr. Hull: If they wanted to restrict it at the front-end. I think our concern as far as a policy goes the developer throws CC&Rs well after they have gone through the zoning amendment and entitlement process at the Planning Commission.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: My question is not a follow-up question. It is a different question.

Council Chair Kaneshiro: Are there any follow-up questions? My main concern when we received the response from DOW is that source, storage, and transmission are probably big hurdles to climb. DOW is saying that they are going to base the project off of the maximum density allowable. In cases where water is limited, this Bill would not even matter. They will say that this is the maximum water available and you can build this many units. In another case where water is not available and the developer has to buildout the water system or source, storage, and transmission, then they will just build it to what they are planning for in their development and form it that way, I guess? Is that right?

Mr. Hull: Yes, they can. All I am saying is that from Planning's perspective, we would rather have that declared on the front-end when they are putting that in, as opposed to the backend when everything has been done and then five (5) years later they say, "Here are some CC&Rs and we are going to restrict these things." It literally throws the planning purpose out the window.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Another area that I have a lot of concerns over is the parking. I am very much in support of the intention of being able to create housing. That is the critical need and the purpose of this Bill. I can walk in one direction from my home and see properties that have acres with no ARUs. I am sure those are restricted in their CC&Rs. I go in the other direction and there might be eight (8) or nine (9) cars packed into the yard and sometimes on the street. Not necessarily in Kilauea, but I have been in different neighborhoods where it is quite intense when people are parking on the street. If you come to visit someone, it becomes a problem. How does parking get planned with this? If we can create an ARU, ADU, and a guest house, that might be eight (8) more cars if they house couples. Then they could have their friends park on the street. Where is it that it is determined that the road is going to be wide enough for a car parked on the street everywhere and all over the yard?

MICHAEL A. DAHILIG, Managing Director (*via remote technology*): If I could maybe explain that within the context of the discussion regarding parking, if the intent of the Bill is as we understand it, really is to address what has been a reactionary defense from developers who already have projects, that as the Council passes bills to try to provide alternative means of housing, they are putting covenants to block the

implementation of these policies that the Council is actually enacting. While there are concerns about whether or not there is enough infrastructure or not, whether water may be available or not, and whether there is enough parking or not, all of those are already actually addressed in many of the alternative product types of legislation that the Council has already enacted. This is not meant to necessarily revisit the validity of any of the ADU, ARU, kitchens with guest houses types of policies already made by the Council. Rather, what is happening here is that as the Council is attempting to loosen up and provide more housing product types of units on the island as a response to the need for affordable housing or affordable rentals, what you are seeing is developers not wanting that type of product within their actually developments and reactionarily putting in covenants to block the implementation of the population to use what the Council sees as good policy. Yes, I understand that parking may be an issue, but this particular legislation, all it does is prohibit contractually a developer from forcing someone that wants to purchase the lot to actually come in and say that you cannot use what the Council wants as policy across the island like ARUs, guest houses with kitchens, and those types of things. Otherwise, all the work that the Council is doing by passing this legislation ends up being for not, because the policy can never be implemented by force contractual agreement by a seller, which mainly a lot of the times are developers.

Councilmember Cowden: I understand that. The reason I have this confusion is when I drive around in neighborhoods, I see chronic challenges and I know someone sent us a video recently of a police officer on O'ahu, saying that parallel parking in a cul-de-sac is against the law. Cul-de-sacs are always parked parallel. Is it against the law here on Kaua'i?

Mr. Dahilig: Every parking restriction-type of scenario is actually brought to the Council via a resolution. If there are prohibitions in areas where parking is not allowed along curbside, that is actually a Charter required check by resolution that is required to go through vetting with the body. There is not necessarily a firm template giving the living streets manual as to where you can or cannot park. Ultimately, there is a public process to have any of those restrictive items to have vetted through the Department of Public Works via resolution to the Council.

Councilmember Cowden: Yes. I just could not remember what it was. Does anyone know?

Councilmember Chock: I believe it is the same. I believe it is illegal to park in the cul-de-sac.

Councilmember Cowden: That is what I thought. My main question is...I support the intention of the Bill. When I see many neighborhoods that are in violation of parking rules, and we are in this process of needing to be adding capacity under streets to have more water even just as neighborhoods fill out...I am just trying to highlight that there are concerns. When people have a subdivision, you might buy-in thinking that will have a certain amount of space around your house. I get that this is trying to circumvent that, I am just not sure it works very well in the neighborhoods that exist.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I enjoy your fruitful conversation. You have a really valid point. You can drive around and see some of the neighborhoods that have more cars on the streets than they should have. Is it a safety hazard? I am a little worried, and I support anything we can do to keep our local families on the island. More housing is a must. O'ahu just had something maybe less than a year ago, Council Chair Kaneshiro, about monster homes and subdivisions that have these massive homes. I just wanted to throw that out there to see if we can talk a little bit about it. I have had some constituents ask me to not create subdivisions with these giant homes that might take away the look of...anyway.

Council Chair Kaneshiro: Did you have a question in there?

Councilmember DeCosta: I was just going to ask how do we address or control that from not happening?

Councilmember Evslin: I could answer that really quickly.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I think that is an important point. It goes to the points that Councilmember Cowden was making, too. There is nothing in here that changes our Comprehensive Zoning Ordinance (CZO). I think when we are talking about things like monster homes, which would have to do with how much of your lot you can cover, these are things that we constantly need to be looking at our CZO for. Off-street parking requirements is another. If you build an ARU, you need to put an off-street stall with ADUs needing two (2). We are not touching any of that. Those requirements are already there. Even through this Bill, it would not restrict a CC&R or an HOA from restricting against what the character of a house looks like. They can still require that a house can only have this type of character or can only cover this much of the lot, similar to our current CZO. I do think that is an important conversation to keep having, but I do not think that this Bill necessarily changes the conversation around monster homes at all.

Councilmember DeCosta: I had a clarification question. This Bill is only for homes or areas that already have infrastructure for our sewer, correct?

Councilmember Evslin: The Bill would apply everywhere. When we talk about infrastructure, you could only in theory build four (4) units if you have the sewer or enough land for multiple septic systems. Again, the Bill does not apply to any existing covenants with these restrictions, so it would really only come into play for any new development. Any new development near the urban core is going to have sewer. To answer your question, the answer is yes, in some sense.

Mr. Dahilig: Just as an added item, Councilmember DeCosta, the size restriction is already prescribed in the CZO with respect to ARUs being capped out at eight hundred (800) square feet and with guest houses capped out at five hundred (500) square feet. Through the process of approval of any of those

particular accessory units, there is an approval process that has to go through every environmental and public works types of agencies, including the Department of Water, Department of Health, et cetera, to verify whether there is enough capacity to be able to accommodate the additional bedroom with a kitchen or additional two (2) bedrooms with a kitchen, et cetera. The normal checks still apply. They will not be adjusted as a consequence of this. As the Planning Director had mentioned previously in his conversations, what this requires is that all these particular potential types of accessory construction items are calculated in the laying out of future subdivisions rather than having them be built-out for that and then having them be legally restricted on the backend.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Managing Director Dahilig, if I am hearing correctly from the answers, I am hearing that the Mayor's Administration is basically in support of this Bill?

Mr. Dahilig: We have been in support of the Bill in the sense that already with the number of changes that have been made to the CZO to accommodate for accessory living units with kitchens, that it sees the impediment that is caused by CC&Rs essentially negating all the work that the County has been doing to try to provide for these alternative living arrangements. We do not see an issue with wanting to ensure that the way that the laws are calculated and put into play when developments are laid out on the land, that they do take these things into accommodation on the front end.

Councilmember Cowden: I am not sure if my question is for you or for Councilmember Evslin. I am wanting to get excited for this Bill. I am continuing to struggle with it. I want to support people's ability to have their children live on their property, their family live on their property, and elements that are happening. This is for new developments. If I am hearing Planning Director Hull and Managing Director Dahilig correctly, when this development is made, they will know that with this restriction on CC&Rs, that they will not be able to live in it and that they will need to put in more infrastructure. Presumably, they would know that they would need a wider road. I think parking is really an important part to all of this. Maybe they might make bigger pieces. I am asking either Planning or Councilmember Evslin, would the Fire Department's ability to have their sixteen (16) feet needed in the roadway to whatever these new developments are...I know that I have a Honda Fit and it is a small car. I go down certain neighborhoods and I have to be very cautious. I certainly could not pass a Ford F-250, right? I do not know how a fire truck could ever get into these neighborhoods that do exist. They do have, whether they are permitted or not, they have effectively these ARUs and ADUs. Help me again feel comfortable that with this new place being built, they are not going to have that problem.

Councilmember Evslin: To go back to what you first said, I want you to get excited about this Bill as well. We share the same goals. As far as overcrowding in existing neighborhoods, a lot of that is occurring because, as our Planning Director

stated, we have a black market for housing. Sometimes people are being forced to build illegal units because there is nowhere else to go. When you have a house and you have all these cars parked in the road, that is because they have units that have not been legally permitted out of necessity. If someone is going through the proper channels and legally permitting a unit, they are going to have to have the off-street parking available at least for that unit. They are going to have to ensure that the Fire Department gives them clearance that they are a certain amount of feet away from a water meter, et cetera. I do not know if I give you assurance that in all cases the Fire Department is going to be able to get through, but we have the systems in place to ensure that these things happen properly and this Bill does not impact those systems at all. When there are problems, I do think that we should be tinkering with our CZO to rightly address or solve the problems through the CZO. All this is saying is that these policies should be applied islandwide. When we pass a bill, it should be applied to all residential land on Kaua'i, and not necessarily be giving a HOA the ability to change the requirements after-the-fact just for their community.

Mr. Dahilig: Councilmember Cowden, just to add in also, pursuant to Section 8-30.1(a)(2) of the Code, and this was already adopted by the Council back in 2018 and 2019, when you are looking at an ARU, an off-street parking space is required to be accommodated on the property apart from what is on-street parking. There is an accommodation as part of the overall process to have an off-street parking space mitigate the additional kitchen and dwelling space that would be constructed under this ARU program. The Council did go through that process of reviewing that type of concern and in its wisdom saw that the ARU program needed to have accommodations for off-street parking. That is already set in the Code, and we could not waive or change that without some type of variance through the Planning Commission.

Councilmember Cowden: Thank you for that. Just a little additional clarification on that. When there is that off-street parking assigned for an ARU, is that one (1) space or two (2)? The same for guest houses, it is one (1) is it not?

Mr. Dahilig: Right now, under that Section, it is one (1) off-street stall for a maximum total floor area of eight hundred (800) square feet.

Councilmember Cowden: Okay, so if we had a couple and they had two (2) cars, we would have a problem? I am just trying to highlight that. Or if a friend came over or...

Mr. Dahilig: Certainly, those items can be reiterated as part of a change to this particular ARU program, but I believe that the current proposal on the floor is not intended to change any policies with respect to any of these accessory units as settled policy by the Council.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Are there any other questions? I just have one (1) more question for Ka'āina. Say a developer comes in to do a 300-unit subdivision not including ADUs or ARUs. They need to put in their water infrastructure, the

source, storage, and transmission, and they size it for those three hundred (300) units. If an owner comes in and says they want to add an ARU, will the County's Planning Department say, "no"?

Mr. Hull:

Sorry, could you please say that again?

Council Chair Kaneshiro: A developer comes in and they want to develop a residential subdivision with three hundred (300) residential units. The Department of Water does not capacity for it, so the owner comes in and builds the source, storage, and transmission, which we all know is one of the major roadblocks to actually getting development, the cost of those things. They say that they are sizing it based on the three hundred (300) units. If one of those homeowners comes in and wanted to add an ARU to their single-family house, is the Planning Department going to tell them that they cannot do the ARU?

Mr. Hull:

If it was done today and it was one of the existing developments that is not having the ARU or ADU prohibition embedded in either the permit or the subdivision or zoning ordinance, I am not only going to sign-off on it, I am legally required to sign an approval for it. When you look at the Pikake Subdivision, they have CC&Rs that prohibit ADUs. That is a private agreement. If a property owner comes in from Pikake with an ADU application to the Planning Department, we are not beholden to the private agreement. We are beholden to the ADU Ordinance in our CZO and we are required by law to approve it. If this Bill passes and next year a development came in and says, "I have a proposal and I do not want to have ADUs and in fact the DOW cannot provide the necessary capacity even when we upgrade the lines for an ADU capability," then they would ask in their zoning amendment or in their subdivision to prohibit from a planning regulatory mechanism to prohibit the ADUs. I think if it is a capacity issue then we have no problems. If it is an issue of them not wanting to build eight hundred (800) square foot homes through the ARU mechanism, then having them explain that in a public forum to kind of vet out what exactly is the purpose...if it is because they intend to have a speculative development in which most of the product is going to the mainland, then explain that in a public forum and we will have that discussion. If it is from again a capacity issue, let us from the front end prohibit the ARUs because there is no capacity there, and then should a property owner ten (10) years down the line, after they have a house on that property come in and want to do an ARU, we can say that either in the subdivision or the actual zoning amendment, it is prohibited, I cannot legally sign off of those. That is how we kind of look at this Bill not only providing additional opportunities for homeowners, but really cleaning up the somewhat disjunction that has happened between long-range planning policies and their accompanying regulatory mechanisms, and private contracts that happen subsequent to the entitlements.

Council Chair Kaneshiro: Okay, so the answer would be "no" if they went through that whole process and the capacity was not there. If they wanted an ARU or an ADU, you would say, "no" to it, right?

Mr. Hull:

If there is a prohibition in the subdivision or the permit...but today, if there is no upfront prohibition, we have to sign-off on it. DOW might deny it, but the Planning Department has to sign-off and approve it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a follow-up on Council Chair Kaneshiro's question. We are in the same subdivision. It has two hundred (200) units because there is not enough capacity for more. They sell these subdivisions by lots and not finished homes. When someone buys the first twenty (20) units and they want to put in these other elements, so we have eighty (80) units in those first twenty (20) lots, then can they sell the rest of the one hundred eighty (180) lots or would they not be able to because the water capacity would have been consumed?

Mr. Hull: Can you repeat that question?

Councilmember Cowden: All of these little subtleties matter. Council Chair Kaneshiro gave the example of a subdivision that wanted three hundred (300) units. DOW says that there is only capacity for two hundred (200) units. The zoning says three hundred (300) and the water capacity says two hundred (200). He develops two hundred (200) lots.

Mr. Hull: Got it.

Councilmember Cowden: A number of the first buyers of those lots, they not only build their one (1) house, but they build their other three (3) smaller units. That will then basically limit the original intention of the subdivision. They would then not be able to buildout those other lots that are not yet built. You would have to then subdivide and build every single house. You would be building a subdivision with just lots. Do I have that right?

Mr. Hull: That goes back to DOW's original comment. If it is a preliminary subdivision, they will require the infrastructure to meet the full density of that subdivision, ARUs and ADUs included. They would have to make sure that the infrastructure is there before the subdivision happens. Now, to get back to the earlier point, is that if the capacity is limited, they could do the subdivision and/or the zoning amendment, restrict the capacity for ARUs or ADUs.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am trying to grab a hold of all of this. I can only imagine the people watching at home trying to grasp all these acronyms and what we are talking about. It seems like and thank you Council Chair Kaneshiro and Councilmember Cowden for bring this to fruition...it seems like the Planning Department will make the decision on signing off on that. It seems like the developer has to put in all the proper infrastructure to meet the density needs. If it is three hundred (300) lots, with an ARU and ADU, and it adds another sixty (60) dwellings, then that infrastructure has to be for three hundred sixty (360) units now instead of only three hundred (300). Am I correct, Council Chair Kaneshiro? Somewhat, right? Now, that developer might be overwhelmed with the infrastructure cost. I wanted to just develop three hundred (300) units. Now I have to develop another one hundred (100) units or one hundred fifty (150) additional units. I know they say economics, supply and demand, and our supply of homes is on the short end. We need

more supply. I am trying to wrap my head around this. This is a good thing, Councilmember Evslin, right? I am going to trust you. I am asking you on the floor in front of all the people watching. If you tell me, it is a good thing, I am going to go along with you. Right now, it is difficult for me. I am representing my people. I can only imagine the people watching us.

Councilmember Evslin: Yes, it is a good thing and I think it is important and necessary for all the reasons we discussed. As far as the person trying to build out the three hundred (300) homes, through the zoning amendment process, they have a lot of say over what that density is going to be. If they want to just do three hundred (300) homes, they are the ones that are going to be making the request often for it to be R-1, R-4, or whatever the density is going to be. I think what Ka'āina is getting at is that a lot of this conversation and the conversation around the future growth and infrastructure needs for this community should be happening during the zoning amendment process. If they want a community for three hundred (300) homes, then they potentially would be asking for a lower density like R-2 or something. Does that make sense?

Councilmember DeCosta: Yes.

Councilmember Evslin: I think they still have a lot of control over it. What we are saying is that this should not be happening in a patchwork system after-the-fact.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am sorry. I am trying to get myself to "yes." Know that I am working with you here. When I hear three hundred (300) homes, how do we know that does not end up being one thousand two hundred (1,200) living units. It is not just an extra sixty (60), it has the potential for an extra nine hundred (900). It is a very different piece. When multi-family dwelling units are built, they are built and designed to have the right amount of parking to not be in conflict. This all feels very confusing for me to say "yes" to because to me it seems very piecemeal. What I do see happening and what we would call "illegal." For anyone watching, I appreciate you doing the best that you can with all the illegal adaptations on the houses. Perhaps some of them may be permitted. How do we have neighbors that are not ready to kill each other. I have a short story. The person whose house I used to go and partly it would bother that neighbor. That neighbor came out, and thankfully it was not when I was there, but that neighbor came out and shot the man, his wife, and another person visiting. That sticks out in my mind. It can create really deep violence and anger when there is unplanned density in neighborhoods. That made it all in state news. It is not a made-up story.

Mr. Hull: If I could provide a comment.

Councilmember Cowden: Please do.

Mr. Hull: Again, both myself and the Managing Director were trying to steer the direction of this conversation. The Bill is just for what a CC&R can or cannot do when it concerns an ARU.

Councilmember Cowden: Can I interrupt you?

Council Chair Kaneshiro: Let him speak first.

Councilmember Cowden: I want him to stop using acronyms. Can you use the real words and not the acronyms, please, in your explanation?

Mr. Hull: The private covenants restricting the construction of an Additional Rental Unit, that is all this Bill proposes. It does not propose new Additional Rental Units, new guest houses, square footages, et cetera. It does not do any of those things. It just prohibits private covenants from restricting an Additional Rental Unit. If I could go back, a lot of this conversation seems to be about what it is like to have much more dense development, which to go back to the ARU Bill, to go back to the Guest House Bill, or to go back to a lot of the community plans, a lot of this quite honestly, revolves, not entirely, there is a long planning principle of looking at infill development to handle inventory and growth of a population, but a lot of this came back to the fact that the Planning Department was getting pegged again and again with "why are you folks issuing violation notices to illegal dwelling units." I had to explain, and I think Councilmember Evslin was getting into it a little bit, and I kind of explained this ad nauseum, but to kind of go back to it, is in the County of Kaua'i, as well as the State of Hawai'i, there is a black market for housing. In fact, black market housing provides more affordable housing units, probably more than any other industry right now. I do not mean to use the term "black market housing" in a bad sense, it just means it is illegal housing. It does not meet the current laws of the County and/or of the State. Black markets from economic standpoint arise when governments prevent a product from getting to its buyer. Absolutely, having laws that prevent things like methamphetamines or opioids getting to the buyer is a good thing and that is why you have a black market for drugs. Black market housing is a whole different thing. You have laws that prevent the housing, that there is local demand for, from getting to the buyer or tenant. We recognize that individuals were constructing kitchens and additions to their houses that were essentially illegal under our Code. So, looking from a form and character standpoint and looking at a product that we can legalize and normalize these types of additions to these homes, the Planning Department and the Council worked together to say, "Hey, let us look at this ADU 2.0 project program, which we will call ARUs. We will restrict the size of those rental units to eight hundred (800) square feet. It would not burst these massive mansions upon a particular neighborhood, and we would prevent them from condominium property regime (CPR) it off so that it could not be sold on the speculative market and it would be aimed at the local inventory." That is what it was. There was very much of a discussion back then about it possibly crowding our neighborhoods, intensifying the density of our neighborhoods, the lot coverage, the number of cars being parked on the roadway, et cetera. At that time, five (5) years ago, the Council and the Administration said this is something we are willing to prioritize. Yes, there may be some impacts from parking on the roads and impacts from neighbors getting a little closer to each other, but the housing crisis demands us to answer it in some way and addressing it in a way that normalizes what

a lot of local families are already doing. I just want to steer things back to that discussion that happened five (5) years ago. What is happening right now at the table is there are still some concerns about the impact of things like parking and neighbors being in close proximity to each other, and if there is a desire for the Council to pull back some of these regulations to say, "No, we are not going to do more ARUs, there are too many cars on these roads or too many people close together," that can be a prerogative of the Council. I can say that I do not think that is a position or a policy that myself or the Administration supports, but I think we are going around and around on a lot of these issues when that is not really what the crux of the Bill is. The Bill is about what a private contract can or cannot do with these types of uses. We are just here to say that we support it.

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

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

Councilmember Cowden: I am pretty ambivalent on this one. I am not sure how I would have to vote, even in this moment. I appreciate what Director Hull just shared and I appreciate the problem of the black market. The good side of not having the black market is that we would have housing that had been paid for. A big problem of the black market is that on a lot of them you will see a rental that says, "No United States Department of Housing and Urban Development (HUD)." Somehow it is not a legal rental or not permitted. Most times that are why it says that than because they do not want the type of person who has HUD. I like the idea of being able to have these homesteads clustered in a way that HUD could work. That is a good thing. Where I differ a little bit with what Director Hull is saying is when you take them off the black market, what I expect is that the price will be a lot higher. When it is affordable, the price goes up when you can totally claim it. We have a really "chicken and the egg" situation here and it is not easy. I definitely get that the majority of our affordable housing is unpermitted housing and I am very concerned with what can happen with complaints against those houses that have that relative to our penalty structure. It is not easy. That is where I am at.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you for this discussion. I will be supporting this measure. There are a couple of reasons why. I am a big advocate of the ARU program. What I have seen is that we need to be able to provide avenues for it to actually take seed that have not been established yet. I think what this measure does encourage is for us to have this discussion in a transparent forum with the public about what that density should be for each project. It closes a loophole in my opinion about what we get after-the-fact. I think all of us around the table have mentioned our disdain for gentlemen-type estates. You cannot have your cake and eat it too. We are in a housing crisis. We can nitpick the details of parking and who is living next to each other, the sizes, and all these things. The fact is, we have created a mechanism for that discussion to occur about the parameters of healthy housing around the ARU. What is not happening is we are not creating a venue for the legal ways that we have created to

occur. As Ka‘āina has suggested, a black market occurs. That is all illegal and takes none of those things into consideration that we are trying to produce legal housing for the kind of housing that we need. I see the challenges with the density piece that you are bringing up, but I think that what we are saying is to do it at the front end. Let us have that discussion. If they want to cap that density, then put it on the table so we can discuss it and the reasons why, instead of trying to, on the backside, create another diversion to what it is we are trying to produce. For those reasons, I do support this measure.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: Thank you all for this discussion. I think all of this has been valuable. From first reading twice, Committee, and now here, we have had a lot of really important discussion around this Bill and around aspects of our CZO, including monster homes, parking, et cetera. Those things need to be looked at continually and as we grow or try to address the housing crisis. As Councilmember Cowden was saying, you push a little here and you might get some impact over here. I see our job is to continually be addressing this push and pull in some capacity. For me, the bottom line is that the housing crisis is the biggest crisis that we face on Kaua‘i. It is worse now than ever before. People growing up are going to have no chances to live here. If you look on Craigslist, there are just no rental homes available. At some point, we need to start to or continue to make some hard decisions around how we alleviate that crisis. This is one of those things. It is not going to make a difference in probably the next five (5) to ten (10) years. It is not going to impact anything right now. It is really looking down the road at how we ensure that Kaua‘i can have affordable units or being sure that people can afford to, as I did, buy a house and rent out half of it. It is hard to do in most neighborhoods on Kaua‘i. I see this as one important step of many important steps for us to take here. Bottom line, it is ensuring that any individual has the rights that they are granted under our CZO to develop housing on their property. By ensuring that this discussion happens at the Planning Commission level, then you have a group of citizens who are making decisions based on the public good instead of it down the road happening just at the HOA level. I support this Bill and I understand the concerns today. I appreciate the discussion and I hope we can pass this today. Thank you.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: This is one of the most intense discussions that I have been exposed to. I still do not know how to vote. I do know one thing. We may create more units by allowing this to happen, but it does not ensure that the local families that live and work on the island will be able to buy that lot or home, or even build that ARU or ADU. We have people from the mainland buying properties and homes. We have realtors who manage local rental units here on the island. You can live in California, own three (3) homes on the island, have it rented to local families, managed by a realtor, and it puts no home in a local person’s hands. It puts it in their hands as a renter. You might solve the rental problem, but you are not solving the problem of locals owning homes. All it does it to create an inventory surplus for the wealthy westerner to buy those homes. I want to make sure that when we pass this, that we are not just solving the rental market. We have to solve the homeowner market.

We have to have local families being able to own their own homes. Council Vice Chair Chock and Councilmember Evslin you are saying that you can buy the house, build the ARU or ADU, rent it out, supplement your income, and afford that property. There are a lot of locals that could not even qualify for a loan to build that house. Do you know what an average loan is at the bank? It is about six hundred thousand dollars (\$600,000) to seven hundred thousand dollars (\$700,000). Are you telling me that a teacher can afford that loan? Would a landscaper be able to afford that loan? I like policy. It can make things happen for our locals. From what I heard, Council Chair Kaneshiro asked Ka'āina, with the Planning Department be in charge of making the decision? Is that correct? The Planning Department, under Ka'āina, will be able to make that decision. When a developer comes in and says that they want to do three hundred (300) units, if there is not enough infrastructure, Ka'āina and the Planning Department will be making that decision. Am I correct? They will. We had a fruitful conversation about that. It can change as we change Mayors. It can change as we change appointed people to run certain departments. I want to make sure that when we vote on this Bill, we are making the right decision.

Council Chair Kaneshiro:

Councilmember Evslin.

Councilmember Evslin: Thank you for your thoughts, Councilmember DeCosta. I just want to add two (2) quick things. It is already going through the Planning Commission. It is not like we are adding a layer of bureaucracy or giving the Planning Commission more control than they had before. Any zoning amendment is going to go through them where they will be making these types of decisions. All that this would be ensuring is that after the Planning Commission passes this out, that any HOA down the road is not going to further restrict something. I want to be clear that it is not necessarily giving them any more power than they had already or changing the process. In some sense, it is taking out a layer of bureaucracy. It is taking out the HOA from being able to make that decision down the road. As far as people being able to buy a house, I just want to say it again...the only possible way in Kaua'i's market that I can own a home is by renting out my downstairs. It helps pay for half of our mortgage. There is absolutely no way that we could buy a house without doing that. The ARU Bill, which the previous Council passed, changed my life. I do not think I could be on Kaua'i right now unless I was able to do an ARU in my downstairs. The point here is to give more people that opportunity. You will allow more people to own homes. You will allow more multi-generational households to stay together. You also at the same time increase the rental stock. I do think that we can accomplish both aims of what you were getting at.

Council Chair Kaneshiro:
Councilmember Kualii.

Does anyone else have any discussion?

Councilmember Kualii: I want to start by saying ditto to what Councilmember Evslin said. I think this is an important Bill and I strongly support it. We continue of course to be in a housing crisis. This Bill would mean that the County-sanctioned benefit of ADUs and ARUs reaches more and more of our homeowners. I strongly support this Bill. Thank you.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: Can I ask one more question of Ka‘āina? Planning Director Hull, since the ARU and the ADU legislation has happened, and I did watch the whole process and I saw how much it was debated, have we seen an improvement in application for ARUs? Maybe a year or two (2) ago, we added the incentives to lower the cost to help make it more affordable. What has the trendline been like? How many ARUs or ADUs has occurred since then?

There being no objections, the rules were suspended.

Mr. Hull: For the ARUs, I could not tell you off the top of my head. I know when the question came up as to what we anticipated the trendline being, a lot was dependent on infrastructure. For ADUs, I do know off the top of my head that the ADU law has been in effect for close to forty (40) years now. The first three (3) or four (4) years, there was not much activity for ADUs. It just took a while for the development community and contractor industry to get used to this idea. After the first three (3) or four (4) years, then it just took off exponentially. In the Residential District I want to say that there are over one thousand (1,000) ADUs. ADUs do not have a restriction on the square footage so there has always been a bit more of a concern with ADUs being used in the speculative market which is why the ARU has the eight hundred (800) square foot limitation. I can say that ADUs, when we actually looked at the CPRs around ADUs where homeowners had CPR'd an ADU and sold it off, and we cannot control whether it went to a mainland buyer or local buyer. Actually, of the residential ADUs, I want to say only twenty percent (20%) to twenty-five percent (25%) had actually been CPR'd off. That goes to say that the vast majority of residential ADUs have still stuck within the local housing inventory. I can research the ARU number if you would like.

Councilmember Cowden: I was just curious, because about a year ago I did ask. I asked the Building Division just for the number of permits. It had actually only been thirteen (13) in 2019 and I believe twelve (12) in 2020. They were not significant numbers and it had not gone up. We had a really unusual couple of years. I think we were really hoping it would create a burst. One thousand (1,000) is a different number. Maybe they were already built. I only asked for the number of permits.

Council Chair Kaneshiro: Are there any further questions while the rules are still suspended?

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

Council Chair Kaneshiro: Is there any further discussion? Everyone has heard my concerns with this Bill from first reading. I do think it is overreaching. I do think there is a point where it does not prevent CC&Rs from saying that each person can only have one (1) kitchen on their lot. Are we going to say that they cannot restrict the number of kitchens that people can do now? I think it starts going down that route. It is exactly as Ka‘āina mentioned. On the front-end, we should know what the developer is coming in with through that zoning process. That is what it should be. It makes it more difficult on the developer to predict what their development is going to

be like. Going back, they know what they want their development to look like. That is what should be looked at during the zoning process. There might be some mixed units on there. There might be some units that they make bigger. There might be affordable housing units. There might be middle units that they try to blend into their development. By getting rid of their CC&Rs from restricting certain things, then again, people could start creating four (4) units on those lots, and it really makes the predictability of the project harder. Hearing from DOW—source, storage, and transmission of water is a huge thing. If DOW is going to say that a development is going to develop their water to their maximum, I would hate to see that be a determining factor eliminating a subdivision that is actually creating housing. It works against what we are trying to do. They said that if a developer develops to the maximum and not all the units are built, there is going to be water quality issues. There are issues that happen along those lines. You cannot force people to build all their maximum units. There is unpredictability if you are selling open lots to someone. Someone may want to put a single-family residence and be happy with the space around them. Your neighbor might want to build a four-unit home that has their initial home, their ADU, and two (2) ARUs connected to it. Again, you cannot really determine what everyone is going to build if you are doing that type of development. I am just trying to look into the future. I have always supported housing. I supported all the initiatives that have come before us. We increased density in town core areas, added ARUs, et cetera. For this one, I am a little more hesitant about it. Again, we are not hearing anything because this is for future developments. We do not really have any projects that are coming through that it will affect. For me, I think it is a little bit of an overreach. I do not want us to have to go through the process if a developer starts restricting the number of kitchens or size of the units, then we start saying, “We cannot let them restrict kitchens or the size of the house.” I do not want us to start going down that route. That is where I see us starting to go down once we start restricting things in CC&Rs. For me, I will be voting “no.” I do think that developers should be upfront in what they want the look and feel to be during that zoning process. They are going to size their project based on that. That is where all of the discussion should be happening, in that planning process. That is where they disclose what they are doing, what it should look like, does Planning want them to add more units, then the Planning Department should mention it during that process. Maybe they want these lots to be able to do ARUs and ADUs, and we understand what you are trying to do on that end. To completely restrict it from a CC&R, really affects the way the look and feel of what a development is going to be and the predictability. Again, it is about the overreach. I do not want us having to restrict the number of kitchens or the size of a house. I will be voting “no.” I will continue to see how new developments progress and how things happen. I want to see more housing, but I do not want this to be the reason why someone is not going to develop a subdivision either. There are many times where as policymakers, we shoot ourselves in the foot. We have good intentions, but it works against what we are trying to do. For this one, I cannot say for sure if that is going to happen, because each individual development or new development has their own unique situation. I am just hesitant on it.

Councilmember Cowden: I have a process question.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: If we have a 3:3 vote, what happens?

Council Chair Kaneshiro: It gets placed as the Special Order of the Day at the next Council Meeting.

Councilmember Cowden: So, Councilmember Carvalho would be here?

Council Chair Kaneshiro: Yes, we will eventually have seven (7) Members and you will eventually get a 4:3 vote or another type of vote on it.

Councilmember Cowden: Okay. I would like to have Councilmember Carvalho here. I am concerned and I continue to be a little reluctant. I remember when we had the thirty percent (30%) inclusionary zoning, I was paying attention and I was in here, too then. We ended up not having any development. I want to give Planning what they want where they can make it legal for what people are doing. I really want that. I want those head houses. I also do not want to shut down development. I want Councilmember Carvalho here so we can vote on it with all Members present.

Council Chair Kaneshiro: We can entertain a motion to defer on it. Councilmember Carvalho co-introduced the Bill so he will most likely vote for the Bill, unless something really changes in it. I do want everyone to be able to vote the way that they want. Councilmember DeCosta, then Councilmember Evslin.

Councilmember DeCosta: After much discussion and I have proven to my constituents and all of you that I am able to change my decision at the table when I hear you all talk. I have shown you that. After hearing Council Chair Kaneshiro say that less government intervention is better, I am not going to be supporting this Bill, and I am going to tell you why. I believe that we need to advocate not only for the people who are struggling that want to live on Kaua'i and build a home, ARU, and ADU to make their mortgage, but also for the kids that go away to college, make something of themselves, and want to buy a nice house in a nice subdivision and live the American Dream. Well, the American Dream does not exist on Kaua'i. We have to be working servants with two (2) or three (3) dwellings on a small piece of property to make our mortgage. I do not believe in that. My grandfather and father raised me to go out, be passionate about my career, go out and get your American Dream. I raised my sons to be the same way. I understand Councilmember Evslin that the only way you could buy your house was to have that extra unit. When you make decisions for our people, it is based on what the people need. I believe this will put restrictions on developers and we are going to have less supply. This could even cost the price of housing to escalate. I do not need a deferral. I am not going to support this until we are able to discuss this a little more, perhaps when Councilmember Carvalho gets back.

Council Chair Kaneshiro: Okay, I can kind of count the votes. We can defer it until Councilmember Carvalho returns or we can take the vote on it now.

Councilmember Chock: Let us take the vote.

Council Chair Kaneshiro: It is up to everyone. Councilmember Evslin.

Councilmember Evslin: I am okay with taking the vote. If it ends up 3:3, then we will wait for Councilmember Carvalho to return. It ends up with the same result. I just want to address two (2) things. One, we are not reinventing the wheel. Other places have done this. The State of California eliminated the ability of HOAs to restrict against CC&Rs, including current restrictions. Any current restrictions against ADUs in California had to get lifted along with new ones. What did they see? An explosion of ADU construction. That data is out there. This has not stifled construction. It happened along with a slew of other ADU reforms, but it is something that lots of housing advocacy places have been pushing along with things like reducing fees and other things that we have done. The other part, Councilmember DeCosta, I totally respect your decision and what you said here, but again, we have a large amount of homes on Kaua'i that have these restrictions currently that would not be affected through our Bill. The person who wants to buy into one of those neighborhoods can certainly do so. Those are not going to change. In fact, for our children coming up, the benefit of allowing this idea of the missing middle housing or someone doing an ARU, lets them get onto the housing ladder. I can get a house, get some equity in that house, and then maybe one day I can sell that house and move into something else. What happens when we just eliminate those options where we have so few of them like we have today, people cannot even get onto that ladder. The other thing that happens is that with more housing supply, hopefully the cost of housing in these more exclusive neighborhoods will also start to stabilize more. On the trend we are going, none of our children are ever going to be able to afford in any of these places. I one hundred percent (100%) respect your decisions here. I hope that we can take the vote and if it ends up going to the next meeting, then that is what it does.

Council Chair Kaneshiro: I am willing to take the vote. For me, I support all housing initiatives. We do have a lot of housing projects going on. We have Lima Ola that is going to be coming up. We have a lot of affordable housing projects that are going through the queue. Again, I think we need a mix of homes. It is not saying that we are not working on affordable housing. We have a lot of affordable housing projects going on. Lima Ola is probably going to be one of the biggest projects on-island once it starts going. It is going to end up being a total of five hundred (500) affordable units. There are units that are coming online. I am willing to take the vote now. Councilmember Kualii.

Councilmember Kualii: Just to make one last statement. The thing I would say too about our housing crisis...the shortage is critical. Thousands of units are needed. Whatever we have in the pipeline is nowhere near what we need. I think if you support ADUs and ARUs as a way to increase our housing supply and as a way to give our homeowners the opportunity to build that additional unit and rent it out, hopefully at the affordable rates or maybe to build it for their family, then you want that to be available to as many of our homeowners as possible. Going forward, why would we want to leave it up to an HOA to deny that right of an ADU or ARU? The County has put these laws forward as a benefit for our homeowners and as way for addressing our housing needs. If we do not pass this Bill, then we are saying that we do not support that and we want the HOA in the future to prevent that benefit for future homeowners. I think you should vote "no." I mean, vote "yes."

Council Chair Kaneshiro: We knew what you meant. Councilmember Cowden.

Councilmember Cowden: I am in the uncomfortable position of being the swing vote. Relative to what Councilmember Evslin said about California lifting that, that is good. California has a net migration, and they have a crazy amount of houseless people. Somehow that did not solve the housing problem.

Councilmember Evslin: They only did it two (2) years ago.

Councilmember Cowden: They did it two (2) years ago, okay. Did it help?

Councilmember Evslin: There is a lot of ADU construction going on.

Councilmember Cowden: Okay. I am really appreciative of Lima Ola, but any of those first-time homebuyers in there are not going to get any kind of equity gain, right? We have stopped that, so the houses will stay in the affordable category.

Councilmember Cowden moved to defer Bill No. 2834, Draft 1, and failed for a lack of a second.

Council Chair Kaneshiro: We will take a roll call vote. A 3:3 vote will result in a deferral anyways. Is there any final discussion? If not, we will take a roll call vote.

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

The motion to approve Bill No. 2834, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and resulted in the following vote:

FOR APPROVAL:	Chock, Evslin, Kualii	TOTAL – 3,
AGAINST APPROVAL:	Cowden, DeCosta, Kaneshiro	TOTAL – 3,
EXCUSED & NOT VOTING:	Carvalho	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Council Absence, Tie Vote (Council Absence or Recusal); Pursuant to Council Rule No. 5(e), the item shall be made the Special Order of the Day at the March 9, 2022 Council Meeting.)

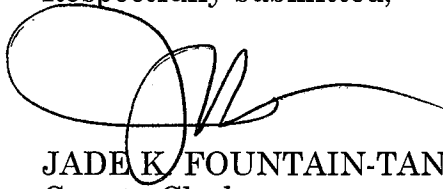
Ms. Fountain-Tanigawa: Tie vote, 3:3.

Council Chair Kaneshiro: That concludes the business on our agenda. Not seeing or hearing any objections, this Council Meeting is now adjourned. We will take our lunch break and return with our Committee Meetings.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 12:42 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by 'K' and 'FT' in a cursive script.

JADE K FOUNTAIN-TANIGAWA
County Clerk

:jy