

COUNCIL MEETING

OCTOBER 18, 2023

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 18, 2023, at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Addison Bulosan
Honorable Bernard P. Carvalho, Jr.
Honorable Felicia Cowden
Honorable Bill DeCosta
Honorable Ross Kagawa
Honorable KipuKai Kuali'i
Honorable Mel Rapozo

(Note: No one from the public testified on any agenda item via oral testimony via the Zoom remote technology platform.)

APPROVAL OF AGENDA.

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

Council Chair Rapozo: Is there anyone in the public wishing to testify on the agenda? Seeing none, is there any discussion?

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

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

Council Chair Rapozo: The motion carries. Can we go to the Consent Calendar, please?

CONSENT CALENDAR:

C 2023-224 Communication (08/22/2023) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Supporting Operation Green Light For Veterans.

C 2023-225 Communication (09/22/2023) from the Director of Finance, transmitting for Council information, a Report of Settlements by the Director of Finance for Tax Year 2022-2023, from July 1, 2022 through June 30, 2023, pursuant to Ordinance No. 1145, Kaua'i County Code 1987, as amended, Title III, Chapter 5A-12.15(c), approved on February 8, 2023.

C 2023-226 Communication (09/29/2023) from Councilmember Cowden, transmitting for Council consideration, a Resolution Proposing A Charter Amendment Relating To The Board Of Water Supply Organization.

C 2023-227 Communication (10/02/2023) from the Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2023-2024, pursuant to Section 22 of Ordinance No. B-2023-891, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2023-2024.

C 2023-228 Communication (10/05/2023) from Mark L. Bradbury, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2023 through September 30, 2023.

C 2023-229 Communication (10/06/2023) from Councilmember DeCosta and Council Vice Chair Kualii, transmitting for Council consideration, a Resolution Recommending The Kaua'i Board Of Water Supply Amend Rules And Regulations To Allow Rainwater Catchment Systems On Agricultural Properties.

Councilmember Kualii moved to receive C 2023-224, C 2023-225, C 2023-226, C 2023-227, C 2023-228, and C 2023-229 for the record, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion or public testimony?

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

Council Chair Rapozo: For the Mokihana Club, the Consent Calendar are issues that do not require any discussion. Many of these items have related items, which will be brought up later on the agenda. Motion carried. Next item, please.

COMMUNICATIONS:

C 2023-230 Communication (09/15/2023) from the Managing Director, requesting agenda time for a briefing from Smith Dawson & Andrews, Inc., Washington D.C. consultants, to provide a recap of the services and activities provided to the County during the past year as part of their professional services contract.

Councilmember Kualii moved to receive C 2023-230 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: With that, I will suspend the rules. Our consultants are present via Zoom, so for the public, you will see it on the screen. Please identify yourself and you can proceed.

There being no objections, the rules were suspended.

CATHERINE BEAL, Vice Present of Client Services (*via remote technology*): Hello, everyone. My name is Catherine Beal, and I am with Smith Dawson & Andrews, Inc. (SDA), and I am joined by my colleague Kierstin.

KIERSTIN STRADFORD, Vice President (*via remote technology*): Hello, everyone. It is great to meet you. I would also like to share a PowerPoint presentation, so I will attempt to get that displayed in just one (1) second.

Ms. Beal: As Kierstin is doing that, I would like to thank you for giving us the opportunity to present to you today, and especially for allowing us to present via Zoom. Our colleague, Jim Smith, sends his apologies. He has a conflict, so is unable to attend. We have a quick PowerPoint presentation on some of the big things that Congress and the Administration have been working on, and what we have been working on with the County over the past year. It has been a great year, so we are excited to have this conversation, so thank you. I will turn it over to Kierstin.

Ms. Stradford: Sure. Catherine mentioned our colleague, Jim Smith, so I will just take a minute to introduce myself. I am Kierstin Stradford. I am one (1) of the vice presidents here at Smith Dawson & Andrews, Inc. Before I start, I want to make sure everyone can see my screen.

Councilmember Cowden: We can.

Ms. Stradford: Awesome. I have been with the firm for about two (2) years, and I have been working with the County for that time. I am really excited to walk through some of the different Federal advocacy efforts that we have taken part in with the counties this year, starting with the Bipartisan Infrastructure Law.

In November 2021, Congress passed the Bipartisan Infrastructure Law (BIL). This one-trillion-two-hundred-billion-dollar bill includes both the five-year surface transportation reauthorization and a series of other infrastructure priorities, including drinking water, wastewater, energy, broadband, and other transportation priorities. The United States Department of Transportation (DOT), the Environmental Protection Agency (EPA), and other Federal agencies are working or have recently released notices of funding opportunities (NOFOs) for several new programs. Congress is about halfway through this authorization bill and has been very intentional in making sure these programs have a focus on equity, allowing for special carveouts for little income and tribal communities, and climate resiliency. Some highlights include the Safe Streets

and Roads for All program, which is an opportunity that funds regional and local initiatives through planning and capital grants. The County is currently pursuing a two-hundred-thousand-dollar planning grant to create a roadway safety plan, so we have been tracking that program very closely and have engaged the delegation in those efforts. A few other programs are the Electric Vehicle (EV) Charging and Fueling Infrastructure program, the Active Transportation Infrastructure Investment program, and the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program, which the County is very familiar with (inaudible) 2022 RAISE award for Po'ipū Road. Lastly, I will highlight the Rural and Tribal Technical Assistance program, which is the planning technical assistance program that rural and tribal communities can take advantage of.

For my next slide, as I mentioned with the BIL, the Biden-Harris Administration has a focus on climate resiliency and equity, and Congress passed the Inflation Reduction Act (IRA) last year. This legislation includes seven hundred thirty-nine billion dollars (\$739,000,000,000) in investments to reduce carbon emissions by roughly forty percent (40%) by 2030. Some highlights of that legislation include allowing counties to elect for direct pay in lieu of certain energy tax credits, establishing a three-billion-dollar Environmental Justice Block Grant program within EPA, and the twenty-seven billion dollars (\$27,000,000,000) in Greenhouse Gas Reduction Fund at EPA. These grants are generally what we see being administered at a state level, so if the County is interested in pursuing opportunities under IRA for the programs I just listed, we recommend coordinating with state entities on that.

Most of the grant programs I listed under those two (2) legislative vehicles and beyond are typically sent out on a weekly grant update that provides NOFO opportunities, deadlines, and application requirements. Typically, an engagement with SDA and the County includes county staff identifying or flagging opportunities that they are interested in, and SDA will provide clarity on questions, engage the congressional delegation, when needed, or connect the County staff with program experts. Those are highlights of different ways that Smith Dawson & Andrews engages with the County for Federal grants and programs. I will pass it to Catherine to talk a little bit more about some of the recent County successes.

(Councilmember Kagawa was noted as not present.)

Ms. Beal: Thank you so much, Kierstin. Since we last spoke, I know the BIL and the IRA either had already passed or were about to pass. The reason why we were going over it again is because both of those bills...and Kierstin gave the great list of all of these programs. Several of the programs were newly established within those bills, so some of those NOFOs are coming out for the first time now or over the past several months. Those still remain top priorities of new programs that we are tracking. In Fiscal Year 2023, the County secured three (3) congressionally directed spending projects for three (3) critical programs within the County, which are

listed in the PowerPoint slide. The first is for Phase II for Lima Ola, the second is for the 'Ele'ele Water Reservoir and Transmission Main System project, and the third is for the Kapa'a Sewer Collection System Inspection project. Those three (3) projects were signed into law at the end of December 2022.

(Councilmember Kagawa was noted as present.)

Ms. Beal: Over the past few months and in the upcoming months, the County is working with the Department of Transportation, the Department of Housing and Urban Development (HUD), and the United States Environmental Protection Agency on how to unlock those funds. This is following off of also the successes from Fiscal Year 2022, so we are thrilled about these projects. Of course, the congressional delegation—Senator Schatz, Senator Hirono, and Congresswoman Tokuda—played critical roles in advancing these projects, so we are very grateful to them for their help and we are very grateful, of course, to the County for working on these projects.

That brings us to what is currently pending in Fiscal Year 2024. Fiscal Year 2024 began on October 1, 2023, but as you have likely seen, and as we will talk about, Congress passed a continuing resolution to keep the government funded through November 17th. That means everything in Fiscal Year 2024 appropriations is still pending. The County has six (6) projects pending through Fiscal Year 2024, and this means that Senator Schatz, Senator Hirono, and Congresswoman Tokuda have secured some or all of these. This is the sum of both the House and Senate bills of these specific dedicated projects for the County of Kaua'i. Of course, we are closely monitoring the appropriations bills and we are looking forward to seeing the conference report for when the House and Senate come together, which will, hopefully, include all of these projects. We will provide updates on when we see that and the status of those projects.

Another big thing that we have been working on is the Water Resources Development Act (WRDA), which is a two-year authorizing bill that keeps the United States (U.S.) Army Corps of Engineers funded with projects and priorities. Currently, we are working on WRDA 2024. We have included this slide on what we secured on WRDA 2022, along with support from the congressional delegation. This is the baseline of some of the work we are doing in 2024. In 2022, we secured two (2) environmental infrastructure authorizations which provides an opportunity for the County to pursue funding opportunities for non-traditional U.S. Army Corps of Engineers work, so this could be wastewater, stormwater, and sewer-related projects. The two (2) that we secured were twenty million dollars (\$20,000,000) directly under the County's name, and a seventy-five-million-dollar authorization for the State, of which the County is a partner and is eligible to apply under.

Building off of that, we will look at what is currently pending in WRDA 2024, we have submitted three (3) requests to the delegation to help support the Waimea and

Hanapēpē levees, a coastal storm management study to help the U.S. Army Corps of Engineers and the County partner on ways to identify solutions for climate change and coastal storm risks, and an Expedited Feasibility Report to support the Waimea 400 Development, specifically looking at the ecosystem and aquatic priorities as that development continues. As I have just said, and I will repeat it, because there are a lot of moving parts, we have submitted those requests to the Senators and to Congresswoman Tokuda, but the House has not opened their process yet. We are closely working with the delegation on what we will work on for WRDA 2024. These three (3) projects I briefly went over are still pending through the congressional process, and we will keep you updated as we see advancements in that. We likely will not see the WRDA 2024 bill signed into law until maybe the end of next year, so there is still a lot of ways to go. This is really the beginning stage.

Speaking of what we are looking at over the next few weeks or months, as we said, there is currently a continuing resolution keeping the government funded through November 17th, so we are now within the one-month stretch of trying to see if Congress can pass the Fiscal Year 2024 bills or if they will need to pass another continuing resolution. We would say that the biggest contingency right now is the Speaker of the House situation. Earlier today, the House had another vote on who the Speaker of the House should be, but no candidate reached the required two hundred seventeen (217) votes, so who the Speaker will be is still in flux and that is virtually stalling all work in the House, which has significant implications for the appropriations process as well as the Federal Aviation Administration (FAA) Reauthorization and the National Defense Authorization Act (NDAA). Currently, everything is holding out for now for the next few weeks, but November 17th will be a big deadline if a Speaker cannot be chosen, because it stalls all work in the House. I will turn it over to Kierstin regarding what our next steps are for working with the County.

Ms. Stradford: Thank you, Catherine. As Catherine mentioned, we are in a holding pattern in Washington, D.C., but as far as future advocacy efforts for the County, we will maintain relationships with the congressional delegation. Our team is regularly in communication with the offices of Senator Schatz, Senator Hirono, and Congresswoman Tokuda. We also keep apprised with relevant Congressional agencies in the (inaudible) some grant support and any other technical questions that the County may have. We continue to monitor legislative activities and other executive branch actions that would have an impact on the County. Lastly, we will be working to finalize the County of Kauaʻi's Federal Agenda for 2024. This is a "comprehensive legislative leave-behind," as we like to call it, that we generally put together on behalf of the County, which touches on environmental impact, natural resources, transportation efforts, and housing and homelessness. Essentially, it is a guide that we put together for the delegation so they are aware and cognizant of the County's priorities moving forward, and as they are thinking through legislation or working with agencies on programs and additional legislative action items, they are able to reference this agenda and point out opportunities that the County can be

successful through. Once we put that document together, we will generally plan a 2024 Washington, D.C. fly-in where the Mayor and other County staff will come, we will meet with the congressional delegation and other agencies of importance, sometimes we will coordinate a meeting with the White House and other administrative staff, and have a chance to check in and let these folks know some of the County's projects for the next year. I know that is a lot and we have touched on a lot of different points, but we appreciate the opportunity to present to you all on this update and we are available for any questions.

Council Chair Rapozo: Thank you. We appreciate the presentation and the work that you do. I will start with the Water Resources Development Act. You mentioned that with WRDA 2022, the County secured twenty million dollars (\$20,000,000) of U.S. Army Corps of Engineers EI program and seventy-five million dollars (\$75,000,000) in statewide funds. Was the twenty million dollars (\$20,000,000) specific to the County? Is the money directly available to the County?

Ms. Beal: That is correct. It is available to the County. Written in the bill is twenty million dollars (\$20,000,000) to the County of Kaua'i for Environmental Infrastructure, so in order to unlock those funds...and WRDA is a bifurcated process, so Step 1 is to receive the authorization, and Step 2 is to go to the Appropriations Committee and request for those funds to be unlocked. That might be through submitting a congressionally directed spending request. That is typically what we do and then secure an earmark for up to five million dollars (\$5,000,000) per project.

Council Chair Rapozo: You mentioned that those funds are eligible for wastewater system or sewer system projects.

Ms. Beal: That is correct.

Council Chair Rapozo: In the projects that we submitted for WRDA 2024, understanding the political climate with the House right now, were the only three (3) projects we submitted the levee project, the risk management project, and the feasibility report for Waimea 400?

Ms. Beal: That is correct.

Council Chair Rapozo: Are there no projects for wastewater?

Ms. Beal: Thank you for asking that. Wastewater, sewer, and stormwater are typically outside of what is authorized in a specific WRDA bill, but those are available to be unlocked through the Appropriations Committee through the Environmental Infrastructure.

Council Chair Rapozo: I understand.

Ms. Beal: I am sorry. It is a little confusing.

Council Chair Rapozo: It is that these projects can be written into the bill, but we need to go through the Appropriations Committee for the wastewater projects. I understand. Thank you.

Ms. Beal: That is correct.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: Thank you both for the work that you do. I have a handful of questions and I very much appreciate the list on slide 6, because we have needs in all of those areas. On slide 4, it mentions drinking water, wastewater, energy, broadband, and other transportation priorities. We have a lot of need in that area. Something that we have learned in both going to the National Association of Counties (NACo) meetings and recently in the wake of the Maui fires is that we have a lot of concerns here where we are behind on elements. One of the things that we have heard is in both the Bipartisan Infrastructure Law and the Inflation Reduction Act is a lot of the moneys have not been applied for from different counties around the country, because of the difficulty of the application process, so there is actually an abundance and that we can apply for more than what we are allocated. Is that correct? In terms of when the money is put out for all the counties, not everyone applied, so there are pools of unused money. In fact, they say there are waterfalls of money.

Ms. Beal: Are there specific programs?

Councilmember Cowden: Yes.

Ms. Beal: I know that generally there is not an issue with this, but are you thinking of any specific programs?

Councilmember Cowden: Yes. It happens that we have the Fire Chief in the room and one (1) of the leaders of the Department of Water here, so it may be fortuitous that it is the case, but two (2) big areas we have...first of all, the Department of Water tells us they have three hundred million dollars (\$300,000,000) in water infrastructure improvements that they really need to bring us up to speed. We have affordable housing neighborhoods that cannot receive water and a school in my community that cannot receive water, so bringing the water need up is one (1) big strong one. Another is fire flow protection. We have inadequacies in our fire flow. Both of those things help us to look at our fire flow prevention and resilience. Without it coming from the potable water supply, we have thirty-eight (38) reservoirs that have notice of deficiencies and what we learned is that these reservoirs are being called in poor

condition. In some ways, it may not be as poor as it seems, and we do not want to lose this water supply, both for our agriculture and for what could be non-potable fire flow protection, both to the built environment and possibly a few areas out in the wild...in the big lands that are owned by the State, because what happened on Maui could have happened here, and we really need to take this wake up call and take action on that. I do not know how we will do it without Federal money, so I am hoping we will have a strong focus on that. One other...

Council Chair Rapozo: Councilmember Cowden, you will need a question. You just did a complete discussion. The question that I heard was is there an issue with all these funds that are available and are not being used by counties across the country. That is what I heard.

Councilmember Cowden: She said, "Yes." She is nodding.

Council Chair Rapozo: You are right, so I am asking for another question.

Councilmember Cowden: The next question...

Council Chair Rapozo: Go ahead.

Councilmember Cowden: The next question is are you aware of or can you help us with getting grants for fire flow protection, water infrastructure, and fire mitigation? Are you able to work with either the Fire Chief or Department of Water for these grants?

Ms. Beal: Absolutely. Typically, fire protection grants fall under the Department of Homeland Security's Federal Emergency Management Agency (FEMA). There are several grants within FEMA focused on firefighting security and protection, including Staffing for Adequate Fire and Emergency Response (SAFER), Assistance to Firefighters Grants, a couple more. We can definitely flag those opportunities and see what the nexus is. I also know two (2) Federal grants that Senator Schatz and Senator Hirono are working on to secure disaster recovery funding for Maui, in the immediate aftermath, and I am confident that fire protection and additional funding for those types of devastating tragedies, which we are heartbroken about, but we know that those are opportunities that will be priorities in the upcoming months with the delegation. Kierstin, is there anything that you want to add?

Ms. Stradford: I think that is a good point. I want to briefly circle back to your question about having available Federal funds for some of these programs within BIL. It is hard to say without knowing exactly what program you were referencing, and I think that is why Catherine asked what programs NACo specifically

flagged. A lot of the programs within BIL are discretionary programs, so they are not allocated through the state in a way that is automatic funding. These are programs the County will need to apply for on a competitive basis and be awarded the funds, and we can absolutely provide help and support with that. I do not know of too many programs within BIL that are undersubscribed. If anything, these programs are very competitive. I want to flag that. With IRA, that was just passed last year and Congress and the agencies are still working on getting together program guidance on how to best implement these programs, so I do not know if we can accurately say at this point that IRA has a lot of funds that are not accessed or are in surplus, but we expect to have more insight as we move forward through both bills.

Councilmember Cowden: Thank you very much for that. You basically helped with my question. It sounds like...so I am asking for confirmation...that we do not currently have excess grants that we would normally be working with through you for either water infrastructure or fire prevention. I am hearing that we need to be making those applications. Is that correct?

Ms. Stradford: Yes. That is correct.

Councilmember Cowden: When you are talking about it being hard to determine which particular avenues in these grants...that is what I am hoping you can help us with, because when we attend these conferences, it comes at us so quickly, and they do not hand you the grant application, so it is very hard to follow up. You hear that the money is there, but I am asking the very same question that you are asking. Which pathway? I think that we need a little bit of help in that, and it sounds like that might be a skillset that you folks can offer us.

Ms. Stradford: Absolutely. To the point that any staff in the County would like to discuss any potential opportunities with us or talk to us about potential projects or programs that they are looking to fund, we will spend a lot of time trying to find a Federal nexus for that. We are available for that.

Councilmember Cowden: On slide 4, when we look at the Electric Vehicle Charging program, I am wondering, as this is being considered, if there is reflection on this new trend of seeing these batteries explode or catch fire, become problematic, and be very hard to put out. Are we reconsidering that strategy of moving so many things to lithium? We have a lot of salt water here, which is the catalytic problem. Is there some thought towards how we can redirect some of these goals that would be requiring an increasing level of lithium batteries everywhere? It is part of our fire problems that are happening.

Ms. Stradford: That is a great question. As I understand it, the EV programs work through the Department of Transportation. Those are implemented at the state level, so the County can work with the Hawai'i Department of

Transportation to provide feedback on the Hawai'i state plans for transitioning to electric vehicles. I would not be able to say specifically how the State is addressing that issue, but it is something that we can look into and provide some additional information for.

Councilmember Cowden: Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Slide 12, is about future Federal advocacy efforts and it includes a fly-in to Washington, D.C. Do you know when that is happening? How do you schedule that? I believe that the Council of Mayors probably has a conference in Washington, D.C. annually, and I know we have our NACo legislative conference in Washington, D.C. in February. It will happen around February 12th in 2024. How do you schedule that?

Ms. Beal: Typically, we schedule the Washington, D.C. fly-in with the U.S. Conference of Mayors schedule, so typically, their winter Washington, D.C. legislative conference is a couple of weeks prior to NACo's legislative conference. It is typically around the Martin Luther King Jr. (MLK) holiday, so, last year, for example, that is when the Mayor was here with Polly and Mike and that is when we held our meetings with the delegation and with the departments and agencies. We have not locked in a 2024 date, yet.

Councilmember Kualii: How that works is you actually go with them and help them prepare the "pitch" or what they are saying to our Legislators in Washington, D.C?

Ms. Beal: That is correct, and that ties in with what Kierstin was saying regarding the Federal Agenda. That is the foundational framework for the talking points and preparation for those meetings. That is correct.

Councilmember Kualii: I am unsure if you have done it in the past, but I would ask that...especially if it is happening a few weeks or a month before our NACo Legislative Conference...when you come out of there, you give a report of how it went, what you shared, and then we can take all of that and pitch it again, because when we are there, we have a day when we go on the Hill and visit the different offices. You would be willing to do that, right?

Ms. Beal: That is a fabulous idea. We would love to do that. Thank you so much for asking for it.

Councilmember Kualii: Thank you. It is all for the County, right?

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: Thank you for all that you folks do and for this very informative presentation. My question is simple. You spoke about the BIL and with the State mandating that we need to convert our cesspools to septic, you mentioned that sewer would be covered under the BIL. How many of our delegations across the State are pushing to get some type of grant for the conversion of cesspools to septic? Also, will we eventually go from septic to sewer? Can we use some of the infrastructure money? Can we lobby this at the state level? How are you folks approaching this problem that we have on Kaua'i and across the State?

Ms. Beal: Thank you for that question. We are working with a handful of wastewater projects where either funding has been secured, perhaps through the Fiscal Year 2023 Appropriations process and long-term projects that we are assisting with. I am not familiar with any Federal grants that currently exist to support the transition from cesspools. We will look into that. We will also touch base with the delegation. I know that the U.S. Environmental Protection Agency also has vested interest in eliminating cesspools and that is the first place...and we would also touch base with staff at U.S. EPA on opportunities. I apologize that I am unable to name any right now, but I promise you it is on our list of follow-up.

Councilmember DeCosta: We will also reach out to our delegation counterparts to find out what states across the U.S. have cesspools and what they are doing within their county to support local families with that conversion process, because asking a homeowner to convert over is an expensive process, especially since through the EPA, we will eventually put in sewer, which means we will eventually bypass septic. I am just trying to help people with that financial cost. Thank you.

Ms. Beal:

Absolutely. Thank you.

Council Chair Rapozo:
Councilmember Kagawa.

Does anyone else have any questions?

Councilmember Kagawa: Thank you for your presentation. Following up on that, has there been any discussion on giving large tax credits for the conversion that Councilmember DeCosta is talking about? We give large tax credits for solar power and solar panels on houses. We give large tax credits for electric vehicles. We give large tax credits for child restraint seats. Being that contamination to ground water and ocean water is such a huge problem, why would the Federal government not consider large tax credits for something that would provide so much help to the environment?

Ms. Beal: I think that is a great idea and we will ask the delegation and EPA what opportunities either exist, but we have not see before, or that we could work on for future efforts.

Councilmember Kagawa: The point is that Hawai'i is an island state. We are unique. We are like no other state in the U.S., so let us be fair. We have a specific problem and unlike the other states, we do not have a lot of land to create large sewer systems. We are an island state. There is a lot of ground water, a lot of river water, and a lot of contamination points, so that is why being able to receive some help knowing that we are a very unique state is huge for Hawai'i.

Council Chair Rapozo: I just want to remind everyone that Smith Dawson & Andrews are basically our lobbyists. They are our consultants. They do not make policy. They are a great resource, they have been for many years, and I would encourage everyone to communicate with them. They have the book, they know how to find the money, and they can help us find pots of money that may be available. Are there any questions on the presentation? Councilmember Carvalho.

Councilmember Carvalho: That is so true about the pot of money and knowing the resources that are available. We need to come up with a solid plan to attract the funding that you can provide us overall, right? On slide 9, I have a question regarding the Environmental Infrastructure program, the twenty million dollars (\$20,000,000), and the U.S. Army Corps of Engineers and that whole process. Can you talk about that a little more so we can dive into that? I know there is seventy-five million dollars (\$75,000,000) statewide, but overall, how does that work for Kaua'i?

Ms. Beal: With either pot of funding, our recommendation would be to prepare a congressionally directed spending request. That is a process that would open up perhaps around February or March, and it is an application to the Senators and Congresswoman Tokuda, and is congressionally directed spending...or earmarks, as we now call it. It would be a request for up to five million dollars (\$5,000,000) for a specific project. The twenty-million-dollar cap means that, in theory, you could apply up to four (4) projects at the five-million-dollar cap or more at smaller amounts. You can flex how you would like to spend that. There is a seventy-five/twenty-five (75/25) match, so a twenty-five percent (25%) local match is required. Should that request move forward, it would then be through the Fiscal Year 2025 earmarking process, and once it is signed into law, the County would work with the U.S. Army Corps of Engineers on moving forward with the project. Is that helpful?

Councilmember Carvalho: Yes. I just wanted you to clarify that, so the people watching know the process of what it takes to receive the funding. It is there, we just need to make sure we have the correct process in place and understanding to secure it and bring it back home, because we have a lot of things that we need to do here. I just wanted to clarify that. Thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualifi: As a follow-up to those questions, in the next slide, where you list the three (3) projects—the Hanapēpē Levee project, the Storm Risk Management, and the Expedited Feasibility Report—if the request was already made, can you give us dollar amounts for each of those?

Ms. Beal: Those requests are just for the authorization, so, for example, looking at the Waimea and Hanapēpē Levee request, should that end up in the WRDA 2024 bill, once that bill is signed into law...which would likely be in about twelve (12) months...the U.S. Army Corps of Engineers would go through the bill and see that project, then the Honolulu district would begin the process of a feasibility study. They would work in partnership with the County to first assess what the status is of the levees, what needs to be done to ensure the levees are up to code, up to the one hundred (100) year flood measurement, which is typically the barometer for levee safety, and they would also prepare a plan regarding whether or not the work should be done, how much would it cost, how long would it take, what resources would the County and the U.S. Army Corps of Engineers need to make this happen. It is a long process. An authorization is the first step in beginning this long process. We do not have the specifics on how much it would cost at this point or the timeline. Similar to the study, the U.S. Army Corps of Engineers would see this, then prepare the process of where they would specifically want to study on-island, what that would look like, what resources they would need. I know you know this, but it is a long process. A lot is understood as the process moves forward. Timeline-wise, should these authorizations be secured, we would probably have a better look in perhaps eighteen (18) months after authorization is secured. This is a typical timeline for the U.S. Army Corps of Engineers.

Councilmember Kualifi: Basically, these bullet points are just high-priority projects that we want to put a portion of or the entire twenty million dollars (\$20,000,000) towards, but when you said each project can only be up to five million dollars (\$5,000,000), when these are further developed, the first bullet point could become two (2) different projects, right, because it takes millions of dollars to do some of this important work?

Ms. Beal: That is correct. The EI authorization is completely separate from these three (3) that are listed for 2024. Those three (3) are much more traditional U.S. Army Corps of Engineers projects, so they are in different pots of funding. The levee could potentially be under the general investigations pot, whereas the study is under a different pot, and the Expedited Feasibility Report would be under the Continuing Authority's Program. They are different pots of money. The EI authorizations can stand in its own silo of wastewater, stormwater...and of course, a levee intersects with all of these different keywords, but EI is its own pot of funding for wastewater and stormwater types of assistance.

Councilmember Kualifi: Thank you. Thank you, Chair.

Ms. Beal: Thank you.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I just want to make my question very clear, and perhaps the staff can help send it. Can our Council be sent a list of Federal grants that have been undersubscribed and to copy the Mayor's Administration on that communication, so that we can look and as Councilmembers, we may also be able to push that out to our needs...we have some idea where it can go and we can help get that money out there?

Ms. Beal: Yes, we can absolutely look into what Federal programs are undersubscribed. Thank you.

Council Chair Rapozo: Are there any other questions? My last question is in regards to the Federal Agenda that you spoke of on slide 12. What is the deadline for the County to send our packet to you?

Ms. Beal: Honestly, the Federal Agenda process is pretty fluid. Typically, we like to have everything done about a week or so before whenever the Washington, D.C. advocacy meetings are scheduled, so if there are things you want to prioritize and if you already have them prepared, please feel free to send it our way or in the next couple of months. Content-wise, we generally like to have things locked in by the first or second week of January.

Council Chair Rapozo: Thank you.

Ms. Beal: Thank you.

Council Chair Rapozo: Are there any other questions? Seeing none. Thank you very much. Hang tight, because we might have some public testimony. Is there anyone in the audience wishing to testify? Seeing none.

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

Council Chair Rapozo: Is there any further discussion?
Councilmember Kagawa.

Councilmember Kagawa: Thank you. I just want to thank the consultants. I want to make it clear that when we have consultants fighting for us in Washington, D.C., they are fighting for our money. It is our taxpayers' money. Our taxpayers pay a lot of taxes. They struggle, because they pay so many Federal taxes. We deserve the money we receive. It is our money. It is not money that is only raised in

Washington, D.C. and they are giving it to us to help with fixing our problems. We are supposed to receive that money, so I am happy that they are here, I am happy that they are fighting for us, but this is our money, and they need to know our priorities. I said it plain and simple. A lot of times our voices are not heard by our congressional delegation. They are worried about Ukraine and they are worried about all these other things out there, while people here are so far away from Washington, D.C. and their voices go unheard as far as our needs here. We want to build affordable housing. When we want to extend houses, we are denied, because we do not have septic tanks. We cannot extend homes for families, so they become homeless or “bunch up” even more into what they have, because of Federal regulations and Federal problems passed through the State Department of Health. When talking about issues, I understand the Council Chair saying “I am barking up the wrong tree,” but who are we going to bark to if our congressional delegation will not hear us and if no one else hears us? Who will we bark to in order to have our money work for us? That is my view. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Cowden.

Councilmember Cowden: Catherine and Kierstin, I am really grateful for you participating via Zoom. I know Catherine has been here. Kierstin, I do not think you have, but perhaps next time. I am happy to, or I am sure someone would be happy to drive you around the island. Supporting what Councilmember Kagawa is saying, I think that where we are atypical of the way a lot of these grants are, is our island is populated around the circumference of the circle...I am drawing it with my hands...and it goes from maybe 11:45 around to almost 10:00, so you cannot even drive around the island. When we are around the perimeter of the circle, our infrastructure needs are stretched out along this really long line, and when it goes inward anywhere, it is mostly unique roads that go up. I think we have about four hundred (400) miles of independent infrastructure that we need, so it is very hard for our seventy-three thousand (73,000) people to generate the right type of money. Even if you go one hundred ten thousand (110,000) people, which includes our visitors, given that we are not the area of the circle, we are the circumference, our need is excessive. Adding to what Councilmember Kagawa said, we have these Federal restrictions placed on us that do not really understand we cannot drive our garbage to some other place, so we have all these areas that the Federal requirements are out of alignment with the unique needs of our island, so we respectfully ask for your help and your creativity. Perhaps next time, if there is a fly-out there, we might be able to do a fly-out here and make sure you are really able to experience our island. I think there is usually a fly-in here and you leave soon after, so that is expensive. It is good to put a few days in and really see the place so you have a better understanding, but we sure do thank you for all the work that you do for us. We appreciate it.

Council Chair Rapozo:

Is there anyone else? Councilmember Bulosan.

Councilmember Bulosan: I just want to say *mahalo* to Catherine and Kierstin for joining us today and thank our Managing Director for requesting this briefing. Sharing this time with you folks has been important for us to get on the same page on this side. I know you folks have been working on it for a while and have been with us for a while. As the newest Councilmember, I really appreciate all the effort that you folks are putting forth for our community. I want to echo the discussions and questions that were shared, because they are all very important for us. As a tiny island in the Pacific, it is really important to have you folks there for us. It really is an opportunity for us to bridge some of these gaps, so thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I, too, want to say *mahalo nui loa* for coming before us with all of this information. I will look forward to your fly-in to Washington, D.C. and hearing back after that. Your work is even more critical now, because more and more we are hearing the concern about protection from not just fire, but from all disasters, being prepared, about prevention, and all of that from our constituents. Even when you think about investments in infrastructure, we have old and failing infrastructures, which are susceptible to disaster and making it worse for our people. I know evacuation routes and things like that...we have some bridges that need repairing. I know with the Infrastructure Investment and Jobs Act (IIJA), you folks have been pointing out many, and we are taking advantage of those Federal funds, but we need even more, because there is never enough money to invest in the failing infrastructure that needs to be taken care of, but we appreciate you and we look forward to working with you even more. Thank you. Thank you, Chair.

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: Thank you for all that you folks do, thank you for listening to our concerns and for pointing us in the right direction, and thank you for mentioning how important it is when we attend the NACo Legislative Conference in Washington, D.C. in February to bridge that gap between the liaisons from different counties and different states, who are probably going through similar problems and/or problems they have never heard of, because we are an island, we are unique, and our infrastructures are along the ocean. If we look at climate change and resiliency, we need to go inland, but we do not have any infrastructure going inland, so thank you for looking out for us as a small County here on Kauai. Thank you.

Council Chair Rapozo:

Councilmember Carvalho.

Councilmember Carvalho: Everyone said everything, but thank you for the presentation and giving us the opportunity to prepare ourselves and connect...which is the biggest part for me...and understanding that the importance of us doing our part here, whether it be the Council or the Administration, and then

hooking up with you folks and knowing that you have the ability to connect it and take us to right place, and then we will go from there. Thank you for your hard work. *Aloha*.

Council Chair Rapozo: Thank you. I want to mention that you are not the wrong tree to bark up. You are the right tree to bark up, but today is the briefing of what you folks have done up to now. I am a bit disappointed, because I do not see the Administration here. They requested this briefing, so it would have been nice to have them here, and to have them up to ask the policy questions, the funding questions, and the cesspool questions. They should be here, because they participate in this Federal Agenda, so I am disappointed that they are not here, but I can assure you that they will be here at another date to discuss, because I am very curious as to why we are not maximizing the use of the WRDA funds for the issues that Councilmember Kagawa spoke of—the cesspool issues, the wastewater issues, the sewer issues. Those issues are at crisis levels for our island. I understand that there are different priorities, but this Council needs to be active in the discussion that leads up to the Federal Agenda process, which leads to the fly-in for the mayors. I do not need to be at that fly-in, but I definitely believe this Council should be part of the discussion that leads up to the Federal Agenda process meeting, because what you heard today was a lot of frustration from Members who see the need in these communities, and as Councilmember Cowden said, we obviously cannot afford to fund the needs with seventy-five thousand (75,000) residents. It is just not going to happen because of the deferred maintenance that has occurred over the decades. Staff, please make a note. I definitely want to have a briefing by the Administration at a Committee Meeting to discuss the Federal Agenda and to set priorities that together we can actually come up with a bunch of priorities that we believe are important for our people. Once SDA gets the lists and they are on their way, then the tree gets up at all the time. Then we can have a discussion, but a lot of the issues discussed today are state-level issues, County issues, policy and priority issues that we, as this Council, do not have enough participation in. That is on us. It is not on you folks. Thank you. How many years have you been working with the County?

There being no objections, the rules were suspended.

Ms. Beal: SDA and the County have been partners for eleven (11) or twelve (12) years.

Council Chair Rapozo: Yes. It has been a long time. It has been a great relationship and you folks have done good work for us. I know no one likes to use the term “lobbyist,” but that is sort of what you are. You go up there and are the liaison between us and the delegation and the members of the cabinet. We appreciate what you folks do, so thank you so much. Enjoy your flight back.

Ms. Beal: Thank you so much.

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

The motion to receive C 2023-230 for the record was then put, and unanimously carried.

Council Chair Rapozo: The motion carried. Thank you. Next item, please.

C 2023-231 Communication (10/04/2023) from Councilmember DeCosta and Councilmember Bulosan, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 6, Article 13, Kaua'i County Code 1987, As Amended, Relating To Recovery Of Rescue Expenses.

Councilmember Kualifi moved to receive C 2023-231 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: This is the Communication for a Bill that will come up later. Is there anyone in the audience wishing to testify? Ms. Parker. Your testimony for this will be carried over to the bill.

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

ALICE PARKER: Alice Parker, for the record. First, congratulations Grandpa Rapozo, for a bouncing eight-pound boy. Hooray. Back to the bill. This is an essential cost-recovery plan to lessen the monetary expense of rescue expenses, especially for those injured law breakers, who willfully engage in hiking and entering places, which are clearly posted as "Keep Out." This illegal practice endangers our County rescue crews unnecessarily, so please support the bill.

(Councilmember Kagawa was noted as not present.)

Ms. Parker: Also, we need money for our rescuers and there needs to be some way to advertise the fact that it is not legal, and you will pay the cost. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify? Seeing none. Is there any discussion on the Communication? Seeing none.

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

The motion to receive C 2023-231 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the County of Kauaʻi, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: The motion carried. Next item, please

CLAIM:

C 2023-232 Communication (09/25/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alexa McMonagle, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2023-232 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion or public testimony on the Claim? Seeing none.

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

The motion to refer C 2023-232 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: The motion carried. Next item, please.

COMMITTEE REPORT:COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2023-12) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

"COW 2023-06 – Communication (07/13/2023) from Council Chair Rapozo, requesting agenda time to allow a briefing about the current status of Kaua'i dams and reservoirs from government entities including the Department of Land and Natural Resources (DLNR), Department of Hawaiian Home Lands (DHHL), and Agribusiness Development Corporation (ADC),"

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

Council Chair Rapozo: Is there any discussion or public testimony?
Mr. Hart.

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

BRUCE HART: For the record, Bruce Hart. During the presentation, it was mentioned that the Kekaha Agriculture Association...and I will remind some Councilmembers and others that years ago...pre-COVID-19...Councilmember Kagawa brought the Kekaha Agriculture Association (KAA) here and had a presentation. During that presentation, I learned of the beginnings of a project that involves our utility company, Kaua'i Island Utility Cooperative (KIUC), and others in regards to hydropower. There was a turbine operational at that time and I did not say anything.

(Councilmember Kagawa was noted as present.)

Mr. Hart: I spoke outside the Chambers to Wanda and one (1) of the gentlemen who provided testimony during this presentation. I am very interested in...and for your information, Councilmember Kagawa, the KAA presentation you did years ago regarding hydropower...I am very interested in this project, and I would ask the Chair that there would be a presentation just on that issue, and it seemed that Wanda was favorable to it. The gentleman said...excuse me, but I cannot remember his name right now...that this is one (1) of the biggest power projects in the State. Obviously, things have happened between the time when Councilmember Kagawa had that presentation and now, and I do not know what is going on. I cannot emphasize enough the benefits to our community. Can you imagine if we went from one (1) of the highest kilowatt hours states in the nation to one (1) of the lowest? Can you imagine the savings? Can you imagine the cottage industries that could crop up among our community because of cheap power? All the different benefits that would come from cheap power. For example, if we could reduce our power supply by two-thirds ($\frac{2}{3}$) or even down to one-fourth ($\frac{1}{4}$) of what it is. How about the air conditioning (A/C) that is cooling us right now? How about the millions in savings statewide? Thank you.

Council Chair Rapozo: Is there anyone else wishing to testify? Seeing none. Is there any further discussion? Seeing none.

There being to further testimony, the meeting was called back to order, and proceeded as follows:

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

Council Chair Rapozo: The motion carried. Next item, please.

(Councilmember Bulosan was noted as not present.)

RESOLUTIONS:

Resolution No. 2023-62 – RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR VETERANS

Councilmember Kualii moved for adoption of Resolution No. 2023-62, seconded by Councilmember DeCosta.

Council Chair Rapozo: Clerk, can you read the Resolution? It is a bit chilly here. I am shaking, because it is so cold.

Councilmember Kualii: It is cold.

Council Chair Rapozo: Okay, so it is not just me. I will be shaking if I read it, so can you read it, please?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: “RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR VETERANS. WHEREAS, the residents of the County of Kaua‘i have great respect, admiration, and the utmost gratitude for all of the men and women who have selflessly served our Country and this community in the Armed Forces; and...

(Councilmember Kagawa was noted as not present.)

Ms. Fountain-Tanigawa: WHEREAS, the contributions and sacrifices of those who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and WHEREAS, the County of Kaua‘i seeks to honor individuals who have made countless sacrifices for freedom by placing themselves in harm’s way for the good of all; and...

(Councilmember Bulosan was noted as present.)

Ms. Fountain-Tanigawa: WHEREAS, Veterans continue to serve our community in the American Legion, Veterans of Foreign Wars, religious groups, civil service, and by functioning as County Veteran Service Officers in 29 states to help fellow former service members access more than \$52 billion in federal health, disability and compensation benefits each year; and WHEREAS, approximately 200,000 service members transition to civilian communities annually; and WHEREAS, an estimated 20% increase of service members will transition to civilian life in the near future; and WHEREAS, studies indicate that 44%-72% of service members experience high levels of stress during transition from military to civilian life; and WHEREAS, active military service members transitioning from military service are at a high risk for suicide during their first year after military service; and WHEREAS, the National Association of Counties (NACo) encourages all counties,

parishes and boroughs to recognize Operation Green Light for Veterans; and WHEREAS, the County of Kaua'i appreciates the sacrifices of our United States Military Personnel and believes specific recognition should be granted; now, therefore, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that as a Green Light for Veterans County, from October 2023 through Veterans Day, November 11, 2023, will be recognized as a time to salute and honor the service and sacrifices of our men and women in uniform transitioning from Active Service. BE IT FURTHER RESOLVED, that in observance of Operation Green Light, the County of Kaua'i encourages its citizens in patriotic tradition to recognize the importance of honoring all those who made immeasurable sacrifices to preserve freedom by displaying green lights in a window of their place of business or residence from November 6th through the 12th, 2023. BE IT FINALLY RESOLVED, that a certified copy of this Resolution shall be transmitted to Matthew D. Chase, National Association of Counties Chief Executive Officer/Executive Director, President of the Hawai'i State Association of Counties Executive Committee, Kaua'i Veterans Council, and Derek S.K. Kawakami, Mayor of the County of Kaua'i." Introduced by Council Chair Mel Rapozo.

Council Chair Rapozo: Thank you, Clerk. I apologize for asking you to read that. We are following NACo, which is the organization that all the counties belong to. Councilmember Carvalho is the President of the Hawai'i State Association of Counties (HSAC). This is a movement to recognize the sacrifices of our veterans. The Resolution speaks for itself, and I am hoping that...we do not have the lighting system that the round building does. I hope to get that one day, but we will be asking the Administration to light up their lights during the designated period of time.

(Councilmember Kagawa was noted as present.)

Councilmember Kualii: They have done it for us before.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: They are usually pretty good with it and light it up for the whole month. *Mahalo* to the veterans and we appreciate you.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: This is a very touchy situation for me. I sit here as a 1983 graduate with my colleague, Councilmember Kagawa, who is a 1984 graduate. We both went away to college, and we went away to college, because we had friends from other schools, like Council Chair Rapozo, who joined the military, giving us the ability to seek out another venture. There was no draft that required all of us to serve in the military. My brother went. He was classmates with Councilmember Carvalho. Councilmember Carvalho is from Kapa'a, while my

brother is from Waimea. Councilmember Carvalho went to play college football and with the National Football League (NFL). His dream was accomplished because my brother took the role to join the military. I want to thank all the people who joined the military and gave people like us, the dream of not going into the military and our country was kept safe, because of those individuals. Thank you Council Chair Rapozo.

Council Chair Rapozo: Is there anyone else with final discussion? Is there anyone in the audience wishing to testify? Seeing none. Roll call, please.

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

The motion for adoption of Resolution No. 2023-62 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualī'i, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: The motion carried. Thank you. Next item, please.

Resolution No. 2023-63 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE BOARD OF WATER SUPPLY ORGANIZATION

Councilmember Kualī'i moved that Resolution No. 2023-63 be ordered to print, that a public hearing thereon be scheduled for November 15, 2023, and that said Resolution be referred to the Committee of the Whole, seconded by Councilmember Carvalho.

Council Chair Rapozo: With that, Councilmember Cowden.

Councilmember Cowden: I would like to explain this Resolution. It was driven by audience participation and is regarding the Board of Water Supply. Right now, we have a really strong Board in there, but...I will read the main piece.

(Councilmember Carvalho was noted as not present.)

Councilmember Cowden: It is to try to ensure that the interests of the beneficiaries and the Hawaiian beneficiaries get the water they deserve. We have learned how they have the first rights to the waterflow, and we have had about one hundred (100) years of our Hawaiian community not receiving their houses in the Department of Hawaiian Home Lands. They have not received the houses and the agricultural pieces. This is an effort to make sure that it is always at the front of the mind of Board of Water Supply when they are making decisions...that the awareness is there. This Resolution is proposing a Charter amendment relating to the Board of Water Supply Organization. That means that if this passes, it will go before the voters. The decision is not held with us. Pursuant to Section 24.01 of the Charter of the County of Kaua'i (Charter), the Council hereby resolves to submit the Charter Amendment described in this Resolution to the voters of the 2024 General Election. Article XVII, Section 17.02 of the Charter is hereby amended as follows...what is existing is, Section 17.02. Board of Water Supply Organization. The Board of Water Supply shall consist of seven (7) members, four (4) of whom shall be appointed by the mayor with the approval of the Council. The next sentence is what is being added.

(Councilmember Carvalho was noted as present.)

Councilmember Cowden: At least one (1) member shall have knowledge and awareness of environmental and Hawaiian cultural concerns by way of the person's education, training, occupation, or experience; at least one (1) member shall have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least one (1) member shall have knowledge and awareness of land development and infrastructure concerns by way of the person's education, training, occupation, or experience. That is the added sentence. The State district engineer of the Department of Transportation, the County Engineer, and the County Planning Director shall be ex-officio voting members of the board. The ex-officio members shall not serve as Chair or Vice Chair of the Board. The Board shall hold at least one (1) regular meeting each month. It shall adopt rules and regulations necessary for the conduct of its business. In Section 3, it says that materials to be deleted are bracketed, and new materials to be added is underscored. That is basically what I explained. It continues with no changes. The County Attorney and County Clerk shall approve the wording of the ballot question, which shall be substantially in the following form...so, this is what would go on the ballot. Shall Article XVII, Department of Water, Section 17.02 be amended to require the Board of Water Supply have at least one (1) member that shall have knowledge and awareness of environmental and Hawaiian cultural concerns by way of the person's education, training, occupation, or experience; at least one (1) member shall have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least one (1) member shall have knowledge and awareness of land development and infrastructure concerns by way of the person's education, training, occupation, or experience. Section 5 says upon adoption of this Resolution by five (5) or more Councilmembers after two (2) readings on

separate days, the County Clerk and County Attorney shall take the necessary steps to submit this amendment to the voters. That is the Resolution. Are there any questions or thoughts?

Council Chair Rapozo: Yes. Let us ask questions on the Resolution. I see that the Department of Water is here. I am not sure if they...it is entirely up to you. No? Okay, perfect. Councilmember DeCosta.

Councilmember DeCosta: I have a question.

Council Chair Rapozo: Do you have a question on the Resolution?

Councilmember DeCosta: Yes. What prompted you to want to include those three (3) bodies who need to have cultural, educational, and land use experience?

Councilmember Cowden: Why did I add the other two (2) besides just the Hawaiian element?

Councilmember DeCosta: Yes.

Councilmember Cowden: The Hawaiian element was what triggered this Resolution to say that at least one (1) person on there should have a commitment to Hawaiian culture, awareness, and needs. When I put in development and business...I attend the Board of Water Supply meetings and have attended many. Having diversity of experience is important and where this came from is we looked at the Planning Commission. The Planning Commission has a diversity of different types of people to be represented, because you do not want a Planning Commission or possibly a Board of Water Supply...pretend there were all activists on the Board of Water Supply, who did not have knowledge of the development or business. They might cause the Department of Water to make some mistakes. If it was comprised only of developers in there, it might get a little selfish, right? If there was no one with a business background, we might not be able to gauge and make the correct choices relative to the money.

Councilmember DeCosta: Do you know who serves on those three (3) positions...

Councilmember Cowden: Currently?

Councilmember DeCosta: Yes, currently, who are ex-officio members?

Councilmember Cowden: Absolutely. The ex-officio members?

Councilmember DeCosta: The three (3) members—one (1) from the Department of Public Works, one (1) from the Planning Department, and I am unsure of the third position.

Councilmember Cowden: It is the Department of Transportation.

Councilmember DeCosta: Yes. Did you look into their qualifications or what they represent?

Councilmember Cowden: Absolutely. I understand what they represent. They are really important positions. When we have the Planning Department there, of course the Planning Department needs to be in there talking about the Board of Water Supply, because they are the ones who hold the vision and the knowledge of where we are going to have more built environment and where there might be built environments with problems. When we have the County Engineer in there...very important to be in there, because he or she is the one who is looking at where we are planning to add more infrastructure development and what they need, and they would know where we have water pipes that are in the wrong places. They are the Roads Division, just like the Department of Transportation, most of these water pipes run adjacent to or underneath the roads.

Councilmember DeCosta: I understand all of that, but what about the cultural piece that you mentioned. Did you investigate the cultural piece for those three (3) positions?

Councilmember Cowden: Yes.

Councilmember DeCosta: Do they have a cultural piece?

Councilmember Cowden: No, they do not. We happen to currently have two (2) quality people who have some Hawaiian ancestry, one (1) of whom went to Kamehameha schools, I do not know if the other person did or not, but their commitment is not about that background. Their commitment is to understand the needs of the County-built environment. It is not an overlap.

Councilmember DeCosta: I want to support your Resolution, but the two (2) people you are talking about are both graduates of Kamehameha School.

Councilmember Cowden: Okay, so they both are.

Councilmember DeCosta: For the record, they both work for the County, I know them personally, and they have Hawaiian blood. Why would they not be culturally sensitive to their Hawaiian people? I do not understand.

Councilmember Cowden: Let us look at ten (10) years down the road. Perhaps there will be a different County Engineer and a different Planning Director, and if you look at past Planning Directors...they were great Planning Directors, but they were not Kamehameha School graduates. Past County Engineers were not Kamehameha School graduates. This is trying to say how in the future do we keep things where there is always balance? One (1) of the positions was left open, and ideally everyone is great and everything. The piece that I tried to get the group that would be fighting this to come, was regarding wanting the specific language to have a Hawaiian beneficiary. I worked with the County Attorney to understand that is not constitutional, and that would be open lawsuits. He gave me three (3) cases supporting not being able to put the beneficiary language in. This is a stab at going in the right direction, and it is more open in that way. When I look at the existing four (4) who are in there, we are really lucky that we have quality people who are in those positions. Right now, we do not have anyone in those four (4) positions who would necessarily always be asking, "Hey, did you think about our commitment to the Hawaiian community?" I think we made our point clear. The Department of Water Manager and Chief Engineer, Joe Tait, was very clear during the meeting that he would respect that. I hope that he stays for a long time, along with our Deputy Manager-Engineer, but we have seen a lot of turnover. I think there have been about six (6) managers in seven (7) years or something like that. We have had a tremendous amount of turnover and instability, so this is an effort to have that Board of Water Supply...their job is to balance. The Board of Water Supply is to the Department of Water what we are to the Office of the Mayor's Administration and the County executive branch. We are not saying we do not agree with what they do, but we are supposed to be the check and balance, so I am trying to create a check and balance that is appropriate, based on strident and passionate testimony that occurred in this room.

Council Chair Rapozo: I have a question.

Councilmember Cowden: Sure.

Council Chair Rapozo: It is a structural question. The Board of Water Supply has seven (7) members; three (3) are ex-officio members, who are in there because of their position. The three (3) that you are adding in...I am assuming, because it does not say it, so I think we may need to amend this...the three (3) that you identified would be of the four (4) positions that are appointed by the mayor, right?

Councilmember Cowden: That is correct.

Council Chair Rapozo: It does not say that here. With the current language, the person with Hawaiian could be one (1) of your ex-officio members. Do

you understand what I am saying about the way it is written? My suggestion...and the County Attorney is here.

Councilmember Cowden: Yes. Can we have him come up?

Council Chair Rapozo: My suggestion would be that the Board of Water Supply shall consist of seven (7) members, four (4) of whom shall be appointed by the mayor, with the approval of the Council. Of that four (4), one (1) shall be "A," one (1) shall be "B," and one (1) shall be "C." Otherwise, it just says that at least one (1) member shall have the knowledge. It does not tie into the four (4) who are appointed by the mayor.

Councilmember Cowden: Can we ask the County Attorney?

Council Chair Rapozo: I understand the intent and I actually support the intent. It is just that I do not want someone to challenge us saying, "Wait. It does not say one (1) of the four (4)." In other words, if the Planning Director has the Hawaiian, the business, and the land development background, he will be used to meet the requirement. Was the intent of the four (4)?

Councilmember Cowden: The intent is of the four (4). We fashioned it after the Planning Commission language.

Council Chair Rapozo: I understand. As I said, I support it, but I want to make sure. This will be a Charter amendment. This is not a bill that we can change in three (3) months. This is a Charter amendment, so I want to make sure that it is tight.

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: Matt Bracken, County Attorney. I would agree. If you did make that change for specificity, it would make it a little clearer on that issue. The language was taken from other sections of the Charter that do not exactly have the ex-officio members, so it would not come up.

Council Chair Rapozo: Correct.

Mr. Bracken: Making that change for clarity...

Council Chair Rapozo: There is no other commission that has three (3) ex-officio members who are department heads. This is the only one.

Mr. Bracken: That is correct, so that would not work for clarity.

Councilmember Cowden: Can we have an amendment to add the wording and move this to a later part of the agenda, so we just have...

Council Chair Rapozo: Yes, because I want to have this done before it goes to a public hearing.

Councilmember Cowden: The correct wording would say...

Council Chair Rapozo: Of which...I would just say, ...“with the approval of the Council, of which at least one (1) member shall have”...

Councilmember Cowden: Instead of two (2) sentences, it becomes one (1) sentence with a comma...instead of a period, we would add a comma and “of which.” That “of which” will be in...

Council Chair Rapozo: Does that sound good? My major is not English.

Mr. Bracken: You could also say, “The appointed members.” You could start the sentence with, “The appointed members.”

Councilmember Cowden: Let us do that, because it is a run-on sentence.

Council Chair Rapozo: Let us do this. Matt, can you work with the staff? We will get the amendment done and move on to the next item.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Go ahead. Do you have a question for Matt?

Councilmember Kagawa: It is for Councilmember Cowden.

Council Chair Rapozo: Okay. Hang on. Do you have a question for Matt? Go ahead.

Councilmember DeCosta: This is a discriminatory question and I am just throwing it out there. As you know, I married a Hawaiian girl, so all my boys have Hawaiian ancestry. We want to put a Hawaiian person on the Board of Water Supply to make decisions advocating for Hawaiians. Who is to say that we do not want to put a Portuguese person on the Board of Water Supply to advocate for the four (4) and five (5) generations of families that bought land in Hawai'i who currently have agriculture parcels that cannot receive water from the Department of Water, because of the lack of infrastructure? They cannot even build a home on that agricultural land. What if they want a seat at the table? Are we opening this up to a

discriminatory lawsuit based on ethnicity or is it okay, because they should have rights as a native of the land? Educate me.

Mr. Bracken: Ethnicity and race cannot be factors when selecting board members. It cannot occur. It would violate the U.S. Constitution. Ethnicity and race cannot be factors, and as it is currently written, they are not factors.

Councilmember DeCosta: We are saying that right now. We are saying we want to put...

Councilmember Kualii: No. Read it.

Council Chair Rapozo: It just says that they need to have the knowledge and awareness of environment and of Hawaiian cultural concerns.

Councilmember DeCosta: Okay, so that person could be of any ethnicity as long as he or she has knowledge of...

Council Chair Rapozo: It could be your Portuguese great-grandfather.

Councilmember DeCosta: Okay. Perfect. I am okay with it. Sorry for misinterpreting the information, but this is the time to clarify, correct?

Council Chair Rapozo: That is correct.

Councilmember DeCosta: Perfect.

Councilmember Cowden: I have a follow-up question. For clarification, this is the Hawaiian Homes Commission Act. Can you say how that it makes it different for Hawaiians than Japanese, Portuguese, or Spanish? Can you say the role that the Hawaiian Homes Commission Act has that influences this?

Mr. Bracken: That influences this specific amendment?

Councilmember Cowden: Yes. I can answer it.

Council Chair Rapozo: If this is not a question for Matt, you can talk about it in your discussion.

Councilmember Cowden: I can ask you if I am correct.

Council Chair Rapozo: If you do not have a question for Matt, then we will excuse him. Thank you, Matt.

Councilmember DeCosta: Thank you, Matt.

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

Councilmember Cowden: Shall I answer your question?

Council Chair Rapozo: Councilmember Kagawa has a question.

Councilmember Cowden: Yes, and then I will come back to him

Council Chair Rapozo: No. Councilmember Kagawa will ask his question, and then we will move on to the next item so we can work on the amendment.

Councilmember Kagawa: Why do we want to do this Resolution now? Are we blaming the fact of not having this provision as reason why there has been four (4) Department of Water managers and a massive turnover in the past ten (10) years? Is that the reason for the Department of Water being under those...

Councilmember Cowden: It is not about the management.

Councilmember Kagawa: If not, then why are you doing this Resolution now, when we finally think we have great management in place after years of turmoil?

Councilmember Cowden: Thank you for that question. We had Alan Murakami help us understand the Hawaiian Homes Commission Act that happened in 1923.

Councilmember Kagawa: I understand. I do not need education on that whole piece.

Councilmember Cowden: The reason is regardless of the Department of Water Manager we have one hundred (100) years of not appropriating water that is available. I remember that before I was elected, we had a really vigorous conversation here that I filmed. You were here and the Chair was here. We learned there actually would have been water available for DHHL lands in Wailua.

Councilmember Kagawa: If you had this person on this Board?

Councilmember Cowden: Yes, it might have been, because what we do not have is discussion in there that says, "Hey, remember..." That is the reason.

Councilmember Kagawa: Kalani Tanigawa is Hawaiian. Ka'āina Hull is Hawaiian. They are both proud Hawaiians.

Councilmember Cowden: I am not saying they are not.

Councilmember Kagawa: Why are we saying we need this to fix what you are saying? We currently have Hawaiians on the Board.

Councilmember Cowden: Currently, but over time we have not.

Councilmember Kagawa: They will be there for a while. They will be there for a long time. I promise you.

Councilmember Cowden: Alright.

Council Chair Rapozo: The flow is that it goes to a public hearing.

Councilmember Kagawa: I am not voting for it.

Council Chair Rapozo: Okay.

Councilmember Kagawa: You six (6) can decide how the vote will go.

Council Chair Rapozo: That is fine. It will go to a public hearing, and it will end up in the Committee.

Councilmember Kagawa: I am not comfortable with this.

Council Chair Rapozo: Hold on, Councilmember Kagawa. It will end up in the Committee, and I am hoping that we will receive the input from the Department of Water and the Board of Water Supply by then. For me, their input is critical. As it relates to the Hawaiian Homes Commission Act, I understand the reason, but the business concerns and the land development have absolutely no connection to the Hawaiian Homes Commission Act. I do understand your reasoning, and it makes sense. My point is this, it is tough to fill commissions. It is really tough to fill. Former Mayor Carvalho, is it not tough to fill commissions?

Councilmember Carvalho: Yes, it is very tough.

Council Chair Rapozo: When you put too many restrictions on the selection process, you may end up with a commission that you cannot fill. That is a

discussion I want to have when it goes to the Committee. I do not want to have it today.

Councilmember Cowden: Okay.

Council Chair Rapozo: As far as the Hawaiian Homes Commission Act goes, I think it was clear when we had the presentation and I think even the Department of Water Manager agreed that would help, because I think that it is critical that we understand...not that you are Hawaiian or whatever race...but that you understand the cultural facets of the project being discussed and the land. Again, I support the intent. The only concern I have is with adding more restrictions on the remaining members, but we will discuss that in the Committee. Go ahead.

Councilmember Cowden: Can I give a response to that? I did reach out to the Department of Water Manager. He did not want to hold a position on it, because he did not feel that would be right for his position. You could ask the Board of Water Supply, but the Department of Water says they want to remain neutral. He did not have a problem, but he did not have...

Council Chair Rapozo: At the end of the day, we will have the testimony in front of us...whether it is from the County employees or the public...to make the decision. To me, Charter amendments are very serious matters, because they are changing the direction of this County. It is not that it should not be done, but when it is done...that is why two readings are required by the Charter. This is not something that we just do in a meeting. It takes time. Councilmember DeCosta.

Councilmember DeCosta: Chair, respectfully, are we in discussion mode right now?

Council Chair Rapozo: That is correct.

Councilmember DeCosta: I have a valid point. I introduced a resolution that was received for the record and killed, because our Council did not believe I was in the right in introducing it, and I realized I was not in the right. I need to advocate right now. I was under the impression that the Resolution was to put a native Hawaiian on the...let me finish. Stop shaking your head. I was under the impression that we were putting a native Hawaiian, but according to the County Attorney, lawfully, we cannot do that.

Council Chair Rapozo: Correct.

Councilmember DeCosta: I need to follow Councilmember Kagawa. I think this has no validity right now. The Board of Water Supply we have in place...I did not mention those two (2) names, but I am glad you did, Councilmember Kagawa.

Troy Tanigawa and Ka'aina Hull are proud graduates of Kamehameha School...my wife went there...an era between the '80s, '90s, and 2000's, where they promote their people to advocate for their people. I am sitting across a Kamehameha School graduate, who is also a native Hawaiian. We have good people in our community that can be chosen for this position. Why have you dug this up? What are your facts behind it? I do not know if this has any validity.

Council Chair Rapozo: She already answered that, so we are not going down that road again.

Councilmember DeCosta: Okay. I do not want to support this.

Council Chair Rapozo: That is fine. Again, this is basically like a first reading to get it to the public hearing. Everyone has their right to decide how they want to vote. Go ahead.

Councilmember Kualii: Chair, after some thought, I have a question for the County Attorney, which may involve an amendment that I, too, want to make during the break.

Council Chair Rapozo: Go ahead. Matt, you may as well sit up there. We can just make that your permanent seat.

Councilmember Kualii: I am not aware of what you worked out, but what was said about having a Hawaiian beneficiary was that it would not be constitutional. Is that because "Hawaiian beneficiary" basically means fifty percent (50%) blood quantum and that when you talked about race and ethnicity, it is also the blood quantum? That is out, right? However, when we heard the concern from constituents during the briefing from the Department of Water, it was just basically about being aware of the requirements of the water law that DHHL development be given water priority, basically...reservation rights and whatnot. The intent, I believe, initially, was to make sure that there was at least one (1) person on the board who would advocate for that. Obviously, that person does not need to be a beneficiary. They do not even need to be part Hawaiian. They just need to be knowledgeable about those parts of the law, because it is the law, too, right? The Hawaiian Homes Commission Act and the water law in Hawai'i are laws. What would you say to...because I think this language, which is so broad about environmental and Hawaiian cultural concerns...it is so broad. It is not really addressing the specific concerns about housing development on Hawaiian Home Lands. Would it be alright, and not be a constitutional issue, if that language was, "knowledge and awareness of environmental, Hawaiian cultural, and Hawaiian Home Lands housing concerns?"

There being no objections, the rules were suspended.

Mr. Bracken: You can change the language to address any type of training or expertise that you want these members to have.

Councilmember Kualii: It is not training or expertise. It is just knowledge and awareness.

Mr. Bracken: Correct. You can change those things. If you want them to have specific knowledge, awareness, training, or any of those types of things, you can make those changes.

Councilmember Kualii: I think doing such would address that original concern more specifically. It does not have the issue if you said it was a Hawaiian beneficiary that you said was unconstitutional?

Mr. Bracken: Correct. As long as you are just talking about knowledge and expertise, it is not a problem. You can make those types of changes.

Councilmember Kualii: Do you think one or the other is better? Just language that said, "Hawaiian Home Lands housing concerns," or "Hawaiian Homes Commission Act housing concerns"?

Council Chair Rapozo: Or just put "legal." Environmental, legal, and...I would hope that when the mayor appoints someone to the Board of Water Supply...

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Remember now, we confirm the appointment, so if they come up here and they do not have the knowledge in the Hawaiian Homes Commission Act, then you just say, "No," and get someone that does. You find someone who has the knowledge and expertise in that field. Matt, I think the Hawaiian Homes Commission Act has been overlooked for quite a while, not just here, but throughout the State, as it relates to water rights.

Mr. Bracken: Because we are talking about a Charter amendment, the only thing I would highlight is you do want to draft it in a way that will be as clear as possible and is very easy to interpret. The other thing to keep in mind, too, is that whatever language you decide that you want to use, make sure we can satisfy it...I would not say easily satisfiable, but in a way that it can be satisfied. If it requires additional training, I am sure that can happen. As long as you reference something that you believe people out there can have the expertise on, I would say, "Yes, you could definitely do that." When you are wording it, you just want to be careful and make sure we can satisfy those conditions and if it requires some type of training, then that can also occur.

Councilmember Kualifi: You are saying that any of these shared Conditions are very broad and makes it legal, but in regard to whether it is Hawaiian Home Lands housing, Hawaiian Homes Commission Act housing, or legal concerns, any of those are fine legally and clear enough according to what you just said?

Mr. Bracken: Personally, I would want to do a little more research, just to make sure.

Councilmember Kualifi: Okay, then we will do that on the break.

Mr. Bracken: I can look up each of those phrases to make sure the phrasing is good and encompasses what you want.

Councilmember Kualifi: Thank you.

Council Chair Rapozo: Are there any more questions for Matt?
Thank you, Matt.

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

Councilmember DeCosta moved to defer Resolution No. 2023-63, and failed for the lack of a second.

(Councilmember Kagawa was noted as present.)

Councilmember DeCosta: There is so much more to work on. I support whatever movement we have with native Hawaiians and developing the native Hawaiian lands, but we have so many infrastructure problems. What worries me is if we put precedence on the native Hawaiian development, where do the rest of the agricultural lands or the rest of the lands throughout Kaua'I, where the people are not native Hawaiian...and would they carry the cost of all the infrastructure that would be put into this? I am moving to defer this. I think we have too many questions to resolve with the County Attorney and need to better word this Resolution. That is where I stand on it.

Council Chair Rapozo: Hold on.

Councilmember Cowden: Okay, if I am next. I have grown to be an ally to the Hawaiian community, and perhaps an advocate for the Hawaiian community. I have certainly listened to the distress of the Hawaiian community fiercely for fifteen (15) years. Only when Alan Murakami showed me his slideshow of the progression of the laws from the territorial time into statehood...this predated statehood. It was a piece of it. I finally went, "Oh, I get it." I am someone who has

tried very hard to get it and I did not understand how they have always been set aside for exactly what you just said. The worry is if we take care of our native Hawaiian community, then maybe the rest of us do not get what we want. That has been the precedent for one hundred (100) years. This is not telling the Department of Water that they need to give them that. It is just to have someone in there that really grasps it. Councilmember Kualii, when it is as vague as it is, it is because I was guided to realize I do not want this to have to be a lawyer and it is not that easy to find a person who is so tight on that, but we want someone who is in there. I respect the two (2) individuals who graduated from Kamehameha Schools and are in there, but it is that there could be another time when that is not the case.

Council Chair Rapozo: Clerk, when is the deadline for Charter amendments to pass through the final reading? It is next year, 2024? Does anyone remember?

Ms. Fountain-Tanigawa: August.

Council Chair Rapozo: Is it mid-year? It is August. Okay.

Ms. Fountain-Tanigawa: The final would be August.

Council Chair Rapozo: We have a lot of time. I heard Matt mention that he would like to do more research on Councilmember Kualii's question. I can count, but I cannot count this one. You need five (5) votes to move this. My recommendation is to defer to the next Council Meeting and clear up all the...because I have some, too, and I do not want us to feel like we need to put in all the amendments today, we rush, we overlook something, it goes to a public hearing where we realize we messed up, so we have to come back, fix it, and go back to another public hearing. Time is on our side for this one. We have a lot of time. The good thing about this is the longer it takes, the more awareness goes out to the community, and the more input we receive back from them. I think you folks picked the right meeting to attend. We have a lot of moving parts today. Councilmember Carvalho.

Councilmember Carvalho: Following up, I want to make another point that the mayor appoints the four (4). Let us talk to the mayor, work it out, and he will support it. To me, that would be another good way to work it. Talk to the mayor. He will appoint the four (4). I am sure mayors would also want to make sure if it is possible...that someone is Hawaiian or whatever, instead of going through all this, but I am open to more discussion. I just wanted to say that.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: Councilmember Carvalho, you said a handful. We have the ability to listen to our elected Board Members, who will come before us

for approval. We ask them the tough questions. I noticed we all make comments, like we are close to the commission of the Hawaiian homes, or to the people running for a Board, but we are close to everyone. It is our island. When those commissioners come up here to run for that position, I know I grill them on their credibility, their education, their culture, their traditions, where they are from. If they are the best candidate in my mind, I will approve of them. I do not need a Charter amendment to tell the people who to vote for. As I told you, Chair, I want to defer this. I think we have more homework. I want to support it. I need to support it, because my children and my wife are native Hawaiians, but it needs to be done correctly. Not enough work has gone into this Resolution.

Councilmember Cowden: I have a follow-up.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Right now, one (1) out of six (6) of these Councilmembers was not born here. We have six (6) people who have generational history and have repeatedly expressed here that they have a deep commitment to generational history. I believe I also hold that. We have had three (3) very vibrant years of different national policy, in which time we have crossed the Rubicon, and the majority of our population...I think sixty percent (60%)...do not have a generational history. Right now, when we have a Council that has this generational history, my hope is that they would have the commitment to put something in the Charter that holds on to it...that the people who have the most generational history, who, to our knowledge, are the first to arrive on this island, that the commitment that was made upon Statehood is honored. It could easily be four (4) years down the road that one (1) out of the seven (7) of us has a generational history. It could easily be that the mayor, who you are saying we need to have faith in, would have this in the essence of his soul, right? Our current mayor is also part Hawaiian. Our last mayor and I think the late Mayor Bryan Baptiste, too...was he Hawaiian? I do not know. It does not matter...certainly the one before. We have had representation of the generational history in there, but we could easily not have that, and what would happen is that there will be a profound shift that comes forward and that what happens is who is at the head of these things...this place could be run very, very differently, and within a decade, this place might not look anything like what it did ten (10) years ago. I am trying to put something in there right now to put a hold on the fact that we have a commitment to our Hawaiian people and that we need to take care of that obligation that we have not honored as quickly as possible. That is my motivation. As the one (1) person who was not born here, I can recognize the makeup of this Council could be very, very different in ten (10) years.

Council Chair Rapozo: But this Resolution has absolutely nothing to do with this Council. This is about the Board of Water Supply, but I understand, and your point is valid. I can tell you right now that today does not look like it did ten (10)

years ago, and ten (10) years from now, it will not look like it does today. It is changing very quickly. This is where we are at, though. I am not convinced you could get five affirmative votes today. Do not become upset.

Councilmember Cowden: I am not.

Council Chair Rapozo: Councilmember DeCosta said that he wants to support it, but needs more time. I think that is a very simple ask. My suggestion is we finish the discussion, work with the County Attorney if you have amendments, and we can revisit this in a couple of weeks. I think I shared with you...and former Mayor Carvalho mentioned the prerogative of the mayor, and I will be talking to him later about whether or not this takes away some authority from the mayor. I do not think it does, because he or she still makes the final appointment, and at the end of the day it is not really up to this Council. Is there any other discussion?

Councilmember Cowden: I am sorry.

Council Chair Rapozo: Do not apologize. This is your Resolution.

Councilmember Cowden: The Council is impacted here, because as Councilmember DeCosta rightly pointed out, it is up to us and what we pass. I think that I possibly have a different life experience than you folks, so I am in different pods of people, and I am in discussions where very good people just simply do not have it anywhere in their awareness of what this is about, so if we have different people, different testifiers, and a whole different environment, there will not be that awareness, and it is our job as the Council to approve whoever the mayor puts in front of us, so we do have a role in this and it is important. I am here. I am the bridge between the generational and those who do not have that, and I have been here for thirty-nine and a half (39½) years...I have been here long enough to have breathed, experienced, paddled with, been cared for, and watched this community that is disappearing and the knowledge that needs to stay. I am as a bridge to what might be the future, trying to hold onto the past with this Resolution.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I am struggling to find the connections that are trying to be made. I do not see this Resolution having any impact at all. I think it does more harm than anything. When you narrow the scope of what this person will be, you could have a person who is one-tracked on certain issues, and clueless on all the other major issues that come before the Board of Water Supply. These are big decisions. Expanding the Board of Water Supply's scope to catch up on the things that have been overlooked for the past one hundred (100) years will be at a major cost to the rate payers. These are major decisions that are being made. You do not want someone who is narrowly focused on certain issues to be on this Board. It is a very

dangerous thing that we are doing. Morris Shinsato was brilliant and the way he wrote our Charter and created our Boards was really brilliant. He left it open to the discretion of the mayor and the checks and balances to find appropriate people for the overall concerns of the people of Kaua'i, not to just be narrowly focused, because you can do more harm than good many times. I find this Resolution to be scary to say the least, and I will not be supporting this. Thank you, Chair.

Council Chair Rapozo: Thank you, Councilmember Kagawa.
Councilmember DeCosta.

Councilmember DeCosta: My lightbulb went on and this is the only time we can talk, since it is on the floor. A better approach to this problem that we have is Councilmember Kualii, who sits on the Native Board of NACo. The Native Americans have much say in our Federal funded grants. How cool would it be if we could approach our counterparts on the Native Board of NACo, that you sit on and serve, and come up with some funding for the native Hawaiians in their specific area of Anahola and for the development, which they are struggling with? I think there is a better and more efficient way to send a message and make a direct impact to our native Hawaiian people than this Resolution will with putting someone on the Board, who does not even need to be native Hawaiian as long as they have a cultural tie and cultural knowledge to make a difference. I think the difference we need is money to help the Department of Water put infrastructure in Anahola, so that the Hawaiians can develop that land. With Hawaiian Homes, we had Senator Akaka, who was more than half Hawaiian and who had the time, but did not receive enough funding. If he had, then Hawaiians would be on that land. There is much more work that needs to be done, and we need to speak with Matt and put the work in. There may be an even better solution. I appreciate you. I really do appreciate you. Do you know what I appreciate about you? You mentioned it. I did not. You mentioned that you are not from this *āina*. You came here thirty-nine (39) years ago, but your heart and your compassion are for the people who you are connected to, though not biologically or by blood. You impress me. Thank you.

Council Chair Rapozo: Is there any other discussion? Go ahead.

Councilmember Cowden: I am okay with deferring the item for a couple of weeks.

Council Chair Rapozo: I think that is a good choice.

Councilmember Cowden: I am okay with that. While I might feel a moral obligation, as it was pointed out, I do not have any direct benefit from this. I represent all of Kaua'i, but if we were looking at our demographics, the people who moved here pay more money. What I find in the constituent group is they are all eager to make it right for the Hawaiian injustice that has happened. There is a deep desire

to do that. In honoring Councilmember Kagawa's comment, I appreciate what was said and I understand the validity of it. It is just one (1) vote out of seven (7). That is one (1) of the reasons why I made sure to try and say that not only do we have Hawaiian in there, but we need to have development in there. I tried to balance it with development and business. I said enough now. I will not keep responding, but if anyone is watching, I do hope people come and communicate. I did try to have people show up for this, but it was unsuccessful.

Council Chair Rapozo: Thank you. As I said earlier, a Charter amendment is huge. It is major. It is big. It changes the future of this County. I do not know if there is an issue, yet. That is why I was willing to support this moving forward to a public hearing and talking with the Administration and the Board. I am not sure if there is a problem that exists that we need to change the Charter to resolve. That is what my process will be going forward. If there is one, then obviously we need to start looking at changing the Charter. After the briefing from Mr. Murakami, it was quite clear that we have pretty much neglected that law. When decisions were made, we have not really prioritized or put that law in front of decision making, and I think that is really critical. I appreciate the discussion and I think the recommendation to defer was a wise one, because I am not sure if there are enough votes to move it to a public hearing. Go ahead.

Councilmember Kualifi: I have a correction. As far as I know, the limitations for future development in Anahola is not about water or water meters. It is about wastewater. There are a couple more phases happening in my immediate neighborhood—Pi'ilani Mai Ke Kai—which still represents a couple hundred more homes there. After that, we are maxed out as far as septic systems are concerned in our neighborhood. The only way more housing can be developed in Anahola after that is if we had a wastewater treatment plant, so it is about wastewater.

Council Chair Rapozo: Would you like to restate your motion?

Councilmember DeCosta moved to defer Resolution No. 2023-63.

Councilmember Cowden: I think he had something to say. Did you?

Councilmember Bulosan: It is okay.

Council Chair Rapozo: I am sorry. I did not see it.

Councilmember Cowden: He has been raising his hand.

Council Chair Rapozo: Go ahead.

Councilmember DeCosta withdrew the motion to defer Resolution No. 2023-63.

Councilmember Bulosan: I just wanted to say thank you for proposing the Resolution. I think it answers the calls for certain issues that have not been brought up or will be addressed in the future. I really appreciate the discussion on the floor. I think certain amendments are on the way and are necessary to make this an appropriate Resolution for a Charter amendment. That is all.

Council Chair Rapozo: Thank you. Go ahead.

Councilmember DeCosta: I will close with a short discussion, because Councilmember Kualii brought it up. If it is the sewer system and wastewater system, then perhaps we need to look at grant funding. We had a presentation this morning. That is our job as Councilmembers. Our job is not to come up with little resolutions. Our job is to do our homework, to look if there are grants out there, to talk to our counterparts across the U.S. Councilmember Kualii, talk to your native group and find out what they are doing in Arizona and Wyoming for their Native Americans with their infrastructure and wastewater, and bring that knowledge back to Kauai to help the Hawaiian people. If you want to make a difference, that is what I say should be done.

Council Chair Rapozo: Let us reel it back into the Charter amendment.

Councilmember DeCosta moved to defer Resolution No. 2023-63, seconded by Councilmember Kualii, and unanimously carried.

Council Chair Rapozo: The motion carried.

Councilmember Cowden: To what date is it deferred? Do we not need to say to what date it is deferred?

Council Chair Rapozo: It automatically defers to the next Council meeting, unless you set a date. We will have a ten-minute caption break, then we will be back to wrap up the agenda. Thank you.

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

The meeting was called back to order at 10:41 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Next item.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2910) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO RECOVERY OF RESCUE EXPENSES

Council Chair Rapozo: Hang on.

Councilmember Kualii: She skipped an item.

Council Chair Rapozo: We have Resolution No. 2023-64.

Ms. Fountain-Tanigawa: Yes, I apologize.

Resolution No. 2023-64 – RESOLUTION RECOMMENDING THE KAUAI BOARD OF WATER SUPPLY AMEND RULES AND REGULATIONS TO ALLOW RAINWATER CATCHMENT SYSTEMS ON AGRICULTURAL PROPERTIES

Councilmember Kualii moved for adoption of Resolution No. 2023-64, seconded by Councilmember Cowden.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I want to acknowledge my counterpart and colleague who worked hard with me on this, Council Vice Chair Kualii, and very resilient, competent, and proficient staff from our Analyst to the Administration and our Clerk who put everything together. I want to welcome the Department of Water here today. This is a Resolution. Normally, a resolution, they claim, has no weight, but this Resolution feels like this is the one (1) resolution that will hold weight. We have a lot of development on Kauai that cannot be developed, because of our infrastructure needs; not so much roads, not so much power, but water. We do not have water in certain areas. If we do have water in certain areas, we do not have the water tank pressure to be able to give water meters to every property on Kauai. We have land, a lot of it is agriculture that sits up on the mountain areas of Kauai that cannot get water to their property, because of the lack of pressure in our tanks. It is no fault of the Department of Water; it is just aging infrastructure. When Council Vice Chair Kualii and I talked about it, we said we live in the wettest spot in the world. We have a lot of mountain areas with water. Hawaii Island has rainwater catchment in areas that do not have potable water. Why not give Kauai the same opportunity to have water for them to build on their land? When I went to the Department of Water, one of the discussions was that we have potable water in areas and lack of pressure, so we cannot give meters to everyone's properties. For example, Jane, Mary, and Betsy, who are three (3) sisters, inherited land from their parents, but are only allowed one (1) meter for the three (3) properties, because there is not

enough infrastructure pressure. Therefore, two (2) sisters cannot build a home. With this rainwater catchment resolution, we are encouraging the Department of Water to make an exception and allow people to build on their property and they can catch their own water. Council Vice Chair Kualii, do you have something to say?

Councilmember Kualii: I do not think it is necessary to read all seventeen (17) Whereas', but I would like the last four (4) read, which are the most important, and the Be It Resolved. "WHEREAS, the State of Hawai'i DOH Safe Drinking Water Branch maintains an online resource that details the tested methods by which rainwater catchment systems can be made safe for domestic use; and WHEREAS, the installation of a backflow preventer valve on any water line connected to a rainwater catchment system would effectively mitigate any cross-contamination potential of source wells in the event that water is shared between neighboring properties; and WHEREAS, permitting the installation of rainwater catchment systems on parcels currently without existing water service despite being located within an existing DOW service area may encourage undeveloped, agricultural landowners to construct dwellings on vacant lands; and WHEREAS, more homes with water infrastructure in rural and agriculturally-zoned areas adds to the island's housing inventory and supports local residents in the pursuit of affordable housing; now, therefore, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that it hereby recommends the Kauai Board of Water Supply amend applicable rules and regulations to responsibly incorporate rainwater catchment system allowances on agricultural properties located within existing DOW service areas. BE IT FINALLY RESOLVED, that a certified copy of this Resolution shall be transmitted to the Kauai Board of Water Supply." To me, the most important part about this is our critical need for more housing of all types. I think we need to do whatever we can to support our people to be able to build more housing for their families and for everyone. Thank you.

Councilmember DeCosta: I want to tell you that it has been a pleasure working with you. A lot of times we do resolutions and bills and we do not spend the time to thank each other. It was a blessing to work with you, Council Vice Chair Kualii. When you said housing inventory—we have a shortage of housing. We are not addressing our local kids that come back from college. Yes, we have a couple programs where we are doing affordable or low-income housing, but the majority of our children are moving away. When you have agriculture lands that have been in families for years, generations, and they have parcels, but they cannot build a house on it, because we, as a water company, cannot serve them...I understand, but we have a means right now to serve them, by allowing them to have rainwater catchment. So be it, if there is not enough rain, they must make do. If there is enough rain, they will make do. There is a backflow preventer valve system that is in place that can provide the cross-contamination piece that will protect them, and the Department of Health certifies that there is a way to create domestic safe water on these agricultural rainwater catchment systems.

Council Chair Rapozo: Is there anyone in the audience wishing to testify?

There being no objections, the rules were suspended.

Mr. Hart: For the record, Bruce Hart. Right on! I mean, "Duh." This should have been done a long time ago. Rainwater catchment systems are ancient. People were doing it thousands of years ago and they were able to provide for their agricultural and residential needs. In fact, if you think about it, that is all they had. They had to take water from wherever it was and bring it into the community. The housing aspect of it, yes...I am altogether for it. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else in the audience wishing to testify?

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

Council Chair Rapozo: Councilmember Cowden has a question.

Councilmember Cowden: I have a slideshow. This is regarding something that happened before four (4) of you were on the Council. In my first slide, this is the Adoption of the Uniform Plumbing Code (UPC), which reads, "The 'Uniform Plumbing Code, 2018 Edition,' including Appendices A, B, C, G, I, J, K, L, and M," were adopted. For some reason, it took them three (3) years to apply it, but we did this in 2019. See where it says, "K." This is our Uniform Plumbing Code and Appendix "K" named Potable Rainwater Catchment Systems. I did gymnastics to make sure we could have rainwater catchment systems; this was one of my first successes. Our Plumbing Code that we adopted, which took three (3) years to get voted on, but we did adopt rainwater catchment systems as something that is in our Code. We are supposed to be able to do it. I just wondered if you have given that consideration, that we already said yes.

Councilmember DeCosta: Does she have a question, Chair?

Councilmember Cowden: I just wondered if you had given consideration for our Resolution?

Councilmember DeCosta: Are you asking me a question?

Councilmember Cowden: Sort of.

Councilmember DeCosta: Can you ask me the question? I do not know what you are saying.

Councilmember Cowden: Did you know that we already, in fact, have in our Code that we can use rainwater catchment and we have it in there?

Councilmember DeCosta: I am the head of the Department of Public Works, the Building Division and the Planning Department are under me.

Councilmember Cowden: Okay.

Councilmember DeCosta: I am in charge of this of ordinance.

Councilmember Cowden: I have an amendment that I would like to introduce.

Councilmember DeCosta: Council Chair, I do not understand. Is Councilmember Cowden doing a presentation or asking me a question? It seems like you are showcasing your presentation.

Council Chair Rapozo: I am not sure what the amendment is.

Councilmember Cowden: I wanted to prove my amendment.

Council Chair Rapozo: The Plumbing Code has a provision for catchment, but the problem is the Board of Water Supply rules is...this Resolution is asking the Board of Water Supply to allow catchment, which currently they do not.

Councilmember DeCosta: Correct. Let me tell you why. I brought it to fruition, and I will do it again. Councilmember Kualii and I have been on this for a year working with staff. The Department of Water does not allow rainwater catchment in areas where they are provided potable water. This is totally different from what happened in this Plumbing Code. They do allow rainwater catchment in an area where there is no infrastructure, no water lines, and no potable water going to the subdivision. Therefore, if you have a five-acre lot, up on top Kapahi, and there is no water infrastructure within the mile radius, they will allow you to put a rainwater catchment. If there is potable water and your neighbor has five (5) acres and you are the brother or sister of your neighbor, and I am looking at the ladies, because that is my attention, because I have seven (7) intelligent ladies, I am focusing on you. When you have two (2) sisters who both have family land, and they have five-acre parcels next to each other, they both can build two (2) houses, one (1) on each property. One (1) sister requested for a water meter first, because she was ready to build, and the Department of Water told both sisters, "Hey, we only have so much pressure in that area, we can only give one (1) meter." The Department of Water has the right to do that, they have the right to regulate the amount of meters that go out. Despite what the Plumbing Code says, which is under my division, they have the right to say, "No, you cannot get a meter." Therefore, sister Betsy, builds her home

and has her meter, but Jennifer cannot build a home because she does not have a meter. Now, if they would allow rainwater catchment next to the potable water area, she could build her home with rainwater catchment. The trouble is that the Department of Water is worried that if there is a lack of rain, during a certain time of year, the sisters can share water between a water hose and fill up the tank. The Resolution states that a backflow preventer valve, which prevents cross contamination needs to be inserted in the rainwater catchment system to be able to make the Department of Water feel at ease so that their water would not be cross contaminated. That is the logistics of the Resolution. A very complete Resolution.

Councilmember Cowden moved to amend Resolution No. 2023-63, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Bulosan.

Councilmember Cowden: I am passionate to support what Councilmember DeCosta feels. In passionate support of wanting to allow rainwater catchment systems, I am asking to add one (1) more Whereas. Page 2 of the floor amendment, I wanted to add, "WHEREAS, Section 14-2.1 of Ordinance 1114 is entitled, "Adoption of the Uniform Plumbing Code" and states adoption of the Uniform Plumbing Code, 2018 Edition, includes Appendix K, which pertains specifically to the regulation of potable rainwater catchment systems." He has a whole number of really good reasons, and I am just adding to those good reasons, saying, "It is even in our Code that we can do it." If someone looks at the Code, it talks about, whenever there is a rainwater catchment system, it is in here as Item K 102.3 Backflow Prevention. "The potable rainwater catchment system shall be protected against backflow in accordance with this Code." Therefore, any system that goes in with this, "shall" which does not mean may, shall means it has to have this backflow prevention. My understanding is the resistance from the Department of Water is they are afraid of backflow, but when we see on the other counties that do allow this in the State of Hawai'i, it seems to work. They use this Plumbing Code "K," and it works for them. I am merely trying to give you a boost, it is not a slam. I am just saying, not only are all of these reasons important, but it is also the case that we and actually Councilmember Kagawa was helpful to me on it, we worked really hard to make sure we could have rainwater catchment systems and there are many farms in the northeast part of the island that absolutely need it, where we do not even have regular water. We do not have that in the entire Moloa'a stretch. Right now, we have sixty-five (65) farms that are on hourly distribution from a contaminated source. Earlier this summer, we had eleven (11) farms without water. If they can have rainwater catchment, they would be in better shape. That is what this extra "Whereas" means, I am trying to strengthen it. I hope my colleagues will be alright with that.

Councilmember Kualii: I have a question.

(Councilmember Kagawa was noted as present.)

Councilmember Kualii: We have seventeen (17) Whereas' in the Resolution. Whereas provides background information, just including factual things. I only chose to read the last four (4), because that was getting to the point about the backflow preventer, housing, etcetera. This is just a basic fact and so do you feel like this is necessary to be added in order for you to support this Resolution?

Councilmember Cowden: I am not saying, "In order to support it," I am saying I respectfully am trying to contribute and saying not only do I agree with all your other Whereas', it is also the case that we battled hard, there were like sixteen (16) times it came before the Council. It was a hard-won battle, but we got the approval for rainwater catchment systems, and it took three (3) years for them to adopt it. In my view, we won.

Councilmember Kualii: Okay, thank you.

Council Chair Rapozo: Is there any further discussion on the amendment?

The motion to amend Resolution No. 2023-63, as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Rapozo: Motion passes. We are back to the main Resolution as amended. Is there any further discussion?

Councilmember Cowden: I would really love to hear from the Department of Water, who happens to be in the room. I respect what a good job you folks are doing. Can we ask the Department of Water to come up and comment? Would you like to come up and comment, because I would like to know why the Department of Water made a regulation to...or if that was preexisting when we changed our Plumbing Code or if it was put in after? Can I ask that?

Council Chair Rapozo: We can ask them.

There being no objections, the rules were suspended.

MICHAEL HINAZUMI, Acting Deputy Manager-Engineer: Good morning, Michael Hinazumi, Acting Deputy Manager-Engineer, Department of Water. Currently, the Department rules do not address water catchment. I am sorry, but I do not have the reasoning of why they never accepted it.

Councilmember Cowden: I cannot hear you.

Mr. Hinazumi: I do not have the reason why they never accepted water catchment.

Councilmember Cowden: I understand you are relatively new in your position, and I am thankful you are in the position. Do you know offhand if that regulation that did not accept water catchment, if it was preexisting to 2019 or 2022?

Mr. Hinazumi: I can tell you from being with the Department since about 1996, it was not in the rules at that time, nor is it today.

Councilmember Cowden: It is not in the rules?

Mr. Hinazumi: No.

Councilmember Cowden: Okay. Can I ask you, it is in our Plumbing Code that says people can do it and that a backflow preventer has to always be in there, and in Section "K," it has all types of criteria on how one has to have their rainwater catchment safe. It has the cleaning, the testing, all the elements, to make sure it cannot cross contaminate. As a water engineer, help me to understand because I am not a water engineer and I do not do your job. Help me to understand how that water catchment system, that has never comingled with the plumbing from the Department of Water. This says it cannot comingle, right, so you do not put it in the toilet, for example. Help me understand where the threat of the comingling happens.

Mr. Hinazumi: It comes down to as one would say "a doing thing and compliance." Even if we have backflow prevention, and it has been a concern of others, as well as mine in the past, if there is a law but no one chooses to follow the law, then it becomes a problem. At the time prior, and I can probably say this today, the staffing needs for inspection and enforcement of this would present itself as a challenge, but the Department of Water is open and willing to look at ideas to help the Department of Water and will present information to our Board. I cannot speak for them, but we will definitely present information to the Board for their consideration.

Councilmember Cowden: What is the process to having that be put to the Board, because I would be happy to be present at the Board meeting and learn about it? How does it get on the agenda? Would you be asking for that?

Mr. Hinazumi: First, we need to present information to our manager, as well as staff for input, to present a case to bring forth to our Board Chair if that is something that the Board would like to entertain.

Councilmember Cowden: Okay. I have another question, and I am going to choose a community that I know a lot about, the one which I live in, which is Kīlauea. Is there a shortage of provision of water for our request for water meters?

Mr. Hinazumi: Could you rephrase that, please?

Councilmember Cowden: Can I?

Council Chair Rapozo: He was not prepared to be talking about specifics other than the Resolution. If you have questions on specific water needs in certain areas, you can send it over in writing, only because he was not expecting to come up and I do not expect him to know what is going on.

Councilmember Cowden: Oh, okay.

Council Chair Rapozo: As far as, "How do you get this on the agenda," that is what this Resolution is. This Resolution is going to everyone, and we are hoping that they put it on the agenda.

Councilmember Cowden: Okay, with maximum respect, I will refrain from my questions in the discussion, with the rest of us, so thank you. You can keep that if you like. I am sure you have access to it.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: You used the word "assume."

Mr. Hinazumi: Yes.

Councilmember DeCosta: You said you assumed that the rainwater catchment would tie into the potable waterline of the neighboring home. You made that comment? I cannot hear you too well, you are wearing a mask.

Mr. Hinazumi: I apologize, I am recovering from a cold, that is why I am wearing the mask.

Council Chair Rapozo: We appreciate that.

Mr. Hinazumi: In the past, we have had issues with homeowners cross connecting between their non-backflow system with other systems that were challenging to the Department.

Councilmember DeCosta: Okay, so, educate me, so I can learn. This was a rainwater catchment system that they put a line from the neighbor's house into their rainwater catchment, is that what you are saying?

Mr. Hinazumi: There have been a couple, at least one (1) case that I am aware of.

Councilmember DeCosta: A couple or one (1)?

Mr. Hinazumi: One (1).

Councilmember DeCosta: One (1) case.

Mr. Hinazumi: One (1) that I am aware of.

Councilmember DeCosta: Okay, one (1) time. And did that one (1) time cross-contaminate our water?

Mr. Hinazumi: Fortunately, no, or at least not that we are aware of.

Councilmember DeCosta: Okay, perfect. We had one (1) time that you found someone take the hose from the neighbor's house and fill up the tank, which again we are assuming they are going to do that, there is no way to prove that, right?

Mr. Hinazumi: Correct.

Councilmember DeCosta: Because their rainwater catchment system is off the grid, it is not tied to County, and if they had a backflow preventer valve and they were to run the hose over, because it may happen again, I want to make sure that your point is made clear, would that backflow preventer valve assist in not having that line contaminated, since now the hose is with that tank?

Mr. Hinazumi: If the person supplying the water has a backflow preventer valve on their water meter, yes, it would prevent the water from backflowing into the system.

Councilmember DeCosta: Therefore, there are ways to make sure that this Resolution that we are introducing can assist with the development of housing in areas that have potable water, but they do not have enough infrastructure or pressure to serve another home? It can be done, correct?

Mr. Hinazumi: Yes.

Councilmember DeCosta: Thank you.

Council Chair Rapozo: Are there further questions for Mr. Hinazumi? If not, thank you.

Mr. Hinazumi: Thank you.

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

Council Chair Rapozo: Is there any discussion?

Councilmember Cowden: Living in Kīlauea where we have a decent amount of rain, my house when I metered it for a number of years, the rainfall, I would average about ninety (90) inches of rain, maybe on a lighter year, eighty (80), and that is quite a bit. It is not hard to capture that and to put that out into your yard or to use it in ways that one might need for landscaping. It is also the case, like in the shopping center about three (3) houses away from me, there were five (5) restaurants wanting to open that waited close to two (2) years to get their water clearance. We had a Charter School right there that cannot get a water meter. We have fifty (50) acres that we are wanting to develop that cannot get a water meter. We have a pretty organized community that easily could create ways of dealing with some of their water needs that are outside the house, if they chose to do water catchment or if these farms did water catchment, they could have pretty good tanks. What that does is it helps to create more water in our existing system without having to drill a new well, without laying any new underground infrastructure, there would be ways that we could possibly get water to the school. We were working on trying to keep that reservoir going that we talked about last week, so that we can water our farms with that instead of with potable water from the county. We are looking, as a community, in a rain-drenched community trying to figure out how we have a water shortage. That is why four (4) years ago, I worked hard to get this rainwater catchment provision passed and Councilmember Kagawa was helpful, so I just wanted to acknowledge his support. We passed it, so I was really disappointed that we still have not yet received it. You are talking about building new homes, I am talking about being able to have schools or allowing businesses to open on time. There is a lot of need for water, and even if we have a lot falling from the sky it is very expensive to get it out of the ground and out of the faucet, so this is a way where our community that is rain-drenched can be part of the solution.

Council Chair Rapozo: Is there any other discussion?
Councilmember Kagawa.

Councilmember Kagawa: I am in strong support. Any options to increase the water that we have for new houses are much appreciated. So much of

our water is used to water gardens, wash cars, flush toilets, and it would be ingenious if we could figure out a way to separate that, but a catchment system would definitely help, especially for the daily function of things, such as watering the yard, watering your vegetables, and washing your car. I will always be in strong support of any growth that we can have in that area. Thank you.

Council Chair Rapozo: Is there anyone else? Councilmember Kualifi.

Councilmember Kualifi: *Mahalo nui loa* to Councilmember DeCosta for initiating this and inviting me to work on it with you. It was my pleasure. Thank you.

Council Chair Rapozo: Go ahead, Councilmember Bulosan.

Councilmember Bulosan: I want to echo the strong support for this Resolution. It is something that was on my mind for years and I am glad it finally came up while I am on the Council. Thank you for working on it.

Councilmember Carvalho: I totally support it. It is a great opportunity for families and residents in general and this is just another step forward, so I totally support it.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I want you folks to know that two (2) things happened to have this transpire. I appreciate your “thank you,” Council Vice Chair, but it was a joint venture. When you and I were at NACo, we were able to speak with James Gore, who is the head of Sonoma County, where they had the wildfires. There are quite a bit of homes up there that are off the grid. Some of those homes have huge tanks and those tanks assisted in saving some of those homes, because the County water was cut off by the fire and the breaking of the infrastructure. Those homes were saved because they had their own rain catchment system. When we go to those conferences, we do a lot of homework. We do a lot of “bridging the gap” and making that connection. I want you to know I have my own connection to the island. It was before Chief Gibson. There was a large fire in Lāwaʻi, on the hillside above the mortuary in Lāwaʻi. It was a huge fire. It was sparked by the powerline on top of the ridge. The Fire Department could not get their truck up there because of the rain, the wet grass, and the mud. The County has a fire extinguisher and a fire line down in the first subdivision across the mortuary in Lāwaʻi, but as you go up behind that subdivision, it goes from urban to rural, so you have some houses on ten-thousand-square-foot lots, and directly behind are one-acre to five-acre lots. They do not have potable water, yet our County has a fire hydrant, and they give water to the residential homes. This is a proven fact that County water infrastructure can coexist with rain catchment. That area, known as Jenkins Hill, has about seven (7)

homes that are off the grid. Some have rain catchment on the roof and one (1) on the top has rain catchment on the ground. They lay polyurethane cloth with charcoal and gravel, they catch water underneath the ground, and it goes into a tank. This is good for Chief Gibson to know. They have a tank on that hill. What they do is send County water at a very slow pace. Since it does not have the pressure to climb the mountain, it goes slowly in the tank. When the tank sits on the hill, it can create a lot of pressure. That fire was fought because the firefighters could hook up their hose to that water tank. Do you know whose home they saved? Mine, because our ten (10) acres is directly below that tower. My home would have burned if not for that rain catchment tank. This is an *akamai* thing, folks. This is something that should have been done. It needs to be done. Councilmember Kuali'i, we will not just turn this Resolution. We will follow it all the way through to make it happen. That is our job. We need to follow it though and make it happen. Thank you.

Council Chair Rapozo: Is there anyone else?

Councilmember Cowden: I have one (1) more thing.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: We, the County, experienced a problem with the fire sprinklers. It did a significant amount of damage to two (2) of our departments without an actual fire. What we are starting to do, because we have a limitation on our fire flow prevention...that means the water that goes to the fire hydrants and the standpipes...we have places that have so much built environment that has value and any house has value, but we have built environments that do not have adequate fire flow prevention and we have been learning as we attend conferences, such as NACo, that there is a literal drying up of insurance policies. They are not wanting to insure very much anymore, especially if you are too far away from a fire station and everything else, so these properties with very big roofs can have a tank that is there just to support their standpipe or whatever they have for fire flow protection. There are a lot of ways that we can start working in the right direction, so I just want to add on top of that, because his comments about fire prevention and fire protection are really important, and again in those communities that I mentioned, like Moloa'a, relative to the plumbing and those wells running dry...it still rains, it is not as much as it does a few miles north, but they can be grabbing some of their water from their wells.

Council Chair Rapozo: Is there anyone else? Thank you for the Resolution. I always questioned why we could never do catchment and over the years and with different directors, there were different reasons. We are at a point now where housing inventory is key. We do not have housing for anyone. I should not say anyone, but for the Kaua'i residents, the local children, as Councilmember DeCosta said. There are areas on the island that are in the Department of Water service area,

but for whatever reason, do not have water. Currently, while the Plumbing Code say it is allowable, the Department of Water rules prohibit it in areas where the Department of Water provides water, so if you are in a Department of Water service area and there is water service, then you will use the County's water system. That is just how it works, otherwise everyone would use a catchment system, the Department of Water would have no revenue, then absolutely no one would have water. This is not for everyone. This is for people within the Department of Water service area, but for various reasons do not have the ability to receive water. The Department of Water is not losing revenue, because they cannot provide the water. As Councilmember DeCosta talked about earlier, we have landowners out there that would love to be able to put up cottages for their children. There are a lot of local families with generational lands that are faced with the question...because property taxes are rising so quickly that they are being forced to sell, and they will sell to some wealthy person who buys it all with absolutely no intent to provide housing for our children. For those parcels that have the ability to build cottages, but cannot, because they do not have water, if this Resolution can get to the department and they amend the rules, we will be able to see some success with housing units for our local children. We are struggling on this Council within the limitations that we have of what we can do to provide more inventory, because we do not have the ability to borrow money, and we cannot direct the Administration to build things, so this is one (1) more small thing that the Council can try to do to say, "Hey, even if this produces fifteen (15) or twenty (20) units in the next year for our local children to move into, that is a benefit." This is what we need to do as a Body. We need to do whatever we can, as little as it may be, to try to enable our children to stay here. Roll call.

The motion for adoption of Resolution No. 2023-64 as amended to Resolution No. 2023-64, Draft 1 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, DeCosta	
	Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: Next item, please.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2910) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO RECOVERY OF RESCUE EXPENSES

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2910) on first reading, that it be ordered to print, and a public hearing thereon be scheduled for November 15, 2023, and that it thereafter be referred to the Parks & Recreation / Transportation Committee, seconded by Councilmember Carvalho.

Council Chair Rapozo: Councilmember DeCosta and Councilmember Bulosan. Is there an amendment?

Councilmember DeCosta moved to amend Proposed Draft Bill (No. 2910), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Kualii.

Councilmember DeCosta: It is a housekeeping amendment.

Council Chair Rapozo: It cleans up a typographical error. Are there any questions on the amendment?

Councilmember Cowden: We have not seen it, yet. I have none.

Council Chair Rapozo: It changes the word "fund" to "account." That is all it does. Seeing none.

The motion to amend Proposed Draft Bill (No. 2910), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and unanimously carried.

Council Chair Rapozo: The motion carried. We are back to the main motion. Go ahead, Councilmember DeCosta.

Councilmember DeCosta: First of all, I would like to start off by saying thank you to Councilmember Bulosan. This is one (1) of the first projects you jumped on with me coming aboard. Although it was a struggle, we brought it to fruition. I want to thank our other five (5) Councilmembers right now. Because they received our bill, we had to go back to the drawing board, go back to our Attorney, go back to our Analyst, and go back to our Clerk, who all helped us craft the language that, hopefully, our people can now support. In talking with Mary Jo from the NACo Board and James Gore from Sonoma County about the way they handle their fire mitigation and rescue program with hiking done in Yosemite or fighting the wildfires in California...we brought that mindset back to our County. When we are doing our fire mitigation, when we are doing our rescues by helicopter, how do we fund these programs? Basically, we cannot. We cannot sell a rescue card, which is what we initially intended, so we went back and came up with a donation account. It is just a donation account. Whether you are a local resident or a visiting non-resident, you

have the ability to contribute to two (2) entities throughout our County. One (1) is the rescuing of our people, whether tourists or locals, and the other is fire mitigation. We know what happened in Maui. There are a lot of people who wish they had put some funding into an account and that the Fire Department was more ready and able to fight those fires...and they were not. A lot of that can happen on our island. We just had a fire in Anahola. With this Bill, we will create a donation account. We ran it by the Attorney, and it all checked out. We did our homework. Councilmember Bulosan, I want to let you add on and thank you for the great workmanship.

Councilmember Bulosan: *Mahalo* to Councilmember DeCosta for teaming up with me and inviting me to this thought process. Circling back around, the intent in this Bill is looking at the realization that there are so many injustices that happen on our island and one (1) of them is people who do not follow the law, then require rescue, and has us footing the bill for that. That is an injustice, and this is an opportunity for our community and the communities who visit us to do the right thing when things happen, when accidents happen, and you can be part of the solution instead of the challenges that the community faces. First, we hope that this Bill enables the right people to make the right decisions, and that if they ever find themselves in these situations, they can then continue to make a better decision to be part of this community and help make sure that we are taken care of and we are not exhausting resources that are duly needed for our community. We hope that this Bill speaks to the needs of our Councilmembers here and our community, and enables us to better take care of our community.

Council Chair Rapozo: Are there any questions for the introducers?

Councilmember Cowden: I do.

Council Chair Rapozo: I am sorry?

Councilmember Cowden: I do have questions.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: This makes me really nervous. I am trying to look. On page 3, item "(b)" of Section 4 says, "Reimbursement under Subsection (a) shall be allowed only if the need for search or rescue was caused by an act or omission by the person searched for or rescued, constituting intentional disregard for the person's safety, including, but not limited to, intentionally disregarding a warning or notice." This means someone who goes and falls off of Wailua falls...I think we did lose someone there not too long ago. That was tragic. I know we have rescued people from choosing to jump. That would be one (1) example, right? We have all types of signs, so if someone goes and jumps. Queen's Bath would maybe be another example. This is where it says you have to have done something you are not supposed to do

with plenty of warning. Is there anywhere in here that if someone just goes hiking and they fall that they would be charged?

Councilmember DeCosta: It is our responsibility to keep everyone safe, including the people who disregard those signs. What is your question?

Councilmember Cowden: My question is...all of my own fears. I think about the *kolohe* child who makes bad choices.

Councilmember DeCosta: They will still be rescued.

Councilmember Cowden: They will still be rescued, but their parents will be charged.

Councilmember DeCosta: No, because he is not in a zone that has a sign.

Councilmember Cowden: What if he is?

Councilmember DeCosta: Then they will be liable for a charge.

Councilmember Cowden: The parents would be liable for a charge. I heard testimony and I kept trying to look. This is not discriminating whether you live here or on vacation, right? That was one (1) issue before.

Councilmember DeCosta: Right.

Councilmember Cowden: So, it could be anyone here who makes an irresponsible choice. Let me ask a couple other questions and then maybe a piece of it is for...go ahead.

Councilmember DeCosta: Chair, this is not for the *kolohe* child. This is for a donation account that allows anyone to contribute to fire mitigation.

Council Chair Rapozo: She is talking about Section 4, which talks about where the County Attorney will send an invoice.

Councilmember Kualii: May.

Council Chair Rapozo: Yes, may.

Councilmember DeCosta: With or without the donation, they will still receive the invoice.

Council Chair Rapozo: Correct.

Councilmember DeCosta: That is just so she knows.

Councilmember Cowden: Can I frame what causes my fears or not?

Council Chair Rapozo: Yes.

Councilmember Cowden: One (1), I had an alternative middle school with a bunch of *kolohe* teenagers, young teenagers, emerging teenagers. I know how reckless their judgement can be. They are an accident waiting to happen. They are our future leaders, probably our future firefighters, people that have a lot of reckless courage.

(Councilmember Kualii was noted as not present.)

Councilmember Cowden: I am worried about those children with reckless courage whose parents cannot have a choke chain on them all the time. If they jump off a cliff somewhere, will the parents be charged two thousand dollars (\$2,000) or three thousand dollars (\$3,000)?

Council Chair Rapozo: Do you want me to answer that? This is really personal for me, because I lost two (2) good friends from the Honolulu Police Department many years ago when a helicopter crashed because some idiotic people decided to go hiking when the weather and the advice to them was no. While I feel sorry for the children whose parents cannot keep a choke chain on, at some point, someone needs to be held accountable. If I let my child go and he ends up in a situation where our Fire Department and our medics get into a situation where their lives are at risk, then yes, you are damned right you should pay. That is just my personal opinion. We need to take responsibility as parents, we need to take responsibility as people, and it is sad because signs mean nothing anymore. No one pays attention to signs. To me, after they are fined, they should be prosecuted for trespassing.

(Councilmember Kualii was noted as present.)

Council Chair Rapozo: That is my opinion, because when you see your friend dead because they did what they were supposed to do...it was two (2) officers and a Fire Department helicopter pilot. I did not know him. When you go to their funeral and talk to their families saying they were doing what they were supposed to do because some idiot decided that they were going to "chance it," I am sorry, I have no sympathy. You charge them and you prosecute them. End of story. That is my response, Councilmember DeCosta. The problem I have with this Bill is where it says, "may." I do not like "may send the bill." You shall send the bill. You will pay. When people understand that when you go up the Sleeping Giant, and you are not in shape to go up the Sleeping Giant, or you go to the Nā Pali Coast and you are not in shape to do that and you know that if you call out, you will be billed, just

like if you got into a car accident and an ambulance came to pick you up. No one gets upset because they receive an ambulance bill. I know there is an argument about if we put this in there, then people will not call, because they do not want to be billed. If you are on the Nā Pali trail and you break your leg, do you think you are even thinking about a bill? Councilmember Cowden says yes. I can promise you, and I know this because before we had helicopters, I needed to hike Hanakāpīʻāi when I was a police officer. They called. They will not be, "I will not call, because I will be billed." No, you need to get out of there or you will die. You will bleed to death or whatever. My point is it is about accountability, responsibility, taking care of what we need to do, and making sure that we are not sending our firefighters and Fire Chief to places unnecessarily and putting them at risk. The little things we can do is exactly what this tries to do. I will support it today, but as it goes to Committee, I will voice my concerns about some of the things in here that I think needs to be tightened up a little bit and make stricter.

Councilmember Cowden: I have another question. This is about the part that is the donation account. We did fix that piece. We are looking at the donation account. What prompts a person to donate to this account? What is the stimulus? Why would they donate?

Councilmember DeCosta: Would you like to answer that?

Councilmember Bulosan: Sure. Like I mentioned in my opening statement, it is one (1) of those parts where...I do not know if you folks have ever made a mistake, you want to make it right, and were then presented with an opportunity to make that right. This would be the instance. The instance would be someone who does not follow the rules, then requires a rescue, will then have an opportunity to make it right, afterwards. That is one (1) scenario.

Councilmember Cowden: I am having a big "ah-ha" at once, so let me process that I got it, because this might be something different than what I understood.

Councilmember Bulosan: There is another scenario where there are philanthropic and caring people in the world who have had experiences with a family member that experienced that, and in their altruistic moment they feel like they want to make sure that person or someone is always rescued and it is never a cost, and they decide to donate to this account. We are looking for those people. We want those people to be able to help in any situation and this account enables that.

Councilmember DeCosta: May I add to that?

Councilmember Cowden: Okay, and I want to not lose what I might have missed. I might have something really wrong. I like the whole donation. Can I just...because I can lose the thought.

Councilmember DeCosta: Go ahead.

Councilmember Cowden: My thought, my understanding when I read this was someone does something very difficult, like throws themselves off a cliff, and other people have to put a tremendous amount of life-threatening capacity to pick up their body, and what happens is tragic. I want to be careful, because I know your family has experienced...your broader *‘ohana*. Someone goes to this terrible situation, but yet we threaten all these people who come to get them, right? So, we would be charging the estate to pick the person up. Is this saying that when we charge this person, it goes into a voluntary donation fund or is it mandatory that they pay for that dangerous rescue expense?

Council Chair Rapozo: It is two (2) separate things. If you read the Bill, in Section 5(d), "Search and rescue expenses recovered as a result of this Article," who are the people that disregard warnings, that money goes into the appropriate department's budget for which the rescue expenses were incurred.

Councilmember Cowden: Alright.

Council Chair Rapozo: When you go up for a rescue, whatever is collected, if it is a Fire Department expense...This voluntary donation thing is completely separate.

Councilmember Cowden: Okay. I read it right. I thought if you do something that you should not have done, then either you or your family will pay for it.

Council Chair Rapozo: Yes, but that money goes to the department.

Councilmember Cowden: Okay. My questions were answered, but you can give me more information.

Councilmember DeCosta: I wanted to piggyback off my co-introducer. Fire Chief Gibson is in the audience, and he was the Chief at the time. I believe it was two (2) years ago that we had a massive fire on the slopes of Waimea going up to Kōke'e. I was coming down in my truck and there was a line of tourist cars that could not drive down the highway, who were going to turn around and drive the opposite way. I spoke to one (1) of them, because he was directly behind me. He said, "I cannot believe your grass on the side of a state highway is eight (8) feet tall. We could easily be trapped if the fire jumped around us and have no place to go." I believe people like

that would love to donate if they could come and enjoy Kaua'i, see some of our fire mitigation things, and be protected. Remember, another big issue is we have a helicopter that is not suited for carrying water to fight fires. I know you folks do not know that, but Kaua'i is in a bad position right now. Our fire helicopter is not equipped to carry those gallons of water to fight a fire. We need a bigger helicopter, but how do we get that? We cannot just take your tax paying dollars and fund it. This is another way. A donation can assist in that area. Thank you.

Council Chair Rapozo: Are there any other questions for the introducers? Seeing none. Is there anyone in the audience wishing to testify? Seeing none. Does anyone have any final discussion?

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

Councilmember Cowden: I definitely have discussion.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I totally support the donation piece. I concur with Councilmember DeCosta's concern about the fire capacity with the helicopters. I do want to honor some of our helicopter providers, such as Jack Harter and different ones that do have the capacity to carry that, so we do use them, but we do not always know that we could use them. I want to speak to Council Chair Rapozo's comment about when people get hurt. My life history is I was definitely a poor child, an uninsured child. We did not go to the doctor. Back in the day, you had to go with cash to the doctor, they did not have automatic teller machines (ATMs), and that was difficult. I have been raised and conditioned where medical help did not feel like something that was available. When I had a relatively serious injury where I fractured six (6) vertebrae about three and a half (3½) years ago in a boating accident at a funeral, after I got onto shore, I still laid there for about thirty (30) or forty (40) minutes, because I kept thinking I will feel better and can roll over and get up, but I could not. I laid there for forty (40) minutes before I let anyone call 911 to get a ride to the hospital. Then they X-rayed me and figured out what was wrong with me, but just that experience of going in and doing the magnetic resonance imaging (MRI), computed tomography (CT) scan, and whatnot...my co-pay was seven thousand dollars (\$7,000). We are paid, but we are not paid that well. Did I feel that? Very much so, and that was none of the follow-up. Any of the follow-up was uninsured. My life experience is I better be ready to die before being ready to ask for help, and I think also having been a poor child...and a lot of the children in my program that I had, when I did alternative education, were children from underfunded families...and so, if I was their parent and thought, "Hey honey, if you go out and do something stupid, all the stability in our family will be gone and we will probably lose our home," and they would tell me, "Oh, they are going out with so and so, and so and so is a little *kolohe*." Guess what? Maybe they cannot go out with them. Most of these children who are really spirited turn into amazing adults because of the impulse drive that they have. I hate putting a choke chain on our spirited children and I do care

very much about our firefighters and first responders, but it is not so simple and so clear and dry to me, because my most fundamental programming is that of a person who either deals with at-risk youth or was, in fact, an at-risk youth and there are so many doors that are closed to them that I do not feel like closing another door, so I am nervous about this choice, but I appreciate what is good in there. That is my position on that.

Council Chair Rapozo: Is there any other closing discussion? If not, thank you again for putting this on the floor. Obviously, I will support it and after the public hearing, we will have the discussion in the Committee. With that, roll call.

The motion for passage of Proposed Draft Bill (No. 2910) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 15, 2023, and that it thereafter be referred to the Parks & Recreation / Transportation Committee was then put, and carried by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, DeCosta, Kagawa	
	Kuali'i, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) no.

Council Chair Rapozo: Thank you. That concludes our public part of the agenda. I will not adjourn the meeting. We will reconvene in Executive Session in ten (10) minutes.

Councilmember Kuali'i: We need to be read in

Council Chair Rapozo: Yes. Go ahead

EXECUTIVE SESSION:

ES-1106 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-1106, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there any discussion or public testimony?
Seeing none, roll call.

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

The motion to convene in Executive Session for ES-1106 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: Thank you. With that, we will recess the agenda and reconvene in Executive Session in ten (10) minutes.

There being no objections, the meeting recessed at 11:44 a.m., to convene in Executive Session.

The meeting reconvened at 1:01 p.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Mr. Bracken.

There being no objections, the rules were suspended.

Mr. Bracken: Matt Bracken, County Attorney. An Executive Session was held to discuss the pending claims against the County of Kaua'i. As the claims are still pending, the information needs to remain confidential, so there is nothing to disclose at this time. When claims are settled, they are on the open session agenda like they were today on the Consent Calendar.

Council Chair Rapozo: Thank you, sir. With that, I will call the meeting back to order.

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

Council Chair Rapozo: Is there any further discussion? If not, this meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 1:02 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large loop followed by a series of smaller loops and a long horizontal stroke extending to the right.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

:ss_dmc

(October 18, 2023)

FLOOR AMENDMENT

Resolution No. 2023-64, RESOLUTION RECOMMENDING THE KAUAI BOARD OF WATER SUPPLY AMEND RULES AND REGULATIONS TO ALLOW RAINWATER CATCHMENT SYSTEMS ON AGRICULTURAL PROPERTIES

Introduced by: FELICIA COWDEN, Councilmember

1. Amend Resolution No. 2023-64 in its entirety to read as follows:

“WHEREAS, according to the Kaua’i General Plan finalized in 2018, the current housing deficit is 1,400 units and demand for housing is expected to increase by 9,000 units by the year 2035; and

WHEREAS, the Homeless Point-in-Time Count released in January 2023 revealed a six percent (6%) increase in unsheltered homelessness to 430 people on Kaua’i compared to last year; and

WHEREAS, the inability for local residents to access affordable housing is due to a variety of factors and include a lack of water supply or existing infrastructure, making land virtually unbuildable; and

WHEREAS, there exist vacant, undeveloped agricultural land parcels adjacent to fully-built properties connected to County water service that are precluded from receiving water allocations or connectivity to water infrastructure due to limited source or pressure constraints in the area; and

WHEREAS, the Department of Water (DOW) embedded in the County Charter though operating semi-autonomously has jurisdiction over the nine (9) separate, unconnected water systems serving communities spread across Kaua’i; and

WHEREAS, DOW currently serves 21,000 consumer water service connections and meters across the island of Kaua’i; and

WHEREAS, rainwater catchment systems enable users to collect rainwater from a surface – generally a rooftop – before transporting it through a gutter system, where it empties into a storage tank in which the captured water is purified and later pumped for household, agricultural, or commercial use; and

WHEREAS, rainwater catchment systems make use of a natural resource like rainfall and reduces runoff; encourages water conservation; is ideally suited for agriculture with catchment water’s few salts; and results in soft water, lessening the need for soaps and detergents; and

WHEREAS, the concept of rainwater catchment or harvesting dates back to ancient times when the technique was primarily used in arid or semi-arid locations, although today rainwater catchment is common in many United States cities and towns as well as in countries such as India, England, Germany, parts of Africa, the Middle East, China, Japan, Australia, and New Zealand; and

WHEREAS, the Kaua’i General Plan explicitly encourages alternatives for non-potable water usage, such as rainwater catchment, and states that the use of rain catchment for irrigation and some types of cleaning is another way to minimize demands on potable water supply; and

WHEREAS, Section 14-2.1 of Ordinance 1114 is entitled, "Adoption of the Uniform Plumbing Code" and states adoption of the Uniform Plumbing Code, 2018 Edition, includes Appendix K, which pertains specifically to the regulation of potable rainwater catchment systems; and

WHEREAS, a 2010 study from the Universities Council on Water Resources found up to 60,000 people in the State of Hawai'i were dependent on rainwater catchment at the time, with a majority residing on the Island of Hawai'i; and

WHEREAS, regulation of rainwater catchment systems is up to individual states rather than the Federal Government, and in Hawai'i, a catchment system serving less than twenty (20) individuals is not controlled by the State of Hawai'i Department of Health (DOH); and

WHEREAS, there exist numerous published consumer resources that instructively indicate minimum safety specifications for a rainwater catchment system, which include: 1) use of an ultraviolet (UV) light disinfectant component along with fine physical filtration, 2) use of use of chlorine as a disinfectant along with fine physical filtration, 3) regular use of a properly fitted catchment tank cover, and 4) frequent water sampling and testing; and

WHEREAS, the State of Hawai'i DOH Safe Drinking Water Branch maintains an online resource that details the tested methods by which rainwater catchment systems can be made safe for domestic use; and

WHEREAS, the installation of a backflow preventer valve on any water line connected to a rainwater catchment system would effectively mitigate any cross-contamination potential of source wells in the event that water is shared between neighboring properties; and

WHEREAS, permitting the installation of rainwater catchment systems on parcels currently without existing water service despite being located within an existing DOW service area may encourage undeveloped, agricultural landowners to construct dwellings on vacant lands; and

WHEREAS, more homes with water infrastructure in rural and agriculturally-zoned areas adds to the island's housing inventory and supports local residents in the pursuit of affordable housing; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that it hereby recommends the Kaua'i Board of Water Supply amend applicable rules and regulations to responsibly incorporate rainwater catchment system allowances on agricultural properties located within existing DOW service areas.

BE IT FINALLY RESOLVED, that a certified copy of this Resolution shall be transmitted to the Kaua'i Board of Water Supply."

(Material to be deleted is bracketed, new material to be added is underscored.)
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(October 18, 2023)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2910), A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO RECOVERY OF RESCUE EXPENSES

Introduced by: BILL DECOSTA, Councilmember

1. Amend Proposed Draft Bill (No. 2910), SECTION 1, as follows:

“SECTION 1. Purpose. The purpose of this Ordinance is to amend Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua‘i County Code 1987, as amended, to: (1) more closely reflect the wording of Hawai‘i Revised Statutes Chapter 137 (Search and Rescue Reimbursement Act) and improve enforcement of the law by limiting automatic Office of the County Attorney involvement to operations involving search and rescue expenses of one thousand dollars (\$1,000.00) or greater, and by requiring that incident reports also be prepared and transmitted for these operations; and (2) establish a “Search and Rescue and Wildfire Response Donations [Fund] Account” to accept voluntary monetary contributions made by persons in support of County of Kaua‘i search and rescue efforts and wildfire response. Funds deposited into this account shall be expended for search and rescue expenses and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.”

2. Amend Proposed Draft Bill No. 2910, SECTION 2, relating to the proposed amendment to the title of Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua‘i County Code 1987, as amended, as directed below:

FROM THE CURRENT WORDING:

“SECTION 2. Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua‘i County Code 1987, as amended, is amended by amending the article title, as follows:

“Article 13. Recovery of Search and Rescue Expenses; Search and Rescue and Wildfire Response Donations Fund””

TO THE AMENDED WORDING:

“SECTION 2. Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua‘i County Code 1987, as amended, is amended by amending the article title, as follows:

“Article 13. Recovery of Search and Rescue Expenses; Search and Rescue and Wildfire Response Donations Account””

3. Amend Proposed Draft Bill (No. 2910), SECTION 6, relating to the proposed new Section 6-13.4 title and Subsection (a), as directed below:

FROM THE CURRENT WORDING:

“Sec. 6-13.4 Search and Rescue and Wildfire Response Donations Fund.

(a) There is established a fund account to be known as the “Search and Rescue and Wildfire Response Donations Fund” into which shall be deposited all voluntary monetary contributions made by persons in support of County of Kaua’i search and rescue efforts and wildfire response. Funds deposited into this account are hereby deemed appropriated upon receipt and shall be expended to reimburse County departments and agencies for search and rescue expenses, and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.”

TO THE AMENDED WORDING:

““Sec. 6-13.4 Search and Rescue and Wildfire Response Donations Account.

(a) There is established a donations account to be known as the “Search and Rescue and Wildfire Response Donations Account,” within the 251 Fund, into which shall be deposited all voluntary monetary contributions made by persons in support of County of Kaua’i search and rescue efforts and wildfire response. Funds deposited into this account are hereby deemed appropriated upon receipt and shall be expended to reimburse County departments and agencies for search and rescue expenses, and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.”

(Material to be deleted is bracketed, new material to be added is underscored. For Amendment items 2 and 3, amendment material noted as “Amended Wording” and changes are yellow-highlighted.)

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