

## COUNCIL MEETING

MARCH 27, 2024

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, March 27, 2024, at 8:53 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 (*Excused at 3:03 p.m.*)  
Honorable KipuKai Kualii  
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 Kualii moved for approval of the agenda, as circulated, 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:

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

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

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

February 28, 2024 Council Meeting  
March 7, 2024 Special Council Meeting  
March 13, 2024 Public Hearing re: Bill No. 2912

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

Council Chair Rapozo: Thank you. Is there anyone wishing to testify or provide testimony? Anyone in the audience?

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

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

Council Chair Rapozo: Motion carries. Clerk, our next item, please.

CONSENT CALENDAR:

C 2024-62 Communication (02/29/2024) from the Director of Finance, transmitting for Council information, the County of Kaua'i 2024 Real Property Assessment List pursuant to Section 5A-2.2, Kaua'i County Code 1987, as amended.

C 2024-63 Communication (03/14/2024) from the Director of Finance, transmitting for Council information, supplemental real property tax revenue information pertaining to the estimated reduction in real property tax revenues resulting from the Home Preservation Tax Limitation and Very Low Income Tax Credit relief measures which have been factored in with the existing real property tax rates, and based on the certified Real Property Assessment List for Fiscal Year 2025.

C 2024-64 Communication (03/15/2024) from the Housing Director, transmitting for Council consideration, a Resolution Authorizing The Mayor And The Director Of Finance Of The County Of Kaua'i To Enter Into An Intergovernmental Agreement With The State Of Hawai'i And Department Of Health For A Loan From The State Water Pollution Control Revolving Fund For The Residential Cesspool Conversion Program (County Of Kaua'i Residential Cesspool Conversion Program 1), Project No. RCC00KA-01.

C 2024-65 Communication (03/19/2024) from the Director of Human Resources, transmitting for Council information, the March 15, 2024 Human Resources Report (Vacancy Report and Recruitment Status Report), pursuant to Section 24 of Ordinance No. B-2023-891, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2023-2024.

C 2024-66 Communication (03/20/2024) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Repealing Resolution No. 2023-02 And Amending Resolution No. 2023-26 Relating To Adopting The Rules Of The Kaua'i County Council For The Organization Of Committees And The Transaction Of Business, amending Rule No. 13, Relating to Order and Decorum.

Councilmember Kualii moved to receive C 2024-62, C 2024-63, C 2024-64, C 2024-65, and C 2024-66 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:

The motion to receive C 2024-62, C 2024-63, C 2024-64, C 2024-65, and C 2024-66 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMUNICATIONS:

C 2024-67 Communication (02/26/2024) from the Chief of Police, Acting Assistant Chief Paul N. Applegate, Acting Captain Kennison L. Nagahisa, and Lieutenant Christian D. Jenkins, requesting Council approval to accept the terms contained in the Avis Rent a Car System, LLC, Terms & Conditions regarding Section 3.2 Indemnification. The Kaua'i Police Department, Investigative Services Bureau seeks to engage in a lease rental of two (2) vehicles, intended for short-term rental leases spanning one (1) year, providing the flexibility to switch vehicles as necessary, enhancing operational efficiency without the constraints of a traditional lease.

Councilmember Kualii moved to approve C 2024-67, seconded by Councilmember Cowden.

Council Chair Rapozo: I see you folks are here, I will suspend the rules, if you want to provide the Council with an overview.

There being no objections, the rules were suspended.

KENNISON L. NAGAHISA, Acting Captain: Good morning, Councilmembers, Council Chair Rapozo, Council Vice Chair Kualii. Thank you for placing this item on the Council agenda for consideration. We are seeking approval of the indemnification portion. Sorry, for the record, Acting Captain Nagahisa, Kaua'i Police Department (KPD), Investigative Services Bureau. As I was saying, we are seeking approval for the indemnification portion, the Avis Rental Car Systems, LLC, Terms & Conditions. This would allow us to rent vehicles for our operations and give us the flexibility to change out vehicles as needed for our operations without the restrictions of a traditional fleet.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: Thank you. I know we had trouble getting our fleet replaced...I am supportive of this, we are tight on vehicles, but what are these vehicles going to be used for?

Mr. Nagahisa: They will be used for the ISB operations.

Councilmember Cowden: The what?

Mr. Nagahisa: Our Investigative Services Bureau operations.

Councilmember Cowden: Do they have the blue bar on top of it?

Mr. Nagahisa: No. It is basically surveillance vehicles. If you would like more details, we can go into Executive Session.

Councilmember Cowden: Okay, that is good enough.

Mr. Nagahisa: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: This is an unusual request. Is this done on the other islands?

Mr. Nagahisa: I am not sure. This is our first time doing it. We feel that this will give us more flexibility, like I said to change out vehicles. In the past we used asset forfeiture vehicles, but they require maintenance, and this will cutdown on maintenance. It is a short-term, one-year rental lease. We could not find it with dealerships, so we had to go to a rental car agency.

Councilmember Kagawa: Is the root of this request the fact that we are having difficulty maintaining county vehicles right now?

Mr. Nagahisa: Correct, we had to change out some vehicles, we had to rotate some vehicles out. We felt this was the best option for our operations.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Using rental vehicles is not new, right? This just allows you the flexibility because now you have those vehicles for one-year.

Mr. Nagahisa: Correct.

Council Chair Rapozo: Therefore, if an operation comes up, if there is a surveillance or whatever the case may be, some investigative operation, now you can just...if you need a new car, you can just swap them out. You do not need to go through the entire rental car process.

Mr. Nagahisa: Correct, even a different type vehicle can be switched out.

Council Chair Rapozo: Right, perfect. Thank you. Are there any further questions? If not, thank you.

Mr. Nagahisa: Thank you.

Council Chair Rapozo: Most people want to jump out of that seat, you folks are hanging out. Is there anyone in the audience wishing to testify?

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 discussion?

The motion to approve C 2024-67 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2024-68 Communication (02/27/2024) from Councilmember Kagawa, transmitting for Council consideration, A Bill For An Ordinance Amending Sections 5A-1.1 And 5A-11.4, Kaua'i County Code 1987, As Amended, Relating To Real Property Tax.

Councilmember Kualii moved to receive C 2024-68 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: The Proposed Draft Bill will be coming up later, but if there is anyone who wants to testify at this time, we will take your testimony on the communication.

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

Council Chair Rapozo: The motion is to receive. Is there any discussion?

The motion to receive C 2024-68 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2024-69 Communication (03/05/2024) from Council Chair Rapozo and Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To The Comprehensive Zoning Ordinance, Including Matters Pertaining To Guest Houses.

Councilmember Kualii moved to receive C 2024-69 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: Again, this is the communication for a bill that will be coming up later. Is there anyone in the audience wishing to testify?

There being no objections, the rules were suspended.

KURT BOSSHARD: Good morning, Council. Kurt Bosshard, for the record. I guess you know if you put "guest houses" on a docket, that I will show up and be supportive of this. But I think we need to go back even further on the housing issue and consider how history has not taught us the error of our ways in terms of...we are behind the eightball on the situation. Although there are helpful modifications of the zoning in Planning, they have not proven to be effective. I compare it to fishing with my friend where you drop stone, you got the *opelu* wrapped around the rock, and you go

down however many (inaudible) to catch fish. Once you catch fish, you want to stay at that level, but the fish are going down, but you are so slow at going down to catch them that you miss the school, and they go down too far. If we keep staying at that same method of trying to encourage housing and it is not happening, and we are running out of gas on this. I would like to start with the General Plan, and Mayor Carvalho was kind enough to allow me to sit on the Advisory Committee on that, I attended many meetings. My comments at that time was centered around, "Well, everything is going to be in Līhu'e," well, that is fine. We all want that to happen in Līhu'e, central and all that, but do we have water? I was assured repeatedly, of course, that there was going to be water, and there was no water. Where are we on that? Nowhere. Now, I want to talk about the maps that show five to ten-minute walking distances. I can assure you that is for special zoning and again, encouraging infill where we do not have the infrastructure or the size of the lots or the people that are giving up their land for it, whatever it is. I do not know who's walking that was, the ten (10) minutes, but I can walk twice as far on the ten (10) minutes of whoever was walking. It is arbitrary on where we are putting these things, and it does not work. I can demonstrate that. If anyone ever wants to talk to me, ask me questions, or whatever, I can give ten (10) examples of these things that I am talking about just from my own personal experience, so you can imagine what other people are running into when they run into people who want to limit housing or county and state agencies that are letting you down. You will not know until you apply for the permits where the hold-up is going to be. There is this many legs on the octopus of getting caught, whether it is water, fire department, highway, drainage, you name it. There are twenty (20) places and so you are not matching your infrastructure with your...

Council Chair Rapozo: Hang on, real quick. Is there anyone else in the audience who wants to testify on this? If not, Kurt, you can continue on with your second three (3) minutes.

Mr. Bosshard: I have written you many times about this and there is an acceleration of the problem, particularly because of COVID, cost of building, regulations, and it is a snowballing the effect. There is also no land zoning for it. Your Housing Agency, I do not know who they are working with, whatever; they do a lot of low-income things, more power to them. I am all for that. But what is other than that? There is no outreach. The Housing Ordinance itself is just a rewrite of the old Housing Ordinance with the same impediments that you had before. You went to all this extent to rewrite this thing in 2019, and you got nothing. What are you going to do? You are going to listen to the public or are you going to listen to the agencies that are not talking together and are not communicating or getting together. For example, comprehensively putting together a map of where infrastructure lies, like water, drainage, and targeting areas where you want things to happen on, and talking to homeowners, et cetera. It is so bureaucratic that the consequences are devastating to people who are trying to do even the smallest projects. Single-family residence, a guesthouse, the guesthouse, they are saying it is a full-on resident, so if there is a water moratorium in your area, which is quite considerable in these areas, you cannot build a guesthouse. Same with the Additional Rental Units (ARUs). You do not learn these things until you apply for the permits. You think you got something and you do not have it. When you ask for data from the Housing Agency, "Oh, I do not have to give it to you," the Department of Water, I asked for a map of where the moratorium areas are, I do not think they have one. They

did not respond, or they responded, "They would get back to me," I should say...but whatever. And I do not think you know it. What are you going to do with the agencies? Maybe well intentioned, some, some may not be.

Council Chair Rapozo: Thank you.

Mr. Bosshard: Are there any questions for me?

Councilmember Cowden: I have.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Are you running into issues of insurance because I know insurance is really coming forward as another barrier? Have you experienced that because that is one (1) more leg on the octopus.

Mr. Bosshard: I have said that testifying before that...and I have affordable rentals, that all of these costs like the insurance or the availability are things that are impediments. Yes, I have been notified about insurance and getting it in a commercial sense, and Lahaina is going to accelerate that problem. When you see the Housing Ordinance, it requires you to rent for forty (40) years at a certain rate or fifty (50) years, whatever it is. Your cost to maintain those structures are going to go up like this, we just saw it, or maybe even tripling, but the average income thing is not going to go up, very incrementally, very small, so why would anyone go into a forty-year commitment? They have to change the roof of their buildings, they have to do this and that, why would anyone do that when the increase in rent is only going to be very modest? There are all these things that until you get there you do not know, and I tried to share that with you, and I hope you are interested. I wrote many times about this, and most recently, about this bill.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Talking about legs on the octopus, have you looked at the leg that has caused the cost of building a house, just the house alone, a simple one thousand two hundred (1,200) square foot house going at three hundred eighty dollars (\$380) per square foot. I did the multiplication, at four hundred fifty-six thousand dollars (\$456,000) just to build a simple one thousand two hundred (1,200) square foot house.

Mr. Bosshard: I have a lot of experience.

Councilmember Kagawa: Where is the blame on that, when you can get a two-story with a pool in Henderson, Las Vegas. I like to blame government, "What are you doing for affordable," but that is a big problem that you can get a two-story house in Henderson, Las Vegas, and here, it will build you the simplest one thousand two hundred (1,200) square foot house that you can think of.

Mr. Bosshard: Yes, I am in the process of building houses, and I would say it starts with things that are not the blame of government, necessarily, except things like the Jones Act and the Shipping Act, right there, that is a no-brainer.

Councilmember Kagawa: Yes, exactly.

Mr. Bosshard: And then you certainly have fees and assessments all along the way from start to finish, the excise tax being a problem. There are some of these things that are already there. Then you add on environmental issues, regulations, Fire Code, permitting, difficulties, delays, insurance, it has been so magnified by COVID, now you cannot find workers. The wages are going up, which is a good thing, I guess, depending on if you are trying to build a house. Try to find someone to work and there are so many things, Councilmember Kagawa, the concrete is three hundred dollars (\$300) a yard now, and it was less than one hundred dollars (\$100) when we first...

Council Chair Rapozo: Okay.

Councilmember Kagawa: I mean, you answered correctly for me. I just wanted to make it known that we have a lot of policy issues, but that building cost is a huge problem that somehow that thing got so messed up where we are paying more because of...I blame it most on shipping.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Can you give an example of data that you requested and cannot get?

Mr. Bosshard: The number of ARUs that have been built, guest houses, all the...I am interested in property that is already zoned Residential use, non-Resort, because we knew in the General Plan that only zoning that was Residential was in the Resort area was Kukui'ula, Princeville, so we knew that this was coming back then, that this was all going to come to a head. Anything to do with non-Residential housing. I wanted to see whether the Housing Ordinance is a success. Do they interact with you, to say, "We have these results, we are not satisfied with what we have written here, times have changed, the cost has doubled, we want you to do more guesthouses, without interacting with builders and listening to them?"

Council Chair Rapozo: Okay, I think we are done. Are there any further questions? If not, thank you. I appreciate you spending time with us.

Mr. Bosshard: I appreciate you doing what you are doing.

Council Chair Rapozo: Is there anyone else in the audience wishing to testify? Your testimony will be transferred over to Proposed Draft Bill (No. 2919).

Councilmember Kagawa: I have a question.

Council Chair Rapozo: For who?



Councilmember Kagawa: The makers.

Council Chair Rapozo: Is there any further testimony? If not, we will call the meeting back to order.

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

Councilmember Kagawa: Is this Bill from the Administration or from the Council?

Council Chair Rapozo: No, this is from Councilmember DeCosta and I. I think Mr. Bosshard brings up a lot of good points, as you, with costs, but there is idealistic goals and idealistic thinking and realistic thinking, and Mr. Bosshard hit it on the head when he talked about trying to get everything built in one (1) area that does not have the infrastructure, that is crazy, right? I know there is a lot of people that do not support adding dwellings on agriculture (Ag) units, but I am assuming you all know families that have generational lands throughout the island who are at risk of having to sell because they cannot do anything with the land. Councilmember DeCosta and I met with the Planning Department, and this was the best compromise that we could get that they would be supportive of. Planning Director Hull is not here, he is not available today, but he will be present at the Committee Meeting. This will be an opportunity for our agricultural lot owners to be able to put up a guest home, and these are small units. Obviously, the concern is that they are just going to make vacation rentals, well, vacation rentals are illegal, and it is going to require enforcement. At the end of the day, it will allow our generational families to possibly put up an additional unit so that they can have their family live in their homes. That was the intent. Councilmember Cowden.

Councilmember Cowden: Councilmember DeCosta, you are constantly commenting on this about not being able to put extra homes on your own property, and he has Ag property, so this will allow him to put an extra home on his property?

Council Chair Rapozo: It will allow anyone that has the ability, that has density will be able to add one (1) more unit.

Councilmember Cowden: I do not know if your land is Condominium Property Regime (CPR), but would he have the density? I am getting this question about CPR'd lots and usually in CPR there are five (5) units and one (1) guest house, would it be adding more guest houses to the other units?

Council Chair Rapozo: Yes.

Councilmember Cowden: Okay, because that is a really important question.

Council Chair Rapozo: The real important thing, though, is when this guest house is added to a Condominium Property Regime (CPR) unit and that CPR unit has the density of one (1) property, they will be able to add a guest house, but that guest

house will be attached to the initial density. Therefore, they cannot get a CPR and then sell off the guest house unit, that remains with the entitled dwelling. Yes, they can sell the CPR parcel, but it will be with the two (2) units, they cannot split that.

Councilmember Cowden: And it will not take away a density parcel on an adjacent lot that has yet to build.

Council Chair Rapozo: No.

Councilmember Cowden: I just want to share, because I am concerned about the insurance. I have been learning about that and I am hoping to have a briefing coming up soon. I think on Ag properties, it will not be a problem, but what I was told when I researched it, is when we are doing density in a built environment, like down the street here in a "city" area, like in Līhu'e, if you put four (4) houses right together and you are next to four (4) houses right together, you might not be able to get fire insurance. That is what I have been learning.

Council Chair Rapozo: Yes, well this is specially for agricultural properties and not Urban.

Councilmember Cowden: It says, "R-1, R-2," and all the other ones, right? Am I on the wrong bill? Okay, nineteen (19) is the R-1, R-6, R-10.

Council Chair Rapozo: This is for Ag.

Councilmember Cowden: Okay, this one is just for Ag, so my other comment will be appropriate for Bill No. 2919.

Council Chair Rapozo: The Fire Department will obviously have a say in the approval of these developments. That is always a concern now since Lahaina had homes close to one another.

Councilmember Cowden: I am building on what the testifier was saying is that you do not even know you are going to run into it, so having not called the insurance, because my house is probably one that is probably affected and just looking at, "what is anticipated to be affected," so the Fire Department might not even know. It goes by carrier by carrier, insurance carrier. People, even if they are listening should find out from your insurance carrier if you have a problem (inaudible). Insurance companies are dropping previously insured properties.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I think that is an issue for the homeowner before you build anything, you check with your insurance. That is not something the Council should worry about. What I wanted to thank you folks for is for this bill. Every longtime Ag farmer that I know that is not a big landowner has at some point mentioned that it would be nice to add more flexibility to add houses for families. That is one way they looked at to keep their family on Kaua'i and living here. I thank you folks for this bill. We have been waiting. We are "housing crisis," yes, but we have always been with

a mindset of previous councils to protect Ag. Instead of growing people, we grow vegetables and food. When you look at our longtime farmers, those are not rich people. They are hardworking middle class people, and not allowing them to have flexibility to have family live on property and continue farming is absurd at this time with the prices of everything. Where are growing families going to live when the prices for materials of a simple house is five hundred thousand dollars (\$500,000). We need to take these steps; it is long overdue. I am supportive. I hope that people who do not have Ag will take this opportunity to chime in because we do want to make sure that even though we have strong feelings, that we have the entire community chime in on this issue. It will help us come up with the best decision. Maybe there will be some safeguards for rich people who always bought their Ag property with the intention of just living and growing a coconut tree. This is a great idea, great movement forward, and it is long overdue.

Council Chair Rapozo: I think long overdue is...at this point, I think what Mr. Bosshard said is so true. How successful have our housing policies been? We have done a lot in the way of low-income, but the middle class have nothing, zero. This bill is not intended to create affordable housing on Ag lands, I would hope a lot of these generational families are going to build these structures to put their families on. At the end of the day, there are really not many programs out there for the middle class. I am looking at homes right now, two-bedroom sells for seven hundred sixty thousand dollars (\$760,000) and these are homes like mine that I live in now—redwood, single wall, and selling for seven hundred thousand dollars (\$700,000), which is insane. This is just one-step. This Council needs to take a look at taking matters in our own hands and not waiting for the Housing Agency, not waiting for the Administration to come across with projects, because these are low-hanging fruit, but I can tell you that there are people who disagree. They do not believe we should have any Residential density on Ag, Councilmember Kagawa, you mentioned it, you have these folks who plant trees and get an Ag dedication. We are working on a scope of an audit right now that will audit the Ag dedications that we granted, because there are many people on this island with Ag dedications that should not have it. There is no agricultural operation or product. I am hoping that audit can come on the floor shortly, and I am hoping we can get your support. At the end of the day, we have to provide as many resources we can for our people to put up houses for our middle class families.

Councilmember Kagawa: The definition of Ag—seasonally growing rambutan and selling a few in a bag, does not make you a typical farmer. Again, we have to get the numbers to justify whether you are truly an Ag farmer or not, or if you are just a residential farmer like me; I have a few vegetables, but I know I am not an Ag farmer.

Council Chair Rapozo: Is there any further discussion?

Councilmember Kualii'i: We are still just on the communication, right?

Council Chair Rapozo: Yes, this is only the communication.

The motion to receive C 2024-69 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2024-70 Communication (03/07/2024) from the Chief of Police and Assistant Chief of Police Mark T. Ozaki, requesting Council approval to accept and expend Federal funds, in the amount of \$7,139.00, from the United States Department of Justice, Bureau of Justice Assistance, Bulletproof Vest Partnership Grant, to replace bulletproof vests for officer safety. The grant program has a local match amount of 50% from the Kaua'i Police Department (Account No. 001-1003-551.65-00, Collective Bargaining) for the acquisition of the bulletproof (protective) vests and related accessories to be utilized by the officers of the Kaua'i Police Department.

Councilmember Kualifi moved to approve C 2024-70, seconded by Councilmember Cowden.

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

Councilmember Cowden: I have a question.

There being no objections, the rules were suspended.

MARK T. OZAKI, Assistant Chief of Police: Good morning, Councilmembers. Assistant Chief of Police Mark Ozaki, Kaua'i Police Department.

Councilmember Cowden: Thank you. Full disclosure, I am a mother of a police officer. Earlier this year we had a person who did a shooting with an automatic weapon, I forgot his name. We looked for him for like a week or two, and we brought over the federal marshals. My understanding was that part of that had to do...I did not learn this from my son, but part of why we did that was our bullet proof vests were not appropriate for the bullets he had. Is that correct?

Mr. Ozaki: Just for correction, it was not automatic, but it was semi-automatic.

Councilmember Cowden: Somehow, we did not have the right bullet proof vests, did I learn that correctly?

Mr. Ozaki: No. A bulletproof vest does not stop every single type of bullet. There are some with certain restrictions and certain limitations. Our bulletproof vests stop a lot of types of firearms, it stops the types of firearms that we carry, in case someone takes our firearms. We also purchase or look at purchasing supplemental carriers or trauma plates to put in the carriers, but this is not what this is.

Councilmember Cowden: Will this new vest be better than what we have and how many are we buying?

Mr. Ozaki: This is a recurring grant.

Councilmember Cowden: Okay.

Mr. Ozaki: I have been in the Administrative Technical Bureau since 2016 and that is when it started with purchasing and contracts, so we have been doing this recurring grant from then. It is just basically supplemental funding. It is supplemental to what we already purchased. This is a federal grant.

Councilmember Cowden: So, we are not buying new vests?

Mr. Ozaki: We buy new vests every year.

Councilmember Cowden: Okay, I would like good vests.

Mr. Ozaki: Absolutely.

Councilmember Cowden: Because I tried to buy a good vest as a Christmas present and I could not find those vests anywhere, they were all sold out.

Mr. Ozaki: We have a replacement plan with our vests, so we are not trying to go to Council and buy one hundred sixty (160) vests every year, we have a replacement plan, so we buy and budget for a certain number of vests, and we anticipate how many vests we need.

Councilmember Cowden: I want to make sure that when we are buying them, we are buying appropriate protection.

Mr. Ozaki: We do buy quality vests and we tests them against other companies and brands, they shoot it up, and we do work for the government, and we go out for bid, but it does not mean that three (3) companies can bid on the same type of vest. Again, it is not a "catch all" guarantee it will stop every single bullet, but it is quality type of vests. We understand there are times when there might be a higher risk type of firearm we are facing and if we have a chance to have an unknown, that we are looking at purchasing supplemented equipment for officers, which is trauma plates, higher caliber rounds.

Councilmember Cowden: Thank you.

Council Chair Rapozo: Are there any further questions? If not, thank you. Is there any discussion?

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

The motion to approve C 2024-70 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2024-71 Communication (03/07/2024) from the County Engineer, requesting Council approval to purchase unbudgeted equipment of a Flygt Submersible Pump, as an unanticipated mechanical failure of an existing pump at the Wailua Wastewater Treatment Plant has resulted in a loss of redundancy, needed to ensure that the proper

flows can continue going through the plant treatment process, at a cost of approximately \$31,000.00.

Councilmember Kualifi moved to approve C 2024-71, seconded by Councilmember Kagawa.

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

Councilmember Cowden: I have a question.

Council Chair Rapozo: Okay. This was covered when we had the CIP update.

Councilmember Cowden: Oh, okay.

Council Chair Rapozo: Go ahead. This just shows how this old plant...

There being no objections, the rules were suspended.

DONN KAKUDA, Civil Engineer: Donn Kakuda, Civil Engineer.

Councilmember Cowden: I was going to say I thought we just talked about this. Is this the same one that we were talking about, or did we fix something and another thing broke?

Mr. Kakuda: This one is for our aeration basin and...we are buying this to...it is cheaper than a replacement, because we are just trying to make it last until we do the fix.

Councilmember Cowden: Okay, so what we talked about the last time, this is a temporary thing for what we talked about? We did just talk about buying this, so is this the same piece of equipment?

Mr. Kakuda: No, it is not. It is different. This one is...okay, so we are working on the design...

Council Chair Rapozo: The last discussion was about the Revolving Fund. That was about the millions of millions...

Mr. Kakuda: Yes.

Council Chair Rapozo: When you were here for CIP, you folks talked about the emergency repairs that...

Mr. Kakuda: Okay, you folks approved the first part, right?

Council Chair Rapozo: Yes.

Mr. Kakuda: The second part of the plan will address this part, but we never finished the design yet for this second part. The thing is we do not

want to buy the exact...because with the design, we are discussing changing the hydraulics, so maybe in the future we will not need a pump over there. We are trying to do something cheaper to last us until we finish the design and then if we change the tanks, then we do not need pumps, it will go gravity instead. That is the plan.

Councilmember Cowden: I see in here that we are unanticipated mechanical failure and unbudgeted equipment, and so since we just talked about it, I was thinking maybe this is another thing, so it sounds like somewhere in between?

Mr. Kakuda: Kind of. We are trying to get to a point where we finish design and then we do the big fix. We do not want to spend more money than we have to, to get us to that point.

Councilmember Cowden: Okay, thank you.

Council Chair Rapozo: Are there further questions? If not, thank you. Is there anyone in the audience wishing to testify? Is there discussion?

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

The motion to approve C 2024-71 was then put, and unanimously carried.

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

C 2024-72 Communication (03/08/2024) from the County Engineer, requesting Council approval to purchase unbudgeted equipment of an Aurora Series Effluent Pump, at an estimated cost of \$52,000.00. This pump would convey effluent to the Wailua Golf Course for irrigation purposes, due to an unanticipated mechanical failure of an existing effluent pump at the Wailua Wastewater Treatment Plant.

Councilmember Kualifi moved to approve C 2024-72, seconded by Councilmember Cowden.

Council Chair Rapozo: Same explanation, right?

There being no objections, the rules were suspended.

Mr. Kakuda: This one going be like the third phase of the fix. The ones we talked about are just for the plant. We have to make sure the line to the golf course is good, so we are working on the design for that to fix the line and to make sure that these pumps will pump there. Right now, we replaced the other one about a year and one half ago. This one is broken, and so we only have one (1) pump that can pump to the golf course, so we want to buy this one and this will be a redundancy if needed.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Does that mean we are not able to pump as much as we should be pumping to the course?

Mr. Kakuda: One can handle. It is just that if it breaks, we cannot pump to the golf course at all. If the one we have now breaks, we cannot send water to the golf course at all.

Councilmember Kagawa: Oh.

Councilmember Cowden: I have a follow-up. I was in that pumphouse about three (3) or four (4) months ago.

Mr. Kakuda: Okay.

Councilmember Cowden: Was it broken then?

Mr. Kakuda: ...

Councilmember Cowden: I know there was a leaky fixture there, just a little bit leaking, so was it...

Mr. Kakuda: You came to the Wailua Treatment Plant over four (4) months ago?

Councilmember Cowden: Yes.

Mr. Kakuda: Okay.

Councilmember Cowden: Not the Wailua Treatment Plant, the pumphouse on the Wailua Golf Course.

Mr. Kakuda: That is the Department of Parks & Recreation's one, so if theirs is broken, they have to fix it. Our pump is at the plant. We pump it to their pond and from the pond, Department of Parks & Recreation picks it up and they pump it from theirs.

Councilmember Cowden: That one is aged too.

Mr. Kakuda: I know they have a project, but I am not familiar with it.

Councilmember Cowden: It was repainted, looks well-painted, okay, so it is not that one?

Mr. Kakuda: No. The one we are talking about is at the Plant.

Councilmember Cowden: Okay.

Council Chair Rapozo: Are there further questions? Seeing none, thank you. Is there anyone in the audience wishing to testify? Is there any discussion?



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

The motion to approve C 2024-72 was then put, and unanimously carried.

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

C 2024-73 Communication (03/08/2024) from the Executive on Transportation, requesting Council approval to apply for, receive, expend, and indemnify the Federal Transit Administration (FTA) for Section 5339 formula grant in the amount of \$2,662,040.00 for ten (10) diesel/gas buses, and FTA Section 5311 formula grant in the amount of \$1,334,862.00 for five (5) diesel/gas buses, which are soon to be beyond their useful lives, to be used to fund eighty percent (80%) of the purchase cost, and twenty percent (20%) from the Transportation Agency's Fiscal Year 2025 budget request.

Councilmember Kualii moved to approve C 2024-73, seconded by Councilmember Carvalho.

There being no objections, the rules were suspended.

CELIA M. MAHIKOA, Executive on Transportation: Good morning, Councilmembers, Council Chair. Celia Mahikoa, Executive on Transportation.

Council Chair Rapozo: We received your request and maybe just share a little bit about what the plan is.

Ms. Mahikoa: Thank you for this opportunity. This request for today is to assist us with our ongoing replacement of our existing operating fleet. We have sixty (60) vehicles within our fleet and in order to maintain consistent safe service, we need to regularly have them replaced and stay advanced in the mileage that is on each of them. Within the federal regulations, the useful life is defined at one hundred fifty thousand (150,000) miles, or five (5) years of use. We do our best to keep them within a four-year rotation and within four (4) years they are up over two hundred fifty thousand (250,000) miles. We are able to get use out of those vehicles with our mechanic team, and some excellent maintenance attention on our vehicles. Ideally, we like to be able to replace fifteen (15) per year, and we have been provided formula funds through Federal Transit Administration (FTA) to facilitate that. That is with that, of which they will cover eighty percent (80%) of the cost of the replacement vehicles. These are to keep existing services for the community growing at the levels they are at. Additionally, we do have the electric bus project, but that is taking place in addition to the need to keep the existing service going. That is why these are noted as gas diesel replacements at this time.

Council Chair Rapozo: We did receive Ruta Jordans from Zero Waste, and she is asking why not electric?

Ms. Mahikoa: Right. Simply because we are in the middle of procuring electric buses. It is just that the first four (4) that we are purchasing through

the Statewide procurement that we are taking part in, we are going to be placed on the schedule. We entered into the contract several months ago, but because there is a backlog on the ordering and the manufacturing, and the providing of these vehicles, we anticipate we will not have those first four (4) buses available until probably about a year and one half to two (2) years. I am thinking it is about what it would take from this point to get us there. With that, meanwhile in order to keep service going and replacing our existing vehicles that are going beyond their useful lives, we are needing to keep up with the vehicles that we are able to procure, which is the gas diesel ones.

Council Chair Rapozo: Councilmember Cowden.

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

Councilmember Cowden: Thank you for doing this. I learned something from Council Chair Rapozo when he first took his position and to be cautious whenever it says, "Apply for, receive, expend, and indemnify," so then we are basically saying, "Yes," to the entire process with no place to intervene or ask questions. Are the size and shapes of these buses the same size of what we already have, so we will not worry about not having garage space, like what presented itself of the electric buses, right?

Ms. Mahikoa: That is correct. These are replacing what we have with very similar sizes and designs.

Councilmember Cowden: They are going to sit in the garage, I know we had three (3) smaller buses that somehow had something wrong with them, so we do not use them as intended. They have the lifts for handicapped, but we used them for something else, we found some other way, but are we sure that these designs, everything about it is just going to move right in into the new...

Ms. Mahikoa: Yes.

Councilmember Cowden: Okay.

Ms. Mahikoa: As well as we can, scope within the procurement is going to be following the lines of the same procurement process, similar scope of work or of design for the existing vehicles we have.

Councilmember Cowden: Okay. Thank you. I have a question for you, but I can wait.

Council Chair Rapozo: Are we still not offering the Sunday service? Are we still having an issue? I do not want to get into a huge discussion, but I am curious, I was just asked that question recently.

Ms. Mahikoa: Sadly, we are still at "No Sunday Service" and until we are able to get an additional number of bus drivers full-time...

Council Chair Rapozo: So, it is not buses, it is people.

Ms. Mahikoa: Right.

Council Chair Rapozo: Drivers.

Ms. Mahikoa: Right. The staffing. Sadly.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: When we retired out these fifteen (15), do they sit in a secondary use? If we have an accident or something happens to a bus, do we have a backup bus? How do we “retire” out the fifteen (15) buses, because they are a lot to store if they are beyond their life?

Ms. Mahikoa: We are required to dispose of them in line with the county’s regulations and therefore we go through the formal disposal process, which has them placed at a holding lot until the annual auction takes place.

Councilmember Cowden: So, they might get sold on-island? How many spares do we keep? How many spare buses do we have?

Ms. Mahikoa: Spares are typically held within twenty percent (20%) of our fleet, so that we will have...is that twelve (12), I believe, that would typically be there to serve for that purpose.

Councilmember Cowden: Okay.

Council Chair Rapozo: Are there any further questions for the Transportation Agency? If not, thank you. Is there anyone in the audience wishing to testify? Seeing none, Councilmember Cowden.

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

Councilmember Cowden: I really appreciated the learning experience that I got from you, Council Chair Rapozo, about why are not supposed to approve “Apply for, receive, expend, and indemnify,” all four (4) steps. We are confident in this case to have no problems since it is just a repetition of what is already in place.

Council Chair Rapozo: Correct.

Councilmember Cowden: Okay. And then I have a comment.

Council Chair Rapozo: Okay, go ahead.

Councilmember Cowden: I appreciated Ms. Jordans letter and I am willing to experiment with these electric buses. I was not excited about them because as we are learning we are having to mine the deep seed and be able to get these batteries, that there is so much consequence for what it takes to create electric systems. It is very difficult to recycle the batteries, and what we have learned in the last year or

two (2), is that lithium batteries mixed with salt water are more likely to catch fire. I just want to state for the record that I am happy that we are replacing some diesel and gas buses, because that is the direction that I actually am more confident in. I would rather wait until there is different technology than the electric.

*(Councilmember Kagawa was noted as present.)*

Council Chair Rapozo: Is there further discussion?

The motion to approve C 2024-73 was then put, and unanimously carried.

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

C 2024-74 Communication (03/11/2024) from Council Chair Rapozo and Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5, Article 2, Section 5-2.6 Kaua'i County Code 1987, As Amended, Relating To Beautification Fees, to offset the tourism-related impacts of rental or U-drive motor vehicles by standardizing the beautification fee assessed to all motor vehicles in the County at five dollars (\$5) per certificate of registration.

Councilmember Kualifi moved to receive C 2024-74 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? This is the communication; the Proposed Draft Bill will be coming up later.

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

Council Chair Rapozo: The motion is to receive. Is there any discussion?

The motion to receive C 2024-74 for the record was then put, and unanimously carried.

C 2024-75 Communication (03/15/2024) from the Mayor, transmitting his Fiscal Year 2024-2025 Budget Message, along with the proposed Operating Budget, Capital Improvement Projects (CIP) Budget, and Schedule of Charges and Fees.

Councilmember Kualifi moved to receive C 2024-75 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any discussion or public testimony? This is the submission of the budget, which we will start our budget reviews tomorrow morning.

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

JEFF LINDNER: Jeff Lindner. There was just one (1) thing in the letter from the mayor stating that they were not going to reduce the owner-occupied tax rate. I thought that was your call. That is not the mayor's call. Anyway, that is all I got.

Council Chair Rapozo: Yes. Thank you. When we start discussing it, it will be our call, you are correct. Is there anyone else?

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

Council Chair Rapozo: Is there any discussion? There will be some proposals that will reduce property tax rates for owner-occupied. Obviously, we are required to have a balanced budget, so when we reduce somewhere, we must cut somewhere else or increase revenue somewhere else. Tomorrow we will start the process and then over the last two (2) years, owner-occupied with the three percent (3%) cap, because of the incredible rise in assessments did not mean much, in fact, they paid more taxes. I am hoping that we will be able to get that equalized in the tax rate.

Councilmember Kualii: It is actually both of our calls, the Council and the mayor, and ultimately we can go through the entire budget process and the council majority of four (4), if it is in disagreement with what the mayor is wanting, is not enough. So, it would take a super majority of five (5) to do something different from what the mayor is proposing. Just to be clear. There could be a veto and it will take five (5) or more to override any veto.

Council Chair Rapozo: The Administration's proposal on tax rates did show an increase in the transient vacation rentals (TVR) rate, which I hoped had a corresponding decrease in the owner-occupied rate, so that will be our call. Is there any further discussion? Go ahead, Councilmember Kagawa.

Councilmember Kagawa: I just saw Maui's budget, just briefly, and for them they are recognizing property tax increases. At this time that they are going through is pretty rough for residents, so hopefully we can keep our property taxes for our residents, owner-occupied, local residents, middle-class, and poor that are struggling, we have to keep those either equal or lower than what they were previously listed as. That is the goal for me going into the budget.

Council Chair Rapozo: That is music to my ears, sir. Councilmember Cowden.

Councilmember Cowden: I want to make a comment that when we are having such heavy inflation, obviously, all our expenses are going up, right, so that is a challenge. When we are looking at things, like I am trying to go down that rabbit hole of insurance, so even that is really rising. A big concern that I have that is in alignment of Councilmember Kagawa is that not everyone is lucky enough to own a house. When we have the non-owner-occupied, that is the long-term rentals, I am really concerned about that element because when those taxes go up and the insurance goes up, we are pushing, especially our younger population, I am not disparaging people who are

(inaudible), but I know that people who are born the generation that most of us were, not him, have an easier time being able to have a home than those younger than us. We are losing our workforce profoundly, so that non-owner-occupied—it will be rough for some of our rental houses that are in areas where the prices are inflating rapidly and have always been more expensive. That is the big issue for me.

Council Chair Rapozo: We have the ability and what I am going to be proposing is reducing the tax rates in owner-occupied and residential areas, because we talked about, when Mr. Bosshard up here, the middle-class may not be in the affordable housing program.

Councilmember Cowden: Right.

Council Chair Rapozo: They cannot qualify for the affordable housing program, but they are working people; police, firemen, nurses, or teachers, and these tax increases have devastated them. That is why I am saying we have to equalize the damage that has been done or reduce the damage that has been done with these rising assessments, and the only way we on this body can do that is through the tax rates. That will be the discussion, is how far do we go, and can we find the funds to make up the difference?

Councilmember Cowden: When this Resolution comes to us today, in a few minutes, is it going to be a done deal today, because I have been trying to work on and look at those numbers and find that place where we can adjust the tiers. Even last night, I went and spoke with an injured hotel worker and I remember when the house that he lives in was built, it is a decent little house and was very much built as a starter house, and they pay four thousand five hundred dollars (\$4,500) per month, working multiple jobs, they have a young family, has an injury, how they are going to keep the house now? The landlord can only take so much of a hit too. I am just putting it out there that I care about these renters.

Council Chair Rapozo: Yes, I, we, all share that. To your question as far as is this is a done deal? No, this is just a proposed budget and proposed tax rates. We will have the ability through our process to change it.

Councilmember Cowden: If it goes as-is today, I do not have to go home and fall apart?

Council Chair Rapozo: No, this is just a proposal.

Councilmember Cowden: Okay.

Councilmember Kagawa: It is the beginning.

Councilmember Cowden: For the tax rate. Usually, we do it once and then we do not go back to it.

Council Chair Rapozo: No, that is never done that way. That is what the budget process is.

Councilmember Cowden: I mean we look at all the budget, but the tax rates...

Council Chair Rapozo: Yes, we set the tax rate. But that is not today, we are not setting tax rates today. We are gaining what the Administration sent us on March 15<sup>th</sup>.

Councilmember Cowden: Okay, because it says, "Resolution establishing the real property tax rates," but we are not stuck.

Council Chair Rapozo: Yes, but right before that, it says, "And the Proposed."

Councilmember Kualifi: The entire proposal is how it balances, so if we change that, then we have to change everything else.

Council Chair Rapozo: Yes, we control the budget, not the Administration.

Councilmember Cowden: I have shellshock from having made a mistake in 2019.

Councilmember Kagawa: My cardinal rule is you do not look at a story of one (1) person and then look to that to adjust rates or what have you, tax policy, because what you do is you will have unintended consequences for a lot of the people who are not going through that big bump in their life. Overall, the way we look at tax policy is broadly, looking at numbers, but I think if when you go story by story, you just complicate everything to where it is going to be very hard to analyze why that is the route to go. In general, we need to "keep it simple, stupid."

Councilmember Cowden: I appreciate what you are saying. I chose to use a simple example, but what we have is three (3) different economies on our island, and so it is not just one (1) story, it is the entire region. What would work better for one (1) group than another or another—how do we adapt for regions, because we are very different in different areas.

Councilmember Kagawa: I did not mean to call anyone on the Council stupid, it is just a saying.

Council Chair Rapozo: Cliché.

Councilmember Kagawa: "Keep it simple" is better than making it complicated, because what you have is you will have unintended consequences that will backfire on you.

Council Chair Rapozo: That is true. Again, my perspective is this is what we saw in the last two (2) years. We saw assessments go through the roof, which equates to increased revenues to the county. Now, typically, and again, this is only my

second budget back, and last year I was not familiar with how drastic, I should have, but I was not, this year now I see when I look back how much moneys were generated by this county in, not only from real property tax, but with the TAT and the GET, and there was no reduction to the taxpayers, zero. We spent it. This year is the correction and I am hoping my colleagues agree that this year we correct. Yes, there is going to be a reduction in revenue. You cannot have it both ways. We have to scrutinize the budget to make sure that we get what we need, but we also provide that relief to the taxpayers who have been overtaxed, in my opinion, over the last two (2) years. Very simple, Councilmember Kagawa's, concept. It is not targeting any particular zone, area, or taxpayer. It is a general concept of, "When we have unanticipated revenues from taxes, then there should be a concerted effort to give some of that back, and that is the direction I am hoping this council will take this year.

Councilmember Kagawa: My final thought is that is why Proposition 48 makes so much sense, where it is just, cannot go higher than two percent (2%) of your prior year tax. The valuations, your neighbor could be one hundred thousand dollars (\$100,000) value because of a sale than the other neighbor. It is so crazy that it is based on sales, which are just so unpredictable. There are "fixer uppers" selling for over one million dollars (\$1,000,000). It is absurd with what is happening with sales, and that is what we use as our basis of property taxes. It is going to be tough, but like I said, I think if we can ensure that residents that own and occupy their homes and not intending to sell, that they are not affected by these crazy market sales in their areas. That is what we have to do broadly.

Council Chair Rapozo: I agree. Councilmember DeCosta.

Councilmember DeCosta: I am listening to this conversation piece on property tax, I think we all own property here, whether we own or rent. We all fall into a category. When we do tax relief, when we craft ordinances, bills, resolutions, somewhere along the line one (1) of us falls into that category. When we introduce bills, resolutions, ordinances, we need to do it for the betterment of everyone on Kaua'i. I must agree with Councilmember Kagawa that a single story does not constitute for changing the entire picture. We take what we know. Council Chair Rapozo is leading the budget reviews, we take what the Administration says, because we have to trust what they say, they balance their budget, they want to do capital improvement projects on Kaua'i, they want to make Kaua'i a better place for us. We will work really hard in an effort to benefit everyone on Kaua'i, whether low-income, middle income, or the high income.

Councilmember Carvalho: We are going to have that chance.

Council Chair Rapozo: Yes.

Councilmember Carvalho: At the Council level, we have that opportunity to go through everything and make the decision collectively, and that is what I look forward to, overall. We can talk about all the different levels and what is different, but at the end of the day, we are going to have to make that decision, and I look forward to that.



Councilmember Kualii: And throughout the budget process, starting tomorrow, we will be working closely with the folks at the Real Property Tax Division, the Finance Department, and the budget team, the mayor, and ideally when we work together and in the end we will come to the best place, because we have to meet the needs of the public, especially when it comes to our core services and yet balance it in a way that we can help those who need the help the most to keep our families here on Kaua'i.

Council Chair Rapozo: Is there further discussion? There are two (2) things, tax rates versus tax bills that people pay. It does not matter what the tax rate is to the taxpayer, it does not matter. They could care less what the tax rate is. All they care about is how much taxes they are paying. As we look at our owner-occupied tax rate, it is relatively low, if you look across the counties, ours is very low, but if you decrease the tax rates, the opponents will say, "Once you lower them, it will be very hard to raise it back when you need to." Not necessarily, because if the tax bills do not change...in other words if you do a net zero increase tax rate change, then the public pays the same. You could put a two percent (2%) cap, but it is up to us, we work backwards, and we set that...if we do not want the people to pay any more in the owner-occupied class and we lower the rate, so we get to that point. If for some reason next year's revenues drop and we have to increase the tax rate, you increase the tax rate to have the zero net increase, then the taxpayer is not upset because their bill has not changed versus sharing the tax rates—it went from two dollars forty cents (\$2.40) to three dollars sixty cents (\$3.60) everyone will go nuts, but the tax bill will stay the same because the assessments have dropped significantly. We control that flow, not the Administration, we control the flow and that is the process that starts tomorrow morning. I am excited, actually. Is there any further discussion?

The motion to receive C 2024-75 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

#### CLAIMS:

C 2024-76 Communication (03/11/2024) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Suzanne Kay Smith, for personal injuries, vehicle damage and medical expenses, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2024-77 Communication (03/11/2024) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jaquelynn Sua, for her mother's loss of life and medical bills, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2024-76 and C 2024-77 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

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

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

The motion to refer C 2024-76 and C 2024-77 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

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

COMMITTEE REPORT:

**PUBLIC WORKS & VETERANS SERVICES COMMITTEE:**

A report (No. CR-PWVS 2024-05) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2024-04 – Communication (02/28/2024) from Council Chair Rapozo, requesting the presence of the County Engineer and Allison Fraley, Environmental Services Manager, to provide a briefing regarding the condition of transfer stations, including but not limited to, the status of prior transfer station Notices of Violation (NOVOs), progress toward Best Management Practices (BMPs), and compliance with the National Pollutant Discharge Elimination System (NPDES) program requirements,”

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

Council Chair Rapozo: Is there anyone discussion or public testimony? Seeing none.

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

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

Council Chair Rapozo: Motion carried. Next item, please.

RESOLUTIONS:

Resolution No. 2024-13 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2024 TO JUNE 30, 2025 FOR THE COUNTY OF KAUAI

Councilmember Kualii moved that Resolution No. 2024-13 be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that said Resolution be returned to the Committee of the Whole, seconded by Councilmember Carvalho.

Council Chair Rapozo: The motion is to schedule a public hearing for May 14, 2024, at 5:00 p.m., so it is an afternoon or early evening public hearing. Is there any public testimony?

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

BRIDGET HAMMERQUIST: Good morning, Council Chair Rapozo and Members of the Council. Bridget Hammerquist, from Kōloa, Kauaʻi. On the Ag issue is something that I actually raise to Councilmember DeCosta (inaudible) if we looked at the state statute, when we talk about additional dwellings on Ag, a guest house, if you go to HRS Section 205 4.25(a) is what is the permitted use of Ag land and one of them is farmworker housing. I am not sure why our county laws are so different than the state law, but the state law does not require a minimum amount of earnings by the farmer or the Ag person to justify Ag housing. It does not require that they live on the property like ours does in Kauaʻi County, it does not require that it be their primary residence like our does on Kauaʻi. I think that we can actually build family homes more than just an additional dwelling unit, I would like the county to take a look at how different our county rates, our county ordinances with regard to the use of Ag land compared to state. It is much more restrictive on Kauaʻi and I think very imbalanced and we could get a lot more housing and help farmers, because we need to watch crops. For my own little half acre, I have four (4) avocado trees, mango trees, and people actually drive up to the road, park, and get out pickers and pick my trees, and we go out and say, "Hey, what are you doing"? There is a real need...and we are not helping Ag people on this island. Just a single unit is good, but they actually should get to do more. It is just something I would like to offer. The other thing about trying to understand the tax rate, I looked at what was happening in Zone 2 in Kōloa where I come from and I brought this for you, just as sampling. We have five thousand (5,000) acres in Zone 2 in the Kōloa area, it has been Ag, and then in 2022, it was all reclassified as Industrial. One of the parcels, I am pretty familiar with because I worked on it when we did the dairy issue, is ten (10) seventy-six (76) acres down in Mahaulepu, which is Mahaulepu farmland which is (inaudible) Grove Farm. I never thought I would be helping Grove Farm, but I do, and that is now classified as Industrial. I could not find anything industrial done on that land. When you talk about the tax rate by different classifications, there is use classification that gets put on top. I do not know how you begin to balance or know what you revenue is if the Finance Department and the tax assessor is attributing to Ag land, a classification of Industrial and then taxing the Industrial rate even when there is no industrial operation on that land. I would like to offer this package as an illustration of some of the changes that have been made in Zone 2. If you are looking for a place...

Council Chair Rapozo: Hang on. Is there anyone else wishing to testify? Okay, I will ask you to come back. Next speaker.

Mr. Lindner: Jeff Lindner, for the record. I have some issues here in some of the language in the tax determination rate where 5(c)2, the percentage of revenue be raised from that real property tax and each class should be multiplied by the total revenue to be raised to all real property in order and I think this is the key wording, "To determine the amount of revenue to be derived from that class." It looks like the job is you are supposed to determine how much revenue you

want to get from each class. It is not what exists, it is that you look at the entire thing and it is a percent. There is the amount that is taxable revenue and so you are supposed to look at that and say if commercial is only paying seven percent (7%) of the total, does that sound right? Or if hotel is paying eighteen percent (18%)...that is how I understand that. The other thing as Bridget mentioned is that when you go from land class, and it says land class but it is really use, at the title, when you go to use...when you take agricultural land and you put it in commercial and that is probably the best example, which there is a nine hundred fifty (950) acre parcel in Keālia that is commercial. Those are two (2) different uses...I guess maybe it is because it is cattle, it is commercial, nine hundred fifty (950) acres is commercial, that is going to skew the real amount of the tax base of commercial land. That is not the same as a shopping center. That has to be looked at a little closer.

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

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

Ms. Hammerquist: If it is in fact the Council's (inaudible) to determine the total revenue they need for their budget and then to decide what percentage of that revenue they get from the various class categories, I know since COVID all of our resorts have increased their rates tremendously. A *kama'āina* rate at the Hyatt, when you get them, and there were so many a year, it was two hundred dollars (\$200) per night, and now it is eight hundred dollars (\$800) per night. The Sheraton is seven hundred and something. They all really increased the rates they are charging the public, but it does not look like their tax has increased proportionately at all, when Residential got hit over the last two (2) years, I do not think the resorts got anywhere near the hit and they are at about eighteen percent (18%) contributing to our total budget. I think that is disproportionate. Vacation Rentals By Owner (VRBO) is up more, and they are raising more revenue for the county than our resorts and that is a disparity. I would just like to offer that to say there are places where we can increase, so we can save our residents, both owner-occupied and rental. Thank you.

Council Chair Rapozo: Is there anyone else? Mr. Lindner.

Mr. Lindner: I want to bring up this thing about agricultural land and how everyone wants to protect agricultural land. When you take and what you saw was from 2021 to 2022, there was thirteen thousand (13,000) acres in Zone 3, there was seven thousand (7,000) acres in Zone 2, there were some in Zone 1, that agriculture was transferred to Industrial. I am wondering if agriculture is so sacred, how does that affect agriculture when you are putting it in...and a lot of those...the Real Property Division can explain that but a lot of those things were in Ag and Conservation and they got switched to Industrial. Some of them had Ag and Industrial, every small percentage was Industrial and it got switched to Industrial. If there is somehow this thing about Ag land and what we want to do, well, obviously it should be water. The thing would be if it turns out that land class of Ag land is really paying so much of the property tax, some of the money should go back to Ag land. If Ag land shows that they are paying so much, and I think

that is why you look at how much each one is paying, that should go back to that land. There should be something based on those numbers to sort of help that class because it is giving you so much money.

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

Council Chair Rapozo: Thank you. Is there anyone else?

SHERRI CUMMINGS: Sherri Cummings, for the record, Department of Hawaiian Home Lands (DHHL) beneficiary. I want to spin off the gentleman that just spoke here. We are talking about Ag land. We just came from a meeting that was held last week Thursday with the Department of Water and thank you to you folks that we brought up the water use development plan and reservation rights for the DHHL. There was good communication. Through this process and just for the record, we are having a meeting again on the 28<sup>th</sup>. What is tale telling which he was talking about is this whole emphasis on agriculture. When you talk about agriculture what is happening right now, and you folks know that the usage of agriculture lands is everything. The Department of Water, the emphasis and where they are putting water is on basically that side of the island with regards to Ag, and the question that I brought up before the Department of Water was that there is this big thing that even they say, which is the farmers and the ranchers is asking for water, so the priority now is for water for Ag. For me as a Hawaiian, I asked them, "Who are these farmers and ranchers that are asking for the water that you folks are actually prioritizing for," because last we know in 1985 was the last award for DHHL, so take us right out of the game, as beneficiaries to the trust. I always tell you folks this regarding Agribusiness Development Corporation, which is what is my big thing, because I cannot see someone that was born in 1994 to control water, to take twelve thousand (12,000) acres of land. Now, they come over to the eastside and they are taking our water there. When we look at how we are diversifying and what is being put on Ag regarding taxation, please consider. We, as Hawaiians, anyone, in general, whatever happened to taxing us based on how many years we lived on this island. Have the person break it down as to how many homeowners are *kama'āina* and why are we not taking care of them. What is wrong? What am I missing that we are not worried about the long-term, because there are not much of us who own land, and that is only a small sector, and you are breaking our backs. We cannot afford real property. We cannot. I remember the time of Tim Bynum or Jessie Fukushima, when they were worried about long-term ownership, that is not even considered. What is wrong? But we are trying to be so creative about taking care of who has the opportunity now to diversify and make Ag be something else. Let us call it—it is happening on the Westside. The Mānā plain is going to be built. What is happening on Westside? Everything is "Westside." I am not anti-Westside, but it is not fair. Take care of the people who are long-term residents of this island and figure out a way that we are not taken out because of real property.

Council Chair Rapozo: Thank you.

Councilmember Cowden: I have a clarifying question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Am I hearing you right when you say you cannot afford real property, you are saying many *kama'āina* are tenants, they are renters.

Ms. Cummings: Absolutely.

Councilmember Cowden: And so you are in alignment with we have to be careful of what we do to non-owner-occupied.

Ms. Cummings: Exactly.

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

MAUNA KEA TRASK: Hi, aloha. Mauna Kea Trask, for the record. I heard Ag land discussions online, so I got excited. Unfortunately, we are at a point where we have to redistrict a ton of Ag land. I heard some comments before Ag/Industrial. For those of us who remembers Ag, who really remembers sugar, pineapples are too old for me, but I know you folks do—that is a huge industrial effort. There are little things that are more industrial than industrial twentieth century Ag. You look at the Kōloa Mill, that is a huge Ag structure. That is important infrastructure, these industrial areas that are identified in the General Plan, et cetera, but times have changed. You have thousands of acres of Ag land, a lot of them single parcels. You cannot subdivide them. If you do it once after seventy-two (72), you are stuck with eight (8) one-hundred-acre lot forever, maxed by density. You have to change that to rural. Ag in the '60s when we did the land use districting system, that was just a catchall, they put everything in Ag, because Ag ran everything. They ran the State, they ran everything. We do not have that anymore. Single mono crop twentieth century Ag is dead. We need to get smaller lands into the hands of smaller farmers. You have to subdivide it, you have to do that. You have to put the land in the Hawaiians hands, put it in the local hands. It is a heavy lift. It is a lot to ask, I know, but it is worth socializing this idea and getting it out there. We need to get away from this, because all we are doing is subsidizing the billionaires buying these things. Local people cannot buy five (5) acres, that is the smallest Ag lot you can get, five (5) acres...you cannot do it, you cannot work it. You have to live on it. Back then, all the sugar cane camps were on Ag. We all lived Ag because we all worked Ag, but we do not live Ag, because we do not work Ag, you know? Radical ideas, but Land Use Research Foundation (LURF), all these studies done, rural is the most underutilized State land use district. Lāwa'i has some, Homesteads is rural, we live in these areas, Kapahi has, I believe, anyway look at creative solutions. You folks are stuck in a very restrictive rubric, it is an election year, I am sorry for that. Be bold, do what needs to be done for the future. We have to start looking at this idea. The big scale/large scale Ag, Hawai'i is changing. There are big moves may be happening on the Westside pretty soon, just because of age, so we need to relook at that. Thank you.

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I need you to be clearer. When you are looking at these large Ag parcels, you want them redistricted and made into smaller parcels for development?

Mr. Trask: Yes and no. I am going to speak generally, because I do not know the specific parcels and sizes, but Westside.

Council Chair Rapozo: Real quick. I want to make sure we are talking about the tax rates.

Councilmember Cowden: Okay.

Council Chair Rapozo: Because...

Councilmember Cowden: Alright.

Council Chair Rapozo: Mr. Lindner was very creative, he tied it back to the...

Mr. Trask: Because the tax rates, these large-scale Ag, what you are doing is...and why you have to be very careful, is because farmers cannot even afford these large Ag lands. When you are looking at these large landowners are only letting...they are letting these ranchers on property ranching to get the tax break, well, not really, because these folks can pay the taxes. But what they are doing is if you keep it low, they are just letting the ranchers afford the leases, otherwise the ranchers have to make enough money off cattle to pay the taxes, there is no way. The local ranchers can do that. You are subsidizing Ag. You are subsidizing a lifestyle industry that needs help. If you want to get away from that, you redistrict large heirs of rural that allows you to subdivide less and then you are not stuck in this equate.

Councilmember Cowden: Did you run over here?

Mr. Trask: Yes, jog, I do not run too fast.

Council Chair Rapozo: Are there any further questions for Mr. Trask? If not, thank you. Is there anyone else wishing to testify?

Ms. Cummings: Mauna Kea brought up a good point and I will say you have got good people in the family and not so good people in the family. Some of my families were the "not so good people." What Mauna Kea was talking about, that is true. Some of my family protected big, large developers, landowners, and we held the Ag for them until they could go into a direction of development, and then they take it out of Ag, because our family, some of them, were the ones who held on and did their little sheep business to keep the entire property into agriculture. All of us, the rest of us, are penalized. All of a sudden they decide they going do something different and then our people get, "Okay, now you did this for me, I going put you over here, because now we going do exactly what we knew we was going do twenty (20) years ago." We have to be fair and equitable. If you pay attention to what is

happening on the Westside, it scares us, because this is what is happening. The creativity for agriculture so that they can do other things outside of real Ag. This is what I fight about all the time because us as general people, and I only speak on one-side, sometimes Hawaiian homes because we do not have access to our Ag lands, but all the rest that should be having opportunities for that Westside lands and for the seven thousand (7,000) on the Eastside, no one is having it because the criteria is too humungous for normal people who get  $x$  amount of cattle, or sheep, or  $x$  amount to access because you have to be beyond to even have the opportunity to apply, and that is on the State side. Be careful when we talk about Ag because it is just too creative activity to not provide what definitely they should be providing as regards to tax revenues to our place.

Council Chair Rapozo: Thank you. Is there anyone else? Seeing none. Is there further discussion?

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

Councilmember Cowden: I would like to talk to the Real Property Tax Division.

Council Chair Rapozo: Okay.

There being no objections, the rules were suspended.

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

MIKE HUBBARD, Real Property Tax Manager: For the record, Mike Hubbard, Tax Manager.

Councilmember Cowden: When I am looking at some of these maps here, I am just clarifying what I understand, when we see a property in the same year, it can be taxed as Conservation and assessed at seven hundred (\$700) and the same tax map key (TMK) is also the same year, Agriculture at seven million three hundred thousand dollars (\$7,300,000), is that because there is some dividing line on the property that goes Conservation relative to...do you want to see what I am looking at? Oh, you got it. When we see it goes both ways, I understand that is confusing but that is because maybe on the ten thousand seventy-six (10,076) acres, there is a line on it and part of it is Conversation and part of it is...why would we have two (2) classifications on the same year?

Mr. Hubbard: Historically, we would tax based off of zoning, and so this parcel looks like it had a holdover from that historical designations, thus there was multiple tax classifications, Ordinance No. 920 that was passed in 2012...

Councilmember Cowden: Okay.

Mr. Hubbard: ...said there should really be one (1).



Councilmember Cowden: One (1).

Mr. Hubbard: One (1) tax classification based off the highest tax rate, the use.

Councilmember Cowden: Okay, so this is a holdover from the past where it has two (2) spots, and then when we see a big open field, I believe I asked this question a couple years ago and it goes from Ag to Industrial, maybe they put a cell tower on it. The entire parcel would go Industrial because there is a cell tower on it?

Mr. Hubbard: I think that is precisely the situation on this one.

Councilmember Cowden: Okay, because we had some really upset people before and (inaudible) them taking that cell tower down, it would stay there. I had another question. When I look at properties that say are five (5) acres, they do not have a house on it, that is non-owner-occupied residential even if it does not have a house on it, because it cannot be Ag because it is five (5) acres or slightly less? Is that right?

Mr. Hubbard: I do not think so.

Councilmember Cowden: Okay, I can make an appointment with you and look at that.

Councilmember Kualii: How large is the entire property and how much of the property does the cell tower take up?

Mr. Hubbard: The cell tower takes up a very small area of the property.

Councilmember Kualii: But the cell tower going on that small piece of the property meant the entire property got reclassified as Industrial?

Mr. Hubbard: According to the Ordinance, Chapter 5A, that is correct.

Councilmember Kualii: Okay.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: Does that cell tower sit on primarily large landowners properties on Kaua'i or small landowners properties on Kaua'i?

Mr. Hubbard: I would guess large landowners on Kaua'i.

Councilmember DeCosta: Thank you.

Councilmember Cowden: There are plenty of cell towers that are on buildings, like we are looking at it right here, churches, hospitals, shopping centers, schools, cell towers are often on other types of properties. If they are on commercial, I think we are commercial here as government, we would go for the highest cost, is that correct? We have a cell tower but we are not Industrial because we have a cell tower.

Mr. Hubbard: There is a cell tower over there and it is on commercial property.

Councilmember Cowden: So, they are the same rate.

Mr. Hubbard: They are the same rate, so you would probably, you could pick either of them or it would be accommodating with what the Ordinance said.

Councilmember Cowden: And if it was a different rate, it would go to the highest rate?

Mr. Hubbard: Say there was a cell tower on a hotel, then the hotel and resort would be your highest rate, and so you would not factor in the commercial aspect or the industrial aspect of the cell tower, you would just assign it the Hotel and Resort tax rate.

Councilmember Cowden: When we see a cell tower on a church, do they still get zero (0) tax rate, or do they get an Industrial rate?

Mr. Hubbard: I am not aware of a particular situation.

Councilmember Cowden: Or a school? Like, one (1) school has two (2) cell towers on it. I would have to look at those properties. Okay, I will look at those pieces.

Council Chair Rapozo: Thank you. Are there further questions? If not, thank you. Is there any discussion?

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

Council Chair Rapozo: I did want to address the one-time subdivision rule for Ag lands. That was our first attempt to try to get that, but the Administration's opposition was very strong, so we opted to go with the guest house instead, just because it was something we knew we could probably get done. That is a barrier in the existing law. Councilmember DeCosta.

Councilmember DeCosta: Council Chair Rapozo and I did extensive homework on this. We have a housing crisis. Our county addresses low-income, but no one is addressing middle-income. We are the only island in the State of Hawai'i that cannot subdivide more than once. Every other island can subdivide as many

times as possible they want. For example, you have a twenty-acre parcel and you want to subdivide it into four (4) or five-acre parcels, you can. Five (5) years down the road you want to subdivide it again to smaller parcels, you can. We are the only island that cannot do that. Why? Kaua'i wants to be kept rural. I like rural. Our Administration likes rural areas, but rural does not help our people from Kaua'i own a home. Council Chair Rapozo and I sat down, thought about this, and came up with the second best solution which was to allow Ag and CPR lots to build a one-to-one dwelling structure, which means if you have one (1) structure on the property, you can build a guest house. If you have two (2), you can build two (2) guest houses. Why did we do that? Ask yourself if we subdivide lands on Kaua'i right now, large landowners, start with Robinson, Grove Farm, Alexander & Baldwin (A&B), Zuckenburg, Lucas Estate, Kahili Jurassic Park Ranch, and they cut up five-acre lots, even three-acre lots, you tell me one (1) person in this room that can afford a three-acre lot with the going price? We would not. What we are doing is giving people who have Ag lands and CPR lands in their hands right now, who bought long time ago when it was affordable and/or families who gave it to their siblings, children, or grandchildren, those are the local families that will benefit from this. In closing, those cell towers out there, they draw in revenue. A lot of those cell towers are not in a pasture where you can grow lettuce, tomato, and cattle, they are on mountain ridges. So, now, we are going to take care of the large landowners on Kaua'i, let us go take care them, let us give them a five-acre parcel of industrial/commercial use and allow them to use the rest of the land as a lower tax bracket. Thank you.

Council Chair Rapozo:

Councilmember Cowden.

Councilmember Cowden: I do want to agree on that, like with the person who is really distressed over the increase in his property when we did the cell tower, he had done it just to be helpful to the community. Someone asked him, so he did it. He had no idea that it would change the use of his entire parcel, so I want to agree on that one. Chair, I want to just ask you to bear with me and assure me again, because I had two (2) amendments that I wanted to do with this Resolution today. I sent it in. Do we not do amendments today because we are going to do it in two (2) months?

Council Chair Rapozo: If you have amendments to this Resolution, I encourage to do it today because we have a public hearing, and I would like to have...

Councilmember Cowden: I did send them in, and I have certain challenges in sending in my request.

Council Chair Rapozo:

Do you have the amendments ready?

Councilmember Cowden:

No, I sent them in yesterday.

Council Chair Rapozo:

Okay.

Councilmember Cowden: But it could not go directly, but I am hoping it went through. Can we look at it after the break?

Council Chair Rapozo: Yes, we need to take a caption break, so follow up with your amendments. If anyone has amendments to this...on the Real Property Tax Resolution?

Councilmember Cowden: Yes, I want to change a couple of valuations there, so that...it seems to me like if the office is looking at it, if the Administration is looking at it, if there is a suggestion on the change in rates, they need to know it now and not in two (2) months.

Council Chair Rapozo: I agree with you that yes, if you have an amendment to the Resolution, I encourage you to do it today, because I do not want to have a public hearing on rates that are going to be different.

Councilmember Cowden: Right, so I sent them in yesterday.

Council Chair Rapozo: Let us take a caption break. We will track down your amendments, and we will reconvene at 10:45 a.m.

Councilmember Cowden: Thank you.

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

The meeting reconvened at 10:46 a.m., and proceeded as follows:

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

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: I spoke with staff and we are clear. I can do these amendments in two (2) months, correct?

Council Chair Rapozo: Correct. The Charter requires the budget to be balanced, so if we change tax rates on the Resolution today, then it effectively puts the budget off balance, which is really not legal. I did want to offer you the opportunity and if you wanted to discuss, that is fine. That is why the public hearing is set so far in the future to give us the opportunity to do our Budget Reviews to understand exactly where we are going to be and what we need to do, and if in fact there is an opportunity to touch the tax rates or the tiers, it will be done at that time.

Councilmember Cowden: Thank you.

Council Chair Rapozo: You are welcome.

Councilmember Cowden: When sometimes I bring up simple examples, because I see them all the time, thank you for allowing me to send you three (3) recent property sales that moved pretty quickly that are extremely high, I just want to say in the one (1) property that I looked at because I was over there, I was curious, between last year and this year, that little house tax went from five thousand dollars (\$5,000) to thirteen thousand five hundred dollars (\$13,500) without a category

change. I did not know to tell them, "Hey, you can contest that," but for that landowner, another person in the community, that is more than one thousand dollars (\$1,000) per month that goes up on the house. So, probably something sold near it, and it is frightening for people who have rental houses, and it is so destabilizing for anyone who does not and has to get passed on. I am the only one of a lot of us that lives right in the midst of where there are quite such a rapid and profound changes, we are like on a really rocking ship.

Council Chair Rapozo: I agree. It is unfortunately not as rare as we would like to see or accept. I think with looking at these tiers, and I know, Councilmember Cowden, you shared with me your desire to change the numbers of the tiers, I would agree because if you look at the reports that just came out of the median prices of homes on Kaua'i, at one million four hundred thousand dollars (\$1,400,000) or whatever it is, it changes depending on what report, and if you look at our tiers, remember that is the median. That means half of the homes are more than that. When you look at our tiers at Tier 3 with the threshold set at two million dollars (\$2,000,000)—that is way too low, if our median is one million two hundred thousand dollars (\$1,200,000). I agree with you and I am looking forward to having that discussion and playing with the numbers. I hate to use the word "playing," but that is what came to my mind. As we work with the spreadsheet to adjust these thresholds because if we just go with two million dollars (\$2,000,000) at Tier 3, a lot of the local families are going to get hit hard, so that has to be adjusted. The question will be where do we set those thresholds.

Councilmember Cowden: When you look at the Title Guaranty's information, the statistics, you got yours off Zillow, when you look at the ones that are the local escrow offices here. In north Zone 4 and Zone 5, the average is like two million seven hundred thousand dollars (\$2,700,000), so it is really high. It does not even displace people who live in the houses, it shuts businesses down, because they cannot keep their hours open, they cannot keep people on shift, so every single thing escalates. It is very expensive to not...it cost us more to push people out of housing, then it does to get a little bit less tax.

Council Chair Rapozo: Agreed. Councilmember DeCosta.

Councilmember DeCosta: Are you in Zone 4 or Zone 5?

Councilmember Cowden: I am in Zone 4.

Councilmember DeCosta: Okay, so this property tax is going to affect your personal home that you live in?

Councilmember Cowden: I am every blessed because I am in owner-occupied, so it does not affect me, but it affects people who rent.

Council Chair Rapozo: But again, the owner-occupied was on the assessment, so if your assessment increases more than three percent (3%), right? That is simple math. If your assessment has all risen more than three percent (3%), which equates to a higher tax bill for everyone including owner-occupied. For many

years, councils have been saying, “We never raised your tax rates,” yes, we have not raised your tax rates because we did not have to because your assessments took care of the increase in the tax bill.

Councilmember DeCosta: Not only in just Zone 4 or Zone 5, but every zone across the island has also gotten hit with that, so when we look at this, we are looking at people from the west to the north. We need to take care of all of our people.

Council Chair Rapozo: I can tell you the Westside, Kalāheo, Kōloa, it is everywhere. It is the entire island, actually. My assessment was not as drastic as where I live in Houselots, there are not too many three-million-dollar, fifteen-million-dollar homes being sold there, but my assessment has increased. My house is assessed more than what that house is even worth. That is just the way it is. That is unfortunate.

Councilmember Cowden: Kōloa/Po‘ipū is twice as expensive as Westside, Līhu‘e, Kapa‘a, Wailua. Northeast and north is three times as expensive as in that thing, so we have like three (3) separate economies, I say that regularly. The data proves that out. For what people earn versus what the costs are, and so I am just trying to find that middle ground that takes care of everyone as close as we can.

Council Chair Rapozo: That is going to be the challenge.  
Councilmember Kualī‘i.

Councilmember Kualī‘i: Process-wise, any amendments to any of the tax rates, can only be done if the valuation of the tiers are known and set. As it is now, they are known and set based on ordinances that we passed. If it is going to change, it seems like we need to begin work on it today. By May 14<sup>th</sup>, if there is going to be a proposal...the proposal then will be on changes to the rates, those valuations should already be in place, should they not?

Council Chair Rapozo: This is the process. Starting tomorrow, every department will be up here. Every Councilmember should have an idea of what they would like to see that is not in the budget or what is in the budget that they do not believe we need. As we go through the budget process, and our staff does a good job keeping track of where we are at with the money. Once we identify the budget that this Council is going to ask, then we have to figure how to pay for that budget. That is when we go to the tax rates and the tiers and make the adjustments necessary. For right now, if you have an idea, if you want to switch...I would suggest you work with staff and get an idea of what the fiscal outcome is if you change the tier thresholds. You will see what the fiscal impact will be to the budget, to the revenues, and that is the starting point. It is very difficult to figure out what that is now because we do not know the budget. If you are taking the budget as it has been presented, we know what the cost is. Now, you can mess around with the spreadsheet, but you have to make sure that the amount of revenues required in the budget is the amount of revenues that your tax rates and thresholds will produce. That is the process.

Councilmember Kualii: But we know the budget as it is proposed by the Administration, so that is our starting document.

Council Chair Rapozo: Right.

Councilmember Kualii: And we have to be cognizant, too, that anything we propose that reduces revenue has to be offset by reduction and expenses, because how else do you balance the budget, right? It is easy to just change numbers here on these tax rates and make that change, but the flipside is the hard side, because this Council and councils before them, over the years, have never been able to find significant cuts. I think once, maybe Councilmember Kagawa, did this across-the-board thing and I supported him, but I do not think anyone else did, because it was drastic. The bigger work is on the flipside which is reducing the expenditures to the budget as proposed. Obviously, the sooner you start on that, the better, because I think it is really important that we work with the Administration, because they are the ones day in and day out delivering the services and managing the operations, so they know better than we do, what it takes to deliver what needs to be delivered to the public. Now, we can disagree and say, "We do not need to be delivering all of that," but we need to own up to that publicly, too. That is why the exercise in balancing the budget by offsetting whatever cuts you make, relief you give in tax revenue, is also expressed, proposed in your cuts. We all have a big job.

Council Chair Rapozo: Tomorrow morning, we will go over the budget process. We will start off with the budget process and all the councilmembers, again, this is not new for most of you, in fact, all of you, it is if you want to provide tax relief and your tax relief equates to four million dollars (\$4,000,000), that is the impact. Then, you have to come up with four million dollars (\$4,000,000) from somewhere else. Whether it is programs, services, or tax increases in other classifications. That is the balance. That is how you balance. You cannot come up and proposed a change in a rate without a companion revenue increase. You have to have both, so your budget will always remain balanced. That is always the challenge, because you do not want to cut what the mayor wants, but if the priority of this council is to provide tax relief, then we need to be willing to cut. Again, as what was clearly stated by you earlier, anything we cut from the mayor's budget requires five (5) votes, just to cut it. That is why it has to be agreed upon by the supermajority. Councilmember Cowden.

Councilmember Cowden: In our first four (4) years, we really did not make any large changes, there were certain adaptations. Last year my memory was that at the beginning, and this is what I learned from you, is we said, "Let us cut back that reserve," and this year it is one hundred fifty million dollars (\$150,000,000). If we cut just a little bit back, and what happened with a lot of gratitude to the Office of the Mayor is that the mayor took it, and he reduced a certain amount of money, and this is one of the ways we were able to give two dollars fifty-nine cents (\$2.59) lower tax rate, because the mayor's administration actually solved that challenge. They came back in their Supplemental Budget with something that I felt met us halfway. We did get to experience and learn without us having to decide, "Well, let us not fix this roof or court surface or not get that fire truck." We worked together. I thank the Administration for doing that last year. That is another pathway.

Councilmember Kualii: That is exactly what I meant when we said we have to work with the Administration.

Councilmember Cowden: Yes.

Councilmember Kualii: Ideally, we go through this process, then there is a second round, right, where the Administration comes back based on what we all went through, and comes with their final proposal, if you will. Then, that is what we have to do final votes on. If at that time, the two (2) days of decision-making, we are trying to do all these thinker rates and cuts, it can get really crazy, so we have to do our work starting tomorrow.

Council Chair Rapozo: That is the budget process. I look at starting tomorrow as working with the Administration, that is why it is a collaborative effort. Our job is to make sure that what they are proposing is in the best interest of the County and making sure we are spending the right amount of money. You have to have an idea as individual councilmembers, if you are going to change the rates and there is going to be a fiscal impact, then you need to start looking and asking the right questions of what can wait. "What can we wait to do next year?" That is up to each and every one of you. I cannot remember when it was and maybe Councilmember Carvalho was the mayor, and Kaipo or Bryan told the mayor, "We are going cut the budget by  $x$  amount of percent, you folks provide us what you want to cut or else we will." That was harsh, but I remember doing that one (1) year. You have to remember, too, we never had these types of revenues before. This influx of cash, we never had before. If I wanted to add one hundred thousand dollars (\$100,000) for park improvements for Hanamā'ulu, for example, we had to find one hundred thousand dollars (\$100,000) to cut from someplace. Today, we have much more flexibility because of the additional revenues that we have generated. Yes, it is going to have to offset with something, but it is a lot easier now than it was back in the past. It is all about priorities. You have seven (7) different councilmembers, seven (7) different priorities, and with the Administration's priorities—just take advantage of this opportunity with the Administration over the next couple weeks. Councilmember Carvalho.

Councilmember Carvalho: Just going back and forth from the Administration and knowing that it will be submitted to council, council review, and then hopefully we work together, we come up with our proposals at that time, and that is why it is exciting for tomorrow—let us go! And then go from there, and hopefully the Administration will look at it, can find avenues to...it is not going to all "pan out" but hopefully the bigger things that we can connect on...I think we can get through the process knowing that process can work, let us go! We have the ability to do that. We are going to get into some areas where it will be challenging and we are going to have to make some tough decisions, but overall working closely with the administration, we can make it work.

Council Chair Rapozo: I mean no disrespect to you as the former mayor or Mayor Kawakami, but the first budget submission, to me, is the wish list. That is the wish list and I hope it comes with expectations that the council is going to make some adjustments and not, "This is the budget, take it or leave it." I have to



believe, and Mayor Kawakami has been very open and collaborative, as well as Councilmember Carvalho, meeting with the councilmembers before the budget and making sure that our needs were met. I think it will be a good process.

Councilmember Kualii: It is even more important to hear from the public, so do not wait until May 14<sup>th</sup> when we have the public hearing, start sending us your ideas, suggestions, concerns regarding the budget, and anything specific regarding the tax rates, what have you. That is why Council Chair was sponsoring these town halls that went into the community before budget, it was primarily to hear from our citizens, our constituents on any particular concerns they had. This is the time of year to address them, possibly.

Council Chair Rapozo: The motion on the floor is to schedule a public hearing for May 14<sup>th</sup> at 5:00 p.m.

The motion for Resolution No. 2024-13 be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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

*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

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

Council Chair Rapozo: Next item, please.

Resolution No. 2024-14 – RESOLUTION AUTHORIZING THE MAYOR AND THE DIRECTOR OF FINANCE OF THE COUNTY OF KAUAI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII AND DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE RESIDENTIAL CESSPOOL CONVERSION PROGRAM (COUNTY OF KAUAI RESIDENTIAL CESSPOOL CONVERSION PROGRAM 1), PROJECT NO. RCC00KA-01

Councilmember Kualii moved for adoption of Resolution No. 2024-14, seconded by Councilmember DeCosta.

Council Chair Rapozo: Mr. Roversi. This is an exciting day.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: *Aloha*, Council. Adam Roversi, Housing Director. The Resolution before you authorizes the County to enter into a loan agreement with the State Department of Health to provide up to two million dollars (\$2,000,000) to administer a cesspool conversion program for qualified Kaua'i residents. It is based on a Council ordinance from two (2) years ago that authorized the program and set out the parameters for the selection of recipients, which itself was based on the Department of Health proposed criteria. Once this Resolution is approved, assuming that it is today, we will also be coming back to you one (1) more time for review and approval of the final loan agreement from the Department of Health that contains indemnification provisions and other various sections that require direct Council approval. There will still be one (1) procedural step beyond this and then hopefully soon thereafter, we will be able to open our website application process and begin selecting potential candidates.

Council Chair Rapozo: Has those parameters already been set up as far as...or does that happen after this?

Mr. Roversi: No. That is preexisting in the Ordinance.

Council Chair Rapozo: Correct, okay.

Mr. Roversi: And it makes reference to various...University of Hawai'i maps and zones, and I think there are six (6) or seven (7) different criterias, I do not have them all.

Council Chair Rapozo: No, no, this is what we have been waiting for a very long time. A lot of people have been asking, so when you come back, the next step you said will be for the loan application?

Mr. Roversi: It will be the final loan agreement.

Council Chair Rapozo: Agreement. And at that point, I guess, maybe you can do a presentation on the process.

Mr. Roversi: We can talk more about the project details and selection criteria.

Council Chair Rapozo: Yes, perfect. Are there any questions?

Councilmember Cowden: Two (2) years ago the funding was supposed to be for all the islands, and we were the only island willing to take it. Is the two million dollars (\$2,000,000), if other counties want to do it, will we share it out?

Mr. Roversi: From my most recent conversations with the State Department of Health that we are the only county moving forward with this program for the upcoming fiscal year, that does not preclude other counties from attempting to get a "piece of the pie" in the future.

Councilmember Cowden: What we also were happy about is if we now can go find grants or other funding sources to come in here because two million dollars (\$2,000,000) divided by forty thousand dollars (\$40,000) or fifty thousand dollars (\$50,000), which is about the cost, it is about forty (40) or fifty (50) septic systems.

Mr. Roversi: It will be a drop in the bucket for the number of cesspools that need to be converted on Kaua'i.

Councilmember Cowden: So, this is kind of trying to start a vector. We will have to be looking for more money just in case for people who were not there, for the discussion, because the two million dollars (\$2,000,000), if we set something up, that is good, and then our sister islands transfer what we do, then we will have a smaller amount. Thank you for being on the tip of the spear of making this work.

Mr. Roversi: It is a slow tip of the spear.

Councilmember Cowden: Tip of some other type of tool.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: Thank you for all you do, Adam. I had a question about the qualifications. I am very interested to know if you came up with a plan on where we are going to be putting sewer in the next five (5) to ten (10) years across the island, because this is going to affect many homes that are waiting to get their conversion process going. If you are going to get sewer lines in there within the next five (5) to ten (10) years, are you taking that into consideration? Are we going to put sewer in Kekaha? Are we going to run those lines into the Waimea Treatment Plant, which cannot take those homes or are we going to spend our money to convert the Kekaha homes into septic and in ten (10) years, we are going to sewer? Do we have a plan on where we are putting sewer, where we are not going to put sewer, and does part of the equation include who qualifies for this grant?

Mr. Roversi: To get into the details, I would have to confer with the Wastewater Division, because I am not charged with the designation of sewer, but the Ordinance that Council set up to select candidates for the program, prioritizes people who are outside of designated sewer expansion areas. Therefore, if you are a homeowner in an area designated for sewer expansion, you would get less, a lower level of preference for one of these potential sewer cesspool conversion loans. My very preliminary understanding, and do not hold me to this, is that there really are not sewer expansion areas designated currently. The Wastewater Division is preliminary focused on upgrading current systems. I am aware that there has been discussion partly connected to the Housing Agency's project in Waimea, on the Waimea 400 property, bringing in a sewer line to Kekaha, but that is just in the very initial stages. I cannot make any representations of whether that is going to happen or if it is feasible or how much money it would cost. I do not want to misspeak by providing anything other than that vague information.

Councilmember DeCosta: I understand. But you are in charge of this program and you are in charge of validating who gets on the list and who does not, and who gets the share of the pie and who does not. Being that said, I think it is...what is the word I am looking for? Not very *akamai* of us not to have a sewer plan in place, so we know which people should get the help and who should not. We should work with the Administration and get that sewer treatment scope across the island planned out.

Mr. Roversi: As the way the Ordinance is set up, the Housing Agency will be dependent on the Wastewater Division to present us with their sewer expansion plan.

Council Chair Rapozo: We have asked for that. We are going to be getting an update, but I agree I do not think they have a sewer expansion plan in place. I do know that when they went to the Department of Health for the vertical expansion of the landfill, one (1) of their requirements was to establish that sewer conversion plan. I am assuming that they are working on that, but the bottom line is it not going to happen anytime soon. Again, I am the realist, right, I am the "Debbie Downer," but that is the reality. A lot of people can benefit from this program. Is it going to be a one-time payment and we just pay out or is it going to be some sort of revolving fund where we can possibly offer low interest loans to people, where I can borrow the forty thousand dollars (\$40,000) and payback into this fund or is it just that we got two million dollars (\$2,000,000) and when we issue out these checks, it is done.

Mr. Roversi: The way the program is structured is that the Department of Health is allocating up to two million dollars (\$2,000,000) for a set period of time. The funding is only available for that period of time and it will not come to the County as a lump sum check. The funds will...the County will process the homeowners and selections. The funds will be provided directly to the homeowner from the Department of Health as a reimbursement check once the cesspool conversion is completed and has been inspected, certified, and...

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: ...received its final letter of completion from the Department of Health. The Housing Agency is a practical matter, it is not going to get a big check and have a bunch of money sitting in the bank to hand out. The Housing Agency will only be the processor of the applications and the selection will be provided as on ground inspections of the work happening to ensure compliance, but the money is going to come from the Department of Health to homeowners, we will use the entire two million dollars (\$2,000,000) if we have that many applicants who can use it quickly. After the Department of Health's expenditure period, which is two (2) years from the date of commencement, if it is finished, those funds are gone and we would have to reapply again and enter into another loan agreement for a different fiscal year.

Council Chair Rapozo: Thank you.

Councilmember Kualii: In there somewhere is criteria to help the problem areas, right? For example, if there is a property close to the coast that is somewhat faulty...but the bigger picture for the environment and the island as a whole, you want to address the problem areas first, right?

Mr. Roversi: Correct. The Ordinance refers to a priority conversion areas, which I believe are based on the University of Hawai'i study of existing high concentration cesspool zones. If you live in one of those high concentration zones, I recall that Kōloa is one (1) area, but I do not remember the others off the top of my head. I can bring in all the information when we come back. That is one of the six or seven criteria and then there is income requirements and array of other categories.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: When you mentioned the Kōloa area, it worries me a little bit because there is a lot of transient vacation rentals (TVRs) in that area, and they have cesspools. Are they going to qualify as easily as a residential with a cesspool, because they are in an environmental zone that we need to fix right away? Will they be a priority as residential versus the TVR person?

Mr. Roversi: I believe this prioritizes resident occupied homes, but I will need to go back and refresh my memory reading through the Ordinance again. I can bring those details when we come back with the loan agreement.

Councilmember DeCosta: Thank you.

Councilmember Kualii: If I remember correctly, there are different criterion and then maybe there are points assigned to each criterion, the points add up and you go to the ones in that sense.

Mr. Roversi: Correct.

Councilmember Kualii: That is the most fitting.

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

Mr. Lindner: Jeff Lindner, for the record. I support this if is about fairness, but I am not clear what developers and what land gets to participate. I am assuming Ag land is sort of out, right? Ag land does not get to participate in this. Yes. Certain communities does not have Urban zoning, in fact very little Urban zoning has been created boundary amendments by the State for thirty (30) years, that is just general...maybe one (1) or two (2). Nothing has happened, so without anything happening on that end, then there is not a lot of land to develop, so you have to look at from that end. How are you going to get more land to participate in it, right? Most of it has been sitting there for thirty (30) years and you have to understand why, but that is another issue...why has no one done

anything? Then, when it goes back to the businesses get to participate or they get priority on those housing, how is it that Kapa'a does not have any Urban zoning, so should you not say that we need Urban zoning in communities, because the entire thing is connected together. If there is no Urban zoning, communities are going to be left out of it.

Council Chair Rapozo: I do not know if the requirement is Urban zoning. I believe it is Owner-Occupied and it has to be a cesspool conversion, so it is not for the development of a project. It is for those who have a cesspool in those areas that have been identified that creates the most impact to the environment, those get the priority.

Mr. Lindner: I see.

Council Chair Rapozo: That is how I understand it. I could be wrong.

Mr. Lindner: What are the areas?

Council Chair Rapozo: I have not seen the Ordinance, but I am assuming that it is in there, and we can get that for you.

Mr. Lindner: So, it is not that it is undeveloped, it is for people who have houses, it is not raw land?

Council Chair Rapozo: No.

Mr. Lindner: Oh, I see.

Council Chair Rapozo: It is for people who are converting from a cesspool to a septic.

Mr. Lindner: Okay. Is this is a credit?

Council Chair Rapozo: No, it is a reimbursement.

Mr. Lindner: Okay. It is different than the other credit I was talking about for new development.

Council Chair Rapozo: No. Is there anyone else wishing to testify?

BRUCE HART: Although I see the benefit...Councilmember Kagawa and others have expressed that if we upgrade from cesspools to septic, and then sewer comes along, then in the case where the owner paid, they would just have to pay again to upgrade to sewer. The money that comes to this program, does it not ultimately come from the taxpayer? I just want to point that out. Yes, I can see the benefit of this program, but I also see that taking my perspective from what has been discussed to Council, if we go to sewer, this is going to be a waste. Thank you.

Council Chair Rapozo: Is there anyone else? If not, Councilmember Cowden.

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

Councilmember Cowden: My memory is that we had a handful of categories, like maybe ten (10) or something like that, and there was a ranking. Just for clarification for the last two (2) testifiers that might benefit from understanding, my memory is, is the type of person who might be at the front of the line is one of those whose cesspool cap has collapsed. We have people in our community where theirs has collapsed. We have people who are living thirteen (13) to fifteen (15) people into one (1) house and they pump their cesspool constantly. They live right next door to people who are impacted by that. We had stories of people who are having to pump it out themselves and dump it somewhere. This was a problem that is a lot bigger than just a few people who would benefit by getting it. The prioritization would be in that direction and if they lived near Fuji Beach, there are a number of cesspools close to waterways. There was a formulation and effort that went into...if you can help forty (40) houses per year, you are going for the ones that not only help them, but help the rest, is my memory, as we have this list and how you would prioritize it. Certainly, the people who could not afford it, I received a handful of calls from people who wanted to do this. I explained that to them and they said, "Well, you know what, I can afford it, I will pay my own and borrow money." It is not that easy to go through the entire process for applying. I think this is going to just be something to start with. It is going to go to those most needing and then when more money comes in, we can expand it. It is a drop in the bucket and hopefully a really needed bucket who has to get it fixed.

Council Chair Rapozo: Yes, drop in a bucket. Especially, with the prices going up. I know Councilmember Kagawa has been working on this with the Legislature for several months now about that State law that mandates the conversion, but provides two million dollars (\$2,000,000)—that is crazy. If they are serious about moving this project along, then they should be funding it seriously. As far as Mr. Hart's question, Mr. Roversi made it clear. The sewer expansion program is really what the safety net to prevent that from happening. I would guess that, and again, I am a realist, I do not see sewer rising happening on Kaua'i for quite a while, just the way it works. It took two (2) years to get this Resolution. To get sewer systems on this island, to get through all of the public, the bureaucracy, the environment regulations is going to be awhile. It all starts with the wastewater or sewer expansion plan, which I expect to get from the Administration hopefully soon. Then, Mr. Roversi folks can make a better determination of where the priority should sit, because I agree if you are getting sewer in the next five (5) years, then why would you invest sixty thousand dollars (\$60,000) into a septic system, which is going to have to convert to sewer in the next five (5) years. Thank you, Councilmember Kagawa for taking the lead on that. Do you want to share what you found? The 2050 deadline is going to come sooner than later. It seems like a long way, but I would expect that deadline to hit before we get any new sewer systems on the island. I am just being real.

Councilmember Kagawa: It falls in line with what you have been saying with the Wailua Sewer Treatment Plant with all the problems that we face there, why are we dumping millions in there when it is in a tsunami zone, it has obviously run its life. We are doing major fixing of something that is old and dilapidated. To look at this item and to see that it is for in the name of water pollution control, and you keep mentioning, Chair, this is a septic tank, this is a cesspool. The only way to really control water pollution is septic, so why dump hundreds of thousands and millions of dollars into something that we know is not fixing the water pollution? Thank you.

Councilmember DeCosta: I have been working with the State a lot behind the scenes, and I will tell you what I found out. I found out that the State likes to come up with regulations and laws and they expect us to abide by it. Where are all these people who have homes, nine thousand (9,000) homes with cesspools is going in, in 2050, when they just cannot do the upgrade. Realistically speaking, they cannot do the upgrade. I have a friend right now who wants to put a small room, 10x10, exercise room in their home and they cannot, because the State says they are adding a livable bedroom. It is not a livable bedroom, State, it is a room to exercise. They hold our local families by a regulation that does not apply to our County. Our County does not see it as a livable room. A livable room means someone will live in the room. If no one lives in the room, it is an exercise room, it is a music room, it is a room to store your children’s toys. Why is the State making these recommendations? I say, “Go build your room and have the State prove to you that it is a livable room, because the County will not inspect that room.” The County will not go to your house and tell you if someone is living in there or not. Come up with more of your silly rules, State.

Council Chair Rapozo: Is there anything else? If not, the motion is to approve. Roll call.

The motion for adoption of Resolution No. 2024-14 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: Thank you. Next item, please.

Resolution No. 2024-15 – RESOLUTION REPEALING RESOLUTION NO. 2023-02 AND AMENDING RESOLUTION NO. 2023-26 RELATING TO ADOPTING THE RULES OF THE KAUA’I COUNTY COUNCIL FOR THE ORGANIZATION OF COMMITTEES AND THE TRANSACTION OF BUSINESS



Councilmember Kualii moved for adoption of Resolution No. 2024-15, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? Is there any discussion? I was informed that there may be an amendment.

Councilmember Cowden: I have an amendment, but I would like to...as we discussed both Friday and Monday, I would like to defer this Resolution, because it has problem elements that need to be strengthened. I would prefer to do this after budget or up to the middle part of budget, so that we can work on it in a constructive way.

Council Chair Rapozo: I will leave it up to the Council. This is basically the starting point. Not too long ago, there was an issue with a city and councilmember that made national news and there was a resounding call of the community, "How dare you folks let him stay on and continue to pay him," the recurring response from the Council and the Administration at the time was, "There are no provisions for this body to discipline or take action on councilmembers that act outside of their scope or duty." That is what I heard. I was not on the council at that time, but I kept hearing that. When I got back in a year ago, I had the discussion with the County Attorney and with our staff that we need to amend that and everything takes time. This is the starting point. This is allowing this Council to be accountable or requiring this Council to be accountable for actions they take for this council and future councils. I do not support a deferral. There is an opportunity for us, if you have concerns, we can fix it, but I do not see the need to defer. Unless it requires major overhaul. If that is the feeling of this Council, I will definitely support it.

Councilmember Cowden: Would I ask you questions or the County Attorney?

Council Chair Rapozo: If it a legal question, then I would suggest you ask the County Attorney.

Councilmember Cowden: Can we ask him to come up? I am on page 18 of the agenda, or page 17 is where Rule No. 13 starts. County Attorney Bracken, can you show me where this Order and Decorum rule would be able to be utilized if someone say was incarcerated or somehow not likely to be able to come back on the Council? What piece of this actually addresses that?

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: Matt Bracken, County Attorney. You would have to look beyond this amendment. This amendment allows Council as a body to process complaints for breach of decorum, rule, or policy. These rules actually...I do not have the entire rule in front of me right now, but they do outline attendance and so if a councilmember was not in attendance in accordance with these rules, then the body could then essentially sanction that councilmember in accordance with this process.

Councilmember Cowden: Is the only place...this here does not address that, because I looked really hard, because I was told that this would help with that situation.

Mr. Bracken: It does, you could adjust it with that situation, but you would have to look at the attendance requirements as well in a different section of these rules.

Councilmember Cowden: Okay, so then when I look in here, because I am trying to pull up my documents on this, when I...

Council Chair Rapozo: Let me just say subsection "F" is very clear. It says, "...all Councilmembers shall always conduct themselves with dignity, courtesy, and professionalism." I think if you go out and get arrested, that violates the rule of professionalism. "E" covers pretty much anything that...in the scenario you provided.

Councilmember Cowden: Thank you for calling attention to that, because when we were going through that, because I was on the Council when that was happening. We were told that did not...the only way that what our existing rules are would be if the violation happened on the Council floor. It did not expand to anything off the Council floor. If you are out in the community, it would not expand to that.

Mr. Bracken: Correct, that is the way that the rules were written. They only allowed sanctions if the conduct occurred in the body's presence.

Councilmember Cowden: Where does this change that?

Mr. Bracken: This allows the body to take action for any breach of order, decorum, or policy. Therefore, when you are talking about rule, you are talking about these rules, you are talking about policy, you are talking about any County policy, so any violation of County policy could potentially be...you could go through this process for any violation...

Councilmember Cowden: So, that would be a criminal action, not on the floor?

Mr. Bracken: Ah...

Councilmember Cowden: Because it says, "complaints for breach of order, decorum, rule or policy," how does that apply to a criminal action, not on the floor?

Mr. Bracken: You would go back to the rule, like what I initially said, so, the rule, there are attendance requirements, so that councilmember stopped attending because they were incarcerated, right? Then, you would use the lack of attendance as the basis for a complaint and the nonattendance of the meeting, and then you would use this process to then sanction that member.

Councilmember Cowden: So, that very simple element. Let us talk about this, when we say, "All Councilmembers are to conduct themselves with dignity," how do we define dignity, courtesy, or professionalism? That seems like subjective terms, and this is for an objective element.

Mr. Bracken: Typically, when a term is not defined, when we are looking at contract or rule, if a term is not defined, you go by the common definition of that term. For instance, "dignity, courtesy, and professionalism," I would say those are pretty commonly understood terms, but if you do not understand them, you would look for a common dictionary definition and that is what you would follow.

Councilmember Cowden: Okay, let us look at this other thing, "discriminatory, harassing, or disrespectful behavior." Are those not subjective also?

Mr. Bracken: Again, those are...this is kind of what you come back to look at County policies, again. County policies do not allow for discrimination, they do not allow for harassment. Disrespectful behavior—that probably does not violate a County policy, but you know...if it is not a bad thing to prohibit, but you are talking about terms that are defined well in County policies. The County has a policy on harassment and discrimination, you can go there and look at it. I would say there are quite a few resources.

Councilmember Cowden: Would the range of that be maybe if you used the wrong tone of voice, say you used the wrong tone of voice when you were talking to someone, could that be interpreted as harassment or creating a hostile work environment, if you used the wrong tone of voice? Am I harassing you right now with this tone of voice?

Mr. Bracken: You are just asking me questions.

Councilmember Cowden: But could that be said? There is such a broad range, do we ever have on the floor here of people stating they feel discriminated against or testifying right there?

Mr. Bracken: Not that I recall.

Councilmember Cowden: Okay, I recall we hear it regularly and the word is bigotry, misogyny, et cetera. When I look at this, this looks to me like either we can have complaints almost weekly at least once or twice per month, so I am just wondering these are so vague that on the continuum, I know personally I did not feel offended on regular basis. I do not complain because I do not think it is going to make a difference. I do softly complain, and it does not make a difference. I am wondering is this saying someone has to write it up every week to have a pattern. This to me seems so vague, it can either be...you should not bother union counsel if you cannot take being abused on a regular basis or it could be someone being so subtle...what my experience is, is the process is punishment. This here would make people have to pay for their own attorney, whatever it might be, is pretty difficult because it is very open ended. I could go down on each item, because I do have an amendment that I

can do ad seriatim. Should I go down each one? For example, I will just do one (1) here, seven (7).

Council Chair Rapozo: Do you still have questions for the County Attorney?

Councilmember Cowden: Yes. I am asking him.

Council Chair Rapozo: Okay.

Councilmember Cowden: "Sanctions. If the Councilmember is found to have violated any laws, rules, policies, regulations, or ethical standards, appropriate sanctions shall be imposed. These sanctions may include 'but are not limited to,' that is so open ended. "...to reprimand, censure, fines, and suspension from office without pay for not more than one (1) month," so "not limited to," what does that mean?

Mr. Bracken: That means this body can do a variety of things, any of those things, really.

Councilmember Cowden: But it says they are not limited to, so does that mean...I mean that could mean a lot of different things, does that say you cannot vote, be on a committee, what does that mean?

Mr. Bracken: It could mean various things. Whatever the body finds to be appropriate in the situation. I would not say it is without limits. The suspension without pay is related to one (1) month, and you need a supermajority vote for that. This is laying out possibility.

Councilmember Cowden: This is laying out possibilities. There is one that says...I am looking for the one on timing.

Councilmember Kualii: Can I ask a question?

Councilmember Cowden: Sure.

Councilmember Kualii: Basically, the thing about laying out possibilities is, you need...and this is probably standard language that exist in different parts of Human Resources (HR) and what have you with union contracts, it is because obviously it is based on the degree of violation or how severe. The severeness of the example of the councilmember who was in jail and still collecting a paycheck, that is pretty severe, right? But yet, even for just a month's worth of suspension, it takes a supermajority and only after public meetings, and what I think you are saying is, this process does not exist anywhere. That is why we could not do anything about the councilmember that was in jail, because HR while they can deal with employee issues throughout the County, no one is our boss, the public is our boss, correct? That is why for that councilmember in jail, it only could be addressed in the next election, unless someone in the public initiated some sort of legal recall with the Department of Elections with signatures, but the fact that our election happens every two (2) years, which is fairly quickly, that is how it worked out with

that. This process instead would make the Council have the ability to do a service to the public, which would have been to stop this councilmember in jail from still collecting a paycheck. Is that correct?

Mr. Bracken: That is correct. This just establishes a process that did not exist prior. The rules did not allow for any of this prior. This is based on rules from the City and County of Honolulu. This is not novel by any means.

Council Chair Rapozo: It is a process, like you said. A process that never existed, which should have existed a long time ago. I am criticizing myself because I was on this Council for a very long time and never did this and it is process. It is a simple process that allows this Council to take care of business that no one else can. We do not have bosses, supervisors, or anyone to hold us accountable like Councilmember Kualii said. I am the Council Chair, but what does the Council Chair do? The Council Chair controls the agenda and runs the meeting. I do not have the authority under existing rules to do anything other than what I just said. It is a process. If we need to change the process, if there are issues, then we will have the discussion.

Councilmember Cowden: Is it correct that O'ahu City and County of Honolulu has districts for each of those councilmembers?

Mr. Bracken: That is my understanding, yes.

Councilmember Cowden: That is my understanding as well. Here, all seven (7) of us are at-large, which I think is actually a good program, but we basically are running either with or against each other, so that is different than O'ahu, correct?

Mr. Bracken: From my elections and running for election perspective, yes.

Councilmember Cowden: It is incredibly, significantly different. Sometimes those of us that are like in the fifth (5<sup>th</sup>), sixth (6<sup>th</sup>), and seventh (7<sup>th</sup>) position can often feel like a competitive forum in here when there is the type of back and forth. Is it correct that we have had in the past councilmembers sue the County because of how they felt treated right here on the floor or have left?

Mr. Bracken: I am aware of prior lawsuits by councilmembers. They were before my time, so I am not familiar with the details of them.

Councilmember Cowden: Well, we did. And so when I look at this, can you think of a better methodology than when it has to go to the Council Chair...I am not slamming the Council Chair, I am looking at what is in the future and the past. If someone does not get along with the Council Chair or if they do not get along with the majority, we had a testifier, I do not know if my colleagues read...he did a good job, Carl Imparato's testimony, he did a very good job of highlighting...did you see it?

Mr. Bracken: I did.

Councilmember Cowden: He did a good job of highlighting how hostility and bias can happen on the floor here. Sometimes, I do not think our Council is as badly of what I have seen in the past, but there can be like a 3:4 vote, that is constantly always the case. If you are in the three (3) and not the four (4), it is easy for someone else to say, "File a complaint because they do not like your tone of voice." Is that true?

Mr. Bracken: This establishes the process to handle complaints, which is needed. If there are complaints, there should be a process. Otherwise, Council as a body has to make up a process. If one does not exist, we have to make one up anyway, because we have to handle the complaint, whether there is a process or not, complaints have to be handled. It is a matter of having a process in place or not having a process in place, and making one up or not making one up. If you have to make one up, I am largely going to follow something like this. If a complaint is filed, someone is entitled to due process, an investigation, which is what this establishes. This establishes a process and is a public process, so it is something that can be viewed by the public. The entire imposition and sanctions, again, that is happening in open meeting, right? So, you are talking about a very public process, which should protect any councilmember...if you are worried about false complaints, the process itself should protect you from that, because it is public.

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

Councilmember Cowden: So, let us look at that for a moment, when it is on the floor and everyone is talking, if someone says, "There is a complaint against someone," for what is relatively small issues, such as tone of voice, maybe frustration of not being to handle the process of getting a piece of paper in, something like that, the person who is accused then cannot sit there and say, "Well, can we do a comparative and look at all the rest," right? I feel like what this does is, it causes us to sit there and bicker and do dirty laundry right on the floor. It does not seem like a constructive or positive way of doing it, because I do not believe this is about an incarcerated person. If this was about an incarcerated person, we could be much more specific. There is a lot of breaches of decorum that could be much more specific, so that is what I have with my amendment, but before I move to amend and look at it, I would really want to defer this for...not in the middle of budget.

*(Councilmember Bulosan was noted as present.)*

Councilmember Cowden: We just got it, and I have been asking, and I was hoping, I felt that I had heard, but apparently not, that the idea to move this out a few weeks so we can really look at it would be respected. Are there executive session pieces here? Are we going to sit here and talk about a councilmember and how they tend to express themselves or how much they say, "Born and raised here," to say who is not born and raised here? How petty do we get?

Mr. Bracken: In regards to executive sessions, they typically are handled on a case-by-case basis because those are exceptions. Everything should occur in an open session. In the limited circumstances that does not occur in open session, it can occur in executive session and there are very few...

statute allows for executive sessions for a very limited amount of things. Can I say, "Would complaints be handled in executive session," I cannot really definitely say that, it would have to be on a case-by-case analysis.

Councilmember Cowden: Okay.

Mr. Bracken: If, for instance, something happens on the Council floor, if you want examples, if something occurred on the Council floor, there is no reason whatsoever why any discussion would be in executive session, because it happened in public, the public already saw it. That is why it has to be a case-by-case analysis.

Councilmember Cowden: So, what if it happened at a conference or on a research effort where we are going out and meeting with constituents? What if it happened in a different environment and it is a pretty gross violation? Where does that happen? Does that happen right here?

Mr. Bracken: Again, it is on a case-by-case analysis of what the complaint is and who needs to be protected, right? Executive sessions are generally meant to protect some form of information, so what information needs to be protected?

Councilmember Cowden: I would like to move to amend...

Councilmember Kagawa: We have questions, too.

Councilmember Cowden: I am sorry. Okay, thank you.

Councilmember Kagawa: Could this take care of complaints from councilmember to councilmember?

Mr. Bracken: Yes.

Councilmember Kagawa: How would the vote be, though? Would those two (2) be recused from the vote?

Mr. Bracken: The way it is currently written is the person being investigated would be recused from the vote.

Councilmember Kagawa: The person being investigated. So, the person accusing would be able to vote?

Mr. Bracken: Currently.

Councilmember Kagawa: And then you would need a supermajority, because 3:3 is no decision, correct?

Mr. Bracken: Depends. If you are talking about sanctions...

Councilmember Kagawa: Committee of the Whole, right?

Mr. Bracken: Committee of the Whole then Council as a body to impose the sanction, but the supermajority would be the suspension for one (1) month. That is the only time you need supermajority.

Councilmember Kagawa: Even at the full Council, the person being accused would not be able to vote?

Mr. Bracken: Correct.

Councilmember Kagawa: Okay. I was just wondering. So, it would come with a complaint that perhaps would go to executive session, is that the process?

Mr. Bracken: Depending on what the complaint is.

Councilmember Kagawa: Okay. If it is privileged, privacy type than...

Mr. Bracken: Executive session.

Councilmember Kagawa: ...could go into executive session. Alright. So, you will guide us, right?

Mr. Bracken: Correct.

Councilmember Kagawa: I think this is just...you worked on it, this is all legal, is this done in other counties?

Mr. Bracken: Yes, this is actually based on the City and County of Honolulu's rules.

Councilmember Kagawa: Oh, they have something similar?

Mr. Bracken: Yes. Maui County, I believe has something, but this is based on the City and County of Honolulu's rules.

Councilmember Kagawa: I am glad it is coming now, because a few years back I might have gotten one, but anyway.

Council Chair Rapozo: But based on the sanctions, right, the sanctions will not happen until after an investigation is done? The investigation would be done based on this draft or proposal, by the Committee of the Whole, HR, or a private investigator. By the time we get to the sanction part, this thing would have been vetted and it would not have been vetted by the Council Chair, it would have been vetted by the Committee, HR, or a private investigator. This is the process, again. This is a process. I am not sure what options or alternatives, we just have not had a process and...I just think that this process is something we need.



Councilmember Cowden: On item number three (3), it says, "Notificatoin to the Councilmember and referral to the Committee of the Whole. If the complaint is deemed credible, the Council Chair, or the Vice Chair if the complaint is against the Council Chair, shall notify the Councilmember in writing, providing them with a copy of the complaint and an opportunity to respond within a specified time," now that seems really crazy vague to me—"specified time." What specifies that time? Is it something long that might say, maybe the (inaudible) the budget, because we do not have time to do that, so then in that whole window of something like the budget, maybe that person is not allowed to function in a normal methodology? That seems real vague. Is that normal?

Mr. Bracken: It is normal to give a...when a complaint is filed against a person, it is normal to get an opportunity to respond and a period of time to respond, right? So, this would be mostly controlled by the investigator. If the Committee of the Whole is doing the investigation or referred to HR or a private investigator, the investigator is going to determine the amount of time. They have a complaint, they have a window of when they are trying to get it done, it is COW, they have other things going on, Council business, they will say, "Okay, we will give this amount of time." It is going to be a reasonable amount of time. It is not going to be like we got the complaint yesterday and you need to prepare a statement by tomorrow." The private investigator is going to try to get it done within a specific amount of time, too. Depending on the seriousness of the complaint, you cannot let it go on forever as well, so they cannot say, "Okay, you have four (4) months to respond," because that is not reasonable.

Councilmember Cowden: So, it is all arbitrary and not measurable right now, and so having seen investigations last for close to two (2) years on something not strong, I think like what we are seeing at a national level, the process is (inaudible).

Mr. Bracken: The process is a reasonable thing, right? Establishing a process for this is reasonable. Giving someone a copy of the complaint, an opportunity to respond to it, that is reasonable. Let us say the time was too narrow, typically you just ask investigators for additional time. I read too many investigations in my time with the County to know that people asking for additional time in complaints get it. They have an opportunity to respond. This is built into it. Number five (5) is an opportunity to present evidence in a defense, right, so when you are giving a complaint, an opportunity to respond to it, that is your opportunity to present defense. That is the reasonableness, this is due process. We are setting up a process to handle complaints.

Councilmember Cowden: Why do we put a rule in here if it says if there is a strong criminal violation somewhere else, and why is it not in here if that is the purpose of writing this?

Mr. Bracken: This was written to address all complaints.

Councilmember Kagawa: Yes, all.

Mr. Bracken: It is supposed to handle all situations. This was not written just to address one (1) formal councilmember that went to jail for violating laws. This is meant to handle everything.

Councilmember Cowden: This is just not easy for me to at least to see how that is.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I can help Councilmembers along. It will be very difficult for me to vote to punish a councilmember. You can pretty much count my vote against...but I am for the process. It is like, when they said, "No drinking in the parks," we saw less drinking in the parks. We did not want to catch anyone. We just wanted to see alcohol not so freely brought into stadiums, parks, what have you. For me, hopefully the rules will curb whatever complaints had been coming out. I am voting for this for the staff. To have something in place, which the City and County of Honolulu and Maui County both have. I pray to God that we do not get any of these on the agenda, but I hope overall happiness of the work environment improves. That is where I am at. I am not voting for any amendments. I am good.

Councilmember Cowden: Did you see the amendments?

Councilmember Kagawa: I do not need to.

Council Chair Rapozo: Are there further questions for Matt? If not, Matt, you might want to stay there, because there might be a reason to call you back up.

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

Councilmember Cowden moved to amend Resolution No. 2024-15 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Councilmember Cowden: Thank you.

Councilmember Kagawa: Always.

Councilmember Cowden: I am going to do it ad seriatim.

Council Chair Rapozo: Can we get the amendment, please? Do we not have it yet? Okay. Let us take a recess until we get the amendment.

There being no objections, the Council recessed at 12:00 p.m.

The Council reconvened at 12:11 p.m., and proceeded as follows:

Council Chair Rapozo: Councilmember Cowden has chosen not to introduce her amendment, but I do have an amendment that I am going to be asking Councilmember Kualii to introduce. I received an email from Councilmember Cowden about her concerns about the subjectivity of the language, so can you introduce the amendment?

Councilmember Cowden withdrew the motion to amend Resolution No. 2024-15 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1. Councilmember Kagawa withdrew the second.

Councilmember Kualii moved to amend Resolution No. 2024-15 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Kagawa.

Councilmember Kagawa: In a nutshell, can you explain it?

Council Chair Rapozo: It just further defines the “dignity, courtesy, and professionalism, refraining from discriminatory, harassing, or disrespectful behavior.” The original “E” has been taken out and added is, “Decorum means all Councilmembers shall always conduct themselves in a respectful manner. This includes refraining from using disrespectful language, making personal attacks, or engaging in disruptive behavior that detracts from the orderly conduct of the meeting.” I am hoping that will be sufficient. Is there any discussion?

Councilmember Cowden: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Does appropriate decorum mean only when we are in meetings or is this when we are not on the property, how would we know where it is? If we are at a conference or somewhere else, or is it only on the floor? So, it would not be in an office when we are talking...

Council Chair Rapozo: The intent is to just be limited to just to...which is the problem we have right now. Everything is limited to actions that occur at the County Council Meeting. I believe the intent for “E” is, “...or engaging in disruptive behavior that detracts from the orderly conduct of the meeting,” is one (1) circumstance, separate. The “...disrespectful language, making personal attacks, or engaging in disruptive,”—Matt, maybe you can help me with the question.

There being no objections, the rules were suspended.

Mr. Bracken: Correct, when you are looking at “F” now, that was meant to encompass all situations, whereas “E” and “decorum and order,” is really about how the meeting is being run, events that occurred in the meeting. Order is eliminated, decorum is more defined and it includes conducting orderly meeting and all those things that are inappropriate in a meeting.

Councilmember Cowden: When someone is being really inappropriate off property, is that in here at all?

Mr. Bracken: It would be "F."

Councilmember Cowden: Would that apply to a conference or an offsite event?

Councilmember Kagawa: Yes.

Mr. Bracken: Correct. "F" is meant to encompass...

Councilmember Kagawa: Professionalism.

Mr. Bracken: ...it is professionalism, it is meant to encompass situations where you are acting as a councilmember and you are expected to be professional, or you are not acting, you are a councilmember. Carrying out your County duties, I would say.

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

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

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

Councilmember Kualii: Do you not still have to say the part about...I might be missing something, "All Councilmembers are to conduct themselves," because you eliminated that.

Council Chair Rapozo: That is on "F."

Councilmember Kualii: Oh, so it is after you said decorum.

Council Chair Rapozo: Right. "F" is basically the old "E".

Councilmember Kualii: The old "F" had the word decorum in it, right? And so you just pulled it out and put it ahead of how we conduct ourselves? I guess, you just defining it earlier as opposed to later.

Council Chair Rapozo: Yes. Are there any further questions on the amendment? Roll call on the amendment. The motion is to approve the amendment as circulated.

The motion to amend Resolution No. 2024-15 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: We are now at the Resolution as amended. Is there any further discussion before I take public testimony?

Councilmember Kagawa: I feel like we gotten a free pass for a while. This is my nine (9) years on, and I think when you have a rule in place to check our conduct, now it is more incumbent upon us to make sure we watch, and it should suffice to all of us. Everyone knows that I have a temper, I have strong beliefs about what my job is to do here, and then we have a lot of pressure from the outside coming in. For those of you who want to run for Council, dealing with those pressures are something you better consider, because it comes hard on you at times. People can say whatever they want, but having these rules in place to make sure we think twice about letting the anger side of you take over and just keeping things real, because now there are rules in place that can bring light upon your actions. I believe in the Council. Whether we agree or disagree, over the past nine (9) years, it would take a strong action to get four (4) of your colleagues to vote against you, because we all know the stresses that come to the job, but again, having something in place that ensures there is some accountability and a process there that if you do cross that line and there is a process in place that makes you think about your actions. I am satisfied and will be supporting.

Council Chair Rapozo: Before I open it up to the public, because Councilmember Kagawa, you brought up a good point. The fact is the intent...we are all elected, we do not have bosses, the people are our bosses. This is a tough game we play. I hate to use those terms, but that is basically the easiest way to describe it. We got to have some thick skin in this political arena. You see it at every level; local, state, county. The entire purpose for this process was not for councilmembers, but was really to protect our staff that sits in here everyday and that is in this building and to offer this process so that we can ensure they are protected. I heard a lot of discussion today, but this was not really...it does apply to councilmembers, but for me, it is more for our staff. That is the motivation for putting this process in place. Councilmember Cowden.

Councilmember Cowden: I want to say I really value working with all of my colleagues, I certainly value our staff very much. On Kaua'i, they say it is one (1) or none females in office, and I think there is a reason for it. What I experience on a regular, I think is not a conscious way of speaking to and about women, but it is really uncomfortable on a regular basis. That is also for people who come and testify.

It is also very difficult...like right now, I am the only member of Council that was not born and raised here, and for good reason there is a lot of pressure between the flown here and the ground here. People who have generational history here and being pressured out, so are people who have moved here, but we have an infinite amount of people who moved here, and a very finite amount of people who have longer the generational history, the more that there is an effort to protect them. I think my colleagues would agree that I work very hard to protect that community. When we get pressure from the outside, and because I often will be the one to be expressing myself trying to represent the small...I am one (1) of seven (7) to represent people, who might be female or who might have moved here, which is the majority of the island, by the way, that hostility is what I feel on the floor. It is stressful. And so when I go back to work on something and if I am stressed, I am really thankful that the taxpayers have given me and some of us our own staff members, so we have people to sit there be able to talk with now and be able to get help from, and have some sort of balance. But if there is no room to be able to say, "Hey, I am hurting," and if it makes anyone uncomfortable, I am sorry. There is no room for us without our own personal staff that all the other counties have, to be able to have anyone that has your back and anyone on your team. I just want to say, Councilmember Kagawa, thank you for having my back. I appreciate you for doing that. It is tough. I will support the amendment, but I am still very disappointed and feel that in general, this Resolution basically codifies what feels like bullying.

Council Chair Rapozo: I do not know. I am not going to get into that debate here. I think, though, I am a little confused because I think for all the reasons you just expressed, I would think you would support the process so that it could be addressed in the proper venue.

Councilmember Cowden: I just do not think it is the proper venue.

Council Chair Rapozo: I did not take public testimony. Is there anyone wishing to testify?

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

Mr. Hart: For the record, Bruce Hart. Not to toot my own horn, but in this instance, I feel I have to talk to you in a somewhat personal way. I also an aware that when I testify up here, I make a best effort on my part to do so in the same manner I would if I was sitting in one of these chairs. I am in agreement there has to be a process. I am not sure that any Councilmember disagrees that there should be a process. I think we learned that the last time with a councilmember who was unable because they were charged with a crime, they could not be here. There are other issues. There are issues between councilmembers and councilmembers. There are issues between councilmembers and staff. Those times whenever a councilmember is operating in their capacity as a councilmember whether here on the floor or out in the community, and there are times they are just people. There is nothing abnormal or out of the usual about that. I equate this Council somewhat like a family. Word of God says to be angry but sin not. It is our right to be angry, but when you cross a line, then it becomes sin. Sin has consequences. There are a whole lot of people that think it you go to God and said, "Lord, forgive me," then

he forgives you and it is all over. He will forgive you, but there are often consequences and I think that everyone here is mature enough to acknowledge that. We have to behave in a manner as Councilmember Kagawa was saying...I made a joke a long time ago, politics in not for the faint of heart. I think that Councilmembers are used to getting hits that are unjustified. Some of them often are justified, but I think that is all a part of what we have to live with. I think that for the most part this Council behaves properly. There are times whenever we lose our temper, I have, I am guilty of that also. We have to be forgiving. We have to remember whenever we lost our temper, but then in the realm of reasonableness, there is a point of which we all agree that was uncalled for. This is something that we deal with on a daily basis on our personal lives and our profession lives. Having said all of that, I do not see that there should not be a process. I believe there should be. I also want to give a warning, I have had to deal with governmental processes in my life in the last few years, especially last year, and it should not go just around and around and accomplish nothing. It should not give the appearance of doing something while accomplishing nothing.

Council Chair Rapozo:                   Thirty (30) seconds.

Mr. Hart:                                   Thank you.

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

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

Councilmember Bulosan:               I would like to thank the introducers for bringing this Resolution forward. I definitely hear the concerns and comments regarding the change in the rules. The way I read it, I feel like it is addressing the number one challenge in my personal preview, which is currently we do not have a process and this will create a process. It allows us to address these issues openly and not have to be hidden in the process. That is super important to me. I do not want anyone ever to feel like there is no ability for them to express their challenges or fears, because there is no place to do it. This will allow us to have that space in a proper way, so that we can address it as humans do. I would like the edit that we provided, the update. That better clarifies what can be addressed. Ultimately, the biggest thing for me is my pursuit of equity and justice has mostly come from my personal experience and I think that is a lot of how we all operate which is our upbringings and backgrounds. One of the unique things of Hawai'i is that we are a melting pot of different cultures, which requires a lot of concessions, and sometimes unfortunate concessions. A process like this is in alignment with how our community functions in a healthy way. As we grow as a community, these discussions have to be open and available in all processes, I think, and this allows us to have these in a more formal way so that people are protected, especially people who are wrongly affected by injustices. I hope this empowers the people who feel that there was no outlet for people to address issues, and that will create a better accountability within our community, especially this one here, because this is specifically for us. With anything, I think there will be a learning curve and I am open to learning and

adapting so this is better equitable and justice for all of us here in Council and Council Services. Thank you for introducing this and I will be voting in favor.

Council Chair Rapozo: Is there anyone else?

Councilmember Cowden: Are we speaking about the entire Resolution?

Council Chair Rapozo: Yes.

Councilmember Cowden: I will say I appreciate that you are saying that this is intended to insulate the Council Services Staff from any stress for perhaps the Councilmembers feel, so it probably works for that, when it is saying...supposed to be also helping Councilmembers, I think item F(2), it does not. I will be supporting yes for the amendment, and I will be supporting no for the Resolution because I think it is very significant what is experienced on the floor. I do not feel protected at all on it because initiating it in an informal way has not had any real assistance. I am going to say no to the rule, in general, but I will say yes to the amendment.

Council Chair Rapozo: Thank you. Councilmember Carvalho.

Councilmember Carvalho: I support the Resolution overall. We met on the legal side of it, we met on the emotional side of it, and speaking as a councilmember, of course, in how we can work together and support each other. The way it is written is just another step forward. We are not going backward or staying stable. This just gives another solid piece for me to offer that for any Councilmember, however we have to go through our positives and ups and downs, this just gives another layer of support, I see that as support. A lot of the things that came on different levels, whether it is male or female, it is not about that, it is about making tough decisions overall and going back and forth. I think it is important to taking it to the next level with something in place, supports the staff in place, and supports all of us as Councilmembers one-on-one to talk story. If there is any time that I feel that there needs to be a process if something happened, this takes it to the level where it can. We have it in place. I wanted to make sure that for me is what is on the table. I support the entire process and I think it is a good thing to move forward.

Council Chair Rapozo: Thank you. Councilmember DeCosta.

Councilmember DeCosta: Thank you for that, Councilmember Carvalho. Accountability for everyone's actions here from the Council, our staff, and the community. When I met with the Finance Director, I do not look at it as Mrs. Lizama, I look at her as a being a powerful woman, who is the Finance Director. When I see the Managing Director, it is not Mrs. Reiko Matsuyama, it is the Managing Director. When I look at the Councilmembers here, I do not see a female. I do not look at them as males. It is a "Councilmember." We are playing the big game, we act and accordingly to playing the big game. There are no victims here. Maybe I am the victim. Have you ever seen when we get a *lei* put on, or someone dusts your coat or tell you, "You are handsome," is that appropriate? But as soon as we put a *lei* on a female, or dust her coat, or tell her she looks pretty, that is inappropriate. This will set everything in place. I will support this. Thank you.



Council Chair Rapozo: Is there anyone else?

Councilmember Kualii: This is very easy for me to support. I think it is a fair and reasonable process where we have not had one before. I am hopeful, because I am concerned to hear Councilmember Cowden say things like, "Hey, I am hurting and there is no room for that to be expressed or dealt with," and I am just hoping that she will use this process to submit a complaint. So that maybe for once and for all we can understand what is actually happening to you and what we should do about it, because we absolutely should.

Councilmember Cowden: Okay.

Councilmember Kualii: Bullying. You also used the word bullying. File the complaint. Thank you.

Council Chair Rapozo: Is there anyone else? If not, I think I said enough. Roll call.

The motion for adoption of Resolution No. 2024-15, as amended to Resolution No. 2024-15, Draft 1 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: Next item, please.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2916) – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2024 TO JUNE 30, 2025 (*Fiscal Year 2024-2025 Operating Budget*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2916) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that it be referred to the Committee of the Whole, seconded by Councilmember Kagawa.

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

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

The motion for passage of Proposed Draft Bill (No. 2916) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2917) – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2024 TO JUNE 30, 2025 (*Fiscal Year 2024-2025 CIP Budget*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2917) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that it be referred to the Committee of the Whole, seconded by Councilmember Carvalho.

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: I encourage everyone to take a look at this budget and you will see some projects on here that we did not have a chance to discuss. I will be sending over a request for clarification on some significantly expense projects that I was not aware of.

Councilmember Cowden: Oh, yes.

Council Chair Rapozo: With that, the motion is to set a public hearing.

The motion for passage of Proposed Draft Bill (No. 2917) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 14, 2024 at 5:00 p.m., and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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

RECUSED & NOT VOTING: None

TOTAL – 0.

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

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2918) – A BILL FOR AN ORDINANCE AMENDING SECTIONS 5A-1.1 AND 5A-11.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2918) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 24, 2024 and that it be referred to the Committee of the Whole, seconded by Councilmember Carvalho.

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: I have a question, but I will save it for the Committee. Councilmember Cowden raised this point on this bill about the ability of this County to do retroactive tax credits or tax refunds.

Councilmember Cowden: Yes.

Council Chair Rapozo: Maybe we can work with the County Attorney and see how we can apply that same process to other people who may have been in the wrong class.

Councilmember Cowden: Just a general qualification on all of these, because we have not received feedback from constituents that are on expensive capital improvements, all of this, we are going to deal with it in committee.

Council Chair Rapozo: We are going to deal with it in the budget.

Councilmember Cowden: In the budget. I mean we are dealing with it in the budget.

Councilmember Kagawa: This one is in committee.

Councilmember Cowden: Yes, this is going to the committee.

Councilmember Kagawa: Yes.

Councilmember Cowden: Yes, but all of these, we are going to be working on more later.

Council Chair Rapozo: I am specifically talking about Proposed Draft Bill (No. 2918) where it says, "...claim may also include the retroactive approval and

reinstatement of a home exemption,” so for those who have found themselves misclassified, this mechanism is available, then we should be taking more advantage of that. Roll call.

The motion for passage of Proposed Draft Bill (No. 2918) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 24, 2024 and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2919) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, INCLUDING MATTERS PERTAINING TO GUEST HOUSES

Councilmember Kualii moved to refer Proposed Draft Bill (No. 2919) to the Planning Commission, seconded by Councilmember Carvalho.

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

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

Mr. Hart: I waited until after discussion to get more insight, but I want to thank Council Chair Rapozo and Councilmember DeCosta for bringing this forward. I think this is a good idea. I think it will help and I think it might give us some insight, all of us, into the impact that allowing more housing on Ag land is going to have overall. As Councilmember Kagawa often says, “whatever collateral damage there might be,” and so we are going to be able look at it. I would ask with a smile on my face that you think about two (2) off-street parking places for each one, because I just do not think that one (1) person with one (1) car is going to live there. Thank you.

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

Council Chair Rapozo: Seeing no discussion. Roll call.

The motion to refer Proposed Draft Bill (No. 2919) to the Planning Commission was then put, and carried by the following vote:

FOR REFERRAL:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST REFERRAL:	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.

Proposed Draft Bill (No. 2920) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2, SECTION 5-2.6 KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BEAUTIFICATION FEES

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2920) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 24, 2024 and that it be referred to the Committee of the Whole, seconded by Councilmember Carvalho.

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

Councilmember Cowden: I have a question.

Council Chair Rapozo: Yes.

Councilmember Cowden: Just confirming. The five-dollar fee is one-time when they register every year just like everyone else?

Council Chair Rapozo: Yes. What this bill does is...up until now, the rental cars have been charge one-dollar. All of the residents have been paying five dollars (\$5). Councilmember DeCosta found this while working with the Finance Department. The original proposal was to bump the rental cars up to ten dollars (\$10), but the State law prohibits us from separating the two (2). We do not want to raise the local fee, so we basically increased the rental car fee from four dollars (\$4) to five dollars (\$5). It is not a significant increase but to think that we were giving them a break when they created the impacts to our roadways. It is really just to bring them up, so they will be paying the same as our residents. Councilmember DeCosta.

Councilmember DeCosta: Thank you for working diligently with me on this. I always thank our staff. Without our staff, I personally would not be as successful. I also want to thank the Finance Director and the Motor Vehicle Director; you folks are spot on in helping me. Meeting after meeting that does not take place on Wednesdays, it takes place on our own time and you folks helped traverse this to fruition. You folks are brains behind this. Thank you. Now, we are holding our commercial vehicles accountable for the same price as our residents. I am appalled

that we lost all the revenue over the years from the commercial vehicles paying one-dollar versus you, your residential car paying five dollars (\$5). Like what Council Chair says, if we could charge more, I think twenty dollars (\$20), actually, maybe in the future, but thank you to the people behind the scenes.

Council Chair Rapozo: Is there any further discussion?

The motion for passage of Proposed Draft Bill (No. 2920) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 24, 2024 and that it thereafter be referred to the Committee of the Whole, was then put, and carried by the following vote:

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

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

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

EXECUTIVE SESSION:

ES-1118 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide a briefing on the Claim filed against the County of Kaua'i by Ashley Conner on February 12, 2024. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1119 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide a briefing and request for settlement authority in EEOC No. 37B-2018-00013 (U.S. Equal Employment Opportunity Commission), FEPA Charge No. K-19973 (Amended) (Hawai'i Civil Rights Commission), a complaint by a County employee alleging gender based discrimination against the County of Kaua'i Department of Public Works. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1120 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney on behalf of Council, requests an Executive Session to provide a briefing on Hawai'i Government Employees Association, AFSCME, Local 152 AFL-CIO vs. County of Kaua'i (5CSP-24-0000001) and the status of all pending temporary hazard pay grievances. This briefing and consultation involves consideration of the powers,

duties, privileges, immunities, and liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-1118, ES-1119, and ES-1120, seconded by Councilmember Carvalho.

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-1118, ES-1119, and ES-1120 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: With that, we will take our lunch break until 1:45 p.m. Councilmembers, please report in Executive Chambers, and then we will come out after the briefing to adjourn.

There being no objections, the Council recessed at 12:54 p.m.

The meeting was called back to order at 3:03 p.m., and proceeded as follows:

*(Councilmember Kagawa was noted as excused.)*

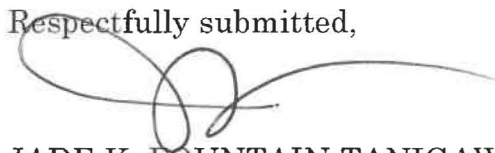
Council Chair Rapozo: Matt.

Mr. Bracken: Matt Bracken, County Attorney. Three (3) Executive Sessions were held. The information discussed must remain confidential at this time and so there is nothing to disclose to the public.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 3:04 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:dmc

(March 27, 2024)

FLOOR AMENDMENT

Resolution No. 2024-15, Resolution Repealing Resolution No. 2023-02 and Amending Resolution No. 2023-26 Relating to Adopting the Rules of the Kaua'i County Council For the Organization of Committees and the Transaction of Business

Introduced by: FELICIA COWDEN, Councilmember

Amend Resolution No. 2024-15, Rule No. 13 (f) to read as follows:

**RULE NO. 13  
ORDER AND DECORUM**

(a) No person may sit at the desk of the Presiding Officer of the Council or the County Clerk, except by permission of the Presiding Officer, or at the desk of any Councilmember, except by permission of that Councilmember.

(b) While the Presiding Officer or any member is speaking, no one may entertain a private discourse, nor while a member is speaking may anyone pass between that Councilmember and the Chair.

(c) When speaking, a Councilmember shall address the Chair, with any remarks confined to the question under discussion while avoiding discussion of personalities.

(d) No unauthorized person may enter the floor of the Council or Committee except by permission of the Presiding Officer.

(e) All Councilmembers are to conduct themselves with dignity, courtesy, and professionalism, refraining from discriminatory, harassing, or disrespectful behavior.

(f) Processing complaints for breach of order, decorum, rule, or policy.

(1) Submission of Complaints. Any Councilmember or County employee may submit a complaint against a Councilmember to the [Council Chair, or the Vice Chair if the complaint is against the Council Chair.] County Clerk or the County Attorney. The complaint should be in writing and include specific details regarding the alleged misconduct or violation.

(2) Initial Assessment. Upon receiving a complaint, the [Council Chair, or the Vice Chair if the complaint is against the Council Chair,] receiving party, either the County Clerk or the County Attorney, shall give the complaint to either the County Clerk or the County Attorney, who was not the receiver, who shall proceed to conduct an initial assessment to determine the validity and seriousness of the allegations. This assessment may include gathering additional information or evidence related to the complaint. If possible, [the Council Chair, or the Vice Chair if the complaint is against the



Council Chair,] either separately or together, the County Clerk or the County Attorney, may attempt to resolve the matter administratively.

(3) Notification to the Councilmember and referral to the Committee of the Whole. If the complaint is deemed credible, the [Council Chair, or the Vice Chair if the complaint is against the Council Chair,] County Clerk or the County Attorney shall notify the Councilmember in writing, providing them with a copy of the complaint and an opportunity to respond within a specified timeframe[.], no less than ten (10) business days and no more than forty (40) business days determined by the nature of the complaint. The [Council Chair, or the Vice Chair if the complaint is against the Council Chair,] County Clerk or the County Attorney may refer the matter of the complaint to the Committee of the Whole, to investigate, hear, and report upon the conduct.

(4) Investigation. The Committee of the Whole may investigate the complaint, refer the complaint to Human Resources, or hire a private investigator.

(5) Opportunity to Present Evidence and Defense. During the investigation, the Councilmember shall have the right to present evidence, witnesses, and a defense to refute the allegations made against them. At any stage of the process set forth in this subsection, the Councilmember under investigation may be represented by a person of his or her choosing.

(6) Review and Determination. Upon completion of the investigation, the findings shall be reviewed by the Committee of the Whole. Based on the evidence gathered, a determination shall be made regarding whether the Councilmember violated any laws, rules, policy, regulations, or ethical standards. The Committee of the Whole determination setting forth its findings and recommended sanctions shall be sent to the [Council Chair, or the Vice Chair if the complaint is against the Council Chair,] County Clerk or the County Attorney managing the complaint. If the Committee of the Whole sustains the complaint, the [Council Chair, or the Vice Chair if the complaint is against the Council Chair,] County Clerk or the County Attorney shall present the Committee of the Whole's report to the Council for its consideration and decision.

(7) Sanctions. If the Councilmember is found to have violated any laws, rules, policy, regulations, or ethical standards, appropriate sanctions shall be imposed. These sanctions may include [but are not limited to] reprimand, censure, fines, and suspension from office without pay for not more than one (1) month. A two-thirds affirmative vote of all members of the Council shall be necessary to suspend a Councilmember without pay.

(8) Decision. Upon the Council's receipt of the Committee of the Whole's determination, the member under investigation shall be informed in writing of the findings and recommendations and be given an opportunity to be heard at the Council meeting. The Council may, by a majority vote, dismiss the complaint. The Council may, by a majority vote, impose the sanctions recommended by the Committee of the Whole, or may impose some, but not all of the sanctions recommended.

(9) Direct Conflict of Interest. The Councilmember under investigation is deemed to have a direct conflict and shall not participate as a member of the Committee of the Whole or vote as a member of Council for anything related to the complaint.

(10) Nothing in this subsection shall restrict the authority of the Council Chair as established in Rule No. 3.

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

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(March 27, 2024)

FLOOR AMENDMENT

Resolution No. 2024-15, Resolution Repealing Resolution No. 2023-02 and Amending Resolution No. 2023-26 Relating to Adopting the Rules of the Kaua'i County Council For the Organization of Committees and the Transaction of Business

Introduced by: KIPUKAI KUALI'I, Councilmember (By Request)

Amend Resolution No. 2024-15, Rule No. 13 (e) and (f) to read as follows:

**RULE NO. 13  
ORDER AND DECORUM**

(a) No person may sit at the desk of the Presiding Officer of the Council or the County Clerk, except by permission of the Presiding Officer, or at the desk of any Councilmember, except by permission of that Councilmember.

(b) While the Presiding Officer or any member is speaking, no one may entertain a private discourse, nor while a member is speaking may anyone pass between that Councilmember and the Chair.

(c) When speaking, a Councilmember shall address the Chair, with any remarks confined to the question under discussion while avoiding discussion of personalities.

(d) No unauthorized person may enter the floor of the Council or Committee except by permission of the Presiding Officer.

(e) All Councilmembers are to conduct themselves with dignity, courtesy, and professionalism, refraining from discriminatory, harassing, or disrespectful behavior.

(f) Processing complaints for breach of order, decorum, rule, or policy.]

(e) Decorum means all Councilmembers shall always conduct themselves in a respectful manner. This includes refraining from using disrespectful language, making personal attacks, or engaging in disruptive behavior that detracts from the orderly conduct of the meeting.

(f) All Councilmembers are to conduct themselves with dignity, courtesy, and professionalism, refraining from discriminatory, harassing, or disrespectful behavior.

(g) Processing complaints for breach of decorum, these rules, County policy, or Council policy.

(1) Submission of Complaints. Any Councilmember or County employee may submit a complaint against a Councilmember to the Council Chair, or the Vice Chair if the complaint is against the Council Chair. The

complaint should be in writing and include specific details regarding the alleged misconduct or violation.

(2) Initial Assessment. Upon receiving a complaint, the Council Chair, or the Vice Chair if the complaint is against the Council Chair, shall conduct an initial assessment to determine the validity and seriousness of the allegations. This assessment may include gathering additional information or evidence related to the complaint. If possible, the Council Chair, or the Vice Chair if the complaint is against the Council Chair, may attempt to resolve the matter administratively.

(3) Notification to the Councilmember and referral to the Committee of the Whole. If the complaint is deemed credible, the Council Chair, or the Vice Chair if the complaint is against the Council Chair, shall notify the Councilmember in writing, providing them with a copy of the complaint and an opportunity to respond within a specified timeframe. The Council Chair, or the Vice Chair if the complaint is against the Council Chair, may refer the matter to the Committee of the Whole, to investigate, hear, and report upon the conduct.

(4) Investigation. The Committee of the Whole may investigate the complaint, refer the complaint to Human Resources, or hire a private investigator.

(5) Opportunity to Present Evidence and Defense. During the investigation, the Councilmember shall have the right to present evidence, witnesses, and a defense to refute the allegations made against them. At any stage of the process set forth in this subsection, the Councilmember under investigation may be represented by a person of his or her choosing.

(6) Review and Determination. Upon completion of the investigation, the findings shall be reviewed by the Committee of the Whole. Based on the evidence gathered, a determination shall be made regarding whether the Councilmember violated any laws, rules, policy, regulations, or ethical standards. The Committee of the Whole determination setting forth its findings and recommended sanctions shall be sent to the Council Chair, or the Vice Chair if the complaint is against the Council Chair. If the Committee of the Whole sustains the complaint, the Council Chair, or the Vice Chair if the complaint is against the Council Chair, shall present the Committee of the Whole's report to the Council for its consideration and decision.

(7) Sanctions. If the Councilmember is found to have violated any laws, rules, policy, regulations, or ethical standards, appropriate sanctions shall be imposed. These sanctions may include but are not limited to

reprimand, censure, fines, and suspension from office without pay for not more than one (1) month. A two-thirds affirmative vote of all members of the Council shall be necessary to suspend a Councilmember without pay.

(8) Decision. Upon the Council's receipt of the Committee of the Whole's determination, the member under investigation shall be informed in writing of the findings and recommendations and be given an opportunity to be heard at the Council meeting. The Council may, by a majority vote, dismiss the complaint. The Council may, by a majority vote, impose the sanctions recommended by the Committee of the Whole, or may impose some, but not all of the sanctions recommended.

(9) Direct Conflict of Interest. The Councilmember under investigation is deemed to have a direct conflict and shall not participate as a member of the Committee of the Whole or vote as a member of Council for anything related to the complaint.

(10) Nothing in this subsection shall restrict the authority of the Council Chair as established in Rule No. 3.

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

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