

COUNCIL MEETING

OCTOBER 23, 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, October 23, 2024, at 8:33 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 (*present at 8:36 a.m.*)
Honorable KipuKai Kualii
Honorable Mel Rapozo

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

APPROVAL OF AGENDA.

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

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

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

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

Council Chair Rapozo: The motion carries.

MINUTES of the following meetings of the Council:

September 25, 2024 Council Meeting
October 9, 2024 Public Hearing re: Bill No. 2933

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

Councilmember Cowden: I only received the October 9, 2024 Minutes last night and there is a lot in there, so I did not get a chance to read through it. Can we defer that item?

Council Chair Rapozo: Sure.

The motion to approve the Minutes of the September 25, 2024 Council Meeting, as circulated, was then put, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

Councilmember Cowden moved to defer the Minutes of the October 9, 2024 Public Hearing re: Bill No. 2933, seconded by Councilmember Carvalho.

Council Chair Rapozo: There is no discussion after a motion to defer.

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

The motion to defer the Minutes of the October 9, 2024 Public Hearing re: Bill No. 2933 was then put, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

Council Chair Rapozo: The motion carries. Clerk, can you read the next item?

CONSENT CALENDAR:

C 2024-208 Communication (10/02/2024) from the Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2024-2025, pursuant to Section 22 of Ordinance No. B-2024-897, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2024-2025.

C 2024-209 Communication (10/03/2024) from Hugo D. Cabrera, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2024 through September 30, 2024.

C 2024-210 Communication (10/07/2024) from the County Engineer, transmitting for Council consideration, a Resolution Authorizing The Mayor Or The Director Of Finance Of The County Of Kaua'i To Enter Into An Intergovernmental Agreement With The State Of Hawai'i, Department Of Health For A Loan From The State Water Pollution Control Revolving Fund For The Design And Construction Of Best Management Practice (BMP) Improvements At Various Refuse Transfer Stations, Project No. C150059-25.

C 2024-211 Communication (10/08/2024) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Urging The State Department Of Accounting And General Services To Unilaterally Survey A Shoreline For The Purpose Of Establishing A Boundary Of State Land At 'Anini Beach.

C 2024-212 Communication (10/08/2024) from Councilmember Carvalho, transmitting for Council consideration, a Resolution Supporting Operation Green Light For Veterans.

C 2024-213 Communication (10/16/2024) from Council Chair Rapozo and Councilmember DeCosta, transmitting for Council consideration, a Resolution Urging The Planning Department To Evaluate And Pursue Public Access Easement Interests In Lands Required For Public Use.

Councilmember Kualii moved to receive C 2024-208, C 2024-209, C 2024-210, C 2024-211, C 2024-212, and C 2024-213 for the record, seconded by Councilmember DeCosta.

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

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

The motion to receive C 2024-208, C 2024-209, C 2024-210, C 2024-211, C 2024-212, and C 2024-213 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

Council Chair Rapozo: The motion carries. Clerk, could you read the next item?

COMMUNICATIONS:

C 2024-214 Communication (10/01/2024) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, for the fourth allotment in the amount of \$20.00, Fiscal Year 2024, and to indemnify the State Executive Office on Aging, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals.

Councilmember Kualii moved to approve C 2024-214, seconded by Councilmember Cowden.

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

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

The motion to approve C 2024-214 was then put, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

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

C 2024-215 Communication (10/02/2024) from Makana A. Rivera, Acting Assistant Chief, Support Services Bureau, requesting Council approval to accept and expend Federal funds, in the amount of \$45,493.88, 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 Kagawa was noted as present.)

Councilmember Kualii moved to approve C 2024-215, seconded by Councilmember Cowden.

There being no objections, the rules were suspended.

MAKANA A. RIVERA, Acting Assistant Chief of Police, Support Services Bureau: For the record, Makana Rivera, Acting Assistant Chief of the Support Services Bureau.

Councilmember Cowden: Thank you. I see that this is a fifty percent (50%) match. It looks like we are getting ninety-one thousand dollars (\$91,000) worth of vests.

Mr. Rivera: That is correct, that is over this Fiscal Year (FY) as well as the next.

Councilmember Cowden: Is that a new vest for everyone?

Mr. Rivera: Yes.

Councilmember Cowden: Is it already picked out?

Mr. Rivera: We have one that we currently use that has been approved and is up to standard.

Councilmember Cowden: I was curious if everyone will have the same vest or if they get to choose, no?

Mr. Rivera: Our patrol officers and majority of our Department have the same vest. For certain groups, like our Special Response Team, they have a higher-level vest.

Councilmember Cowden: Okay, so everyone is getting a new vest?

Mr. Rivera: Yes, everyone that has an expiring vest.

Councilmember Cowden: Not everyone, just everyone that has an old vest?

Mr. Rivera: The Department cycles the vests out every five (5) years. That is the expiration date, and we are coming up on that expiration date based on our previous replacement plan. They are all coming up within the next two (2) FYs.

Councilmember Cowden: Okay, thank you.

Council Chair Rapozo: Are there any other questions for the Kaua'i Police Department (KPD)? If not, thank you. Is there anyone in the audience wishing to testify?

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

The motion to approve C 2024-215 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Clerk, next item, please.

C 2024-216 Communication (10/04/2024) from the Emergency Management Administrator, requesting Council approval to receive and expend State funds, in the amount of \$780,000.00, from the United States Department of Homeland Security, via the State of Hawai'i Department of Law Enforcement, to be used to enhance the capability of state and local units of government to prevent, deter, respond to, and recover from threats and incidents of terrorism, as well as "all hazards" catastrophic preparedness initiatives. This grant has a three-year performance period with no cost-share requirement.

Councilmember Kualii moved to approve C 2024-216, seconded by Councilmember DeCosta.

Council Chair Rapozo: Elton, please.

There being no objections, the rules were suspended.

ELTON S. USHIO, Kaua'i Emergency Management Administrator: *Aloha* and good morning. Elton Ushio, Kaua'i Emergency Management Administrator (KEMA). I do want to start off by pointing out that there is a typographical error (typo) in the Communication. It is Federal funds, not State funds.

Council Chair Rapozo: Thank you. Go ahead, Councilmember Cowden.

Councilmember Cowden: It says, "getting a new hazmat truck." Is that the majority of the seven hundred eighty thousand dollars (\$780,000)?

Mr. Ushio: Councilmember Cowden, the funding is spread out among a number of different line items. That is just one (1) item and it is not the majority.

Councilmember Cowden: Okay. I have a question about MiniCRD. I looked that up, but I am forgetting what that stands for. Is that a little mini cellular (cell) tower? Is that right?

Mr. Ushio: These are portable satellite-based packages that provide communication and wireless hotspot for our first responders in an area that does not have good coverage.

Councilmember Cowden: Is that like a Starlink thing?

Mr. Ushio: It is similar. It works with satellite technology and it is almost like the Department has its own mini cellular site in a particular area.

Councilmember Cowden: Do you carry it with you when you go somewhere, or do you put it somewhere, like at the back of Wainiha Valley?

Mr. Ushio: It will be deployable in a vehicle or helicopter. You need to put it down in a particular location to establish cellular communication or that capability in that area.

Councilmember Cowden: Does it cruise around with you folks?

Mr. Ushio: I would say that it is deployed as needed. It is not constantly moving in a vehicle.

Councilmember Cowden: When it is not needed, does it sit in a building?

Mr. Ushio: It will sit at a station or a pre-staged area. If there is a major incident and KPD anticipates something, then we isolate a community and pre-deploy, so we can send it out with the responders.

Councilmember Cowden: Okay. Would you want to tell the Council about any of the other ones in here? Are any of these items new that we have not had before, like All-Hazards Incident Management Team (AHIMT)?

Mr. Ushio: That is a training item for our people who help us to manage large incidents.

Councilmember Cowden: Okay, is that for training?

Mr. Ushio: Yes.

Council Chair Rapozo: Members, are there any other questions?
Councilmember Kagawa.

Councilmember Kagawa: You met with the Council yesterday, right?

Mr. Ushio: Yes.

Councilmember Kagawa: Everyone?

Mr. Ushio: Yes.

Councilmember Kagawa: Thank you.

Councilmember Cowden: We did not go over these little pieces. We did not do any of that, at least we did not.

Councilmember Kagawa: When you have your meeting, you can ask questions.

Council Chair Rapozo: Members, are there any other questions? If not, thank you, Mr. Ushio. Is there anyone in the audience wishing to testify? Mr. Sykos.

LONNIE SYKOS: For the record, Lonnie Sykos. My question is about all the civil defense matters, which I do not object to, but what they do not tell us is what are we going to do, not if, but when a Category (Cat) 4 or Cat-5 hurricane points at our island and ten (10) days out. The weather forecasters are telling us to get prepared for a direct hit. There are no hurricane shelters for a Cat-5. I live in a seventy-year-old Hick's home. I have been in Cat-5 typhoons, Cat-4 typhoons. I know that my house is not going to remain on my lot, and the pieces will get picked up at the end of the subdivision along with the rest of the houses that get blown apart by debris or wind from the change in air pressure inside the house versus outside. What is the plan from the County? What is the plan from the State? We assume that we would evacuate the tourists. What are we going to do?

Council Chair Rapozo: Mr. Sykos, hang on. The discussion is on this grant, not on...

Mr. Sykos: Correct. On this grant, we are getting a cellphone balloon or portable tower, right? I will address this—of what use is that if eighty percent (80%) of the population is dead?

Council Chair Rapozo: Are you saying that we should not receive this?

Mr. Sykos: I think that in your questioning about this, the Council needs to focus not on what are the “shiny” objections presented to the public, but address the reality of when a catastrophic event occurs, which means that we need to use these devices, what is the rest of the plan? What is the public going to do other than dig a grave for themselves? That is my question in all of this. All this needs to be focused on what an individual member of the public should do to survive in a catastrophic event. Thank you.

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

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

Council Chair Rapozo: To comment on Mr. Sykos, we, here are bound by Sunshine Law, which means that we discuss the items that are on the agenda, and this specific agenda item is pertaining to a specific grant for a specific purpose. I do not disagree that we need to be aware of our plans, but again, due to Sunshine Law, we are prohibited from straying off the topic.

Councilmember Kagawa: Will we have a discussion? If the County is receiving free money to boost the County's ability to secure ourselves and be safe, I do not think it is for the Council to question the Administration...we can question, but as far as getting into the details, because we really do not have a say and what we do is, in this short time, we are going to have a lot of misinformation being shared about concerns that you may have. The direction is coming from the Federal and State government. We have this opportunity to boost and these are some of the ways that we can use it. To get into the politics of Democratic and Republican...what is happening on a national-level takes away from our functions here.

Council Chair Rapozo: Thank you.

Councilmember Cowden: I just have a comment. The reason that I asked those questions is because I was at a Hanalei-to-Hā'ena Community Association (HHCA) meeting last night and we were excited about these Compact Rapid Deployables (CRDs) and that was something that was very positive. I was being asked to describe what the CRDs were, and I did not know, so I said that I would ask today, and they wanted to know...I asked the questions that the HHCA was inquiring about last night.

The motion to approve C 2024-216 was then put, and unanimously carried.

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

C 2024-217 Communication (10/04/2024) from the Director of Finance, requesting Council approval of the indemnification provision in the Kaseya Unitrends Support Agreement, a developer which provides the County with reliable backup, disaster recovery and a centralized management control to monitor and manage all backup and disaster recovery tasks.

Councilmember Kualii moved to approve C 2024-217, seconded by Councilmember Cowden.

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

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

The motion to approve C 2024-217 was then put, and unanimously carried.

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

C 2024-218 Communication (10/09/2024) from the Fire Chief, requesting Council approval of the indemnification provisions for renewal of radio subscription services from Motorola Solutions, Inc., which provides the Kaua'i Fire Department and Ocean Safety Bureau with the ability to track the Kaua'i Fire Department personnel in real time, elevating operations safety and situational awareness, and enabling the radios to use the FirstNet cell system to supplement radio coverage throughout Kaua'i.

Councilmember Kualii moved to approve C 2024-218, seconded by Councilmember Carvalho.

Council Chair Rapozo: Did you have a question?

Councilmember Cowden: Just a comment.

Council Chair Rapozo: Members, are there any questions for the Kaua'i Fire Department (KFD)? Is there any public testimony?

Councilmember Cowden: This is coming from the same meeting last night. I guess that I have a question for KFD.

There being no objections, the rules were suspended.

Councilmember Cowden: Hi, thank you. The question is really coming from HHCA who are worried about getting a cell tower in Hā'ena. This is FirstNet cell system. Can you use this FirstNet cell system through the CRD mobile piece? Do you know?

KAMUELA M. MOKUAHI, Fire Captain: Micah Mokuahi, KFD Training Bureau Captain. Yes, I do.

Council Chair Rapozo: Captain, the microphone (mic) will pick you up.

Mr. Mokuahi: The question was if the mini CRD could...

Councilmember Cowden: This FirstNet cell system...we are just indemnifying, which means that we are saying, "Yes, we are still using it." Nothing about this particular item is trying to encourage the cell tower in Hā'ena. That is what people were worried about.

Mr. Mokuahi: No. KFD is seeking indemnification for the subscription service to continue using the existing cell phone network for the entire island.

Councilmember Cowden: That does not have to do with that?

Mr. Mokuahi: No.

Councilmember Cowden: This is not any sort of endorsement of anything happening that HHCA does not want to have happen.

Council Chair Rapozo: I apologize. Our system just dropped, so we are going to take a recess.

Councilmember Cowden: Thank you. That was it.

There being no objections, the Council recessed from 8:49 a.m. to 8:50 a.m., due to technical difficulties.

Council Chair Rapozo: You can continue Councilmember Cowden.

Councilmember Cowden: Thank you. That was the question that I had, if this is just indemnification for what we are already doing and nothing about new equipment.

There being no objections, the rules were suspended.

Mr. Mokuahi: Correct.

Councilmember Cowden: Thank you.

Council Chair Rapozo: Thank you. Members, are there any other questions? Seeing none, thank you very much. Is there anyone in the audience wishing to testify? Seeing none.

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

The motion to approve C 2024-218 was then put, and unanimously carried.

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

C 2024-219 Communication (10/10/2024) from the County Engineer, requesting Council approval to negotiate and execute an Administrative Order on Consent (AOC) with the State of Hawai'i, Department of Health Clean Water Branch, which will address both the Notice of Violation Order (NOVO) from 2016 and the permit compliance matters related to the National Pollutant Discharge Elimination System (NPDES) permit inspections at all Refuse Transfer Stations (RTS) that began February 2024. The AOC process allows the opportunity to consider the County of Kaua'i's progress with NPDES compliance, and the opportunity to review and negotiate reduced penalties for non-compliance matters.

Councilmember Kualii moved to approve C 2024-219, seconded by Councilmember Cowden.

Council Chair Rapozo: I know that the Department of Public Works (DPW) met with each of us. Did anyone have any questions?

Councilmember Cowden: Are they putting this presentation up?

Council Chair Rapozo: Yes. Mr. Tanigawa?

There being no objections, the rules were suspended.

ALLISON FRALEY, Solid Waste Division Chief: Good morning, everyone. I am Allison Fraley with the Solid Waste Division. I am here to make a presentation on the Administrative Order on Consent (AOC) for the State Clean Water Branch.

Council Chair Rapozo: Ms. Fraley, I know that you met all of us individually. I appreciated that, by the way. I thought that was a good thing, but maybe before you get into this specific presentation, you could give us a very brief background on the Notice of Violation Order (NOVO) and then the options that we have today.

Ms. Fraley: Right. Thank you, I will.

Council Chair Rapozo: You spoke about the benefits of the difference, but I think for the benefit of the public, could you share the timeline of how this evolved?

Ms. Fraley: I did provide an update several months ago.

Council Chair Rapozo: About five (5) months ago, maybe six (6).

Ms. Fraley: That was on the NOVO. We have four (4) Refuse Transfer Stations (RTSs) where we manage waste and recyclables. At those locations, back in 2016, the Solid Waste Division did receive a NOVO from the State Department of Health (DOH), Clean Water Branch. There were penalties and fines for violations at those locations. Generally speaking, the violations were that the Division had uncovered areas where we were accepting recyclables, leachate that was unmanaged. Since then, the Division has put in place corrective measures that are temporary Best Management Practices (BMP).

Council Chair Rapozo: But the NOVOs did not go away?

Ms. Fraley: Right. They have been hanging over our heads all this time, and we have had two (2) sets of inspections since the 2016 NOVO. I cannot remember exactly when, but I think it was in 2021 that there were some inspections, and then more recently, at the beginning of this calendar year.

Council Chair Rapozo: Okay. Does that bring us the opportunity for this Administrative Order?

Ms. Fraley: Yes, exactly.

Councilmember Kagawa: I have a follow-up question on what was just presented. Was that back when we had Keith Suga and the heavy sock around drains? Were those temporary fixes that the County made at the transfer stations?

Ms. Fraley: Correct. After 2016, we put what is called "Best Management Practices" BMPs in place. There are things like silt socks that keep the wastewater from flowing, and also berms, things that are protecting the leachate and keeping it out of the...

Councilmember Kagawa: If the County managed those back then, the County would be fine, but there were further violations. Is that correct?

Ms. Fraley: No, we have not had any fines or violations since...we have not had any fines since then. We have had two (2) sets of inspections where they found things that were wrong that we corrected, and we had that recent...what we are going to talk about today is the recent inspection in February and March.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Do you have a question?

Councilmember Cowden: I am just thinking about the Līhu'e Transfer Station, so that is a little different. The way that the refuse truck dumps, it does not go right into the container. What is the BMP adaptation for how leachate is handled under the roof? Is there a change on that?

Ms. Fraley: Yes. We are doing renovations at the transfer stations, which people probably know about and the fix on that is that the leachate would go into a leachate tank instead of mixing in with storm water. We have renovated the Līhu'e Transfer Station. We are just finalizing everything now, and that is how it is. The leachate is going straight into the leachate tank.

Councilmember Cowden: Once it comes down, but when it comes out of the truck and it is on that big piece of concrete, where does it go there? How does the County deal with that?

Ms. Fraley: Well, the reason that one is covered from the rainwater the actual location where we offload waste did not change and the other stations, it is going to change, because it was already covered, so it does. It gets pushed into the drain.

Councilmember Cowden: Okay, and we can talk about that later, too. If you could send me a copy of where to look at BMPs are, just because it is pretty close to where people dumping things, too, so sometimes, they step in that leachate.

Ms. Fraley: Okay.

Council Chair Rapozo: This is a silly question, but the improvements that taking place right now at the Līhu'e Transfer Station, I am sure that it is incorporating all these BMPs into the renovations.

Ms. Fraley: Yes.

Council Chair Rapozo: So, that should clear any issues that were discovered at Līhu'e Transfer Station, and then the Kapa'a Transfer Station when we do the Kapa'a site and so forth?

Ms. Fraley: Correct. That is the purpose of the renovations.

Council Chair Rapozo: Thank you. AOC...this is an opportunity for the County if you want to proceed.

Ms. Fraley: Yes, thank you. I just want to explain what that...I am going to call it AOC just so that I am not saying too many words...it is an agreement with DOH that is going to address that National Pollutant Discharge Elimination Systems (NPDES) permit compliance matters at our RTSs. DPW, Solid Waste Division is requesting Council approval to be able to negotiate this type of agreement with the State, and the terms and conditions of the AOC will be determined through further negotiations. Negotiations have not happened yet.

As I mentioned, DOH did recent inspections at the beginning of this calendar year at all RTS.

(Councilmember Kagawa was noted as not present.)

Ms. Fraley: They found that we are managing leachate and stormwater well. During the walkthroughs, there were not any issues that they saw with the existing BMPs, the berms and the socks, but they also found that we needed improvement in our record keeping as well as that we were working off the old permit regulations and new permit regulations were in place at the time, so that was an issue with the State. They issued inspection reports for each RTS and told us what they found, and then we provided a timely response, corrective actions, pictures of everything that they found. We turned that in to the State.

After we turned those in, we met with the State DOH and discussed the fact that they received everything and what they found. They said that they wanted to close the NOVO and suggested that we enter into a new agreement with them, which would allow us to partner with the State to negotiate an enforcement action. That was very good news for us, because they said that they do not normally do that, but since we are proceeding with the renovations and taking everything seriously, State DOH feels that we could partner with them.

(Councilmember Kagawa was noted as present.)

Ms. Fraley: The benefits of this type of agreement is that it allows us to negotiate, not only on what the corrective actions are, but also the timeline of those actions, and then they said that there would be penalties. We have no idea what those penalties would be, but they would be greatly reduced by going into this type of agreement because the NOVO has a scheduled penalty that has to be paid, so we could negotiate those and the focus is really correcting on what is happening and not on penalizing the County. Generally, we are asking for Council permission to enter into this agreement.

Councilmember Cowden: I have a comment.

Council Chair Rapozo: Okay. Members, are there any other questions on the negotiations? If not, thank you very much.

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

Mr. Sykos: For the record, Lonnie Sykos. I really want to thank the Mayor and the Solid Waste Division for putting the focus on this that they have. This is one of the “cans” that the County has “kicked down the road” for a long time and it is really nice to see that we have a handle on the problem and are in the midst of solving it. Once we get our RTSs rebuilt or modified, this will no longer be an issue. My thanks to the Council, Administration, and especially to people...I always forget their proper name...I will say Solid Waste.

Councilmember Cowden: That is the right name.

Mr. Sykos: ...and the transfer stations for getting all of this together. We very much appreciate it, out in the public.

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

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

Council Chair Rapozo: Councilmember Cowden.

Councilmember Cowden: Great job in taking a difficult situation and working to make it a lot better. I like the idea of, rather than being punished and penalized, we can apply most of the funding that we need towards improving the situation. I have gratitude to the State, Clean Water Branch, as well as our team. This is how I like things to go, a “win-win.”

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I think over time, we were expected to upgrade those RTSs long ago. I remember Hanapēpē, Kapa‘a...those were in the late 1970s or 1980s. They were set up and designed that way, and they remained the same for that long. In 2024, it is basically the same process. Going back, it is not surprising to find that the County was finally sued for not upgrading over time and for allowing the same methods...If you visit the Līhu‘e RTS to throw trash, you will see so much “soup” on the ground where they are pushing trash, and you know that it is toxic. Who knows what was in the rubbish or in the trash bags that had holes. That is dangerous “soup.” To later find out that they are giving an ultimatum, “You need to design a better way or we are going to have to charge you for pollution.” It is not easy when dealing with rainwater and things like that—everything needs to be designed well that is why we have engineers and hire expensive consultants from the mainland. Just putting it off all that time...I am really glad that you, Ms. Fraley and Mr. Tanigawa, are “stepping up” now and doing all four (4) RTSs at once. As the Chair for the Public Works Committee for eight (8) years of my previous terms, from 2012,

we heard the same concerns. Some of those were the worst. Before at the Hanapēpē RTS, you could “back your truck in” and throw your trash. I do not know if someone jumped in there to save something, but they put a fence after. Now, if you are ground level, you need to lift your trash, throw it over the fence and into the compactor. There are old people, like eighty-year-old people and older throwing away trash. Do you know how much more dangerous that is than just tossing it? Over time, let us not repeat these mistakes. As the Council, we cannot tell you folks what to do. Like I was sharing with Councilmember Cowden when KEMA was here, we need to have those discussions privately, but we are not engineers, experts, environmentalists. From the Council’s chair...I am a schoolteacher...we cannot tell you folks what to do, but certainly waiting from the 1970s to now to make some significant improvements is way too late. Set the trend. You are doing it now, Ms. Fraley. Say that the goal is to make changes twenty (20) years from now, we need to make more changes. Technology changes and it is worth it in the end, because we protect our environment. We only have a small island.

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: Thank you to the Administration for doing this. Like Councilmember Kagawa said, in the 1970s, they were designed usually like a house roof or some sort of car, they give you a timeframe, so they gave us thirty (30) or forty (40) years of operation. Now, it is the time to change. I know that during former Mayor Carvalho’s term, funding was short. I know that there were many times where the budget did not have any extra moneys. Luckily for this Administration, we have quite a bit of extra funds, so now we can do these improvements. I want to thank you folks for putting the moneys in the right place—infrastructure needs to be in place, and this is only one (1) infrastructure problem that we have, but since we have the funding, let us “chip away” at some of our problems. Thank you, folks, for “chipping away” at one (1) problem.

Council Chair Rapozo:

Councilmember Carvalho.

Councilmember Carvalho: Just wanted to appreciate that since 2016 and the measures that were taken from that time to at least address it in the interim worked, because it is nice to see that we are moving into the next phase that will take this to the next level. Obviously, I am supportive of this overall, but knowing the big vision of our waste system in general, it is great to see this project moving forward. The community needs to be part of that interim period where they may need to wait, maybe have to go here or there, but the bigger picture is that this is what we need to take care of our waste and how we correctly manage it. I just wanted to mention that. Thank you.

Council Chair Rapozo:

Is there anyone else?

Councilmember Cowden: Like Councilmember Kagawa said, it is not my place to say what should be, but in a perfect world where we have a lot of money, we would also have a lot of expenses. We have a bigger budget, but we have bigger costs. When I look at the Lihū’e RTS, I think that you have a double garage so that that the refuse trucks can dump at a place different from the residential trucks. I think that would be my commonsense way of reducing any leachate exposure, too.

Council Chair Rapozo: Thank you. Is there anyone else? Thank you to you, Ms. Fraley and your team. I have never heard of this AOC. This is an amazing opportunity and I think back in 2016, Councilmember Kagawa had many sleepless nights regarding this issue, and it is just a “tough nut to crack.” As long as we had temporary measures in place, you would not get rid of those NOVOs that sits with the State, so this will give us the opportunity to completely close that file and start focusing on negotiations on an agreement that will no longer have that “cloud over our head.” As Councilmember Cowden said earlier, the moneys that we could be fined for could be used for the improvements that are sorely needed. Thank you, folks, for working on this and keep us posted. Thank you.

The motion to approve C 2024-219 was then put, and unanimously carried.

Council Chair Rapozo: Next item, please?

C 2024-220 Communication (10/11/2024) from the Director of Finance, requesting Council approval to apply for, accept, and expend Federal Emergency Management Agency (FEMA) funds to elevate and defer disaster related cost due to the April 2024 flooding event. To date, estimated projects cost in the process of FEMA submission total in excess of \$7,300,000.00.

Councilmember Kualii moved to approve C 2024-220, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any discussion or public testimony?
Do you have a question?

Councilmember Cowden: Are we not going to tell the public what this is? No? Maybe very simply...seven million three hundred thousand dollars (\$7,300,000) is a lot of money and thank you so much for working on securing that. I think that it is very important when we acknowledge this was another Federal Emergency Management Agency (FEMA) event that we know is happening. Very simply...you have it broken down for what it goes to, but basically, this is some repayment for some repairs that we did to the roads. I think that people will care about which roads will be fixed.

There being no objections, the rules were suspended.

CHELSIE SAKAI, Director of Finance: Good morning, Chelsie Sakai, Director of Finance. Yes, correct. All of this is from the damage that occurred during the April 2024 flooding. Some of the emergency protective measures are already completed, some of the work is completed, but a lot of this is permanent work that is going to take longer to complete. The largest of the projects is for Wawae Road, and that is slope stabilization, so that the road can reopen.

Councilmember Cowden: Would we say that road is between Lāwa‘i and Kalāheo? I get calls all the time about bridges and roads. There is also going to be the Ola Pua [sic] culvert. Is that going to be corrected, too? That one right there.

Councilmember Kagawa: Pua Loke Street.

Councilmember Cowden: Thank you. Pua Loke Street, will that culvert into that neighborhood. Is that part of this?

Ms. Sakai: No. Pua Loke Street would be under the Federal Highway funding. This is specific to KEMA public assistance.

Councilmember Cowden: When we met privately, we talked about all these broken spots. Anyway, a lot of these broken spots will be fixed. I get calls all the time. I would rather hear it from you folks than me repeating it. So, a lot of this is road repairs, the biggest chunk of the money?

Ms. Sakai: Correct.

Councilmember Cowden: And some of these are repayment to what the County has already spent?

Ms. Sakai: Correct.

Councilmember Cowden: Which allows us to have money to spend on other projects?

Ms. Sakai: Correct.

Councilmember Cowden: Thank you. Good job getting that money.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: Thank you, KEMA and Ms. Sakai. With all the natural disasters that have been happening in North Carolina and Florida, and we are part of the United States. Hawai'i is just another state. I know that FEMA is "running short" on funding. How difficult is it for you folks to obtain these Federal grants and how hard do we have to work to get funding? Do you folks need more support from us with obtaining these funds? It is crucial.

Ms. Sakai: That is a good question. Thank you.

Councilmember DeCosta: Thank you.

Ms. Sakai: This was an interesting disaster for us. In my experience formerly at KEMA with Mr. Ushio...and Mr. Ushio and I have discussed this, but this was sort of a borderline event, so in order to obtain and be approved for a federally declared disaster or presidentially declared disaster, you must meet a statewide threshold of approved allowable expenses. For this year, that threshold is two million six hundred seventy-seven thousand six hundred ninety-nine dollars (\$2,677,699). At the time when we did the joint preliminary damage assessment with KEMA, their estimates were significantly lower than we thought and showed the projects to be. For us to have received this, we must give a lot of "kudos" to DPW, because like Councilmember Cowden said, a lot these projects are roads. They worked very closely, "dug their heels in the ground," did all the "dirty work" and research to prove to FEMA that we did in fact pass that threshold, and

that allowed us to be eligible for this grant, so “kudos” to DPW, especially the Roads Division. They put in a lot of work to get us over that threshold.

Councilmember DeCosta: Thank you for that explanation. Thank you for all that you do.

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

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

The motion to approve C 2024-220 was then put, and unanimously carried.

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

C 2024-221 Communication (10/11/2024) from the Director of Finance, requesting Council approval of the indemnification provision in the Subrecipient Award Memorandum of Agreement (MOA) for the Federal Emergency Management Agency (FEMA) Public Assistance Grant Program, for reimbursement of expenses related to the response to and recovery from the heavy rains and flooding that occurred on April 11, 2024.

Councilmember Kualii moved to approve C 2024-221, seconded by Councilmember Carvalho.

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

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

The motion to approve C 2024-221 was then put, and unanimously carried.

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

C 2024-222 Communication (10/11/2024) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2024-896, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2024 Through June 30, 2025, For The Purposes Of Funding Expenditures Caused By Heavy Rains And Severe Flooding Which Started On April 11, 2024, By Revising The Amounts Estimated In The General Fund.

Councilmember Kualii moved to receive C 2024-222 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: Thank you. This is the Communication for Proposed Draft Bill (No. 2935) that will come up later. I will take testimony at this point if anyone wants to come up. Seeing none.

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

The motion to receive C 2024-222 for the record was then put, and unanimously carried.

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

C 2024-223 Communication (10/15/2024) from the County Engineer, requesting Council approval to receive reimbursements from the Hawai'i Local Technical Assistance Program (LTAP), for travel-related expenses incurred as a result of attending various off-island training events sponsored by the United States (U.S.) Department of Transportation, Federal Highway Administration (FHWA), during Fiscal Year 2025. Reimbursements are estimated to range between \$150.00 to \$350.00 per person per travel day.

Councilmember Kualii moved to approve C 2024-223, seconded by Councilmember DeCosta.

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

Councilmember Cowden: I have a short comment.

Council Chair Rapozo: Is it a comment or question?

Councilmember Cowden: It is a comment. I will wait until we are done.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? Seeing none, go ahead, Councilmember Cowden.

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

Councilmember Cowden: Thank you to the County Engineer for finding this way to have department employees to travel for training and to not do it at taxpayers' or at least the County-level's expense when it is recovered, at least having some of that is a good thing. I just wanted to acknowledge what we did there for the public and thanking the Engineer Division.

Council Chair Rapozo: Thank you. Members, would anyone else like to speak? Seeing none.

The motion to approve C 2024-223 was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

C 2024-224 Communication (10/16/2024) from Council Chair Rapozo, requesting Council approval to conduct Performance Audits on the following:

1. Ag Dedication Process and Enforcement;
2. Solid Waste Operational Issues
 - a. Equipment Issues

- b. Staffing;
- 3. Residential Building Permit Process (Administration's initiative);
- 4. Funding for the Agency on Elderly Affairs (Administration's initiative); and
- 5. Hiring Practices and Employee Retention (Administration's initiative).

Councilmember Kualii moved to approve C 2024-224, seconded by Councilmember DeCosta.

Council Chair Rapozo: Is there any discussion before we bring the Administration up? Let me give a brief overview. One of the powers of the County Council is to audit. With this FY, we added more money into the Audit Budget with the intent to conduct audits of various departments and programs in the County. Several months ago, we started discussing with the Administration which areas to audit. This is a list that was agreed upon by the Administration and the Council Services Division. Three (3) of these audits—number 3, Residential Building Permit Process, number 4, Funding for Agency on Elderly Affairs; and number 5, Hiring Practices and Employee Retention—were requested by the Administration. The Agricultural (Ag) Dedication Process and Enforcement as well as the Solid Waste Operational Issues involving Equipment Issues and Staffing, which we see quite often today, were suggested by myself. That is where we are today, and we can have a discussion, or we can have Administration come forward. Are there questions before the Administration comes forward?

Councilmember Cowden: Before bringing the Administration up? Well, three (3) of these are from the Administration. Are we going to talk about the Ag Dedication Process?

Council Chair Rapozo: Yes.

Councilmember Cowden: Are we going to talk about it with them or are we going to talk about it with us?

Council Chair Rapozo: Let us have the Administration come up.

Councilmember DeCosta: Before they come up, I have a question. Obviously, the Administration had some concerns with item 3, item 4, and item 5 and you had some concerns with item 1 and item 2. When we have concerns, it is not just about having a concern, right? You folks do your homework to determine what they are missing or what seems to be going wrong, then we request the audit, correct?

Council Chair Rapozo: The request, yes. Obviously, this body will approve whether it moves forward.

Councilmember DeCosta: Okay, just wanted to clarify that process.

Council Chair Rapozo: Let us just go down the list. Ag Dedication Process and Enforcement—I suggested this because we have a lot of Ag Dedications. For those who do not know, Ag Dedications are basically a commitment from the

landowner to the County that they will perform legitimate Ag activities, and in doing so, they receive a huge tax break. Sometime last year, I requested a list of all the Ag Dedications that were granted, and it was a significant list of a lot of landowners on our island. There are a lot of larger landowners who are enjoying the benefits of Ag Dedication and I am not aware of any Ag activities on those parcels. Those are just my personal observations. I also know that many Ag Dedications from our local residents have been taken away, rightfully so. If you are not meeting the requirements of the Ag Dedication, you should not have the Dedication, but I want to ensure that we are applying that standard across the board and that everyone is being held to the same standard. I am not sure. Could you state your name and your title?

There being no objections, the rules were suspended.

SCOTT K. TERUYA, County Real Property Tax Manager: Good morning, Chair and Councilmembers. Scott Teruya, Tax Manager for the County of Kaua'i. I will just start with initial comments then I will pass it on to Mr. Zamora who is more familiar with program than I am. On record, we have approximately one thousand two hundred (1,200) parcels receiving Ag Dedication. Initially, some of the requirements are, as Mr. Zamora will go through, primarily you have a General Excise Tax (GET) Number (No.), you do file a Schedule F (Form 1040), you do get you a water rate, if it applies. I will have Mr. Zamora go into more detail, but as far as I am concerned...I am relatively new to the program. Mr. Zamora is relatively new to the program, too. There are things that are agreed through the rules, which are outdated so we need to update our rules and regulations, but the Ag Dedication Program is relatively new. There does not seem to be a lot of information as to what the annual requirements are. I think that would be a question that we need to establish in our rules—what should we be receiving annually to ensure that they are in compliance, etcetera? Even though you submitted your Schedule F (Form 1040) and GET No., that still does not mean that you are doing what you are saying, so there are several ways that you can do things. One is imagery, which is difficult when dealing with large parcels and having to zoom in to see the cattle, etcetera, so there is something that we need to discuss as to what we physically need to do annually or periodically. We will go through that process, but I will have Mr. Zamora talk about that process or what he has done so far.

Council Chair Rapozo: Thank you.

THEODORE T. ZAMORA, Real Property Valuation Analyst III: Ted Zamora, Real Estate Property Assessment. I oversee the Ag Dedication Program. I started in February 2024, so I am fairly new. I inherited the position because my predecessor vacated it. I believe it was November 2023. Upon entering the position, as Mr. Teruya mentioned, we really did not have a procedure or process, so I took it upon myself to read files. I went into our warehouse where all the older files are kept. I educated myself with the program by opening each and every one of those files. Some of them were dated way back from the early 1900s. What I found out was that there was a time in 2022 when there was an overhaul in the Ordinance. At that point, I think the Ag Dedication periods were from ten (10) years to twenty (20) years, some were even longer. After the overhaul, there was a five-year dedication period, which I believe made it a lot easier for farmers and County employees to manage the Ag Dedication

Program. The process in receiving Ag Dedication is two-fold. One is the application process. The process involves filling up a petition that states that they provide the County with a plot and an Ag business plan. Additionally, we request a copy of your tax filings from previous years by included. A State of Hawai'i GET License No. is also required for irrigation and water on the farm lands. The Department of Water (DOW) Account No. is accepted as well. Once we have the documentation that is vetted by myself and in place, I make arrangements for a property visit. When I do so, I make sure that the farmlands are similar to the applications, ensuring that they are farming as they applied for to get the exemption. That part is quite simple, you either get approved or disapproved based on the submitted application and what my colleagues or I see on the parcels. What I would like to recommend for the County is a periodic review. Not only should we go out and look at the property once, but maybe periodically to ensure that each of the agribusinesses or farmers are maintaining what they put in their application. Other than that, I think that is where we are lacking and I welcome the audit so that we may see where we have deficiencies and go from there.

Council Chair Rapozo: I think that the audit should help us with some recommendations on how we can improve, not so much in identifying deficiencies. For the public, Ag Dedication is a huge tax break, and I am not sure if we have ever done an analysis of these one thousand two hundred (1,200) parcels that we have. If not for the Ag Dedication, how much revenue are we talking about? Do we know that? For the public, what is the Ag exemption and the end tax bill for someone with an Ag Dedication?

Mr. Zamora: You are correct, sir. The Ag Dedication is five percent (5%) of the assessed value.

Council Chair Rapozo: Correct, which is "peanuts."

Mr. Zamora: Right. Let us say for example, someone has a million-dollar market value. Let us say that it is assessed at one million dollars (1,000,000), just take five percent (5%) of that.

Council Chair Rapozo: Yes.

Mr. Zamora: That is what your tax bill is based on.

Council Chair Rapozo: Right. When I saw the list of Ag dedicated properties—there is a bunch. When I saw the tax bills, I saw that some of them are paying in the hundreds of dollars. They pay two hundred fifty dollars (\$250) on acres of beautiful land that, in my opinion and from what I can see, has absolutely no farming activity. That is why I want the audit, and I am going to ask the auditors to do a random sampling of Ag properties across the island and for those that have had an Ag Dedication with no Ag activity, they need to pay the back taxes on the benefits they received. Councilmember DeCosta, did you have a question?

Councilmember DeCosta: Thank you. I have been a big advocate for "cracking down" on Ag before Council Chair Rapozo came in, so I am glad that he picked it up. My big question is...I am going to ask this in two-fold. Ag dwelling...we

in our Ag department, in your department, had to show an income of thirty thousand dollars (\$30,000) to put up an Ag dwelling. Do those Ag parcels need to show income in order to qualify? Right now, I heard you say that you go out there to access whether they have Ag activity. Let us say that there is a five hundred (500) acre parcel on the North Shore where you plan to see cattle. In a month, there are no cattle. In a year, cattle are still not there because the cattle were borrowed from the neighboring ranch, so that they could show you that they have Ag activity. You have a property that is a one hundred (100) acres of palm trees. "Hey that person has palm trees on his property. Great. That is Ag." Did he sell any palm trees in the last five (5) years? I believe that we should have an ordinance in our working group—we should design a working group that knows about Ag and they must show the generated income for the year. When we do our taxes and collect rental information for the County low-income housing, we need to provide our income. I did not hear you folks say that the parcels need to show income. I believe that you should look at that. My question is, are you folks looking into that?

Mr. Zamora: Yes, sir.

Councilmember DeCosta: Did you folks look into that?

Mr. Zamora: We looked into that using the Schedule F (Form 1040).

Councilmember DeCosta: What is a Schedule F (Form 1040)?

Mr. Zamora: That is the tax return document that shows income.

Councilmember DeCosta: Right, but they could have income from their job or another entity. Specifically, you pay taxes at the State office based on your organization or company, whether it is a nonprofit organization or a for-profit business, so it is separate from their commercial business or professional income, right?

Council Chair Rapozo: Councilmember DeCosta, the Schedule F (Form 1040) is the farm income. That is a separate form just for your farm income.

Councilmember DeCosta: Do you folks have that in place for every Ag Dedication? Do you check on every Schedule F (Form 1040)?

Mr. Zamora: Yes, sir, we do. I will defer to Mr. Teruya.

Mr. Teruya: Right now, in the Ordinance and in the rules, which are obviously outdated, there is no stated income threshold that needs to be met, so for right now, no.

Councilmember DeCosta: Thank you for that. That is all that I wanted to hear.

Mr. Teruya: As far as 2023, a question that Council Chair Rapozo asked, the revenue loss for the subsidy is about nine million one hundred thousand dollars (\$9,100,000) to the County.

Councilmember Carvalho: Nine million one hundred thousand dollars (\$9,100,000).

Council Chair Rapozo: Councilmember Kualii, did you have a question? Go ahead, Councilmember Cowden.

Councilmember Cowden: I have a few follow-ups. Thank you for taking this on, Mr. Zamora. When we are looking at this disparity, like I am in agreement with Council Chair Rapozo that you look at subdivisions and properties that basically mowed and they pay one hundred fifty dollars (\$150) or two hundred fifty dollars (\$250) per parcel. When you look at these small capacity farms where people are working really hard and are passionate farmers...have we considered...if we were to look at Ag dollars and/or food production because some of these small capacity farms actually put out a lot of food whether they effectively sell it, give it away, or whatever they do, because it is hard when I look at a neighboring, very wealthy landowner who pays one hundred fifty dollars (\$150) and the little farms pay eight thousand dollars (\$8,000) because they basically go down as Residential on farm land when you only have a house. It seems like when you are talking about putting a group together, has that been thought about, like level of food production?

Mr. Teruya: We can possibly shed some light on that. The Ag Dedication Program is basically for commercial entities. It is a commercial use; it is not for just a hobby farm. It is not something that you raise and give away to charity. It is meant for Ag purposes for commercial activity. Generally, that is how it is, but there are no set guidelines that are very clear as to what these Ag definitions are. I think that is something that the working group needs to establish and what are the criteria for you to say, "this should be subsidized."

Councilmember Cowden: Yes, that is why I am trying to follow up on that. I think that we do need to have that in the working group because what we need on the island is food production so there is value in that. I appreciate that the five-year Ag Dedication helps minimize that rollback penalty, because when someone is seventy-eight (78) years old and they have a twenty-year Ag Dedication and they cannot work as hard or they have a flood, they can get eighteen (18) years of rollback, so now, it is only five (5) years for that penalty. I appreciate that and the working group. I have another question that you folks might consider and this is coming from people who actually do the landscape plans for the Ag Dedication that go to people who have capacity. Sometimes, I get really frustrated that there is nothing like a certificate of occupancy on that Ag Dedication of land. They put up a nice Ag Dedication plan, it gets passed, and no one goes back to see if it really happened. My suggestion is to look again in three (3) years, probably every three (3) years to review because there might not even have a serious intention from the beginning. Has that been considered or maybe that would go to the working group for consideration?

Mr. Teruya: Yes, that is definitely something that needs to be considered. For International Association of Assessing Officers (IAAO) purposes, there are assessments every week every six (6) years.

Councilmember Cowden: IWO?

Mr. Teruya: IAAO, but that is the Residential properties. For Ag...the question back to you folks and everyone is, how often do you want us to see it? At least with annually, we figure that one thousand two hundred (1,200) with two hundred (200) working days, that would be sixty (60) a day that needs to be seen. That is man hours as well, right? Right now, it is complaint-driven. That is really how we know where to go. Someone tells us they might not be...

Council Chair Rapozo: I can guarantee that after people watch this video or showing, you will get a lot of complaints. I think that a lot of people just do not know about the Ag Dedication Program.

Mr. Teruya: The plan for the entire office is to stop with the one-man operations, like Mr. Zamora has been doing with Ag right now. It really is to incorporate the entire staff to go into your areas and look at everything. That is a procedural change that we will be going through, so that really is the question right now. We are going by "complaint-driven," then we would probably go out by what we need to go using imagery, then what gets escalated to physical inspections. That is how we are going to be tackling it moving forward until the new rules come out.

Council Chair Rapozo: As Councilmember Kagawa talked about earlier, I think that we are Councilmembers, not experts. I could not tell you what the best solution is, but I can tell you that the audit will make some recommendations so that we could be more efficient. I do not think anyone is going to expect your department to do one thousand two hundred (1,200) inspections a year, but I definitely think that there should be some inspections every year. One thousand two hundred (1,200) is not realistic. Councilmember Kagawa.

Councilmember Kagawa: Touching on the changes...first, you said in 2022, we changed to a five-year Ag Dedication period, so every five (5) years, they have to reapply for it?

Mr. Zamora: There is a petition. That is correct.

Councilmember Kagawa: That was a big change, right?

Mr. Zamora: Yes, sir.

Councilmember Kagawa: That helped, but it is more volume for your office, but at least we are on it a little more. Mr. Teruya talked about having one thousand two hundred (1,200) parcels and the intent was to be commercial oriented. How much out of the one thousand two hundred (1,200) parcels do we estimate are commercial? Do you have a ballpark number?

Mr. Teruya: It should be one thousand two hundred (1,200).

Councilmember Kagawa: It should be, but how much are actually a commercial parcel, like cattle, for example. Is there a generally accepted ratio of how many acres would require how much head of cattle to be considered commercial, or is there any amount in other states that have generous Ag Dedication Programs? Have we networked?

Mr. Zamora: In 2022...

Councilmember Kagawa: I know Bette Midler's property is a big parcel. When you take the bypass, you can visually see a few head here and there, but is there a generally accepted number that should be followed and does the County require them to file that, because some are processed here, some are shipped as calves to the Mainland United States (U.S.)? I know the County is not in the business of counting heads, but that would be a start to sort of know what the requirements are.

Mr. Teruya: Every pasture is different, every location is different, you have rainfall more in one area, grass is better, etcetera, so to put a specific head count per acre really matters. As Council Chair Rapozo said, and myself as well, I am not a rancher. I could not tell you how many heads of cattle you need per acre, so that is why I think a working group is good to establish the rules and identify what it is you want us to inspect.

Councilmember Kagawa: The other way, we talk about the people being in power. When we had the Transient Vacation Rental (TVR) problems outside of the Visitor Destination Area (VDA), there was a female named Joan Conrow who exposed a lot of properties on Kaua'i and started planning with rolling... "These are low-hanging fruit, let us look into them," and we got a positive action. It stopped the misbehavior of some of those who intended to go in that direction, but I think the people have the power. Is there a list for the public to see which parcels and owners are getting these generous Ag Dedications, because the people are in power and can see, and as you mentioned, you are complaint-driven, so is there a way to have the public access and know who are getting these big benefits?

Mr. Teruya: It should not be a problem to establish that. We would just create a thematic map that highlighted all parcels that are receiving Ag use and farm it out, if that is what the wish is, and the Administration grants us the authority to do that, we can create that layer for the public.

Councilmember Kagawa: Okay, thank you. Thank you, Chair.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I hate to ask you this question, because you folks are really new...all three (3) of you are new to your positions actually. Perhaps the Managing Director can ease up, but we did the work in 2020 when I first joined the Council with Councilmember Carvalho, Councilmember Kualii, and Councilmember Cowden. There was a number of head that we put on this thing. It

was a four-to-one (4:1) ratio. It was a very generous four-to-one (4:1) ratio actually. In some rain precipitation areas, you can go to a two-to-one (2:1) ratio. When we went out with the grazing specialist on the Gay & Robinson land, we sat in this whole room. We did the homework. It was five-to-one (5:1) ratio. It is in place and you just need to go back through your archives. In 2020, there was a working group in here that met and solved this issue, so get those numbers. You can completely tell, Mr. Teruya...I will ask you this as a question. If you go out to a farm that has paddock rotating cattle, you can tell. Should the grass be at different lengths in different paddocks when you folks investigate or should it all look nicely mowed like a golf course? Which is it?

Council Chair Rapozo: He just said he is not a rancher.

Councilmember DeCosta: That is the point.

Council Chair Rapozo: Do you even know what a paddock is?

Councilmember DeCosta: That is the point I am making, Council Chair. As a rancher, myself, we did the homework with the Council in 2020. They need to look through the archives to get the information.

Council Chair Rapozo: I got it.

Mr. Teruya: To be honest with you, the most difficult part when you are dealing with over one thousand (1,000) acres is to just find the cattle in such a big farm. The biggest challenge we would have is to identify where they are and count the head.

Councilmember DeCosta: I think the drone situation which you folks are moving towards...would a drone help you folks cover a large area?

Mr. Teruya: Yes, but we would need to find a pilot to drive it.

Councilmember DeCosta: Let us know. With a nine-million-dollar loss, you could hire another person.

Council Chair Rapozo: If you come across a property that has an exemption or a dedication that they should not have, can the County go back three (3) years? Is that it? Rather, what is the penalty?

Mr. Zamora: As of the Ordinance change, the rollbacks have been canceled, so there is no rollback of taxes. What happens is the Ag Dedication is canceled and they have to the next year to correct their non-compliance.

Council Chair Rapozo: There is no penalty?

Mr. Zamora: There is no penalty currently in the Ordinance. That was done away with in 2022.

Councilmember DeCosta: I can explain that.

Council Chair Rapozo: We can do that in discussion. Are there any other questions for the Administration? Go ahead, Councilmember Carvalho.

Councilmember Carvalho: I have a clarify quickly. I think Councilmember DeCosta...the nine-point-one (9.1) was what again?

Mr. Teruya: Basically, it is your subsidy. That is the difference of what they are paying versus what they would pay if they did not have Ag rates.

Councilmember Carvalho: I got it.

Council Chair Rapozo: Are there any more questions?

Councilmember Cowden: Yes, I have a question. I imagine that you do not know how much this audit would be yet, because it needs to be analyzed, but what I will be wanting to know in the future...I do not expect you to be able to answer this right now, but something that I think is really important when we are looking at any of these is the cost and the timeline. I know that we did four (4) audits when I first started six (6) years ago and some of them are still just finishing, so we only have two-year terms, so I am hoping when we do these things that we get a shorter timeline than four (4) years. That is something that I will be wanting. You folks do not know that yet, right?

Mr. Teruya: No, but we can prioritize. For me, I would prioritize with what the biggest subsidies are, who the biggest ranchers are, which are the biggest ones, and we prioritize that way first, then go through the rest of the list to be even and fair with everyone else. That is how I think we would start it—start from the big ones, the ones with the biggest revenue changes. We would start from there and go down one by one. I think the periodic changes for us would be, number one, to actually start going out and looking at the ranch. I believe the Code already gives us the authority to see it, so we would just contact the owner or manager, set up a time, and go see it.

Council Chair Rapozo: Do you have their Ag plan? They need to be following the Ag plan. If they change, they need to amend the Ag plan and be approved. We have what we need. We may not have the manpower, but that is something we can address at the Council level with funding, because I believe that the funds generated by the...and that is why I am confused that the County does not have a penalty or a rollback, but that would pay itself. It would pay for the enforcement of this program, simply by reclaiming the revenues that the County is not getting right now.

Mr. Teruya: Yes, Chair. If it is not already in there, I think the recommendation would be if we find a violation, that for the existing tax year we are in, that it is removed or rejected and recalculated for taxes for that year.

Council Chair Rapozo: Yes.

Mr. Teruya: That would be the recommendation.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: Since the rules are suspended, can we have Managing Director Reiko Matsuyama up, because she was in charge of this, and she can answer the question of why the rollback was taken away.

Council Chair Rapozo: Hold on.

Councilmember Kualii: I do not really have a question, Chair; I have a process question.

Council Chair Rapozo: Okay.

Councilmember DeCosta: I think that is important.

Councilmember Kualii: Before we even go further, I think that to a certain degree we are getting beyond the approval of an audit. The discussion is very interesting, I think we learned a lot, and it also seems to me that we learned that we really do not need an audit. We have the things in place, we know what the problem is, yes, you should start with the biggest impact properties and just do it. I do not think it can wait until next year's budget to fund anymore positions or whatever, but we should not wait. If it takes a money bill or whatever...process-wise, I think we are getting deep into the discussion when we are supposed to be approving an audit. I am surprised an attorney has stepped out. I was looking at him a couple of times.

Council Chair Rapozo: Today, the discussion is to...

Councilmember Kualii: We are talking about the inspection process, the working group, and getting deep into the bill and all of that, but after all the discussion has happened, are we now back at a place to say we perhaps do not need an audit and that we know what needs to happen?

Council Chair Rapozo: Absolutely not.

Councilmember Kualii: There is a problem. We do not need an audit to tell us there is a problem. The County is potentially losing a lot of revenue, because the County potentially has several property owners who are not really doing Ag work.

Council Chair Rapozo: I think the information is important for all of you. I absolutely believe we need an audit...

Councilmember Kualii: Let us just vote to approve it.

Council Chair Rapozo: Hold on. I heard from these two (2) gentlemen that they welcome the audit, because that is what the audit is going to do, so we need to have the discussion, especially on this item. The other items are self-evident, but this one, because of the information, I want to make sure you folks have the information you need to make a vote. If you folks believe we do not need an audit,

then we do not get an audit, but how else? We do not have policies in place. We need an auditor to tell us, "These are recommendations we have on how you can do your policies or what your policies should be. This is what our random checks provided...that in fact, thirty percent (30%) of the samples that we checked should not have had an Ag Dedication and that it cost the County three million dollars (\$3,000,000)." That is what an audit will provide. I am not confident that we just allow you folks to start working on your rules and your policies, and start checking properties. One (1) person cannot check the properties. How will that person check properties in addition to processing applications for Ag Dedications? I am a realist. It is not going to happen, so I think we need some help. The audit provides a roadmap for us to follow, if we choose to, and finally get a handle on this issue. That is why I am allowing the discussion. As I said, the rest of these are very self-explanatory.

Councilmember Kagawa: Process-wise, I feel the same as Councilmember Kualii. If we know we do not have the workforce to do what Mr. Teruya knows needs to be done, then we do not really need the audit. If we really want to look deep into it, what we need to do is support the staff with more personnel to assist Mr. Zamora in doing the job, do some testing on some of the top ones, and if they need to dig deeper, then they will ask for more staff, but how big is the problem? They can project by taking a few. I think they know there is a problem. The audit will just tell us the County needs to have more resources and whatnot to help them do their job better. Model other counties that are doing a heavier, intense workload on giving this type of huge tax break. I feel we know there is a possible problem, but without the staff, they will not even know how far to dig.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: What I think is a good idea in having the conversation right now is that if we say, "Yes, we want to do an Ag Dedication process and enforcement audit," and just hand it to them without any sort of conversation...I like that what we are bringing out is that very large landowners often with a lot of capacity are paying some of the least, and it might show us little pieces that we perhaps need to fix in our own ordinance, because I know a lot of these...

Councilmember Kualii: The income threshold...he told us about it. There is none.

Councilmember Cowden: There is none, and then a lot of the complaints that I am aware of are personal retaliation—divorce, people being mad at someone. It is not really that they are not doing the right thing; it is that they are attacked, so the glaring difference...so I think there is some value in us having a conversation with them, in terms of responding to your process point.

Council Chair Rapozo: We will take it ad seriatim, and take a vote on each of the items, but let me make my case, because I have been here long enough to have had departments come through this Council Chambers and say, "We just need more manpower." Pick your department and we have always given more manpower, but if we are not directing that manpower into a planned and organized effort, and more people are doing the same thing, the County is not going to improve. Threshold.

What is the threshold? Do we just let you pick a number? Thirty thousand (30,000). Do we let you pick a number? Thirty-five thousand (35,000). Maybe the next person says there should not be a threshold in case of floods, hurricanes, etcetera, and maybe there is no income this year. Why would we not let the audit tell us what the recommendation is? That is my point. We can guess. We have been guessing for years. You just told us that if you go through the records, the County does not even have defined policies. Who will define these policies? Why not let the auditors come back to make the recommendations that they do well? That is why we need an audit. I do not know why people are hesitant about audits. I have introduced more audits in this Council than anyone else and I have had more audits rejected than anyone else. Everyone is afraid of audits, but we do not have the expertise in our house. I mean no offense, because we are talking about government policy. We are not talking about ranching, Ag farming, and tomatoes; we are talking about government policy. What is government policy? That is why we do audits. It is so that we can get good recommendations. We will do it ad seriatim. Like I said, I do not take any of this personally.

Councilmember Kualii: I do not know that we need to do it ad seriatim. I will just say that from my viewpoint, I am not advocating for not having an audit. I am just saying that by getting deep into discussion, we are sort of solving the audit ourselves, and we are learning from them. We just learned so much by approving the audit or not. I still support you and I still support the Administration. If you both agree we need the audit, I will support the audit. I am not saying I will vote against the audit.

Council Chair Rapozo:

Councilmember DeCosta.

Councilmember DeCosta: I want to chime in. Again, there is a new Council every two (2) years and I feel Councilmember Carvalho, Councilmember Cowden, Councilmember Bulosan, Councilmember Kualii, and I sat with former Councilmember Evslin and former Councilmember Kaneshiro. I believe we solved these issues. There is a plan in place right now to audit and check on our own. You folks are very new, but the people who were sitting there before with a Chamber full of ranchers—Farias, Robinson. There were here. We spoke about the number of cattle per acre, showing on the schedule after revenue that they earned, going out and inspecting, looking at gentleman's farms that are legitimate (legit) and not legit. If you folks are uncomfortable and do not know enough, and the audit will help you, then fine, but if you can tell me that you folks know exactly what you need to do and that maybe manpower is the thing, but it seems like we are recreating the wheel again, because we did a lot of work. Did we not overhaul the County's Ag Dedication? That is what I wanted to ask the Managing Director. We overhauled it.

Council Chair Rapozo: Let me ask you a question, since you said we are recreating the wheel. Did you folks do an audit?

Councilmember DeCosta:

No, we did not.

Council Chair Rapozo: We are not recreating the wheel. That is why we are doing an audit. It is because what you folks did, did not work. We do not have much authority. I cannot tell you what to do. Everyone knows that. It was said earlier

today. I cannot tell you, "Check this parcel. This person has a..." The only real authority we have if we cannot get the Administration to move in a way or get the results we want to see is by the power of the audit. That is why I am doing this. We asked for money in the budget, you supported more money in the budget this year to add audits, and that is why we are here today, so do not be afraid of audits. Audits can be a very helpful tool. Again, this is not something I am "dropping the ball on" today. We had this discussion with the Managing Director and with the Administration prior to this showing up on the agenda today.

Councilmember Cowden: I am still unclear about the categories, because I would want to see...you can just go on the qPublic website, and go boom, boom, boom, boom, boom. But in case someone does not know, qPublic is the website where we look at our Real Property tax. It becomes really obvious who gets the unbelievably good tax breaks. In our Consent Calendar a couple weeks ago, there was even the Board of Review outcomes. We just go through it, but it was glaring to me who does not have to pay. I would go for the "big fish" and look where they are. They are side by side by side by side, all the way down. It is easy to see where all these "big fish" are. On these little, small ones, people are growing food. You can sort of go and see. I do agree with Councilmember DeCosta that we did look a lot how we can figure that one out when we did the Ag Dedication, so every five (5) years, it pretty much is re-looking at it. When I said the three-year thing, that is pretty much after the very first time. Once those trees are in place or whatever...but I do want to say one (1) thing about cattle. If you drive north of Anahola, they have a lot of irrigation going on—the sprinkler irrigation. It looks like they have about twenty (20) cattle per acre. It is a huge amount of density and a real green field, so there may be a difference when you have irrigation, but I want to go for the low-hanging fruit where the abuse is obvious. It is land banking.

Council Chair Rapozo: The way the audits work is they do a random sampling and that is how it works. That is what the standard auditing procedure is. When I see large landowners who are benefiting and paying two hundred dollar (\$200)...and these folks are billionaires who would not even hesitate to write a check for the property tax, that really bothers me. What I want to see is these large landowners lease out their parcel to qualify legitimately for the Ag Dedication to a local farmer or a local rancher. In other words, if I want to benefit, I need to be a farmer, but I do not need to be the person getting dirty because I do not even live here. I am a billionaire in my private jet flying over the world. I cannot be dealing with horses, cows, trees, and tomatoes, but I can lease out this for one dollar (\$1) a year to a local rancher or a local farmer who can create his or her business on my land at a very cheap rate and that qualifies me for an Ag Dedication. That is what I want to see. Just to pretend that it is not existing...you said it, you just need to click on qPublic. Ag Dedication, really? I do not see fruits and vegetables or beef coming from there, and that is what bothers me, because when I receive calls from the "aunty" who lives in Kalāheo who lost her Ag Dedication, is paying nine thousand dollars (\$9,000) a year, and the billionaire is paying two hundred fifty dollars (\$250) a year, I do not care what anyone tells me, that is not right. That is not right and we sit here talking about fixing it, let us fix it and let us make the people pay if they do not qualify. That is the whole purpose of this program. Go ahead.

Councilmember DeCosta: Chair, are we discussing?

Council Chair Rapozo: Yes.

Councilmember DeCosta: Okay. That is great that you made a point on one dollar (\$1) a year to the local rancher or local farmer, but that local farmer now needs to show Schedule F (Form 1040) income, because there would still be no income on the property for the billionaire. The last thing I want to say is for everyone to watch and listen to. The billionaires out there can afford to pay the taxes. They can. Those large landowners can. There is only one (1) large landowner who cannot afford the taxes and they are on the Westside. If that happens, that landowner will be forced to sell and there will be another wealthy billionaire on that land on the Westside, and we are going to be more messed up than we are now. That is why I made my point on the Ag Dedication in 2000 when we agreed that some of the lands that they have out there is almost ten (10) acres to one (1) and the person sitting there was Mike Hubbard. We told Mike Hubbard that when he goes out there to assess the Gay & Robinson land that he needs to give them grace, because with dry land you sometimes need to go ten (10) acres per cow, but the audit will not show that. An audit will hold that they are not accountable and they will need to come up with taxes that they cannot pay, and another Zuckerberg will buy that land.

Councilmember Cowden: I have another follow-up on that.

Council Chair Rapozo: Go ahead.

(Councilmember DeCosta was noted as not present.)

Councilmember Cowden: Where I want to support what Councilmember DeCosta said is that when we talk about if someone does not get their re-Ag Dedication plan in, like in one of those big fines that came out that was just staggering is they moved away from corn...I cannot take credit for that, but I was part of the resistance, right? They moved away from corn and they moved into cattle. We even gave them significant grants for fencing and irrigation. Of course, we knew what they were doing, but because they did not realize they had to check a box and turn in another plan, we fined them like crazy. It was a debilitating fine, because there were not good administrators, so how we do everything really matters, so we want to be careful that our policies are good. Like I said, it is so important to be smart and why I think also food production is at least at much as dollar production, because if you have a small area, you cannot sell everything and make that much money, but you are producing food, it goes out, and people are eating it.

Council Chair Rapozo: Again, the audit is going to give us a basic framework, a foundation, to build upon. The auditors do not legislate, we do. The auditors come back with recommendations. This is not about individual landowners, either. This about a policy that we set, legislation that we make that should be fair and consistent for everyone.

(Councilmember DeCosta was noted as present.)

Council Chair Rapozo: It is not this one or that one. When we create legislation, set up rules, and set up policies, if there are natural issues like weather, you create those variances or exemptions to make sure we are not punishing people.

That is what we do, but need to have the basic foundation to start. In my opinion, we do not have that right now. When we have that in the way of an audit or whatever you want to call it, that is when we start building a policy that will be fair and consistent. That is the goal. Councilmember Carvalho.

Councilmember Carvalho: Having been involved in many discussions in the past...to make sure that an audit is done that there is action afterwards, that we follow through, and that you folks understand that. That is what I am hearing. We have gone through numerous discussions on farming, agriculture and all of that, so maybe we do not need an audit, but today, I am hearing from the Administration that once an audit is done, we need to take action and put it into action, instead of sitting on it. That is what I am hearing you folks say. That is where I am at.

Council Chair Rapozo: For the public's information, the audits are being done in our office. It is coming out of the Office of the County Clerk, Council Services Division. We are funding the audits, not the Administration. We get the report back. It is the Council that does the legislation, it is the Council that determines the Ag Dedication process. It is the Council, whoever may be sitting here when that happens. We are all in this together, right? We just want a good product. We want a good program where people cannot take advantage of the system. That is all I am saying. Yes?

Councilmember Kualii'i: I have one other quick thing. Along the lines with what Councilmember Carvalho said, my hope is that as the audit progresses, and who knows how long that could take, that based on some of the things you, Mr. Teruya said about your Department, will still begin the work that you know you need to do. Perhaps pick the top five (5). It will not take a lot of resources and effort if you pinpoint to start doing the work, because you can anticipate what the audit will show. Whether the audit shows it or not, if you go and look yourself, you will see if there is a problem or not, and we can begin addressing it, because that is my only concern. It is that we get going. Thank you, Chair.

Council Chair Rapozo: You folks will be a big part of the audits. You folks will be in the communication with the auditors. That is how this process works. It is not like a criminal investigation where we will catch you. No, they work with you folks. You folks know this, you have been through many audits. For financial audits, they work with the Administration. "What are your current policies?" It is a collaborative process. It is not this horrific, evil attempt to get you. This is to help us make a better policy.

Mr. Teruya: Just to let you know, we are not against the audit as well. The audits are good for us. That is what we want—guidance. Secondly, we are not asking for more personnel at this time, but if the recommendation is that we do something and we need more personnel to do it, then we would need it, but as of right now, we are not requesting more Ag appraisers. We are just doing what we are going to do. As Councilmember Kualii'i said, let us go one (1) by one (1) and we will eventually get there. Councilmember DeCosta did a lot of the work himself. Perhaps we need to understand the program a little better, and then we are going to be establishing updated rules for agriculture, so that is next on our list.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I just want to say I am in support of Real Property. I am the Chair of the Finance & Economic Development Committee. Mr. Zamora and Mr. Teruya just started, and we are trying to give them some negative light on the Ag Dedication Program. Work with them. Work together. Do you want to have a detailed discussion with them? Send a request to me and we will set it up. That is how it works. What we are doing here is telling them do one (1) thing—we want more taxes from those who are cheating—but on the other hand, we want to protect our Ag industry, which I am for. I want to keep the Ag options open for sustainability. I do not want to force them to sell their land to rich landowners, as Councilmember DeCosta said. We are telling them there are some things we like and there are some things we do not like. We want to tax Mr. Zuckerberg, but do not want to tax Gay & Robinson, Inc. You cannot create policy using individuals. That is wrong. I am for the audit. Let us move on.

Council Chair Rapozo: Is there anything else for the first item? With that, next is Solid Waste Operation Issues. This is a concern that has not gotten better and I have had discussions with Mr. Tanigawa over the last several months. It is a concern of his as well. Thank you. Please stay on. I do not want you to go out and put in your resignation now. In this Council, we fund equipment, personnel, and all of these things year after year, and it does not seem like our level of service improves. Solid Waste Division is not an easy division. The Department of Public Works is the largest department, but like the Ag Dedication process, I am asking that we conduct an audit on what the reasons are. Is it because our equipment is outdated? Is it because our processes or policies are outdated? I do not know. That is the thing—we do not know. Maybe it is scheduling. Whatever the case may be, let the auditors take a look at what is going on and make recommendations on how the County can improve the service to our communities in the solid waste area. It is very simple. Did anyone need to ask any questions to the Solid Waste Division?

Councilmember Cowden: I just want to make sure that I am participating and doing a good job. I have only really been involved in this six (6) years ago. Thank you for coming up. The first audit we did on the Solid Waste Division was on morale and it did not come out very good. Has morale improved? I worry about health and safety. What improvements have been done? You were not in charge during the time that morale was down, but you got to be the person who got the audit. How did you improve that? It seems like you are doing a repeat relative to the staffing piece.

TROY K. TANIGAWA, County Engineer: Troy Tanigawa, County Engineer. At the time the audit was done or once we got the results of the audit, part of the recommendations involved surveying employees. The surveying was done.

(Councilmember Carvalho was noted as not present.)

Mr. Tanigawa: We got some feedback, but the important part about the survey is that we get participation, and based on the results, it looked like participation was poor. A lot of employees did not respond, albeit it was voluntary. We did not get all the input that we hoped to, but the results of that survey led us

down a path that we felt would adequately address what we knew based on the responses that we got. We still have not solved the morale issue, because we have a seven-day operation and issues continually come up, but we try to resolve issues timely, so we do not have them linger. I think we have been knocking them off one (1) by one (1). I do not believe we have any outstanding issues that we have not addressed with either the Union or directly with the employees that are still lingering after a long period of time.

Councilmember Cowden: I appreciate that you brought up the Union. When the Council does an audit, does the Union come into it all, because I think employees are less likely to bluntly complain? First of all, if there are any employees from the Solid Waste Division listening, we really appreciate you. You do what most of us do not want to do, so you really deserve our gratitude...and how important they are for the wellbeing of this island. Is it something where the Union comes into it to be able to discuss collective complaints?

Mr. Tanigawa: Yes. Typically, when it involves more than one (1) employee, the Unions come in, but not all the time.

Councilmember Cowden: But in an audit would the Union be approached?

Mr. Tanigawa: I guess who they want to interview is up auditor, but like I said, we try to address issues. Sometimes, issues can be addressed directly with the employee, but at other times, the Union gets involved.

Councilmember Cowden: Can I ask a question on the equipment?

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I was not here before the County had the one-man trucks with the electronic arm, but it seems like those are difficult to operate, they bump into things, and do damage. Anecdotally, I do not remember beforehand that the County had so many problems. I know retraining is a part of it, but would we be looking at equipment like that to see if there are problematic elements of the equipment that cause these challenges, because I think that seems to be a persistent issue?

(Councilmember Carvalho was noted as present.)

Councilmember Cowden: I always tell my son, "Never park on the street on garbage night." Can you speak to that at all?

Mr. Tanigawa: In the beginning, when we first implemented the side loader truck operation for automated collections, there were issues about parking. Refuse collectors could not get to certain areas, because people were not used to it. Now, it has been in place for at least a decade and we seldom have issues, that I know of, where refuse collectors cannot get to their collection points. In general, Solid Waste operations is a highly mechanized operation because of the sheer volume and type of materials that are being handled. When it is mechanized that way, it

requires maintenance. It requires daily maintenance as well as preventative maintenance that the mechanics usually do. Daily maintenance is done by operators. If daily maintenance is done properly, then that reduces the amount of regular servicing and maintenance work that happens when you take the trucks in for servicing, and equipment lasts longer. There is a combination of things, but there is also a human element here when you talk about equipment damaging things and bumping into things.

Councilmember Cowden: That is what I am talking about.

Mr. Tanigawa: That is a human element. We constantly work on that. We get turnover in the Solid Waste operation, because people retire, new employees come onboard, people call in sick so we get replacement drivers, and again, there is that human element that comes in and sometimes things happen. You bump into vehicles and you bump into other things that you would not do if the normal driver was there who is used to the route. We try to manage all of those things in the best way that we can in a timely way.

Councilmember Cowden: Would looking at sick leave and vacation time or time off be helpful to the management of your organization if that was part of the audit?

Mr. Tanigawa: Could you repeat the question?

Councilmember Cowden: When people have time off and you have to put someone else in or when they run twice in a day...sometimes they do their shift and they do someone else's shift...I would probably like to look at how often that happens. Is that something that would be looked at in this?

Mr. Tanigawa: We have that data.

Council Chair Rapozo: Let me just clarify. The scope of this specific audit was to look into the reasons and the causes for the closures of the facilities—the transfer stations and the landfill, because it seems to be increasing.

Councilmember Cowden: Okay.

Council Chair Rapozo: This is not an audit over the entire Department of Public Works or the Solid Waste Division, but more specifically to the issues that are impacting these facilities staying open, because that is the complaint we get. They will be looking at the equipment as well as staffing. Like you said Mr. Tanigawa, if the auditor determines that morale is an issue, they move into that area, but right now, the scope and the focus is on what is causing...on the press releases, it is either a staffing issue or an equipment issue. Hopefully, this audit will bring to light what the root causes of those issues are that are causing these places to need to close. That is the intent. Once the audit starts, again, working with you and the Council, we do not where it goes, but that is what the scope will be.

Mr. Tanigawa: We are hoping that the BMP improvements that we are doing now at the transfer stations will...because it is replacing a lot of

the old, antiquated equipment, we are hoping that will resolve a majority of those closure-type situations that currently happen. The facilities that we are operating now were built in the 1970s, so a lot of it is fragile now, so we are hoping to get past that with the new improvements.

Council Chair Rapozo: Thank you. Are there any other questions for Mr. Tanigawa? If not, thank you, Mr. Tanigawa. Ms. Matsuyama, would you like to come up and discuss the last three (3)? You can just do an overview, and if there are any questions...

REIKO MATSUYAMA, Managing Director: Yes. Good morning, Councilmembers. Reiko Matsuyama, Office of the Mayor. The next three (3) are the Administration's recommendations to the Council for audit reviews. They are some areas that we see the ongoing struggle that we cannot necessarily solve on our side, so we want to bring that to you folks to see if there is any interest in potentially conducting an external audit. The first one is Residential Building Permit Review. This is sort of stemming from the University of Hawai'i Economic Research Organization (UHERO) housing study where we were in last place for it. While we do not agree with the outcome of that study, we know that there are places where the process can be improved. This will not only touch our internal County agencies. The building permit review goes through the Department of Water, which we do not necessarily have direct oversight on, and it also goes through the Department of Health. Those are two (2) of the many organizations that it touches. We do have a good program in place to funnel these permits out to agencies simultaneously to hopefully expedite the review, but we are hoping that because residential is so important to us right now, we want to make sure that we are doing whatever we can on our end to ensure that we are getting the housing supply out. That is the overview for that one. We are also hoping that while we will only focus on residential, which includes Additional Dwelling Units (ADUs), Additional Rental Units (ARUs), guest houses, and anything residential, but any recommendations that come out of that audit can be applied to a commercial building process permit or any of the other ones that we do. The next one is Funding for the Agency on Elderly Affairs. You folks know that a few years back this was completely self-sufficient with State and Federal funding. Now, General Fund subsidies are being requested of this Council and are increasing exponentially year after year. We just want to make sure that now we have General Fund "skin" in the game, where is the money going to and is it being used in the best possible way. We all are on board that we want to make sure our *kūpuna* are served, that every dollar goes towards funding that position, and that we can use our funding for the highest amount of population that we need to, because we know that people are being left out right now. That is the overview on that one. The last one is the onboarding of the Department of Human Resources (HR). There are things that are, let us say, union-driven, there are things that are State regulated, and then there are things that are HR have discretion over and we sort of want to identify how we can improve our onboarding process. This sort of goes along with, "Hey, we just did free medical," and that a huge part of recruitment, so how can we assist this recruitment and onboarding, and speed up the process to fill vacancies? Those are the high level of what the items are those three (3) initiatives.

Council Chair Rapozo: Are there any questions for Ms. Matsuyama? Let us start with the Residential Building Permit Process. Are there any questions

for Ms. Matsuyama on the Residential Building Permit Process. I think we all support that one. Are there any questions for the Funding of the Agency of Elderly Affairs? Go ahead.

Councilmember Cowden: The County is having to put money in. Is that because a larger part of our population is getting older and we have more people over the age of sixty (60) than we used to? Is that a big part of it.

Ms. Matsuyama: Yes, there is an aging population for sure. Our State funding and Federal funding is not necessarily increasing to support that. This is not isolated to this County, but our service providers are increasing their rates, because they have labor shortages, so where we used to pay twenty dollars (\$20) for an hour of service, now we are paying fifty-five dollars (\$55). Those discrepancies are not being reflected in the funding that we are getting from State and Federal governments, so that is where we are having to contribute General Funds.

(Councilmember Bulosan was noted as not present.)

Ms. Matsuyama: There is a big gap and we just want to make sure that gap...and you folks that during the budget process, we put money in for the Agency on Elderly Affairs at the very last minute, then even that money, they came to us on July 15, 2024 saying they are out of money. I just want to make sure that we are “putting our best foot forward” in saying, “When we come to you and ask for a General Fund subsidy in the budget that money is going to productive uses.”

Councilmember Cowden: Okay, because what I am hoping and when we got this...at least I cannot find it...I did not get any sort of narrower definition of what these items are and we only get six (6) days. It is the Sunshine Law, so we cannot even talk about it ahead of time. When I look at the Agency on Elderly Affairs, there are older people, but people seem to be sicker and poorer, so I am hoping that this audit definitely looks at that, because to me, that is a State and Federal funding challenge, so I worry that it pushes more of this responsibility to the County. Are those things going to be looked at in the audit? Who determines what goes in the audit?

Ms. Matsuyama: That is sort of developing the scope of the audit. I am not sure if we add those types of things in.

(Councilmember Bulosan was noted as present.)

Ms. Matsuyama: There is a formula for how our funds are allocated, so I do not know if that formula can necessarily be included in the audit, because it is just...

Councilmember Cowden: I think it is important, because when we got our last audits, I do not feel like they asked the right questions, so we did something very simple like this. When they do not ask the right questions, you do not get the right output, so you are not able to fix the problem. As someone who pays a lot of attention to the Agency on Elderly Affairs’ challenge, I think the demographic—the elderly, the sick, and those in economic need—is growing, so you say you have never

had a bigger budget, but you have never had bigger expenses, right? Those things have moved up together. The County is spending more money and getting more money, but it is almost like it is the same, so it is really important that we are able to make sure that we understand as a percentage of population how many of these people are in need, both percentage of people in that age group and then percentage to the entire population, because if we look at what was in the past, I want to see us be at least at the same percentage of funding and the same percentage of what it costs to take care of these people, because the State and Federal governments still need to give us this money.

Ms. Matsuyama: If we are going to look at the formula and include that in the scope, the problems that you are speaking to are happening everywhere, so there is not enough money in the pool to be distributed. Even if you look at the formula, everyone else is suffering as well.

Councilmember Cowden: But we are not chartered for that, so I just want to be really clear that it is not that the County does not care about the people, and I want the County to fix that, but the County is taking over housing and all sorts of costs, and it is not an easy piece.

Ms. Matsuyama: I agree.

Councilmember Cowden: If we do not even look at that, if we cannot look at the problem, we cannot be accountable to what the problem is.

Council Chair Rapozo: Are there any more questions about the Agency on Elderly Affairs item? Go ahead.

Councilmember Kagawa: For the process, I just want to say that I do not want one (1) Councilmember to influence what I project. I trust what the Administration is doing, the Agency on Elderly Affairs is under the Administration's purview, and I trust that you folks will have the audit answer questions that can help you and not the Council. Hopefully, it will help us both, but do not take my statements as agreeing with another Councilmember. I want to be independent on that.

Council Chair Rapozo: As you described, the problem is that the formulas used by the Federal government that funnels the money through the State has not moved in proportion to the cost, so the reason I support this audit is not because of any other reason than providing us with some ammunition, so when we go before the State or Congress, we have the ammunition and we can provide educated testimony that this is what is happening on Kaua'i, and the County at some point cannot carry the burden of the State and Federal governments, but without the "meat" of this audit report...we do it every year anyway, right? We are up there asking for money, but it does not go anywhere, so I think this is a very beneficial audit. Are there any questions on the Hiring Practices and Employee Retention item?

Councilmember Cowden: I have a simple question. Whatever we come up with here, it cannot have any impact on the County's bargaining agreements, right? It seems like there are categories that need to be compensated better that are comparable to how the State has improved, for example, the salary for engineers. I

do not want the County's engineers moving over to the State. Again, I feel like I am making a blind vote, because I do not get to know what is being audited or how it is being audited, and it can take a lot of money. I am not "slamming" you folks at all. I am trying to back you up. I am trying to be well-informed. I am not saying you do not do a good job. That is probably a "No," right? Can it have an impact on bargaining agreements?

Ms. Matsuyama: We are in negotiations now on all of the bargaining agreements, because they all end June 30, 2025. I would imagine it could make recommendations for a pay scale and we have been in the business of doing supplemental agreements for certain sectors of our workforce, so I would not say that is off the table.

Councilmember Cowden: Okay, because that seems like a big piece of what the County needs.

Council Chair Rapozo: Are there any other questions for Ms. Matsuyama? Thank you very much, Ms. Matsuyama. With that, we need to take a caption break. Let us take a ten-minute caption break, then we will come back, take public testimony, then take the vote.

There being no objections, the meeting recessed at 10:29 a.m., for a caption break.

The meeting reconvened at 10:41 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: We will take public testimony. Is there anyone in the public wishing to testify?

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

BRUCE HART: I am supposed to sum up my thoughts on an hour-long discussion in three (3) minutes and three (3) more minutes.

Council Chair Rapozo: Pretty much...

Councilmember Cowden: And your views and thoughts...

Council Chair Rapozo: Your time is running, by the way. Can you reset his time? Thank you.

Mr. Hart: For the record, Bruce Hart. First, I am in full support of the Council Chair's request for these audits. I think that the legislative body, one of its most important powers is to introduce audits. Whether they be financial audits, performance audits, or...I am not familiar with any other terminology regarding audits, but, hey, get on your phone and talk to Google and ask, "What is a performance audit," and the artificial intelligence (AI) will give you an overview, which I have not had time to go into. They are valid and helpful. That does

not mean that I am not in support of everyone else's concerns about once you have the audit, you follow through. You implement the recommendations; you have discussions, and you implement the recommendations. I am also in full support of the Administration, the Office of the Mayor, and the Managing Director for the audits they have requested. As the Council Chair spoke, this is not a "gotcha"—he said it was not a criminal investigation. There were times in Congress they turned into criminal investigations, but that is not where we are starting from on these. Everyone gets involved, including the public. This informs the public how the different agencies operate, and not only the operations, improvements, and efficiencies, but whether they are doing their jobs or not. That is not because we think you are not doing your job; it is just because that is part of our due diligent responsibilities as the legislative and administrative branch. That is what we do. The public needs to remember in their civil studies, an agency is an agency. That is not to denigrate them or to put them down, but they are not a branch of government.

(Councilmember Kagawa was noted as present.)

Mr. Hart: They work for the people and they are stewarded by the branches of government, our elected representatives. "We the People" want our elected representatives to be doing what we have hired them through the vote to do and having mentioned the vote, I will say to the public, "Please get out and vote; your vote does make a difference." Thank you.

Council Chair Rapozo: Thank you. Mr. Sykos.

Mr. Sykos: For the record, Lonnie Sykos. I am in full support of all of these audits. I am also in support of the things the Council Chair said as to why we need to do this, and in support of Councilmember Cowden and the other Members who might have mentioned that follow through on the audit is important as well as the questions asked by the audit is the thing that is utterly critical. I would like to make a point that I got involved in this issue of Ag zoning, Ag Dedication, the promotion of agriculture in the 1980s on Maui. I can tell you from my thirty (30) something years of being involved in this, that the number one thing you have to deal with is the legal definition of what agriculture is. That is the crux of this entire thing, that is what the audit is going to tell you, and "tip of the hat" to the two (2) gentlemen that were here that are stuck dealing with this. I do not know if they are still in the room or not. Those two (2) gentlemen, tip of the hat, what wonderful public servants we have, because they realize how difficult it is to accomplish what they are being asked to accomplish. As an example, say, I am a billionaire, I buy a 1,000-acre parcel and I put one hundred (100) acres of palm trees on it. I am a palm tree farmer. Did I ever sell a palm tree? Did a tree ever get dug up and replanted somewhere else? It does not matter, because I am a billionaire. I just created an LLC, and I just bought whatever your cash valuation is, I just bought one hundred thousand dollars (\$100,000) worth of palm trees from myself and decided to leave them parked in the nursery. There are a thousand (1,000) different ways to cheat on this, but the easiest one to cheat on is to claim farming benefits without the intention of generating a profit, and so what I did learn is the Internal Revenue Service (IRS) is the ultimate arbiter of whether you are engaged in agriculture. It gets down to someone in front of an IRS tax court judge, trying to convince the judge that what they are doing will create a profit in the future. This is really complicated, like

corporations with the thousands of attorneys trying to figure out how to not pay their taxes. Net income is not really the issue, it is profitability. I will come back.

Council Chair Rapozo:
did you want to come back?

Thank you. Is there anyone else? Mr. Hart,

Mr. Hart: For the record, Bruce Hart. In the Ag Dedication process, and almost every one of the types of programs, there is room for abuse. How many of you can bring to mind how much abuse we have talked about in the different programs that we created in the last year? They are going to be bad apples. I do not think even though the big landowners that they necessarily are abusing more, it is just that they are bigger. When they abuse, it is a bigger abuse because they got more land and it involves more taxes, it would potentially provide more revenue. Something that the Council Chair said brought to mind an issue. Historically, if you look at the ownership of lands, especially throughout Europe, you find a situation that we are moving into in the U.S. where you have large landowners, well, I have to say if you look into the history, they had a more fair and equitable system than we have. It was not uncommon at all to do what the Council Chair said, that if you were a large landowner, you leased out your land to the people who had less so that they could make a profit, and they could provide for the community whatever it was that they were producing. You even had large landowners that would lease land to people to grow the crops necessary to produce textiles. People did not wear clothes if they did not have clothes and so the large landowners knew this, and they provided. There is just some type of miserly attitude on the part of large landowners not wanting to share. I am in support of what the Council Chair said, "Hey, start sharing your land." If you do not want to get down and plow land or herd cattle, well then let someone else do it. Be fair. Be a part of the community. Do not wall yourself somewhere. For the small people who are struggling, as Councilmember Cowden said, they are struggling, and so of course we are going to build into whatever program, if there is some type of disaster or if you are small or big, there are some differences. It is going to be equitable. Thank you.

Council Chair Rapozo:

Thank you. Is there anyone else?

SHERRI CUMMINGS: For the record, Sherri Cummings. I am just going to segway into the gentleman that testified prior to and say that I am in full support of what he just spoke of. When he talked about times of...when the Europeans first came and settled with our Hawaiian people, that is the truth. If you look at land tenureship that is exactly what happened. The only way we got fee simple land was from Kamehameha III. King Kamehameha went ahead and gave the land to the two hundred fifty-two (252) *konohiki* families, which is lawful. It is in archives; it is in the Bureau of Conveyances. The two hundred fifty-two (252) *Māhele* lands were awarded to *ali'i* families. I will use Kaua'i as a perfect example and say it straight. When my forefather James McHutcheson Sinclair bought the entire Makaweli *ahupua'a*, he was married to King Kaumuali'i's grandniece, so this is something that one day will come up. When he bought that, his brother-in-law was the third King Kamehameha. When he bought those lands there, there was a sincerity in regard to what he spoke of, the *Māhele* lands were purchased, the *kuleana* families were on those lands. Those lands were purposely for the *maka'āinana* and the *ho'āina*. Our *konohiki* families were never about making money, it was how we managed lands in order to be fruitful.

This time and place is very different today, and we can get on it a little later, I thank the chairman. I went to his meeting in Kekaha and spoke just a little bit about that. I think education is key in how you will see one serious uprise, it is not only myself, but there are others that are vesting our rights into lands that could never have been, who current holders of these lands are today, and the pure intention of our forefathers was strictly to help Hawaiian families that were in those spaces. I used Makaweli as the perfect example of his referencing of what he said. Thank you.

Council Chair Rapozo:

Thank you. Mr. Sykos.

Mr. Sykos: For the record, Lonnie Sykos. I will stay on the topic which would be approving the performance audits. I came back up to say that I do agree with that and would like to point out to the Councilmembers' comments that I was here for the meetings when the Ag Bill got introduced about ten (10) years ago, roughly. I distinctly remember that the reason there is no rollback penalty for withdrawal is because that allows you to realize that your business plan is flawed, you are not going to make any money, you are going to lose money, so you need to stop. We do not want to penalize people for having the wisdom to realize they made a bad business decision. We do not want to penalize them on top of the fact they lost their investment. This is just critical. I thank the Council Chair so much for this Ag Dedication audit because the underlying issues at the national and state-level have to do with trying to preserve Ag land, it is very difficult but not impossible to do. Again, tip of the hat to our two (2) technocrats assigned with this because everything that they said makes the public understand they see the bigger picture and how complicated it is and that they need help, in which this audit is one of the things that is going to provide them to make the decisions they must make as technocrats. Thank you very much for these audits.

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify. Is there any discussion? Councilmember Cowden.

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

Councilmember Cowden: Thank you to everyone. Again, referencing the Sunshine Law, we had a 6-day notice, I did not know that this was coming up. I would have had my own recommendations for areas that may benefit from an audit, and Council Chair, I can do that later, right? Is there a reason why I could not?

Council Chair Rapozo:

Correct.

Councilmember Cowden: In general, I am going to support these audits, though it feels a little uncomfortable to me to not see the narrow descriptions that frame the inquiry, because how do you ask the question of what works out? Relative to Ag land, which is, I think, a really important part of how the County—both the Administration and the Council—shapes our future. It might be that we need a couple different tax categories for it. For example, when we are looking at the large landowners and how they even manage land that is part fallow, we have talked about that relative to fire breaks. We see how much, like if there is irrigation, it assists in not having a wild burn. We need to be able to look at that tax law more than

necessarily Ag Dedication law, and then I think in alignment with what Ms. Cummings was saying about Hawaiian land management. I see it as food production as at least as important as profit production, because when we have food production and resource production, I do not think that we should punish those people. If they are not good business people, maybe they need to figure something else out or how exactly they are taxed, but I see that as an investment in the future. When we have solid food production, we can have all types of challenges in the chaos going on in the world. When we have our food here, we are safer and really stop our rubbish problems substantially, being resilient and self-sufficient is priceless. I do not want to be doing something that is going to be punishing people who are doing as much as they can to utilize and manage their land productively. That is probably more policy and tax than audit, but I hope we have a mindset that we are not trying to hurt or runoff little farmers.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I support the audit. The Administration supports doing it. With the Ag audit, I am a little hesitant as far as what direction the Council is wanting them to go into. Are we trying to reduce the amount of maybe Ag parcels that are not performing up to the standards that individuals on the Council may feel like is not enough? I look at it as sustainability for this island. If we can become food sustainable, we will be better off in the long run. I think our children are looking towards where we keep Kaua'i as "Kaua'i" as we can. Look at Kukui'ula, that was wonderful farm land, local people grew up there, and what has it turned into? Is that the direction you want to go? We want to tax them more and let them go in different directions. Is that what the Council wants? Do we want to keep this land available for Ag when it is ready? If a lot of people are choosing to go in the cattle field now, holistically, how do we work with the State? We are trying to get the processing facility so we can get more local-type meats at places like Costco. If you shop at Costco, you can see trays going out in every cart, trays of meat. We look at the land and ask, "What is the best way to accomplish staying in Ag Dedication?" It is probably having cattle. If we do not take the next step, then for the cattle farmers, they earn measly amounts of money on that very hard-working industry, but again, it is connected, like Councilmember Carvalho talked about. It is connecting. How do we connect so it makes sense financially and for our people at sustainability? I think that is more the direction I am looking for us. We had big landowners leasing out to Duke Wellington, those types of farmers that they allowed these Ag Dedications to succeed, because they are farming on the land. You do not make a lot of money because we do not have the next steps. You have to ship the calves to the Mainland U.S. Do you know what it cost to do that? We have to work together again with the State and make everything make sense, but I want to caution the Council that we do not want to see the County lose Ag lots to Zuckerberg and to others, all because we are saying they do not qualify for Ag. They are so rich, they will sell it or parcel it off to their other rich friends and make some money on it, and the County can collect the regular Ag rate on the one hundred percent (100%). On the other audits, the Administration agrees with all, and they want to improve. I am hoping that with their experts in their departments, they will develop the questions where they can benefit from the audit, and we can expose some areas that perhaps they are not performing as well as they want. The mayor from day one, as soon as I got in, he had that meeting with me and said, "Come talk to us and give us a chance." If you had a specific

question, you are frustrated and you are not getting it put it in writing, give it to them. If they do not answer, that is a problem, you should put it on the agenda after that. I think that is the direction the Council has to go, not to try and get every answer here, because you will not. There are too many. We would take all day in a meeting on one (1) item. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else?
Councilmember Kualī'i.

Councilmember Kualī'i: I am in full support of these audits. I feel like the audits will give the Council better data and data that we need as we make future decisions on the bills that would potentially make the processes better. I am in full support.

Council Chair Rapozo: Councilmember DeCosta.

Councilmember DeCosta: I am going to support the overall umbrella of all five (5) audits. I have a strong reservation regarding the Ag audit, and the only reason why, which I would like to clarify in this discussion, is we did a lot of work with the Council before this that had many things in place that I believe if Scott and his group look at what they put in place with the grazing specialist from the University of Hawai'i at Mānoa (UH) who came and sat in front of the Council to tell us that the different lands, precipitation of rain and where proper ranching should take place and how landowners can ranch, and some of them cannot ranch on the head count per acre that they need ten (10) acres per head. He even told us that there are some areas in the mainland where cattle ranchers ranch one (1) cow per one hundred (100) acres in Nevada and Wyoming where there is no grass, just sage brush, salt brush, wild weed, those are three (3) different categories of food sources for cattle that is not grass. They roam through the mountains, and they feed. We have that type of ranching on Robinson land right now. We do not recognize that type of ranching. We say it is a paddock ranching, we have to rotate our cattle, and that is what a normal ranch does in an area where there is no wild open land, but Robinson has a lot of wild open land. What scares me a little bit, is I want to make sure that we hold people accountable to farming and ranching, but when we audit or when we decide, because we are going to make that decision, Scott will make the decision who can be a legitimate farmer or rancher. We have to make sure that we do not give the avenues for these very wealthy people, like Councilmember Kagawa said, if they get their Ag taken away, they can afford to pay the taxes. When other farmers are "land rich" and revenue poor, they cannot pay the taxes. We showed that with the last tax exemption for the island of Ni'ihau. This Council voted to give that tax break so we do not lose Ni'ihau to a billionaire. I do not want to see our large Ag lands be taken over by billionaires because certain landowners cannot afford to pay that different conservation tax, because now we do not see their Ag operation as being a legitimate Ag operation. I want to see that working group be designed, I am willing to sit on that group. I know Ag. I am an Ag rancher myself and I want to make good decisions for Kaua'i. Thank you.

Council Chair Rapozo: Councilmember Carvalho.

Councilmember Carvalho: In wrapping up, I am in support of all five (5) audits, and what Councilmember Kagawa just mentioned. My thing is not just the audit but making sure we follow through and put it into action whatever the results are and work together to make it happen. That to me is the overall...having gone through numerous in the past, I think with the five (5) areas, we can hit it and follow through on it, to me, that is a big plus. I am looking forward to working on that. *Mahalo.*

Council Chair Rapozo: Councilmember Bulosan.

Councilmember Bulosan: I would like to thank Council Chair Rapozo for putting this on the agenda. I think this is the right exercise for this Council group and necessary for the Council to manage things properly and learn more about how to improve. I appreciate the Administration being open to it and adding a few more things that are necessary for our community. Thank you.

Council Chair Rapozo: Thank you. Is there any further discussion? If not, I will close with this, the specific request is to conduct five (5) performance audits, not investigative audits. This is to provide roadmaps or guidelines for us to use to make these programs better. The Ag Dedication Program, the intent of that program was to subsidize farmers and not subsidize large landowners, subsidize farmers. I know there is a lot of concern about the big landowner who might just sell the property, but whatever they do, they do. The bottom line is if you came into the County and you hired some expert to create an Ag plan that you had no intention of fulfilling or complying with, then you should be held accountable. As far as the rollback, I definitely do not want to see the rollback being applied for a genuine farmer who came across bad times and it was not intentional or fraudulent, it is just that they had a bad season, they had a bug, weather, or some other reason why they could not produce that threshold of...that we do not have, by the way, but to take them out of compliance, but if it was not intentional or fraudulent, then of course we will not charge them a rollback. But if in our inspections or the audit came across a landowner who absolutely had no intention of farming their land, and this is some private getaway or their escape from the Mainland U.S. or wherever they came from, then they should pay a rollback tax. If we can show that they had no intention of farming, and going back to what Councilmember Kagawa mentioned about the people walking out of Costco with meat in their carts, imagine if you were a rancher and you had an opportunity to get fifty (50) to one hundred (100) acres, and you were able to go on this beautiful land and do your thing and provide that steak so you do not have to go to Costco, that is what we are trying to do. The Ag Dedication Program is to incentivize farming. We as the Council pass laws and the Administration do administrative rules and policies that encourage farming, that is what we have to do. Councilmember Kagawa brought up Kukui'ula and absolutely, no one wants to see "Kukui'ula" all over big land, but let us say on the North Shore, Moloa'a, and Kilauea, these landowners for them to covert to Kukui'ula, they would have to come back to the community, to the County, to the Council to get rezoned to Resort, which would never happen. I do not see that happening. If you have Ag Dedication, you better be farming or ranching, and I am talking about legitimate farming. As far as Councilmember DeCosta's concern about the Westside properties, we cannot categorize all the properties and all the requirements, because Ag Dedication cannot be "rubber stamped" across the island, because every part of the island has different

weather and environment. Eventually when these policies are developed, we have to provide variances and exemptions to the parcels that do not enjoy rain, because if you have a dry season, obviously, you are not going to be able to farm or ranch, you will probably have to relocate your animals. This is not intended to target or go after people that are farming, but to make sure that the people that get the benefit of taxpayer dollars, because that is nine million dollars (\$9,000,000) that the taxpayers are subsidizing the Ag community. I do not have a problem with that if they are conducting an Ag activity. If the owner lives on the Mainland U.S. someplace, visits two (2) to three (3) months out of the year, and enjoys that beautiful space and he has an Ag Dedication, they should pay regular rates. That is my opinion.

The motion to approve C 2024-224 was then put, and unanimously carried.

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

COMMITTEE REPORTS:

PARKS & RECREATION / TRANSPORTATION COMMITTEE:

A report (No. CR-PRT 2024-05) submitted by the Parks & Recreation / Transportation Committee, recommending that the following be Received for the Record:

“PRT 2024-05 – Communication (08/05/2024) from Committee Chair Bulosan, requesting the presence of Alanna Bauman, Early Childhood Education System Coordinator, Kauaʻi Planning & Action Alliance and Cheri Nakamura, Program and Policy Officer, Hawaiʻi School Facilities Authority, to provide a briefing regarding the Ready Keiki initiative,”

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

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

There being no public 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.

PLANNING COMMITTEE:

A report (No. CR-PL 2024-05) submitted by the Planning Committee, recommending that the following be Approved as Amended on Second and Final Reading:

“Bill No. 2933 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, INCLUDING MATTERS

PERTAINING TO GUEST HOUSES (*Kaua'i County Council, Applicant*)
(*ZA-2024-3 Planning Commission Recommendation*),”

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

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

There being no public 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. 2024-25 – RESOLUTION AUTHORIZING THE MAYOR OR THE DIRECTOR OF FINANCE OF THE COUNTY OF KAUAI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE DESIGN AND CONSTRUCTION OF BEST MANAGEMENT PRACTICE (BMP) IMPROVEMENTS AT VARIOUS REFUSE TRANSFER STATIONS, PROJECT NO. C150059-25

Councilmember Kualii moved for adoption of Resolution No. 2024-25, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any discussion or public testimony?
Do you have a question?

Councilmember Cowden: I know what it is, but I do not know if the public knows what it is.

Council Chair Rapozo: I will suspend the rules.

There being no objections, the rules were suspended.

Ms. Fraley: Good morning, Council. Allison Fraley, Solid Waste Division. The agenda item is about a Resolution to increase our State Revolving Fund loan for refuse transfer station improvements. DPW has a project called, “Best Management Practice (BMP),” which I spoke of earlier. These are improvements to all of our refuse transfer stations, and they qualify for funding under the DOH, Clean Water State Revolving Fund (CWSRF) program.

We already have a resolution in place that was executed in 2022 and that covers the design of the four (4) refuse transfer stations, and the construction of Lihu'e and Kapa'a transfer stations. When we went out to bid for Lihu'e and Kapa'a, the price was a lot higher than we had originally thought it would be, and so we will need an additional twenty-one million eight hundred thousand

dollars (\$21,800,000)—this is our projection, to complete the renovations in Hanalei and Hanapēpē. The total proposed loan amount is thirty-six million two hundred thousand dollars (\$36,200,000). This loan has really low terms, which is zero point twenty-five percent (0.25%) interest and an annual loan fee of one percent (1%). We have received a commitment letter from DOH saying that they would commit to this loan amount, so the next step is to get a resolution in place to match that.

To reiterate a little bit about what we talked about earlier, the BMP improvements are the purpose of these loans. To put these into play so you have permanent compliance on our NPDES permit. Generally, what the loans are used for at all the transfer stations are to improve or develop new leachate drains and management systems. Also to improve or develop new stormwater management systems, and to cover and pave locations where both waste and recyclables are received, so rainwater does not touch those and create leachates.

We are currently under contract to construct renovations for Kapaʻa and Līhuʻe. Līhuʻe has been closed since September 11, 2024 and is scheduled to reopen shortly, November 1, 2024. There is signage up and there have been some news releases, but for everyone's information, the Kapaʻa transfer station is scheduled to be closed on the November 2, 2024 and then the closure is anticipated to be for nine (9) months, because there is a lot of work that needs to take place there. The green waste will remain open during this closure period.

The plan for Hanapēpē and Hanalei transfer stations will be bid out after the Resolution is signed. We are looking at maybe in January, we must do a little more design work to get those out. Hanapēpē would come first, and that construction would take about six (6) months, and next would be Hanalei, and that is expected to take about nine (9) months. The ask here is to request that you approve the Resolution, so we can increase that loan and continue to make these improvements at the transfer stations.

Council Chair Rapozo: Are there any questions?

Councilmember Cowden: I have a simple question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: You do not need to go deep, but I know that we do have a chronic problem of trespassing and vandalism, which have been ongoing. Are there any kind of strategies on that?

Ms. Fraley: Yes, in Līhuʻe, for instance, the houseless individuals who are causing these problems are on an adjacent property, it is not our property, it is owned by (inaudible). We have been in contact with them to help to mitigate the problems. They put up "No Trespassing" signs. We continue to reach out to them to get more help. We have a design in progress to install more security measures and camera systems, etcetera.

Councilmember Cowden: Is the Kapaʻa location going to have a fence installed?

Ms. Fraley: Yes.

Councilmember Cowden: Is it in here?

Ms. Fraley: Yes.

Councilmember Cowden: Because it seems like that location should have a fence.

Ms. Fraley: Kapa'a does have a fence in the plan.

Councilmember Cowden: Thank you.

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

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

Council Chair Rapozo: This provides the County an opportunity to get the funds to do the necessary repairs and renovations at a very low interest rate as well as not having to use our General Fund or the Capital Improvement Project (CIP) Fund.

The motion for adoption of Resolution No. 2024-25 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

Resolution No. 2024-26 – RESOLUTION URGING THE STATE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO UNILATERALLY SURVEY A SHORELINE FOR THE PURPOSE OF ESTABLISHING A BOUNDARY OF STATE LAND AT 'ANINI BEACH

Councilmember Kualii moved for adoption of Resolution No. 2024-26, seconded by Councilmember DeCosta.

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

Councilmember Kagawa: Did you want to talk, Bruce?

Council Chair Rapozo: Are there any questions on the Resolution first, before we take public testimony?

Councilmember Cowden: I do. I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: This is very important. Thank you for putting this out.

Council Chair Rapozo: I apologize, there is an amendment. It is an amendment that I have asked Councilmember Carvalho to introduce, and it is simply to add Representative Nakamura to the list of recipients.

Councilmember Carvalho moved to amend Resolution No. 2024-26 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

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

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

The motion to amend Resolution No. 2024-26 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Rapozo: We are at the motion as amended, which is simply adding Representative Nakamura's name. Councilmember Cowden.

Councilmember Cowden: Since you are the introducer, and this is something that was very spirited in the community that I live in, do you want to say what this is doing?

Council Chair Rapozo: We had the discussion on the floor, but I will say that a huge pet peeve of mine is when private landowners take over public access, that just drives me nuts. This specific Resolution is specifically for 'Anini Beach Road, because the landowner had basically taken over the state beach, put up their beach amenities, hired security to kick our local people off the beach, and they even had the audacity to put up a "Road Closed" sign on a post that was approaching that road. That sign is now in the bed of my truck, because I kicked it off the pole and I am saving it as a souvenir. Again, who are these people? Who do they think they are that they can say, "We are going to put a 'Road Closed' sign just to keep the public out," and then to hire security and to kick *kūpuna* off the beach? Councilmember Carvalho and I went for a site visit, spoke to the residents down there several weeks ago, and what we need to have done is a shoreline...the shoreline needs to be determined. We need to have that shoreline delineated and marked, so that the public knows where their beach is. We have been in communication with the Planning Department, but it is outside of our County's jurisdiction to be able to do shoreline certifications or shoreline determinations, so this Resolution is urging the State to move forward with

doing a shoreline survey so we can once and for all define the shoreline so people can enjoy the beaches that belong to them. It belongs to no private property owner. I am hoping that we can get support on this. I think it is a travesty, it is very sad that our *kūpuna* were deprived of being able to go out and catch *‘oama* or do their morning exercises in the water. I will say that the landowner has moved his items off of the public beach, but I want to eternalize, if that is the word, this access so our public never have to experience being told, “Sorry, you cannot, this is private property,” because it is not.

Councilmember Cowden: Once we know where it is, it is also helpful to support the continuance of the lateral access trail, also known as the *Ala Loa*, right?.

Council Chair Rapozo: Correct.

Councilmember Cowden: There is the road, the *Ala Loa*, and it is very important for the future.

Council Chair Rapozo: Thank you. Is there anything else before we open to public testimony? Mr. Hart.

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

Mr. Hart: For the record, Bruce Hart. I was here for all the discussion. It is just better for the landowners; it is better for the public if we know where the boundaries are. That just makes it simple—the landowners are not encroaching and I as part of the public is not on their property. Let us just be friendly whether you own a lot of land, a little land, or no land, let us just know where the boundaries are and be friendly. Thank you.

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

Mr. Sykos: For the record, Lonnie Sykos. This significant issue for the entire State, for myself, I would have been in my thirties, so forty (40) years ago went continually to public protest on Maui having to do with beach access through the new development of Kā’anapali. It turned out to be very successful by the public. We have got more parking stalls than we had ever thought we were going to get. This is not just this beach though. We have Kauapea (Secret) Beach, in which the landowner planted the trail, it is not solid Areca Palm and other types of trees. This is a problem in other places, but we thank the Council for getting this agenda item and starting it on this parcel, and we hope this is successful and leads us to the other parcels that need our attention as well. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else? Is there further discussion? Councilmember Kagawa.

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

Councilmember Kagawa: I agree with Lonnie and thank you Council Chair for introducing the Resolution. We saw a problem and then this Resolution is

a way to push for the solution to the problem, so I am totally for it. The legislature is coming up and hopefully we can get Senate President Kouchi and our representatives, including Speaker Nakamura to push them to do it if they do not want to do it themselves as a department. One of my memories driving down to the end is that I would see my good friend Jerome Arakaki there every weekend. He said every Saturday, he and two (2) other buddies would dive for *tako* and hang out under the trees at the end of the road, and so this one is for Jerome. Thank you.

Council Chair Rapozo:

Councilmember Carvalho.

Councilmember Carvalho: I appreciate Council Chair Rapozo and I walking through the entire area with the people who live there. I am totally in support of this. Obviously, this is a big push forward, and so I just wanted to say that all the support is there for other areas as well, but for now, this is where we are at. *Mahalo*.

Council Chair Rapozo:
Councilmember DeCosta.

Thank you. Is there anyone else?

Councilmember DeCosta: I am going to support this one hundred percent (100%). I need to reference 2003 and 2005, I sat on the Public Access, Open Space, Natural Resources Preservation Fund Commission (Open Space Commission) and access gate Alexander & Baldwin, Kalāheo Dam, the Open Space Commission wanted the gate removed, we had no traction from the Council back then. Today, those lands have been sold, they sit with a billionaire that offers no access through their properties, you must go all the way around to get up to the State area called Unit "C." It is very sad that when we allow things like this to happen, a decade or two (2) passes, and people just give up hope. I am referencing this Council, who did very good work, thank you Council Chair Rapozo, thank you Councilmember Carvalho, and thank you to the rest of the staff who drafted this for us, and thank you to the rest of the Councilmembers that are taking this position. We should have taken positions like this decades ago, and we did not. Thank you.

Council Chair Rapozo:
Bulosan.

Is there anyone else? Councilmember

Councilmember Bulosan: I will echo all that was said. Thank you Council Chair Rapozo and Councilmember Carvalho for taking this issue up. Personally, I want to share that similar to Councilmember Kagawa, majority of my childhood was spending Labor Day weekend with over twenty (20) families that would camp over the Labor Day weekend, and I was pretty much raised at the end of that road. When we had the discussion, it was so tough to think that thirty (30) years later, my son might not, and I feel like this Council and the State Legislation and the departments, I really hope that they take quick and swift action on this and execute what needs to be done. I do not want to have that conversation with my son where he asks, "How come we cannot go there?" I might be devastated that we did not do everything possible. That is for all our open public spaces for every child that is born and raised here. I will never want to have that conversation with him. For as long as I can serve on this Council and in any public capacity, I am going to fight as much as possible to protect our public spaces, so thank you again for bringing forth this

Resolution. I really hope that our State Legislation and our state department take this to heart and take quick action.

Council Chair Rapozo:

Councilmember Cowden.

Councilmember Cowden: I want to thank this entire Council. This particular space is something that I have been following for five (5) years trying to take action on, and this is a *kākou* thing, it is not just one (1) of us, it takes seven (7). I feel heard. I appreciate you folks who looked at my presentation that I did and some of this is the closing of the road happened during the coronavirus disease 2019 (COVID-19), it was a harder time to do it. When we see the planting of grass on the beach, it is something for us to really pay attention to because when that is something that is basically replanted and replanted, we need to be conscience that we stay on it. I want to extend gratitude to the members of, particularly the North Shore community is who I heard it from, who was most deeply impacted. I was hearing from them really regularly. I am thankful that we have been able to get it this far and hopefully we get the shoreline surveyed, and it is not the end of the issue, but I am also thankful to the North Shore Preserve that they have taken their items off the beach and stopped the security on the beach. We do not want to have that; we do not want to have security on our public beaches.

Council Chair Rapozo:

Thank you. Councilmember Kualii.

Councilmember Kualii: I wholeheartedly support this Resolution. We had lots of discussion in recent meetings and I know we all agree that we absolutely must continue fighting for access for our people to our beaches and mountains across the island. The free enjoyment of our beaches and mountains must remain a quality of life right and benefit for all our people.

Council Chair Rapozo: Thank you. When Councilmember Carvalho and I went down to do our site visit about a month ago, we also saw that there were commercial activities going on in that Special Management Area (SMA) that are not permitted. We did turn it over to the Planning Department and I am assuming an investigation was initiated and I hope they get held accountable. Again, this is not targeting anyone, it is our right as residents and even visitors of this place to be able to use the public access. I did want to read a couple sections on the Resolution so that the public understands, because there is an easy way to do this, such as contacting the owner of the property and say, "Please stop what you are doing," and they do not. We as the Council have to elevate and that is what we did. The Resolution states, "WHEREAS, in recent years, the landowner of parcel # 530070060000 ('parcel'), towards the end of 'Anini Road, has built a structure on the parcel and has hired security to restrict entry to that end portion of 'Anini Road, fronting the parcel; and WHEREAS, that same landowner has extended the appearance of private ownership onto a portion of 'Anini Beach fronting the parcel, by placing heavy outdoor furniture, including wood recliners and umbrellas, on the beach; and WHEREAS, reports have been made that the landowner's private security has excluded members of the public from entering onto that portion of 'Anini Beach which is fronting the parcel; and WHEREAS, the public has a right to shoreline and beach access for subsistence and other activities, unless and until proven otherwise; and WHEREAS, the landowner has not given permission for a survey to be conducted determining the location of the

state boundary fronting the parcel.” We can sit back and accept the fact that he moved his belongings off the beach, but there is no guarantee that he will not do it again in the future or for special events. I really wish I was the one he tried to kick off the beach, because I would have made a criminal complaint and had him arrested, and it is a misdemeanor. That is simply illegal to do. When I found out about this was when I was informed by a constituent just recently that their grandmother was escorted off the beach—*kūpuna*, native Hawaiian *kūpuna*. Can you imagine? You are Native Hawaiian, you are a *kūpuna*, and you visit one of your favorite places that you went from when you were young, and then some security guard comes and say, “Sorry, you need to get off the beach, this is private property.” Can you imagine that? That is where it started me on this little crusade, and then as we started to dig, we found more and more. I appreciate the support. This needs to get done and it does not end with this property, and we will see in a resolution coming up shortly, this will extend to all public accesses. Councilmember Kagawa.

Councilmember Kagawa: I have one (1) question—food for thought. We are dealing with climate change and the shoreline is fronting Davidsons. It used to be one hundred (100) yards of sand...

Council Chair Rapozo: Yes.

Councilmember Kagawa: ...from the highway. If we go across-the-board and say, “Okay, we want to assess the entire island,” that highway is in the shoreline. Are we going to say that to the State that they will have to move the state highway? To Lonnie’s point, I know we are talking more about the beachfront areas and we want to focus on that, like Moloa’a, you have owners saying that the shoreline was always like that, but you see trees uprooted...the tree was surviving there before, and now you have to walk in the water to go around the shoreline. Again, this one is needed, but at some point, when are the owners going to say, “What are you folks doing about the rest of the shorelines?” It is a big problem that needs to be addressed, but certainly it will affect us a lot more than we think. Thank you.

Council Chair Rapozo: The simple answer is it will only affect the owners that decide to kick out local people from the beach.

Councilmember Kagawa: Okay.

Council Chair Rapozo: That is really what this is...public access. Some people say, “Well, eventually the beach is going to be in my yard,”—yes. I never met Confucius, but I am sure Confucius would say, “If you want to protect your property do not buy near the ocean,” because eventually you are going to lose your property to the beach and that is unfortunate. What about my house up *mauka*? I do not have to worry for about one billion years, when the ocean hits my house, it is too late. Is there anything else? Go ahead.

Councilmember DeCosta: I am hoping that I am speaking to the Resolution, oceanfront area.

Council Chair Rapozo: It is the Resolution. This Resolution in ‘Anini.

Councilmember DeCosta: Not everyone buys their land, Council Chair, some of them inherit their properties. There are places on the Westside...Councilmember Kagawa made a reference about a rock wall, well, Waimea have some *kuleana* lands that I believe if the Planning Department gave them a permit, they cannot build and they want to move those Hawaiian families inland to Waimea 400, those native *kanaka* had land from their family should be able to stay by the beach. If they want to weather out the storm, I think they can.

Council Chair Rapozo: Again, this is for public access.

Councilmember DeCosta: I am sorry. I held the chance to throw that in there, because we never talk about those people.

Council Chair Rapozo: Well, that is a different topic.

Councilmember DeCosta: I know.

Council Chair Rapozo: Is there any further discussion? Roll call.

The motion for adoption of Resolution No. 2024-26, as amended to Resolution No. 2024-26, Draft 1 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

Resolution No. 2024-27 – RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR VETERANS

Councilmember Kualii moved for adoption of Resolution No. 2024-27, seconded by Councilmember Carvalho.

Council Chair Rapozo: Councilmember Carvalho, the floor is yours.

Councilmember Carvalho: First, I want to place the upmost gratitude to our men and women who served our country. Operation Green Light is more of recognizing in this period of time. We are looking at encouraging our businesses and community residents to place green lights on their property from November 4 through November 11, 2024. This is nationwide.

Councilmember Kualii: Yes.

Councilmember Carvalho: You know, Councilmember Kualii. On the National Association of Counties (NACo) level, the Hawai'i State Association of

Counties (HSAC)—it is a state nationwide, but for Kauaʻi, just from our County Council, we want to encourage our community to recognize our men and women who serve our country. We had a green light on earlier over here already, so we are starting it, right? The green light, again, just to recognize them during this period of time. That was the Resolution.

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

Councilmember Cowden: Gratitude to our veterans and our service members and many people we had decades of active engagement, and this is a way for them to feel loved and honored when they come home, and so people can even put a green light on whenever they want. The County has typically done it for the entire month of October. We may have had problems with our lighting system right now, I am not sure, but green lights—I love you, Veterans, which is next month.

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

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

The motion for adoption of Resolution No. 2024-27 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

Resolution No. 2024-28 – RESOLUTION URGING THE PLANNING DEPARTMENT TO EVALUATE AND PURSUE PUBLIC ACCESS EASEMENT INTERESTS IN LANDS REQUIRED FOR PUBLIC USE

Councilmember Kualīʻi moved for adoption of Resolution No. 2024-28, seconded by Councilmember Carvalho.

Council Chair Rapozo: This item ties into the ‘Anini Road Resolution. When this term first started and Councilmember DeCosta came up to me and shared with me his desire to go after public access, and apparently, he tried and tried...it is a difficult thing. There is a fine line between the private property rights and public rights. It is tough when you go after people’s parcels and property, but as I said in the ‘Anini Road Resolution, public access is public access. It is does not belong to the property owner, whether it is an easement or outright pathway that was part of a requirement of the development or the subdivision or the construction of the house. After Councilmember DeCosta shared that with me, I asked the Planning Department to provide me with a list of all the public access that we have on record,

and it is massive. It is a lot more than what I imagined. I believe it is this Council's role in working with the Planning Department and the Office of the County Attorney to get back and get our accesses back. We are working on a few right now. The legalities make it complicated, but it should not stop us from moving forward. Councilmember DeCosta co-introduced this Resolution with me, so can you share your thoughts on what you introduced?

Councilmember DeCosta: Just piggybacking on what Council Chair Rapozo stated. I want to give credit to all the Councilmembers here. Before you and Councilmember Kagawa came on, this Council had many discussions, Councilmember Bulosan, Councilmember Cowden, Councilmember Carvalho talked about the days when we were little fishing and having access...there is a lot of access routes, we just could not get any traction. Thank you to the Planning Department, a little different people in charge now and thank you to the Council Chair for putting this on the agenda. I believe now we can go get it, we can get it. It is a good feeling. It is not just the *makai* ocean. Everyone thing *kanaka* is *makai* ocean, all of our *kūpuna* is only ocean, a lot of them are mountain people.

(Councilmember Kagawa was noted as not present.)

Councilmember DeCosta: A lot of *hālau* pick *maile*, *mokihana*, and *ʻōhia lehua* blossoms to make *haku lei*, dive for *ʻoʻopu*, and *hīhīwai* crustacean and *ʻopihi* under the rock, and shrimp, and hunt. I believe it is time to get those accesses, otherwise it will be lost. I want to thank the Councilmembers. There is a time and place to make the right decision, and we are doing it now. Thank you.

Council Chair Rapozo: Again, let me read a few sections of the Resolution, so the public understands the context of why we are doing this...“the Council is in receipt of numerous complaints that allege various private landowners across the island are obstructing public rights-of-way with gates, foliage, stones, and other barriers; and, WHEREAS, per HRS Section 115-9, ‘a person commits the offense of obstructing access to public property if the person, by action or by having installed a physical impediment, intentionally prevents a member of the public from traversing: (1) A public right-of-way; (2) A transit area; (3) A public transit corridor; or (4) A beach transit corridor; and thereby obstructs access to and along the sea, the shoreline, or any inland public recreational area’,” which is what Councilmember DeCosta alluded to. “WHEREAS, upon receipt of information that evidences obstruction of public access by the landowner, the Planning Department has the administrative authority to issue a Notice of Violation (NOV) to the landowner, and to follow with monetary fines or judicial filings, if appropriate.”

(Councilmember Kagawa was noted as present.)

Council Chair Rapozo: This is basically urging the Planning Department to evaluate these complaints, evaluate these cases, if in fact it is legitimate that these public accesses and rights-of-way are being obstructed, that we pursue to reclaim those accesses and also we always have the ability as the County Council to start eminent domain proceedings and reclaim those accesses, which is the least favorable solution, because it is expensive and timely. Are there questions or discussions? Go ahead.

Councilmember Cowden: I have discussion. Are you going to ask for public input?

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

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

Mr. Hart: For the record, Bruce Hart. I am in full support of this, and I believe it is long-overdue and as you said, there are a lot of access that people do not even know about, even people who were born and raised here, people who grew up here. I would like to see or ask something. In the past, I used to have one, I think I still have it, it was a beach access publication, and I think it was done by the Planning Department way back. It was initiated by the Administration, by the Office of the Mayor at that time. It was beach access. I would like to ask Council to consider budgeting if that is how it would be done, that the end goal of this Resolution is to produce a public access booklet showing all the public accesses, so the public could acquire it, and then we are all going to know where they are. That book is going to last, people are going to treasure it and hand it down. These belong to the people. Thank you.

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

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

Councilmember Cowden: I have only lived here for forty (40) years, but I remember when I first got here there were these amazing amounts of waterfalls, mountain areas, and beaches that just seemed almost endless to where you could go and experience something. Incrementally, someone would buy a piece and so you would go around it, and you go around the next one, and something would be closing. I know by the time my children who are now in their upper twenties, I was still bringing them to some of them, but there were others that we could not go to, some might take a little bit of time to be there with the permission of an owner. I had a homeschooled group called Akamai Learning and we did exploratory learning and we would be out there in the environment with a sense of wonder and learning. That coincided with a lot of these big purchases. One year we would be down and explore the stream and waterfall, and you would see the history of the rock wall along the valley until then we are confronted with armed security guards very forcefully letting us know we could not be there anymore. In the last five (5) to ten (10) years, it has just closed more and more to where it is no wonder young people are just on their phones. When we look at beach accesses that are closed, it has been closed for thirty (30) years that I have been fighting for, and they say these people do not have the skillset any longer, we had a visitor drown at Kauapea Beach just this week, but we do not even let our kids grow with this strength and knowledge of how to get food for their family, because it is like we are in our own little paradise prison where we cannot go to what you can look at. You can see it, but you cannot go there. Guess what? Even the view plain is going away as Areca hedges and tall plants, *hau*, get placed. We even lose access to looking at it. We even lose access to seeing the sunset.

I appreciate the intention of this. I know this is just the first step, but this is what is important to us and we are going to take active movements to not let this continue and of course I always try to work with landowners, to help them want to give and share. It is way better for a win-win. I am always pulling for a win-win. Of course, I wholeheartedly support this.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: To add on a little bit, what is needed on the Westside is the coordination between the County's Homeless Coordinator, with the State Homeless Coordinator, and try to figure out some options and a secure way of having homeless who occupy areas to not endanger the general public who want to go there. I have seen that firsthand. This is something that we have been working on for a long time and I do not think I have garnered many votes with success because like the McBryde area, we try to work with them, but then when they open it up for the public, you get the homeless damaging farming equipment and doing all types of trouble. It is like when we say, "Encourage farming," then we want to open it up for the public, and then the farming folks suffer, and then we do not have the security. Like anything, just to open it up without addressing the root causes of problems that occur does not work hand-in-hand. At some point, we need to address this holistically, and then that is going to be a sustainable way of having these public spaces open. Thank you.

Council Chair Rapozo:

Thank you. Is there anyone else? Go ahead.

Councilmember Kualii: This is a really important Resolution and I think it is also a tool that perhaps the constituents can use to help us in the work that we need to do. It is important to note that for us to even create new accesses as new development happens, if you will, and then of course preserving existing accesses and as much as possible restoring former accesses that have sort of disappeared because no one stood up for them. This is really important, and it is a good start, and I think people will be pointing back to this Resolution for a long time to come. Thank you, Council Chair and thank you to Councilmember DeCosta.

Council Chair Rapozo:

Thank you. Councilmember Bulosan.

Councilmember Bulosan: I want to echo what was shared on the floor and *mahalo* Councilmember DeCosta and Council Chair Rapozo for crafting this Resolution and putting it before us. I am in full support, and for the many reasons that we talked about. It is just so difficult that we have to stick a flag down and let our community know that this is something super important to us and that we are not going to back down. I know this is across the entire State of Hawai'i and especially for all our indigenous people around the world constantly fighting for their own access, but just for the public alone, for us, it is one of those difficult, bigger, broader issues that when we think about it, sometimes we feel hopeless, especially places that have lost their way for so long. It feels like we are just trying to grab what we can. I truly appreciate Council Chair Rapozo and Councilmember DeCosta for allowing to stick this "flag in the pole," in this timeline, so that way it is a meeting point. I hope that in the next few years, a lot of these places that we do not have access reverse a lot of things that we are able to go back to. This is not just a hope, it is now an

experience that we gave back to our kids, gave back to the community, and that we can work closely with everyone that is involved to make sure this happens as quickly as possible. This, again, is one of those things where it feels bigger than it is because once you look at the list, you realize how many places we have lost in such a short time. I hope this list shortens really fast, that it is not something that we keep forgetting about. Thank you again for putting this on the agenda.

Council Chair Rapozo: That list includes a lot of accesses that are probably not feasible or practical just because of the location and just accesses to nowhere, but there are accesses on that list that we should be getting, and those are the ones that we remember. Maybe not you, Councilmember Bulosan, you are young, but Councilmember Kagawa and Councilmember Carvalho, that we would like to reclaim. Thank you. Roll call.

The motion for adoption of Resolution No. 2024-28 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: Next item, please.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2935) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2024-896, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2024 THROUGH JUNE 30, 2025, FOR THE PURPOSES OF FUNDING EXPENDITURES CAUSED BY HEAVY RAINS AND SEVERE FLOODING WHICH STARTED ON APRIL 11, 2024, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND

Councilmember Kualī'i moved for passage of Proposed Draft Bill (No. 2935) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 27, 2024, and that it thereafter be referred to the Committee of the Whole, seconded by Councilmember Bulosan.

Councilmember DeCosta moved to amend Proposed Draft Bill (No. 2935) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Kualī'i.

Councilmember DeCosta: There is a typographical error with the amount stated on the Proposed Draft Bill, there is an extra zero (0).

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

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

Councilmember DeCosta: Good thing we caught the extra zero (0) because that is a lot of money from the taxpayers.

Council Chair Rapozo: Well, it is money that we do not have, so the check would bounce.

The motion to amend Proposed Draft Bill (No. 2935) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and unanimously carried.

Council Chair Rapozo: We are back to the main motion as amended. Is there any discussion or public testimony?

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

Councilmember Cowden: I always want the public to know, this is where we are basically funding what we already discussed earlier, getting the money forward for KEMA, for two million four hundred fifty-seven thousand dollars (\$2,457,000), and I want to acknowledge DPW who helped us get an accurate count to get that number up, that they can do their FEMA money, right?

Councilmember Kagawa: Right.

Councilmember Cowden: I just wanted to help the public know what it is.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: That is FEMA, the federal highways, and then there are some projects we are not sure whether we are getting matching, so that is all of those flood damages, County portion funds, right?

Council Chair Rapozo: Correct.

Councilmember Kagawa: We did a great job. I got a lot of praise about DPW and KEMA, there was a lot of mud across of Nāwiliwili, they shut it down and cleaned it up. When you saw it later, you might ask, "What was the big deal?" but there was a lot of debris and mud, and KEMA, DPW, Police, and Fire, they coordinated well, shut it down and get it all cleaned up. People saw it later and did not even know. That is what you call a great job.

Council Chair Rapozo: Is there any further discussion?

The motion passage of Proposed Draft Bill (No. 2935) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 27, 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.

BILL FOR SECOND READING:

Bill No. 2933, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, INCLUDING MATTERS PERTAINING TO GUEST HOUSES (*Kauai County Council, Applicant*) (ZA-2024-3 – *Planning Commission Recommendation*)

Councilmember Kualii moved for adoption of Bill No. 2933, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Bulosan.

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

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

Mr. Sykos: Does the Council not have a discussion on this, at this point?

Council Chair Rapozo: We will. We will take public testimony first. There are no amendments, so it is the same discussion that we had last week.

Mr. Sykos: Well, I sent the Council an email.

Council Chair Rapozo: We received it.

Mr. Sykos: I will ask the Council to address those issues and please do so. I will save the public all the time listening to this.

Councilmember Cowden: Maybe you want to highlight them. No?

Mr. Sykos: No.

Council Chair Rapozo: Thank you.

Mr. Sykos: The Council has them all, the Council can either address them or not, and if they do not, I will come back at the next reading. Thank you.

Council Chair Rapozo: Thank you.

Councilmember Cowden: This is the final reading.

Council Chair Rapozo: This is the final reading, second reading.

Mr. Sykos: Oh, my confusion and I apologize. Since the Planning Director is here, I would like him to come up and give a definitive answer to whether or not the County can permit housing that does not have a sink and does not have a toilet in it. I would also like for the County to explain to the public that if you build housing that does not have a sink and does not have a toilet, how the occupants are going to function as human beings and what is going to happen to their waste. As a matter of public record, I would like to state that if you think you can build more bedrooms and circumvent the Clean Water Act by having the occupants or those bedrooms go into a different building in excess of the coded capacity of sewage into their cesspool or septic tank, how it is that you are not conspiring to violate the Clean Water Act? We cannot continue to pour sewage into our groundwater. We are not allowed to do that by law and rationally it is stupid to contaminate our groundwater with human sewage. What I do not understand is why this Bill is before the Council and you cannot tell us what properties can take advantage of this. The Council has told us that most properties cannot. The question is why are we doing this and who are we doing it for specifically? Where is the map up there that has tax map keys (TMKs) that have sewage, has potable water available for new development, and so where on the island is this actually going to be of value? That is my question, because what we heard previously was that no one knows who is going to get helped, we only know who is not going to get help. With the exception of at least one (1) and possibly more councilmembers, and so how many members on the Council will personally benefit from this Bill? How many of you own properties that this Bill is designed to put additional housing on? I read it. The ethics says that if you are in...I will come back.

Council Chair Rapozo: Is there anyone else? If not, Mr. Sykos.

Mr. Sykos: If you are creating legislation that benefits you or your immediate family or business partners, it seems like our ethics code says very clearly you need to recuse yourself, but apparently you can write legislation that benefits you and it is ethical. I have a huge problem with the ethics of how this is being approached. This is not a problem of the ethics of the Bill, which I also have problems with, this is just the introduction of the Bill. The question to Mr. Hull is, has he actually contacted or anyone in the Administration or on the Council that he is aware of, has anyone contacted the DOH and do we have a definitive response to whether or not DOH is going to sign off on a standalone bedroom or two-bedroom cottage that does not have a toilet or a sink? It also states that there is not to be any TVR or other short-term rental which apparently means that these properties can be rented out and is it legal to rent out an apartment, a cottage, whatever you want to call it, that does not have a sink and a toilet and please tell us where the occupants

are going to use the bathroom and a toilet, and in response to, "Oh, our family is going to stay in there," that is not what the Bill says. We are creating more rental units on Ag land, we are throwing out our community planning process, we might as well quit wasting money on developing community plans if the Council is going to throw it out the window for the expediency of building housing development on Ag land. You need to completely go over this Bill again. This is not in the public's interest.

Council Chair Rapozo: Thank you. Is there anyone else? Let me just read from the Bill, regarding Mr. Sykos' concerns.

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

Council Chair Rapozo: "Prior to building permit review for a guest house, the following public facilities shall be found adequate to service the guest house: (A) For sewered areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system or an individual wastewater system shall be confirmed in writing by the State of Hawai'i Department of Health. (B) The availability of water (including but not limited to source, transmission, and storage lines/facilities) shall be confirmed in writing by the Department of Water. (C) Approval in writing for a guest house from the Kaua'i Fire Department shall be required." I am not sure where you are get this, "No sink, no toilet."

(Note: Mr. Sykos spoke while the rules were not suspended. "Ask me a question, Council Chair Rapozo, and I will come and answer it.")

Council Chair Rapozo: Dwellings on Ag—you have an opinion, and I am sure we will cover that in this discussion. Is there any further discussion? Councilmember DeCosta.

Councilmember DeCosta: Number one crisis in Hawai'i is housing. This is a small way to chip away at our number one crisis. The Bill went through first reading, moved it to the Committee Meeting and did a lot of work, that is where all the work takes place, met with the Administration—I actually met with them yesterday, and they all support it. The Planning Department is in the room, if you want to ask him in person if he supports the Bill, again, but he does. They are not rainbows and flowers, from what one of the responses I had in my meeting with them, but this does help local families with land, infrastructure already in place, electric, water, if there is sewer, then they will use sewer, if there is no sewer, then they will need to use septic. If their property is not big enough to put a septic tank, they will not qualify to build a home. They cannot condominium property regime (CPR) the lot, they cannot sell it, they cannot TVR it, this is almost a no-brainer that this will help local families retain their children from college in the mainland back in Hawai'i. If you folks do not see the writing on the wall that this is one way to help our people, I do not know what more to say. Thank you.

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

Councilmember Kagawa: For me, I would like to see a presentation from the Planning Department as far as how many people this is going to help based on what the Department of Water says, as well as some projections and some of the reasons why it is not all “rainbows and flowers.” Who could benefit, those who are not those that are local families, local kids that will drive up their values and affect other local families that are not Ag. What are the ramifications? You folks said no in 2020, I had a conversation with former Managing Director Dahilig, and he gave me his reasons why he did not support it, and basically it was because he did not want to help gentleman farmers to expand their estate and capabilities and their effects on local families, their effect on the North Shore, which is suffering from extraordinary property values that are putting into question whether they keep or sell a property, which will likely fall into rich, off-island landowners. Again, while I do agree that it is a “no-brainer” that will help some local families, for example the family who have been pig farming for generations and are not making a lot of money and have problems with housing for their family, those are “no-brainers.” It gives them the opportunity, I do not know if the DOW is going to approve, but those are the questions not being answered. Will the families who really need it, are they going to get it or is it an entitlement that is going to sit until DOW can fix all of their existing and then expand? I do not know if perhaps last week if I had some of Lonnie’s questions last week, I would have asked them then, I do not know if you were able to answer them that day and give the Council some accurate projections of these local farmer families, like Councilmember DeCosta’s, who will benefit immediately and who will not. Yes, I will support it at some point, but I would like to get more information because there are people like the former Managing Director and like Mr. Sykos who are bringing up legitimate questions. I do not mind going back to the Committee and Mr. Hull, maybe you can have whomever, whether it be Housing Director Roversi able to provide some of the workforce housing questions that we have and a presentation or provide us with numbers that would make this a “no-brainer” to approve. That is how I feel at this point. Thank you.

Council Chair Rapozo:

Councilmember Cowden.

Councilmember Cowden: I have a little presentation. I want to start with my presentation; can you pass out my presentation and an article? In full disclosure, my home is on a third (1/3) of an acre, so I could apply for an additional dwelling, if I so choose, because he asked how many of us could, and I could, although I have not done so for twenty-three (23) years. I did reach out to the DOH, along with the KFD, DOW, and the Wastewater Division. I did not get a good response from DOH, although they did acknowledge my inquiry. What I am handing out is a little slideshow on my comments, so I can be succinct and clear. I am also handing out an article on insurance, we are not going to go deep into it here, but as we know the insurance problem for housing in all properties is really difficult. Okay, so, my comments on this building. On the first piece here...this is, so my colleagues can see what I did get from fresh water, I listed them the last time of where we have limited areas, and then wastewater, the sewer capacity in that little paragraph below is my response from our Wastewater Division—they cannot really easily tell if where or where not it would be system-by-system. I talked also about sewer system capacity. I am also speaking to the public...it may or may not be that you can have a septic system because of the space, but we also do have real challenging problems with displacing *iwi kūpuna*, different things that can happen.

Next slide, please. The next slide talks about the risk of neighborhood changes. We have many neighborhoods, like my house is a hick's house or plantation-style house like this, on the right side you will see what happened on O'ahu where if they have four (4) to six (6) units they could build in. They tend to go right to the absolute edge of where they can go. What happens when that happens for the house on the left is impacted by houses on the right, it can have really intense real property tax, increases, and so you can have a cascade of people needing to replace their house.

The next slide, please, is an example of a new dense single-family residence in Princeville. This is a 36-bedroom house with two (2) parking spaces. This is an unintended consequence. It is something I did, by the way, say yes to. We had a housekeeping bill maybe about two (2) years ago, it was before the new Council. We said, okay, you can have more than five (5) unrelated adults. Well, this is going to be thirty-six (36) unrelated adults. This is basically workforce housing. I believe these are mostly going to be immigrants, but this could happen anywhere. If this is permitted now, how do we know we are not going to get this all over the place. How does it affect water, sewer? I think we need to correct whatever created this, but this could be very high demand for big companies that need it. I can see if you put a better design, put it on a piece of ranch, so you can have your cowboys have a place to crash for the night.

Next slide, fire concerns. We had KFD up and they said, "Yes, you can have a water tank or reservoir." We checked with the dam safety people. You can even do underground reservoirs, but this is not cheap and not easy. A lot of properties that are smaller Ag, they do not have any type of fire flow protection.

Next slide, please. Here I have insurance concerns. We are seeing how much and how difficult it is to get fire, flood, property insurance, how expensive it is getting. We need to be conscience if we make our neighborhoods dense. There is an index where you cannot get fire insurance. This is something that I have been talking about for a year. It is a big issue.

Next slide, please. Other limitations that may be encountered is additional structures and additional parking may be prohibited in planned agricultural and residential subdivisions.

(Councilmember DeCosta was noted as not present.)

Councilmember Cowden: For people who might not know, we have covenants, conditions, and restrictions (CC&Rs) that might be in a larger subdivision. Some of these large subdivisions have nested within them CPRs. A lot of these properties that are these Ag parcels that I honestly most want to see get the guest houses, these are the diversified Ag people that I talked about earlier today, they need another little house, because it takes more than one (1) family to take care of a small farm, but they might not conform to standard permitting expectations.

Next slide, please. I just grabbed a couple, because I could not find it, I did not get my answers back, but expectations for ADUs, ARUs, guest houses, and tiny homes has been limited. I could not get a number or an estimate of if any tiny homes have been built since then, maybe a few. We see in the year 2021 was prior to when the

mayor signed off on our ADU and ARU Bill to the best of my knowledge and I invite the Planning Department to correct me if I am wrong. I could not get the numbers for 2022 and 2023, but as best I know it has not increased by much, so it may or may not be that we are able to do it.

(Councilmember DeCosta was noted as present.)

Councilmember Cowden: Next slide, please. In conclusion, I am just saying there are many concerns that are not yet researched. I guess like Councilmember Kagawa, it is important that we get a grasp of how many properties are likely able to benefit from this well-intentioned bill. I agree with the concept behind it. Any mother, or at least this mother, would love to have her own kids in the same family compound. I do not want to be putting out something that we are giving people a false expectation. I did talk to two (2) young people a couple days ago who are all excited about this and wanting to buy land, some of which are essentially distressed properties, because they think they are going to be able to do this, so telling them they have to talk to the Planning Department. It is important that we make accurate expectations for our public when we give them this very hopeful Bill, because the ADU, ARU, and tiny house bill, to the best of my knowledge, did not really produce what we wanted. I had huge hopes for people being able to separate out their houses to do that. I am saying that I think it would be wise to take the time to further analyze this anticipated increase in housing stock before we really say yes, because I do not want to have something like that 36-bedroom house come out of this. I want to be careful that we do the right thing, and our ADU and ARU bills, I would say did not work...okay, done.

Council Chair Rapozo: How would this Bill create a 36-unit house?

Councilmember Cowden: I am saying how does this 36-unit house affect this Bill? Two (2) things, two (2) ways. It is here for two (2) reasons. One reason is because when we are putting houses in places, even I am looking at a company...

Council Chair Rapozo: I am talking about this one, because you said...I am trying to figure out how this Bill is going to...

Councilmember Cowden: Because if people start building houses like this...

Council Chair Rapozo: They did, without the Bill.

Councilmember Cowden: They did, so...this could still happen, so how does this impact the water and the sewer for given neighborhoods, so some other house that needs to do that...

Council Chair Rapozo: But that has nothing to do with this Bill.

Councilmember Cowden: It sure does, and it is also an example of an unintended consequence.

Council Chair Rapozo: I am not going to argue, I am just saying that this...

Councilmember Cowden: If you come back to this page...

Council Chair Rapozo: Hang on. I am asking the question. This ugly development and it is ugly, was built without this Bill. This Bill did not provide that.

Councilmember Cowden: I know, so this could be repeated.

Council Chair Rapozo: So, that was my question...

Councilmember Cowden: So, this could be repeated and impactful, and we have not anticipated this type of use in neighborhoods.

Council Chair Rapozo: On page 3 of your presentation, you have three (3) pictures.

Councilmember Cowden: Yes.

Council Chair Rapozo: Where is that located?

Councilmember Cowden: This happens to be in your neighborhood over here on the right.

Council Chair Rapozo: Which one?

Councilmember Cowden: This little house.

Council Chair Rapozo: Okay.

Councilmember Cowden: And then what happened on O'ahu...

Council Chair Rapozo: Okay, can you explain to me again...

Councilmember Cowden: I am trying to say that we want to be very careful that we do not take a property like this...this is R-6 zoning and it has enough space that it could have four (4), if not, five (5) houses on it by...

Council Chair Rapozo: Which one are you talking about?

Councilmember Cowden: This little house right here.

Council Chair Rapozo: This one?

Councilmember Cowden: Yes.

Council Chair Rapozo: How are you going to get six (6) more units on that?

Councilmember Cowden: You would tear the house down and you would build a house that looks like one of these, and you could do that.

Councilmember Kualī'i: Are these houses or apartments buildings?

Council Chair Rapozo: These are apartments.

Councilmember Cowden: These are Residential zoned; these are little apartment buildings that used to be housing.

Council Chair Rapozo: Where are these other two (2)?

Councilmember Cowden: These are on O'ahu. We do not want that to happen.

Council Chair Rapozo: We have discussed this in detail at the Committee Meeting. We have lot coverage requirements here.

Councilmember Cowden: This would fit.

Council Chair Rapozo: How would you put six (6) homes, Councilmember Cowden? You said we do not want to have this property, but where will you put six (6) homes and two (2) septic tanks?

Councilmember Cowden: Because if you had a sewer pipe there...

Council Chair Rapozo: We are not talking about sewer; we are talking about...

Councilmember Cowden: So, you could fill it. In Kīlauea, when we did the ADU and ARU...

Council Chair Rapozo: Is there no sewer in Kīlauea?

Councilmember Cowden: There is no sewer. So, when we even did our approvals for ADU and ARU, we talked about Kīlauea, and these things already exist. When we did ADU and ARU, it would help to codify what people are already doing. People build three (3) or four (4) apartments on their property to be able to make it work. What happens when that happens, is all of a sudden you have a house that maybe has six (6), eight (8), or nine (9) bedrooms in it, the adjacent house has...as we raise the real property tax, it impacts adjacent houses. All I am doing is raising issues.

Council Chair Rapozo: I understand. You said here, and I think I heard it from Councilmember Kagawa, there are many concerns that have not been researched, well, what are some of your concerns that have not been researched?

Councilmember Cowden: Where we can actually build, and that is why I tried asking DOW. On my first picture here, upper Lāwa'i, Po'ipū, Wailua, upper Wailua Homesteads, Kapa'a Homesteads, Moloa'a, Kīlauea, Kalihiwai, 'Aliomanu, 'Anini, upper Wainiha, Wainiha, Hā'ena—all of those are places that I probably have,

not all of them, but most of them are places that I have the most constituent group that I have lived with for thirty (30) to forty (40) years...

Council Chair Rapozo: Okay.

Councilmember Cowden: These people are going to want it, but they are not going to be able to get it.

Council Chair Rapozo: I am trying to get to the concern.

Councilmember Cowden: They are not going to be able to get it. When our community wants it, and especially like Hanalei, Hā'ena, Wainiha, they do not get the ADU or guest house. We already said you cannot have it. I am just trying to let people know that all these places, these are a lot of places that probably do not have the water. I know that Kilauea does not...

Council Chair Rapozo: Okay, but...I am trying to get to your point, it is valid if it is true. There are many concerns that are not yet researched.

Councilmember Cowden: Yes.

Council Chair Rapozo: The fact that some people do not have water, that is not a concern. It is not a concern that should stop someone that can from having that ability.

Councilmember Cowden: When we say, "Hey, yay, everyone you get to do this," like what happened with the ADUs and ARUs, you were not on the Council then.

Council Chair Rapozo: Correct.

Councilmember Cowden: We passed that. I believe, we are in October, right before an election, so we all can say, "Yay, this is what we did," but we passed that...

Council Chair Rapozo: Are you trying to say that this is political?

Councilmember Cowden: I am saying that it can feel that way.

Council Chair Rapozo: You want to know something...hang on...because I want to get back to my question.

Councilmember Cowden: So, we...

Council Chair Rapozo: Hang on, Councilmember Cowden. I want to ask you a question, because you made the comment, "There are many concerns that are not researched."

Councilmember Cowden: Yes.

Council Chair Rapozo: Name me one (1) concern that has not been answered.

Councilmember Cowden: Water. Which towns and neighborhoods?

Council Chair Rapozo: No, that is limiting factor, we understand that, but we cannot research that more. You either have water or you do not. If you do not have water, you do not get to build your house. What other research are you...because it sounds like you just do not...you are trying to make it seem like we are premature, but we have been working on this now for months, so to even infer that this was to be done before the election.

Councilmember Cowden: Okay, well I...

Council Chair Rapozo: I have to defend myself, because that is a strong allegation and the fact of the matter is that this goes to the Planning Commission, who we have absolutely no control over. This went to the Planning Commission months ago. They took their time, they analyzed this Bill, they came across with recommendations, and that is what we are implementing, so to come here and say that it seems like it is close to the election.

Councilmember Cowden: Well, that is what I got accused of the last time.

Council Chair Rapozo: Well, you just accused me of that, and I take offense.

Councilmember Cowden: I did not accuse you of that. I said this is what has been accused of. The last time, we went and said, "Yay, we are able to do this," and it turned out, no, we were not and almost nothing happened.

Council Chair Rapozo: Well, almost none, but listen, based on your numbers, it did happen for some.

Councilmember Cowden: No, all these numbers...this is before the Bill actually...the thing got signed in by...

(Councilmember Carvalho was noted as not present.)

Council Chair Rapozo: Again, I do not see any concerns that we have not researched. I think we have worked a lot with the Planning Department. We have worked a lot with our attorneys. Again, if there is a concern and to anyone on the Council, if there is a concern right now that you believe has not been researched, let me know right now.

Councilmember Cowden: Can I ask the Planning Department to come up?

Council Chair Rapozo: Sure, if you have a question for the Planning Department.

Councilmember Cowden: I do.

Councilmember Kualii: While he is coming up, I will share a fact that I got from the Housing Director. Since the Council enacted the affordable ARU subsidy program in 2021, we have approved twenty (20) applications for affordable additional rental units. I do not know where you got your number of three (3) or whatever, but he says twenty (20).

Councilmember Cowden: 2021—three (3) is where it is just for 2022, a little piece.

Councilmember Kualii: So, you have twelve (12) now?

Councilmember Cowden: I just grabbed something right here, part of 2023.

Councilmember Kualii: It is twenty (20).

Councilmember Cowden: So, these are buildings, this is different from planning. I have the planning numbers, too, for what I have. I have a question for the Planning Department.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Where do you think we would easily be able to...if someone were to say, "Which neighborhoods do we think we would be able to put an additional dwelling unit," because we talked about it...or let us say "guest houses," because we talked about this pretty heavily when we did that last one, which was in 2020. I cannot remember when that was, but we did that. Where do you think someone can reasonably believe that there is water, sewer capacity right away that does not cost a lot of money, and fire capacity—like, we are not making the roads too narrow. I went through this the last time and people could not figure out where to do it. So, where do you think? How much do we have? Where can we do it?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: Ka'āina Hull, on behalf of the Planning Department.

(Councilmember Carvalho was noted as present.)

Mr. Hull: There are areas that I understand have limited water capacity. I would have to defer to DOW to generate those areas.

Councilmember Cowden: Let me show you this.

Mr. Hull: Okay, so from this I would say that DOW has identified for you areas that have limited capacity.

Councilmember Cowden: It is a lot. A lot of areas.

Mr. Hull: Correct. Whether or not that would mean that the entire region would not be able to apply for guest houses or not, I cannot speak to that. I think that is a question that should be conveyed to DOW.

Councilmember Cowden: I did. They said you would have to ask place by place.

(Councilmember Kualii was noted as not present.)

Councilmember Cowden: I mean, I have a much longer letter, but it is very hard for them to say...and I asked the Wastewater Division, and it was hard for them to say, and I asked the Department of Health, because I did not ask exactly Mr. Sykos' question, but I asked about septic, and they did not know. I am just saying that we do not even know, that is what it feels to me, and do you know?

Mr. Hull: No. I would say when you are talking about infrastructure, that is one (1) element an individual will take advantage of this new proposed land use ability, but then you also have the aspect of just the overall cost of construction availability of loans, desire to do...

Councilmember Cowden: Insurance...

Mr. Hull: Insurance. There is a whole slew of criteria that an individual landowner needs to go through to assess whether or not they are going to construct the unit. Infrastructure is one of them and it is one of the main ones, but beyond that they have to do further analysis with their own personal situation, which is why we are in the same question with the ARUs, and said we could not answer because of all these different issues that affect landowners. I believe when I looked at the last ARU map of those who have been approved, it was spread throughout the island. Of course, it could not be west of the Hanalei Bridge because it is not allowed, but the approvals were across the entire island. There was not a specific area that it was confined to. I would expect that something similar would happen with the guest houses, but the guest houses ability to go on larger parcels accomplishes one of the main barriers that the ARUs stumbled into and that was inadequate access to wastewater sewer lines, and because they are being allowed on bigger parcels now, those homeowners can take advantage of the ability to put a septic system.

Councilmember Cowden: Can I ask about an unintended consequence? This is something I get a little anxiety over. If a small developer says we are going to put twenty-five (25) units on five (5) acres or even ten (10) acres—they can do that, right? If they put twenty-five (25) units on ten (10) acres, I would think all of them, all those acres, all those pieces, could maybe benefit by this. I am not saying that I oppose doing it, so maybe they could know when they are buying in there, they could put possibly their kid or something else later. If they are doing it now, are they going to have to plumb for sewage and water or deal with that? They are going to have that capacity and fire flow protection for twenty-five (25) units or for one hundred (100) units, because it seems like the time to put the capacity in is when we put the pipe in

the ground. If we put in twenty-five (25) units, do we need to put in capacity for one hundred (100) units?

Council Chair Rapozo: No.

Councilmember Cowden: When we do that subdivision approval, because that is what both our ADU and this guest house bill does.

Mr. Hull: There are areas that have capacity for that additional unit count.

Councilmember Cowden: But if we want to put a new piece in.

Mr. Hull: That is what I am saying, if you want to put new units in, there are areas on the island that have capacity and clearly there are areas on the island as this assessment demonstrates that have limited capacity.

Councilmember Cowden: This is my last question. Just intuitively, with this super hopeful Bill that I support, do you think seventy-five percent (75%) of the landowners that have a home are likely to be able to take advantage of it? Fifty percent (50%)? Twenty percent (20%)? Ten percent (10%)? As the Planning Director who supports this wholeheartedly, you must have some instinct. What is your instinct? Because if you do not know, no one knows. You have been doing this a long time, what is your instinct for the number of houses that might benefit from this Bill that we are putting out?

Mr. Hull: I can say looking at the ARUs, we got eighty-seven (87) applications in the past six (6) or seven (7) years.

Councilmember Cowden: So, it is not much.

Mr. Hull: That was not a windfall by any means.

Council Chair Rapozo: It is not much for one of those eighty-seven (87) families that had a house.

Mr. Hull: No.

Council Chair Rapozo: It is not much, but for anyone that was able to get a house, it meant everything.

Councilmember Cowden: But, what about the land tax next to it? It is still my question time. So, the person who is next to that house...

Mr. Hull: Can I answer the first question?

Councilmember Cowden: Yes.

Mr. Hull: I was about to follow up on Council Chair's point. Eighty-seven (87) homes are not much in looking at the big picture thing the Planning Department has to do...

Council Chair Rapozo: Right.

Mr. Hull: But it is eighty-seven (87) homes, over eighty-seven (87) families that did not have those rooms before. In looking at the fact that the single largest barrier to entry in our assessment of ARUs was the lot size constraint, not allowing a second septic system, and the inadequate access to a sewer line for the vast majority of areas that could be ARUs, I would say that in proposed draft bill, I would anticipate more units coming on line. Would it be the panacea of the housing crisis? No, I would have to say, honestly, it is not, but in my assessment, I have no way to base these numbers, but in just looking at the ARUs folded out in the past seven (7) years and the way this could be folded out, I would anticipate between roughly three hundred (300) to five hundred (500) units in the next five (5) years, and that is an optimistic number.

Councilmember Cowden: Out of this?

Mr. Hull: Out of this.

Councilmember Cowden: Three hundred (300) to five hundred (500).

Mr. Hull: That is an optimistic number. It does not take away the three thousand (3,000) deficit we have now, and the nine thousand (9,000) units we need in the next twenty (20) years, but if we are able to get even half of that projection, the one hundred fifty (150) to two hundred fifty (250) units, that is still one hundred fifty (150) to two hundred fifty (250) shelters over a family's head. The Housing Agency is a wonderful agency, under the direction of Adam Roversi, and the things they are doing is absolutely wonderful.

(Councilmember Kualii was noted as present.)

Mr. Hull: But the County Housing Agency cannot be the main developer of housing for our local families, right, at a cost of five hundred thousand dollars (\$500,000) a unit? It takes millions to address the three thousand (3,000) that we are deficit for or the nine thousand (9,000) we need over the next twenty (20) years. Looking at it through the ARUs, you get up to one hundred (100) or through the guest houses, you get two hundred (200) or three hundred (300), maybe four hundred (400). It is a way that we see as "chipping" at this crisis.

Councilmember Cowden: Do you see new designs? To me, wisdom would have it that you put your house in a quarter (1/4) of the property, rather than in the center of the property like we have done, so we will have changes like that. I did ask the Department of Finance if they thought it would raise the rates. They said it would probably blight the neighborhood, so it probably would not raise it that much. Does that seem accurate to you? That was the word.

Mr. Hull: I saw that memorandum. I disagree with an assessment of “blighting” the neighborhood. Also, there were amendments made in the Committee that removed the ability of ARUs and guest houses to be combined within the Residential district, so this Bill no longer increases any unit count, if you will, in the more intensified urban areas, if you will.

Councilmember Cowden: Okay, that is helpful for me. I am not trying to cause trouble.

Council Chair Rapozo: That was introduced in the Committee and it passed.

Councilmember Cowden: But four (4) are still there.

Council Chair Rapozo: Fear mongering about a blowout or explosion it not true. Councilmember DeCosta.

Councilmember DeCosta: I introduced that amendment. Two (2) questions, really simple. One, do you see something that we did not cover with you presented to the Planning Commission that you feel could benefit from going back to the Planning Committee and discussing more items that we did not put on the table in front of you?

Mr. Hull: I do not have anything further to offer. I do not object to the Council taking action on this, I do not object to Council saying they would like to defer it.

Councilmember DeCosta: I did not ask you...

Mr. Hull: I am here to provide as much information as Council requests.

Councilmember DeCosta: Perfect. That is what I asked, right? You said you provided us as much as you can. The next question, this Bill pertains to Ag now, because of my amendment. We took out the Residential impact, correct?

Mr. Hull: It still applies to the Residential district as well, in a different manner, but it affects the Residential districts still.

Councilmember DeCosta: Correct, but we did the amendment so it would not affect the Residential area. This will affect the Ag area, correct?

Mr. Hull: I would say it affects...

Council Chair Rapozo: It is not going to add unit counts in the Residential area.

Councilmember DeCosta: Correct. That is what I am asking you. Here is what I am asking you, because we as the Council provide information to the public and we provide false information and I wanted you to know this. Someone mentioned

ten (10) acres of development and twenty-five (25) houses on those ten (10) acres. If we are talking Ag land, ten (10) acres can only put 4 dwellings right now and one (1) guest cottage, yes or no?

Mr. Hull: That would be correct.

Councilmember Cowden: But that does not...

Council Chair Rapozo: Hang on.

Councilmember DeCosta: It is my time.

Council Chair Rapozo: Yes, go ahead.

Councilmember DeCosta: How did they come up with twenty-five (25) dwellings on ten (10) acres? With the new Bill, it is four (4) houses and four (4) guest cottages now. Am I correct, Mr. Hull?

Mr. Hull: For ten (10) acres.

Councilmember DeCosta: Is that a total of eight (8) houses or twenty-five (25)? Thank you.

Councilmember Cowden: I want to follow up to that.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: When I asked about the ten (10) acres and twenty-five (25) houses, I was not thinking about Ag land. I was looking at even when we did our ADUs and ARUs, because this was an issue before, when we do not have the capacity in a neighborhood, like we do not right now in some places, like in Kilauea where I live, so I have experience...when we do not have the capacity to the potential because we put the pipes in seventy (70) years ago, I was trying to ask when we are working forward doing a Residential subdivision of twenty-five (25) houses where if I was doing it, I would put that house not in the center of the property and I would be selling it to people saying, "Hey, if you decide you want more, you can have more. If you want a big yard, go for it, you have a big yard," but it would be a well-informed subdivision, because my understanding when we brought this up before is that we have to expect moving forward. We have to plumb it. We asked this question. We have to plumb for the future potential of what is permissible, so a new Residential subdivision of twenty-five (25) units would need to be plumbed for the potential of one hundred (100) since it is four (4) units per unit...four (4) total with the given density in a Residential subdivision.

Council Chair Rapozo: But this Bill will not allow them to increase the density. They can have an ADU or a guest cottage.

Councilmember Cowden: No, they can have...we had the blocks up there, so I did not put it up. You can have the blocks. You can have an ADU and an ARU.

- Council Chair Rapozo: No, the amendment fixed that.
- Councilmember Cowden: No.
- Council Chair Rapozo: The amendment fixed that, so your chart is wrong.
- Councilmember Cowden: The additional chart was wrong, but the left side was still right.
- Mr. Hull: The left side of the chart was accurate.
- Councilmember Cowden: Yes.
- Mr. Hull: But as Council Chair is pointing out, this Bill does not affect that.
- Council Chair Rapozo: Right. This Bill could die today and that would still apply. That is my point. We are creating "red herrings." If this Bill was not here, that is still the situation today.
- Councilmember Cowden: I am simply asking a question. When we are building moving forward, we need to be building with the plumbing for what was existing prior and that this still happens, just so we know.
- Council Chair Rapozo: But you are making it seem like this Bill...
- Councilmember Cowden: No, I am not.
- Council Chair Rapozo: ...is the cause of that, because that is what we should be discussing.
- Councilmember Cowden: He corrected it a little bit.
- Council Chair Rapozo: The question that you are asking is a question that pertains to any development today whether this Bill is passed or not. This will not increase density in the Residential area. It will not. It just will not, and I do not want the people to think that is what we are doing.
- Councilmember Cowden: It is what we were doing; we are no longer. We fixed it. Thank you, Councilmember DeCosta.
- Council Chair Rapozo: That is my point. If we fixed it, do not raise it, because you are making the public think this is something that it is not.
- Councilmember Cowden: It is still a big issue.
- Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: In 2020, the Managing Director and...was it the Planning Department? You said you were not in support of this bill or something similar.

Mr. Hull: I have not spoken to the former Managing Director or the former Planning Director recently on this Bill.

Councilmember Kagawa: I was taking it from the testimony stated at last week's Committee Meeting. It was mentioned that in 2020, the Administration did not support it. What changed? I am asking you folks to provide that part for us. What changed? Three (3) years changed? It should be a "slam dunk" and everything is smooth just because three (3) years ago they changed?

Mr. Hull: I will clarify.

Councilmember Kagawa: What changed?

Mr. Hull: To my knowledge, every proposal that was done for increasing Residential use on Ag lands was to return to the ADU on Ag land Ordinance. That was wholeheartedly opposed by the Planning Department for years as well as the Administration for years. I can say that when I was first...

Councilmember Kagawa: What was the main reason why they opposed it?

Mr. Hull: While the ADU on Ag land allowed for many local families to have an additional unit and took advantage of it, the vast majority of them were very large structures used more in general estate type situations where they are sold off into their speculative markets, so the ADU law allowed you to have a house as big as you wanted that could be CPR-ed and sold off into the speculative market, so for years the Planning Department opposed reopening that book. Some local families got houses, but it was so detrimental to the speculative sales of these properties. I can say that even when Councilmember DeCosta and Council Chair Rapozo proposed this, there was a discussion about ADUs and our position was the same as it has been for the past decade. I would like to say that here is why we are going to oppose this is because again, these allow for massive gentlemen estates and the wholesaling of Ag land, so their response and in collaborating with Council Chair Rapozo and Councilmember DeCosta...how can we address housing in this area of Kaua'i without ending up with "McMansions" and wholesaling it off? That is where we essentially arrived at this idea that an eight hundred (800) square foot structure, as opposed to a ten thousand (10,000) or fifteen thousand (15,000) square foot structure is primarily going to be aimed at local families. There is no one hundred percent (100%) guarantee it will, but you do not see "McMillionaires" swipping up these eight hundred (800) square feet structures, so looking at restricting the size and understanding that we already have that paradigm within the guest house entitlement on Ag land was one way of approaching it. Secondly, securing it under the notion that it can never be CPR-ed off which is implicit in the code right now, but then the proposal is to make it explicit. This idea that we are going to shrink the square footage of the house size and we will never allow it to be sold off from the primary dwelling is where we switched our position. Would this type of policy...the

Planning Department, from our long-range vision and policy, could say we can get behind this.

Councilmember Kagawa: With the size shrinking down, you feel like the rich gentlemen farmers who would not benefit from local housing will not take a bite at it as much in the past?

Mr. Hull: And the restriction on CPRs.

Councilmember Kagawa: Okay, so that has changed?

Mr. Hull: Yes.

Councilmember Kagawa: That is all I wanted to know.

Council Chair Rapozo: It is apples and oranges. When you look at what was proposed in the past.

Councilmember Kagawa: I was not here in 2020, so that is why I am asking.

Council Chair Rapozo: Me neither. To be honest with you, I do not know if I would have supported it in 2020 if I was on the Council. Again, when we talk about what was proposed over the years, it was the fact that the large landowner could put a house, CPR, and sell that on the private market and make a lot of money. Again, it was the Planning Department that told us that if we do not make that change—if we do not limit the size and we do not connect it to the original unit of density—they will not support it and neither will the Mayor. It is very simple for us, right? The objective here is not to build mansions. It is to build houses for our kids to stay in on the families that have Ag land. The idea that you cannot CPR it off is brilliant. I wish I had thought of that, because that is true. Now, you can generate revenue from rental, but you cannot sell off this guest house separately from your main house. The whole objective is what I call “inventory enhancement.” We are trying to have houses built in the quickest way possible and yes, I can sit here and find all the things. Not everyone will be able to do this. I cannot do it in my subdivision, although the lot allows me to, but I cannot put a septic system, my lot is too small. I know Mr. Sykos’ issue...I do not know where he went, but he talked about ethical issues. If you use that mindset, then none of us can vote on property taxes, because we are all impacted by property rates, right? This is obviously something that we can turn some inventory, bring some inventory onto the market. Yes, not everyone will qualify, but should we ban swimming pools because not everyone can have one? Should we say no, because these people cannot, then we will not let anyone have? No. I think that if you have everything in place—you have the lot size, you have the ability to build that house...it is expensive, I would not be able afford to build one...if you do not have sewer, then you need to build a septic system. If you meet all of those criteria, then you can have one.

Councilmember Kagawa: For me, being perfectly honest, it is just the fact that this Bill “sailed” through first reading, public hearing, and the Committee Meeting with zero (0) testimony for or against.

Council Chair Rapozo: We had a lot of testimony in support from Jerry Ornellas folks, the Farm Bureau, and all of these people. The all support it.

Councilmember Kagawa: I know. Over the years, like I said, we have been asked this question ever since getting in office, "Hey, a simple solution. Why do you folks not allow more housing on Ag land?" The positives...I am talking about the fact that a similar bill, until just recently, was always opposed by the Administration for reasons that I had to call the former Managing Director and find out from his mouth why it opposed and I was just wondering through the Committee and everything why we did not look a little deeper into what changed, so I got my answers today, and I am fine. Sometimes when your antennas go up, you need to ask the questions, even if you folks do not agree.

Council Chair Rapozo: Absolutely.

Councilmember Kagawa: That is my job.

Council Chair Rapozo: Again, what Michael Dahilig was talking about was the bill that was presented at the time that he was here and he is long gone. I do not know if Mr. Dahilig would be opposed to this Bill if he knew about the changes in the Bill. He is not even here anymore; he lives in Honolulu, so I am not too concerned.

Councilmember Cowden: I just want to make a short comment, because we do have the press in the room. I would just hope that the headline does not set undue expectations, that somewhere in the story people have to be diligent and really make sure, because it is not available everywhere. That should be made clear to the public, because of course, I want the extra housing and coming from the diversified Ag community, they desperately need this, and I am hoping that some of them can just legalize what is out there in different neighborhoods and farms.

Council Chair Rapozo: Is there anyone else? Are there any more questions for Mr. Hull? If not, I will release him. Thank you. Go ahead.

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

Councilmember DeCosta: I have a final discussion point I want to make really clear. Your lot has a certain size and you qualify for a septic system, and if it is too small and you already have a septic on your property, then that septic system is converted into what is called a "seepage pit," instead of a "seepage line," so you dig a deep hole and they make a pit to convert the septic system in a smaller area. Councilmember Kuali'i and I met with DOW, we were here on record. DOW said that if you are in an area where there is a lot of rainfall, they do not have a meter close by, and there is no water on that property, they would not object to signing that permit and you would be responsible for rain catchment, so we did solve that issue. This is a great thing in place that I believe a great number of local families will benefit from. That is what our job is, right? It is to help our people on Kaua'i, and that is what we are doing, so thank you so much.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: For me, it is just history, right? Today, you can look at former Councilmember Chock's and former Councilmember Evslin's bill for the ARU and you can judge it on your own merit. One side can say eighty-two (82) is a great result, others can say we allow ADUs or ARUs on lots as small as four thousand five hundred (4,500) square feet whereas the previous law was ten thousand (10,000) square feet. We already have major...just at the ten-thousand-square-foot ADUs, some neighbors have extraordinary parking problems. The fire truck can barely go between all the cars because we are not following the proper planning. Houses need to have parking in their lots and with all the roads, yes, housing is a crisis, it is important, but we cut that thing in half where you could add an ADU or ARU. I voted no. I proudly did, because at some point, you need to protect the form and shape of your Residential neighborhoods. Do we look for affordable housing right in there without care of the parking? It can be crowded with cars parked all over, emergency vehicles, trash personnel cannot even pick up the rubbish. Is that what we want or do we want planned subdivisions? People paid over half a million dollars (\$500,000) or whatever. Now, people pay over one million two hundred thousand dollars (\$1,200,000) for those houses. Are we going to keep changing our rules to allow more congestion in areas because we are trying to solve the housing crisis? At some point, you are going to be on the fence. Is eighty-two (82) the number? Yes, for me it is not the number. Now, we are talking about this Ag being opposed as recently as 2020 and not for the reason that they are against housing. Who is against allowing more housing for local people who need it? We are all for it, from the Administration side to the Council side, but at some point, we need to go slow and respect the form and shape of what we want our Ag residences and lots to look like. Yes, I will support this Bill, because it is just a guest house. It sounds like it will not impact the whole look of what our Ag lots look like and drive up our costs with unintentional consequences, but there will be. Money talks. The ones with money will be able to do it. They will do it, they will stretch it, and they are going to try to get whatever they can, because this place is so beautiful and because they can do it. For me, it is not the greatest "slam dunk" bill I have ever seen, but I will support it today. The thing is, there are reasons why sometimes a person like me will question it, because there are always unintended consequences that come by and later when it is done they will say, "Look at that neighborhood. This stupid Council approved that thing way back and look at it now." We try to avoid that, so when we are done, maybe they will be proud of decisions we make that considered all the factors, rather than just, "Oh, housing crisis, okay, just do it." That is my take.

Council Chair Rapozo: Thank you, Councilmember Kagawa. I just want to say the original Bill really would have added congestion into the Residential neighborhoods, but with the amendment, they are given nothing more than they are already entitled to do. In fact, if they already have an ADU, they cannot put the guest house. It will not impact...and I agree. You bring up good points, Councilmember Kagawa, about the landscape of the neighborhoods. You can barely drive through some of these neighborhoods now with the cars parked on both sides of the road. Is there anyone else? Councilmember Carvalho.

Councilmember Carvalho: In general terms, the big part for me was going to the eight hundred (800) square foot homes, because in the past, we had

numerous discussions on ADUs which could be huge homes, but this is just down to the eight hundred (800) square feet, and to me, that is a big plus, it is an opportunity. It will not solve the whole problem, but it is targeting more of our local families, and that is what resonated to the top, knowing all the different levels we had to go with the Planning Department and going through all the different discussions, so this part is at the forefront right now that we are looking at and keeping it there. If it was larger, no way, but for me, this is a big plus.

Council Chair Rapozo:

Thank you. Councilmember Kualii.

Councilmember Kualii: The potential for helping our local, growing families is so great and it is not just about new people into the neighborhood, it is the people who are already there and the families that are growing because the kids are growing up, and the whole talk about people moving away. The houses already in place are getting overcrowded, so we can help them, too, to at least spread out into two (2) houses into the same lot. That is just us trying to accommodate what is happening anyway. If you look at neighborhoods like Puhi and Hanamā'ulu, it has been so overcrowded and cars have been in the streets for a long time now, and people manage. They cooperate and it is okay. Parking is difficult, but lack of housing much more difficult and people are moving away, so we need to do what we can.

Council Chair Rapozo:
Bulosan.

Is there anyone else? Councilmember

Councilmember Bulosan: I am in full support of this Bill. I will be voting in support. I want to thank the introducers for working on this Bill. There was a lot of due diligence that happened throughout the whole process. Any big changes like this takes a lot of time and takes a lot of input. I want to *mahalo* all the testimony that came in and allowed us to address some of the issues that we may have addressed in amendments. For me, this one is pretty straight forward and is the reason why I support it. I totally understand the process that we need to go through to do our best and "put our best foot forward," and I appreciate what we do here, which is we try to poke as many holes into these ideas, so that way we solve all the problems as much as possible and try to reduce any negative, unintended consequences, so I appreciate that whole process. For me, when I look at this, I take a much bigger step back and look at the history of housing in general. You look at communities across the whole that have gone through cycles of this. Many communities started as community living. It was everyone living as close to each other, so we can live close to family and friends, and then we can all help each other. We started that way. Then all of a sudden it became where certain communities throughout the world it is more important that I own a bunch of land, you stay as far away from me as possible and now there is no one near us, and somehow it is more important to have a bunch and a bunch of money, but not family. If you look at the cycles and you look at all the communities in the world, thousands of years, as old as Japan, as old as the Philippines, as old as the dawn of time, you get to a point where we come back to community living. When I look at this Bill, I think that is what we are trying to return to. It is a smart way to live, it is the way that we need to be, because without family and without friends, life is nothing without money. When I look at this Bill, that is what it feels like to me. It is one of those challenges. As a community, we try to legislate and try to look into the future, what are we motivated by? We are only

motivated by two (2) things: either fear or love. A hope for something or a fear of something. Our job here is to poke holes, to flush out all the fears—the fear of raising property taxes, too many homes in one (1) dense area, too many cars, not enough infrastructure, wrong people living next to me, which is a weird thing to be afraid of—and the other fear. The other fear is less of the people that we hope to stay—workforce people, people who are giving back to the community. They do not stay, they leave, they go. More building into spaces that we do not want to go, less taking care of the environment. When I see this Bill, the fear of that is much less than the fear of losing more local people, losing more workforce housing, and when I think of the hopeful side, I find more hope in this Bill for our community. I find potential for closer community living, I see a lot of families staying together. Whether it is four hundred (400) or five hundred (500) that we anticipate with this Bill or even one (1), that is as important to me as ever, especially when we bring it down to the basic challenges right now for our housing problem, which is just three (3) simple things: infrastructure, cost of building, and our process of building housing. If we can address those three (3) things so that we can get back to community living, I am all for it and this Bill does that, so I appreciate the introducers, the Councilmembers, and all the testimony that has made us shape it in a way that I think and I feel confident will address the challenges that we hope it will address.

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

Councilmember Cowden: Can I just add a couple of sentences?

Council Chair Rapozo: Sure.

Councilmember Cowden: What I want to support what Councilmember Bulosan just said, is as a species, we are meant to live in a community and family compounds. That is how we evolved across all continents everywhere.

Council Chair Rapozo: Are we done? Okay, roll call.

The motion for adoption of Bill No. 2933, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR 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.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Kagawa was noted as silent, but shall be recorded as an affirmative for the motion.)*

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

(Councilmember Kualii was noted as not present.)

Council Chair Rapozo: We have two (2) items for Executive Session. Can you read us into Executive Session item, please?

EXECUTIVE SESSION:

ES-1135 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-1136 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 Council with a briefing and request authority for a possible settlement proposal in a claim filed by Kaua'i Island Utility Cooperative (KIUC) and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-1135 and ES-1136, seconded by Councilmember Bulosan.

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

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

The motion to convene in Executive Session for ES-1135 and ES-1136 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.

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

Council Chair Rapozo: With that, we will come back at 2:00 p.m. We will go into Executive Session at 2:00 p.m. Sorry, folks.

There being no objections, the meeting recessed at 1:06 p.m. to convene in Executive Session.

The meeting reconvened at 2:34 p.m., and proceeded as follows:

Council Chair Rapozo: This meeting is called back to order.
Mr. Bracken.

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: ES-1135 and ES-1136 were held. Both were regarding pending claims and so because they are pending, there is nothing to disclose at this time. When they are settled, then they will be disclosed to the public, but until then, they are confidential.

Council Chair Rapozo: Thank you very much.

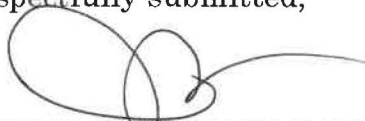
There being no public testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: With that, this meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:34 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

slr:ss:dmc

(October 23, 2024)

FLOOR AMENDMENT

Resolution No. 2024-26, RESOLUTION URGING THE STATE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO UNILATERALLY SURVEY A SHORELINE FOR THE PURPOSE OF ESTABLISHING A BOUNDARY OF STATE LAND AT 'ANINI BEACH

Introduced by: BERNARD P. CARVALHO, JR., Councilmember (By Request)

Amend Resolution No. 2024-26, "BE IT FURTHER RESOLVED" paragraph, to read as follows:

"BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be transmitted to Honorable Governor Josh Green, M.D., Honorable Lieutenant Governor Sylvia Luke; Keith A. Regan, Comptroller, Department of Accounting and General Services, Dawn N.S. Chang, Chairperson, Department of Land and Natural Resources, Honorable Nadine K. Nakamura, House Majority Leader, Honorable Mayor Derek S.K. Kawakami, and Ka'āina S. Hull, Director of Planning."

(New material to be added is underscored. Amended material is highlighted.)

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(October 23, 2024)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2935) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2024-896, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2024 THROUGH JUNE 30, 2025, FOR THE PURPOSES OF FUNDING EXPENDITURES CAUSED BY HEAVY RAINS AND SEVERE FLOODING WHICH STARTED ON APRIL 11, 2024, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND

Introduced by: BILL DECOSTA, Councilmember

1. Amend Proposed Draft Bill (No. 2935), SECTION 2, as follows:

“SECTION 2. That pursuant to Sec. 19.07B and Sec. 19.10A of the Charter of the County of Kaua‘i, as amended, Ordinance No. B-2024-896, as amended, relating to the Operating Budget of the County of Kaua‘i, State of Hawai‘i, for the fiscal year July 1, 2024 through June 30, 2025, be hereby amended as follows:

The sum of [\$2,457,0000.00] \$2,457,000.00 by revising the amounts estimated in the General Fund from the following accounts:

Equity / Fund Balance – Committed (Disaster Reserve)	[\$2,457,000]
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Be and is hereby appropriated for the following purposes:

Finance / Administration – Special Projects (RAIN24)	\$2,457,000”
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(Material to be deleted is bracketed. New material to be added is underscored. Amendment material is highlighted.)

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