

## COUNCIL MEETING

JANUARY 29, 2025

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, Lihue, Kaua'i, on Wednesday, January 29, 2025, at 8:31 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 Fern Holland  
Honorable Arryl Kaneshiro  
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 Cowden.

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 unanimously carried.

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

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

January 16, 2025 Council Meeting  
January 16, 2025 Public Hearing re: Bill No. 2940

Councilmember Kualii moved to approve the Minutes, 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 to approve the Minutes, as circulated, was then put, and unanimously carried.

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

CONSENT CALENDAR:

C 2025-28 Communication (12/09/2024) from the Mayor, transmitting for Council consideration and confirmation, the appointment of Gerald Bahouth to the Liquor Control Commission – Partial term ending 12/31/2025.

C 2025-29 Communication (01/14/2025) from Tyler C. Saito, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from October 1, 2024 through December 31, 2024.

C 2025-30 Communication (01/17/2025) from the Hawai'i State Association of Counties (HSAC) President, transmitting for Council consideration, HSAC's slate of officers for the HSAC Executive Committee for Calendar Year 2025, pursuant to Section 5 of the Bylaws of the Hawai'i State Association of Counties, Inc.

C 2025-31 Communication (01/21/2025) from the Hawai'i State Association of Counties (HSAC) Executive Director, transmitting for Council consideration, HSAC's nominations of Councilmember KipuKai Kuali'i, County of Kaua'i and Councilmember Tommy Waters, City and County of Honolulu, to serve on the Board of Directors for the National Association of Counties (NACo), and nominations of Councilmember Shane Sinenci, County of Maui and Councilmember Arryl Kaneshiro, County of Kaua'i, to serve on the Board of Directors for the Western Interstate Region (WIR), pursuant to Section 5A and Section 5C of the Bylaws of the Hawai'i State Association of Counties, Inc.

Councilmember Kuali'i moved to receive C 2025-28, C 2025-29, C 2025-30, and C 2025-31 for the record, 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 receive C 2025-28, C 2025-29, C 2025-30, and C 2025-31 for the record was then put, and unanimously carried.

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



COMMUNICATIONS:

C 2025-32 Communication (10/31/2024) from the Prosecuting Attorney, requesting Council approval:

- To accept the Opioid Settlement Funds in the total amount of \$281,063.65. The initial specified amount approved during the July 10, 2024 Council Meeting was \$280,000.00; and
- Of the indemnification provisions in the State of Hawai'i Department of Health Memorandum of Agreement (MOA).

Councilmember Kualii moved to approve C 2025-32, seconded by Councilmember Cowden.

Council Chair Rapozo: Is there someone from the Office of the Prosecuting Attorney present?

There being no objections, the rules were suspended.

MICHAEL MIRANDA, Re-Entry Program Administrator: Michael Miranda, Re-Entry Coordinator and Hawai'i Opioid Settlement Advisory Committee Member.

Council Chair Rapozo: Thank you. Could you give us a brief overview of what this is all about and what these funds are going to be used for?

Mr. Miranda: Yes, Council Chair. Back in June or July, the Council previously approved the acceptance of the Opioid Settlement Funds, but the amount was amended to two hundred eighty-one thousand dollars (\$281,000) and some change. It is a little over one thousand dollars (\$1,000) more than originally approved, and to indemnify the State.

Council Chair Rapozo: Is this just changing the amount, making it accurate, and then the indemnification?

Mr. Miranda: Yes.

Council Chair Rapozo: Okay, Councilmember Cowden.

Councilmember Cowden: I was pleased that it came out to be this much because when we were looking at it, it did not look like it would be this much. You have a list here of the potential to spend it, but do you have a plan of how that is going to be applied?

Mr. Miranda: The Kaua'i Fentanyl Task Force will be coming up with a plan on how to spend the two hundred eighty-one thousand dollars (\$281,000). The majority of it will be given to nonprofit organizations and community-based organizations.

Councilmember Cowden: We are focusing on fentanyl which, to me, is a huge issue, so that is going to be the priority?

Mr. Miranda: Yes.

Councilmember Cowden: Okay. Thank you.

Council Chair Rapozo: Are there any other questions for the Office of the Prosecuting Attorney? If not, thank you. Is there anyone in the audience wishing to testify? Is there any further discussion?

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

The motion to approve C 2025-32 was then put, and unanimously carried.

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

C 2025-33 Communication (12/24/2024) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, for the first allotment in the amount of \$6,639.00, Fiscal Year 2025, 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 2025-33, seconded by Councilmember Carvalho.

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

Councilmember Cowden: Is the Executive on Aging here? I have a question for her.

Council Chair Rapozo: Welcome. This is officially your first visit to the County Council.

There being no objections, the rules were suspended:

EMILY ISHIDA, Executive on Aging: Emily Ishida, Executive on Aging.

Councilmember Cowden: Congratulations on your new appointment. This is a small amount. How long does this last for? Is this the whole year? Six thousand six hundred dollars (\$6,600) is going to pay for the entire year?

Ms. Ishida: No.

Councilmember Cowden: Is this a chunk of a larger amount?

Ms. Ishida: That is correct.

Councilmember Cowden: Okay.

Ms. Ishida: It is just a portion to cover the raw food cost.

Councilmember Cowden: Who is the provider on this one?

Ms. Ishida: We are using it for the Samuel Mahelona Memorial Hospital (SMMH) home-delivered meals program.

Councilmember Cowden: Okay, because it does not seem like very much money.

Ms. Ishida: It is just that the way the State allots it is twelve-point-five percent (12.5%) of the whole amount that we get. Each island is allotted a certain percentage and that is our cut.

Councilmember Cowden: Alright, thank you.

Ms. Ishida: You are welcome.

Council Chair Rapozo: Are there any other questions? If not, thank you.

Ms. Ishida: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? The total funding for this grant is a little over fifty-three thousand dollars (\$53,000) and that should be sufficient for the SMMH program.

Councilmember Cowden: I see it right there. I am sorry.

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

The motion to approve C 2025-33 was then put, and unanimously carried.

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

C 2025-34 Communication (01/02/2025) from the County Engineer, requesting Council approval to dispose of various records, pursuant to Hawai'i Revised Statutes (HRS) Section 46-43 and Resolution No. 2021-48 (2021), which have been kept for over seven (7) years and are no longer of use or value.

Councilmember Kualii moved to approve C 2025-34, seconded by Councilmember Carvalho.

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 2025-34 was then put, and unanimously carried.

Council Chair Rapozo: The motion carries. We have another item from the Department of Public Works. If there are no objections, I would like to take C 2025-36 out of order, please.

There being no objections, C 2025-36 was taken out of order.

C 2025-36 Communication (01/09/2025) from the County Engineer, requesting Council approval:

- To accept a donation from Grove Farm Properties, Inc. of approximately 100,000 cubic yards of soil, with an estimated value of \$2,500,000.00, to be used at the Kekaha Landfill for daily cover, intermediate cover, backfill, and road construction, which will satisfy the landfill soil needs for approximately eight (9) months to one (1) year [sic]; and
- Of the indemnification provision in the Right-of-Entry provided in the Right-of-Entry Agreement Waiola Site Soil Project.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: There was a typographical (typo) error in our description to the duration, which should be approximately one (1) year and eight (8) months.

Councilmember Kualifi moved to approve C 2025-36 with a thank-you letter to follow, seconded by Councilmember Carvalho.

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

Councilmember Cowden: I have a quick question.

Council Chair Rapozo: Okay.

Councilmember Cowden: It will be very quick. Thank you for always being on top of this and thank you to Grove Farm Properties, Inc. (Grove Farm) for giving the County soil for covering the landfill. I am always shocked how much soil costs. It is two million five hundred thousand dollars (\$2,500,000) for maybe a year. Is that what the County spends every single year, or do you get different prices on different pieces of soil? I know it is hard to find. Does it cost this much all the time? Am I forgetting?

There being no objections, the rules were suspended.

TROY K. TANIGAWA, County Engineer: Troy Tanigawa, County Engineer, for the record. That is an estimate just for the hauling from Lihue.

Councilmember Cowden: That is just the hauling?

Mr. Tanigawa: Yes. The soil is being provided by Grove Farm for free. There is no charge.

Councilmember Cowden: Wow, okay. Do we give them a gratitude card? That is great, but that is how much it costs to move the soil. When we have these conversations on landfill uses, this is a shocking overlook of what it costs, so it is nice that they are giving the County the soil. Is this where they are doing a new subdivision or something and they dug it up anyway?

Mr. Tanigawa: That is correct.

Councilmember Cowden: Okay. It is probably good soil, but alright. Thank you.

Mr. Tanigawa: Thank you.

Council Chair Rapozo: Are there any other questions for the Department of Public Works? Councilmember Kuali'i.

Councilmember Kuali'i: Just for clarification, are you saying that the soil is free and that the two million five hundred thousand dollars (\$2,500,000) is for the cost of the trucks hauling them?

Mr. Tanigawa: That is correct. That is why we have the donation request for approval.

Councilmember Kuali'i: Is the County getting the soil from the closest area? Are there State lands? The soil is coming off of Grove Farm lands. Is that what you are saying?

Mr. Tanigawa: That is correct. It is in Līhu'e.

Councilmember Kuali'i: Can the County get the soil off of State lands closer or nearer so the hauling would cost less?

Mr. Tanigawa: We have been fortunate that we have had that soil boring source for many years, ever since the landfill started in 1994 or late 1993. That soil source has dwindled and it is now pretty much down to "bare bones" as far as our boring sources on that side of the island. We have some remaining soil there and we would like to conserve that remaining soil for emergencies and other needs.

Councilmember Kuali'i: The last part is, the soil is free, the hauling is two million five hundred thousand dollars (\$2,500,000). That two million five hundred thousand dollars (\$2,500,000) is being provided by Grove Farm?

Mr. Tanigawa: No, the two million five hundred thousand dollars (\$2,500,000) is what we budgeted to contract the hauler to do the work to load and haul the soil to Kekaha landfill.

Councilmember Kuali'i: We are thanking Grove Farm for free soil?

Mr. Tanigawa: Absolutely.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Troy, is it just a coincidence that the value of the donation is two million five hundred thousand dollars (\$2,500,000) and the hauling cost is two million five hundred thousand dollars (\$2,500,000)? I am reading this and the two million five hundred thousand dollars (\$2,500,000) pertains to the estimated value based on the soil.

Mr. Tanigawa: It is a coincidence. We looked at the different potential sources and that is the cost that the Solid Waste Division determined the soil value to be.

Council Chair Rapozo: Okay, but the discussion that is happening right now about hauling...I do not know where there two million five hundred thousand dollars (\$2,500,000) came from.

Mr. Tanigawa: Okay.

Council Chair Rapozo: Is that a coincidence?

Mr. Tanigawa: It is pure coincidence.

Council Chair Rapozo: Okay.

Councilmember Cowden: The County does not have the trucks to haul it ourselves? You contract it out? The County is paying someone else to haul the soil? The County does not have trucks in its fleet that can haul it?

Mr. Tanigawa: We do have trucks that are capable, but they are busy doing other things. It is mostly in the Roads Division. The landfill has trucks, but we only have two (2) and they would not be able to haul it to fill our soil needs.

Councilmember Cowden: The County goes over there, picks up a truck, and moves it when it is needed? Or does the County move it all at the same time and put it in a big pile next to the landfill?

Mr. Tanigawa: That is correct.

Councilmember Cowden: The County moves it all at the same time and puts it in a big pile?

Mr. Tanigawa: It is deposited in the landfill property.

Councilmember Cowden: It is just going to sit there as a big pile and the County will use it as it is needed?

Mr. Tanigawa: They use the soil regularly, on a daily basis, so it does not end up being a huge pile of one hundred thousand (100,000) cubic yards. It is a pile of soil, but they use it up pretty quickly. I am not able to comment on how big the pile is, but it is delivered to the landfill and they use it as their needs demand.

Councilmember Cowden: Okay, I just was not sure if the County was having trucks every other week or if it all comes at once, but it sounds like it all comes at once.

Mr. Tanigawa: It comes over the whole period of time.

Councilmember Cowden: Alright, thank you.

Mr. Tanigawa: You are welcome.

Council Chair Rapozo: Are there any other questions for the Department of Public Works? If not, thank you. Is there anyone in the audience? Mr. Hart.

BRUCE HART: Good morning. For the record, Bruce Hart. I was listening to what you were saying. I would like it if someone could tell me how much it costs per cubic yard or however it is measured. How much does it cost per mile? Could someone "crunch the numbers" and tell us how many new trucks the two million five hundred thousand dollars (\$2,500,000) would buy us? Of course, you would have to factor in the wage of our employees hauling, but I would like to hear the numbers. Maybe we could buy some new trucks and do it ourselves. Thank you.

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

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

Council Chair Rapozo: Let me just say that purchasing the trucks and the personnel, I think if this was an ongoing task that might make sense, but when you are talking about one hundred thousand (100,000) cubic yards, and when that has all been delivered, then what do you do with all the trucks and the employees that you just spent a ton of money on? This just goes to show how important and critical the discussion on the landfill needs to be, because these costs are growing and we need to find solutions. Councilmember Kaneshiro.

Councilmember Kaneshiro: I, too, will say that one hundred thousand (100,000) cubic yards is a massive amount of dirt. I think one (1) truck can carry twenty (20) to twenty-five (25) cubic yards or something, so for the County to purchase vehicles and try to haul it, I do not think it makes sense for the County. I think the best thing for the County to do is to concentrate on what needs to be done at the landfill and contract it out, and the truckers who have a whole bunch of trucks haul it out there.

Council Chair Rapozo: I know the motion was made, but I think it was Councilmember Cowden who talked about the *mahalo* letter. We definitely need to get a *mahalo* letter out there for Grove Farm.



Councilmember Cowden: I was just asking to help me understand because I do not work in that industry and I am always shocked at how expensive managing the landfill is. It is a huge price. I am not complaining.

The motion to approve C 2025-36 with a thank-you letter to follow was then put, and unanimously carried.

Council Chair Rapozo: The motion carries. Can we go back to C 2025-35, please?

C 2025-35 Communication (01/08/2025) from the Executive on Transportation, requesting Council approval to apply for, receive, expend, and indemnify the Federal Transit Administration (FTA) for Section 5311 formula grant funds in the amount of \$1,365,726.00 for four (4) diesel and gas buses, which are soon to be beyond their useful lives, to be used to fund eighty percent (80%) of the purchase cost, and twenty percent (20%) from the Transportation Agency's Fiscal Year 2025 budget request.

Councilmember Kualii moved to approve C 2025-35, seconded by Councilmember Cowden.

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

Councilmember Cowden: I have a simple question.

There being no objections, the rules were suspended.

CELIA M. MAHIKOA, Executive on Transportation: *Aloha,* good morning. Celia Mahikoa, Executive with the Transportation Agency.

Councilmember Cowden: Thank you, Celia, for always doing a good job at applying for grants that really defray the costs, and I want to say that since I have been in office, especially through the coronavirus disease 2019 (COVID-19) pandemic, the County has gotten really good care from the Federal government helping transportation, and you have done an excellent job at working to make that happen. This says this is approval to apply for, so it means you do not have it yet, right? So, you are going to need to buy these buses regardless of whether you get the grant?

Ms. Mahikoa: That is correct. However, this is our formula allotment that we receive each year.

Councilmember Cowden: Okay, so you are going to get it?

Ms. Mahikoa: Yes, thankfully.

Councilmember Cowden: That was my question. Thank you.

Council Chair Rapozo: Celia, I know there was a little email back and forth from a constituent regarding why the County is not purchasing electric buses. I



think it is a good opportunity, and I appreciate you getting back to the constituent really quickly, that helps, but I think the question is valid and I think your response is important and valid. Can you share why you are replacing these with diesel and gas and not electric vehicles?

Ms. Mahikoa: Thank you. It was an excellent question presented from one of our individuals who had come in contact with us regarding why we are purchasing gas and diesel with this allocation. As we are working towards what is needed in order to get an electric fleet activated on Kaua'i, it has been taking an investment in getting our repair shop expanded and going through the steps needed in order to be ready to have electric buses on island and us being able to operate, service them, charge them, and take all of the steps that are necessary to prepare to have them. Meanwhile, because we do not want to negatively impact the service that is provided to the community at this time and until we are able to get our electric fleet actively replacing the existing fleet that we have, we need to make sure we are replacing the buses that are aging out right now with buses that we are currently able to maintain, operate, and take care of. That is pretty much where we are at right now.

Council Chair Rapozo: Thank you.

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

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I know when we were all really excited about getting the electric vehicle fleet and it is certainly nicer in the communities that do not have to smell the bus fumes, so "thumbs up" on that one, but have you evaluated when you see the impact of the lithium fires and how difficult it is? When we first decided to do this, we did not realize one of the biggest things causing the lithium fires is salt water and being exposed to ocean air, which we have here. Has that impacted the County's decisions at all or also...I guess we just had an Executive Order getting rid of that all electric vehicle mandates that went to the country, so has anything made you reevaluate lithium batteries?

Council Chair Rapozo: I will stop you there, because the discussion is really about the replacement buses. I think that discussion is one we need to have, but for today's posted item, I just wanted you to share why, because that was a constituent question that came up about the replacement.

Councilmember Cowden: Alright.

Council Chair Rapozo: Go ahead, Councilmember Kaneshiro.

Councilmember Kaneshiro: I have a quick question. The useful life of the buses, is it six (6) or five (5) years?

Ms. Mahikoa: It would be nice to be able to replace them within five (5) years, but typically, it stretches out to six (6), occasionally seven (7), just in pairing up the funding along with the process of replacement and some of the

challenges we have had with the shipping and the supply chain coming out of the COVID-19 pandemic and all of that.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Are there any other questions for the Transportation Agency? If not, thank you very much.

Ms. Mahikoa: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? Seeing none, is there any further discussion?

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

The motion to approve C 2025-35 was then put, and unanimously carried.

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

C 2025-37 Communication (01/09/2025) from Elliott K. Ke, Assistant Chief of Police, Police Operations Bureau, requesting Council approval of the indemnification provisions contained in the Hawaiian Telcom Service Agreement, for the renewal of the Intrado/Viper Workstations Services for Enhanced 911 (E-911) Call Routing Solutions system for continued use at the Kaua'i Police Department's (KPD's) Public Safety Answering Point (PSAP) and the Alternate Dispatch Center (ADC) for reporting emergencies and requests for police, fire, and medical services in the County of Kaua'i.

Councilmember Kualii moved to approve C 2025-37, 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 2025-37 was then put, and unanimously carried.

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

C 2025-38 Communication (01/10/2025) from Makana A. Rivera, Acting Assistant Chief, Support Services Bureau, requesting Council approval of the indemnification provisions contained in the Life Technologies Corporation Instrument Services Terms and Conditions, for renewal of the RapidHIT ID System Maintenance Services, which provides comprehensive support for the system, including routine maintenance, calibration, and warranty coverage to ensure optimal performance, and includes licenses for essential software components.

Councilmember Kualii moved to approve C 2025-38, seconded by Councilmember Cowden.

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

Councilmember Cowden: I would just like to have a discussion. Thank you folks for what you do and just acknowledging this is just a renewal. It is the same thing they have had that is working well. Is that correct? Yes.

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

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

The motion to approve C 2025-38 was then put, and unanimously carried.

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

C 2025-39 Communication (01/16/2025) from the Director of Finance, transmitting for Council information, the Second Quarter Statement of Equipment Purchases for Fiscal Year 2024-2025, pursuant to Section 22 of Ordinance No. B-2024-897, as amended, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2024-2025.

Councilmember Kuali'i moved to receive C 2025-39 for the record, seconded by Councilmember Carvalho.

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

Councilmember Cowden: Yes.

Council Chair Rapozo: Do you have a question?

Councilmember Cowden: This seems like a big deal. Upon looking at these, they look pretty good. Do we have someone here for that?

Council Chair Rapozo: I am not sure if there is someone from the Department of Finance.

Councilmember Cowden: Alright. If not, all of these that are on this list, this would be my question. That means the County has received them all?

Council Chair Rapozo: I am sorry?

Councilmember Cowden: Everything on the list. I am looking at all these trucks and everything. This is what the County has already gotten, right? This entire list has all arrived?

Council Chair Rapozo: I do not know if they have all arrived. I am not sure. This is what...

Councilmember Cowden: I did just ask the Kaua'i Police Department, and half (½) of those drones had arrived. I was just curious what had arrived and what the County is still waiting on.

Council Chair Rapozo: Okay.

Councilmember Cowden: I did not ask for someone to be here, so if we do not have that...

Councilmember Bulosan: Chelsie is here.

Council Chair Rapozo: Do we have someone from the Department of Finance?

Councilmember Bulosan: Yes.

Councilmember Cowden: Hello.

There being no objections, the rules were suspended.

CHELSIE SAKAI, Director of Finance: Good morning.

Councilmember Cowden: I sort of read through all of these and they all look like really reasonable purchases. I am really glad the County is bringing the Kaua'i Fire Department up and KPD has needed a lot of these things, so I assume the County has one million six hundred thousand dollars (\$1,600,000) worth of products. My simple question is, is this what is on order or has this already been purchased? I just wonder how much of these things have arrived.

Ms. Sakai: Chelsie Sakai, Director of Finance. This is all what has been ordered.

Councilmember Cowden: It is not necessarily what has arrived?

Ms. Sakai: Not necessarily, no.

Councilmember Cowden: But these vehicles for KPD, are those the trucks that the County got? I think so. You had a bunch of trucks come in.

Council Chair Rapozo: These are equipment that we approved in the budget.

Councilmember Cowden: Yes.

Council Chair Rapozo: Everything that they order is what we approved of. On the items that they did not order and they came up...when it is a non-budgeted item, then that comes up here.

Councilmember Cowden: I just wondered if the County got them all.

Council Chair Rapozo: Okay.

Councilmember Cowden: That is all I was wondering, because a lot of times it seems like it takes forever to get things. Certainly the KPD vehicles have taken forever, so I was just wondering if these are ones that they County has already received or if these are the ones that are still coming, but it is probably the ones that were received.

Ms. Sakai: All I can say is that they are the ones that were ordered.

Council Chair Rapozo: I would assume it is encumbered funds, right?

Ms. Sakai: Yes.

Council Chair Rapozo: These are the funds that have been encumbered that, in fact, the County purchased whether they are here or not.

Ms. Sakai: That is correct, because these are generated by the Division of Purchasing. Once they issue a contract, a purchase order, or however these things are bought, that is when they end up on this list. Beyond that, is up to the department.

Councilmember Cowden: I know the County was behind a lot, so they had not gotten it all, so I wondered if the County now got it all, but I can just ask KPD, I guess. But I thought this was the opportunity to do that. The Division of Purchasing is here. Do you know if those are all KPD? KPD had a real shortage; it was an issue.

Council Chair Rapozo: It took us almost two (2) years to get our Ford Explorer. That is just how it is. For vehicles, it is not something where you can go down to Kūhiō Motors to buy.

Councilmember Cowden: It is part of the KPD morale problem, so I was curious if the County received everything that has been on order.

ERNEST BARREIRA, Assistant Chief Procurement Officer: Good morning. Ernie Barreira, Purchasing Chief. We are still dealing with the economic challenges that resulted from the COVID-19 pandemic and the response to it, so we are still facing problems and challenges with development, manufacturing, and the supply chain. Delivery of items that are successfully procured and contracted are still taking a tremendous amount of time to get here compared to prior to the COVID-19 pandemic, so many of those items have not been here. Just as an example, the larger the item, like a side loader truck for the Department of Public Works, is close to four hundred (400) days, so it is very challenging for the departments to keep their mission alive and well because of the challenges with the economy.

Councilmember Cowden: Do you know if KPD got all their police vehicles or do you not know?

Mr. Barreira: I do not believe the delivery of all has been made. We are going to be procuring more vehicles in the upcoming fiscal year.

Councilmember Cowden: Okay, because I am also trying to utilize this to understand what is coming up during budget. That is why we get this halfway through, so it just seemed like an important question to ask.

Mr. Barreira: We have more to procure before this fiscal year ends.

Councilmember Cowden: Okay, thank you.

Council Chair Rapozo: Are there any other questions for the Department of Finance? 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 receive C 2025-39 for the record was then put, and unanimously carried.

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

C 2025-40 Communication (01/16/2025) from the Mayor, 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, By Revising The Amounts Estimated In The General Fund, Highway Fund, G.E. Tax Fund, Solid Waste Fund, Sewer Fund, And Golf Fund, relating to the Hawai'i Government Employees Association, Local 152, AFSCME, AFL-CIO (HGEA) temporary hazard pay.

Councilmember Kualii moved to receive C 2025-40 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: This is the Communication that is attached to the Proposed Draft Bill that will come up later, but I will take testimony now from anyone in the audience wishing to testify who needs to leave.

Councilmember Cowden: Then we will talk to the Administration?

Council Chair Rapozo: When the Proposed Draft Bill comes up.

Councilmember Cowden: When the Proposed Draft Bill comes up.

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

The motion to receive C 2025-40 for the record was then put, and unanimously carried.

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

C 2025-41 Communication (01/17/2025) from the Deputy Director of Planning, requesting Council approval to receive and expend State of Hawai'i Department of Transportation (DOT), State Planning and Research (SPR) Program grant funds in the full awarded amounts of \$460,000.00 for the Kaua'i County Multi-Use Path and Trails Master Plan and \$450,000.00 for the Lihu'e Mauka Road Multi-Modal Corridor Study, and to indemnify the State of Hawai'i. The initial specified amounts approved during the March 22, 2023 Council Meeting were \$400,000.00 for the Lihu'e Mauka Road Multi-Modal Corridor Plan, and \$400,000.00 for the County Shared Use Path and Access Action Plan.

Councilmember Kualii moved to approve C 2025-41, seconded by Councilmember Carvalho.

Council Chair Rapozo: Are there any questions for the Planning Department? Is there anyone in the audience wishing to testify?

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

LONNIE SYKOS: For the record, Lonnie Sykos. Do I understand this correctly that we are getting grant funds for both four hundred sixty thousand dollars (\$460,000) and four hundred fifty thousand dollars (\$450,000)? Do I understand that...

Councilmember Cowden: No, they upped the price.

Mr. Sykos: They upped the price?

Councilmember Cowden: It went from four hundred thousand dollars (\$400,000) to four hundred sixty thousand dollars (\$460,000).

Mr. Sykos: So my question is, given a decade plus, two (2) decades that we have been involved in this, what is it we are going to study? Why are we spending four hundred sixty thousand dollars (\$460,000)? What is actually going to be studied? That is my question.

Council Chair Rapozo: Is someone from the Planning Department here?

MARIE WILLIAMS, Planning Program Manager: Hello Council Chair Rapozo and thank you. This project, specifically, is a discretionary grant that we won to study and do a plan for two (2) very important projects. One is the Lihu'e *mauka* bypass road and the other is to develop an islandwide bikeways, multi-use path and trails network. In terms of the Lihu'e *mauka* bypass road, the intent of this plan is to do more advanced planning to get this project moving to the stage where we can actually fund the project or figure out what the funding would be, and phase it as well. The purpose of both of these plans is to move these projects. It is frustrating because the Lihu'e *mauka* bypass has been a concept in State and County plans for quite some time, but again, these are very specific, detailed plans and the purpose is



to work with the stakeholders, the landowner, the County, and the State to figure out the path forward.

Councilmember Cowden: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Just so I am really clear, Līhu'e *mauka* is basically the cane haul road that goes through Grove Farm and maybe the Department of Hawaiian Home Lands (DHHL) or the State's lands? Is that Līhu'e *mauka*?

Ms. Williams: Yes.

Councilmember Cowden: There is no map here.

Ms. Williams: Yes. The final alignment is not confirmed and that would be a purpose of this study.

Councilmember Cowden: I am excited about that. Will this be something that electric bicycles (e-bikes)...you are looking at that, because there are people who want to come to work on e-bikes?

Ms. Williams: Yes. All users of the road will be planned for through this plan, so there will be an opportunity to make sure that we consider the various ways that people travel.

Councilmember Cowden: That is not a car, right? Multi-use path is not a car.

Ms. Williams: I am sorry? Just to clarify for the Līhu'e *Mauka* Road, all users of the road, of course, will be considered, in a car as well.

Councilmember Cowden: Meaning cars as well?

Ms. Williams: Yes, of course.

Councilmember Cowden: That is a big "hooray," right, because this could be an evacuation route or anything else, right?

Ms. Williams: Yes.

Councilmember Cowden: We have had quite a bit of discussion about whether it is practical, good, or whatever. There are different viewpoints, but around Ahukini, that is also the Līhu'e area, is that area going to go into this other plan? Not the *mauka* one, but the Multi-Use Path and Trails Master Plan for the whole County, so that would be in that part?

Ms. Williams: Yes, that is already part of our network and it, of course, would be a very important corridor to consider.



Councilmember Cowden: In the corridor on this one, too, I get a lot of questions about this. I know there is discussion from Kapa'a to Līhu'e. Some of the idea is where the golf course is, there is an old cane haul road. Is that part of it, too?

Ms. Williams: I believe that every potential route will be considered through the plan and the end goal is really to figure out what is a realistic network that could be achieved in the coming years and look for ways to phase and fund these projects.

Councilmember Cowden: This is my last question. Is there a focus on e-bikes, because I know that we are starting to find that as an unplanned element by all of us, myself included, when the County started doing all these bike paths, we did not realize we would have things going thirty-five (35) miles per hour (mph) or lots of little kids taking up the whole space, so are e-bikes under consideration in this multi-use plan? You will put that in there?

Ms. Williams: Yes.

Councilmember Cowden: Okay, because I think that is something we really need. I am happy for people who are happy on them and we just need to make sure there is the right lane for them to be in.

Ms. Williams: Yes.

Councilmember Cowden: Okay. I can see why it will cost so much to do a plan for everywhere and I hope it happens fast because I think for all our safety issues, evacuation routes, and all sorts of things, this is really important, so I thank you for moving this forward. I think this has been "on the books" since 2006 or something. I remember we had a blessing, so, "Hooray," thank you.

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

Mr. Hart: For the record, Bruce Hart. Councilmember Cowden has mentioned the e-bikes. There are currently no regulations for e-bikes and I have film I would be happy to share with all of you of pictures I have of people, mostly children, on e-bikes going thirty (30), thirty-five (35) mph down the bike path. If they struck someone who happens to be walking and cannot hear them, they could kill them. I have seen them on the sidewalks here in Līhu'e. I have seen them cut off the sidewalk and go right into traffic. I know, for a fact, that KPD is concerned about this. I have spoken to them about this and I do not want to see any e-bikes anywhere that are unregulated. If they are going to put e-bikes on the road, they are going to have to be licensed and they are going to have to have all the safety features necessary for whatever. I do not know if it is going to take a tragedy. This has been going on for over two (2) years. Is it going to take a tragedy before we do something? I am asking the Office of the County Attorney, KPD, and the County Council to look into it and provide some regulations. I have seen them in the parking lots of Kaua'i Village, go right up onto the sidewalk and these are not bicycles; these are actual motorcycles and dirt bikes that are electric ride down the sidewalks at Kaua'i Village. Thank you.

Council Chair Rapozo:

Is there anyone else? Mr. Sykos.

Mr. Sykos: For the record, Lonnie Sykos. I want to echo Mr. Hart and point something out. A motorcycle is misnamed. Motorcycles do not have a motor; they have an engine. Motors run on electricity; engines run on fuel, and so the industry, the people selling these products are engaged in a massive misinformation campaign in order to market their vehicles, so there is no such thing as an e-bike. Bicycles are pedal-powered. It is an electric motorcycle in that it runs on electricity, and so it is not a bicycle in any use of terminology that makes a two-wheeled device appear to be pedal-powered when it is in fact energy-powered is a lie. It is a bold marketing lie, so if the whole world wants to accept the lie, it is still a lie but it is accepted as the truth. To Mr. Hart's observations and my own, whose father was a safety engineer, this is crazy, absolutely crazy letting kids ride motor-powered machines that if it had a fuel engine in it, someone would go to jail. It is a huge problem. You get hit by a motorized bike going thirty (30) mph and you are on your way to the intensive care unit (ICU) or (inaudible). As this progresses, there is no compatible way to put bicycles and pedestrians adjacent to things going thirty (30) mph. In cities where they have walking populations and bicycles moving people to work, the cars go ten (10) mph, so you do not have like we do—a lane with a bicycle that can maybe do ten (10) mph downhill with cars whizzing by eighteen (18) inches away at thirty-five (35) to fifty (50) mph. Our whole "putting bicycles right next to cars" is nuts, and worse to put e-bikes in the middle of the peddle-powered ones. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else? Let me just say, Mr. Sykos, I think you answered your own question. Your initial question was, "why is the County spending all this money on plans?" and that is exactly why the County is spending all that money on plans. It is because that is what plans do. Plans look at all aspects of these projects, and they are by experts, not Councilmembers who are not experts. These plans are not cheap, but that is exactly why we do this. It is because you want the experts to take a look at what the County has available, what is the best use of those multi-modal lanes and roads, and that is where the discussion will happen whether or not e-bikes will be allowed on these multi-modal routes. That is why we do this. Yes, I hope you realize you answered your own question, so thank you. Councilmember Cowden.

Councilmember Cowden: I just want to add. I am not against e-bikes. We just have to be able to make sure that the County has the right plan for them and how to make them happen. In Kīlauea, we are dominated by a little group of pre-teens biking. They are like a school of fish through the reef in the dark, in the rain, knowing where the potholes are. I talk to them pretty regularly, but they are in the parks, they are going through private properties, they are everywhere, and to think that you could have police out there and grab one (1) out of twenty-five (25) or something, we need to be able to create something that they are excited about using. I talked to them about it. By the way, Marie, I have a group of them who are eager to participate with the County to come up with a plan. They actually have a plan. At least until the County builds it, they are using the fifty (50) acres over there that the County bought, but at least they are not running people over. They want to be safe, but they are very adept at it and I think it will be a way the people are going to be going back and forth to work, and the more the County can make that happen, the

better the County will deal with the congestion. Otherwise, as both Mr. Hart and Mr. Sykos said, safety is really important and there are rules, but it is like fireworks—the rules do not seem to matter. It is crazy to think you can have police officers out there stopping all these kids, so we just need to out-create the problem and come up with a solution, so thank you and I support the plan.

Council Chair Rapozo:

Thank you. Councilmember Kualifi.

Councilmember Kualifi: Council Chair, I just wanted to thank the Planning Department and the Planning Director for the memoranda (memos) that were attached to this item, which make very clear what this is all about. I appreciate, too, that they included the memo from March 9, 2023 which explained when they were initially going after the grant. I just want to share a couple of things so it is very clear. For the Lihu'e Mauka Road Multi-Modal Corridor Plan, the project description is, "The Lihu'e Mauka Bypass is a priority project, identified in the General Plan and State Federal-Aid Highways Plan, to construct a new two-lane road that would bypass the congested areas of Lihu'e and provide a more direct route between the East and Southwest sides of the island," and with the scope summary, "The corridor plan would determine the preferred route, access management plan, interchange plan, acquisition, jurisdiction, phasing, and funding plan." For the County Shared Use Path and Access Action Plan, "This project provides advanced planning for interconnected multi-use path and trail systems to enhance transportation options and improve accessibility in underserved areas. Specifically, the project will develop networks for safe routes identified in recent community plans (covering areas such as Puhi, Hanamā'ulu, Kaumakani, Hanapēpē, 'Ele'ele, and Kōloa)." Thank you, Council Chair.

Council Chair Rapozo:

Thank you.

Councilmember Cowden:

I have a small follow-up.

Council Chair Rapozo:

Go ahead.

Councilmember Cowden: Thank you, Council Vice Chair Kualifi, for reading that. Part of the reason I ask questions is it gives the community an opportunity to understand what we are talking about.

Councilmember Kualifi:

I just shared it with the community.

Councilmember Cowden:

Yes, thank you.

Council Chair Rapozo: The best part about that memo was the County requested eight hundred thousand dollars (\$800,000), and the County was awarded nine hundred ten thousand dollars (\$910,000), so thank you, Planning Department.

The motion to approve C 2025-41 was then put, and unanimously carried.

Council Chair Rapozo:

The motion carries. Next item, please.

C 2025-42 Communication (01/17/2025) from the Deputy Director of Planning, requesting Council approval to receive and expend National Oceanic and Atmospheric Administration (NOAA) Coastal Zone Management (CZM) Habitat Protection and Restoration Bipartisan Infrastructure Law (BIL) Competition grant funds in the revised awarded amount of \$458,821.00. The initial specified amount approved during the December 6, 2023 Council Meeting was \$409,500.00.

Councilmember Kuali'i moved to approve C 2025-42, seconded by Councilmember Cowden.

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

Councilmember Cowden: I have a question.

Council Chair Rapozo: This is just an amendment to what we already discussed and approved. It is simply an increase in the amount from four hundred nine...

Councilmember Cowden: Yes. Can I just ask my question?

Council Chair Rapozo: Sure.

Councilmember Cowden: I am aware of what it is. I am wondering if the County moved forward on it at all.

There being no objections, the rules were suspended.

JODI A. HIGUCHI SAYEGUSA, Planning Deputy Director: Good morning. Jodi Higuchi Sayegusa, Deputy Director of Planning. We are in the process of finalizing all the agreements and working with Hui Hana Pa'akai o Hanapēpē (the Hui) to plan out the schedule, as well as the University of Hawai'i (UH) Sea Grant College Program.

Councilmember Cowden: This is that sea wall or what are you calling it?

Ms. Higuchi Sayegusa: It is a dune restoration.

Councilmember Cowden: Dune restoration?

Ms. Higuchi Sayegusa: Yes.

Councilmember Cowden: It has not started actually happening?

Ms. Higuchi Sayegusa: This past weekend, there was a meeting that brought together agency folks and the Hui board to get on the same page.

Councilmember Cowden: So, you are still in the planning phase and have not started restoring the dune?

Ms. Higuchi Sayegusa: Yes. This is definitely going to be a year of meetings and outreach first. A huge part of this project is really to support and empower the Hui to lead any future mitigation to Salt Pond, acknowledging that Salt Pond is a very unique place, geologically, hydrogeologically, and culturally, but the projects and the vision should be led by the Hui, so that is really the point. The year before the actual dune restoration takes place is going to be meeting with the Hui and allowing them to meet internally without any of us there for them to prioritize what should happen there and what type of input should be infused into the dune restoration project.

Councilmember Cowden: Okay. I appreciate that because I know there was some concern that it would be outside people coming in and doing it, and I also appreciate the opportunity to ask this question because I have been going down and I keep looking at the edge trying to see if it is happening, so I know that I do not even need to look for a year.

Ms. Higuchi Sayegusa: Yes.

Councilmember Cowden: Okay, thank you.

Council Chair Rapozo: Are there any other questions for the Planning Department? If not, thank you. Is there anyone in the audience wishing to testify? Seeing none, is there any further discussion?

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

The motion to approve C 2025-42 was then put, and unanimously carried.

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

C 2025-43 Communication (01/22/2025) from the County Clerk, requesting Council approval to purchase unbudgeted equipment of a large-sized All-Terrain Utility Vehicle, at a cost of approximately \$95,000.00, for use by both the Council Services and Elections Divisions, utilizing funds from existing accounts.

Councilmember Kualii moved to approve C 2025-43, seconded by Councilmember Carvalho.

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

Councilmember Cowden: I have a simple question. I thought we ordered a car? I thought we ordered this a long time ago.

Council Chair Rapozo: No, this is a new one.

Councilmember Cowden: So, we are going to have two (2)?

Council Chair Rapozo: Between the Elections Division and Council Services Division.

Councilmember Cowden: Okay.

Council Chair Rapozo: The Elections Division van right now...I do not know if you have seen the van.

Councilmember Cowden: It is in bad shape?

Council Chair Rapozo: It is in bad shape. Actually, it is in worse shape than the Ford Expedition that we have.

Councilmember Cowden: We have not gotten our new car though, right?

Council Chair Rapozo: We did. The Ford Explorer is finally here.

Councilmember Cowden: That is one (1) of the three (3) that is parked?

Council Chair Rapozo: That is correct.

Councilmember Cowden: Alright.

Council Chair Rapozo: One (1) is slated for auction, the other one (1) is going to be returned back to the Administration, so we will end up having only two (2). One (1) will be between the Council Services Division and the Elections Division.

Councilmember Cowden: Okay.

Council Chair Rapozo: This is a large vehicle to accommodate the Elections Division when they do their transporting of boxes and all of those things. Ours is a smaller vehicle.

Councilmember Cowden: I support that. I was just wondering when I saw that we had a third vehicle, so I was not sure what that was.

Council Chair Rapozo: The reason you are seeing it here and not in the budget is because it takes so long to procure.

Councilmember Cowden: I have no problem with it. We have the money to do it.

Council Chair Rapozo: Is there any other discussion? Mr. Sykos. Do not let the title scare you: Large-sized, All-Terrain Utility Vehicle. It is a sports utility vehicle (SUV). It is a Ford SUV. It is not a tank.

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



Mr. Sykos: For the record, Lonnie Sykos. Yes, I was going to ask if this was a military surplus...

Council Chair Rapozo: I know. I know you too well, Mr. Sykos.

Mr. Sykos: ...or why it is that you would want to move ballots in an open vehicle in the rain, however, it is simply a terminology issue. Thank you very much for addressing it.

Council Chair Rapozo: When I saw this posted, I got scared.

Mr. Sykos: I was shocked, to be honest.

Council Chair Rapozo: Yes, I thought we were going to have a KPD armored vehicle.

Mr. Sykos: I thought the Elections Division wanted to go pig hunting or something.

Council Chair Rapozo: Thank you. Is there anyone else? If not, is there any further discussion?

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

The motion to approve C 2025-43 was then put, and unanimously carried.

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

C 2025-44 Communication (01/23/2025) from Councilmember Kaneshiro and Councilmember Holland, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To Commercial Use Of Parks Facilities.

Councilmember Kualii moved to receive C 2025-44 for the record, seconded by Councilmember Cowden.

Council Chair Rapozo: Like the first proposed draft bill, this is a Communication that is attached to the Proposed Draft Bill. If there is anyone here who would like to testify now and not wait for the Proposed Draft Bill, which will probably be another hour or so, I will take your testimony now, or you can wait for the actual Proposed Draft Bill. Mr. Sykos. Your testimony on this will also be attached to the Proposed Draft Bill.

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

Mr. Sykos: Thank you. For the record, Lonnie Sykos. Yes, I realize I am giving up my opportunity to talk later by talking now. The reason is there are issues in this that I would like the Council to address, because from this

side, if you do not address the core issues, we do not have enough time, oftentimes enough people to ask the questions that need to be asked. Once this passes...

Council Chair Rapozo: Let me stop you there quickly. Stop his time. The Proposed Draft Bill comes here today. If it is approved out of the Council, it goes to the Planning Commission because it is a zoning amendment. The Planning Department and the Planning Commission will address this Proposed Draft Bill for as long as they need to. They will have all their public hearings. They will have their...what do you call them? They are not investigators.

Councilmember Cowden: Commissioners of the Planning Commission.

Council Chair Rapozo: No. The staff of the Planning Department will go out and do their report, so this is just the first step. I understand that Councilmember Kaneshiro and Councilmember Holland have a PowerPoint presentation that they will be doing at the Proposed Draft Bill, so you may want to get that information first from them. I am not sure how long you are going to be here.

Mr. Sykos: I will pass, because my main thing is if we decide to turn our parks into strip malls, which is what you are talking about doing twice a week, right...the pop-up tents do not have to pay rent, it hurts all of our "brick and mortar," but what my question revolves around is, if this thing gets...your vision of what should occur, so if I go down to the Office of the Mayor and I own a permit for two (2) days per week at the park near my house in Wailua, can I get that permit two (2) days per week, which means no one else can do it in the park but me, forever? When I get the first permit, is it for one (1) time and then I have to get a new permit or is it an ongoing permitting thing and how much can I charge other vendors? If I go to the park and want to sell my things or if I do not even have anything to sell, I just want to get the permit, pretend...I can sell cups of water, right? And charge other vendors? So, my question revolves around, how are you going to run this fairly if you can set up a Farmers Market and then charge vendors? When I go to the Sunshine Market, Sunshine Market runs it and if the vendors get charged, the money goes to Sunshine Market and the County, but if I can go in as a private individual and start a sunshine market at Wailua Houselots Park and then I tie it up for the two (2) days allowed every week into perpetuity, all you have done is granted me a "brick and mortar" store for free or whatever the cost of the permit is, which is minimal compared to having a store. My problem is, I do not want to see all this business in my parks. I do not think you can set up a fair system to do this and it is not what parks are for.

Council Chair Rapozo: Thank you.

Mr. Sykos: Thank you.

Council Chair Rapozo: Is there anyone else who would like to testify at this point? Is there any further discussion? Again, I want to reiterate that this is the first step and that the Planning Commission...if you are familiar with the Planning Commission and zoning amendments, it is quite intense, they will get a lot of input, and we will see where it goes.



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

The motion to receive C 2025-44 for the record was then put, and unanimously carried.

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

COMMITTEE REPORTS:

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2025-01) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2025-01 – Communication (12/30/2024) from Committee Chair Carvalho, requesting the presence of County Engineer, Chief of Engineering, and, Civil Engineer Manager, to provide a briefing regarding the National Flood Insurance Program (NFIP), including floodplain management,”

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:                      The motion carries. Next item, please.

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

A report (No. CR-FED 2025-02) submitted by the Finance & Economic Development Committee, recommending that the following be Received for the Record:

“FED 2025-01 – Communication (12/18/2024) from Council Chair Rapozo requesting the presence of the Managing Director, to provide a briefing regarding Ordinance No. B-2024-896, Relating To The Operating Budget And Financing Thereof For The Fiscal Year July 1, 2024 To June 30, 2025, and B-2024-897, Relating To Capital Improvements And Financing Thereof For The Fiscal Year July 1, 2024 To June 30, 2025, to provide a comprehensive mid-year update including identification of items that are overbudgeted and underbudgeted and forecasts for the remainder of the fiscal year,”

A report (No. CR-FED 2025-03) submitted by the Finance & Economic Development Committee, recommending that the following be Approved on Second and Final Reading:

“Bill No. 2940 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Settlement and Compromise Powers*),”

Councilmember Kualii moved for approval of the reports, 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 reports was then put, and unanimously carried.

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

#### COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2025-03) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2025-02 – Communication (12/18/2024) from Council Chair Rapozo requesting the presence of Padraic Gallagher, Executive Director of the Kauai Humane Society, to provide a briefing on the capacity issues that the Kauai Humane Society is experiencing,”

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: The motion carries. Next item, please.

#### RESOLUTIONS:

Resolution No. 2025-15 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Gerald Bahouth*)

Councilmember Kualii moved for adoption of Resolution No. 2025-15, seconded by Councilmember Cowden.

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 for adoption of Resolution No. 2025-15 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, 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: The motion carries. Next item.

Resolution No. 2025-16 – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES SLATE OF OFFICERS FOR CALENDAR YEAR 2025

Councilmember Kualii moved for adoption of Resolution No. 2025-16, seconded by Councilmember Carvalho.

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 for adoption of Resolution No. 2025-16 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, 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: The motion carries. Next item.

Resolution No. 2025-17 – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES NOMINEES TO THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS AND THE WESTERN INTERSTATE REGION BOARD OF DIRECTORS FOR FISCAL YEAR 2025-2026

Councilmember Kualii moved for adoption of Resolution No. 2025-17, seconded by Councilmember Carvalho.

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 for adoption of Resolution No. 2025-17 was then put, and carried by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, 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: The motion carries. Next item.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2941) – 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, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND, HIGHWAY FUND, G.E. TAX FUND, SOLID WASTE FUND, SEWER FUND, AND GOLF FUND (*HGEA Temporary Hazard Pay*)

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2941) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 26, 2025, and that it thereafter be referred to the Finance & Economic Development Committee, seconded by Councilmember Bulosan.

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

Councilmember Cowden: I have a simple question.

Council Chair Rapozo: Sure.

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Managing Director: Good morning.

Councilmember Cowden: Thank you for working on this. This is HGEA. United Public Workers (UPW) has been approved already, correct?

Ms. Matsuyama: That is correct.

Councilmember Cowden: Who else is there? There is the State of Hawai'i Organization of Police Officers (SHOPO), the firefighters. Who else?

Ms. Matsuyama: That would be the extent of it.

Councilmember Cowden: There are those two (2), and then what about people who are not represented by a union? Are they going to get any hazard pay?

Ms. Matsuyama: It depends on what "bucket" they fall into.

Councilmember Cowden: Let us say they are forward-facing, meaning that they work with the public, are at the airport, or something like that.

Ms. Matsuyama: They are probably covered by the HGEA contract.

Councilmember Cowden: Okay. What if they are Ocean Safety Officers who are not covered by the HGEA contract?

Ms. Matsuyama: Ocean Safety Officers are covered by Bargaining Unit 15, but they do hire 89-day hires.

Councilmember Cowden: What about the 89-day hires?

Ms. Matsuyama: We are not required to pay the 89-day hires for any union contract. They sign up part-time without benefits, so they would be excluded.

Councilmember Cowden: That would be the four (4) that we heard from. Is that correct? We were getting letters for a while.

Ms. Matsuyama: We probably carry about sixty (60) 89-day hires at any given time across the County, but there are other excluded people who are covered by the contracts or are covered by the Hawai'i Revised Statutes (HRS) who are included in this HGEA money bill.

Councilmember Cowden: I do not want to be too personal, but if people worked in our building who are not in any union, are they going to be covered somehow?

Ms. Matsuyama: It probably depends on the classification that the employee falls is.

Councilmember Cowden: If they are an appointed employee?

Ms. Matsuyama: Appointed, like department heads, will not get it.

Councilmember Cowden: I am not looking at less than that, not leadership.

Ms. Matsuyama: Excluded managerial employees will get it. Per HRS, they can get no less than their counterparts who are within the collective bargaining agreements, so they are included in this HGEA money bill.

Councilmember Cowden: Okay, that is helpful. No one in this building has asked me questions, but I do get questions asked and I just want to be able to be reasonably accurate.

Ms. Matsuyama: In the money bill, you can see in the General Fund that it is split up by departments, so Council Services does have a line item in there, so hopefully that helps.

Councilmember Cowden: Yes. Thank you.

Council Chair Rapozo: Are there any other questions? If not, thank you, Reiko. Is there anyone in the audience wishing to testify? Seeing none, is there any further discussion? Roll call.

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

The motion for passage of Proposed Draft Bill (No. 2941) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for February 26, 2025, and that it thereafter be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, 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: The motion carries. With that, the next Proposed Draft Bill is the commercial use of parks. I am going to take our caption break now, so we have the full time to have the discussion. If you want to testify, please take the time during the break to sign in. You have PowerPoint presentations, right?

Councilmember Holland: Yes.

Council Chair Rapozo: Staff, can we have copies of their PowerPoint presentations available for the public should they want it? With that, we will take a 10-minute caption break.

There being no objections, the meeting recessed at 9:34 a.m., for a caption break.

The meeting reconvened at 9:49 a.m., and proceeded as follows:

Council Chair Rapozo: Can we have the next item, please?

Proposed Draft Bill (No. 2942) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMMERCIAL USE OF PARKS FACILITIES

Councilmember Kualifi moved to refer Proposed Draft Bill (No. 2942) to the Planning Commission, seconded by Councilmember Bulosan.

Ms. Fountain-Tanigawa: Council Chair, we have three (3) registered speakers.

Council Chair Rapozo: With that, I will start off by having Councilmember Kaneshiro and Councilmember Holland do a presentation before we take public testimony, if that is okay with the public, because I think it is important that the Proposed Draft Bill is explained beforehand. With that, I will turn it over to Councilmember Kaneshiro.

Councilmember Kaneshiro: The PowerPoint presentation is more informational. The section I will go over is the changes in the Proposed Draft Bill so you do not need to look at the Proposed Draft Bill and it is actually going to give the viewers an opportunity to see what the changes are, such as the definitions and things like that, so bear with me. My part might be a little boring, but here we go.

Proposed Draft Bill (No. 2942), the findings and purpose for this Proposed Draft Bill. The Council finds that allowing farmers and artisans markets is appropriate within State and County Park areas and quasi-public land. The Council also finds that it is appropriate to allow commercial concessions associated with park events, such as athletic games or meets, fairs, and concerts within State and County Park areas and quasi-public land. Therefore, the purpose of this Ordinance is to effectuate these changes and corresponding technical, alphabetization, and cross-reference amendments. That is the whole purpose of this Proposed Draft Bill.

Next, I will go through the definitions that were added. These are new definitions. "Agricultural Products" means those products produced from conducting agricultural activities, including livestock products, poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops, or the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment. "Event Concessions" means the commercial sales of food and beverages as well as event-associated promotional material within a designated State or County Park facility for events approved by the County of Kauai's Director of Parks and Recreation, including but not limited to athletic games or meets, fairs, or concerts. "Quasi-Public" means land available for a use that satisfies a public purpose although under private ownership or control.

Next, we have Artisans Market I. Artisans Market is broken up into I and II. "Artisans Market I" means an area within a designated State or County Park facility, or located on quasi-public land that the County of Kauai's Director of Parks and



Recreation and Planning Director determine to be commensurate or equal with a County of Kaua'i park facility, and used for outdoor sales of artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items, all of which were handcrafted by the artisan present at the respective stall or sale area within the market. This market shall not occur more than two (2) times per week. Artisans Market I is for those events that do not occur more than two (2) times a week. Artisans Market II would be for markets that occur more than two (2) times per week.

Farmers Market. This definition has been deleted. This was the old "Farmers Market" definition. The old definition was the offering of fresh agricultural products for sale by multiple farmers or farms directly to the consumer at an open-air or enclosed area. That definition has been replaced with Farmers Market I and Farmers Market II. "Farmers Market I" means an area within a designated State or County park facility, or located on quasi-public land that the County of Kaua'i Director of Parks and Recreation and Planning Director determine to be equal to and commensurate with a County of Kaua'i park Facility, and used for outdoor sales of agricultural products, baked goods, dairy products, and delicatessen items. This market shall not occur more than two (2) times per week. I know we did get a question in some of the testimony asking what a delicatessen item is. That is ready-to-eat food products.

Farmers Market II has the same definition, but it occurs more than two (2) times per week.

Next is the zoning. All of the zoning changes are as follows: Farmers Market I, Artisans Market I, and Event Concessions are permitted in Residential, Resort, Commercial, Industrial, Open, and University zoning. Farmers Market II & Artisans Market II are permitted in Resort, Commercial, Industrial, and University zoning, and Farmers Market II and Artisans Market II, which are the markets that are more than two (2) days a week, require a use permit in Residential & Open zoning.

Lastly, we did hear some concerns about parking. We have tried to address parking with this, where it needs one (1) parking space for every one thousand (1,000) square feet of market area. These designated off-street Artisans and Farmers Market parking spaces can be provided by unmarked grass or gravel areas with the equivalent size to accommodate the respective required parking spaces. Those are the changes in this Proposed Draft Bill.

Councilmember Holland: I will give a little more background and information about how this came to be. Princeville Farmers Market complaints had come in. We were inundated with calls and emails about the shutdown of the Princeville Farmers Market and a lot of investigation happened both with the Administrative side of the County and here. Councilmember Kaneshiro and I were already independently looking into these complaints. What was discovered through realizing this situation with Princeville, was that there is a zoning violation that is existing for all Open-zoned parks and parcels across Kaua'i. We realized that a lot of the permitted events, yearly events, markets that we love, places I have gone to since I was a kid, like the Sunshine Market, are in violation of their own zone, so they have actually been given a permit that is not really legal because it does not qualify for the



zone to have that market. We started to work on a collaborative effort between the Administration and Councilmember Kaneshiro and myself to come up with a solution. This is a broadbrush change to Open zoning. It does not approve unchecked commercialization. Lonnie, you can rest assured. It does not allow for strip malls. It does not allow for rogue commercialization of our parks, which has been this ridiculous fear that has been pushed around. It is also very early in the process, so to reiterate a little of what was said, today, it only goes to the Planning Commission and the Administration for review. It will go to the Planning Commission, by which people will "weigh in," testify, and adjust. That bill will come back to the County Council. It will then go through first reading, public hearing, committee, and second reading, so there is a lot of opportunity for us to really make sure that we are ensuring that we are not over commercializing our parks, which is something that I would never support, and I am a little shocked at some of the people who think I would.

Next, there are a couple of things. This is a County zoning type. I will give a little bit of background for people, because I am learning a lot in this area. Open zoning is one of the types of County zonings that we have. There are others, some of which were listed by Councilmember Kaneshiro. Our County parks are often "Open" or "Residential I," which is interesting. We could get into a whole presentation on that. Maybe there is a need for us to look at certain parks and maybe those are not in the right zoning. Maybe we want to put them in Conservation where nothing happens in that park, maybe we want to look at being more specific and strict about certain places...I am totally open to that...but this Proposed Draft Bill just allows what is in Open zoning to allow those existing commercial activities that often have been going on for decades. A couple of parcels, for example...I am sorry about that "o". The typo did not appear...Young Women's Christian Association (YWCA) in Hā'ena, Black Pot Beach Park where we have a food truck, Kapa'a Beach Park where we have yearly events all the time that involve the sale of food or whatnot, Grove Farm Market which Councilmember Kaneshiro worked so hard to get going, Hā'ena Beach Park, Kilauea Ball Park, even Wai'oli Church is in Open zoning which makes me wonder, Hā'ena State Park, Pā'ūla'ūla in Waimea, even the other side of Waimea River is in Open zoning where none of these permits could be used for, and Kōloa Ball Park just to give you some examples. Again, I want to be really clear here that there is still a huge approval process. You do not just get to "rock" up, open up your tent, pop it up, and sell. That is not how this is working at all. That is basically an extreme misunderstanding.

First, if this is a private parcel or private property, like in the case of Princeville or Grove Farm Market, for example, the first step would be a determination request. At this point, the property owner would come to the director of the Planning Department and the Department of Parks & Recreation and they would apply for a determination that the park is "similar to a County park," so it is open to the general public. It cannot be any private parcel anywhere. It needs to be determined to be quasi-public and is an appropriate place. Maybe there are specific details that we are going to work on that over the process of this Proposed Draft Bill, like maybe it needs to be an acre in size, maybe it needs to have whatever those specifications are. First, it goes through that determination request, then it goes to a Class I Zoning Permit. The owner then applies for a Class I Zoning Permit. Are the parking requirements met? What does this look like? That process is usually one (1) week to two (2) weeks. If it is in the Special Management Area (SMA), you then still need to go through the

SMA permit request process. Then, the property owner can enforce additional oversight on that market. "Everyone needs to wear pink," is the example I really liked. Whatever it is...it needs to be local, it needs to be whatever it is. Those additional oversights are then possible by the property owner.

Again, this is the same for County and State land. If it is a County park or a State park, for example, you apply for the Class I permit, there is then an SMA permit requirement if it is within an SMA area, and then the Department of Parks & Recreation has its own vending requirements, so the County has its own requirements within the park. None of this changes any of those requirements that exist for the use of our County parks, and State land supersedes us, so for the concerns that I have had about the State land, it is not relevant. It is not changing anything.

There are a huge amount of misconceptions that I have been trying to address all week. It is amazing. The commercialization of public spaces—parks, beaches, and State—is one of these misconceptions. That is not what this Proposed Draft Bill does at all. This Proposed Draft Bill just makes it possible for us to continue those existing things that we have already deemed, in some cases for decades, are great for our community. We love the Sunshine Market. I grew up going to the Sunshine Market. Former Mayor Yukimura created that. It is an amazing thing. I love it in the community. I want to support those sorts of things. There is no hiding the fact that I am a fan of markets, vendors, and small businesses. A lot of these "brick and mortar" places start as someone on the side in a farmers market selling a product. This is for all Open zoned parcels. This is regarding a landowner, it is not a State park, it is not a County park. It is Open zone. It is a changing of the Open zone. I have had, I think, only one (1) opposing testimony that is straight out, "No commercialization of our parks. We want no commercialization of our parks. That is not what parks are for." Okay, so for those people, you are opposed to farmers and crafts markets around Kaua'i, you are opposed to yearly events like the Tahiti Fete in Kapa'a, you are opposed to food trucks or food at sports games—hotdogs and chips for kids at football games. Are these commercial activities that you really oppose? I am trying to wrap my head around that. We do not pick and choose. Our job is not to pick and choose. We are not here to say, "We like your food truck. You can stay." That is a process outside of this process. This is allowing for those things to move forward and allowing for them to be possible. Those permitting processes happen across the street. "We are requiring types of goods and markets." I had someone say to me, "Yes, this is great. Make all markets only local where they cannot sell anything from Costco." That is not what we are doing here today. We do not control what the market looks like. The responsibility of the market is to be determined by whomever is hosting the market, like I explained there were additional requirements. The responsibility is really through them and the permitting process to determine what those markets look like.

These are a couple more misconceptions that have been going around this week. We are opening this up to rogue commercialization operations that will flood into our parks and communities. I have said it once and I will say it again. That is not what this does. The second misconception is this Proposed Draft Bill allows us to look like strip malls, in Bali, or we are going to look like the streets of Mexico with vendors along our beaches. Nothing allows for our beaches to be commercialized in this. There are many other checks and balances to make sure that does not happen.

I just want to echo that while we received a handful of testimonies, two (2) of which are actually specifically about Princeville, which would have to go to the Princeville association and the landowner and who determines what those...or through planning and other processes. Again, this Proposed Draft Bill is not solely about the market in Princeville. This is about all open space parcels and all these many different uses that we have—from football game snacks to yearly events. In total, there were three (3) testimonies in opposition, one of which is completely against markets, shut down the markets all together. A couple of others seem to be a part of these misconceptions and these misunderstandings. It is not to say this survey is of the wider Kaua'i community. It is not. It is of my constituents who follow me through my social media. I set up a poll right away just to see what the temperature is of the people who voted me in. The people who are following me and want to keep me accountable, how do they feel about this Proposed Draft Bill? I quickly did this. One (1) person sent me a text message (text) saying they accidentally voted for the no in the middle and they actually meant to vote "yes," so really it is ninety-eight percent (98%) yes. That is fine. I am not totally sure if the other person meant that we should function our markets illegally. That was sort of a joke. It is not really an option. I am still a little confused by that. One (1) person said, "Yes, cease all farmers markets and all craft markets. They do not belong in any of our parks." Hopefully, that helps to address some of the concerns. With that, I am happy to pass it back to you, Council Chair.

Council Chair Rapozo: Thank you. At this time, I will take public testimony only because I want to make sure if you folks had any other questions, then we can get that answered when we do discussion.

Councilmember Cowden: I have a procedural question. Are we going to be able to talk to the Planning Department, too?

Council Chair Rapozo: Absolutely. Do you have questions for the Planning Department?

Councilmember Cowden: I do.

Council Chair Rapozo: Let us have the Planning Department come up. I want the public to have as much information as possible before they come up to testify.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: Good morning, Council Chair and members of the Council. Ka'āina Hull on behalf of the Planning Department.

Councilmember Cowden: Thank you so much and thank you for working on this. I appreciate it. I have actually been receiving complaints for years and I have to acknowledge that I have not really acted on it. I just tell people to talk to the Planning Department. Director Hull, Councilmember Holland just said, "While we have never allowed what is already happening, like the Tahiti Fete and the canoe things..." by the way, I shop in this pop-up tents all the time and I think my staff can acknowledge they see me running around in those clothes. If the County has never

allowed it, is there not any code right now? I was trying to look. What is the code that would say to limit or when people do something like the Tahiti Fete, what part of the code have they been getting their permits for that on? I am sure they call and ask for all of that, right? They do not? That was an interesting face.

Mr. Hull: There is nothing explicit...it depends on the zoning districts. Within certain zoning districts, like the Commercial zoning district as well as the Industrial zoning district, the Resort zoning district, and some of the Mixed-Use zoning districts, commercial sales and retail sales are outright permissible in all types of facets and venues, be it "brick and mortar," a tent, or what have you. In the Open and the Residential districts, there is no vehicle within the Ordinance to outright permit any retail sales in a tent or otherwise.

Councilmember Cowden: When we are hearing...

Mr. Hull: Let me preface that quickly. When talking about some of these other events, there are some events that have been occurring on this island consistently, for example, over fifty (50) years. If they were occurring annually or consistently since before 1972 and the adoption of the Comprehensive Zoning Ordinance (CZO), those would be considered non-conforming legal uses. One example that I think we were discussing with staff is St. Catherine Carnival which has been occurring for decades. That, I believe, is in the Residential zoning district, but that is a church that has existed there prior to the adoption of the code and has been operating this carnival event annually since before the zoning code, so that would be considered a non-conforming legal use in the Residential zoning district, but if someone wanted to set up a new operation or an operation after 1972 in the Residential or Open zoning district with retail sales, it necessitates a use permit.

Councilmember Cowden: One of Councilmember Holland's last statements was, "We will never allow this to happen," but then we have always been allowing things that maybe then are not okay or are not codified. What comes to my mind when I see "Commercial association or associated with park events and athletics," I was a paddler for a number of years, so there are always things going on right on the beach, right there, when there is paddling. Most of the food provision is in the pavilion or at Kekaha Park, but just because we are not codifying it does not mean we will not ever allow it, because we have just been saying these things have been allowed whether they are correct or not. Is it okay if I ask a series of questions?

Council Chair Rapozo: Sure.

Councilmember Cowden: I am looking at Slide 4 [sic] and this would be the case for Artisans Markets I and Farmers Market I...not occur more than two (2) times per week. Correct me if I am wrong. When we have the "P" and the "U," "P" means they go to the Planning Department to fill out a request for a permit. They do that right now for birthday parties, right? If they are going to use a pavilion, they get a permit for that pavilion.

Mr. Hull: The "P" means it is an outright permissible use that still requires a permit, but an over-the-counter administrative permit.

Councilmember Cowden: You walk in to the Planning Department, and you just say, "I am going to do this," or you go to the Department of Parks & Recreation. It is probably the Department of Parks & Recreation.

Mr. Hull: Yes. Councilmember Cowden, you do not need a permit for birthday parties.

Councilmember Cowden: I am sorry. You go to the Department of Parks & Recreation and you reserve Lydgate Pavillion?

Mr. Hull: That is correct.

Councilmember Cowden: This is something where you go to the counter and say you want to do, but if someone says, "I want to do something at Black Pot Beach Park twice a week. I will just put a little pop-up tent there twice a week." When I read this, you can put an artisans market at Black Pot Beach Park twice a week over-the-counter. Is that correct?

Mr. Hull: No. For County and State parks, it is a two-tiered permitting system. The Department Parks & Recreation needs a zoning permit from the Planning Department to have commercial sales, commercial venues, or commercial events in their parks that are within the Residential or Open zoning districts.

Councilmember Cowden: But they already have them, right?

Mr. Hull: No.

Councilmember Cowden: Yes, they do, because they have the canoe events and they have all these things. They have the Tahiti Fete. We just said they are already doing it.

Mr. Hull: Some events have been occurring in those spaces since before 1972, and are outright permissible, but there are some events occurring there that technically do not have the appropriate zoning permits, so the Department of Parks & Recreation needs to secure the appropriate zoning permit. After the appropriate zoning permit is secured, then the applicant, or the entity organization applies to the Department of Parks & Recreation for a park permit to have their event or operation to occur, so it is a two-tiered process. While, in the past, the Department of Parks & Recreation was issuing some of these permits absent the necessary use permits that are required for the overall facility from the Planning Department.

Councilmember Cowden: Meaning the SMA?

Mr. Hull: Or if it were outside the SMA, the Department of Parks & Recreation has use permits for some facilities that they are utilizing, like the Spouting Horn commercial venues.

Councilmember Cowden: Yes, is that working yet?



Mr. Hull: They have a specific use permit for that to continue in perpetuity every day of the week.

Councilmember Cowden: That is in my list of questions. Are they operating again? The County spent all that money on that facility with the sliding doors, the garage doors. Does the County have vendors at Spouting Horn now?

Mr. Hull: I am not aware. From a zoning perspective, they are good to go. Whether or not they are actually operating, I do not know off the top of my head.

Councilmember Cowden: Because the County invested years ago on that and it is just sitting there empty. I do not believe it is. I look every once in a while. "P" on this table, this is the table on zoning districts. It is a number of pages. "P" means it is over-the-counter, and "U" means it goes to the Planning Commission?

Mr. Hull: That is correct.

Councilmember Cowden: So, they would need to go to the Planning Commission. Let us give the example of the Princeville Farmers Market because they are doing it once a week. I noticed on Thanksgiving that they did it Friday and Saturday. Sometimes they do it twice a week. They would just get an over-the-counter permit. They would not need to go before the Planning Commission?

Mr. Hull: Under the Proposed Draft Bill.

Councilmember Cowden: Under the Proposed Draft Bill?

Mr. Hull: Under the Proposed Draft Bill, they first need to get a determination that the facility is commiserate to a County park facility, and if that determination is issued, then they could apply for a zoning permit for the artisans market.

Councilmember Cowden: With the tolerance of the Council for some of these questions, and I think these are a lot of what I have gotten...I see your approval process, but it is still worth asking for the people who are listening, because you went through it very quickly. On an Artisans Market II or a Farmers Market II, when it can occur more than two (2) times per week, that is where I think Mr. Sykos was talking about something like a *mercado* that you see in Mexico and Bali. They are everywhere, Thailand, Fiji. If someone got a use permit for more than two (2) times per week in my view, it might look like something almost like the NoKa Fair in North Kapa'a, where it is always sort of like a little flea market there. This, to me, when I read it, "More than two (2) times a week," that would be like a *mercado*, right? So, it is not crazy or laughable to say that people might be concerned. He called it a strip mall, but I think he means a *mercado*, a thing that has the effect of a flea market. Artisans Market II and Farmers Market II would be like that. I was just in Hilo. They have an everyday farmers market, so it would be like that. You have an area, it is where people go, and it is an everyday farmers market?

Mr. Hull: Potentially.

Councilmember Cowden: Potentially. So, it could be a regular little...but that would have to go before the Planning Commission and the community would have to say, "We love it"?

Mr. Hull: Yes, in the Proposed Draft Bill, any market that will occur in a park facility more than twice a week would necessitate a public hearing and Planning Commission review.

Councilmember Cowden: When I look on Slide 8 [sic], it talks about zoning. You might have answered some of it. I did not realize St. Catherine is Residential, so my "fur" went up a little bit when I saw "Residential" in here, because I am thinking like how I have a next door neighbor that is an empty lot. I am incredibly tolerant, so I probably really would not care. If someone has an empty lot in their neighborhood, could they choose to always be having a garage sale, like there is a garage sale every week in my neighborhood, which I get a lot of complaints about. Of course, everyone is my friend, so sometimes I am a little quiet when everyone is my friend. I have to feel like, "Work it out, work it out." Could a Residential lot decide they are going to basically have an ongoing garage sale in their empty lot?

Mr. Hull: Under the Proposed Draft Bill as-is right now, they would need to get a determination from the Director of Parks & Recreation and the Planning Director, that the site is commiserate to a County park facility. I have worked very closely in drafting this and most of these things came out from my pen, to a certain degree, so I can say that when drafting this and to get the discussion going, is that there is a clear need for amendments in here and fine tooting of the language. In particular is this one notion of quasi-public lands. These are private lands that are used in a public manner. Can they be utilized to facilitate farmers markets? There is no real criteria in the Proposed Draft Bill of what the Director of Parks & Recreation would do to make that determination. That is one area where there clearly needs to be additional criteria. I think things we are "batting around the room" right now is there should possibly be a potential for a minimal lot size—one (1) acre, two (2) acres, three (3) acres. There should also possibly be criteria that the site is open to the public and the property owner, whether it be an organization or an individual, has some type of mechanism in place where private property exclusive rights are not in place in that the general public can traverse this area. Additional criteria are clearly needed to fine tooth the quasi-public facets of the Proposed Draft Bill.

Councilmember Cowden: In the twenty-four (24) years I have had my house, my adjacent lot, is it really a Residential house? I do not care, but it is where motorcycles go through, people walk through all the time. It is a direct route from Kilauea Town over through the park and out, so maybe someone could argue that. I would not care if I had a homeless encampment next to me, so I am tolerant. I am not looking for my own issues. In fact, that has been a homeless encampment, so I do not complain. I get a lot of complaints from the neighbors.

Council Chair Rapozo: Councilmember Cowden, utilize this time for questions. You will have opportunities to comment.



Councilmember Cowden: Okay. I have been receiving complaints for at least two (2) years on the Princeville Farmers Market. Has the Planning Department been receiving those complaints for that window of time as well? It is a lot more than the one that is named.

Mr. Hull: Not that I am aware of. We have only recently received a complaint which initiated an investigation of the operation.

Councilmember Cowden: The nature of some of the complaints is the congestion in the roundabout and onto the highway, and we have many things that create that. Have you received complaints about the congestion that brings it onto the highway and how it is hard to get through the roundabout? Have you received that complaint?

Mr. Hull: Not that I recall specifically on congestion.

Councilmember Cowden: Okay. If those people...and I am sort of speaking to them on camera...if they have a complaint about not being able to, for example, exit Princeville II Community Association (Princeville II), or be able to make it through the roundabout, the way this process would work for them is that they would need to participate when there is an application with the Planning Commission. No, this does not need to go to the Planning Commission, so where would they be able to ask for that mitigation of changing the way parking is structured or maybe the amount of people who are there? How would they go about that?

Mr. Hull: Under the Proposed Draft Bill, there is no public discourse on a Farmers Market I or an Artisans Market I.

Councilmember Cowden: Which Princeville Farmers Market is.

Mr. Hull: If classified as quasi-public, there is a trigger in the off-street parking section of the CZO that allows the Planning Director to essentially recall a permit should there be demonstrated that inadequate off-street parking via the regulations of the CZO is not addressing parking needs, so to speak. The way it has been drafted so far and this number is clearly open to amendments and changes...right now, as drafted in the Proposed Draft Bill, it is one (1) off-street parking stall for every one thousand (1,000) square feet of market space. If you have a one-acre area, then you have roughly forty-three (43) off-street parking stalls that need to accommodate that particular Farmers Market or Artisans Market. If in the event that permit is triggered and they provide the forty-three (43), but still there is congestion, there is a vehicle within the CZO for us to pull the permit back and say, "You provided the minimum pursuant to the permit requirements, but there are still off-street parking issues. We are going to now increase it to an additional amount." That vehicle is in the CZO.

Councilmember Cowden: I will make this be my final question for now, but this is specific this particular market. The parking happens in the road easement that is under the *kuleana* of Princeville II Homeowner's Association [sic]. They have never asked for permission, never been given permission, they have simply tolerated

it. That is really where the problem happens because the people are backing out onto Ka Haku Road, and that is what backs it up onto the highway and creates problems where people cannot get to work or cannot get out of their place. For them, it is a real problem and they have just been incredibly gracious for a long time. Where would they have the opportunity, because it does not sound like they would, to be able to say, "Hey, this does not really work for us." Where is their opportunity to do that? Could they put posts up and stop all the parking? How do they get to participate in this choice?

Mr. Hull: Under the way the Proposed Draft Bill is drafted right now, the Princeville Farmers Market could potentially get an administrative over-the-counter permit which would not have a public hearing, but if the parking is not being addressed adequately, that complaint can be filed with the Planning Department, then we would assess the determination on whether or not additional off-street parking is necessary.

Councilmember Cowden: They would complain to the Planning Department, the Planning Department would talk to Princeville at Hanalei (Princeville I) and say, "You have to accommodate all of this," but if Princeville II does not want to allow them to drive through their properties, can Princeville II say no?

Mr. Hull: Yes.

Councilmember Cowden: It seems like that would be wise to have preemptively or proactively addressed permission.

Mr. Hull: No, and I would say that I am in complete agreement, but there is no vehicle for us to even have those discussions. It is either is this legal or not? Right now, it is illegal, so it is not like we can go to Princeville II and ask, "Are you open to allowing the parking here or maybe we can put the parking here?" Right now, under our existing codes that we are tasked with regulating, there is no vehicle for a market to operate on this property without a use permit.

Councilmember Cowden: It has been allowed to happen for a few years because you folks have not been hearing the complaints? I was hearing them for years.

Mr. Hull: I know I have possibly pointed it out a few times to the Council. Our zoning enforcement program has limited resources. There is one (1) section of our zoning enforcement program that is proactively out there searching for violations, finding them, issuing violation notices and if they do not shut down, issuing the fines. That is for the illegal vacation rental industry. Those staff are out there proactively searching. Outside of that particular use, because of our limited resources, we are basically only complaint-based in that we can only take the complaint once the complaint is lodged and initiate an investigation off of that.

Councilmember Cowden: Okay.

Mr. Hull:  
particular venue until recently.

We had not received a complaint on this

Councilmember Cowden:

Okay. Can I make a statement or not?

Council Chair Rapozo:  
Councilmember Kualī'i. You made a few statements, by the way.

Not now. Are there any other questions?

Councilmember Cowden:

That is why I am asking.

Councilmember Kualī'i: Ka'āina, in the presentation, they said that with the Proposed Draft Bill they are not trying to regulate what a market looks like, but when this goes to the Planning Commission, you work on it and you said it will require amendments or improvements, and you talked about minimum lot size, it being open to the public and things like that, they will send back to us the improvements that are needed in order to address with the concerns of the public, correct? What I am getting to, too, is that even though we say we should not regulate what a market should look like or that the Proposed Draft Bill is not doing that, indeed we should, right? The size matters, the frequency in which it happens matters, and then we talk about big events that happen in a park. It is huge, right, but it only happens once a year. It is not twice a week. Clearly, there will have to be a policy decision on the final "how often is too often" issue, right, but as far as the fines of the market and the amount of the park that is actually being used, does the Planning Department working with the Department of Parks & Recreation not sort of have an idea of the parks being for park purposes and if you have something else there, it can only use ten percent (10%) of the park or whatever including the event and the parking because if you are trying to get cars off the street and are now parking them in the park as well, then you are utilizing more of the park that should be available to the public for park purposes. Does the Planning Department have at least some basic idea...and I would imagine that when the Department of Parks & Recreation originally made their set of rules, you worked with them on that.

Mr. Hull: Clearly, when we come back here, we are going to have the Department of Parks & Recreation with us because of how much this Proposed Draft Bill interfaces with them. There are, as I understand it, different Administrative rules for the way the Department of Parks & Recreation allow for events or pseudo-commercial activities to happen. Some of those rules, quite honestly, have not been "ironed out" as I understand it. There is still a need for Administrative rules to look at ongoing, continuous commercial-type uses in the park, outside of places like Spouting Horn. For the events side, there is a tiered process, but right now, as I understand it, the Department of Parks & Recreation is only allowing one-off one (1) year event activities in their parks outside of the Sunshine Market Program. Outside of the Sunshine Market Program, they are just looking at events. They could create additional rules on how additional commercial operations can occur in parks and I think that is really at the thrust and the heart of the discussion and debate that is going to happen around the Proposed Draft Bill, which is that, yes, parks are clearly for public use and to a certain degree, public trust, but under certain types of events and activities, some commercial aspects come with it that interface with the public nexus. I think of Kōloa Plantation Days. There is an argument to say that while there is commercial activity going on, there is a public nexus to this event.

I look forward to “ironing out” the details necessary to actually spin up a regulatory framework from which that can be assessed, but right now, there is no regulatory framework.

Councilmember Kualii: Thank you.

Council Chair Rapozo: I think it is important to understand, especially for the public, that today’s action only gets it to the Planning Commission. This thing is going to be “massaged” and when we get this back, it is probably going to look completely different, just from my experience. I do have a couple of questions. For your definition of agriculture products, does it restrict it to locally grown? In other words, can I go to Costco, buy a pallet of pineapples, and sell it at a farmers market? Was that the intent?

Mr. Hull: No, the intent is to be locally grown.

Council Chair Rapozo: Right, I think we really need to understand that. Councilmember Cowden talked about garage sales. That is sort of part of our life. I love garage sales. I want to make sure...and we will have an opportunity to submit our recommendations when it gets to the Planning Commission, but the intent was not to allow that sort of use, right?

Mr. Hull: No.

Council Chair Rapozo: Likewise, on the artisans markets, this is really specific. It says that all of these items, regardless of what artisan products are, needs to be handcrafted by the artisan present at the stall, so you cannot fly in garbage from China and fake Hawai’i shells that you bought on Alibaba, and sell it as if it was. The item that you are selling needs to be made by that artisan who need to be present at the market?

Mr. Hull: As drafted, yes, exactly.

Council Chair Rapozo: That was the intent?

Mr. Hull: That is correct.

Council Chair Rapozo: My comment is that same restriction should be applied to the agricultural products as well.

Mr. Hull: Absolutely.

Council Chair Rapozo: The other question is a technical question. When I look at the graph, Section 3 clearly states that this table of usage shall be amended as follows. In this amendment, and I am hoping it is a typo, on page 3 you have an underline, which means it is a new addition or it is being amended. You have “Adult family group living home,” “Residential care homes...” Hold on, there is more. I get a little nervous, because I do not want to be amending something that I do not know I am amending...and on page 14, you have “Accessory structures and uses,” “Botanical and zoological gardens,” “Diversified and specialized agriculture,

orchards, nurseries, and related structures,” “Dormitories, residence halls, faculty multifamily rental housing, guest and boarding houses,” “Gymnasiums, indoor recreational centers, and sports facilities under 3,000 attendees,” “Offices, classrooms, lecture halls, laboratories, and education buildings,” “School and day care centers,” and “Solar energy facilities.” Tell me that is a typo or are we trying to change the table with those things as not properly agendized and definitely not...

Mr. Hull: I need to double-check, but I am ninety-nine percent (99%) sure that happened with the restructuring of the listed uses that are already in there and because they needed to be moved, they were underlined.

Council Chair Rapozo: We are changing numbers and letters? Is that what it is, Jenelle? I should know better than to question Jenelle’s drafting. That is just the police brain thinking, “Sneaky buggers.” Thank you, Jenelle. Are there any other questions?

Councilmember Cowden: I do.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: When we are just talking about that artisans market and a lot of these dresses that I proudly wear, even if they are a little too short for me, so I need to buy some leggings, I buy them to support, typically, these young moms or moms of young children. This is the business I was in for decades. I understand this business and I can tell it is the same cut, different labels, they are all made in China, they have a beautiful array of fabrication, and I see them on Maui and O’ahu. I know how to look this up. They are buying products that they are importing and are obviously buying from the same pattern. I do not think it is junk from China. I am buying and wearing that junk from China because I am trying to support these people, but are we going to be looking at this? I do not consider it junk. We just heard “junk from China.” I am buying these things to support the people, but it says “Made in China” on the tag and I see the very same dress on the other islands when I go, so I know for the number of dresses that I buy that there is a way to order them and have these microbusinesses. I support microbusinesses, but where do we fit that line?

Mr. Hull: As drafted in the Proposed Draft Bill right now, from the artisans market standpoint, some type of manipulation of that product or value added aspect needs to be done to that product.

Councilmember Cowden: What would that be?

Mr. Hull: It could be anything from silk-screening to adding beads or whatnot. It needs to have some value added to it.

Councilmember Cowden: It is not done.

Mr. Hull: That is as drafted. The Proposed Draft Bill does not go into the “thick of the weeds,” if you will, on the product regulations. From an implementation standpoint, the Planning Department would caution against



getting into the “thick of the weeds” on product regulation in these and there is a large bandwidth on what product manipulation or value adding to a product contemplates or has within it. The thing is that these markets, for the most part, occur in many of these parks or have occurred in the past and, technically, are a zoning violation, so it is trying to bring what is occurring into compliance.

Councilmember Cowden: Okay.

Council Chair Rapozo: Are there any other questions for the Planning Department? Go ahead.

Councilmember Carvalho: It is just a clarifying question. You mentioned the minimum block size and quasi-public space. Could you explain that one more time?

Mr. Hull: It is that when you are looking at something that is commiserate to a County park. There are not really any County or State parks out there that are ten thousand (10,000) square feet in size, so it would “nip it in the bud” as far as some property owners saying, “I want to have a farmers market in the thick of a place that may not necessarily be able to handle the volume of individuals or even traffic,” to Councilmember Cowden’s earlier points. In essence, being able to handle large volumes of traffic.

Council Chair Rapozo: Thank you.

Mr. Hull: Thank you.

Council Chair Rapozo: We have registered speakers. Can we have the first registered speaker, please?

Ms. Fountain-Tanigawa: The first registered speaker is Joelle Edwards, followed by Desirea Hirani.

Council Chair Rapozo: You have three (3) minutes on the first go around. Joelle, I know you know this, but this is for the others in the audience. The green light is your time, the yellow light means you have thirty (30) seconds, and red means your time is up. You can come back for a second round after everyone has testified.

JOELLE EDWARDS: Good morning Council Chair, Council Vice Chair, and esteemed Councilmembers. My name is Joelle Edwards, I live in Wainiha. I also own a small business called Wainiha Country Market and I am here in support to this Proposed Draft Bill. I want to *mahalo* Councilmember Kaneshiro and Councilmember Holland for opening up this conversation and allowing a review of all of our facilities, how they are currently being utilized, and their future legal use. As a “brick and mortar” owner struggling like most small businesses, I want to remind people that we choose this path. I have a symbiotic relationship with my farmers market vendors and farmers. I not only shop at the farmers market, but I go to the farmers market to pick up some of my goods. I want to remind that most of these farmers, at least all the ones that I work with, have their general excise tax (GET)

license, business licenses, cottage licenses, and many of the producers also have warehouses, greenhouses, storage facilities, and employees. If farmers solely relied on having their goods in a market such as mine and other businesses without farmers markets, it would not be feasible to their livelihood nor their crops, equaling waste. Many of us choose to pay a higher cost for local goods rather than using Sysco Hawai'i, Esaki's Produce, or international goods. That is why we want that. Let us talk about our creators of value added goods. They are contributing to a circular economy on Kaua'i, which is what we all want. Yesterday, I heard in a radio program about how it is not fair that Princeville residents cannot have a home garden, yet there is a farmers market down the street. I do not think that comparison makes sense. That is an issue with the homeowners association (HOA) and it means nothing. Your home garden is not conflicting with a farmer. I trust that the Council and our County's Planning Department and Department of Parks & Recreation will work diligently on zoning and permitting to keep our parks and beaches peaceful, uncluttered, and have the non-commercial community use as a priority while providing these markets, these very useful and flourishing markets, as a community resource and keeping a good balance between the two (2). Currently, the percentage of market and non-market usage is already low at an average time of five (5) hours per week, including setting up time. Thank you for your time.

Council Chair Rapozo:

Thank you. Next speaker, please.

Ms. Fountain-Tanigawa:  
by Taylor Garcia.

The next speaker is Desirea Hirani, followed

DESIREA HIRANI:  
having us.

*Aloha* and good morning. Thank you for

Council Chair Rapozo:  
please?

Could you state your name for the captioner,

Ms. Hirani: *Aloha*, I am Desira Hirani. I am the owner of Bloom & Prosper, a vintage company for Hawaiian vintage. I am also the coordinator for the Princeville Farmers Market, Artist & Flea Market that happens a couple of times a year, and was also the coordinator for the Aloha 'Āina festival, all of which are markets for farmers and artisans. I am here in support of this Proposed Draft Bill that Councilmember Kaneshiro and Councilmember Holland have brought attention to. Thank you so much because our market is the one that has caused all of this to open up that was shut down. Fifty (50) livelihoods of local families including Native Hawaiian, *kūpuna*, farmers, and all locally made products. To assume that we purchase our things in China is very offensive. As a market coordinator, it is my obligation to make sure that things are made in Hawai'i and are not only made in Hawai'i, but specifically made on Kaua'i and our market holds true to that. I wanted to address that. Also, it was brought up that even though this is not a Princeville issue, I just want to clarify that I do have permission from Princeville II and I have been in talks with the president who has fully supported our market. Thank you. These pop-up markets, whether they are artisans or farmers, are the way of the world across the world now. It is not just an island thing or a Hawai'i thing. I am well-traveled and everywhere I go, we make it a point to visit these types of markets so we can get in touch with that local community, that cultural experience, and that



is what these have to offer us. In addition, our neighbors who have commercial “brick and mortar” spaces, have actually wrote letters of support saying that they support these types of markets, including ours. My Princeville neighbors have shared that, in fact, our market brings much needed traffic to their often empty commercial spaces. On top of that, it is proven that we help the local economy and boost it. I will end there. Thank you.

Council Chair Rapozo: Thank you. Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Taylor Garcia.

Council Chair Rapozo: You can just state your name and then proceed.

TAYLOR GARCIA: *Aloha*, my name is Taylor Garcia. I am a vendor at the Princeville Farmers Market and I have a business. I started it five (5) years ago and farmers markets were the way I was able to sustain my business, just like many other business owners at these markets. I think it is amazing that we are able to, for three (3) hours a week, set up our little tent and create this sustainable community where we can sustain our lives through the shoppers who come from all over the world to support local. I think that in a world of...there are so many businesses that are selling things that are made in China and a lot of us vendors are handmaking things here, like myself. I have four (4) employees who work for me full-time. It is their full-time job and through these farmers markets, I am able to sustain their employment. It is really sad that some of the Princeville members do not want it to go on because we do have so much support and a lot of the community members want it to happen and have been really upset by its closure. I think that other than the Princeville Farmers Market, there are many other markets that are going to be affected by this. It is really important to provide an environment where other people can support local businesses because a lot of us cannot afford to have a local space in Hanalei Town like some of the people who are against us do, and because of that, we have to do what we do every single week—show up, pop up our little tent, sit there, talk story with everyone, and share what we have to offer with various people who are here. People come from all over the island to visit the market. It is not just the Princeville community. It is not just the tourists. I get to meet locals who come from the Westside going to the North Shore for the day. It is really a community event. That is all.

Council Chair Rapozo: Thank you.

Ms. Garcia: Thank you.

Council Chair Rapozo: Is there anyone else in the audience wishing to testify who did not register? Mr. Hart.

Mr. Hart: For the record, Bruce Hart. I rarely speak on bills for the first reading. I do appreciate that the Council Chair allowed discussion so that I could get some sort of idea of what is being proposed. I did read the Proposed Draft Bill that is on the agenda. I have a whole lot of concerns. I am wondering, did

this sort of bill not come up once before? I seem to think in the past something similar came up.

Council Chair Rapozo:

I do not recall.

Mr. Hart: No? As usual in how I proceed, I am appreciative of Mr. Hull and his input, I want to hear what the Department of Parks & Recreation has to say, I want to hear what the Department of Public Works has to say, and I especially want to hear what the Office of the Mayor has to say before I am going to say "yes" or "nay." I appreciate Councilmember Cowden and her concerns. It was informative. Councilmember Kuali'i's, too. I know that all of you are thinking about all the different aspects. One of the things that comes to mind is the cost. This is so complex at this point that most of the public is on information overload. I know that because I am standing here and it is too much for me to take in all at once, so as so many have said, this is going to have to progress and we are going to have the input. Whether this is workable or not will become apparent as time passes. I want to say something for the public. This public Kaua'i, this is a prime example of why we need elected representatives who are at least trying their best to not be partial and to take into aspects all of the public's use of our parks and how some people are not going to like this, some people are going to like this, why some like it, why some do not, and who should prevail. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else? If not, I will call the meeting back to order for final discussion.

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

Council Chair Rapozo: I wanted to address for Desirea, the "China junk" comment was not directed to Princeville by any stretch. It was really to the paragraph in the Proposed Draft Bill, making sure that markets like yours will be protected from these...I have seen them. It is not in Princeville, but I have seen them. There are bracelets that they are buying for forty-nine cents (\$0.49) from Aliexpress and selling them for ten dollars and ninety-nine cents (\$10.99). That is not what these sunshine markets are and not what these markets are supposed to be. I just wanted to make sure you understand that it was not directed towards the Princeville Farmers Market. Is there anyone else? Councilmember Cowden.

Councilmember Cowden: I want to begin by saying I was the president of the North Shore Business Council for nine (9) out of thirteen (13) years. The North Shore typically sees me as pretty pro-business. I tend to be pro-small business. I think I have bought from Amazon maybe four (4) or five (5) times in the last five (5) years. I work really hard to buy locally and as local as possible, and I shop from the microbusinesses. I shop in your market. I have been receiving complaints for years and probably where I have shown a bias is I do not take action, I say, "Call the Planning Department." Why? Because I do not want to shut you all down. I will own that, so when you hear me sound like I am voicing out for the others, it is because I know that these people who complain are intimidated to speak out and I know that the business that was just sort of reference, I heard from an employee that someone has come in and "pounded" on them hard verbally, and I have looked up on social

media. I cannot even find them anymore, but I did see that there are bad reports on Google. That is a form of intimidation so that wears down my softness, because when people complain to me and I tell them, "Please just go to the Planning Department if you have a problem," because they want me to do the complaining for them and I have not done it, but I have called them since this Proposed Draft Bill has come up and they are afraid to speak up, so some businesses are impacted. What I hope that will happen in the process...I am glad this is going to go to the Planning Commission...is that there is going to be a lot of discussion about how to park the right way, maybe how when it is a really rainy day, it is not the time to put the market up if it is going to make the park really muddy for the rest of the week. I am using this opportunity to inform a broader group of stakeholders. To me, I personally would prefer to see it in the quasi-public or commercial places because when you put it right on the beach fronts, that is going to have market saturation that is going to wreck it for everyone. I know enough to look at the tags in my dresses. I can tell where my dresses come from. Whether it is what I bought at your place or I bought somewhere else, because I buy them all over the place. I look at the tags and I know what it is. I want to also say, because she is talking about my radio program, I stated that a complaint that has come in when people cannot even grow vegetables in their own yard and they cannot play with children in the park because there is a farm truck right there in the park, that is the type of complaints that come in. I have been hearing complaints for two (2) years and I have not done anything about it. I have not tried to make something to disrupt what has been the case, but it is very important that we have the whole group of stakeholders speak out, and of course I love all these providers, many of whom I have known since they were children. I have known a few before they were born. I am not opposed to the homegrown effort to have these microbusinesses. I am just wanting it to be fair and I am wanting to protect our parks. I know the Department of Hawaiian Home Lands (DHHL), I have seen it being asked. I get texted in. Is this going to be applied to DHHL land? I do not know. I do not know how we can actually write a bill to affect State parks. I do not know how the County can write a bill to affect State parks. It says County and State parks.

Councilmember Holland:           Zoning.

Councilmember Cowden:           Zoning? Just the zoning?

Council Chair Rapozo:           Hang on. You have comments, you are not asking questions. You are not responding, Councilmember Holland.

Councilmember Cowden:           Okay, well she answered my question.

Council Chair Rapozo:           I am just saying to make your commentary.

Councilmember Cowden:           That is my commentary. I am glad it is going across the street, I care about all these vendors, I am looking for balance and fair, and to protect the quality of life within the parks, and for decades, because I have been in business. I started the Hanalei Business Association in the 80s and this came up then. This was an issue then about people selling at the parks in Hanalei. It is not a new issue and it has been fought for years. At that time, I would not have minded to be able to be down there and actually help sell a little more right in the park. They did not want it, I heard it, and I got it. Thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: This is an important Proposed Draft Bill, so thank you for bringing it forward and thank you to the Planning Department and everyone who will be working on it. I look forward to being part of that work, too. I am hopeful that with the community's input through the Planning Commission's hearings that we end up with a bill that I can support. I think it is important to limit how much of our available public park lands are used for this type of commercial purpose, so for me, the size and the frequency of how often will matter. I am hopeful that what comes back with the community's input will be something with a small footprint that is limited. Ideally, if we can at least incentivize and support Kaua'i grown and Kaua'i made that are certified...we have programs that certify these products that are Kaua'i grown and Kaua'i made so that can be a major part of these type of operations. Thank you.

Council Chair Rapozo:  
Kaneshiro.

Is there anyone else? Councilmember

Councilmember Kaneshiro: I want to thank the Mayor and the Administration for helping us with the Proposed Draft Bill. They are very supportive of it. I think the quickest way to get it going was through the Council rather than waiting for it to go through the Planning Commission, so we got a lot of help on that end and they have been really supportive of this Proposed Draft Bill. When it comes to responsibility, it is very hard to address all of that in this Proposed Draft Bill because the responsibility is going to fall on all different types of levels. We are doing a Proposed Draft Bill that is responsible for saying if this is an appropriate use of zoning. There is going to be another level at the Planning Department and the Department of Parks & Recreation where they need to make a determination if this is the type of event that we want to have here, if there is enough parking, do they have that. There is going to be another level. Will the private landowner require more things above and beyond? "Do not park here. You can only set up in that area." Then you are going to have the organizer who will say, "These are the types of products we want." We are not going to address all of that in this Proposed Draft Bill. We are never going to come to an agreement on that. This Proposed Draft Bill is on the zoning, basically, the higher twenty-thousand-foot level, then as it goes through the different levels, you fine tune it to an event that happens or an event that does not happen. If they say it is not an appropriate use on that area, then it is not an appropriate use. I do not want everyone to get confused, shove everything into this, and say, "It needs to have this," or "It needs to have that," because there are all these different levels that will help sift through projects. I have always been pro-business, and when I heard about the shutdown, it did affect me. I support small businesses and I support farmers. I helped with getting the Grove Farm Market going. That happened during the COVID-19 pandemic when all of those farmers lost their hotel and restaurant business, were just stuck with all this produce, and had no way to get rid of it. At the end of the day, whether they have those accounts or not, a farmer is going to struggle and they are going to figure out the best way to get their produce to customers. They might have some commercial markets, they might be wanting to use a farmers market type of event to get their things out, they may do a fruit stand which we brought out during the COVID-19 pandemic where they can sell their own product on their own property. That was a last ditch effort where they were like, "We have no



place to grow. Can we just sell it from where we are growing it?" I know a vendor does not sit on the side of the highway, or wherever they are, all day just to sell the produce. When you go to farmers market, it is already drawing people there so it is a lot easier. If they have commercial markets, they know where their market is and it is a lot easier to, so it is just giving them that option. I heard about if it is rainy. Does it say whether they can be there or not? Can they cancel? Again, that is going to fall on the private landowner, the County, or the organizer on whether they say if it is a "rain out" day or not. It is not going to be addressed in this Proposed Draft Bill. I heard, "Should the parks be available to everyone all the time," and it is not. When there is an event like Kaua'i Hospice's 4<sup>th</sup> of July Concert in the Sky celebration, the County is not going to say, "The celebration can be here, but people can play soccer in this section." They are going to reserve the whole entire park and utilize the whole entire park. When we have sports events at Vidinha Stadium, the County is never going to say, "You can play football, but we need to reserve some areas." There are certain events that, yes, may take up the entire venue for that day. That is the type of event that it is. Again, it is up to the Department of Parks & Recreation. It is mostly up to the Department of Parks & Recreation. Is this the type of event that we want on this day? Is it interfering with anything? I know Kōloa Plantation Days takes up the entire park for the whole day, but I believe there is a baseball tournament the day before Kōloa Plantation Days starts setting up. Everyone sort of works around these schedules and that is sort of how it works. If we are going to say we always need to allow the public to have access to the park to do park activities, I do not think that is realistic because depending on the type of park activity there is, it will take up the whole park. For Tahiti Fete, the County is not going to say they can only take up a portion so that kids can play soccer in the soccer goal. That is just how it goes. Those are my comments for now. I know it is going to be worked on in the Planning Commission side. This is just the beginning. It will take some time to get worked out and come back here. It will take some time here. There is going to be a lot of "swings" at this Proposed Draft Bill, so if there is any confidence to everyone wondering what is going to happen, there is going to be a lot of "swings" at this Proposed Draft Bill to make it something everyone can "swallow."

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

Councilmember Carvalho: I just wanted to say that the importance of this whole discussion...I am totally supportive of trying to work it. It is all about balance. Having been heavily involved in the past in Kilauea with the agricultural (Ag) park there is just an example of the whole island, but at the same time, finding that balance. To me, today is just the beginning because it is going to go across and that is where everything is going to be vetted out. Whatever is going to come back, okay, fine, but I appreciate the process, the discussion, and the importance of bringing farmers markets and those types of activities to the table today and really vetting it out. I think that is very important. For me, with all the different details, not going into all the details, but just saying the importance of today's discussion, how it impacts a lot of small farmers and businesses, how to keep it moving, but balancing it in a way that will keep them going as well as offering opportunities for all. That is the biggest part for me. Again, the example of the Kilauea Ag park situation or down throughout the whole island, we try to balance it out with the business side of it, keep our local businesses moving, and opportunities...and this is

from *keiki* to *kūpuna* as far as I am concerned. Overall, I appreciate the discussion and look forward to it coming back in a totally different way, I believe, and going from there, so I appreciate it. *Mahalo*.

Council Chair Rapozo:

Thank you. Councilmember Bulosan.

Councilmember Bulosan: I would like to thank the introducers for bringing this Proposed Draft Bill forward and the Planning Department and the Office of the Mayor for rallying around this. I think this is a very important Proposed Draft Bill. If I could snap my fingers and think about this in my perfect world, we would pass this right now, immediately, and open up all these farmers markets immediately. I see it in the perspective of with the way that the world is going, I think we need to empower our community as much as possible, as fast as possible, to make the means and livings that they have, and just rally around each other and address the concerns as a community. If I am parking wrong, wave me down and move my car. It is one of those things where I feel, historically, we have done pretty well at responding to each other, and it saddens me that we are at this level. I wish we could just retroactively reapprove everything and keep it going. It is unfortunate it is closed and that now we have to do this moving forward, so I really appreciate the work that everyone is doing. When I think about commerce, public space, and what the use of public parks and public places are, and public activities, I never see it separate. I do not see a public space or a public use of park separately from playing soccer and selling food items. I just do not experience life that way. I remember my life playing soccer then buying shaved ice from Uncle "Da Kine." That was never a question and it never bothered me that the person was making money. It actually made me excited that he still gets to call Kaua'i home. For me, it is not whether I am pro-business or pro-park, or protecting parks. I am just pro "let us survive whatever is happening in this world right now," and this needs to get up faster than sooner, so I am actually very irritated that we need to go through this. I wish we could just pass it right now and go.

Council Chair Rapozo:

Councilmember Holland.

Councilmember Holland: Thank you all very much. I really appreciate the conversation that is happening. Again, like so many have already said, this has a long way to go, so we are going to continue to work on that and I am excited to see what actually does come out of it that addresses some of the concerns. I want to be very clear for the record, I am an environmental scientist, I value our parks, I value the protection of conservation in our areas and our places, and I do not want to overly commercialize our areas or take away from the kids playing sports in any way or any of those things. That is not the intent of this. I believe we can come up with a solution that does not do that. There is the "commiserate to a County park" to address private land issue of anyone on a lot doing it. It really is a lot to show that the park is quasi-public or of this whole thing needing to be a certain size, needing it to have parking, and all those things. I think we can address a lot of concerns with any of those random sites through that. For those that say this should not happen on our parks and it should be just on the quasi-public land, as was said, and not see it in our parks, this Proposed Draft Bill covers so much more than just these markets. It is food, shaved ice at a football game, and those sorts of things. It is for yearly events. Because we do not get to pick and choose which businesses in this capacity, it is just

what is allowed to be permitted in Open zoning. I think we definitely need to detail those permitting processes so we are not allowing for road marking, but still ensuring that kids can get shaved ice when they are done with their football game or whatever. No one has is harder than farmers right now. We know that farmers are a dying breed, quite literally. Over sixty (60) years old is often the average farmers age. We need to do everything we can to support farmers. Some of the calls that I got, like Auntie Lisa, our only dairy left on Kaua'i, having a significant loss every week because of this market and others, and now being at risk. How many other places will be lost now that it has become clear that this is a violation to so many different places where commercial sales are occurring. I am very passionate about supporting farmers and supporting food production. During the COVID-19 pandemic, much like how Councilmember Kaneshiro worked on the farmers market, I was working on the 'Ai Pono local food challenge, so I one hundred percent (100%) agree with the sentiments that Council Chair brings up about these products being local. I think there are ways that we could incorporate this into decision-making and it might not be in the zoning, but it might be in the permitting process or those details. How do we make sure there are not people who go to Costco, buy a bunch of food, and resell it at the farmers market? It is one hundred percent (100%) not in support of that. I want to see some sort of checks and balances to support our local farmers. I agree that we should have those checks, but I am not sure it is here within the Open zone, but it may be. I am very new to this process and I have a lot to learn. A lot of that can come through in these Administrative rules for parks, when it comes down to our own County parks. With all of our public use for parks, I think there is a lot to be said about this being one of those things, but maybe there are certain parks that need to be rezoned. Maybe we want to put it in the Conservation zone, maybe we want to put it into another layer, again, I am open to that. Businesses are struggling so hard right now. Coming out of the COVID-19 pandemic, yes. Going through all the inflation costs, yes. The cost of living...these triple net leases that a lot of "brick and mortar" businesses are paying are driving them under. They are paying increasing property taxes on top of their leases and on top of these things. I am hearing from people that this is really hard, so these vendors are creating local businesses that may end up as "brick and mortar," like I said. It is not just vendors; is it musicians, uncles who play music, and there are so many local Hawaiians who make money directly. We have so few opportunities as locals to actually tap into the tourism market as well. Yes, you can be a server for minimum wage, yes, there are all sorts of jobs, but the bulk of the money that comes to Kaua'i is leaving in Costco, Hertz, Marriott, and all of these big corporations, but this is actually an opportunity where people have direct access to tourism dollars where so few of us still do. For me, traffic for three (3) hours a day on a Saturday morning in Princeville, 9:30 a.m. to 12:30 p.m. for the market one day a week, on a Saturday...maybe there are a few people who get stuck in traffic and need to leave early. God knows Councilmember Kualii and I do it every week to try to get through the traffic. We never know. Do you know what I mean? If you need to leave a little early on Saturdays to accommodate for a market that is helping to keep locals on Kaua'i, I do not really feel bad for you. At a time when the cost of living, eggs, citrus...seventy-five percent (75%) of citrus farmers did not show up in California this week because of the threat of deportation. And what do we have to look at the point that our people cannot survive? For me, it is clear. I definitely think we have to detail-orient it, we have to look at these great conversations that were brought up, about the concern, but we absolutely need to do something and we have to get these people back to making money. Thank you.



Council Chair Rapozo:

Councilmember Kualii'i.

Councilmember Kualii'i: I just want to agree with Councilmember Kaneshiro's points about there being a lot of details and a lot of different parties that will be responsible for that. I am not suggesting that we should micromanage in any way and I know the answers will come from the community and from the Planning Commission, but I do think in a broader sense, we can ultimately establish broad conditions like those that have to deal with the size and frequency. I think if you put them together, you can say that if it is a market that happens only once a year, it can be a super, duper large market, so if it is once a year, you can use forty percent (40%) or fifty percent (50%) of the available park lands. If it is once a month, then you can use twenty percent (20%) to thirty percent (30%) or whatever. If it is once a week or more than that, then it just gets a smaller percentage of the park that you can actually use. By looking at both the commercial use versus the availability of the land to the public, I think you can balance that and make it a "win-win" for everyone, so I think, ultimately, that is what we will have to do. Thank you, Council Chair.

Council Chair Rapozo: Is there anyone else? It is going to be critical for the communities, the public, to participate in the Planning Commission process, because we will get a bill back, we will have the vetting as well, and we will have the ability to amend if we see...I share Councilmember Kualii'i's concerns about size and frequency. I do not want to see all our parks turn into pop-up shops. I do not. I am a little concerned about the Residential designation being completely permitted. For all the other zoned properties, like the Open zone, I think that is fine, but when you think about a subdivision park that is going to be subject to...because there is no limit—once a week, twice a week, three (3) times a week, four (4) times a week—you could have two (2) a week and it would be outright permitted. Yes, you will get your permit over the counter, but I do not want to see our neighborhood parks get "run over" by markets. Remember, if I could get it for two (2) times a week, he could get it for two (2) times a week, and he could get it for two (2) times a week, and then next thing you know, my Residential park with the playground equipment and a basketball court all of a sudden a big chunk of that is being used by pop-up tents selling things, so we need to be very careful when talking about the residential area but at the end of the day, it is going to be the community that drives that decision. I speak for Wailua Houselots Park, because that is where I live. We have traffic issues already and we do not need to increase that. I do not believe any business entity should compromise the comfort and the lifestyles of the people in the residential areas. They did not buy into a commercial area. They bought into a residential area. I think that is critical. Councilmember Cowden talked about getting the complaints all these years, and I will be honest, I had a complaint and I sent it to the Planning Department immediately because that is our function. I think someone did a Freedom of Information Act request on all the communications to see, "That darn Mel Rapozo, he sent this thing to the Planning Department." Yes, I did, because that is our job. I did it to Grove Farm. When there was a complaint about the Māhā'ulepū Beach access at Grove Farm, I sent it in and they did the exact same thing. They went out, investigated, and served the Notice of Violation. The Planning Department is amazing as it relates to complaint-driven processes. They respond immediately, they investigate, and they take action. That is their job, so do not get mad at the Planning Department because they shut it down. That is their job. Do not getting mad at the Councilmembers for forwarding a constituent complaint to the Planning Department,

the Department of Parks & Recreation, or the Office of the Mayor, because that is our job. I want to see this thrive. You heard my concerns about the local products. I do not think anyone should be allowed to use a County parcel or get a permit to sell goods that they flew in from China. I use China because that is where a lot of these things come from, and not all are junk, but a lot of them are. If you are going to fly in these things at wholesale for eighteen cents (\$0.18) a piece and are selling it for eighteen dollars (\$18), then go get a shop, because the guy or gal who has a shop and is busting their *okole* to stay open does not need competition flying in these things in and utilizing a public resource. Period, end of story. I appreciate the Princeville Farmers Market making sure that their products are all local, because that is what Sunshine Markets are. My wife and I go to the Grove Farm Market and we have a blast. We go there to pick up one (1) thing and end up picking up a bunch of things. We end up picking up lunch there as well and meet all sorts of people. Their vegetables are like...like I am sure they are in Princeville. I have honestly never been to that Sunshine Market, but it is quality products and it is grown in Kaua'i dirt which makes it that much better. I think we need to be careful when this goes through the Planning Commission and need to make sure we do not let go of the original intent of Sunshine Markets and artisans markets. They were not made for commercial operations for off-island products. No, they were specifically designed for our local farmers and local vendors or artisans to sell their wares and their products. That is where I will be leaning towards when it comes back to us. I will make sure that focus is there, because if not, I am not going to support it. I can tell you right now if this thing comes back with an open requirement where you can sell anything, I will not support it. That is just one (1) vote, but I will not support it. If the focus is on the local farmers and the local artisans, you will have one hundred percent (100%) of my support. It is just that simple.

Councilmember Cowden: I want to clarify something because you referenced me. When I get these complaints, it is in the grocery store or on the telephone, I tell people, "You can email me your complaint or you can send it to the Planning Department and I give them that," so Council Chair, it is important for me that you realize that I am not getting these as written complaints. If I got a written complaint, I would for sure pass it along. They do not want their names to be associated with it. If they are not going to associate their names, I cannot send it forward. I tell them they need to find that out, because I am not going to make it up. That is how it can seem.

Council Chair Rapozo: Do not take it as criticism. Everyone just operates differently. I try to get it off my hands and into the appropriate agency's hands as soon as possible (ASAP).

Councilmember Cowden: If you get a letter.

Council Chair Rapozo: No. I can get a phone call. I can see someone in the store. Ask Ka'āina. He gets text messages from me saying, "Bro, I just ran into someone at the store. Can you check into this?" That is just how we do things and that is fine. It was not meant as criticism. With that, roll call.

The motion to refer Proposed Draft Bill (No. 2942) to the Planning Commission was then put, and carried by the following vote:

FOR REFERRAL:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, Kualii, Rapozo	TOTAL – 7,
AGAINST REFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

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

BILL FOR SECOND READING:

Bill No. 2940 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Settlement and Compromise Powers*)

Councilmember Kualii moved for adoption of Bill No. 2940 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Rapozo: Is there any public testimony on this Bill for second reading? Mr. Sykos.

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

Mr. Sykos: For the public record. Lonnie Sykos. At the last meeting, there was some discussion about the ability to use social media or other sources to determine whether or not people were on the island or in their houses. I am going to give you two (2) illustrations of how simple that is to do. The first one...Slava Ukraini...I am the grandchild of two (2) Ukrainians. I am not Ukrainian, I am American. Three (3) years ago, at the beginning of the Russian invasion, the whole world watched on television (TV) Ukrainian citizens mixing kerosene and Styrofoam to make Molotov cocktails, then we witnessed the tanks that they burned out, and then we witnessed the fact that the Russians came back, lined them up in the street, and killed every single one of them.

Council Chair Rapozo: Mr. Sykos, are you testifying on Bill No. 2940?

Mr. Sykos: This is about the property tax.

Council Chair Rapozo: Okay.

Mr. Sykos: It has to do with our previous conversation about how difficult it would be to determine whether someone was on the island or not. To finish my story, the Russians went to Google and went primarily to...I forgot the name, but it is the Facebook version for Europe and they simply bought the information, tracked down all the people through social media, and killed them. If

that is too extreme or if that is too not related to Kaua'i, I will go back to our public auditor doing the audit on our employees and telling us that certain employees were never charged for vacation, they were never charged for sick leave, that we, the public, got ripped off for massive money through our payroll and the way that the auditor did this was simply went on Facebook, amongst the other social medias. Look at the Facebook posts from the employees...

Council Chair Rapozo: I need to...stop the time. You made an allegation that our Kaua'i auditors...

Mr. Sykos: Yes.

Council Chair Rapozo: ...went on Facebook to get information...

Mr. Sykos: No, they hired a company to do that.

Council Chair Rapozo: Where did you get this information from?

Mr. Sykos: Straight out of the audit from the auditor.

Council Chair Rapozo: That they checked Facebook?

Mr. Sykos: That is how they knew that the person was in Las Vegas on vacation being charged straight time, not being charged vacation time. That is how they knew it. It is in the audit.

Council Chair Rapozo: Okay.

Mr. Sykos: My point being, you do not need a subpoena to track people through the internet. You do not need a subpoena at all, so just the observation that the use of advanced technology, advanced intelligence is incapable of doing this...my observation is if you hire a company to use artificial intelligence (AI) to track our citizens, that is exactly what will occur and to a degree that you are apparently unaware of that they have the capacity to do.

Council Chair Rapozo: Thank you. Is there anyone else? I will just say that looking on Facebook and pulling up a post from Facebook to prove that someone was in Las Vegas is completely different from going on Facebook to tell me flight you were on, Matt Bernabe, and when you flew out. That is not available.

MATT BERNABE: Perfect.

Council Chair Rapozo: That is simply not available.

Mr. Bernabe: That is fine. I am not arguing. I did not say anything. It was not me. Wow, I was not here for months. That is why I do not come here anymore. You are yelling at me. I need to leave.

Council Chair Rapozo: You walked right into the crosshairs. Before you start...because it is critical. When the public watches these things and it is

critical they understand when comments are made like that because, yes, as an investigator, trust me, social media is great to show where people are and where they are not supposed to be, but those are public profiles. Private information, my information...I will give anyone one hundred dollars (\$100) right now if you tell me when I am flying or when did I fly to some other place.

Mr. Bernabe: You are right. I was not going to testify in contradiction to that. I am not here to argue with you. I was only going to add that...

Council Chair Rapozo: You can start his time now.

Mr. Bernabe: Matt Bernabe, for the record. I am sorry. I do not even want to speak. I want to sit down. I was just going to add that...and I was going to be funny about it, but now I am nervous. My aunt, my mom's sister from Palolo, used to work for the State Department of Taxation. I have referenced State law and many times I have gotten it right out of the office from calling her. The State tax folks...just so that you know, he is not that far off base. My daughter is a fighter, everyone knows this. I would post a video when we would be at some jiu-jitsu tournament or something and some random person would jump in and start commenting. I know the way they are writing it is my aunt on some State profile that they monitor people's social media, so it is not that farfetched to use social media as a tracker. It is not as effective as you were pointing out. I am not here to argue all of that. I am not even here to argue against the Bill. I was just adding that the State does do this within its ranks, the Department of Taxation at least. I am done, I will not say another word. Thank you for your time.

Council Chair Rapozo: Is there anyone else?

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

Council Chair Rapozo: Matt, the discussion was about some claims that we could find out how often or how many days you were not in your house through AI. Yes, if someone wants to track Facebook, LinkedIn, Twitter, and all of these things to track you, then yes, but that is public information. I am just trying to make sure, because you are going to send the public into a frenzy. "How does the County have the ability to find out when I left my house, when I was on the mainland, where I was, and how long I stayed?" If I am not posting it on Facebook, no one should know. In fact, I tell people to never post on public social media that you are going to be on vacation, because the crooks and the burglars will say, "Perfect, they are gone. Rip them off." Do not post that nonsense. Post your pictures when you come back and say, "We had a great time, sucks to be home, but we are home and we had a good time." Do not post, "We just arrived in Washington and are spending ten (10) days here." That is perfect. You are a target. That is not private information when you post it publicly. That is all I am trying to say, Matt. Be smart about what you post. Councilmember Cowden.

Councilmember Cowden: I was not going to say anything, but Salesforce is one of the applications that we learn about at the National Association of Counties (NACo) and I did have AI look at it, but I cannot quite open it now. I



thought there was some irony in that. Tyler Technologies, Inc.'s software can integrate with non-Tyler applications including Salesforce through its application programming interface (API) toolkits and connectors which facilitate third-party integrations by enabling data sharing and process automation. It can do that, it can find the information, and it can work with Tyler Technologies, Inc. It is who does our software. You need to get a module for that. There are privacy laws that are in the County and the State that...the word in there is "may" limit that. I think it is intended to limit that, so I know it is not our intention to use Salesforce or some of the other programs, but Salesforce is what puts your advertisements (ads) up on Google and on Facebook or any other sort of thing. It looks at what your patterns are. It can do it, but there are, hopefully, some prohibitive rules that would cause the County to not ask for the data.

Council Chair Rapozo: Is there anyone else? Go ahead, Councilmember Holland.

Councilmember Holland: I just want to say a couple things in comment to that response, but for this particular Bill related to the property tax, and if there is a violation and someone is saying they are a homeowner and they are actually living in Idaho or wherever, if we are using Facebook for that proof, they could very well just say, "Hey, it is a great day at Keālia," while they are hanging out in Idaho. We cannot use that reference as a fair and just reference, because, to your point, I do not post when I am gone. I agree, and I want to reiterate, because I said it in the last hearing that maybe we change the two hundred seventy (270) days. Maybe the two hundred seventy (270) days is not appropriate and it is not working for our community. If it was just the two hundred seventy (270) days that determined this, I would be concerned, but because I have been reassured multiple times from the Finance team that they are not using that as the determination...and I will be disappointed if I am lied to, but I believe you. I believe that is not the only thing that you are using. When we talk about those other checks and balances to make sure Form N-11 and Form N-15...we have gone through this multiple times. I am not going to "beat this dead horse," but if it was just that, I would have concerns, but I do not because of the other requirements and I appreciate the word of the Department of Finance that they are not seeking out people. Again, I think maybe we should work on a measure and it is open, because I can only work with one (1) of you, but I would like to work on making this two-hundred-seventy-day thing better so it is not an issue for people, the exemptions are clear, and the people are clear about what opportunities they have. Given that even if that is flagged and even if that is, which is complaint-driven brought up to the Department of Finance, they are not going to act on that if they talk to the homeowner and the homeowner says, "Yes, I am on the mainland for a year, but I plan on coming home. It is still my only home. It is still my home. I am not renting it out." There are all these other things. I just want to reiterate that. Thank you, Council Chair.

Council Chair Rapozo: Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: I am in favor of this Bill. As we have discussed this entire time, a Non-Owner Occupied property should not enjoy the same tax benefits as an Owner-Occupied property. Those benefits are an exemption on your real property taxes, a cap on your assessed value, and a lower tax rate. This Bill

makes it fair. It makes the Non-Owner Occupied property owner pay what they rightfully should be paying. I do want to make it clear that the County is not tracking residents to determine whether they are Owner-Occupied or Non-Owner Occupied. This whole thing came up because the County is using the biggest “bang for their buck.” To apply for the Owner-Occupied exemption, you need to check a box that says you are going to file...

Councilmember Cowden: Form N-11.

Councilmember Kaneshiro: ...Form N-11 which is a Hawai'i residential income tax return, so the County goes to the State and asks who filed Form N-15, which are non-resident tax returns. Anyone who said they are in Owner-Occupied, but filed a non-resident tax return should be paying a different rate. They should not be paying the Owner-Occupied rate. Will the County find that it is valuable in their sense to try to track people on Facebook or whatnot? Absolutely not. They have better things to do, but in this case, checking if they actually filed the correct State tax return is the easiest and biggest “bang for the buck,” and they caught a whole bunch of people. One hundred nine (109) properties that are getting the tax benefit of getting the Owner-Occupied rate now that are filing a State tax return that they are not a resident. They are a non-resident or a part-time resident. Again, I am in full support of this Bill. It should move forward, it should be passed today, and Non-Owner Occupied property owners should pay what they are supposed to pay. They are not supposed to enjoy the exemption, they are not supposed to enjoy a tax cap on their assessed value, and they should not enjoy the Owner-Occupied tax rate which is lower, so I will be voting in favor of this Bill.

Council Chair Rapozo: Thank you. Is there anyone else? If not, roll call.

The motion for approval of Bill No. 2940 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Bulosan, Carvalho, Holland, Kaneshiro,	
	Kuali'i, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

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

Council Chair Rapozo: The motion carries. We have one (1) Executive Session item. Can you read the item, please?



EXECUTIVE SESSION:

ES-1140 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kualii moved to convene in Executive Session for ES-1140, seconded by Councilmember Holland.

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

Councilmember Bulosan: Council Chair, point of privilege. Before we go into Executive Session, I want to wish everyone a Happy Lunar New Year. Happy Chinese New Year.

Council Chair Rapozo: What was that?

Councilmember Bulosan: Happy Lunar New Year.

Council Chair Rapozo: Happy Chinese New Year, everyone. Roll call, please.

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

The motion to convene in Executive Session for ES-1140 was then put, and carried by the following vote:

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

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

Council Chair Rapozo: The motion carries. We will reconvene in five (5) minutes in Executive Session.

There being no objections, the meeting recessed at 11:32 a.m., to convene in Executive Session.

The meeting reconvened at 11:55 a.m., and proceeded as follows:

Council Chair Rapozo: Mr. County Attorney.

There being no objections, the rules were suspended.

MATTHEW M. BRACKEN, County Attorney: Matt Bracken, County Attorney. An Executive Session was held regarding pending claims. At this point in time, nothing needs to be disclosed to the public and the discussion will remain confidential. Thank you.

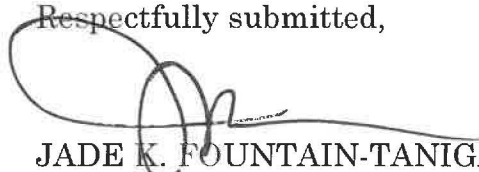
There being no public testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Thank you for that. If there are no objections and no further business, this meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:56 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

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