

COUNCIL MEETING

MAY 14, 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, Līhu'e, Kaua'i, on Wednesday, May 14, 2025, at 8:36 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 Kuali'i
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 Carvalho moved for approval of the agenda, as circulated, seconded by Councilmember Kuali'i.

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:

April 9, 2025 Council Meeting
April 23, 2025 Council Meeting
April 23, 2025 Public Hearing re: Bill No. 2951

Councilmember Kuali'i moved to approve the Minutes, as circulated, seconded by Councilmember Bulosan.

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.

INTERVIEW:

BUILDING BOARD OF APPEALS:

- Jason Ornellas (*Fire Safety*) – Term ending 12/31/2025

Council Chair Rapozo: Mr. Ornellas. Normally, for our interviews the gallery is empty, but look at how many people came for your interview today.

ANELALANI DAVIS, Administrative Assistant I: Good morning. Anela Davis, Office of Boards & Commissions. I am pleased to introduce Jason Ornellas. Jason was born in Whittier, California and raised on Kaua'i. He attended Elsie H. Wilcox Elementary School (Wilcox Elementary) and graduated from Kapa'a High School. Directly out of high school, Jason joined the Air Force and was initially stationed at Beale Air Force Base in Yuba County, California, followed by a posting to Berlin, Germany. On June 12, 1987, when President Ronald Reagan delivered that iconic line, "Mr. Gorbachev, tear down this wall!" at the Brandenburg Gate in West Berlin, which led to the reunification of Germany, Jason was a witness to history, standing in the third row with his air force squadron. In 1988, Jason was honorably discharged, returned to Kaua'i, and immediately joined the Kaua'i Fire Department (KFD) where he served for the next thirty-three (33) years. In 2022, he retired as Battalion Chief. In his retirement, Jason enjoys fishing, fixing cars, cooking, and traveling with his wife Maryann. Last year, they did a tour of the southern states and in July they plan to go to England, Scotland, France, and Belgium. With all of his technical and professional knowledge, I am so grateful that Jason is willing to serve on the Building Board of Appeals.

Council Chair Rapozo: Thank you. Jason, thank you for agreeing to serve. Do you have any comments? Your biography (bio) is impressive. I have known you for pretty much all of our lives and I did not know that about you. Do you have any comments?

Mr. Ornellas: I am honored to serve. It is a life of service—high school, military, and KFD. That is why I never had long hair, so I have been sort of growing it out since I retired. I am glad for the opportunity and am looking forward to serving the community in any capacity.

Council Chair Rapozo: Thank you. Are there any questions for Mr. Ornellas? Councilmember Cowden.

Councilmember Cowden: First of all, thank you for being willing to do this. When I look, the Building Board of Appeals...that is not the normal Board of Review for real estate. The Building Board of Appeals is for when people do not get the permits that they want, so I would think that with thirty-three (33) years with KFD, it would give you some background in certainly knowing the island well, and

certainly knowing what is a good structure and what is not a good structure. Can you help us know...a lot of people have all different types of skills, have you done building? What is your background with construction or things that would relate to that? Do not forget to push your button, and then you push it and let go. You can let go.

Mr. Ornellas: Well, as you know, firefighters have a very flexible schedule, and most of us all have had side jobs. After Hurricane 'Iniki, I did carpentry and roofing, and I did electrical with retired Battalion Fire Chief Ernest Moniz for many years. I did rain gutters. I also still have friends in KFD who I could ask for advice regarding some of the questions if there are permitting issues.

Councilmember Cowden: Okay, that is helpful for me, because understanding construction and building is a really important part of this job. I would not put me on the Board, because I do not do that. Thank you.

Council Chair Rapozo: Are there any other questions? Just for the members of the public, the Building Board of Appeals was sitting vacant for quite a while, so I want to thank the Office of Boards & Commissions for aggressively trying to get that filled. Technology changes much more quickly than our Building Code changes. The Building Code is so strict, and there are many opportunities with new technology to do things cheaper and faster, but it is not complying with the Building Code, so that is why we pushed for this Board to be filled. Contractors may have a better way to do things that have evolved since the passage of the Building Code, so this Board gets to review these new technologies or new processes that can be used and make a determination whether or not that can be used in place of the Building Code, so it is vital, it is important, and again, I urge the Office of Boards & Commissions to get this filled as soon as possible, because we are all looking at how we can reduce the cost of building, construction, and housing, and this Board can actually do that. Your expertise in the fire side...because the KFD code...the fire components of that code can be difficult, so thank you. Is there anything else? Councilmember Carvalho.

Councilmember Carvalho: I would just like to thank you for "stepping up to the plate" and, of course, your *‘ohana*, all of your experience, and now you are on the Building Board of Appeals, so this is a great opportunity to really bring it to the "table." Again, I have known you for a long time and once you say you are going to do something, you move forward. I really appreciate you for that, so *mahalo* for stepping up. *Aloha*.

Council Chair Rapozo: In the Air Force, it is called Regulation 35-10, but the Office of Boards & Commissions actually has Regulation 35-10, which requires your hair to be cut. Thank you very much. Thank you.

Mr. Ornellas: Thank you.

Council Chair Rapozo: That is all. You can leave.

Mr. Ornellas: Alright, have a nice day.

Council Chair Rapozo: We will vote on the Resolution at the next Council Meeting. Next item, please.

CONSENT CALENDAR:

C 2025-105 Communication (04/30/2025) from the Director of Human Resources, transmitting for Council information, the May 1, 2025 Human Resources Report (Vacancy Report and Recruitment Status Report), pursuant to Section 10 of Ordinance No. B-2024-896, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2024-2025.

Councilmember Kualifi moved to receive C 2025-105 for the record, seconded by Councilmember Carvalho.

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

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

The motion to receive C 2025-105 for the record was then put, and unanimously carried.

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

COMMUNICATIONS:

C 2025-106 Communication (04/15/2025) from Jodi A. Higuchi Sayegusa, Clerk of the Public Access, Open Space, Natural Resources Preservation Fund Commission, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 6, Article 14, Kaua'i County Code 1987, As Amended, Relating To The Public Access, Open Space, Natural Resources Preservation Fund, to implement the approved charter amendment to allow up to five percent (5%) of the Public Access, Open Space, Natural Resources Preservation Fund to be used for the maintenance of entitlements acquired by the fund.

Councilmember Kualifi moved to receive C 2025-106 for the record, seconded by Councilmember Bulosan.

Council Chair Rapozo: Is there any discussion or public testimony?
The Proposed Draft Bill will be coming up later, but if anyone in the audience wishes to testify at this time, I will take that testimony now. Seeing none.

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

The motion to receive C 2025-106 for the record was then put, and unanimously carried.

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

C 2025-107 Communication (04/24/2025) from Assistant Chief of Police Elliott K. Ke, requesting Council approval to accept a donation from the State of Hawai'i Department of Law Enforcement, of two (2) day box metal storage magazines designed to safely and securely store explosives, valued at \$4,247.06, which will be used to store fireworks recovered during an investigation that are pending disposal, and will provide a containment option for short-term storage of pyrotechnics that is fire, weather, and theft-resistant.

Councilmember Kualii moved to approve C 2025-107, seconded by Councilmember Cowden.

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

Councilmember Cowden: I have some discussion. He does not need to come up.

Council Chair Rapozo: Hold on. Is there any public testimony? Okay. Lonnie.

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

LONNIE SYKOS: For the record, Lonnie Sykos. The question I would like to have answered by the Chief of Police, when he comes up, is the size of these boxes, and given the volume involved when you seize fireworks...they are imported by the pallet and a 40-foot container holds forty (40) pallets, I believe, so given that Kaua'i Police Department (KPD) might seize a large volume of fireworks, will this be sufficient for that, or do we need to provide them with more facility? Thank you.

Council Chair Rapozo: Thank you. Is there anyone else? If not, while the rules are suspended, could we have someone up from KPD? The memorandum (memo) says a "day box." I am assuming a day box is not very big.

DARREN ROSE, Police Captain: For the record, Darren Rose, Captain of KPD. The day box is like the size of this podium right here or a mailbox that we commonly see on the streets. The intent is that if officers seize fireworks...smaller sized, obviously not ones being imported through harbors, there is a safe place to put it. Currently, we have to bring it in to our evidence facility, which obviously is a fire hazard and causes a lot of issues.

Councilmember Cowden: I have follow-up on that.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Thank you for that clarification, and I appreciate the question coming from the audience. This helps protect the officer right then. Now, some of these places might hold a lot, like the problem that we saw on O'ahu. They had a lot of fireworks there. Is it something that you are thinking towards, like if KPD needs a bigger storage container or if there is a way for the Council to help with that?

Mr. Rose: I think if we did seize a large amount, then we would have to see. We do have containers on property, so if we can put it inside one of those larger ones, we would have to...I know in the past we had one (1) or two (2) large pallets years ago, and we had to put it in our regular large evidence warehouse, which obviously was a fire hazard, so...

Councilmember Cowden: Maybe check into that and send us something back. If we know that we need to help with a better storage unit, we have that awareness, so we can help.

Mr. Rose: Okay. I appreciate it.

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

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

Councilmember Cowden: I have a comment.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I am just appreciating that KPD is making more of an effort and there is a prospect of moving forward in terms of protecting our island after we had a really bad experience last year on O'ahu, so we are moving towards taking a little bit more action. We have had a number of holidays where the community has really reached out and I just want to honor KPD for moving in that direction.

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

The motion to approve C 2025-107 was then put, and unanimously carried.

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

C 2025-108 Communication (04/24/2025) from Assistant Chief of Police Elliott K. Ke, requesting Council approval to accept and expend recurring Federal funds, in the amount of \$42,647.00, from the Edward Byrne Memorial Justice Assistance Grant (JAG), to be used for the purpose of drug-related investigations.

Councilmember Kualifi moved to approve C 2025-108, seconded by Councilmember Cowden.

Council Chair Rapozo: Can we get someone from KPD to come up?
Councilmember Cowden.

There being no objections, the rules were suspended.

CHRISTIAN JENKINS, Police Lieutenant: Good morning, everyone. For the record, Lieutenant Christian Jenkins, KPD Vice Narcotics Commander.

Councilmember Cowden: Thank you, Lieutenant Jenkins, for the work that you do. I know this grant is just a modest amount...forty-two thousand six hundred forty-seven dollars (\$42,647), but can you just take this moment to give us an update on how the drug-related investigations are progressing, if you have seen any growth one (1) year to the next in terms of your effectiveness?

Mr. Jenkins: Sure. We have seen a substantial growth in the amount of seizures that we have seen in 2024 in regard to the 2023 seizures that we received. I think so far for 2024, our seizures were up approximately one hundred fifty-five percent (155%) in drugs seized, and we were up about sixty percent (60%) in targeting drug-trafficking organizations. A drug-trafficking organization is not your regular "mom and pop" who are selling out of their house. We are trying to go up the ladder to get to the main traffickers. We were able to disrupt several drug-trafficking organizations within the island of Kaua'i and the State, which was a huge increase from the previous year.

Councilmember Cowden: Just to help me understand, what sort of volumes are you talking about?

Mr. Jenkins: For 2024, for example, we had a rather large seizure of methamphetamine. For a community as small as we are, it does not take a lot to make a huge dent, but just our Narcotics Unit alone seized approximately twenty (20) pounds of methamphetamine for the year 2024. That is a lot for this particular island. Without the exact tools in front of me, we also probably seized one (1) pound of fentanyl, one (1) pound of cocaine, and, not really a half (1/2) pound of heroin. Heroin is sort of on the decline, but large amounts were seized in 2024.

Councilmember Cowden: Okay. How about the vice investigators? Are you training any new ones?

Mr. Jenkins: Yes, we are. With this grant, we are able to send our vice investigators to trainings on-island, off-island, and around the country to keep their skills up-to-date. We have these drug traffickers. Who are getting smarter by the day, and we need to get smarter with them to effectively investigate and apprehend them.

Councilmember Cowden: Okay. I just want to thank you. These drugs are not "hot." These can be very devastating drugs in our community, so it seems to me that the forty-six thousand dollars (\$46,000) is money well-spent and received. I appreciate the good job that you are doing, and we encourage all that we can do to help you.

Mr. Jenkins: We appreciate that. Thank you.

Council Chair Rapozo: Are there any other questions?
Councilmember Holland.

Councilmember Holland: I have no questions. I just want to echo that gratitude. Thank you very much.

Mr. Jenkins: I appreciate that. Thank you.

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

Council Chair Rapozo: Go ahead.

Mr. Jenkins: Yes.

Councilmember Cowden: How about the dogs? Because I get to learn a lot about KPD, are your canines (K-9s) working on this?

Mr. Jenkins: Yes. Our K-9s are a great...I consider them police officers themselves, so our K-9s for 2024 were, I believe, deployed eighty (80) different times to locations. They will alert on a vehicle, a house, or a person, and I think their alerts led to probably five (5) pounds of methamphetamine, twelve thousand dollars (\$12,000) in currency, fentanyl, and other drugs, so they are a huge portion of what we do in KPD. We use them every day. We have two (2) K-9s. Our K-9 handlers go through rigorous and consistent training, and some of this money will go towards training them as well. We are extremely happy with what our K-9s do, and they do a great job for the community.

Councilmember Cowden: Okay, well, gratitude for that, and KPD even had an officer-of-the-month who is a K-9.

Mr. Jenkins: Yes.

Council Chair Rapozo: Go ahead.

Councilmember Holland: This is just a follow-up on that.

Mr. Jenkins: Sure.

Councilmember Holland: I remember a couple years ago...I have been on the Kaua'i Fentanyl Task Force for the last year or so working with the community, and one (1) of the conversations was that the dogs were not able to be trained for fentanyl because it was so toxic for them to smell. Has that changed?

Mr. Jenkins: They can alert to fentanyl. I will not get into everything our dogs can alert on, but yes, they can alert on fentanyl.

Councilmember Holland: That is awesome news. Thank you.

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

Mr. Jenkins: Thank you very much.

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

BRUCE HART: For the record, Bruce Hart. A lot of my questions were answered by the questions that Councilmember Cowden...thank you...put to Lieutenant Jenkins. I would like to echo that it appears to me, from what Lieutenant Jenkins was saying, that they are doing a very good job. I had a question from a different perspective. I would like some clarification on how this Division of KPD considers these grants. I think the Council is aware that recently the Department of Justice is calling into question a lot of these JAG grants. In fact, at a Council Meeting just recently, if you remember, one (1) of the grants for the victim witness program was suddenly removed. I would also like to take the opportunity at this moment to point out, as the Council knows, but members of the public do not really make the connection, that we have two (2) agencies that effectively deal with the crime in our community. One (1) is KPD, the other is the Office of the Prosecuting Attorney (OPA). Both of them receive these types of grants, and in the future, I would enjoy hearing how effective the OPA considers these grants, because the scuttle is they are going to be called into question by our new Attorney General. I think it is a good thing, anyhow, that all of us become educated as to these grants. They affect law enforcement. I would also like to take an opportunity in the vein of thanking KPD that Captain Rose, who is in the room at this time and gave testimony, is a Captain within the Division of detectives that deals with this type of law enforcement, and I would also like to thank him. Having said those things, thank you.

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

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

The motion to approve C 2025-108 was then put, and unanimously carried.

Council Chair Rapozo: The motion carries. I apologize. I need to take a recess. I completely forgot that we have two (2) public hearings that we need to get through and that I should have called at 8:30 a.m. With that, this meeting is in recess.

There being no objections, the meeting recessed at 8:56 a.m., to convene the Public Hearings regarding Bill No. 2952 and Bill No. 2953.

The meeting reconvened at 8:58 a.m., and proceeded as follows:

C 2025-109 Communication (04/30/2025) from the Director of Finance, requesting Council approval to accept terms contained in the Rocket Software End User License Agreement (EULA), which provides the Attachmate Extra! X-treme software program for County users to securely connect to the State of Hawai'i's Motor Vehicle Registration mainframe system.

Councilmember Kualii moved to approve C 2025-109, 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 to approve C 2025-109 was then put, and unanimously carried.

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

C 2025-110 Communication (05/01/2025) from the Director of Human Resources, transmitting for Council consideration, the cost items for the United Public Workers (UPW) Bargaining Unit 1 for the period July 1, 2025 through June 30, 2029, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 1.

Councilmember Kualii moved to receive C 2025-110 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: The Proposed Draft Bill will be coming up later, but I will take any testimony on this Proposed Draft Bill up front, if you want to do it now. Seeing none.

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

The motion to receive C 2025-110 for the record was then put, and unanimously carried.

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

C 2025-111 Communication (05/01/2025) from the Director of Human Resources, transmitting for Council consideration, the cost items for the Hawai'i Government Employees Association (HGEA) Bargaining Unit 2 for the period July 1, 2025 to June 30, 2029, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 2.

Councilmember Kualii moved to receive C 2025-111 for the record, seconded by Councilmember Carvalho.

Council Chair Rapozo: Again, the Proposed Draft Bill will come up later. Is there anyone wishing to testify now? Seeing none.

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

The motion to receive C 2025-111 for the record was then put, and unanimously carried.

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

C 2025-112 Communication (05/01/2025) from the Director of Human Resources, transmitting for Council consideration, the cost items for the Hawai'i Government Employees Association (HGEA) Bargaining Unit 3 for the period July 1, 2025 to June 30, 2029, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 3.

Councilmember Kualii moved to receive C 2025-112 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 2025-112 for the record was then put, and unanimously carried.

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

C 2025-113 Communication (05/01/2025) from the Director of Human Resources, transmitting for Council consideration, the cost items for the Hawai'i Government Employees Association (HGEA) Bargaining Unit 4 for the period July 1, 2025 to June 30, 2029, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 4.

Councilmember Kualii moved to receive C 2025-113 for the record, seconded by Councilmember Bulosan.

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 2025-113 for the record was then put, and unanimously carried.

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

C 2025-114 Communication (05/01/2025) from the Director of Human Resources, transmitting for Council consideration, the cost items for the Hawai'i Government Employees Association (HGEA) Bargaining Unit 13 for the period July 1, 2025 to June 30, 2029, pursuant to Hawai'i Revised Statutes (HRS) Section 89-11 and Kaua'i County Charter Section 19.13B. The terms of the Collective Bargaining Agreement were recently ratified by the employees of Bargaining Unit 13.

Councilmember Kualii moved to receive C 2025-114 for the record, seconded by Councilmember Bulosan.

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 2025-114 for the record was then put, and unanimously carried.

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

C 2025-115 Communication (05/08/2025) from the Mayor, submitting his Supplemental Budget Communication for Fiscal Year 2025-2026 and Proposed Amendments to the Budget Bills, pursuant to Section 19.02A of the Kaua'i County Charter.

Councilmember Kualii moved to schedule public hearing on May 21, 2025 at 8:30 a.m. and refer to the May 28, 2025 Council Meeting, seconded by Councilmember Bulosan.

Council Chair Rapozo: Is there any discussion or public testimony?
Again, the final public hearing on the annual budget will be on May 21, 2025, so if you folks are interested, put that in your calendars. Is there anyone in the audience wishing to testify? Seeing none.

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

The motion to schedule public hearing on May 21, 2025 at 8:30 a.m. and refer to the May 28, 2025 Council Meeting was then put, and unanimously carried.

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

CLAIMS:

C 2025-116 Communication (03/20/2025) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Lindsay Matthews, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2025-117 Communication (03/20/2025) from the County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Mutual Automobile Insurance Company a/s/o Melissa Ann Marie Patton, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2025-116 and C 2025-117 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Bulosan.

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 refer C 2025-116 and C 2025-117 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

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

COMMITTEE REPORT:

PLANNING COMMITTEE:

A report (No. CR-PL 2025-07) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2951 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMMERCIAL USE OF PARKS FACILITIES (*Kauai County Council, Applicant*) (ZA-2025-07 – *Planning Commission Recommendation*),”

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

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

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

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

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

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2954) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2954) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 2025, and that it thereafter be referred to the Planning Committee, seconded by Councilmember Bulosan.

Council Chair Rapozo: Is there any discussion?

Councilmember Cowden: I just have a comment.

Council Chair Rapozo: Do you have a comment or a question?

Councilmember Cowden: I have a comment.

Council Chair Rapozo: Okay. Is there anyone in the audience wishing to testify? Ms. Parker.

Councilmember Cowden: It is nice to see you.

Council Chair Rapozo: Do you see the nice, big television (TV) that we got for you?

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

ALICE PARKER: Alice Parker, for the record. It is good to be back and good to see you all. You are doing a great job. I thought this was a public hearing on public parks, but I will go on anyway. Is that okay? I feel that commercial activity in parks is not acceptable. This activity would be better sited on commercial property, such as empty shops in Kukui Grove Shopping Center. Perhaps a form of a cooperative could be made and each individual member would be apportioned according to the space they need for the activity. The cost of doing business can then be deducted from their gross income, bringing down their taxable income. The commercial area has ample parking, protection from unwelcome weather, and has convenient businesses nearby as well as guaranteed security, and our parks would lose no space for athletic and outdoor relaxation for our residents. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else here to testify on the five percent (5%) Proposed Draft Bill? If not, is there any further discussion? Councilmember Cowden.

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

Councilmember Cowden: I just want to acknowledge and thank the Department of Human Resources and the Collective Bargaining Agreement group that has worked with the State. I passed around the questions that I have asked.

Council Chair Rapozo: This is on the Preservation...the Public Access, Open Space, Natural Resources Preservation Fund Commission's (Open Space Commission's) Proposed Draft Bill.

Councilmember Cowden: I thought we were on first read of the...

Council Chair Rapozo: We are. We are on first reading of Proposed Draft Bill (No. 2954), which is the Open Space Commission.

Councilmember Cowden: Okay. Never mind.

Council Chair Rapozo: Okay.

Councilmember Cowden: I was off by two (2) communications.

Council Chair Rapozo: In a hurry, in a hurry...I understand. Are there any other comments?

The motion for passage of Proposed Draft Bill (No. 2954) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 2025, and that it thereafter be referred to the Planning Committee was then put, and carried by the following vote:

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

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Seven (7) ayes.

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

Proposed Draft Bill (No. 2955) – A BILL FOR AN ORDINANCE APPROVING
A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1
BETWEEN JULY 1, 2025 AND JUNE 30, 2029

Councilmember Kualifi moved for passage of Proposed Draft Bill (No. 2955) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 2025, and that it thereafter be referred to the Finance & Economic Development Committee, seconded by Councilmember Bulosan.

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

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

Councilmember Cowden: I just wanted to thank the bargaining units, and the Department of Human Resources. I asked some questions ahead of the meeting that I will not go through the details of, because the audience here does not need to know all the little bits of which is in each of these bargaining units, but I appreciate that it looks like they were thoughtfully bargained; they are not all the same amounts. I am happy, too, that the County is continuing to support the different groups...this is one (1), two (2), three (3), four (4), five (5) different bargaining units, and the County is helping to make sure that they are well-compensated or better compensated than...each year we bring it up, so I just...thank you for giving me the detailed answers, so I do not need to bring you up and take everyone's time for those answers.

Council Chair Rapozo: Thank you. Is there any other discussion?
Seeing none, roll call.

The motion for passage of Proposed Draft Bill (No. 2955) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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, Kualī'i, 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. Next item, please.

Proposed Draft Bill (No. 2956) – A BILL FOR AN ORDINANCE APPROVING
A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 2
BETWEEN JULY 1, 2025 AND JUNE 30, 2029

Councilmember Kualī'i moved for passage of Proposed Draft Bill (No. 2956) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 2025, and that it thereafter be referred to the Finance & Economic Development Committee, seconded by Councilmember Carvalho.

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

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

The motion for passage of Proposed Draft Bill (No. 2956) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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, Kualī'i, 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. Next item, please.

Proposed Draft Bill (No. 2957) – A BILL FOR AN ORDINANCE APPROVING
A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 3
BETWEEN JULY 1, 2025 AND JUNE 30, 2029

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2957) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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?
Seeing none, roll call.

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

The motion for passage of Proposed Draft Bill (No. 2957) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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. Next item.

Proposed Draft Bill (No. 2958) – A BILL FOR AN ORDINANCE APPROVING
A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 4
BETWEEN JULY 1, 2025 AND JUNE 30, 2029

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2958) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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?
Seeing none, roll call, please.

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

The motion for passage of Proposed Draft Bill (No. 2958) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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. Next item, please.

Proposed Draft Bill (No. 2959) – A BILL FOR AN ORDINANCE APPROVING
A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 13
BETWEEN JULY 1, 2025 AND JUNE 30, 2029

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2959) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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?
Seeing none, roll call, please.

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

The motion for passage of Proposed Draft Bill (No. 2959) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 4, 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. Before we call the next item, how many people are here and will testify today? I will take our caption break now, so we can have our ten-minute break and then we can go right through without having to break up the discussion for Bill No. 2951, Draft 1. I do not like to break up the momentum when we are moving, so please oblige us. We will take our ten-minute caption break right now. Thank you.

There being no objections, the meeting recessed at 9:12 a.m., for a caption break.

The meeting reconvened at 9:25 a.m., and proceeded as follows:

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

BILL FOR SECOND READING:

Bill No. 2951, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMMERCIAL USE OF PARKS FACILITIES (*Kaua'i County Council, Applicant*) (ZA-2025-07 – Planning Commission Recommendation)

Councilmember Kuali'i moved for adoption of Bill No. 2951, Draft 1 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 discussion before we get started?

Councilmember Cowden: I have an amendment.

Council Chair Rapozo: Okay. With that, go ahead.

Councilmember Cowden moved to amend Bill No. 2951, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Bulosan.

Councilmember Cowden: This is just a simple piece of notification...just how to expand the notification a little bit. We will see it shortly up on the screen and I will remind my colleagues to push the button. Can we put that up there? We will push our buttons to make us go back to green...everyone. Alright, so this is on footnote five (5). It says, "The applicant shall provide notice by: (1) certified mail to all landowners of record within three hundred (300) feet of the parcel boundary..." I had wanted to go to one thousand (1,000) feet, but it was problematic..."(2) posting a notice in an agenda of the Planning Commission..." That is so the planners can know, as things go all around the island as they are coming up, they at least have some awareness, and then, "(3) posting a weather-resistant signage notice in at least one (1) prominent location within the parcel boundary for at least thirty (30) days." That way, if people are going to...I am just going to make up a park, but in the main pavilion, maybe there is a notice that says, "Lydgate Park is being considered for such and such," there might be a drawing, and it might say what, so that the people who use the park can see what is possible. The County has done this a few times in the past. They have put it at the showers or something. Then it says, "When submitting the Class I Zoning Permit application..." which is an over-the-counter application, "...the applicant shall include an affidavit confirming completion of these notification requirements." That, I think, is a really pretty small effort, but when you put a sign up in the park, those people are most...the people who use the park are going to be the ones who are responding, right? People who see it in the park would be able to see it. That is my suggestion for expanding notification that is pretty simple.

Council Chair Rapozo: Are there questions of the introducer? If not, we are still on the amendment. Is there anyone in the audience wishing to testify on this amendment? It is not testimony for the Bill...we will have testimony on the full Bill later...but on this amendment. Mr. Hart.

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

Mr. Hart: For the record, Bruce Hart. I just have one (1) quick...in regard to Councilmember Cowden's...Councilmember Cowden said three hundred (300) feet and that she was hoping for one thousand (1,000) feet, but it was problematic. My suggestion is that I would like notification if I live within hearing distance of the activities. Thank you.

Council Chair Rapozo: Is there anyone else?

Ms. Parker: Alice Parker, for the record. I apologize for testifying on the wrong number, so move it over here. Is that okay?

Council Chair Rapozo: Thank you.

Ms. Parker: I think this is a very good idea that the people who use the park need to see it. Also, I would suggest a notice in the newspaper also. Thank you.

Council Chair Rapozo: Thank you. Mr. Sykos.

Mr. Sykos: For the record, Lonnie Sykos, I support this amendment, and it also raises questions. If we go down...if the use is approved via a Class I Zoning Permit, but within any subsequent 12-month period, etcetera...so what I have never seen in this Bill is if someone goes through the process to get a Class I Zoning Permit at a County park, how long is that good for? Is that forever? The first person that gets control of the park now has commercial control of the park forever? There is no time limit? Is anyone else allowed to compete against those people? Does the first person who gets the park have sole use or can they have a competitor arrive on the same day? This appears to be completely open-ended and would be a lawsuit between the person who got commercial control of the park and the County or the public trying to regain control of the park. What is very unclear and needs to be addressed before this Bill goes forward is how long the permit lasts that you give to someone to do commercial activity at the park. Thank you.

Council Chair Rapozo: Thank you.

CARL IMPARATO: Aloha. I am Carl Imparato and I am speaking on behalf of myself today. This amendment tries to improve what is basically a cobbled together process for public input. There are at least three (3) or four (4) problems with that footnote there. One (1) being, of course, the public notice, which Councilmember Cowden's amendment tries to address, and I think it addresses it satisfactorily. Second is the idea that anyone who wants to raise the issue has to do it in the form of a protest, as opposed to a request for a public hearing. We have already heard how people are intimidated from speaking out on these things, and for

someone to say that they are going to protest the granting of a permit when there has not been any knowledge of what is going on at all, I think puts an extra burden on them, so I think that ought to be fixed. Third, of course, is the 300-foot distance. People are affected by a far greater distance than that. Finally, and most importantly, is the process of requiring fifty percent (50%) of people or property owners, in whatever the radius is, to be opposed is a ridiculously high standard. When someone wants to have a contested case, someone only has to have one (1) person who has standing to basically make a contested case move forward. When...

Council Chair Rapozo: Hold on really quick, Carl. Is there anyone else wishing to testify on the amendment? If not, you can proceed.

Mr. Imparato: When someone files a complaint against something, one (1) person can do that, so I would advise that really while...if you are going to keep this footnote as it is, that Councilmember Cowden's amendment is a very good one...really, that whole footnote needs to be revisited and create a really legitimate public process where you do not have to have a ridiculously high number of people protest something that they do not know about in advance and fear that in doing so, they are putting themselves on the line. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else? Seeing none. We are on the amendment discussion. Councilmember Kaneshiro.

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

Councilmember Kaneshiro: I have a question for the Planning Department and the Department of Parks & Recreation, I guess, regarding if they are okay with the amendment.

Council Chair Rapozo: Can we have someone from the Department of Parks & Recreation and the Planning Department?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director: *Aloha*, Council Chair. Ka'āina Hull on behalf of the Planning Department, joined by Pat Porter of the Department of Parks & Recreation.

Councilmember Kaneshiro: Have you folks had a chance to see the amendment? Are you folks okay with the amendment?

Mr. Hull: Yes. Councilmember Cowden went over the amendment with us yesterday. The Planning Department has no objections to the amendment.

Council Chair Rapozo: The Department of Parks & Recreation?

PATRICK T. PORTER, Director of Parks & Recreation: Yes. Pat Porter, Director of Parks. We talked to Councilmember Cowden yesterday on it. I think,

having gone through a couple or a few ordinance amendments and administrative rules, I feel that the signage part is better captured in the administrative rule side. Having said that, I am fine with it in this Bill, if everyone is okay with it.

Council Chair Rapozo: Okay.

Councilmember Kaneshiro: I guess I have a question that might be for one (1) of you. The posting a notice in an agenda of the Planning Commission, what is that? Are you posting an agenda item that people will talk on or are you just posting a notice? Is that something you folks do or have done?

Mr. Hull: We currently do it for shoreline setback determinations and Special Management Area (SMA) minor permits. The SMA minor permit is a ministerial permit reviewed and acted upon by the Planning Department. It is a little awkward to put things on the Planning Commission agenda that the Planning Commission is not acting on, quite honestly, but again, if it is being done for public notice purposes, we do not have an objection.

Council Chair Rapozo: Councilmember Holland.

Councilmember Holland: Will the process that Councilmember Kaneshiro just mentioned of being on the agenda for the Planning Commission slow this process down significantly for people, would there be an additional wait outside of that, or would that coincide with the 30-day period where the applicant is sort of sending out notifications and putting up signage?

Mr. Hull: It would happen within that 30-day period.

Councilmember Holland: Okay.

Mr. Hull: I can think of really one (1) time per year, on occasion, where you might have no Planning Commission meeting within a month, and that is just because of lack of agenda items. You generally have a Planning Commission meeting at least once per month, so being able to get that attached to that agenda, if you will, should not be problematic. In the rare case that it does, essentially, it would just have to wait until the next Planning Commission meeting agenda.

Councilmember Holland: Okay, great. Would these signs...this month-posted sign, would that be in line with the County's signage law? Would it require an additional permit or would that just be exempt from the signage as a temporary notice signage?

Mr. Porter: That would be a Department sign, so it would be fine.

Councilmember Holland: Okay. Would this only occur in County parks and not the community, or would it be for both?

Mr. Hull: Both.

Councilmember Holland: Both, right?

Council Chair Rapozo: Hold on. Councilmember Bulosan.

Councilmember Bulosan: I have follow-up on that. I may not have been listening carefully enough. If it has to go to the Planning Commission...let us say the application comes in the day before you could post it to the agenda, does this still have to wait another...until the next...no?

Mr. Hull: It is just that at some point within that time frame it has to be...at least as crafted, it just has to have been on a Planning Commission agenda prior to action on the Class I Zoning Permit.

Councilmember Bulosan: Okay, so it is not thirty (30) days. Secondly, the first part of the first amendment is certified mail....is that a normal practice? Does the County do that?

Mr. Hull: That is the normal practice for use permits. In general, if you apply for a use permit, you have to mail it out via certified mail.

Councilmember Bulosan: Okay. Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Following up on the signs, I think I heard you say that it would be a Department sign. What is a Department sign?

Mr. Porter: It would just be a Department-initiated sign. It would not fall under the Sign Ordinance.

Councilmember Kualii: So, this is not a sign that would be required by the marketplace, the vendor, or whomever? They would already be working with you and then you would put up a sign?

Mr. Porter: The way it is written now is that this is outreach before any of that happens, so it would be a sign notifying...you can correct me if I am wrong, Councilmember, but it would be a sign to notify the public that this is a potential site.

Councilmember Kualii: Okay. That is...

Council Chair Rapozo: Really quick, because I have a clarifying question...because the way this Bill is written, it is that the applicant shall provide the sign. It says the applicant shall provide notice by posting weather-resistant signage, so this is saying that the applicant has to post the sign, not the County.

Mr. Porter: If there is going to be one (1) of these markets in a County park, the County's Department of Parks & Recreation would be the applicant.

Council Chair Rapozo: Okay.

Councilmember Kualii: Going further on the sign, what is the sign? Is it a temporary sign or a weather-resistant sign? Is a flyer in a plastic coating on a building in the neighborhood center or wherever enough?

Mr. Porter: I would defer to Councilmember Cowden.

Councilmember Kualii: If it only says "sign," what does that all include?

Councilmember Cowden: I can respond to that. This has been a pretty normal thing over the decades when there is going to be a meeting or when there is going to be something important impacting a park. A notice is put in, and that is usually a community notice. Maybe a poster is made. It goes into a piece of plastic, and then you put it into the wood right there at the shower at Hanalei, or you could tape it up in the pavilion, just so people would be able to see. Those of us who are excited about farmers markets, or maybe are excited...not everyone is opposed to these things, right? People who are happy, they would be able to say, "Great. I want to be a part of it," and maybe there is a phone number. If the Department of Parks & Recreation is putting it out there, it is just...it is notifying people. When we hear from our testifiers that the people who are complaining do not even use the park, then they would not have to worry about it. This is going right to the market of the people who use the park. People who use the park might be thrilled, they might want to make a comment, or they might say, "Oh, wow. Does it have to be at 9:00 a.m.? Can we not move it to 11:00 a.m., so that we have the Boy Scouts of America, Alcoholics Anonymous (A.A.), or whomever is using the park done in that window?"

Councilmember Kualii: Thank you. Does the County have a definition of signage and a sign, because if we write it in this law, is what Councilmember Cowden saying included? Is a sign like a parking sign, like a more permanent sign, such as a metal sign or whatever, or is it also just some poster that is laminated so that rain...can it be a flyer on the community notice board in a community neighborhood center?

Mr. Porter: That is what I am...in order for the Department of Parks & Recreation to actually put out a bid for these types of activities in the park, if this is passed, we would need to create administrative rules to accompany the ordinance.

Councilmember Kualii: Is that why you had said earlier that you would like to do this in the administrative rules?

Mr. Porter: Yes. In the administrative rules, there is going to be an outreach section.

Councilmember Kualii: Okay.

Mr. Porter: ...and in that outreach section, I feel that would be the place to identify all the things that you are talking about.

Councilmember Kualii: As far as you know, is this the first time we are putting something like this in a Bill regarding signage?

Mr. Porter: Yes. I do not have much experience, but it is the first I have heard of it.

Councilmember Kualii: But it is new to you?

Mr. Porter: That is correct.

Councilmember Kualii: How many years have you been here?

Mr. Porter: I do not know. Six and a half (6½) years. How many years have we been here?

Mr. Hull: Seven (7) years.

Mr. Porter: Seven (7) years.

Council Chair Rapozo: It is all a blur.

Councilmember Kualii: Almost eight (8) years, right, when you finish the whole term? Okay. Thank you, Council Chair.

Council Chair Rapozo: I have a question. Mr. Sykos brought up a good question. Is it an open-ended approval? I know the process is that it will go out to a Request for Proposal (RFP), it will go out to a bid, so whoever wants to participate or utilize that park space would have to bid. How long would that...

Mr. Porter: Currently, for our concessions that we have ongoing, the "rule of thumb" is five (5) years with an option for up to a two-year extension. That is sort of the "rule of thumb." In Chapter 1 of HRS 102, which I looked up, it can go up to fifteen (15) years.

Council Chair Rapozo: What is your plan on the Sunshine Markets? What would your recommendation be?

Mr. Porter: As part of the administrative rules process, there is a public hearing side to it.

Council Chair Rapozo: Okay.

Mr. Porter: ...so I would think that sort of information will be "ironed out" in the public hearing part and then it will be incorporated into the administrative rules.

Council Chair Rapozo: Yes, I think some communities might want one (1) annual, and then...

Mr. Porter: Yes.

Council Chair Rapozo: Okay, I got it. Councilmember Kaneshiro.

Councilmember Kaneshiro: On this signage...for our State parks and County facilities, the County is going to put up the sign, but this is also going to be for private properties and community use facilities, so what type of sign...again, I mean, Pat is going to go through the process and in the rules, he will figure out what type of sign they are going to have, but if this amendment passes and the Bill passes today, then these private property owners are going to have to put up a sign. Is it just like a wood sign with...almost like a campaign sign with words on it, like a notice of the park thing?

Councilmember Cowden: Are you asking me a question?

Councilmember Kaneshiro: Yes.

Councilmember Cowden: In the last meeting, the Council Chair said, "If you have things that are important, put an amendment together and put the parameters in there, so that they at least make it in the rules." I followed what the Council Chair said, and I intentionally left it vague, so that when the Department of Parks & Recreation is doing the rules, they might at that point come up with all these different ideas of how that is going to look and what it is going to be like. I just wanted, based on what the Council Chair told me, to put that particular item in there, and generally speaking, over the years, the County has had little signs in the park that says the County is going to have a public hearing or meeting at such and such elementary school about this design. It is a place where you can get to it, because not everyone reads every detailed email. I followed his directive.

Councilmember Kaneshiro: My question is for the community use facility, because this would also be for a community use facility.

Councilmember Cowden: Yes, it would be.

Councilmember Kaneshiro: The rules is what the County has to do. For a community use facility, they do not need to do rules.

Councilmember Cowden: To me, if I was a market organizer, I would make a beautiful, strong pitched thing that causes everyone to be biased towards it. "Hey, we are trying to do this if you are in support..." If they are doing it, then they can put up their own sign, but really, I see that we do have, I believe, someone here from the board that looks after the park. The park owner, like Grove Farm or whoever it might be, Kukui'ula, is the applicant, so they would put the sign up that says...if I was Kukui'ula...no, Kikīa'ola, right, in Kekaha and Waimea, I would put a sign up that says what I am thinking, and I would want to know what everyone is going to do, but it is just so they put it up, so people have thirty (30) days to see it, so they can get in support of it or in resistance of it, but that they can show we let the people know for thirty (30) days before we opened it.

Councilmember Kaneshiro: I guess this is for the Planning Department. When the County does the 300-foot notification, what is in that message? Is it a long message or is it just in that notice?

Mr. Hull: It would just identify the site via a description geographically of the site as well as a Tax Map Key (TMK) identifier and the proposal of the market facility that is going to be there and what days it would occur.

Councilmember Kaneshiro: Is that what should be on the sign?

Mr. Hull: It would be our position, should this amendment pass, that whatever is being sent out to the neighbors is also the same...

Councilmember Kaneshiro: That is what gets put on the sign?

Mr. Hull: That is put on the sign. Just for clarity, too, and I know you asked the question earlier, Councilmember Holland, and that Mr. Porter is referring to, there is a process for signage within the County parks. For the community use facility, which is on private property, I believe they would be subject to the Sign Ordinance, and they would still have to pull a sign permit from the Building Division and meet their standards for that sign. I believe, but I would have to refer the specifics to the Building Division.

Council Chair Rapozo: Councilmember Holland.

Councilmember Holland: I appreciate having public engagement, obviously, which is why Councilmember Kaneshiro and I added the three hundred (300) feet additional layer. When you look at all of the checks and balances for the State and County park facilities and the rule-making process, my concern is that this Bill is addressing the zoning of parcels; it is not addressing our County parks. Really, it is about all these public sites as well, so I have a couple of questions. I am wondering if all the existing markets that are ongoing right now have to, then, go through that process and is there a way to incorporate these things into the park rules that protect the...because this seems to be addressing some of the concerns that we have received around public parks, and obviously maybe not the Grove Farm Market or even the Princeville Farmers and Arts Market (Princeville Market) that we are talking about as well, but I am wondering if there is a way to get that commitment of working those things into the rules, rather than having it apply to all the private parcels as well, because this is upgrading allowances to zoning of open, residential, and agricultural (Ag) parcels. It is really not specific to the County parks. There are other concerns that have come up that I would like to see worked in. For example, Po'ipū Beach Park. Obviously, it is a really inundated place. People have voiced concerns that they do not want to see a farmers market there. I think those types of things will be also incorporated when Director Porter goes through the administrative rules, and I am just trying to figure out a way to include this without it also impacting the public parcels, if that makes sense.

Council Chair Rapozo: You need to remember...because I have heard Po'ipū Beach Park and showers...those will require an SMA permit.

Councilmember Holland: That is right.

Council Chair Rapozo: ...which is a next level of notification. Let us not overcomplicate this. This is not about beach parks. This is about parcels of

property that are not in the SMA that are looking to do a farmers market. That is what this is about. I would be amazed if anyone would spend the money on an SMA permit to do a Sunshine Market or an Artisan market. I just do not see it happening. Being that it is in an SMA, I find it difficult to believe that it would even get approved, but that is neither here nor there. My point is, as we are discussing this amendment, let us not create scenarios that will not exist. It is really pocket parks, neighborhood parks, community parks. I was talking to Mr. Kubo before the meeting about how I was not going to support this Bill without a community input portion. To me, it is wrong and the amendment was made, so we see the notification, which gives the community an opportunity to chime in. I just want to keep the discussion to what is likely to happen and not the "what ifs" that will never happen. Are there any other questions for the Department of Parks & Recreation or the Planning Department? Go ahead.

Councilmember Carvalho: I just have a clarifying question. Pat, as far as the posting again, the Department of Parks & Recreation would be responsible for that?

Mr. Porter: Yes, that is correct. If it was in the County park, the Department of Parks & Recreation would be responsible.

Councilmember Carvalho: And then the time period...whatever time period, but I just want to clarify that, because that was another one that was brought up earlier, so thank you for that.

Council Chair Rapozo: Are there any other questions?
Councilmember Holland.

Councilmember Holland: I just want to be clear. Would the existing markets all have to now go out and do this additional process as well?

Council Chair Rapozo: Yes.

Councilmember Holland: Okay.

Councilmember Cowden: Most of the existing markets, like Waipā or in Anaina Hou, have had all their permits and everything in place for a long time. It is not like Waipā is going to have to go put up some posters and say, "Can we do what we do?"

Council Chair Rapozo: I do not think the County has an inventory of...I do not know what that is. Do either of you know how many markets we have actually operating on Kaua'i right now?

Mr. Hull: We do not have a full inventory. We took some direction from the Office of Economic Development (OED). I can say that to Councilmember Cowden's point, Anaina Hou, Waipā, Hanalei, and the Ag Park in Kīlauea, have farmer market use permits right now. Outside of those, any other markets occurring outside of the commercial district, technically, are going to have to go through this process if they want to legalize themselves.

Council Chair Rapozo: Well, they should.

Councilmember Carvalho: That would be interesting.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: So, for this sign, I want it to be clear, more specifically, what the private property community use facilities would need to do. Would you be able to provide them the language for the notice? All they would be doing is going to Sign Art, printing it on a plastic board, screwing it to a wood stake, and placing it somewhere in the park, right?

Mr. Hull: Yes, in my reading of it and the way I intend to implement it as drafted would be the same requirements that we place on all use permit notifications from a geographical description, a description of the use, and a TMK identifying it.

Councilmember Kaneshiro: How much language is that on a board?

Mr. Hull: It is roughly a sentence or two (2).

Council Chair Rapozo: If this amendment passes and this Bill passes, what differentiates this from a Special Use Permit?

Mr. Hull: The notification is the same, and under the Bill with amendment that was adopted last week, the notification is the exact same as a use permit, but if there is that criteria of less than fifty percent (50%) who do not object, then it proceeds ministerially and it is done. If more than fifty percent (50%) object, then it gets moved into the use permit process.

Council Chair Rapozo: But with this requirement now, you are going to post it on the agenda.

Mr. Hull: It is being posted on the agenda, but it is not...

Council Chair Rapozo: You are creating...I thought we were trying to ease up the requirements for these things to happen with some regulation, but you are basically making this sort of like a Special Use Permit with this amendment.

Mr. Hull: First, it is not our proposal.

Council Chair Rapozo: We see this for the first time now. For the audience, we are seeing this for the first time. I want to make sure I understand this one hundred percent (100%) before I decide what I am going to do, but I am trying to figure out what...it seems to me that, yes, it is still ministerial if it is less than fifty percent (50%), but the requirements are pretty much the same.

Mr. Hull: Yes, and that is what I was saying. The posting on the Planning Commission agenda...we do not have objections, because

there are already things that do that, like the shoreline setback determinations where you are literally posting a notice on the agenda...

Council Chair Rapozo: I am sorry for interrupting, but those hearings or those processes are processes that the Planning Commission...

Mr. Hull: No.

Council Chair Rapozo: The Planning Director?

Mr. Hull: That is correct. That is what I am saying. It is slightly awkward. Because it is on the agenda, the Planning Commission, in this instance, would have to take testimony should anyone want to testify because it is on the agenda, but it is not an actionable item.

Council Chair Rapozo: That is what I am trying to say. The Planning Commission has no authority to act on these.

Mr. Hull: That is correct.

Councilmember Cowden: Can I respond?

Council Chair Rapozo: I am asking them.

Councilmember Cowden: I want to say my reason.

Council Chair Rapozo: I want to hear it from the departments as far as...

Mr. Hull: That is what I am saying. It is an awkward position for the Planning Commission to be in by having to receive testimony on something that is on the agenda, but they have no authority to take action on. We did not object because there are already cases of that which occur on the agenda. It is awkward, though.

Council Chair Rapozo: Yes. Right now, the notification requirements restrict it to three hundred (300) feet within the activity.

Mr. Hull: Yes.

Council Chair Rapozo: If you put it on the agenda, anyone can come and testify.

Mr. Hull: That is correct.

Council Chair Rapozo: It is no longer limited to the people who will be impacted by that activity.

Mr. Hull: That is correct.

Council Chair Rapozo: Councilmember Cowden. This is for questions. If you want to explain it, we can do it during commentary time, but if you have a question for them...

Councilmember Cowden: I will explain it to you. No. It is really a commentary. I could frame it as a question, but it is a comment.

Council Chair Rapozo: Are there any other questions for the Planning Department or the Department of Parks & Recreation? You might as well stay right there, unless there are people who want to testify. Councilmember Holland.

Councilmember Holland: I am just trying to be clear here as well. Do you feel that these two (2) additional steps are necessary or more burdensome for the applicant?

Mr. Hull: They are additional steps.

Councilmember Holland: Do you feel it is relevant? If it is unactionable, and not many people follow the Planning Commission either...for the signage within a public park, that does actually make sense to me. That is clear. I am still concerned about that also extending into private parcels, but with the Planning Commission part of it, I am just wondering if that even serves any purpose. If it is unactionable and there are no steps that could be taken to stop it...we have just had multiple hearings on this Bill with the opportunity for people to submit concerns and testimony. I am wondering what your opinion is on the influence that would have on the process.

Mr. Hull: From the Planning Commission posting, it is awkward and it was done previously, like I said, for the shoreline setback determinations and SMA minors. It is just an awkward process to have, but like I said again, I did not object to it because it already exists. It is novel and you do not see that as a common practice. The signage, though, is not a common practice on Kaua'i, but across the nation, it is not uncommon to find use permits or their equivalent when notification is being done. A sign is posted on the property notifying those who frequent that area that this hearing will be coming up. Like I said, it is not done on Kaua'i, but the signage posting is a practice that is not uncommon in planning.

Councilmember Holland: Thank you, Council Chair.

Councilmember Kaneshiro: I have follow-up.

Council Chair Rapozo: Go ahead.

Councilmember Kaneshiro: This sign is just a notification sign. It is not a notification saying a public hearing is coming up. It is not a "come testify against it." It is just notice that...

Mr. Hull: That is correct.

Councilmember Kaneshiro: ...a farmers market or artisan market may be at this park.

Mr. Hull: That is correct.

Council Chair Rapozo: Are there any other questions?

Councilmember Cowden: Can I answer the thing?

Council Chair Rapozo: Answer what?

Councilmember Cowden: I want to be able to answer the question.

Council Chair Rapozo: Yes.

Councilmember Cowden: My reason for putting it on, and the members of the public will recognize a lot of the things that you heard today...there was a Communication, it is read, we say, "Aye," and we accept it. There are a lot of things that are pretty normal, pretty standard to get notifications. The reason why I would want this notification in there is that when there is an Artisans Market II or a Farmers Market II, which would go before the Planning Commission...that they would be able to see that five (5) of them already happened in this whole general area or they would be aware when these things are, no pun intended, "popping up" around the community, they would have an awareness. It gives the Planning Commission an awareness of what is happening and what is going on, so that they are informed. As Councilmembers, we are occasionally really shocked or surprised by something that is happening that just did not somehow come across our awareness, so this is to have it be in the awareness of the Planning Commission. If I was on the Planning Commission, I would want to know, okay, we have had seven (7) in the past year, or we even have not had one (1) in the past year. They would have an idea.

Councilmember Holland: Is your intent of this to notify the Planning Commission?

Councilmember Cowden: It is to inform the Planning Commission.

Councilmember Holland: Not the public?

Councilmember Cowden: The public will be able to see it, but how many people really watch the Planning Commission meetings?

Councilmember Holland: If it is unactionable, then they are wasting their time testifying against it.

Councilmember Cowden: Most people who are in the "weeds" enough, and I am one (1) of them...if they are in the "weeds" enough, they would know, "Okay, it is just an unactionable item, but there it is." Every week I read all those notices that are on the boards, I pay attention to everything coming forward, I just want to know what is happening; and I do my best to be well-informed, so if I were on the

Planning Commission, I would want this there so I could see what it is. That is my intention behind it. It is so that they can do a better job at the job they are doing.

Council Chair Rapozo: Councilmember Bulosan.

Councilmember Bulosan: *Mahalo* for that clarification. This is for the Planning Director. This was not a collaboration...did the Planning Commission request to have this on there so they could be notified?

Mr. Hull: They did not.

Councilmember Bulosan: Okay.

Council Chair Rapozo: Are there any other questions?

Councilmember Cowden: I have a follow-up question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: Is it your awareness that the Planning Commission...they have to be somewhat aware because this went in front of them?

Mr. Hull: They are aware of the Bill, and they recommended adoption of the Bill. They did not review this amendment. They did not request this option, but they have not reviewed it either.

Council Chair Rapozo: Are there any other questions?

Councilmember Kaneshiro: I am a little more confused now. I thought it was...

Council Chair Rapozo: I know. I see some hands rising, so I would like to take some public testimony on the amendment.

Councilmember Kaneshiro: I thought the whole intention was to try and...we have been hearing, "The public needs to know, the public needs to know." We put this process in. I am fifty, fifty (50/50) on whether it will do its intended purpose to let the public know, but now I am hearing that it is just to let the Planning Commission know.

Councilmember Cowden: Well...

Council Chair Rapozo: Hold on.

Councilmember Kaneshiro: If the Planning Commission wanted something like this, they could have put it in when they had the Bill on their end, right, by saying, "We want to know when someone is going to get a Class I Zoning Permit, so make a notification," right?

Mr. Hull: That is correct.

Council Chair Rapozo: Okay. Let us take public testimony, because I see a bunch of hands rising. Again, this is only on the amendment, so it is for these three (3) notification requirements. Go ahead.

DESIREA HIRANI: Good morning, Councilmembers. Desirea Hirani. I am just really confused right now. I am trying to listen to what is going on and follow, but as the people who you serve, I feel what I am hearing might have a good intention, but it is just overkill. Have you not already done your job with due diligence by having hearings? What have we been doing for the past five (5) months while we have not been working? We have been working with you. You have been listening to us. You have had hearings. We are not even making money right now, and we are still coming over here to fight for what we are doing. The public has had many opportunities to come forward, and the so-called "scared ones" could easily email testimony, strong testimony, and they have done so...these handful of people. Do we not trust the system that is already in place? Are you going to just go above and beyond what is not commonly done? You are basically saying that you are sitting in a position that you just do not trust. Let us move forward. Let us move forward, not put another hurdle. For a sign? We have had hearings. For certified mail? The amendment is still very unclear. There are a lot of questions when we can just move forward. If the community had a say because the event was out of control, it has. Thank you, Councilmember Kaneshiro and Councilmember Holland, for putting those measures in place, those checks and balances. They were great. They were written very well. It protects the community. It protects our businesses. Please listen to us and let us move forward. Thank you.

Council Chair Rapozo: Ms. Parker.

Ms. Parker: Alice Parker, for the record. For us, analog dinosaurs, can you also print it in the newspaper? Thank you.

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

Mr. Sykos: For the record, Lonnie Sykos. I would like to point out that whatever decisions you make today create precedent for the future. This is not well-thought-out. Councilmember Holland keeps raising the issue that by conflating the two (2) completely separate issues you are trying to deal with, it has done nothing but create problems. You have two (2) issues. One, our markets on private property. That is completely separate from markets on County-owned and State-owned property, and it is demonstrated by the regulatory difference in trying to do it on the two (2) different kinds of property. Had you written a Bill to address the events on private property, we would not be having this discussion today. If you had a second bill, which I am fully in support of legalizing the Sunshine Markets on County property, but I am for that because Sunshine Markets have a director whose job is to ensure that everything sold at the market is in compliance with the market rules. For the private markets or for private-run markets on County property, there is not one (1) word in the Bill of how it is that someone is going to ensure that the rules are followed, and if the rules are not followed, what is the outcome? Council Chair Rapozo earlier said, "What ifs that will never happen." That is the actual definition of having negative, unintended consequences occurring. This is not well-thought-out. I have great compassion for the people who think that there are

additional hurdles being put in front of them, but the hurdles are there for the reason that we do not want you legislating unintended negative consequences in the future, such as if someone gets a permit at a County park, goes through the whole process...some people say it is a lot of money and it takes a lot of time. Whether it is a lot of money depends on how much money you have. It would be very cheap to invest one million dollars (\$1,000,000) into a few of our beach parks to get a five-year, ten-year, or twenty-year exclusionary use of the park as a commercial site. If you do not think that is a real possibility, you need to rethink what you are doing today. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else who wants to testify on the amendment? Mr. Hart.

Mr. Hart: I want to echo some of what Mr. Sykos said. From my perspective, this whole process cannot move too slowly. That is how important I think this Bill is. For the amendment that Councilmember Cowden has put forward, I appreciate her participation. I appreciate everyone, including the people behind me, for their participation, but if we go too fast, we cannot go back. I said this during my first testimony. The consequences of this Bill are, to me, what I see in my mind or in my view, immense. I support...I think it is that something changed my mind in participation in this process. That was something Council Chair said in regard to former Councilmember JoAnn Yukimura and how she was in support of all amendments because she hoped to improve a bill, whether she supported the bill or not. That is where I am at. Thank you.

Council Chair Rapozo: Is there anyone else? Please come up.

AMY VANDERHOOP: Hi. Amy Vanderhoop. I am just talking about the amendment.

Council Chair Rapozo: What is your name?

Ms. Vanderhoop: Amy Vanderhoop.

Council Chair Rapozo: Okay. Thank you.

Ms. Vanderhoop: Regarding the amendment, who is going to print the sign? I am wondering how long...if this passes, will the sign be printed tomorrow and put in, and then that is the thirty (30) days that it starts from? Have any of you folks lived five (5) months without your income, because now it is going on for six (6) months? I am just worried that it is going to become one (1) year and I am not going to have any income for that length of time, so I just want you to take that. It cannot come fast enough because...I do not know if anyone else is without a job for five (5) months, but it is a long time, particularly on this island, so please take that into account. Thank you.

Council Chair Rapozo: Is there anyone else?

MATTHEW KIEVLAN: I apologize. We partly have to go to school and partly...regarding the amendment, I appreciate again that we are being careful.

Council Chair Rapozo: What is your name?

Mr. Kievlan: I am sorry. Matthew Kievlan and Sequoia Kievlan on behalf of ourselves. I appreciate that we are being careful and that we are taking the time that we need to take to make sure we get this right. Also, on behalf of the entire community, I feel that we want to get this done right and we want to get it done expediently, because it is something that many local families are depending on. I am not one of those local families that are desperately needing to get back to work. Sequoia very much misses her lemonade stand, but what we want to make sure of is that we are not putting this down the line so much that it becomes so exhausting that many in this room would fall down and just not be able to continue the process. We have to get it right, but we also have to give some relief to the local community. I appreciate your time. Thank you so much.

Council Chair Rapozo: Thank you. Is there anyone else? Can I have the Planning Director come up really quick? I just have a question.

KLAYTON KUBO: Klayton Kubo, Waimea, Kaua'i. I can see this being a good thing for community members, for people who want to sell, and for people who want to buy, but I hope you folks are going to install some safeguards. For example, if there are going to be *x*-amount of complaints, maybe you folks need to say, "Maybe it cannot be done over there already." Maybe have sunset rules, because the State does that every time. I understand some folks in this room and I understand the outside of the room, but the situation is this: Safeguards need to be in place to protect community members around the parks, too. Hopefully, you folks will consider that, but do you know what? *Mahalo nui*. I need to go.

Council Chair Rapozo: Mr. Kubo, you read my mind. I was just calling up the Planning Director to ask the question about enforcement.

Mr. Kubo: That is what it is. At this point in time and in talking with this person right here, that is all I have to say.

Council Chair Rapozo: Yes, if you could come up.

Mr. Kubo: I sympathize with you folks, but I must leave.

Council Chair Rapozo: Ka'āina, what we witnessed with the Princeville Market was that a complaint was filed, you folks went out, they were in violation, and you shut it down.

Mr. Hull: Yes.

Council Chair Rapozo: The remedies for communities that are impacted negatively by this activity that maybe are being abused...again, I keep having to say that this is not about the Princeville Market.

Mr. Hull: That is correct.

Council Chair Rapozo: This is about future markets that may come up, which may not be managed as well. What would the process be? They went out and they got the bid, so they may have the ability to do this for one (1) year, two (2) years, or three (3) years. At what point does the Planning Department have the ability to go in and "yank" their permit, based on the complaint, based on them starting off selling local products that evolved into...what do they call those things? What do they have at Aloha Stadium?

Mr. Hull: A flea market.

Council Chair Rapozo: A flea market. What would the path be for the community to make sure that does not happen?

Mr. Hull: In the Bill as written right now, should there be products being sold in the market that do not meet the standards of either a farmers market or an artisans market, if there is a complaint and there is one (1) vendor out there found to be violating it...if there is a complaint and we inspect it, that property will get a notice of violation (NOV). To an earlier point that was made last week, it is the managers of these markets who are going to have to run them with a pretty strong enforcement mechanism from their standpoint, or we are going to come in and if one (1) vendor is violating it, the whole market is in violation.

Council Chair Rapozo: Okay, so you issue a NOV. What happens next? Will they be fined?

Mr. Hull: They are not fined "right off the bat." They are provided with the opportunity to be put on notice first. If the situation with the sale of products is not remedied within a timely manner, then indeed, the property owner will receive a fine.

Council Chair Rapozo: Is there the ability to revoke the permit? I agree with Mr. Kubo one hundred percent (100%). There needs to be that safety net for the community.

Mr. Hull: That is for the sale of products, and you cannot really revoke a zoning permit per se that is ministerial. It is sort of like if we granted somebody a Class I Zoning Permit for a single-family dwelling, they constructed it, and then they started operating a vacation rental. I cannot revoke the single-family dwelling zoning permit, but I can absolutely shut down the vacation rental.

Council Chair Rapozo: That is my point.

Mr. Hull: What I am saying is that we would not have the ability in this Bill to revoke the Class I Zoning Permit if the sales of products are not lining up, but we have the ability to enforce.

Council Chair Rapozo: You could enforce compliance?

Mr. Hull: Yes. The second guardrail on it is, and I think more to the previous testifier's point and to your point, Council Chair, for the neighbors around the property, if more than fifty percent (50%) petition in opposition even after the market has been granted, if within a 12-month period under the Bill more than fifty percent (50%) object, then the market has to cease and it gets pushed to a use permit.

Councilmember Cowden: I have a follow-up to your question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: You said that they would get a NOV. Is that the typical NOV that goes out from the Planning Department? Someone is doing something wrong, so that is ten thousand dollars (\$10,000) per day per violation. Is that the fine that is suggested? Is that what happens if you are maybe using your garage wrong, or it looks like you have screened in a porch that you were not supposed to screen in? Is the violation ten thousand dollars (\$10,000) per day for violations?

Council Chair Rapozo: It is up to ten thousand dollars (\$10,000).

Mr. Hull: It can be up to that.

Councilmember Cowden: Up to? Is that what these folks would be receiving? That would go to the manager of the market, they would say, "If you do not stop this within thirty (30) days, you are going to have ten thousand dollars (\$10,000) per day per violation?"

Mr. Hull: The notice goes to the property owner.

Councilmember Cowden: Okay, so Princeville would get it?

Mr. Hull: In that situation, Princeville would get it.

Council Chair Rapozo: Again, this is not a Princeville Bill.

Councilmember Cowden: But that is who is in the room.

Mr. Hull: The property owner would receive it, and the first NOV is just to put the property owner on notice that there are violations occurring. They will be provided with an opportunity, of course, to rectify that, and if it is rectified in a timely manner, we do not issue fines. If it is not rectified in a timely manner, then indeed, we do issue fines.

Councilmember Cowden: I want people to understand how vague all this is. It was someone else's comments. If they are bringing mangoes and sweet potatoes from one (1) of the big box stores, and they are putting it in their farmers market there, whose job is that? I can usually tell when it is a different piece of produce that does not grow here. Are we expecting our inspectors to go out there and be able to tell what is a Kaua'i mango versus a Continental United States (U.S.) or something...I do not know...wherever the big box store gets it from? I just want people

to know how severe the notice can be when people make a mistake. It could easily be that the market manager misses something and if that is found...you find the boxes that are coming from a wholesaler...it is coming from Esaki's or something, it is coming from a wholesaler...the private landowner would get that ten-thousand-dollar-per-day notification.

Mr. Hull: Again, they are not fined "right off the bat." They are notified that they are in violation.

Councilmember Cowden: They do not get fined. That was not my question. My question was if that is the notification that they are going to get. It is going to say on that notification that there has been a violation.

Mr. Hull: That is correct.

Councilmember Cowden: Okay.

Councilmember Holland: Just to follow-up on that, does that not seem like a pretty good check and balance as-is without...

Councilmember Cowden: It is an overwhelming check and balance. What happens is for people who cannot afford a lawyer, everything falls apart.

Councilmember Holland: That is right. I am actually wondering, are you in support...

Councilmember Cowden: I am not against this artisans market. What I am wanting them to know is when something is done that breaks the rules...if they buy something from a wholesaler and they are just selling it...if something breaks the rules, it is going to go to the landowner.

Councilmember Holland: I understand that.

Councilmember Cowden: Then they might lose their whole market, but the landowner could say...

Councilmember Holland: I understand that, but I am trying to be clear. It sounds to me like you support the existing regulations as they are.

Councilmember Cowden: No, I do not. I think they are awful.

Councilmember Holland: Do you think it is excessive?

Councilmember Cowden: I think they are excessive. I have complained about it regularly and I have tried to change it.

Councilmember Holland: That it is too high?

Council Chair Rapozo: Again, it is up to ten thousand dollars (\$10,000). It is not ten thousand dollars (\$10,000). It is up to ten thousand

dollars (\$10,000) per day. Again, we are painting a different picture. Do not do that. It is up to ten thousand dollars (\$10,000). It might be a fifty-dollar fine per day. It might be twenty-five dollars (\$25) per day. I want to make sure the public is not led down a different path.

Councilmember Cowden: That is what it says, up to ten thousand dollars (\$10,000).

Council Chair Rapozo: Yes.

Councilmember Kaneshiro: This is a question for Kaʻāina. Back to this posting notice in the agenda. This whole process is to try to make it easier to have farmers markets and artisans markets. I am trying to see, with these added things, how much more onerous it is on the landowner or the petitioner. For posting the notice, do they need to do anything or will the Planning Department just post it for them?

Mr. Hull: The Planning Department would need to post it.

Councilmember Kaneshiro: Will they see the permit notice? Do they need to fill out anything? Would you folks just post it for them?

Mr. Hull: We would place it on the agenda.

Council Chair Rapozo: Go ahead.

Councilmember Holland: Clarity on that. Would all that happen within the existing thirty (30) days? Currently, as I understand it, they would have to send out letters via certified mail to the surrounding property owners, then these additional two (2) checks would not add additional time. It would happen within that 30-day period that they...

Mr. Hull: As drafted right now, the notification of the 300-foot abutting property owners has to occur prior to the thirty (30) days, so once they walk in with their receipts of certified mailings, they can apply for that zoning permit. The Class I Zoning Permit has a 30-day time window for action. If it is not acted upon within thirty (30) days, it is automatically approved, so within those thirty (30) days, they would need to have evidence of the posting of the sign or evidence of it being placed on a Planning Commission agenda. If it does not have any of those, as drafted, that 30-day actionable timeframe would necessitate the Planning Department denying the zoning permit.

Councilmember Holland: Just for clarity, if they were to mail out all that certified mail and put the sign up the same day, that thirty (30) days...

Mr. Hull: That would also meet it.

Councilmember Holland: Okay.

Mr. Hull: That is what I was saying. On rare occasions, there will be a time when the Planning Commission may not meet in a month. If they have applied for that zoning permit and mailed out those notifications, and for some reason there is no Planning Commission meeting that month, then the applicant has failed to meet that requirement. That would result in me or a representative from the Planning Department denying the Class I Zoning Permit, and they would have to restart it again when there is another Planning Commission meeting.

Councilmember Holland: On that side, it makes me feel like I would be inclined to support the sign over the Planning Commission notice, if that is the case.

Councilmember Cowden: I would like to make a motion to call for the vote.

Council Chair Rapozo: The rules are still suspended right now.

Councilmember Cowden: Alright.

Council Chair Rapozo: Are there any other questions? Go ahead.

Councilmember Carvalho: Just clarifying again. If there is a violation, right, the process following that is not completely shut down, but there is a process in place that would be given?

Mr. Hull: That is correct.

Councilmember Carvalho: Can you go through that one (1) more time?

Mr. Hull: If there is a violation for...it depends on the violation. If there is a violation, for example, if there are products being sold at a vendor site, a NOV will be issued to the property owner. The property owner is given time to rectify that situation with the vendor or vendors. If it is not rectified, then a fine would be implemented. The only time we ever fined ten thousand dollars (\$10,000) was for repeat vacation rental operations. Should they continue to allow vendors and there is clear evidence that the vendors are selling products that are not to be sold in these markets, then additional fines would be imposed. There could be a violation where, for example, they are operating on a third day, right? They have a permit to operate. They got their permits and if they are supposed to operate for two (2) days, but they operate on the third day, then a NOV would be issued to the property owner on that. Unlike the concern with inappropriate products being sold, if they are operating on the third day, they just need to shut down that third day. If they do not, then the fines would be imposed.

Councilmember Cowden: I have a follow-up.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: On that NOV that says, "If you fail to comply, you can be fined up to ten thousand dollars (\$10,000) per day per violation," is there a chart anywhere on that notification that says, "Hey, if it is sort of a *manini*

situation, we will charge you fifty dollars (\$50) per day,” or is there any sort of chart that says anything less than ten thousand dollars (\$10,000) per day?

Mr. Hull: There is an internal chart that the...

Councilmember Cowden: It is internal, but is it on the...

Mr. Hull: It is not on the letter.

Councilmember Cowden: It is not on the notification. Is it correct that we have met at least a good handful of times when people are just terrified and is it correct that we have this hard ask at the beginning, because it forces compliance? When people see ten thousand dollars (\$10,000) per day, they comply. If you said fifty dollars (\$50) per day, they think, “Yes, I could live with it.”

Mr. Hull: I do not know what the question is.

Councilmember Cowden: Is that correct? We have spoken about this a number of times. There is a reason that there is not a lesser value on the notification. If it were a lesser value of what we are saying we charge them, they would not react. I have tried to lower it.

Mr. Hull: That is correct.

Councilmember Cowden: I have tried to lower it and make it reasonable, and I have not been supported in that.

Mr. Hull: I would say that is an accurate statement.

Councilmember Cowden: It is intimidation.

Mr. Hull: I would not...

Council Chair Rapozo: You do not even have to respond to that. We are on this amendment on notification pre-application, not post, so let us keep the discussions...are there any other questions for the Planning Department? If not, thank you very much.

Mr. Hull: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify on the amendment? If not, Councilmember Holland, feel free to make your motion to call for the question, if that is what you want to do.

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

Councilmember Holland: That was not me.

Councilmember Cowden: It was me.

- Council Chair Rapozo: Who called for the vote?
- Councilmember Cowden: I did, because it seems pretty obvious how it will go, so we can just move on.
- Council Chair Rapozo: It is never...
- Councilmember Cowden: Okay.
- Council Chair Rapozo: Make your decision. I am giving you an opportunity. You said you wanted to call for the vote. You can do that now while we are in order.
- Councilmember Cowden: If you folks would like to speak about it, I will not call for the vote.
- Councilmember Holland: Discussion? I am confused.
- Council Chair Rapozo: Yes, we are in discussion now.
- Councilmember Holland: Okay. I will discuss.
- Council Chair Rapozo: Go ahead.
- Councilmember Holland: Again, like I mentioned in the last meeting, when I passionately shared my support for farmers markets and markets in general, I continue to feel like six (6) months to seven (7) years of an application process, depending on the situation, is rather excessive. Knowing beach parks would require complete Environmental Impact Statements (EISs) that can range from five hundred thousand dollars (\$500,000) to over one million dollars (\$1,000,000), just for the EIS, I think that we have a very long way to go before that is an issue, and there will be so much opportunity for the public to weigh in on that part of the process, so I feel confident. I do want Councilmember Cowden to be comfortable with the additions and the changes. With the Planning Commission part, I am sort of hesitant to include, because I just do not want to see that end up being the month where it is another month added on to the process for people, so I am hesitant to support it because of that. I feel the signage part is an excellent part to be included in the administrative rules for the public spaces, and I will encourage Director Porter, should that be the path that we take, to have that as part of the notification. I totally understand the value of these and I really appreciate the effort to try to create those checks and balances. As it stands right now, this is a broad measure for zoning allowances, and I just do not see how either of these have actionable steps outside of the public notice, which I do support, but nothing that would change the outcome of the market. We have these excessive violations that you just discussed that almost seem like they are too much.
- Councilmember Cowden: Excessive fines.
- Councilmember Holland: Yes, fines for violations. Thank you. However, I just feel like, in general, these processes of the rules, the Peddlers and Concessions,

all of these different things that we have for parks, are great, and again, it would incorporate the signage part into the public parks, but I think it is broad here and just another step. Thank you.

Councilmember Cowden: Okay. I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: If I took out the Planning Commission part, would you support it?

Councilmember Holland: I do feel that would be more appropriate, given that additional step could drag out time, but also given that there is not really an actionable part of that. Again, the notification signage part, I think is great. People should absolutely know that the park is...

Councilmember Cowden: Okay. I move to amend taking out...

Council Chair Rapozo: Hold on. Are you done?

Councilmember Holland: Yes.

Council Chair Rapozo: Okay.

Councilmember Cowden moved to amend Attachment 1, as shown in Attachment 2, seconded by Councilmember Bulosan.

Council Chair Rapozo: Is there any discussion on that? We will treat that as a friendly amendment. Does anyone in the audience wish to testify on that?

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

The motion to amend Attachment 1, as shown in Attachment 2, was then put, and unanimously carried.

Council Chair Rapozo: The motion carries, so the amended amendment is now without number two (2), and the text will be renumbered. We have two (2) now. There is the certified mail and the weather-resistant signage.

Councilmember Holland: Which would happen simultaneously for the applicant?

Councilmember Cowden: Yes.

Council Chair Rapozo: I am still a little confused as to how that works. What is this? I am trying to figure it out. Will it say, "This site will possibly be used as a market," like the empty future site of Central Pacific Bank? I am trying to understand how that works, because the letters have already gone out. The three hundred (300) certified letters have already gone out, so the people who are going to be directly impacted will get their notifications. I am trying to understand the

objective of the signage. I heard you, Councilmember Cowden, earlier. I heard your objective, but I am thinking about what that does to an event that may not even be approved. Do you understand what I am saying? I will use the Wailua Houselots Park as an example, because that is one that was brought up earlier. You need to put up a sign there that says...I am not sure what the sign would say. It would say, something like, "There has been a permit application for the Sunshine Market that will be happening here." Understand that this thing still has to go out to bid. It still has to go through the procurement process. It still has to go through that entire State-mandated process that could take six (6) months depending on the bids and depending on protests. I am just trying to understand. What I do not want is unnecessarily riling up a community for something that may not even happen. That is where I stand, because that is what this will do, right? It is going to allow people from all over this island who happen to be at that park to be notified about something that may not impact them. That is my concern. It is not as if the activity was already approved. The applicant who is applying for this permit may not even get the bid. They may not even win the bid. I do not know. I just think it is unnecessary, because of the way this Bill sets up the process. If it were a traditional permit and there was no RFP process, then applicants should absolutely be doing that, but for this, you do not know who the ultimate person or group is going to be operating in that park because it has to go through the RFP process.

Councilmember Cowden: Can I ask the Department of Parks & Recreation to come up again then, because I think you are talking about Artisans Market II and Farmers Market II, so I just want to ask, because my understanding of Artisans Market I and Farmers Market I is that it does not have to go out to bid. Maybe I am wrong.

Council Chair Rapozo: Okay, maybe I misread.

Councilmember Cowden: I might be wrong.

Councilmember Holland: It does go out to bid.

Councilmember Cowden: Does even an Artisans Market I go out to bid?

Councilmember Holland: Yes.

Council Chair Rapozo: Artisans Market II needs a Special Use Permit, so that will pretty much take care of itself, because the public participation in a Special Use Permit is significantly more. Go ahead.

Councilmember Cowden: Does an Artisans Market I...I thought that the Artisans Market I is for a maximum (max) of two (2) days per week. I thought an Artisans Market I did not have to go out to bid. If they showed that they put out the three hundred (300) pieces, do they still have to go out to bid?

There being no objections, the rules were suspended.

Mr. Porter: Yes, that is correct.

Councilmember Cowden: Okay.

Council Chair Rapozo: In a County facility?

Mr. Porter: In a County facility, yes.

Councilmember Cowden: Does even an Artisans Market I go out to bid?

Mr. Porter: Yes. It would be required.

Council Chair Rapozo: I actually read these things.

Councilmember Holland: In that case...

Councilmember Cowden: I read it over and over again, and I talk to them. I have more questions once this is done.

Council Chair Rapozo: Thank you, Pat. Is there any other discussion?

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

Councilmember Holland: Yes, Council Chair.

Council Chair Rapozo: Go ahead.

Councilmember Holland: Given that, we are saying that the person who has to do the certified mail and put the signage up, would then also possibly not get the bid if this is a County park, so does that mean that person would spend...I think just in Princeville trying to hire someone to do certified mail would cost them a couple thousand dollars.

Council Chair Rapozo: Princeville would be different. Again, I do not like talking about specific parks, but private properties would be different.

Councilmember Holland: It would not be different for this, right? It would be the same. They would have to put up the sign.

Council Chair Rapozo: Yes.

Councilmember Holland: In addition to the certified...

Council Chair Rapozo: But there would be no RFP process.

Councilmember Holland: That is right.

Council Chair Rapozo: The applicant would be the market operator versus being in a County park.

Councilmember Holland: That is right, and the certified mail part...okay.

Councilmember Cowden: I would like to call for a motion...I mean, I would like to call for a vote because it seems the motion...

Councilmember Kualii: Before Councilmember Cowden does that, can I have discussion?

Council Chair Rapozo: If Councilmember Cowden calls for the motion [sic], I need to honor the call, but I would need a second.

Councilmember Holland: Second.

Councilmember Kualii: But we were in final discussion on the...

Council Chair Rapozo: Yes, but the call...

Councilmember Cowden: It just seems like we are taking so much time and it is obvious.

Council Chair Rapozo: Hold on. Councilmember Cowden made the call for the question. That takes precedent. Councilmember Holland made the second. This is just on the amendment.

Councilmember Cowden: This is just the amendment.

Council Chair Rapozo: Roll call.

The motion to amend Bill No. 2951, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and failed by the following vote:

FOR AMENDMENT:	Cowden, Holland	TOTAL – 2,
AGAINST AMENDMENT:	Bulosan, Carvalho, Kaneshiro, Kualii, Rapozo	TOTAL – 5,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: The motion fails.

Councilmember Cowden: I just wanted to save us time.

Council Chair Rapozo: We are back to the main motion. Is there any further discussion? I will take some discussion before we take public testimony. Go ahead.

Councilmember Cowden: Okay. I have questions for the Department of Parks & Recreation and the Planning Department.

Council Chair Rapozo, the Presiding Officer, relinquished Chairmanship to Council Vice Chair Kuali'i.

(Council Chair Rapozo was noted as not present.)

Councilmember Cowden: Thank you so much. Director of Parks & Recreation Pat Porter, I asked you if you could answer my questions. I gave you some questions. I suggested maybe a little PowerPoint. Did you do that?

There being no objections, the rules were suspended.

Mr. Porter: No, but I will answer questions.

Councilmember Cowden: I will just ask the questions. These seem like pretty simple questions. When we have organized markets per park, and for the room, I am really talking about public parks...when we have organized markets per park, on the Artisans Market I and Farmers Market I, it says two (2) days per thing, but how many organized markets...could it be the same? Does it have to be the same farmers market for both of the two (2) days, or can we have two (2) different market organizers?

Mr. Porter: It would all go back to how it is bid out.

Councilmember Cowden: How to bid out?

Mr. Porter: How it is bid out.

Councilmember Cowden: So, you do not know yet. You do not have the answer, but if this passes, you would make some rules and regulations, and then you would decide how it would bid out?

(Council Chair Rapozo was noted as present.)

Council Vice Chair Kuali'i returned Chairmanship to Council Chair Rapozo.

Mr. Porter: Yes, but it could also be incorporated into those administrative rules, too, through the public hearing process, so it might be a desire of the community that those types of issues that you are bringing up are incorporated into the administrative rules, and so they will be incorporated that way.

(Councilmember Kuali'i was noted as not present.)

Mr. Porter: If it is not incorporated in the administrative rules, it would be incorporated in the bid package and the contract.

Councilmember Cowden: When you look at that, could it be incorporated into the administrative rules? If there were two (2) different artisans market groups, because there are those, and two (2) different farmers market groups. We have two (2) days. Can we have a farmers market and an artisans market

side-by-side, which in my view is best for business? Can there be two (2) organizers on the same day?

Mr. Porter: To me, with how it is written, it is possible.

Councilmember Cowden: How it is written?

Mr. Porter: I would say that what the Department of Parks & Recreation would do is go out...let us take a step back. The only reason the Department of Parks & Recreation would pursue this is if there was community support to have these types of markets in a specified park. Throughout the years, we received inquiries about farmers markets and artisans markets. People usually say crafts, but artisan markets...there is some interest out there. I do not know how much interest there is, but there has been some over the years. We would take that information, and what we usually tell the people inquiring is to get community support.

(Councilmember Kualii was noted as present.)

Mr. Porter: If there is community support for this activity in the park, then we will take a look at it. We would not pursue it on our own. Now, if there is community support, they have people come to the office, they have a petition, and a bunch of the people in the neighborhood want it, then we would initiate our own outreach as a Department. We would take the findings of that outreach and determine whether we want to pursue it, because it is a long process. The administrative process to get this going is a long one. On top of that, we would look at the site itself. We would look at parking availability, traffic plans, and those types of things to determine whether that site is appropriate for this type of activity. We would be looking at the current uses of the facility and if this will impact the current uses and the intended purpose of the park. We would look at all of that before even going down the path of putting out a bid.

Councilmember Cowden: Okay. Just so I have it clear, because I actually like what you are saying...in this process when you are figuring out the rules...I am just going to give an example. Let us say Kapa'a wants one. Kapa'a decides that they are going to do it in the Bryan J. Baptiste (BJB) Sports Complex. I am picking that one because we do not have to worry about the SMA permit. They want it there and they have an idea, so the community-driven would come to the Department of Parks & Recreation, they would say, "Hey, this is what we want," and you would work with them to go through the process. It has to come from the community first? It is not going to come from a company putting in an application?

Mr. Porter: No.

Councilmember Cowden: Alright. I like that one. When it is determined how many vendors would be allowed in the market, that would also come through the same process? It might have to do with the size of the property?

Mr. Porter: Yes, exactly.

Councilmember Cowden: Then the ball players...to me, if you have it right against where all these games are going on, people who are bored waiting for their kid to play might go shopping, right? It would be that they could decide if it is just going to be in a certain part of the park, that there is enough parking, and it is not going to keep them from being able to park when they see their kid play or it is not going to keep their kid from playing?

Mr. Porter: Yes. We would look at if this market activity is impacting the intended use of the park itself, because this market is not the purpose of the park. BJB is a sports complex, and so that is the intended purpose. With having a market there, we would look at whether it is impacting that intended purpose.

Councilmember Cowden: But there is really enough room to do it, and then you have the aggregated customer base there, because they are all there for all these games. Okay. I just wanted to know that. What is the process for determining which days of the week? How would that go? Is there a process? How would you at least open up the process of determining which days of the week?

Mr. Porter: That would be through the outreach portion.

Councilmember Cowden: Would there be plenty of time for the community to come together and say, "We want it when we are playing these games or paddling canoe," or they could say, "We absolutely do not want it then?"

Mr. Porter: Yes.

Councilmember Cowden: Even if it is a Class I Zoning Permit, they are going to have the opportunity to give that feedback?

Mr. Porter: Yes.

Councilmember Cowden: Okay. These are all important questions that I was not able to ask last week, because he was not here. Will there be separate permits for different parks or one (1) permit for multiple parks? It sounds like you are already sort of answering that. These four (4) different communities want one, but they probably will not happen at the same time? Alright. This is sort of what the Council Chair asked. What are the guardrails on the market permits? What are the number of years, terms of agreement, and is there a reset? If I understood correctly, Director Hull said, "When you give a permit, it is like giving a permit to put in a single-family residence. You cannot easily pull that permit back," so the permit, just like a single-family resident permit, could be sold?

Mr. Hull: You cannot sell the permit.

Councilmember Cowden: You can sell the business that owns the permit?

Mr. Hull: No, neither that. The permit runs with the land, so if the land is transferred, that permit runs with the land.

Councilmember Cowden: So then...

Mr. Hull: I am sorry. I apologize. We are talking about two (2) different tracks here. We are talking about a parks permit and a zoning permit. The zoning permit runs with the land.

Councilmember Cowden: In the zoning permit, when there is a permit to do an Artisans Market II and an Artisans Market I, the County would own the permit or they would put the permit out to bid. Someone wins the bid on the permit, so if the person wanted to move away, they have whatever reason, they violated things too often so they could not afford the big fine, or there is some challenge. What would terminate the permit to allow that in the park?

Mr. Hull: The zoning permit would not be terminated, but I believe the bid would be.

Mr. Porter: In Chapter 23, Peddlers and Concessionaires, permits are nontransferable.

Councilmember Cowden: Permits are untransferable?

Mr. Porter: Yes.

Councilmember Cowden: If Felicia's Fabrics has the permit and I decide I do not have the capacity to do it for whatever reason, I have to let go of the permit? I cannot sell my business that owns that permit?

Mr. Porter: That is correct.

Councilmember Cowden: The permit would extinguish with the person who won the bid. It would extinguish there?

Mr. Porter: Yes, and as the County Department of Parks & Recreation, we would go back out for bid after that one is gone.

Councilmember Cowden: Okay. Would there ever be a reset? For instance, if there are enough complaints, would it be that the Department of Parks & Recreation might decide there were too many problems?

Mr. Porter: That can also be written in the administrative rules.

Councilmember Cowden: Okay. Does the sealed bid process typically go to the highest bidder?

Mr. Porter: Yes.

Councilmember Cowden: Alright, so it would likely follow...when the bid process comes out, maybe if I am the bidder I might say, "I am willing to spend..." I am just going to make up a number. I have not really thought about it, but..."five

thousand dollars (\$5,000) per month,” so I would be bidding sixty thousand dollars (\$60,000) per year to have the permit. Is that how that works?

Mr. Porter: It is per month.

Councilmember Cowden: Per month, so in that case...

Mr. Porter: They will be bidding based off a per month amount.

Councilmember Cowden: In that case, five thousand dollars (\$5,000) per month, so I would make the bid that way, and I would put what I am looking for in my bid? I had the question, is there a visual schematic for the Planning Department's and Department of Parks & Recreation's permit process timeline, but you do not have that. That is sort of one (1) of the things I was asking for. When I spoke with you, you said there is just going to be one (1) permit per park. Is that what you are thinking now or is that...because I did not see that anywhere in this Bill. I did not see anything in Bill No. 2951, Draft 1 that says the County is going to do two (2) permits or three (3) permits per park.

Mr. Porter: In this situation, I do not think we can determine that. I think how it will play out is it will be one (1).

Councilmember Cowden: Say that one (1) more time. There was too much noise. I could not quite hear it.

Mr. Porter: I think how it will play out is that it will probably be one (1) per park, because as Council Chair mentioned, it is not going to all happen at the same time. Each park, each space needs to be assessed on its own. Each one has to go through its own process, so I am thinking that is how it is going to play out.

Councilmember Cowden: When you go through the learning process, maybe you do it in the park that I am talking about, and you run into some problems that would maybe inform your choice for the next park that would be up for consideration if there was a problem. When you make these rules or you lay out the process, is it going to be somewhat adaptable? I do not want to quite call it fluid, but it will adapt as you move into the next ones.

Mr. Porter: Yes.

Councilmember Cowden: Okay. I asked for these. I have one (1) more key question.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I was speaking with both of them, and they said that we needed to really ask the Real Property Division. I want to ask my questions with them sitting here because other people might have questions.

Council Chair Rapozo: Go ahead.

Councilmember Cowden: I asked these questions to the Real Property Division, and I will not read out all the long answers, because I received three (3) answers, because it is from three (3) different elements of it. My first question was is there or will there be a real property tax (RPT) class change for privately used community use facilities that are currently paying a minimum tax of one hundred fifty dollars (\$150), when commercial market operations are actively permitted, because this is what you call Class VI. Is that right? When people are doing it for...is it Class VI or Type VI permit?

Mr. Porter: It is a Type VI activity.

Councilmember Cowden: A Type VI activity in the County rules is when it is for profit.

Mr. Porter: For profit.

Councilmember Cowden: If we are doing something for profit, that would be a Type VI permit at a County park, but if it were in a private park...that is what I am asking. I am asking if it would get a RPT class change. The Managing Director, who has a lot of authority, said, "I cannot see any changes to RPT classes coming out of this Bill," but Steve Hunt's response, who is a key person in this, says, "The definition of a community use facility is as follows...", so we gave it to them..."Pursuant to Bill No. 2951, Draft 1, it must be..." he is saying, "...it must be commensurate with a County of Kaua'i park facility according to both the Planning Director and the Director of Parks & Recreation. Pursuant to this Bill, once deemed a community use facility, the parcel might be eligible for certain artisans and farmers markets, also as defined in the Bill." In his answer, he then says, "I could see a scenario where the private community use facility property is leased to a nonprofit that manages the civic, recreational, culture, and social activities." That would be like Waipā, right? "So long as these aforementioned uses are deemed as charitable use, as defined under 5A-11.10, then the property or eligible portions thereof would be exempt from all but the minimum tax," but if they are not a charitable use, if they are a Type VI use, which means it is for economic benefit, it would not fall into that. That is his answer right there and that was a really important question for me.

Council Chair Rapozo: Do you have a question for them?

Councilmember Cowden: This is what I asked, and I was going to have it, and then RPT could not be here.

Council Chair Rapozo: Right, but do you have a question for these two (2) gentlemen?

Councilmember Cowden: Well, I was sharing...

Council Chair Rapozo: What you just did was you did commentary, which is perfectly okay when we are in discussion, but this is question and answer (Q&A) for these two (2).

Councilmember Cowden: Okay. I did not want them to move away in case other people had questions, but I wanted to tell them. I wanted to give them the answer that we discussed, which is that unless it is a charitable use, it actually could very easily change the property tax.

Council Chair Rapozo: Again, this Bill does not talk about the taxes of these parcels.

Councilmember Cowden: But it is an important consideration. It is a very important consideration for the private owner of the property.

Council Chair Rapozo: That is correct, but then again, that is not why we are here today. They are well aware of what their...it is their choice. My point is, in the spirit of the Sunshine Law and Robert's Rules of Order (Robert's Rules), do you have any questions for these two (2) gentlemen versus giving them a lesson on what you learned from RPT? This is a Q&A for these two (2). That is why we are here.

Councilmember Cowden: I tried to preface it with that, and you did not stop me at that point, so I just brought it up.

Council Chair Rapozo: No, I asked you if you had a question. That is what I asked.

Councilmember Cowden: No, but before then, so I just said that was what I had asked them, and they could not answer it.

Council Chair Rapozo: Yes, because they are the Director of Parks & Recreation and the Planning Director. They are not RPT.

Councilmember Cowden: Okay. RPT could not come today. Alright. I am stopping. Do other people have questions?

Council Chair Rapozo: Are there any other questions for these two (2)? If not, thank you. Is there anyone in the audience wishing to testify on the main Bill? Carl?

Mr. Imparato: Is there a waiting list?

Council Chair Rapozo: I am sorry?

Mr. Imparato: I thought there was a list.

Council Chair Rapozo: Is there a list of registered speakers? I am sorry.

Ms. Fountain-Tanigawa: For the Bill as amended?

Council Chair Rapozo: Yes, this is the final discussion.

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

Council Chair Rapozo: Okay. Desirea.

Ms. Hirani: I tried to time this several times so I do not get the red light.

Council Chair Rapozo: You will have three (3) minutes. When it goes...can you stop the clock? When it goes to orange, you have thirty (30) seconds. We have multiple testifiers, so you will have to come back for a second time. When that orange light goes, you have thirty (30) seconds.

Ms. Hirani: Okay. *Aloha*, Council Chair and Councilmembers. Desirea Hirani here. I am just here today. I came in just feeling deep gratitude. I just want to say as this is the last topic, a heartfelt *mahalo* to Councilmember Holland. I remember at the very beginning when our market was shut down, we were all in panic mode. We did not know what to do. We used the tool, social media. We tagged all of you. Everyone was confused. We even got feedback that it was not your *kuleana*. Come to find out it was. We found out and I picked up the telephone call from...I called Councilmember Holland and she picked up. She heard me and she told me, "I got you." That gave me such relief to know someone was behind us. That was the first big hurdle. Councilmember Holland, thank you so much, together with Councilmember Kaneshiro. Thank you for standing beside Councilmember Holland and bringing your wisdom, your roots in agriculture, and your steady voice to help make this a reality. We are so happy with the Bill that you created and the amendments. *Mahalo* also to Ka'āina Hull. Wow. This person sat with us, listened to us, and helped us. We do not understand laws. He took the time to sit with all of us and explain what needed to be done to make this correct. Thank you, Ka'āina. To my market *'ohana*, thank you. Your resilience, your unity, and your unwavering strength through these past few months have carried us to this moment, and I am so proud of you. I am endlessly proud to stand beside you. This Bill is more than words on paper. It is a symbol that our work matters, that our contributions to the island, whether through handmade goods, locally grown produce, or small family businesses, we deserve a place in this community. When we first learned we would have to change a law to continue our markets, it felt like a mountain that no one would dare to climb, but today, thanks to all of you who have stood beside us and listened to us, you reminded us that local government can work for the people, and that when we come together with transparency, with *pono*, and with heart, we can solve problems the right way. This has been an emotional, exhausting, eye-opening journey, but it has also been one (1) of the most powerful experiences of my life. Thank you for seeing us. Thank you for believing that this was worth the fight. Let us finish this strong and I ask you again, please pass Bill No. 2951, Draft 1, because we still have yet to go before Princeville and get their permission as well. Thank you. *Aloha*.

Council Chair Rapozo: Thank you.

Ms. Fountain-Tanigawa: Carl Imperato, followed by Lonnie Sykos.

Mr. Imparato: I am Carl Imparato. I am speaking for myself today, but as you know, I provided testimony on behalf of the Hanalei-Wainiha-Hā'ena Community Association, and that testimony simply requested that there be a public process and standards for all market approvals, type I and type II, that markets that impact residential neighborhoods be limited to no more than one (1) day a week, and that this legislative body here and now act to protect the beach parks by having the Comprehensive Zoning Ordinance (CZO) not allow such markets in the beach parks rather than punting to the Department of Parks & Recreation to do that somehow in the future. The testimony also acknowledged that the existing markets like the Princeville Market should be allowed to operate while this public process was underway, but none of that was done, so what we have here is a Bill that is rather extreme, because under the CZO now, it will allow commercial markets up to seven (7) days per week in all neighborhoods, in all County parks, with a public process that is designed to make it really difficult to initiate any Planning Commission review for the type I markets. No balance, no compromises, no protections. Now, all of these problems could have been addressed without delaying the return of the Princeville Market by even a day, but instead, the leaders of the market, the Princeville Market, have demanded that the County pass the Bill as-is, leave it to them, not the Planning Commission to look out for the interests of residents in the neighborhoods that are harmed. The CZO does not need standards for markets. Leave it to market operators to do that. There is no need for public hearings. Market operators will take care of all of this. That shortsightedness and one-sided self-interest empowered by bad legislation that has no standards and process, what could go wrong? It looks like things are going to go the way they are going to go, but I would really hope that you would do more to protect. I want to close by saying three (3) things about this process, though. First, I had requested to briefly meet on behalf of the Hanalei-Wainiha-Hā'ena Community Association with each of the Councilmembers to discuss our concerns. I want to thank the three (3) Councilmembers who had the courtesy to reply. I want to thank Council Chair Rapozo, Councilmember Cowden, and Councilmember Holland. I say thank you, even if you did not agree with many of the things. Secondly, I want to publicly acknowledge and express gratitude for Councilmember Cowden's hard work on this and other matters. She and I disagree on a lot of things, including aspects of this Bill. That is alright, because I know that she reads the testimony, considers, and responds to it. Finally, I do want to apologize on behalf of the people who are not in this room to Councilmember Cowden for the appallingly disrespectful and abusive testimony that she had to endure last week, including that from the leader of the Princeville Market group. I apologize. Thank you all for the time that you have given me. Thank you for considering things. *Aloha.*

Council Chair Rapozo:

Thank you, Carl. Next.

Ms. Fountain-Tanigawa:

Lonnie Sykos, followed by Lexi Jones.

Mr. Sykos: For the public record, Lonnie Sykos. I would like to say that I agree with the last statement by Mr. Imparato. The last meeting held on this was utterly abusive and this Chamber all too often is a hostile environment, both to the public who disagrees with you on occasion and constantly for your, what, five (5) years now on the County Council, Councilmember Cowden. It is disgusting how you people treat the Members of the Council and it is public record.

You do not know what I am talking about, Councilmember Holland. You should watch the last meeting. You should review it. Now, the problem here today, once again, is you are trying to legislate two (2) unrelated items. One (1) is private property, one (1) is County and State property. You do not want to admit that your legislative process is flawed, so we sit here with this flawed Bill. We sit here with the people you are trying to help, unhappy at how slow the help is, and you are here with the public who are outraged that seventy (70) years of precedent of our parks being noncommercial is instantaneously going to be commercialized, and we do not believe what you tell us because you do not understand yourselves. We listen to the back and forth between the Councilmembers, and the Planning Department and the Department of Parks & Recreation. What you are asking us to do is to approve commercializing our parks. After that is done, you will tell us what the rules are. You have the "cart before the horse." Now, once again, I am fully in support of Sunshine Markets on County properties, but I have an issue. I was a commercial fisherman for thirty-something years in Hawai'i, and so I know as a fact...I drove boats for both the State and private parties, and the County waters extend three (3) miles offshore, so if you go more than three (3) miles offshore and catch a fish, if you want to sell it at these markets, you are in violation, because you are not in County waters; you are in State and Federal waters. If you go more than two hundred (200) miles offshore, you are in International waters. Again, your lack of understanding about commerce got this Bill messed up. Thank you.

Council Chair Rapozo: Thank you. Next speaker.

Ms. Fountain-Tanigawa: The last registered speaker is Lexi Jones.

Council Chair Rapozo: Is Lexi here?

Member of the public: I think she left.

Council Chair Rapozo: Okay. Is there anyone else wishing to speak for the first time? Please.

BRYAN ALLEN: Aloha, Councilmembers. Bryan Allen with the Princeville at Hanalei Community Association (PHCA). I just wanted to say thank you all for the consideration you have given for this Bill. I know it has been a long process and I appreciate where we have arrived with the process. Thank you for all the market supporters, the vendors, the artisans, and the craft members. I know that they put a lot of passion into this as well. I am sorry that they had to endure all of this. When I came on to PHCA last June, the market was already operating. I thought it was my job to just continue to keep it under operation, not realizing all the other aspects that go along with this. One (1) thing I did want to bring up is that this is the first part of the process. The PHCA does have a Board of Directors, and they still have to decide on this. PHCA, as some of you know, is a nonprofit corporation. It is not a homeowners association. We are a nonprofit corporation set up in the early '90s to manage the Princeville property, which currently encompasses about three thousand (3,000) acres of the total 9,000-acre Princeville development. In that, there are rules, covenants, and restrictions that were created when the park was dedicated from the Princeville corporation to the Princeville community, there were some restrictions that were put onto the park, and I know some of that has been, I think,

talked about and talked around in this Bill process, but I just wanted to read those restrictions and covenants as they are stated. There are only four (4). It is very short, but just so everyone sort of has a general understanding of where this is when we talk about the County parks and why the County parks are involved in this when it is, technically, private property. The land described in Schedule "A"...number one, the land shall be used for a park facility. This is in reference to the seven-acre parcel known as Lot 1 in the Princeville development. The land shall be used for a park facility. Two, the land shall be restricted and prohibited from all other nonrecreational uses except that the owner may develop community facilities similar in purpose to the County of Kaua'i neighborhood centers for its use and at its expense at some future date subject to the architectural guidelines established or to those established by Princeville Corporation for Princeville II subdivisions, which is our neighbor property there in Princeville. The general public shall have the opportunity to utilize the park and other permitted facilities subject to rules, which may be developed from time to time by PHCA. I just wanted to put some context to all of this for everyone here in the room as well with why this is tied to County parks and not just private-use parks, and what the overall implications are. Thank you for your time.

Council Chair Rapozo: Thank you.

Councilmember Cowden: I have a clarifying question.

Council Chair Rapozo: Go ahead. Hold on, sir. We have a question.

Mr. Allen: Sure.

Councilmember Cowden: When I am looking at item number two and it says, "The land shall be restricted and prohibited from all other nonrecreational uses," this market is a nonrecreational use, but it goes on to say, "...the owner may develop community facilities similar in purpose to the County of Kaua'i neighborhood center." Is it that you are building on the property?

Mr. Allen: That is correct. When these rules were made, we did not have the Princeville Community Center. That was built in the early 2000s, so about ten (10) years after these rules were made.

Councilmember Cowden: Do you know how your board is considering noncommercial, nonrecreational uses? We are not talking about the building; we are talking about the park.

Mr. Allen: That is correct.

Councilmember Cowden: How are they interpreting a commercial use as a nonrecreational use? Has that question come up?

Mr. Allen: It has, and we were waiting for this Bill to pass to see if it is even something for us to discuss. Now that it looks like this Bill is going to move forward, it is something that we would have to go back to. We will probably have to get a land use attorney to advise us on what nonrecreational use is

if there is a component that can be added to the market that makes it a recreational use, and then obviously working with the Planning Department and the Department of Parks & Recreation to sort of define what those nonrecreational uses could be and include.

Councilmember Cowden: Okay. Thank you.

Council Chair Rapozo: Thank you. Are there any other clarifying questions? Thank you. Is there anyone else in the audience wishing to speak for the first time? Mr. Hart.

Mr. Hart: For the record, Bruce Hart. The last testimony gave me an open door. The Bill reads, "Relating To Commercial Use Of Park Facilities," and I could not form it in my head, but the last testimony...nonrecreational, recreational. That is what the issue is for me. My concern is giving...I will preface this with saying that I have nothing against Sunshine Markets and nothing against the usage that the people behind me want to put it to. I believe that they are worthy to be able to do it. I believe it is something that is good for the community, but it reads "the commercial use" now as opposed to recreational use. My concern is that we are going to give the permission of commercial use to a specific group of people, and those are the people who are sitting behind me. It is not that I have anything against them or what they are proposing to do. We are going to give the commercial use of our parks to a specific group—artisans or craftsmen. Why? Why is it that we are denying the use of our parks for commercial use to others? I will give you a hypothetical that I have already discussed with other Councilmembers. This is a hypothetical. I am twenty-three (23) years old. I have a wife, I have two (2) children, and I am trying to live here. I want to start a used car lot. I have everything I need—the education, the permits. I get everything, but I do not have any land to park my cars, so I am going to come to you and I am going to say, "Can I use the parks? I want to sell my cars." How about I am an insurance salesman? I have everything I need, but I do not have an office, so I buy one (1) of those little offices on wheels and say, "I would like to park my office on the park's property one (1) day per week and sell my insurance." Thank you.

Council Chair Rapozo: Is there anyone else wishing to testify for the first time? Come up.

BILLY CARTER: Council, my name is Billy Carter. I am wearing a Princeville Market shirt, but I am speaking today on behalf of my company, Kaua'i Gourmet Nuts. We attend multiple farmers markets on this island, so this is impacting us all throughout. This is not just about Princeville. To address some of the concerns of the other community members, this Bill sets out what is allowed to be sold at farmers and artisans markets, so this is not open commercial use of our County parks. These are very restricted uses of the County parks that are coming up in this Bill today, so you cannot sell used cars in a County park. This Bill restricts that use to things made in Hawai'i. Again, for the fisheries outside of the six (6) miles, I believe that it is Hawai'i made products, right, not just Kaua'i County products, so that would include fisheries outside of the zone that you were concerned about. It seems like we are pretty much ready to push this forward. Everyone has been really

patient. We really appreciate the Council and all the testimony that has come up, all the amendments that have been passed.

(Councilmember Kualii was noted as not present.)

Mr. Carter: As a member of the retail community on this island, represented at multiple markets, I wholeheartedly agree with this Bill going forward. I think it covers everything. I think having public discourse about the park rules, which I understand is coming up after this Bill is passed...the Department of Parks & Recreation has to come up with their own rules, and there will be public discourse on that. That is covering a lot of these bases that people are afraid of where we are just going to open commercial use of these parks without restrictions. There are still more processes to go through in our public parks. Thank you, again. I look forward to the Bill being passed and all my friends and family getting back to the commerce that they deserve to have. Thanks again. *Aloha.*

Council Chair Rapozo: Is there anyone else?

TIARE WELBORN: Thank you, folks. My name is Tiare Welborn.

(Councilmember Kualii was noted as present.)

Ms. Welborn: Speaking on behalf of myself, it feels really sad how far this whole conversation has drifted away from farmers markets and how amazing they are for the community. We have always appreciated rules for our farmers market, and I think that most farmers markets are for people in the community, so I like to follow similar rules. I am totally not opposed to rules. We want to follow them. I think that there has been this perception that our farmers market is very aggressive and does not like to follow rules, but I just wanted to say that we want to make everyone happy and the community happy as a whole. We appreciate you so much. This has been a very stressful experience, so I am just super grateful. I have learned so much from all of you and have a whole new respect for the Councilmembers. I appreciate that. Thank you.

Council Chair Rapozo: Is there anyone else? Ms. Parker?

(Councilmember Carvalho was noted as not present.)

Ms. Parker: Alice Parker for the record. I have to jump off the topic. A bus stop on Pahe'e Street. We cannot get to Urgent Care. My neighbor had to almost crawl up there on ceded land by Grove Farm. Can we do it? Thank you.

Council Chair Rapozo: Thank you. She is the only exception to the rules that I will allow.

Councilmember Kualii: She is quick, too.

Councilmember Cowden: We respect her ninety (90) years of life.

Council Chair Rapozo: No one else try that, because it is not going to work. Is there anyone else wishing to testify for the first time or the second time? If not, final discussion. Councilmember Holland.

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

Councilmember Holland: Thank you, Council Chair. Thank you, colleagues. Thank you to the public. I want to address a few things. I would actually like to see less restrictions than this Bill is putting in place when it comes to particularly farmers markets, particularly food access. It is a human right to be able to access good, local, quality food, and I think we should be able to have that in places much more easily than extending these long processes and procedures to approve them. I, obviously, do not want to see overcommercialization of our parks, but when it comes to particularly farmers markets, I am concerned that this Bill is too strict and that this Bill is limiting too much the people who will entrepreneur. Not everyone has the stamina and the ability to go through that rigorous permitting process, outside of people like Desirea.

(Councilmember Carvalho was noted as present.)

Councilmember Holland: It is really important that we support local food and that we support markets. It is absolutely critical that we figure out ways to fast track these things. I am very thankful for Bryan for being here today from PHCA. I am extremely thankful for his testimony and I also really encourage him to work alongside the market organizers to expedite this process through the PHCA approval to ensure that they are not waiting any longer than they need to. This is already going to go through the 30-day notification process, they are still going to have to go through these hurdles, and I just really strongly encourage that collaboration to allow them to get back open and functioning as soon as possible (ASAP). There are excessive rules and processes that exist and I really encourage everyone to weigh in, particularly Carl and others who have opposition...to weigh in on that rule-making process with the Department of Parks & Recreation and engage in that public process that is going to happen where checks and balances can additionally be added. I think that is really important. To clarify a couple of things that were said, there are one (1) to two (2) days that these markets are being considered, not seven (7) days. The Market I does not allow for markets every day. We have to put the "cart before the horse," so to speak, in this specific situation, because to initiate the rules of this process and require that the Department do so, we pass this measure, which was clarified last week by our team. I want to say one (1) last thing. Obviously, I am in huge support of this Bill, and I really want to thank Councilmember Kaneshiro for helping lead this process. His experience and willingness to meet and adjust the amendments, like the three hundred (300) feet, made for a stronger Bill and made for additional public outreach, which I think is important, so I really want to thank him and all of our staff who worked so hard with us to make this possible. My last point is simply in relation to the testimony that was given around abusive testimony. I want to be really clear that I have been on the other side of that table most of my life. The passionate testimony and engagement that happened, particularly in my first experience, in this Chamber, was incredibly hard on those sitting in these seats and it held them to the fire incredibly well. I think, first of all, that is our job. The only inappropriate behavior

that occurred in the previous meeting were from those of us sitting on this side of the table, because the public is never...there is a time and a place when you are out of line. Do not get me wrong. You can speak out of turn, but when your passion exudes through your testimony and you share this information that you are passionate about to us, it is our job to take it. It is our job to hear you. Sometimes it is not comfortable. Sometimes it is actually very uncomfortable, but it is absolutely our responsibility to take that passion. It is nothing compared to what we went through twelve (12) years ago. It is nothing.

Council Chair Rapozo: Stop it.

Councilmember Holland: Yes, and I apologized. I genuinely think that some of that was really out of control, but I just want to say for the record that I do not believe that there were swear words...there were, but it was not directed at any of us. I really want to encourage the public to continue to engage like that, to feel like they can get up here, they can be passionate, and they can pour out their hearts for what they want in our community, because that is critical. I hope that this inspires more of you to engage in this process. I hear that there is a revived care for the County Council and I hope some of you will consider putting your name on the ballot in the next election, because we need the younger generation to step forward and to engage in this process, we need you folks to be passionate, and we need you to be here, so I just strongly disagree with the fact that there was any abuse. I apologize for acting out. I have zero (0) poker face. I will probably be the most transparent politician most of you might ever meet, to my fault. I am trying to keep that decorum, that calm, and that respect here. I do not feel like that was lost, but I apologize that it could have seemed that way, because it was never my intention. Thank you.

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

Councilmember Cowden: Yes. In general, I have said many times how much I support, certainly, farmers markets and artisans markets. I am a very active shopper in, honestly, artisans markets more, because I grow my own food and I have a lot of that, but I one hundred percent (100%) believe farmers markets need to be around very much behind the Sunshine Markets. I feel more confident having had the Department of Parks & Recreation in the room to be able to hear a little bit of what their general strategy is. I like the idea of it being community-driven. Now, none of this is written down yet, and I will say that the County Council is not part of that process. It will never come before us. I go to all these different types of events, but it is not like it comes in front of us to where we can say "no" or "yes." We do not have that, so it is basically asking for blind faith that this process will work. I liked what he had to say. I still probably need more information to understand why they cannot make these rules up before we would have passed this. It is very evident to me that this is going to pass. I go to meetings all the time, like we had the climate change adaptation action plan last night. We have community meetings all over the island, all the time, ahead of building rules and regulations. I believe this could happen that way. I understand the sense of urgency for the Princeville Market, and I support all of you needing to be getting back to business. I really appreciate the Executive Director or...I do not know what your job is.

(Note: There was discussion while the rules were not suspended.)

Mr. Allen:

General manager.

Councilmember Cowden: ...General manager of PHCA coming in, because I saw that piece of nonrecreational use of a park. I think that could be considered as problematic, though having been a former retailer, I will tell you, shopping is recreational for some. It is a passionate recreation for many. I have stability in my life because of that recreational interest for shopping, so I will definitely acknowledge that, but if someone wanted to be a "stickler" and you look at what definitions are, that could be a problem. When I am talking to different businesses in the community, the County's RPT has just been powerfully hard, particularly on the North Shore, right? It has been just powerfully hard, so the amount that is going on these commercial properties—shopping centers—is incredible. They have big increases. I talked to one (1) shopping center. Between that and the increase of insurance, it literally brought their common area maintenance fees up to equal with the rent. Common area maintenance fees are usually just a small little piece. This particular individual...I do not want to put his name out, but it is a family from here, and their collective taxes, which I looked them up, were over six hundred thousand dollars (\$600,000) for their businesses. In a park like any of these commercial use facilities, almost all of them have the minimum tax, which is one hundred fifty dollars (\$150), so they are not having to put that burden onto their tenants. In this particular case that I am giving as an example, three (3) of their businesses had to close when they had to raise that common area maintenance fee. It worked out to about four thousand dollars (\$4,000) or more for each shop per month. Three (3) of these businesses were all "mom and pop," family-owned, artisan businesses. They all went out of business when the tax went up and the insurance went up. They closed their shops. That store is having a hard time. They have beautiful work. Two (2) of them were on my surf team when they were kids. I have known these people. They could be like any of you. They have worked so hard to "claw their way up the hill," so when I look at the tax on that building this year, which is fifty-two thousand dollars (\$52,000)...if the park that you are in paid a commercial tax, it would be ten thousand five hundred dollars (\$10,500). Hopefully, your park is paying more for your market than if PHCA might have to have a higher tax, but also, when you look at what five (5) acres are...actually, I cannot remember the acreage, but...seven (7) acres...it could probably really be brought up to a higher rate, so something that we see happen, when you think, "Oh, it will not happen..." well, we placed a cell tower on a 1,000-acre cattle ranch. They lose their dedicated Ag, and it shifts to Industrial. Those are the types of things that come before us. What happens with taxes can be crazy. When I look at this ten-thousand-dollar-per-day per violation, I just realize when you have people who are working against you, you better make sure you never bring in a wrong mango. You better make sure there is never any garlic in there. There better be hang tags that are looked at...actually, I tried to fight for your hang tags. I think I got that right. I am wearing another one. Where is it from? The Princeville Market. If you have a problem and this board is getting a ten-thousand-dollar-per-day notification, it terrifies people who are not used to getting it, so maybe they never end up having to pay for that, but it is unsettling. It is a lot for them to think about. I am bringing this up, because what I worry about is that in trying to protect you, and I want to protect you....I want to protect you. There was criticism here that I did not really say much when I am getting these complaints,

because I did not want to leverage or facilitate complaints against you because I appreciate what you are doing. When people want to leverage those complaints, it will not be hard. Somehow, this shined a light on all the challenges that the County has had in terms of managing its parks. It could be that we do all of this really for the people in this room right here who have been coming in and talking to us, and you cannot even end up having your park. We do all of this, we basically race through the finish line...former Councilmember Kagawa always used to say, "Ready, fire, aim," with bills that he did not think were prepared. I do not think this Bill is prepared for the public parks. I am alright with it for the private parks. That is why I tried so hard to separate out the two (2), because I would have had a very easy time. With the public parks, I think it could have a lot of problems, so I just want you folks to be aware of what you are facing. I am sure this is going to pass today. When it passes, I sure do hope you get to open, so that when all the rest of this happens, possibly not correctly enough, that we do not have too many problems. If you do not get to go back to your place, please participate in the rules. Please be involved in the Peddlers and Concessionaires, because you will be able to maybe move into another place.

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

Councilmember Kualii'i: I just want to say *mahalo nui loa*. Thank you so much to the Bill's introducers, Councilmember Holland and Councilmember Kaneshiro, to the Department of Parks & Recreation and to the Planning Department, and especially to everyone from the public, from our community, who came, meeting after meeting, to engage in our process and help us get to the best bill. I am happy to support that Bill today. Best wishes to all the farmers, artisans, crafters, and other vendors out there for much success. I am sorry that you had to go through this struggle the last few months. Thank you, Council Chair.

Council Chair Rapozo: Is that all?

Councilmember Kualii'i: That is all.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I cannot say this process was short. I just want to say that I support farmers and I support local businesses. Farmers markets and artisans markets are a good thing. The Princeville Market is a great thing. It was great for the community. It was great for the vendors. It was great for the farmers. The Grove Farm Market is a great thing. They should have the ability to do it, and I do not think they should have to go through a Use Permit process to get it. That being said, the process we have in place with this Bill does have checks and balances. We have heard from the public. We heard from Carl. We added this three hundred (300) foot thing, which they would have had to do if they were going through a Use Permit. Does it add cost and time to the applicants? It does, but again, we are trying to listen to what the public needs, we are trying to be cognizant of the neighbors, and we are trying to make something that will be a win-win for everyone. That is what we have done in this Bill. In addition to allowing farmers markets and artisans markets on private property, we have also provided the opportunity to do it in County parks,

which we have had in County parks. We had a farmers market at Kōloa Ballpark. We had a farmers market right out here, in front of our building. It is not scary. People have called, "Oh, are you folks going to do it at Po'ipū Beach?" Why would we take the process and do it at Po'ipū Beach? At the end of the day, it is a County process. The County needs to go through the entire process. We would catch so many "cracks" trying to do a farmers market at Po'ipū Beach. No one can even go to the beach now to use the beach without fighting for parking. Again, the County will pick a park that is a win-win for all. They are going to pick a park that is a win-win for the County and a win-win for the community. Why are they going to go through a process and force a farmers market or artisans market at a beach park that they are going to get all this opposition for, when they have to spend all this time and money to just get it permitted? Again, we have the process in place. This process will not even start for at least another year on the County's side, because the County needs to make their rules and regulations on farmers markets and artisans markets. Without those rules and regulations, nothing will happen on County parks. That is the trigger. They need to finish those rules and regulations. That is going to take at least one (1) year, I would say, probably. Once the County creates the Administrative rules, then the County will need to identify suitable locations. Where do we think would be a good place to have farmers markets and artisans markets? I do not think it is an overcrowded beach park that everyone is trying to enjoy. It is going to be an underutilized park that has parking, that will not affect the community, and that will not affect the surrounding neighbors. In addition, they will need to send out notifications, like everyone else, to people within three hundred (300) feet. They will need to get a Class I Zoning Permit, like everyone else. Then the County will need to follow their Peddlers and Concessionaires rules and do an RFP. It is not a fast process. It is not an easy process. We will not look like Mexico or wherever was mentioned with peddlers and concessionaires all over our parks. Also, it will not happen tomorrow. It will be a very long process and again, it is going to take the County's effort to even get one (1) at a park, which may take forever. This Bill also allows us to do event concessions at our regular parks like Vidinha Stadium, which I believe we should have had a long time ago. We just never realized it. This Bill is not ill thought of. It is not ill-conceived. It is not a mixed match of things. This Bill helps to resolve a whole bunch of situations and at the end of the day, does something good. It allows farmers and artisans to be able to do their markets in a community use facility. I do not know what else to say. I have heard a lot about safeguards. There are so many safeguards in this. I just want to see this Bill pass already and let us move past it. At the end of the day, we really did "make a mountain out of a molehill." The farmers market was operating well. Grove Farm Market is operating well. Let us just move forward. That is all I have to say.

Council Chair Rapozo:

Thank you. Councilmember Carvalho.

Councilmember Carvalho: Without having to repeat everything, you folks know that the bottom line for me and having gone through numerous discussions, whether it be for parks, whether it be for farmers markets, use of parks, for recreational facilities, recreational use, of course, the farmers market use and all of it is all about balance. It is all about working it through. It is all about sharing the information, finding, being available, and making it available for our entire community. It is not one (1) over the other. I think that is the biggest thing that came to the table for all of us. We have gone through numerous discussions, we have been

out there with you folks, and we have reached out in so many different ways, but my point is that everything is very important for our island. It is how we manage it and balance it out to offer the opportunities. It was said earlier that we are going to have a farmers market for seven (7) days. No. It is Tuesday or Wednesday. It is Tuesday/Wednesday from 2:30 p.m. to 5:30 p.m., or whatever the time is. There is a place for all. It is how you manage it. There was good discussion, I appreciate what was brought to the table by Councilmember Kaneshiro and Councilmember Holland, and all of our discussion here, but for me, knowing that you folks have all come out, we had lengthy discussion on this entire issue, should I say, but the entire island. It is not only here in this area; it is all, so we should take it one (1) step at a time, have a good solid base, have good information that we can share, that everyone can reap the benefits, whether it be Sunshine Markets, farmers markets, recreational use, all of it. That is the important piece that needs to be laid out here on the table. I appreciate all the discussion, and I look forward to checking it out sooner rather than later. *Aloha.*

Council Chair Rapozo:

Councilmember Bulosan.

Councilmember Bulosan: I have five (5) points that I want to go over. First, *mahalo* to the introducers, *mahalo* to our community for showing up and being part of this entire process, *mahalo* to the Planning Commission for hearing these concerns and working through these, and *mahalo* to all the opposition who came and shared your folks' point of views to help craft this Bill. In this first point, I always think about where we are in time. Can you just imagine that in a similar fashion, in the same breath, there are parts of our U.S. government that do not believe in this process, and is not even listening to us? I just sit here and I feel so blessed that we have an engaging community that is willing to have discourse and allow us to have a civilized process, and we are not going backwards. Thank you, folks, for participating in what we believe democracy is. The second point is markets are as old as civilization. Thousands of years, so it baffles me that this is, to me...and I am in agreement with some of the remarks here, it is a housekeeping bill. This should have been done. I am so confused as to why this took so long, because this is as old as time. Literally, as old as language, as old as communities gathering thousands of years ago. I feel like I am biased on one (1) side of this coin, because it is a very straightforward process, and therefore, in this perspective, I had to sit back and try to get out of that perspective and hear discourse, because our job here is to make it better. Just because it is as old as time does not mean it cannot get better, so I appreciate all the discourse and the amendments that happened. I, too, share the same perspective that this is actually overkill. The third point. In government, we are looking at two (2) processes that never really oftentimes agree, which are efficiency and transparency. The most efficient thing for us to do here would be to wave a wand and just bring everything back to how it was and let the markets do what they were doing, because it was regulated perfectly and fine, and with the remarks that were shared, it can be adjusted accordingly, but our democracy allows us to have discourse, transparency, and allows people to engage. The months that we spent here, while it affected your businesses, your livelihoods, your everything that you can imagine, just imagine if you were not here, if you were somewhere else where you could just be erased. I understand why the passion was in this room. It is because there are both aspects that needed to be fought, and in an engaging community, we need this type of discourse. It should feel good at the end of the day, even though it is uncomfortable

to have this type of discourse, because if we cannot have this discourse, then we are going to lose our community, so I am so proud of this community. My fourth and last point is I have...I am going to just lock back into my bias. Before becoming a Councilmember, I spent a lot more time organizing, and I can sympathize with all of our small businesses here, especially as an organizer too, because back in the day, and it is not that long ago, we started the second Saturday night market right down the street here. The process was very long and engaging. Each of the challenges and the discourse that happened in these last few months was exactly the same processes that we went through back then, even when it was not legal yet, according to this Bill. Every part of the challenge that was talked about in this Bill was met at that time, seven (7) years ago. A lot of the community members were afraid that by losing parking stalls on Rice Street they would not be able to support small...the existing businesses might lose money because we are bringing in smaller markets. The fear of people selling things that should not be sold, that are not Kaua'i-made, the fear of access to space was going to be lost...if you talk to any of the vendors now, if you talk to all the small businesses, like Rob's Good Times Grill, if you talk to anyone living at Kalapaki Villas, the Rice Street apartments, anyone on Rice Street, or anyone in Molokoa Village right now, and which is probably part of the reason why they are not here, they think it is normal to have markets. In fact, they expect it and they are waiting for the second Saturday market. In fact, they keep telling everyone, even the organizer, "Why can we not have this every week?" It is a different conversation. From that bias, it reminds me that, it is a tough balance between balancing community needs and managing safety. Just like when Hurricane 'Iniki came through, the Building Code was not what it is now. While making sure that everything is safer benefits the protection of our community and our housing, it now makes the cost of building housing even more than it was before, so there are these balances that we are always trying to figure out. To wrap it all up, I just wish we did this much sooner. I just want to appreciate all the effort that our introducers have put in and all those from the public who engaged in this process. Let us just pass this right now.

Council Chair Rapozo: Is there anyone else? Is there no one?

Councilmember Kualii: Do you mean for a second time?

Council Chair Rapozo: We have been doing this only for a few months. Another few minutes is not going to hurt. I just want to say thank you all for being here, on this issue. I, too, am disappointed at how far we went from the original discussion and the intent of the Bill. I am, and I appreciate you saying that. Councilmember Kaneshiro "hit it on the head," as did Councilmember Bulosan. I love farmers markets. I love it. I really have not participated in too many artisans markets, as you folks can probably tell, but I have learned so much in this discussion and I appreciate it so much. When we had the Sunshine Market right out front here, it was wonderful. It was wonderful for our staff and it was wonderful for me, but it was illegal. Every election year, everyone running for office says, "We need to support Ag. We need to support our farmers. We need to support our ranchers. We need to support all these people." This is said during an election year. This was an opportunity to do it. Councilmember Bulosan said it best. I did a presentation about the history of the markets, but I do not think you were here. They have been here forever. It is almost an acceptable use for our parks. Do you remember when we did not have the...some of you are too young, but Councilmember Carvalho and I know.

Back in the day before soccer became very popular, all of our parks had so much room for picnics, for playgrounds, and for families to come together, then slowly, soccer became an acceptable use of the parks. No one complains about soccer taking up space from our community at the County parks. Why? Because it is an acceptable use. Parking during soccer games and parking during baseball games gets chaotic sometimes, but you know what? It is an acceptable use, because it is for our kids. I like the fact that farming is now an allowable use in these parks, because it should be. It is an optimal use of the park. Now, I did meet with Mr. Imparato and while he said I did not agree with him, I did agree with a lot of what he said. However, the balance, as Councilmember Carvalho talked about, is what we need to provide and we need to make sure that these activities are regulated. I did not support the original proposed draft bill. In fact, I did not support part of the amendments, initially, but it was because of the meeting with Mr. Imparato and the concern he had about the input of the community, that I was very happy to see the amendments last week by Councilmember Kaneshiro and Councilmember Holland that provided for the community input. I know Mr. Hart talked about the Bill being titled, Commercial Use In Parks Facilities. Our Code is made up of so many chapters, and the chapter that applies to what we are trying to do is the chapter that says, A Chapter Relating To Commercial Use In Park Facilities, but that is just the chapter title. In that chapter, there are all these different sections. To your concern, Mr. Hart, I am be happy to tell you that used cars and insurance are not included in this Bill. It is not included in commercial use. That would never happen. This is a section in the chapter specifically targeting farmers markets and artisans markets, so while he might be concerned about "opening the door" for sales...can you imagine having that discussion? If that were the bill, we would not be here today. It would have died on first reading. If it were a bill allowing used car sales in County parks, it would have died. It would never have made it to a public hearing. Let us just say it as it is. The other thing that was said was that we are doing this for a specific group of people. I have said probably a dozen times throughout this process, it is not about the Princeville Market. We need to be careful because the Princeville Market manages their market so well, and we think that everyone will run their markets like the Princeville Market, but we know from history. If you do not know that by now, you folks are on a rock. We pass bills and people abuse what we pass. They do. It just happens. It is human nature. We need to be careful when we pass a bill to make sure there are those safety nets involved or in place so that the abuse does not happen and that we have an opportunity. No, this was not built...in fact, I was more concerned about the County facilities, which Councilmember Kaneshiro talked about. I was more concerned about concessions being sold illegally at the County's baseball parks and our stadiums. That is what I was more concerned about. The Princeville Market is an entity. There was just so much more this Bill encompasses that I was more concerned about. No offense. You folks were one (1) of many, but my bigger concern of passing this...because my initial reaction, which I shared with Councilmember Cowden, was that I was going to support the amendment about removing County facilities. I wondered why we needed to do this. It was not until I found out that it was because the County is in violation. We need to have this passed. We needed the Bill. Community input is vital, because to me, community input should dictate...the community that is impacted now. I should not be going to Lucy Wright Park and say, "I live in Wailua Houselots and I do not want a market here. It is going to cause too much traffic." I should not be able to. I can, thanks to the country that we live in, but why? If all of that area wants a farmers market, who am I to go there and say, "I do not want it. I think it is

bad for the community.” That community should dictate what they want. Wailua Houselots Park? I live in Wailua Houselots, along with Lonnie. It is not that I want to see a farmers market there every day, but I would love to see a farmers market there once a week where we can just go down the street. There is a family that bought a couple of hens for their kids as pets or as a project. They live right down there, by a fork. They bought two (2), then ended up getting three (3), then four (4), then six (6), and then twelve (12). Now, they have so many eggs that they sell them on the side. Is it legal? Probably not, but they set up a little table. The little girl is there selling her eggs. We stop there and we buy the eggs. They are fresh eggs. They are brown. They still have the blood spot inside. Now, should we put the mom in jail for doing that? No, because it is farming. It is ranching. It is what is acceptable in a rural community where we live. Am I going to call the Planning Department and say, “You better go check that. A young girl is selling eggs on the side of the road?” No. “Go check if she has a concessionaire’s permit.” Absolutely not, but if thirty (30) vendors showed up at the Wailua Houselots Park selling whatever they want then, yes, it would be an issue for me. I think the community determines what is acceptable in that community, and that community should decide. No one else. Again, I appreciate your folks’ endurance. This has been a long one, and it has been a while since we filled up this Chamber so many hearings in a row, which says a lot, so thank you all. Again, even to those who are not happy right now, it is just the balance that we need to put together and think of what is best for our communities. It is not always easy, but thank you very much. Okay. With that, roll call.

The motion for adoption of Bill No. 2951, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

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

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

Council Chair Rapozo: The motion passes. With that, that concludes today’s agenda items. We are adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:55 a.m.

Respectfully submitted,


JADE K. FOUNTAIN-TANIGAWA
County Clerk

(May 14, 2025)

FLOOR AMENDMENT

Bill No. 2951, Draft 1, A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMMERCIAL USE OF PARKS FACILITIES (*Kaua'i County Council, Applicant*) (ZA-2025-07 – *Planning Commission Recommendation*)

Introduced by: FELICIA COWDEN, Councilmember

1. Amend Bill No. 2951, Draft 1 by amending its SECTION 3 in pertinent part, by amending its proposed new Note P5 as follows:

“5. This use is subject to modified processes for Class I Zoning Permit application and post-approval protest. Prior to applying for a Class I Zoning Permit with the Planning Department, the applicant shall provide notice ~~[by]~~ by: (1) certified mail to all landowners of record within three hundred (300) feet of the parcel [boundary.] boundary, (2) posting a notice in an agenda of the Planning Commission, and (3) posting a weather-resistant signage notice in at least one (1) prominent location within the parcel boundary for at least thirty (30) days. When submitting the Class I Zoning Permit application, the applicant shall include an affidavit confirming completion of ~~[this notification requirement]~~ these notification requirements and attach a list of the landowner names, property addresses, and mailing addresses. If a written protest petition is filed with the Planning Department by more than fifty percent (50%) of landowners of record within three hundred (300) feet of the parcel boundary, within thirty (30) days of the date the applicant submits the Class I Zoning Permit application, the Planning Department shall deny the Class I Zoning Permit application and Planning Commission approval of a Use Permit shall be required. If the use is approved via a Class I Zoning Permit, but within any subsequent twelve-month period a written protest petition is filed with the Planning Department by more than fifty percent (50%) of landowners of record within three hundred (300) feet of the parcel boundary, Planning Commission approval of a Use Permit shall be required, and the use shall cease unless a Use Permit is approved.”

2. If any provision that is amended is also found elsewhere in Bill No. 2951, Draft 1, such language is hereby amended to provide consistency.
3. If more than one amendment to a section is adopted on this date, all amendments shall take effect to the extent there is no conflict. If there is a conflict, the latest amendment shall be controlling.

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

V:\AMENDMENTS\2025\2025-239 Bill No. 2951 Draft 1 Markets 300 Feet Commission Agenda Signage Notice (05-14-2025) FC_JA.docx

(May 14, 2025)

Attachment 2

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