

PUBLIC HEARING

MAY 10, 2023

A public hearing of the Council of the County of Kaua'i was called to order by Mel Rapozo, Chair, Committee of the Whole, on Wednesday, May 10, 2023, at 5:22 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

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

The Clerk read the notice of the public hearing on the following:

“Resolution No. 2023-33 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 FOR THE COUNTY OF KAUA'I,” and

“Bill No. 2896 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 Operating Budget*),” and

“Bill No. 2897 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 (*Fiscal Year 2023-2024 CIP Budget*),”

which were ordered to print by the Council of the County of Kaua'i on March 22, 2023, and published in The Garden Island newspaper on April 1, 2023.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Pursuant to Section 5A-6.3 of the Kaua'i County Code 1987, as amended, the Kaua'i County Council hereby announces its intention to fix the Real Property Tax Rates for Fiscal Year 2023-2024 on May 31, 2023 at 8:30 a.m. or soon thereafter in the Council Chambers located at 4396 Rice Street in Līhu'e. We have two (2) registered speakers.

Committee Chair Rapozo: Okay. Could we have the first speaker?

Ms. Fountain-Tanigawa: The first speaker is Tessie Kinnaman, followed by Steve Parsons.

Council Chair Rapozo: Okay.

TESSIE KINNAMAN: Talk about déjà vu. *Aloha* Council Chair Rapozo and Councilmembers.

Councilmember Kagawa: *Aloha.*

Ms. Kinnaman: I am Tessie Kinnaman, for the record. I am here to speak on Bill No. 2897 to ask for action to resubmit a request for Resolution No. 2016-60 which refers to the Hoban property down at Spouting Horn. The last time the last resolution was passed in 2019, if I am not mistaken, and I think it was Derek Kawakami's last term on the Council. That resolution passed six to one (6:1). I would like this same resolution to be resubmitted and this time I would like to see some action on it, because it has been sitting there dormant for about five (5) years. I know resolutions last only a year, but still this has been going on since the seventies ('70s), more into the eighties ('80s). The latter part of the seventies ('70s), the access was open and then when they built their wall around their property, access to the shoreline was cut off. What you are looking at right now is the exhibit that was already recorded by the Bureau of Conveyances. The second page is also recorded as a footpath easement. The ironic thing about it is that the County owns that strip. Why should we be paying the landowner for that? The recent assessment, from my recollection, was started back in 2006 when Michael Tresler was the Director of Finance. He had done an appraisal that was an over the fence appraisal. I think that was ninety-one thousand dollars (\$91,000) and then the most recent one went up to a hundred and fifty-two thousand dollars (\$152,000) for that six (6) by sixty (60) strip for public access. The last that I recollect is that Mauna Kea Trask who was the then County Attorney came and spoke on it on 2019 or 2018 that we put six hundred thousand dollars (\$600,000) into an escrow account to get the thing going. I guess, it would be if we had to pay for that strip and any improvements that need to be done. The financing would come from Open Space funds or bonds, or for that matter it could come from Kukui'ula community funding district which is...and write this down, Ordinance No. 872 and that Ordinance...

Council Chair Rapozo: Ms. Kinnaman, I will have to stop you. It is your first three (3) minutes.

Ms. Kinnaman: Oh, I am sorry.

Council Chair Rapozo: Do you have a lot more?

Ms. Kinnaman: I hope not, but I have some more.

Council Chair Rapozo: Okay. Let us get the other speaker up and you can come back for your second round.

Ms. Kinnaman: Okay.

Councilmember Cowden: I just have a question. Is this an agenda item?

Council Chair Rapozo: She is testifying on the Budget.

Councilmember Cowden: Okay, on the Budget. It is for the Budget. She is asking for this to be added to the Budget?

Councilmember Kualii: It is for the public hearing.

Council Chair Rapozo: Yes.

Councilmember Kagawa: To be funded or whatever.

Councilmember Cowden: To be funded?

Council Chair Rapozo: Yes, three (3) and then three (3).

Councilmember Cowden: Okay.

Council Chair Rapozo: You have three (3) minutes and then if you have additional testimony, you can get a second round after everyone has testified.

STEVE PARSONS: Great, thank you so much.

Council Chair Rapozo: If you could just state your name for the record, please.

Mr. Parsons: *Aloha* honorable County Council. My name is Steve Parsons. Before I get started, do you folks mind if I smoke a cigar?

Councilmember DeCosta: No. We do not light up cigarettes in here.

Mr. Parsons: Gosh, bummers. Why not? Well, let us see, because it has been proven it is harmful to our health, right? Then why would you allow purchase of fossil fuel burning vehicles and tools to expose employees to harmful exhaust, let alone adding to the destruction of ecosystems that give us life and are more expensive? For example, in my written testimony to you folks, I included a link to a Police Department that is saving eighty thousand dollars (\$80,000) over the life of one (1) vehicle by switching to a Tesla Model Y. Please strike all fossil fuel vehicle purchases and tool purchases from the Budget and ask heads of departments to look for electric alternatives. Just a quick reminder on fossil fuel propaganda, or the spread of fear, uncertainty, and doubt (FUD), if I said today tobacco does not cause cancer and it is not bad for you, case in point, you would know that was not true. However, outlined in the book Merchants of Doubt the fossil fuel industry hired the same scientists as big tobacco to say that fossil fuel pollution does not cause climate change. These bad players still spend millions of dollars a year to say things like, "Be afraid, electric vehicles (EV) catch fire," and that is a reason maybe not to buy them. However, the actual results from a study show that gas vehicles catch fire a lot more than EVs, specifically one thousand five hundred (1,500) fires per one hundred thousand (100,000) gas vehicles and only twenty-five (25) fires per one hundred thousand (100,000) EVs, so please be sure to fact check yourselves and each other when you hear FUD around green energy solutions and progress. What is wrong with the gas equipment that the County is using today besides it stinks? Two-stroke engines are terribly inefficient of fuel

burning, greater levels of air pollutants are produced, carcinogens and increases the risk of respiratory illness. Many municipalities are switching and saving lives. Morally, it feels great knowing that you are helping to save lives and ecosystems like our coral reefs that suffer from ocean acidification and ocean heatwaves. For Kaua'i, however, the news gets even better. As we quickly electrify Kaua'i, it grows green jobs via Kaua'i Island Utilities Cooperative (KIUC). Lots of electricians and new businesses support the transition. Also, it keeps all that green cash on Kaua'i versus sending all that money off island. From power tools to lifeguard services and Police fleets electrify everything we can, please, as soon as we can. Imagine a clean Kaua'i free from all that nasty climate pollution. It is starting to move that way, but we need to move faster to save ourselves and the next generation from the worst effects of climate change. Let us electrify Kaua'i fast and save money. Thank you so much for your time and everything you do personally and professionally, more importantly professionally, to fight climate change. Does anyone want a cigar? I hate these things. I hope you got the point, though.

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

Ms. Fountain-Tanigawa: Chair, we have one more speaker.

Council Chair Rapozo: I am sorry.

Ms. Fountain-Tanigawa: The next registered speaker is Jeff Lindner.

Council Chair Rapozo: Jeff?

JEFF LINDNER: This is the real estate...

Ms. Fountain-Tanigawa: This is for the Real Property Tax Resolution.

Councilmember Cowden: No, this is the Budget.

Council Chair Rapozo: This is the Budget.

Councilmember Bulosan: The Budget.

Council Chair Rapozo: The Budget.

Mr. Fountain-Tanigawa: The Real Property Tax Resolution is what he wanted to say.

Councilmember Kagawa: The Real Property Tax Resolution?

Council Chair Rapozo: The Real Property Tax Resolution?

Mr. Lindner: The Real Property Tax Resolution.

Council Chair Rapozo: Yes.

Mr. Lindner: Oh, that is perfect.

Councilmember Kualii: It is all part of the Budget.

Councilmember Cowden: Well, we have got this Resolution in there on the last pages.

Council Chair Rapozo: This is for real property tax rates.

Mr. Lindner: Okay. Jeff Lindner. *Aloha County Council*. I appreciate the Real Property data you got. That was very informative. I guess the one thing that stood out for me was that there is the taxes, we see that the Resort and Hotel are paying the highest tax and then Residential Investor, but you have to look at the assessment to really figure out who is paying the most or what share each class is paying. I was surprised that Residential Investor was paying half again as much as Hotel and Resort. Then I started thinking about it and I realized the County Charter says the Real Property is supposed to assess for the highest and best use, but at the same time their position is they do not assess for density, which is not really true because when you come to a residence, a residence is one house, most people have their house on a residence, and so that is pretty much the highest and best use because there is no other density on it. When it comes to agriculture maybe you can have one thousand (1,000) acres and maybe there are five (5) houses on it—that is the most you can have. Still, it is pretty close. But when it comes to Commercial or Residential, basically you can have R-4, you can have R-40, but the County does not assess for the density. In that sense, it is not exactly apples to apples because they are assessing highest and best use in some areas and some they are not. When you also look at Condominium Property Regimes (CPRs), if somebody puts a CPR map in, say, ten (10) houses, they assess one (1) house for every CPR. Even if you put a map in, they are figuring it as a house. The issue about having, and some of this R-4 in Līhu'e is particularly Grove Farm and Alexander & Baldwin, but some of that R-4 has been sitting there for twenty (20), thirty (30) years and they are not assessed for it? I guess, should I stop and come back?

Council Chair Rapozo: Yes, and then you can come back after we go through everyone.

Mr. Lindner: Alright. Thanks.

Council Chair Rapozo: Thank you.

Mr. Lindner: Yes.

Council Chair Rapozo: Is there anyone else that has not registered that would like to speak?

Councilmember Kualii: For the first time.

Council Chair Rapozo: For the first time.

JD HANSEN: JD Hansen. Thanks to the Council for having this public hearing. I have been coming to the island for about twenty-five (25) years. I bought six (6) years ago with the intent of moving here full time, which we did

eighteen (18) months ago. My wife and I retired. We were classified as Residential and to my surprise, we got a letter saying, "Residential Investor." Now, I have done the appeal and next year I will be qualified for Homestead, but it was a surprise why I am listed as a Residential Investor. I am not going to sell it. I have planted my flag here. That was a question I have. I am not sure what that classification is and why I have been boosted up from six (6) per thousand (1,000) to nine (9) per thousand (1,000) in one (1) year. My appeal has not come back yet, but I did not know if anybody has an answer for that.

Council Chair Rapozo: I can answer it. Basically, the Residential Investor was based on a threshold of one point three million dollars (\$1,300,000), so if your home was valued one point three million dollars (\$1,300,000) or higher, you would automatically be bumped up. That was a problem, so the Council passed a Bill that provides for...Did you apply for the tax credit?

Mr. Hansen: I applied for the appeal for the classification.

Council Chair Rapozo: Okay.

Mr. Hansen: I bought my house before the explosion of...

Council Chair Rapozo: Yes, so you will more than likely not have a tax bill next year. You will get a tax credit for the difference of the Residential Investor versus the Residential. After you have lived here for a year, or whatever it is, you can go in and get the Homeowner Exemption and your tax will even drop further.

Mr. Hansen: Yes, I will do that next year.

Council Chair Rapozo: Yes.

Mr. Hansen: I was just concerned about everybody else, because I have got my solution going. I will have the Homestead.

Council Chair Rapozo: Yes, you and a bunch of others got hit by that Residential Investor. The last Council was relatively quick to respond and amend that Bill, so now it gives everyone an opportunity to come in and apply for that credit.

Mr. Hansen: Which I have done. Okay. Thank you very much.

Council Chair Rapozo: Go ahead.

Councilmember DeCosta: I have a question for you. May I ask? When you bought the house on Kaua'i, did you still have another house on the mainland?

Mr. Hansen: No.

Councilmember DeCosta: Were you renting in the mainland?

Mr. Hansen: On the mainland, yes.

Councilmember DeCosta: Okay.

Mr. Hansen: With the full intent of coming here.

Councilmember DeCosta: I was just thinking if you had residency in the mainland maybe that is why they considered your new home on Kaua'i a Residential Investor property.

Mr. Hansen: Well, that just came last year. I have been retired here for eighteen (18) months and I had a full year of Residential classification. Then I got the letter and went, "Oh, maybe I have to do something about it." So, I have done that.

Council Chair Rapozo: You have done it.

Mr. Hansen: I am also speaking for the other retirees that are on a fixed income.

Council Chair Rapozo: Yes.

Mr. Hansen: If they get surprised with six (6) to nine (9).

Council Chair Rapozo: They were all notified and they applied, so they should all be getting a tax credit.

Mr. Hansen: Okay. Well, I appreciate your time.

Council Chair Rapozo: Thank you.

Mr. Hansen: Thank you.

Council Chair Rapozo: Thank you for coming in. Is there anyone else wishing to speak for the first time?

SHERRI CUMMINGS: Sherri Cummings. I do not pay attention to the agenda, so I am sorry. I do not know where you folks stand on this right now. What are you folks doing?

Councilmember Cowden: The Budget.

Ms. Cummings: Yes, I get that much. I am talking about real property tax. Somebody who came to mind was Mary Silva and I know you know the situation, Council Chair Rapozo, with Mary Silva and her four (4) properties. I think

she told me that she spoke to you about how improper it was for her every year. She had those lands from her grandmother. She held on to these lands. This is her third generation and the family does not think they can afford at this present time. I just see a major disconnect with how you folks are doing this kind of real property tax and giving benefits to individuals who come in, no disrespect to the gentleman behind me. Somebody, who comes here for six (6) years, will receive what I just heard now is a rebate or a tax break, and you have a lady who is taking care of affordable rentals. She said, “Sherri, you know, I probably raised it two hundred dollars (\$200) I think was the most, in a matter of maybe fifteen (15) years.” And she said, “I will never raise it,” because she wants to be part of the solution and not the problem, but she is getting taxed out of her property. I heard when you folks spoke earlier about these tiered systems, I did not see anything, maybe I was not paying attention, regarding how you folks were going to take care of people who live on these islands for generations and are still trying to hold on to their piece of property. She said I was part of the program for Housing and Urban Development (HUD) housing. She gave to our *kama‘āina* and it is ridiculous. I told her you have got to be kidding me how much they increased her real property and the assessed value is nuts. This gentleman right here, Mr. Lindner, just gave me a perfect example of how you folks talk about highest and best use but yet she cannot. She is a single person, no husband. One family member lives away. Only one person is helping her. She does not have the means to make it the highest and best use of the place, but she is being taxed out. How do you go ahead and take care of people like that? That is my only *manao* to the situation. *Mahalo.*

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: Yes, this may help. The best way for all of these discussions, Mr. Lindner included, is to have your discussions with the Mayor, Managing Director, and the Director of Finance, because there are twenty thousand (20,000) stories that are all different. As they try to develop policy, they try to balance and satisfy as much as possible the equality. Looking forward for the longtime residents, working families, of course, are first, I think they develop a policy. When they bring it here, we just say, “Yes,” or, “No.” They have all the experts at work, full-time, on these issues so those are the best places to go. I think that is the best way we will get the best outcome.

Ms. Cummings: I thank you for that comment. I am not here to defend Mary Silva, but I want to say that that is where she goes to every year. She goes to the Director of Finance and she goes to Real Property and this is what they tell her. They tell her that she is a unique person, that there is no other land here on this island that has that same type of use as hers. She has land that is *kuleana* in Lāwa‘i on that south shore. So, because she is identified as somebody of significance, they do not know how to charge real property, they turn around and assess her at a value that she is not going to be able to pay. We go every year to Real Property and that is the same answer she has every year—she is uniquely different. At one point

in time, the County wanted to buy from her. That is what she said. They wanted to buy her property because they wanted to turn that place into an area because they had that heritage center for *kūpuna* over there, but it fell through. When she was not going to sell to them the value went up. This is what we got.

Council Chair Rapozo: Thank you. We will be working on the new tax code right after we finish this Budget. There is nothing we can do now to impact the taxes because we are in the middle of the tax cycle. Once we are done with our Budget, we will be working with the Finance Department to get a new tax, hopefully, a good Bill relating to real property taxes before October. It needs to be passed out of here by October to take effect. That is the plan.

Ms. Cummings: All I say to this is we do not have that much *kama'āina* that actually has real property, so it is not as hard as you folks make it out to be. You have more foreign investors and more people coming in here that are using their property for other types of uses.

Council Chair Rapozo: Yes, and we will deal with all of that.

Ms. Cummings: *Mahalo.*

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify for the first time? If not, who was the first testifier?

Ms. Fountain-Tanigawa: Tessie Kinnaman.

Council Chair Rapozo: Tessie?

Ms. Kinnaman: Again, Tessie Kinnaman, for the record. I left off at how this was to be financed, and I spoke on the...

Councilmember Cowden: Open Space funding.

Ms. Kinnaman: Open Space fund or bonds or the Kukui'ula Community Funding District Program. That is Ordinance No. 879. Also, that program, the last amount that Kukui'ula gave to the County was in 2019, that I know of. I do not know if it has happened lately, but it was twenty-three million dollars (\$23,000,000), so there is money. There is money. There is money. This is the Resolution and four thousand (4,000) signatures that is on file here from 2016 or 2017. I do not know when it was, but it was a 2016 resolution. The reason for this is because of gathering rights, Article 12, Section 7. It ensures protection of traditional and cultural native Hawaiian gathering rights exercised for subsistence, cultural, and religious purposes. That access has been blocked for over forty (40) years and it is time that it is opened up. The last time I looked at the property, they were doing survey, but the survey ended right at that point where this strip begins to the

westerly property, six (6) feet and there is a wall there and a telephone pole with electrical lines in front of it. Something needs to be done. I am tired of coming over here trying to see some action and I do not know what else to say. If you can follow up on that Ordinance No. 872, the Kukui'ula Ordinance, that would really help because we could get some funding from that, too.

Council Chair Rapozo: Staff, if we could just follow-up on that. I remember the discussion. This property was on the agenda for quite a while. I just thought we had completed that public access, but apparently not, but we will follow up. We will follow up.

Councilmember Kagawa: We approved the Resolution, so the Council did its part. I think it then went to the Open Space Commission and it got hung up there for some reason, perhaps lack of appraisal or lack of agreeing with the price that they wanted. We can go back now, it is going to be much higher, and we are going to run into the same problems. It is just whether we want to fund it or not. And if we fund it, Open Space might still not pay it. The Council did its part in 2016 on this issue.

Ms. Kinnaman: I think one of the problems is that I do not think there was an attorney that wanted to take this on for condemnation. The appraisal is nothing because I do not think the appraisal is going to cost that much. It should not even cost us anything because we own that property.

Council Chair Rapozo: It is our easement.

Ms. Kinnaman: It is our easement, so why should we have it appraised?

Council Chair Rapozo: Yes, we will follow-up because I do not know. I cannot remember. Like I said, I thought that access was granted.

Councilmember Kagawa: I remember. They wanted a lot of money for us to have that right to do it. They disputed the easement question and whatnot.

Ms. Kinnaman: Well, we have the Bureau of Conveyances and all of our paperwork, so it should be easy.

Councilmember Kagawa: But not for a Councilmember. We are not attorneys.

Council Chair Rapozo, the Presiding Officer, relinquished Chairmanship to Council Vice Chair Kualii.

(Council Chair Rapozo was noted as not present.)

Ms. Kinnaman: I know, but we need to find an attorney who would like to do this.

Councilmember Kagawa: Alright. We will look into it.

Councilmember Kualii: Tessie, please wait. We have another clarifying question.

Councilmember DeCosta: Did you and I serve on the Open Space Commission when we looked into this Hoban property?

Ms. Kinnaman: Yes, this was way back.

Councilmember DeCosta: We did. I remember that and we were going to acquire that even if it did not have a stonewall at the time. It did not, right? The access was there. It was open, but they tried to block it.

Ms. Kinnaman: No, there was a wall already.

Councilmember DeCosta: There was a wall?

Ms. Kinnaman: Yes.

Councilmember DeCosta: But not the telephone poles? Now they put the posts?

Ms. Kinnaman: No, the post was there, too.

Councilmember DeCosta: It was there?

Ms. Kinnaman: They built it. They built the wall in from the telephone post.

Councilmember DeCosta: It was 2003 that I think you and I were on the Open Space Commission. That was twenty (20) years ago and we still have not solved it. Okay.

Ms. Kinnaman: I hope to see it open before I *make*. You know what I mean?

Councilmember Cowden: Thank you.

Councilmember Kualii: Thank you. Next for their second time.

Ms. Fountain-Tanigawa: Next is Steve Parsons, followed by Jeff Lindner.

Mr. Lindner: Yes. I guess what I am saying is either the County should assess for highest and best use or not. If you are going to highest and best use, then you should assess for density. It is not going to affect anybody but hotels and resorts, and you will get more money. People are sitting on R-4 or R-whatever for ten (10), fifteen (15), twenty (20) years. They are more likely to put it out there to the market because nobody wants to sit on it and pay taxes, so that is an incentive to do it. Otherwise, I do not see a density to commercial, but it basically upzoning. They will upzone and then nobody has to do anything about it until they actually build, until they actually do the subdivision. That is the understanding that I have of County policy. I am glad you folks are going to work on it and look at everything. Thanks.

Councilmember Kualii: Thank you. Anyone else for a second time? Okay. Seeing no further testimony from our public hearings, the public hearings are closed.

There being no further testimony, the public hearing adjourned at 5:52 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk