

COUNCIL MEETING

JULY 10, 2024

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Vice Chair Kualii at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, July 10, 2024, at 10:15 a.m., after which the following Members answered the call of the roll:

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

Excused: 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 Kagawa moved for approval of the agenda, as circulated, seconded by Councilmember DeCosta.

Council Vice Chair Kualii: Is there any discussion or public testimony?

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

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

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

MINUTES of the following meeting of the Council:

June 26, 2024 Council Meeting

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

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

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

The motion to approve the Minutes, as circulated, was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

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

SPECIAL ORDER OF THE DAY:

Bill No. 2914, Draft 3 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 9, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING

Councilmember Cowden moved for adoption of Bill No. 2914, Draft 3 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Bulosan.

Council Vice Chair Kualii: Is there anyone in the audience wishing to testify? Is there anyone registered to testify?

LYNDON M. YOSHIOKA, Deputy County Clerk: First registered speaker is Ana MoDes, followed by Alice Parker.

Council Vice Chair Kualii: As a reminder to the public, this is our Residential Workforce Housing Credits Bill, that has been worked on in Committee Meeting several times. The relating Bill went to Council for the final vote at our last meeting two (2) weeks ago, and the vote was a 3:3 tie, due to an absence, so it has come back. Go ahead.

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

ANA MODES: I see, thank you for the clarification. *Aloha*, good morning or good afternoon, Councilmembers. My name is Ana MoDes. This has been something that I have been vocal about, pretty constantly, the need for attainable housing. The concept of affordable housing does not meet the mark of the necessity of the community. Two (2) years ago, when I ran for State Senate in the Hō'ike video, I spoke about Peter Savio's proposal in the housing solutions, and there is an element of that in this Bill, but I do request that it has been tabled to now for you to take into consideration, and invite him to speak on the issue. There is an opportunity to solve the crisis. Therefore, when we are discussing attainable housing and you are having a proponent be a deed restriction when it comes to sale, there is an element that was discussed, and I did hope that many of you would have attended when James R. "Duke" Aiona, Jr., was running for Governor, but if he can be invited here and you can hear directly from him as an expert as to why this is something that should be considered before taking a measure like this, and this builder is just way more complicated than it needs to be. When we can reach for attainable housing where there is community members that come in, and as a County, you can serve to provide the infrastructure that limits the developers from making attainable housing,

a price-point that we can all reach, it just...it is a missed opportunity if we do not take into the scope of how we can change our thoughts and approaches to solve this crisis. We are all work force. When I hear workforce housing, this has been a few years that has been discussed and promoted, and honestly it makes the island seem that eighty percent (80%) of that is “uber rich” with all the rest of us as servants, and that is not the case. There is a small percentage that is uber rich that are in a servant position, but all of us are in the workforce. Everyone in this room all work. Even owners of businesses, they work harder than their employees, they are there all the time, restaurant owners, bouquet owners, and we have to consider the fact that Kaua‘i is workforce completely, and so to have a model where that is attainable for people to live, to earn equity, to send their children to college, this is what we should be aiming for. If you can please bring in Peter Savio, hear from him or even call him on the phone, it does not have to be a “Council Meeting” thing, just to have this perspective brought into your decision making for the future of attainable housing on Kaua‘i. I would really appreciate it and I am here for any questions if you have any at this time.

Council Vice Chair Kualifi: Thank you. Can we have the next registered speaker?

Mr. Yoshioka: The next registered speaker is Alice Parker, followed by Kanani Kagawa.

ALICE PARKER: Alice Parker, for the record. Actually, I misread it. I was thinking it was low-income and houseless housing, and I wanted a social component funding in that too, so I apologize.

Mr. Yoshioka: The next speaker is Kanani Kagawa, followed by Sherri Cummings.

KANANI KAGAWA: Good morning. Kanani Kagawa, for the record. Hi! Just here, first of all, as-is, I oppose this Bill. I think I may have spoken to each of you individually about it for my reasons, but I will just go ahead and reiterate why, and educate a little more. To echo, similar to what was said earlier, this does not help workforce housing. The biggest issue we have right now is workforce, and none of this is going to help. Just off the top of my head, education—when we implement bills like this, we should have, at the minimum, do a proforma or financial analysis for the cost and benefit of implementing such a bill. When we pass housing laws...it is morally or actually good practice to get a nexus analysis, consult with a bunch of experts, a work group, people who are actually building housing for the workforce and get their advice and opinions. This was taken back into your work group, where I see no experts that actually facilitated the development of workforce housing or for this Bill. It lacked a lot of expert integration. Just like if we passed a property tax bill that is going to impact the public, we do it with an analysis. “You folks all sit with a financial proforma,” the cost of implementing such a credit to the benefit of the public. You folks do not know how this will benefit anyone sitting in this room. That was a discussion that we had. It is not about the issue that we do not want workforce housing. This will be detrimental to workforce housing and the people we are trying to help, that you folks think you are helping, but it is not going

to help. I believe many experts have approached you about this issue, really openly expanding, this is not the way that we are going to provide workforce housing. I would like to consider myself very versed in this. I would go out and lean on experts on housing and I would not recommend passing this without a financial analysis. I called on the Housing Director and the leadership of the Administration to run a proforma for you folks, so you can understand the implications of this financially. Can any of you tell me where this money will go and will come from, what these credits are going towards, what development will sign it, and also furthermore, if any of you on this Council has a financial interest with any developer that will be impacted by this Bill, you cannot take a vote on this. If you sit on that board, paid, nonpaid, we have to be very careful about this. That is why the working group would have mattered for us, including the developers. Whether you work in the private, the public, it needs to have taken place. That conversation needs to take place. If you look at all the (inaudible) happening now in politics, everyone cares about affordable housing and infrastructure, and yet you folks are going to pass a bill without even including a workforce group?

Council Vice Chair Kualii: I am sorry, that is your time.

Ms. Kagawa: Thank you. I will come back.

Council Vice Chair Kualii: Okay, thank you.

Ms. Kagawa: I have been asking you folks for a workforce group on this.

Council Vice Chair Kualii: Thank you. Ms. Cummings.

Ms. Kagawa: Thank you.

SHERRI CUMMINGS: Sherri Cummings, for the record. I am not for the Bill. Primarily this...we are talking about selling housing credits or tax credits to large developers from Kaua'i Habitat for Humanity (Habitat) whether it be from the Department of Hawaiian Home Lands (DHHL), because they can do that also. It does not ensure us, the general public, that we are going to have affordable housing. For me, it is scary. I need trust in my chairman. Right now, he "batting" real low for us as beneficiaries of the trust. My past chairman, amazing project he did, same concept. Sold the credits because they can, but they made sure that the developer, the percentage of that development went to beneficiaries of the trust. We do not have any assurances, so I am against this. If you folks do implement where Habitat, DHHL, or others can sell their credits, put it in writing the "shall" and what is required, and not just give us money, because DHHL was perfect people to "prostitute" our lands for administration and operating costs. Assure us through verbiage, not the maze and not so pessimistic words that they going find a loophole that they can just get the money and we do not get the housing. Make it so that it is that they will. To me, this is another way of the affluent being one place and the nones being in another place. We should be like one community where we have everyone in the same geographic area. Do not separate us by the money, power, and the average people—that we are all fighting for open space, so we can gather, etcetera. We are the

richest on this island and we live the poorest, what is the problem? You folks can help us. Again, if you folks have any interest in this decision-making, get off. Get off from voting. Whether or not you hold yourself in a capacity of nonprofit work, for-profit work, declare yourself. Thank you.

Council Vice Chair Kualii: Is there anyone else wishing to testify for the first time? Is there anyone for a second time? Please come forward, Ms. Kagawa.

Ms. Kagawa: Hi. Thank you for letting me continue with why I disagree with this Bill. I came off the coconut tree. Okay, furthermore, let us cut through language and law. I am confused, because I am a stickler. If you read Section 7A-9.4.1(a)(1), (2), (3), (4)—do we have to do one (1) of those, or is it an “and” or an “or”? That is all. I am quite unsure. “The Housing Agency may issue credits, upon request by a developer, provided that,” and you have (1), (2), (3), (4), (5), (6), and then we go to “b.” As a developer and I wanted these credits, do I have to do all of them or just one (1)? Is it an “and” or an “or”? What is the intent, because it makes a big difference if we have to do just one (1) or all. If we have to do all and we going put the word “and,” then maybe I might lean into supporting it. Can we make that clarification before we even consider passing this? If that is a “yes,” make one consideration and pass this, and I am done talking, and we can talk offline, and I will stop making it public of why I am in opposition of this.

Council Vice Chair Kualii: Thank you. Is there anyone in the public wishing to testify for a second time? Can I ask the Housing Director to come up?

Councilmember Kagawa: I have a process question.

Council Vice Chair Kualii: Sure.

Councilmember Kagawa: At the last Council Meeting, there was a tie vote.

Council Vice Chair Kualii: We could have a tie vote again.

Councilmember Kagawa: If it is such a close vote, then we are missing our Council Chair, one (1) option would be to refer the Bill back to the Committee and the details. I know we frown upon repeating ourselves in Committee, but there is an opportunity to really vote on this as a full Council, and it is a tight vote and not “clear cut” for everyone.

Council Vice Chair Kualii: We do not know what the vote it, so it could be 3:3 or 4:2, it could be anything. If the vote is 3:3, then we need the Council Chair, but I think process-wise and democracy-wise, we have worked on this for a long time, we are at this point.

Councilmember Kagawa: I understand.

Council Vice Chair Kualii: Housing Director Roversi, I wanted you to answer the last question regarding the Bill. The testifier asked if it was one (1) or all.

ADAM P. ROVERSI, Housing Director: *Aloha*, Adam Roversi, Housing Director for the County. Following Section (a), all the numerated conditions all apply, housing credits...

Council Vice Chair Kualii: All of them.

Mr. Roversi: ...for the issuance of credits, every one of those provisions applies. It is not an either-or situation.

Councilmember Cowden: For clarification, it means "and." They have to do (1), and (2), and (3)—all of them have to be met.

Mr. Roversi: Correct.

Council Vice Chair Kualii: All means all.

Councilmember Cowden: Okay, I just wanted to make sure.

Council Vice Chair Kualii: Are there further questions for the Housing Director before we take our final vote?

Councilmember Cowden: Yes.

Council Vice Chair Kualii: Councilmember Cowden.

Councilmember Cowden: When we talked about this, this is one (1) tool of many, right, for addressing housing needs. I tried to look up Peter Savio as was suggested, can you speak to what is being asserted that when we buy these credits, can those credits be purchased and then the money goes to another developer that hopefully will then build those places, but we do not know that it will build new places, right? It might back pay different costs. If someone buys twenty (20) credits, do they have to build twenty (20) houses?

Mr. Roversi: By the terms of this Bill...let me clarify, the Housing Agency is not handing anyone any money, and is not purchasing any credits...

Councilmember Cowden: This is private to private. I understand that.

Mr. Roversi: We are establishing space for a private market to assist with privately financing housing developments. The way this is laid out, under the current housing policy without this Bill being in place, any private development is required to build a certain percentage of their overall projects as affordable housing. If they voluntarily elect to build more than they are otherwise required to, they may request to receive credits for the additional workforce housing that they build. If they can find a buyer, they can sell those credits to another developer who has a workforce housing requirement, subject to the conditions that are laid out in this Bill. That second developer who purchased the credits may use some of those credits to offset only a portion of their workforce housing obligation.

They are still required, if this Bill passes, to still build fifty percent (50%) of the units required or deal with the County through the other options that are available to them under the current housing policy. The developer who receives the credit, sells it to someone and gets cash back is required by this Bill to use the proceeds of the sale of that credit for the development of affordable housing. That is item (1) in this Section. They cannot take the money and do something completely unrelated to housing. The sale of that credit and that developer's receipt of funds, by the terms of this Bill, will provide financing for that private developer to build affordable housing, which is broadly speaking, the intent of this credit system, which is to establish a means of either for-profit or nonprofit developers who are interested in building housing to finance their projects outside of County direct funding or having to go to the State through the competitive application process that most affordable housing developments are dependent upon. It is attempting to establish in a small way, like you mentioned, just one (1) more small tool, it is by no means that I am suggesting to any of you that this is some sort of "silver bullet" that is going to miraculously solve our housing attainability or affordability crisis, but I think it could be helpful.

Councilmember Cowden: Thank you all for your patience, because I am repeating a question that I basically asked before. I will be honest; the policy is confusing to me. When developer "a" buys credits from nonprofit "b," between the two (2) of them, they negotiate that price per credit, right? Therefore, if they buy it for two hundred thousand dollars (\$200,000) and we all know it cost seven hundred thousand dollars (\$700,000) to build something, it might be at that nonprofit "b" can build something for two hundred thousand dollars (\$200,000), but developer "a" has already made more than they need to make, right? No? No, that is not correct. Nonprofit "b" has developed more...what my worry is, is if it is at market negotiation that if nonprofit "b" is desperate to get some funding, they might get an under payment, so we do not end up with enough units, that is what my worry is. It is not easy and clear. There is good and there is bad of both. The bad is that we do not get any units or not enough units.

Mr. Roversi: Well, you should think about this as you are getting additional affordable housing units on day one. The only reason these credits are being issued in the first place is because a developer has gone over and above to build more housing units, more affordable housing or workforce housing, than our housing policy currently requires. On day one, if the potential receipt of credits motivates these developers to build more affordable housing with the potential upside of getting a credit, you have won from the start, and whether they...what they sell that credit for and the amount of money it is able to bring into their organization to, again, required under this policy, put into more affordable housing, whether that is two hundred thousand dollars (\$200,000) or three hundred thousand dollars (\$300,000), that is somewhat irrelevant, because we have gotten the actual affordable units from the start.

Councilmember Cowden: But if there is a resort that is being built...I am just bringing real reality problems that are right now, they cannot possibly find enough people to work their hotels, so they are pushing workers into hotel rooms. These are discussions that I am having directly, right now. I am trying to figure out ways for them to find a place for their people, but in my view, they should have

already built these things before they build the hotel, right? That is what normally is the case. We are seeing another hotel being built, so that they get to finish the hotel before they must provide the units.

Mr. Roversi: If I could respond to your hypothetical.

Councilmember Cowden: Yes.

Mr. Roversi: So, any new hotel that were to seek a building and zoning permit to build today is required to build workforce housing units.

Councilmember Cowden: We have one coming up in Wailua that does not have to build workforce housing until after they get their notice of completion.

Mr. Roversi: If you are referring to Coco Palms, they have to build workforce housing units that are completed and ready to be occupied before they get a certificate of occupancy for their hotel. Therefore, that hotel, by the terms of their housing agreement, may not open until the housing units that they are required to build are complete.

Councilmember Cowden: Okay. Alright.

Mr. Roversi: That is the housing agreement that they...it was actually approved by County Council. That housing agreement predated the current housing policy.

Councilmember Cowden: Those are just some of my questions.

Council Vice Chair Kualif'i DeCosta: Are there further questions? Councilmember DeCosta.

Councilmember DeCosta: It seems like some of these questions should have been asked long before we come into making a vote today. We need to make a vote on this. I am interested in what my constituent Kanani spoke of. Did you correspond with her? She claimed to be an expert and I am on this Council to learn, to observe, and to listen. I learned from Dr. Bulosan last week on the bill relating to alcohol, I changed my vote. I am against this, and I will tell you the reason. Kanani has a good point. Did you correspond with her? Her vision on this as working for a developer, does she make sense of what she is saying? Can we get an analysis? Why did we not get an analysis on this?

Mr. Roversi: To be honest, I am not exactly clear what Ms. Kagawa's point was. From her testimony, I am not sure what the objection is. As far as having a working group, I do not think it is necessary. We had multiple community meetings to discuss this relatively narrow policy. There have been multiple working groups in the past to review the housing policy and none of them were able to come to agreements within themselves to present any concrete recommendations to County Council. These working groups were sponsored in the past by Council. I do not think having a third working group on this narrow item

would necessarily be productive. As far as the proforma is concerned, that was one of the other questions. As I mentioned, this is not requiring the outlay of any funding by the County, so there is no cost to the County by implementation of this policy. The financial ramifications of the sale of a credit, how much should it be sold for is between the recipient to the credit and a developer who wants to buy them. I think that is not particularly relevant to whether this would be successful as a policy of generating additional workforce housing.

Councilmember DeCosta: Do you not see that this benefits the group that can sell the credit and the group that will buy the credit? Those two (2) groups will benefit, and that is all because of this Bill, correct? You have the seller on the credit and you have the buyer of credit. The seller of the credit is Habitat, because they build affordable housing. The benefit of the person buying the credit is the multi-billionaire developer who now does not need to build affordable housing, because they just bought themselves fifteen percent (15%)—that is all they have to build. A small chunk. Am I correct?

Mr. Roversi: No. No, you are not. As we discussed before, under the current housing policy without this credit system, a developer can simply write a check. They are not required to build physical housing units, that is the current housing policy. This credit system simply modifies that slightly, that continues to direct the possibility that some of those in-lieu fees can be paid to the County, it requires that if they opt for the payment of funds, at least fifty percent (50%) of it still has to be paid to the County. It is simply opening another opportunity for funding private projects. It takes some of the burden of housing pressure off of the County. My point is that it is not changing the playing field for a current profit-driven market-oriented developer. They are under the current housing policy, and they have an option of just writing a check. They are not required to build physical units.

Council Vice Chair Kualifi: Councilmember Cowden.

Councilmember Cowden: I guess that brings up the problem of the in-lieu fee, which I believe is one hundred seventy-five thousand dollars (\$175,000), is an example of a ridiculously low amount. I know I was pretty bitter about a development that happened, and that developer is in the room where they paid such a low amount for their in-lieu fee for that housing that they had to do. Do I have that right? Is it one hundred seventy-five thousand dollars (\$175,000)? Is that the amount?

Mr. Roversi: It is more complicated than that. I will layout the details. We will use a concrete example. A developer is required to build ten (10) workforce housing units. They have to build thirty percent (30%) of those units to serve families who make eighty percent (80%) of area median income (AMI) or below, forty percent (40%) of those housing units have to be for families who make one hundred percent (100%) AMI or below, and the remaining thirty percent (30%) have to be for families who make one hundred twenty percent (120%) AMI or below. Each of those percent categories has a different in-lieu fee attached, so the low-income units have about a two hundred fifty thousand dollars (\$250,000) in-lieu fee. One hundred twenty percent (120%) AMI units have a lower in-lieu fee. If you average them

altogether, the back of the envelope math was that it is around one hundred seventy-five thousand dollars (\$175,000). The way that in-lieu fees were conceptualized when they were first created by Council, is not intended to pay the entire cost of building a home. Back to the example, the developer is required to build ten (10) houses, and we tell them that one (1) of those houses has to be for a family who makes one hundred percent (100%) of AMI. I do not have the charts in front of me, so I am estimating just for the sake of an example. Let us say that the current median income standards published by the United States Department of Housing and Urban Development (HUD) says that one hundred percent (100%) AMI house has to be sold for four hundred thousand dollars (\$400,000), so the developer builds that house, he sells it for four hundred thousand dollars (\$400,000), he puts the four hundred thousand dollars (\$400,000) in his pocket. Let us say that the actual cost to build is five hundred twenty thousand dollars (\$520,000), so the developer is losing one hundred twenty thousand dollars (\$120,000) when he builds a workforce housing unit, and we require them to sell it less than it cost to build. The in-lieu fee is intended to represent that difference. The cost of construction versus the sale price that the developer is getting.

Councilmember Cowden: Okay, so I do not mean to cut you off, I remember you explained that to me already. I appreciate the explanation, but it sets that market standard and so if someone is going to sell their credit, they know they could otherwise pay two hundred fifty thousand dollars (\$250,000) for the in-lieu fee, which was a lot back then. Even ten (10) years ago, that was a lot. Twenty-four (24) years ago, I bought my house for two hundred thousand dollars (\$200,000). Two hundred fifty thousand dollars (\$250,000) does not begin to pay for anything now, so what I am worried about is that is a number that artificially makes that trade or what you buy a housing credit for...too low, like, why would they ever pay five hundred thousand dollars (\$500,000) for a housing credit, when they can get away with giving one hundred twenty thousand dollars (\$120,000) in an in-lieu fee. I want to actually change that number. I know, Councilmember Kualii, you said you were going to work on that. Is that underway and being worked on?

Council Vice Chair Kualii: Can you repeat your question?

Councilmember Cowden: Changing the in-lieu fee.

Council Vice Chair Kualii: Council Chair Rapozo was taking the lead and I was joining him.

Councilmember DeCosta: I am working with Chair.

Council Vice Chair Kualii: Or, he is working with Chair.

Councilmember Cowden: Okay, so I am inclined to go with Councilmember Kagawa and push this back to the Committee, to see if we can get that in-lieu fee changed. I know what it is like, because we say we are going to do something, and guess what, we do not do it. I agree to things regularly, trying to be a good sport and I do not get that commitment that "buys" my agreement. "Buys" is probably the wrong word, but what causes me to agree...but when I know that our

in-lieu fee is something low, like one hundred twenty-five thousand dollars (\$125,000) or two hundred fifty thousand dollars (\$250,000), that is what they are going to buy these credits for and that is not enough to build a house.

Mr. Roversi: As I attempted to explain, they are not intended to be enough to build a house. They are intended to be the difference between the cost of construction and the imposed price limits that the Council has laid out for affordable home sales.

Councilmember Cowden: Yes, I get that, but I do not...

Mr. Roversi: That is the way in-lieu fees work in every jurisdiction around the country that has inclusionary zoning ordinances. Our in-lieu fees are comparable to the same that are charged by Maui County, Hawai'i Island, and City & County of Honolulu.

Councilmember Cowden: If we cannot raise that, that artificially gives this low purchase price of the tax credits.

Mr. Roversi: Well, Council did raise them in 2019 when the housing policy was last amended and they are adjusted annually for inflation, so they automatically go up based on the consumer price index.

Councilmember Cowden: So, they doubled or tripled like houses have?

Mr. Roversi: The consumer price index has not doubled or tripled.

Councilmember Cowden: Right, but houses have.

Mr. Roversi: Right, but again, the construction cost of houses has not tripled. The sale price, the market rate of houses has tripled, and as I was explaining the in-lieu fee is to demonstrate the gap between a workforce and an imposed workforce sale price and the cost of construction.

Councilmember Cowden: I understand what you are saying. I am just uncomfortable with what we would get on that.

Councilmember DeCosta: I have a scenario question for you. If this thing passes, the developer of Coco Palms could buy credits and not building housing that we have imposed on them for the development of Coco Palms, correct?

Mr. Roversi: You have to go back and look at their housing agreement. It was a very specific agreement in which they agreed to build rental units in a specific place at specific incomes.

Councilmember DeCosta: But if this pass, they can buy credits, correct? It is a law for all. We cannot make laws for different entities. Therefore, if this passes, can Coco Palms buy credits and not do a development like they are supposed to.

Mr. Roversi: Potentially they could buy credits from a portion of the work for a portion of the housing that they needed to do.

Councilmember DeCosta: Okay, I think we need to break soon.

Council Vice Chair Kualii: If there are no further questions at this time, I am going to take a caption break. When we come back from the caption break, I want to hear from each of you on what is your preference for how we move forward. If we have a deferral, it will go to the next Council Meeting. If we make a referral, it will go to the next Committee Meeting.

There being no objections, the Council recessed at 10:52 a.m., for a caption break.

The meeting was called back to order at 11:10 a.m., and proceeded as follows:

Council Vice Chair Kualii: I am going to ask for a deferral to the meeting of August 14, 2024, which gives us a little over one (1) month. On a personal matter, I want to disclose that I work part-time for the organization called the Homestead Community Development Corporation (CDC) in Anahola for the homesteads as beneficiaries, and I am the statewide Chair of the Sovereign Council for Hawaiian Homestead Associations. Our entity has been primarily doing community and economic development, like you have seen our marketplace in Anahola, the community certified kitchen, etcetera. We are moving forward to also add affordable housing. The most recent discussions or plans are to do a fourplex with twenty (20) units total in Anahola for seniors and young people. I spoke with the County Attorney and expressed that in the future, it may not be for five (5) or ten (10) years down the road, the Homestead CDC like the DHHL—I suppose DHHL has the tax credit already, but another nonprofit like the Kauai Economic Community (KEO) could benefit from this, so as an abundance of caution, I want to go to the Board of Directors to fully explain what my job is as a Program Manager and see whether I should be voting on this. I am asking for a deferral to the August 14, 2024 Council Meeting.

Councilmember DeCosta: Is there a final discussion?

Council Vice Chair Kualii: Once we make the motion, then there will be no discussion, but there can be discussion.

Councilmember Kagawa: Can we have the discussion now?

Council Vice Chair Kualii: Sure.

Councilmember Kagawa: I will support the motion to defer. There have been questions posed to Adam, and I appreciate pushing this Bill, but out of courtesy to Adam, I hope that if we have specific concerns that have arisen, like perform, or material you would like to have before the new date, please let Adam know so he can prepare. I do not think we should just pop up the question on August 14th and expect an answer. Some things take time to produce. I thank some of the folks who testified and shared some of the strong opposition for the reasons they do not want to have

this “tool in the toolbox” in the Housing Agency. I oppose it. I have solid reasons as to why I oppose this Bill. Nonetheless, I appreciate the Council. A close vote to give it time...when we have a close vote, we should always have seven (7) voting. That is why we have an odd number.

Council Vice Chair Kualii: Okay. Is there any other final discussion?

Councilmember Cowden: I appreciate you being the one to move for...is that a deferral or a referral?

Council Vice Chair Kualii: It is a deferral to the August 14, 2024 Council Meeting.

Councilmember Cowden: Then, it is a month until a final vote. I appreciate that because I would like that extra time. I am on the fence. I am leaning more towards approving it, but I have genuine concerns about potential abuses, particularly in specific projects that I see emerging as glaring problems in my opinion.

Council Vice Chair Kualii: Do you have something to say before a deferral?

Councilmember DeCosta: Yes, I wanted to make a point that I think many of us do not see developers having the ability to purchase credits. Do you folks remember when a person or group, like Habitat builds housing? They place all our community in one area, with all low-income residents in one area. They do not live among the doctors of Kaua'i. When developers develop high-end homes, they do not include our low-income residents in their subdivisions; they have only the high-income residents. I do not want to see Kaua'i becoming highly stratified. I do not believe this aligns with who we should be, yet it is the direction we are moving in right now. It is scary, and as a Council, we are going to stop it here.

Council Vice Chair Kualii: Thank you. Can I get a motion? Did you want to say something?

Councilmember Bulosan: I was absent during that meeting, and I want to make it clear to the Council that I fully support this Bill. The information shared is clear to me, and I do not need any additional meetings to understand how this will benefit our community. I understand the concerns raised and the two (2) points that were made. I think that those issues can be addressed separately, such as the in-lieu fee. It does not affect this specific Bill and how you vote for it. The other concern about providing any additional information like a pro forma or a working group, I do not find it necessary specifically for this vote. While such measures may be necessary for larger policies affecting our housing policy, I do not see it specifically in this Bill. I believe that our Housing Director and their team have done this by request and have done the necessary work to ensure this Bill that will benefit our community. I am confident on it. While I support the deferral because we would want the support of all our Councilmembers and addressing all their issues is important, I do not think it is necessary to defer this Bill to work on those issues. I think we all should agree

that this Bill will benefit our community and we can pass this today. I would love to see that, but since the Vice Chair has proposed deferral, I will support him.

Councilmember Carvalho: I will support the deferral, but I am also in support of the Bill overall. At the beginning, I had numerous discussions with the Housing Agency and tried to review the available options. While I know that there are always questions, I think we should move with the deferral and then reconvene with additional information.

Council Vice Chair Kualii: Thank you all for accommodating my request for a deferral. As the Housing Director and I have always said, "there is no rush." There is never a rush. Can I get a motion to defer to the Council Meeting of August 14, 2024?

Councilmember Kagawa moved to defer Bill No. 2914, Draft 3 to the August 14, 2024 Council Meeting, seconded by Councilmember DeCosta, and carried by the following vote:

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

Mr. Yoshioka: The motion passes.

Council Vice Chair Kualii: Clerk, could you please read the next item?

COMMUNICATIONS:

C 2024-136 Communication (06/19/2024) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$550,000.00, for three (3) years, from the Bureau of Justice Assistance (BJA) Fiscal Year (FY) 2024 Justice and Mental Health Collaboration Program. These funds will be awarded to start a mental health diversion program with Ho’ola Lāhui Hawai’i and will fund a 0.50 Full-Time Employee (FTE) Deputy Prosecuting Attorney position, a 0.50 FTE Program Coordinator position, fringe benefits, travel costs for training, equipment, supplies, and subcontracting to a non-profit agency. The anticipated project start date is October 1, 2024.

Councilmember Kagawa moved to approve C 2024-136, seconded by Councilmember Carvalho.

Council Vice Chair Kualii: I am going to suspend the rules and ask the Prosecuting Attorney to come forward. If you could, please give us a basic overview or pitch of what this project is and what you are asking for.

There being no objections, the rules were suspended.

REBECCA V. LIKE, County Prosecuting Attorney: Good morning, Prosecuting Attorney Rebecca Like. We have already started a smaller version of this program. We are in the beginning stages of starting that. During that rolling out period, I noticed this grant opportunity, so I decided to submit the grant application, which we have not yet received, but we are hopeful that we will receive it in the hopes of expanding it. Basically, the idea is to identify low-level offenders who are getting arrested repeatedly. Sometimes, they are called Frequent Users Systems Engagement (FUSE) in the system, people who are repeatedly getting arrested or showing up in the Emergency Room (ER) and costing a lot of resources. My belief or philosophy is that a lot of what comes under public safety is related to public health. People who are repeatedly trespassing, disorderly, or under the influence in public could better be served by getting access to medical services that Ho'ōla Lāhui Hawai'i (Ho'ōla) is able to provide. They are just seemingly best suited to be able to provide certain services. For example, they have a Registered Nurse (RN) who can prescribe psychiatric medications, they have a Child Psychologist, they just have an array of services available there that will hopefully meet the needs of the community. It will not solve all the issues, but I think it is a good idea to expand the program. The idea is that either the Office of the Prosecuting Attorney, the Public Defender or defense attorney, or the Kaua'i Police Department (KPD) could identify a possible candidate for the program. There is a list of offenses that are being considered for the diversion program. Like I mentioned, disorderly conduct, criminal trespassing, real low-level offenses. Individuals identified because maybe they have what appears to be a mental health or substance use issue. The social worker comes to cell block or follows them shortly after the individual is arrested and does an intake interview. Then, they are given a referral to Ho'ōla for services. That is the basic outline of the program. If they follow up with Ho'ōla and follow the course of treatment, then we would dismiss the charge against them. Does anyone have any questions?

Council Vice Chair Kualii: Councilmember Cowden.

Councilmember Cowden: Are most of these FUSE people houseless?

Ms. Like: I am not sure. I would guess that a certain percentage of them are, but I do not have that information. We did ask KPD to give us a list of their most frequent arrests over a 6-month period. With that list, we worked with Ho'ōla to see if any of those individuals were currently receiving services at Ho'ōla, which seem indicative to me that these folks need some health services that they are not receiving. I do not know. I did not analyze if they have permanent housing.

Councilmember Cowden: Okay. I would recommend that because if any more could be looked at...I am going to support that—not that it is even up to us to support that, but, “yay”! This is a good thing to be doing and if people need extra medical care, that is important. I think a lot of FUSE people that are sleeping in someone's business alcove and you give them medication, they are still going to be sleeping in that business alcove. I generally have a soft heart for people in hard places, but there are also those businesses that get frustrated because no matter how many times they call law enforcement, that person might get picked up and taken somewhere, but then that person just comes back to sleeping in their business alcove. I am just wondering, will

this money help them go to the doctor and in exchange, they get their charges dropped. Am I hearing that correctly?

Ms. Like: Yes, but typically, what occurs for these nuances-level offenses...for criminal trespasses second, which is what you are alluding to if you are sleeping under a business's alcove or something like that. A person would get arrested, and they would be brought to court that day or the next. If they plead that charge to that offense, that person is going to be released from court that day and the case is going to be finished. My hope is that instead of having the person go through a "catch and release" sort of thing, it is a petty misdemeanor offense, we do not put people in prison for trespassing, we could at least try to connect them with resources at Ho'ōla and they have a wide array of resources there. We do not have the ability to connect them to housing. Whether they are houseless or not is not super relevant to the resources that they are going to receive at Ho'ōla, so while I think housing is a huge issue, that is not something that this program is set to tackle. It is more so linking folks to services rather than having the individual go to court, plead the charge, and be released, but yes, the charge would be dismissed.

Councilmember Cowden: Just so I understand, I am going to use the metaphor from the last thing. This is a "tool in the toolbox" to possibly help people. It might be good for them to be able to go to the medical clinics. That would be good. It is not necessarily going to solve the problem, just for the people listening. We are just trying to help address the problem.

Ms. Like: Right. We are hoping to do some cost benefit analyses. By taking just one (1) frequent user out of the system could save numerous man-hours for the KPD or other responding agencies. That time could be better spent in other ways of serving the public.

Councilmember Cowden: Thank you.

Council Vice Chair Kualii: Members, this is a motion to approve to receive and expend Federal funds. This is indeed our opportunity to support or not. Are there any further questions for the Prosecuting Attorney? If not, while the rules are still suspended, is there anyone in the audience wishing to testify? Seeing none...please come forward. Thank you, Prosecutor.

Ms. Cummings: Sherri Cummings, for the record, DHHL beneficiary. It is "no brainer" to support, but in addition to that, how can we be proactive about taking care of people who are doing these types of recidivism, that would have to go to Ho'ōla? I just want to say, for the record, that Ho'ōla is not the only one. There are serious nonprofits out there that do good work, like Council Vice Chair Kualii, and our association did the same thing. When we talk about people who cannot work because they do not have a license. That is one (1) of the things that they take away because you do not pay for your tickets. That association went ahead and went after funding because the funding was necessary to pay off the tickets, so that *kanaka* could eventually get a job. In these types of situations, try to be more proactive about how to stop people from going into those types of places instead of having them come out of the place and how do you get those types of resources. There are good nonprofits

out there that do good work that can link up people to exactly what she was talking about and our nonprofits, when I used to work with Council Vice Chair Kualii and others, we always tell the government that they are here to do your core job. The nonprofits are the ones that can maximize your dollars and give you four-to-one. You can only do so much. The nonprofits are the ones that are going to be ones that will solve our communities problems and there are way more people out there than just Ho'ola.

Councilmember Cowden: I have a clarifying question. What is the name of your nonprofit?

Ms. Cummings: It was the Anahola Hawaiian Homes Association, and their nonprofit was the Hawai'i Construction & Development Consulting (HCDC). One (1) of the issues that we understood was that our people need to get...

Councilmember Cowden: Okay, I understand. I am sure that there are Federal grants to get it on the front end of your organization. She is on the back end. If we can help people on the front end and we can help people on the back end...

Ms. Cummings: But I am just saying that there is more than just Ho'ola. There are other "boots on the ground." *Mahalo.*

Council Vice Chair Kualii: Thank you. Is there anyone else wishing to testify? Come forward, Ms. Parker.

Ms. Parker: Alice Parker, for the record. I think all the resources that we can get to help this problem are advantages and I am all for it. Thank you.

Council Vice Chair Kualii: Is there anyone else in the audience wishing to testify? Seeing none, calling the meeting back to order. Members, is there any final discussion?

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

Councilmember Kagawa: Thank you, Vice Chair. Again, I think Alice said it for me. Anything that we can get to help with this problem is needed. While the program is going on, or even after, I would like to see reporting to the Council about some of the things that have been accomplished with this grant moneys. Perhaps, the problem is so bad that we need more funding for that, whether it would be a request to the Federal or State government, or even County moneys. We have five hundred thousand dollars (\$500,000) in our homeless moneys. I have never seen a problem as bad as it is now. Just walk across the street. We have employees being harassed by "drugged out" homeless. I am not sure if they are from the mainland. It is scary. I witnessed a lady walking with her pants ripped down the middle. It is really bad and sad with what is going on Kaua'i. We were far removed from those types of scenarios. That was happening for years in China Town, but now it has come here. I just

appreciate the Prosecuting Attorney and KPD for whatever help that they can provide, especially the local homeless that are suffering. If we can help them, they have the support system here. A lot of families will take them back in a heartbeat and help, but they need to get past the mental health, drug addiction, etcetera, before the families will go back there in full support. I think that it is a perfect fit for Ho'ōla and what they do and the other organizations that Sherri mentioned. Perhaps, this is just the start, but if we can see some of the results as time goes by, I think that the County should put more of our, not only resources, but possibly lobbying efforts to expand these programs because it does not make sense to bring them in to the court, spend all the money, and not give them the help they need. Of course, it is going to happen again. Thank you. Thank you, Vice Chair.

Council Vice Chair Kualii: I, too, want to say *mahalo nui loa* to the Prosecutor and her entire team, and I ditto Councilmember Kagawa's comments.

The motion to approve C 2024-136 was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

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

C 2024-137 Communication (06/19/2024) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal FY 2025 funds, in the amount of \$126,812.22, from the Impaired Driving Grant, to reimburse up to 1,040 hours of the Traffic Safety Prosecutor's position as well as travel costs for training and meetings. The grant will cover expenses for the time period of October 1, 2024 through September 30, 2025.

Councilmember Cowden moved to approve C 2024-137, seconded by Councilmember Bulosan.

Council Vice Chair Kualii: Prosecutor, could you come forward for a very quick overview? Is this something new or reoccurring?

There being no objections, the rules were suspended.

Ms. Like: Prosecuting Attorney Rebecca Like. This is a reoccurring grant for our Traffic Safety Resource Prosecutor Ramsey Ross who has been in that position for almost five (5) years, but he has worked for our office since 2017. This allows him to specialize statewide, be involved in any legislation in regard to new driving or traffic. He works closely with the Department of Transportation under the federal and state agencies to make sure that we are on top of anything that is happening, state- or nation-wide in regard to traffic fatalities, traffic crashes, licensing requirements, new laws, etcetera.

Council Vice Chair Kualii: Thank you. Members, are there any other questions? While the rules are still suspended, is there anyone in the audience wishing to testify? Seeing none, calling the meeting back to order.

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

Council Vice Chair Kualii: Members, is there any final discussion?
Councilmember Cowden.

Councilmember Cowden: I guess as Committee Chair for Public Safety and Human Services, I really want to applaud the Office of the Prosecuting Attorney (OPA) for getting so many different grants from the federal government to help defer all these costs. We really have a broad range of needs here and so, when we have specialized prosecutors, having some extra help, economically is good, and I think that the training and all of that...I support. Thank you.

Council Vice Chair Kualii: Thank you. Councilmember Kagawa.

Councilmember Kagawa: Again, I want to thank the OPA for working on this issue with KPD to ensure that we keep up to date with everything to try and prevent the accidents from happening from impaired driving and trying to be proactive rather than reactive. Thank you. Thank you, Vice Chair.

The motion to approve C 2024-137 was then put, and carried by a vote of 6:0:1
(*Council Chair Rapozo was excused*).

Council Vice Chair Kualii: The motion is carried. Clerk, would you please read the next item?

C 2024-138 Communication (06/21/2024) from the Prosecuting Attorney, requesting Council approval to receive and expend Opioid Settlement funds in the amount of \$280,000.00, for one (1) year, and to start the Kaua'i Fentanyl Task Force to address opioid use disorders, mental health, and purposes of harm reduction. The anticipated start date is July 31, 2024.

Councilmember Carvalho moved to approve C 2024-138, seconded by Councilmember DeCosta.

There being no objections, the rules were suspended.

Council Vice Chair Kualii: I see that we have Mike here.

MICHAEL MIRANDA, Life's Choices Coordinator: Reentry Coordinator Mike Miranda with the OPA. The two hundred eighty-four thousand dollars (\$284,000) would be an annual grant from the Opioid Settlement funds. It is the County's share that is determined by the Supreme Court decision and the settlement against five (5) or six (6) pharmaceutical companies, so the funding will be guaranteed every year for approximately eighteen (18) years. The funding amount may go up as court settlements are being resolved with Purdue Pharma. The money will be stipulated to be spent on funding the Kaua'i Fentanyl Task Force, which our Office started back in February, also prevention and harm reduction efforts. It would require us to collaborate with nonprofit organizations, faith-based organizations, and other community-based

organizations, such as little league, pop warner, *hula halau*, and anyone that provides positive prevention programs for youth.

Council Vice Chair Kualii: In the other item, there was a breakdown of how the money would be spent attached to our agenda, but there was not one for you. Do you have that detail? I know that you just mentioned, but do you have a breakdown of how those two hundred eighty thousand dollars (\$280,000) is proposed to be spent?

Mr. Miranda: The State Attorney General has not yet specified how the funding would be broken down or sent over a proposed budget.

Council Vice Chair Kualii: After they do, will you share that with us?

Mr. Miranda: Yes.

Council Vice Chair Kualii: Okay, thank you. This is new and just the start, right?

Mr. Miranda: Yes.

Council Vice Chair Kualii: Go ahead, Councilmember Cowden.

Councilmember Cowden: Will this focus happen in this new location that we are getting going next to the bowling alley? Will it be through that whole organization or division over there?

Mr. Miranda: I guess it would be...part of it could be spent on the Reentry Program, but the Department of Health (DOH) prefers that most of the funding is spent on prevention and education to prevent more overdoses from happening since the number of overdoses has doubled between 2022 and 2023.

Councilmember Cowden: That was what I was trying to look at, proactive versus reactive and you are the Reentry Coordinator. I could easily see how you could spread to be doing the different elements. I just wondered if it was going to...are you going to be overseeing this Kauai Fentanyl Task Force?

Mr. Miranda: Right now, I am the de facto chair until the task force becomes more formalized and they have a procedure to elect officers and chairpersons.

Councilmember Cowden: I am really excited that this is happening because we spoke about how housing is a crisis or lack thereof, drug abuse, and especially this terrible one, and that other crisis. Again, gratitude to the OPA for getting funding and taking the lead on this. When you were talking about *halau* and different positive elements, and I am sure you will have medical elements. I forgot the phrase that they use, but when they give the needle exchange...what is that called again?

Mr. Miranda: Harm reduction.

Councilmember Cowden: Are those the people who are typically going to be on the task force, like leaders from those groups? Is that the Task Force?

Mr. Miranda: Yes, we currently have leaders from Malama Pono who manages the needle exchange program and several treatment providers from Hawai'i Housing Finance & Development (HHFD) Corporation and various clinics from other islands.

Councilmember Cowden: Are all those faith-based groups going to be part of the Task Force?

Mr. Miranda: Yes.

Councilmember Cowden: Okay. I was just wondering. It sounds like you are looking out broadly in the community and trying to do your best to reach...when I think of pop warner and Kaua'i Police Activities League (KPAL), hopefully that is so proactive and they are not into it yet, right? We want to get people ahead of the problem. I would imagine that Keala Foundation, organizations, and people like that would be the ones to participate in these decisions.

Mr. Miranda: Yes.

Councilmember Cowden: Sounds great.

Council Vice Chair Kualii: Councilmember Kagawa.

Councilmember Kagawa: You spoke about the number of opioid cases doubling from 2022 to 2023.

Mr. Miranda: Correct.

Councilmember Kagawa: What about 2024? How are those numbers? Is it still increasing rapidly?

Mr. Miranda: Right now, we do not have any data for 2024.

Councilmember Kagawa: Are you talking about Kaua'i or the whole state?

Mr. Miranda: Yes, for Kaua'i.

Councilmember Kagawa: With these grant funds, do you think one of the things that we will be looking at is the effect of those numbers or cases or are we looking at educating the youth that will be affect those numbers further down the line?

Mr. Miranda: We will be looking closely at the overdose numbers for the island, and we are fortunate to have American Medical Response (AMR) Inc. as part of the task force. They have been working with us on collecting data from emergency departments from around the island.

- Councilmember Kagawa: Thank you. Thank you, Vice Chair.
- Councilmember Cowden: I have one (1) short question.
- Council Vice Chair Kualii: Go ahead.
- Councilmember Cowden: With the overdoses, do more of them survive than not...as people who live through it versus do not? Do we have a higher rate of survival than death?
- Mr. Miranda: I think about fifteen percent (15%) of the overdoses are fatal.
- Councilmember Cowden: At least that number is right then you know.
- Mr. Miranda: There was one hundred eighty (180) overdoses between 2022 and 2023 and thirty (30) of the one hundred eighty (180) were fatal.
- Councilmember Kagawa: I have a follow-up.
- Council Vice Chair Kualii: Go ahead.
- Councilmember Kagawa: Is Narcan Nasal Spray distribution part of this grant?
- Mr. Miranda: The funding for the Narcan Nasal Spray comes from a different pot of money, but the DOH has been providing Narcan Nasal Spray to us on demand. I think in the last two (2) months, we have distributed five hundred (500) kits from our Office and Malama Pono has distributed close to two thousand (2,000) kits from the vending machine that is over there in the Piikoi building.
- Councilmember Kagawa: In the stories you hear...if you have the Narcan Nasal Spray, then the person lives, but if the Narcan Nasal Spray was not there, then that is the fifteen percent (15%) or even more. *Mahalo*. I do not believe that it is a good strategy. You do not cure the problem by giving the can to keep you alive. You keep them alive by not even doing it. That is the best way. It is tough. Thank you.
- Council Vice Chair Kualii: Can you remind us of your job title again?
- Mr. Miranda: Reentry Coordinator.
- Council Vice Chair Kualii: Do you have anyone working with you, on your team?
- Mr. Miranda: I have Becky and everyone in our Office.
- Council Vice Chair Kualii: Just support from the Prosecuting Attorney. Okay, thank you. Members, if there are no other questions, while the rules are still

suspended, is there anyone in the audience wishing to testify? Come forward, Ms. MoDes.

Ms. MoDes: *Mahalo.* Ana MoDes, for the record. It is amazing that there was a litigation won where these funds are being appropriated and I have confidence in Michael Miranda being able to lead an efficient task force to accomplish the goals. I appreciate reaching out to the positive community influences. I was emotional when all of the baseball players...it is hard not to be romantic about baseball, the youth, and the encouragement and everything that it stands for. Targeting that solution is crucial and essential, and I am grateful to hear that. There is an issue with the adolescent treatment center. I remember when it was all in Council for approval and discussions and there were other opportunities that were presented that were not taken. Maybe all those opportunities could also be represented because it is an epic failure, and the community is very upset about it. All the crises that I am hearing you all speak of, which are very true and valid, stem from one root cause, which is exploitation, and I am going to be repetitive right now. In capitalism, you are not allowed to profit from exploitation. It was created to get out of under the tyranny so, if we are feeling that we are under tyranny, then we are not practicing capitalism. If you remove ethics from the equation, then it is no longer capitalism. The decisions made in the Planning Commission and the decisions made here, all affects everything. This is where the crisis stems from, so I appreciate the task force and community members that are so passionate about bringing the solutions, but they are band-aids. If we are not going to consider where it all comes from, the wound will continue to gush, and we are not going to have enough to wipe it up. Our youth is the future, the value. Not everyone has the opportunity to have parents that are so focused on doing everything that it takes to ensure that children grow up in a safe and prosperous environment. That is what we should all have as a common goal. I do appreciate the time to speak on that. Thank you.

Council Vice Chair Kualif'i: Is there anyone else in the audience wishing to testify? If not, calling the meeting back to order.

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

Council Vice Chair Kualif'i: Members, is there any final discussion?

Councilmember Cowden: I would like to say that I am pleased to see two hundred eighty thousand dollars (\$280,000) being applied this way. I will admit that I was a non-supporter of that court decision of where we received the money because I was unhappy with how that worked out in terms of the benefit to the pharmaceutical companies, but I am very happy. It is a big "yay," for me to see something decent coming out of this. I am happy for that, and I am very thankful for what you folks are doing. I just want to make a comment on economic systems. Certainly, economic systems matter and when we are all swimming in a economic current that is too hard to manage, it is a part of it. Also, exploitation is a part of it, but as someone who deals with a lot of these people, I just want to say that trauma is another big part of it regardless of the economic systems. Death, divorce, disease, and disaster often precede that cascade into bad health choice and bad life choices, so it can be "and" not "or." I thank you, Michale

Miranda, the upcoming Kaua'i Fentanyl Task Force, and the OPA for working with all different members in the community to help ease this tragedy that is occurring on a regular basis.

Council Vice Chair Kualii: Members, is there any other final discussion?

The motion to approve C 2024-138 was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kualii: The motion is carried. Clerk, would you please read the next item?

LEGAL DOCUMENT:

C 2024-139 Communication (06/24/2024) from the County Engineer, recommending Council approval of a Grant of Easement made by and between the County of Kaua'i and the State of Hawai'i, Department of Transportation, Highways Division (HDOT-Highways), to allow access to conduct maintenance in the area where emergency flood repairs and cleanup were completed following the April 2018 flood events along Kūhiō Highway Route 560 (State Project No. ER-19 (002)), situated at Tax Map Key (TMK) No. (4) 5-8-006:030 (Portion).

- Grant of Easement

Councilmember Carvalho moved to approve C 2024-139, seconded by Councilmember DeCosta.

Council Vice Chair Kualii: Do you have anything to add to description?

There being no objections, the rules were suspended.

TROY K. TANIGAWA, County Engineer: Troy Tanigawa, Department of Public Works, for the record. We are here before you with the item of the Grant of Easement to State of Hawai'i, Department of Transportation (HDOT), Highways Division. The purpose is to their access to maintain the area, *makai* of the highway, in the vicinity of the landslide that occurred in 2018. Since the term of this grant exceeds one (1) year, per County Code, it requires Council approval, so we are here today to ask for it.

Council Vice Chair Kualii: Members, are there any questions?

Councilmember Cowden: I just have a simple question. I was trying to look at a map, but I did not get it well enough. Is this the area where we put the waste or is this the area right there, almost up in the bay? Where is this property exactly?

Mr. Tanigawa: It is right in the area below the slide. It is basically a cliff area. There is an embankment area off the highway, beyond the guardrails. It is County property. At this point, even our road maintenance crew do not do any maintenance there.

Councilmember Cowden: Are they just fixing it and we are saying, "please"?

Mr. Tanigawa: They require access so they can perform maintenance when it is needed.

Councilmember Cowden: Okay.

Council Vice Chair Kualii: Other members, are there any further questions? While the rules are still suspended, is there anyone in the audience wishing to testify? Seeing none, calling the meeting back to order.

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

Council Vice Chair Kualii: Members, is there any final discussion? Seeing none.

The motion to approve C 2024-139 was then put, and carried by a vote of 6:0:1 (Council Chair Rapozo was excused).

Council Vice Chair Kualii: The motion is carried. Clerk, could you please read the next item?

COMMITTEE REPORT:

PARKS & RECREATION / TRANSPORTATION COMMITTEE:

A report (No. CR-PRT 2024-03) submitted by the Parks & Recreation / Transportation Committee, recommending that the following be Approved on Second and Final Reading:

"Bill No. 2922 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 19, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REFRESHMENT CONCESSIONS AND INTOXICATING LIQUOR IN PARKS FACILITIES,"

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

Council Vice Chair Kualii: Is there anyone wishing to testify?

Councilmember Kagawa: This is a Committee Report. The next item is when we will discuss the Bill.

The motion for approval of the report was then put, and carried by a vote of 6:0:1 (Council Chair Rapozo was excused).

Council Vice Chair Kualii: Clerk, next item please.

BILL FOR SECOND READING:

Bill No. 2922 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REFRESHMENT CONCESSIONS AND INTOXICATING LIQUOR IN PARKS FACILITIES

Councilmember Bulosan moved for approval of Bill No. 2922 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

Council Vice Chair Kualii: Remember to state your name and then you will have three (3) minutes. The yellow light will come on when you have thirty (30) seconds.

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

BRETT LARSON: My name is Brett Larson. Thank you. Good morning. I am the owner of Kauai Island Brewing Company and I have three (3) basic business ventures that are for approval of this Bill. With the two (2) locations, we employee about eighty (80) people. We have been doing business on Kauai for twenty-six (26) years. We have a manufacturing facility in Port Allen and just recently opened a tap room and whiskey bar in Koloa. In the past, we have created a partnership with promoters, concerts, and events to sell our locally-handcrafted beers at these venues to those attendees of legal age. These opportunities directly contribute to the stability of our employment at the Kauai Island Brewing Company. In direct support of these events, we will typically increase our employment by additional fifteen (15) to twenty (20) employees during these events. Having the ability to sell our handcrafted beer at these venues, with Vidinha Stadium being one of largest for us, provides employment stability. It is an opportunity to employ additional folks on Kauai and also from a business standpoint. Also, to further illustrate our support of Bill No. 2922, we have recently partnered with Michael and Jeanne Lee as the restaurant concessionaires of Wailua Golf Course. Having the ability to serve the golfing community with beverages of their choice at the Wailua Golf Course, we can increase our odds to operate profitably and add additional and much needed jobs to the people of Kauai. We are wholeheartedly in favor of Bill No. 2922 and ask for your support in this vote because I think it is not only good for our business, but also for the people of Kauai.

Councilmember Cowden: I have a clarifying question. Have you done this before? Do you do this at parties or different events?

Mr. Larson: Yes.

Councilmember Cowden: How do you recognize when there is a problem? That is what I am curious about. How do we stop a problem if a problem occurs?

Mr. Larson: Sure. We have pre-shift meetings. For example, we were one of the sponsors for the Kauai Brewers Festival.

Councilmember Cowden: At Po'ipū Beach?

Mr. Larson: It used to be at Po'ipū Beach then it was the Kaua'i Philippine Cultural Center (KPCC). We have pre-shift meetings, and we all are trained to recognize over intoxication, so what I do and what I work with our team to do is, make suggestion if you see someone that you might appear as overly consumed to switch to water. Offer that person something else, water or juice. To my knowledge, we have not had an issue with any of the events that we have done. We have been very successful, and we have done close to seven (7) or eight (8) major events and concerts, and we have been the providers of our hand-crafted beer. They all have been very well-received. We typically have a blue card holder present during these events and the blue card holder is someone who has been trained to recognize over consumption and over alcohol intoxication. Like I said, we offer them alternative suggestions for consuming.

Councilmember Cowden: Okay, thank you.

Mr. Larson: Are there any other questions?

Council Vice Chair Kualii: Members, are there any other clarifying questions?

Councilmember Kagawa: I have one (1).

Council Vice Chair Kualii: Go ahead.

Councilmember Kagawa: Everyone is curious about the concession. Do you have a general plan of how many carts might be on the 18-holes on the golf course?

Mr. Larson: We have not done any detailed planning as far as how many carts that we will have.

Councilmember Kagawa: At least one (1)?

Mr. Larson: We would start with at least one (1).

Councilmember Kagawa: Besides the alcohol, what else would be served?

Mr. Larson: We would certainly have juices and water of different natures and some snacks as well. Also, non-alcoholic iced tea...refreshing drinks for people who are out in the elements for an extended period of time to rehydrate.

Councilmember Kagawa: Would the serving window in between the 9-holes be open as well?

Mr. Larson: Yes.

Councilmember Kagawa: Thank you. Thank you, Vice Chair.

Council Vice Chair Kualif'i: Members, are there any other questions?

Councilmember DeCosta: I frequently visit your Port Allen bar and sample your blonde beers. Really good quality.

Mr. Larson: Thank you.

Councilmember DeCosta: Do you practice this strategic move when you recognize someone? I have seen it down at your bar in 'Ele'ele that you folks will do at the golf course or at the concession stands at the stadium, correct?

Mr. Larson: Yes.

Councilmember DeCosta: I have seen it. You folks are very professional.

Mr. Larson: Thank you. We take great pride in our professionalism and making sure that people do not leave in over consuming alcohol.

Councilmember Kagawa: My final question is, and you may hear a little testimony against it at the golf course, saying that it encourages increased beer consumption and that there are greater risks as far as having drivers that are intoxicated. What are your thoughts on the concerns that some may have about this Bill?

Mr. Larson: I think that it is probably just the opposite. We have individuals monitoring others alcohol consumption. I would say that you almost have an "enforcement team" who are trained to recognize over consumption. I would say, on the contrary, you would have less issues, not more.

Councilmember Kagawa: I know that there is a sign stating, "no alcohol on the golf course." Would you folks be helpful in reporting those who are bringing illegal alcohol, not purchased at the concession?

Mr. Larson: Yes, it would be our liability. We are the liquor license holders, and so by having others bringing in their own alcohol, not purchased from us, it puts us in a liable situation where if there is over consumption, the licensee or holder could be blamed.

Councilmember Kagawa: Thank you. Thank you, Vice Chair.

Council Vice Chair Kualif'i: Councilmember Cowden.

Councilmember Cowden: Since we are asking deeper questions, on the conditions of the contract, are there any thresholds that require recalculation? Let us say that there is an event at Vidinha Stadium and there are fights or problems. Since I would think that you are attached to keeping your ability to do this, do you have threshold points where you think, "okay, that was out of control"? Are there thresholds in there, so we can feel confident?

Mr. Larson: Sure. While we cannot control everything outside of our control. We do have a post-meeting with our entire staff and crew, and we discuss what went well and bad. Certainly, there is always room for improvement. We have not had any fights at any of the events that we have done. We typically serve hand-crafted micro-brewed beer. It is a little on the strong side because a lot of people cannot sit and drink two (2) or three (3) of our stouts, so we do not have as much of an overconsumption problem because of the nature of the product that we serve.

Councilmember Kagawa: If we have time, I have a final question for Wally. I would like a statement from the Administration. Obviously, no Councilmember introduced this Bill...

Council Vice Chair Kualifi: Do you have any other clarifying questions for Mr. Larson or are you sharing your final discussion?

Councilmember Kagawa: I have a question for Wally since he is representing the Administration.

Council Vice Chair Kualifi: Is there anyone else wishing to testify? Please come forward.

TESSIE KINNAMAN: Tessie Kinnaman, for the record. Thank you for the comment about the golf course. Over the years, I have noticed golfers sneak in their own liquor in their golf bags. How will the concessionaires monitor that? It has been happening for years. My other concern is serving liquor at the stadium. Let us say it is a high school football game. Functions that I have been at, they have designated areas where the alcohol must be consumed. I would hate to see a gentleman walk up the stairs with a beer, spill the beer on another person, start a big fight on the stairs, and then fall down the stairs and break a neck. I am not against what is trying to be accomplished here, but ramifications could still happen. We can keep it safer at the stadium by having a designated area on the ground that the concessionaire could conduct his business. I think that I covered it all. The other one concern was just enforcement.

Council Vice Chair Kualifi: Tessie, wait. There is a clarifying question.

Councilmember DeCosta: I am going to ask you a question, and I do not want to just provide the answer because we are supposed to be asking clarifying questions. In your testimony, did you ask a question related to high school games at the stadium?

Ms. Kinnaman: Yes.

Councilmember DeCosta: No alcohol will be served at any youth sport game under the age of eighteen (18) years old.

Ms. Kinnaman: The other thing is if the stadium is going to be used by the public other than a high school function...that is what I am talking about, too.

Councilmember Cowden: They would have to apply for each special occasion.

Council Vice Chair Kualii: Thank you. Is there anyone else wishing to testify? Seeing none, did someone have a question for Wally?

Councilmember Kagawa: Just a statement on whether the Administration supports it.

WALLACE G. REZENTES, JR., Deputy Director of Parks & Recreation: *Aloha*, Wally Rezentes, Department of Parks & Recreation.

Councilmember Kagawa: I have a question. Does the Mayor support the passage of this Bill?

Mr. Rezentes: Yes, the Administration supports the Bill.

Councilmember Cowden: I have a question. I must have missed it, I read it a couple of times. Is there a start date?

Councilmember Kagawa: Upon approval.

Councilmember Cowden: Where does it say that?

Mr. Rezentes: On the bottom of Section 6.

Councilmember Cowden: Okay. I have another question. I saw some advertisements for a Kapena concert at the Vidinha Stadium, so it seemed like it really blends itself to this. It is only for those aged twenty-one (21) and over. Is that the plan for Kapena?

Mr. Rezentes: We will review the application right now for that special event.

Councilmember Cowden: Is there an application in for that special event?

Mr. Rezentes: Yes.

Councilmember Cowden: Then this is something that is already underway?

Mr. Rezentes: Yes, we have the application already. Obviously, it is pending approval of this as to whether they can serve alcohol. I think the event promoters are looking to see if it passes. If it does not pass, then they will still try to host that event.

Councilmember Cowden: Is it with this particular vendor or another?

Mr. Rezentes: They are going to use...

Councilmember Cowden: Then these folks have the sole, ending licenses for all of these?

Mr. Rezendes: No, it is a Special Use Permit, so whoever is the entity that applies for the Special Use Permit, they can use a licensed company. There are multiple companies that have done these types of events in the past.

Councilmember Cowden: We are hearing testimony from this company who looks like they are conscious, and I would say, they have been to a handful of events. No one has been out of control. I feel that they have been positive events, I have been to some of them. It can be a number of vendors. It is not limited.

Mr. Rezendes: Yes, they would apply to the County Department of Parks & Recreation for a Special Use Permit. They would also have to apply to the Liquor Control Commission and get all the requisite permits through the Department of Liquor Control. The Department of Liquor Control has a limited amount of authority over certain things, but whatever is within their power, they can enforce. I know that from discussion with our staff and management, whatever the Department of Liquor Control requires, that would be the bare minimum of what we would require. We would go in with the permittee and develop a plan specific to meet their needs and ours. We would suggest locations within the venue where we feel comfortable to locate certain things, including the section where liquor will be allowed to be dispensed.

Councilmember Cowden: Okay, then it will have adaptable plans. That is what I want to make sure of. When I say "yes" to something...someone gave the example of bumping into someone then that person falling down the stadium stairs and getting hurt. If that happens with a vendor, then we do not want to give them another, right? If they allow people to get drunk, if we see bad actions from a vendor, then we have the opportunity to say, "they are not our favorite vendor."

Mr. Rezendes: Well, that would need approval from the Department of Liquor Control and Liquor Control Commission, not the Department of Parks & Recreation.

Councilmember Cowden: Would the Department of Parks & Recreation have the approval for the Kapena concert or is that all through the Department of Liquor Control?

Mr. Rezendes: Well, the Special Use Permit to utilize the stadium would need the approval from the Department of Parks & Recreation, but the consumption of the alcohol would be contingent upon approval from the Department of Liquor Control. Our department would work with the Department of Liquor Control to make sure that the "I's" are dotted and the "T's" are crossed. Then, we would work with the vendor as well as the entity that is hosting the concert, to make sure that we have the requisite location, boundaries, buffers, restrooms, etcetera.

Councilmember Cowden: Just as one little comment as dealing with particular Councilmember. If there is something already on the plan, like the concert that is going to have alcohol served, I would like to hear about it ahead of time. I do not

like to discover it after I have already said “yes.” My mind starts looking and then I saw this poster on social media, and I said, “ah, that is why it is so adamant about happening right now.” Just in general, always tell me ahead of time when something is going on. Then, I feel caught and not as treated as I would like to be. Thank you so much.

Council Vice Chair Kualii: Any other Councilmembers? No? It looks like there is some urgency in the audience, so thank you Wally. While the rules are still suspended, I will give those in the audience a chance for a second testimony. Go ahead. Come on up.

Ms. Kinnaman: Tessie Kinnaman, for the record, again. Something just crossed my mind. For something like this, for the concessionaire, should this not be going out to bid? It reminds me of the booth at the Spouting Horn. Not just one (1) company can apply and get the permit. You have the stadium and the golf course.

Council Vice Chair Kualii: I am thinking of the process that is open to everyone.

Ms. Kinnaman: Pardon me.

Council Vice Chair Kualii: It is a process that is open to everyone.

Councilmember Cowden: But not the golf course, right? Since someone is investing in a cart, so that is a contract. What about the stadium?

Council Vice Chair Kualii: I will call Wally up.

Ms. Kinnaman: I was just wondering about the bidding for the concessionaire.

Council Vice Chair Kualii: At the golf course?

Ms. Kinnaman: Both sides.

Council Vice Chair Kualii: Let us not leave it hanging. Come on, Wally.

Mr. Rezentes: As far as concessions go, they are under Hawai'i Revised Statutes (HRS) Section 102. I think the County Attorney can attest to that, so that is a requirement for concessions, like the golf course or the Spouting Horn concessions that we have. What we are talking about here is a Special Use Permit within a park, so we are not bidding out or required to bid out that service. The entity that applies for the Special Use Permit, whether it is a nonprofit organization or for-profit organization, would decide which vendors to use. The County would not be required to bid that out.

Council Vice Chair Kualii: Individual separate events, unlike the concessionaire at the golf course that manages the restaurant. They went through the process, and they are the ones in there now.

Mr. Rezentes: Correct.

Council Vice Chair Kualii: They are just adding their ability to also have the golf carts.

Mr. Rezentes: Yes.

Council Vice Chair Kualii: Thank you. Are there any there any other questions? Is there anyone else from the public wishing to testify? Come on up, Alice. You can close us out.

Ms. Parker: Alice Parker, for the record. I mentioned being at Alpine Village at some sort of beer fest. I cannot drink alcohol unless I denature it in the microwave for a minute or two (2). I am part German, I like my beer, but no alcohol. It hits me too fast. I had been there for about three (3) hours with my friends. The man that staggered onto the dance floor had not been there. He was an outsider who just showed up and staggered on. We also need good security for these things. Thank you.

Council Vice Chair Kualii: Thank you. Members, is there any final discussion?

Councilmember Kagawa: Thank you, Vice Chair. I am going to support the Bill. I just attended the 4th of July celebration at the Pacific Missile Range Facility (PMRF). There was over...the estimate said there was ten thousand (10,000) people in there. I saw our youth organizations and nonprofits running food booths, and corporate offices like Home Depot giving away kits for kids. I saw some of our restaurant entrepreneurs selling things like *ulu* pasteles. All tremendous food, pricy of course because of the cost of doing business on Kaua'i with the materials and labor costs. It is difficult to go. I just saw a successful event where everyone was enjoying themselves. We had great local musicians, Ryan McCabe and his Kaua'i group. They used to be Pāpa'a Bay Boys. They were jamming and even the tourists were blown away by the quality of that group, they are just Kaua'i people. We have young Kaua'i artists like Bronson Aiwohi and the Nuesca Brothers. There is so much talent to showcase. At the right event, I love Kelly Boy DeLima and Kapena. They are one of my all-time favorite groups. I think you can have a combination that will bring one-fifth of the island to a venue to support good music, our nonprofits, our local little leaguers, but to get that crowd, sometimes, you are going to need that alcohol area or have alcohol being sold. It is not going to be something that is going to be happening weekly, I promise you that, not even monthly, but to have that opportunity with our local craft vendors out there selling things and making money, like how they do at the 4th of July event...my vision is helping the local Hawaiian community showcase their talent in ways like *hula halau* Hālau Ka Lei Mokihana O Leinā'ola, maybe them raising money to continue to grow what they do for our young men and women. I see a lot of positive things. If we run it the way that PMRF does it, it can be done properly. It can be done

safely. It can really benefit our community. We should not have to go O’ahu to see and enjoy a good concert and to enjoy ourselves. We should not have to fly to Vegas to see some of our favorite artists. Maybe we could have them here, in the right spot. Who would not want them to come here? It can be done, and no other venue is large enough besides our stadiums. I was an Aloha Stadium authority way back when my dad passed away. We had Micheal Jackson and Rolling Stones in our stadium. I was on the stadium authority at that time. It never came back, but the people who attended were just blown away. The King of Pop in Honolulu. We can have events like this on Kuaa’i, but if we do not have the opportunity to have alcohol sales, it is very hard. We need to give some of these promoters and all our nonprofits a chance. Then all our youth groups can be a partnership. I am hopeful and I am following the lead from our Administration. I thank them for coming forward and being willing to try and change so we can keep a vendor at the Wailua Golf Course for years to come, and not have a five-year gap again. Thank you.

Councilmember Cowden: Well, I want to support Councilmember Kagawa’s observation that is prohibitively expensive often to go to a concert. A lot of times, I would like to see some of these acts that go to O’ahu, but I do not have the spare five hundred dollars (\$500) to add an already expensive ticket. I can appreciate that. I am one who tried to visit PMRF, but just went and visited friends when I saw that we would be sitting in the line from Kekaha beginning to there. I want to say what allows me to say “yes,” because the stadiums are different is that the County does not own PMRF. If bad actions happen at PMRF, then it is up to the military to take that. In the County, it is up to us. While I am willing to say, “yes,” is because when this has to go through the Liquor Commission, if there is abuse, I am sure that it is going to back to the Liquor Commission and if it is one vendor, then that vendor is not going to be able to continue it. If there is a problem because the steps are not the right distance, then it maybe it ends up being in a beer garden. They are not the same distance, the steps. I think that we have some stop points where if we do see a problem surface, then we can put a hand break on it. It is not a “yes” and “forever.” I know there will be a number of people very disappointed in me voting for it, but it seems like it is worth a try. Most of the time, when I go to an environment where there is drinking, it is not that bad.

Council Vice Chair Kualii: Is there anyone else?

The motion for approval of Bill No. 2922, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

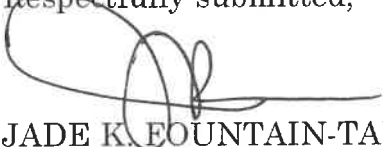
FOR APPROVAL:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapozo	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Vice Chair Kualii: Motion carries. There being no further business and hearing no objections, the meeting is adjourned. Thank you, everyone.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 12:19 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:slr