

PUBLIC HEARING

MAY 22, 2024

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 22, 2024, at 8:48 a.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 Kuali'i  
Honorable Mel Rapozo

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

“C 2024-96 – Communication (05/08/2024) from the Mayor, submitting his Supplemental Budget Communication for Fiscal Year 2024-2025 and Proposed Amendments to the Budget Bills, pursuant to Section 19.02A of the Kaua'i County Charter,”

which was ordered to print by the Council of the County of Kaua'i on May 8, 2024, and published in The Garden Island newspaper on May 11, 2024.

Council Chair Rapozo: Are there any written testimonies?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: No written testimony.

Council Chair Rapozo: Is there anyone on Zoom wishing to testify?

(Note: No one from the public testified on the Bill via written testimony or oral testimony taken at the beginning of the meeting via the Zoom remote technology platform.)

Council Chair Rapozo: Are there any registered speakers in the audience wishing to testify? With that, Mr. Sykos.

The hearing proceeded as follows:

LONNIE SYKOS: For the record, Lonnie Sykos. When I read through the budget online, I was extremely disappointed to see that the County Council has no intention of trying to hire an auditor. According to the paperwork given to the public, there is no search going on for an auditor. Other than the dollar or whatever that is in the budget, there appears to be no intention of hiring an auditor. The Supreme Court ruled in a previous ruling that when a Charter says “shall,” it means “may.” I believe Chair Rapozo was on the Council at the time that

this occurred. The County was sued by its own County Attorney. Now, we sit here in the reality that every time the Charter says, "shall," it means "may" because the County Council has failed to try and protect your powers and authorities versus that of the Office of the Mayor and so, two (2) things are impacted. Number one, the Charter states that the Mayor has to present a budget by a certain date, but our former Mayor sued us and according to the State Supreme Court, the Mayor only needs to submit a budget one (1) day before the end of the budget period, and he does not have to give you or the public any time for input into this. This was a big deal at the time, and yet, the Council...another "can that you kick down the road." The public never knows when, "shall" means "may," and the Charter says that there "shall" be an auditor. If you want to use your prerogative to say that "shall" means, "may" and so we may not hire an auditor because we do not want to, that is an affront to the civil rights of the public that the auditor that we shall have, you may decide not to pursue. I have an objection to your budget that you are not trying. You do not have the money in there to be pursuing an auditor. That is my "two cents." Thank you.

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

ALICE PARKER: Alice Parker, for the record. I vehemently support what he said because auditors find lots of things and keep things honest. We really need an auditor.

Council Chair Rapozo: Is Tessie Kinnaman here? This is the public hearing for the supplemental budget.

TESSIE KINNAMAN: Tessie Kinnaman, for the record. I want to take a second to also congratulate the company (note: Jack Harter Helicopters pilot Eli Hobbs received a Council certificate earlier in the day). I knew the Harters when I was a teenager because I used to babysit for them, and I applaud the company because I think their safety record is impeccable. I came here to testify against the budget for several items, but the main one would be...I have a list of concerns on the first page, the Kukui'ula Ordinance, Condition 7 and Condition 15. That includes 15(a) and especially, 15(d) which is related to the public park at Kukui'ula Harbor. That park has been completed for a while now and people have been...

Council Chair Rapozo: Tessie, the public hearing is on the budget. I am not sure which part of the budget...hold her time please. You are speaking on the Ordinance for Kukui'ula.

Ms. Kinnaman: No, but this is regarding the budget also.

Council Chair Rapozo: Help me. Where does it connect to the budget? I do not mean to be rude.

Ms. Kinnaman: I guess to provide moneys for the conditions and also the "Hoban" property."

Council Chair Rapozo: Okay, got it. Alright. Thank you.

Ms. Kinnaman: Anyway. The first and second page has the Hoban one and you will see that I submitted a picture that I took on July 20, 2021. I think that this is when the Hoban property was being resold and you can see the survey pin there. The survey pin ends just before the telephone pole. That portion from the survey pin to the right, to the other column, is the public access and as you can see, it has been blocked. It has been blocked for ages. Also, the electric meter is on that wall that is blocking, also, the telephone pole. The description of the footpath easement is on the second page and it shows the location. The easement also...both that and Exhibit "A" page shows the measurements of the easement. The easement belongs to the County because it is a drainage easement and it was turned over to the County from the Bruns, way back when Joseph and Martina Brun owned the property. It is on record at the Bureau of Conveyances. There is a new landowner now and they are called Kaikapu, LLC and they have been marketing this property. They are a Transient Vacation Rental (TVR) and an Airbnb and they are marketing it as a vacation rental with your own private beach. As far as I know, there are no private beaches in the County or in the State, for that matter. I am trying to bring this back up again because I think it is about time that we pursue this, no matter how hard it is for the County Attorney or whoever here in the government. This is going to be lost forever and we need this access from ages ago.

Council Chair Rapozo: Clarifying question. Go ahead,  
Councilmember Kagawa.

Councilmember Kagawa: Tessie, I have a question. I know that we worked on this issue for many years with Mayor Carvalho back then. I remember money was in there and we tried to negotiate with the owner and the owner refused. I guess it was, "what was the next step?" Is that your understanding? From that point, is your understanding that the money that we had in there disappeared? That was with the Open Space.

Ms. Kinnaman: Open Space.

Council Chair Rapozo: I will stop that because the public hearing is specifically to receive...Let me just say Councilmember Kagawa, and to the members, that we will follow up on this with the Planning Department.

Ms. Kinnaman: I have one last thing to say. The County owns that easement so I do not see why we should be paying the landowner for anything. I submitted information and you can go get more information if you want...also four thousand (4,000) signatures for this public access. It is not like we were sitting on our *'okole* for forever. This has been an issue since 1980.

Council Chair Rapozo: Only clarifying questions on her testimony and not to expand.

Ms. Kinnaman: ...the little that I have given to you again...the signatures and the information is on file. It should be on file here from...I am not sure from how many years ago.

Council Chair Rapozo: We will follow up on that.

Councilmember DeCosta: Tessie, I have one clarifying question for you. When you and I sat on the Open Space Commission together in 2003...

Council Chair Rapozo: That is not a clarifying question. That is a new question. A clarifying question is if she says something that you do not understand, then you can ask for clarification. Okay, thank you.

Councilmember Kagawa: I guess that was my question. She was coming to us, saying to please put money in there. I am saying...did we not have money in there? Did the County not try to acquire this parcel but there was a reason why it was...

Council Chair Rapozo: Again, Sunshine Law prohibits us from discussing this. This is a public hearing. We will follow up, have this item with the Planning Department, and possibly have a committee meeting on this item.

Councilmember Kagawa: I understand.

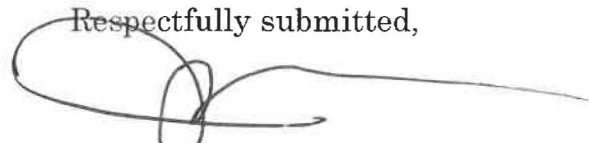
Council Chair Rapozo: Thank you. I will say that we are not typically allowed, but when erroneous statements are made, I will make clarification. Mr. Sykos alleged that there was a Supreme Court ruling regarding "shall" versus "may" and that is just not true. The "shall" versus "may" case had nothing to do with the budget. The "shall" versus "may" case was myself and Councilmember Kualii suing the County...not really suing, but we made a motion for declaratory judgment on the definition. That case was never heard because the judge ruled that we did not have any standing. There was no Supreme Case ruling, none of that. I just wanted to make that clarification for the public watching.

Councilmember Kualii: It was regarding the salary resolution.

Council Chair Rapozo: It had nothing to do with the budget. Is there anyone else in the audience wishing to testify? Seeing none, this budget hearing is closed.

There being no further testimony on this matter, the public hearing adjourned at 9:01 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

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