

Tim

COUNCIL MEETING NOTICE and AGENDA
WEDNESDAY, JULY 22, 2009

9:00 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS
Historic County Building
4396 Rice Street, Room 201
Līhu'e, Kaua'i, Hawai'i

RECEIVED

'09 JUL 16 P 7:05

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

MEETING CALLED TO ORDER.

ROLL CALL.

APPROVAL OF AGENDA.

MINUTES of the following meetings of the Council:

Council Meeting of July 8, 2009
Public Hearing of July 8, 2009 re: Bills Nos. 2291, 2317, and 2318
Special Council Meeting of July 15, 2009

COMMUNICATIONS:

- C 2009-248 Communication (07/01/2009) from the Director of Parks & Recreation, transmitting for Council consideration a Resolution establishing a crosswalk, stop signs, shared-use path, and redefining traffic lanes on Papaloa Road. *(See Resolution No. 2009-46)*
- C 2009-249 Communication (07/06/2009) from the Assistant Chief Procurement Officer, transmitting for Council information, the Fiscal Year 2008/2009 Fourth Quarter Statement of Equipment Purchases. *(Report on file in the County Clerk's Office.)*
- C 2009-250 Communication (07/09/2009) from Council Chair Bill "Kaipo" Asing, transmitting for Council consideration a Resolution to repeal Resolution No. 2006-20 and reappoint Theresita Kinnaman and Jean Nishida Souza to the Public Access, Open Space, Natural Resources Preservation Fund Commission. *(See Resolution No. 2009-47)*

- C 2009-251 Communication (07/16/2009) from Councilmember Dickie Chang and Vice Chair Jay Furfaro, transmitting for Council consideration, a resolution to establish a Special Advisory Committee to review and recommend amendments to the rules of the County Council of the County of Kaua'i. (*See Resolution No. 2009-48*)
- C 2009-252 Communication (07/09/2009) from Councilmember Derek S.K. Kawakami, transmitting for Council consideration, an amendment to Chapter 19, Article 1, Section 19-1.4, Kaua'i County Code 1987, relating to prohibition of intoxicating liquor in public parks and recreation facilities. (*See Proposed Draft Bill No. 2320*)
- C 2009-253 Communication (07/09/2009) from Councilmembers Tim Bynum and Lani T. Kawahara, transmitting for Council consideration, an amendment to Chapter 22 of the Kaua'i County Code 1987, relating to plastic bag reduction at retail establishments. (*See Proposed Draft Bill No. 2321*)
- C 2009-254 Communication (07/16/2009) from Council Vice Chair Jay Furfaro, transmitting for Council consideration, an amendment to Chapter 8, Kaua'i County Code 1987, relating to extending the deadline for obtaining building permits for additional dwelling units on non-residentially zoned land. (*See Proposed Draft Bill No. 2322*)
- C 2009-255 Communication (07/10/2009) from Council Vice-Chair Jay Furfaro, providing written disclosure regarding his oral declaration at the July 8, 2009 Council Meeting of a possible conflict of interest and recusal on item C 2009-239 (relating to accepting donation of picnic tables), because he is the Secretary for the Salvation Army and Treasurer for the Kōkua Soup Kitchen.
- C 2009-256 Communication (07/01/2009) from the Anti-Drug Coordinator, requesting Council approval to apply for, receive, and expend \$11,000 from the National Methamphetamine Training and Technical Assistance Grant to organize and educate community members and stakeholders on the need for an adolescent residential substance abuse treatment center on Kaua'i.
- C 2009-257 Communication (07/06/2009) from the Housing Director, requesting Council approval to decline repurchase of Unit No. 44, Villas at Puali, located at 1988 Hokunui Place, Līhu'e, Hawai'i 96766, and provide the owners the ability to sell the unit on the open market for a one-year period.

- C 2009-258 Communication (07/08/2009) from the Director of Parks and Recreation, requesting Council approval to apply for, receive, and expend \$4.2 million of American Recovery and Reinvestment Act of 2009 funding for the Lydgate Park to Kapa'a phase of the Nāwiliwili to Anahola bike and pedestrian path project.
- C 2009-259 Communication (06/16/2009) from the Councilmembers Lani T. Kawahara and Tim Bynum, requesting agenda time to discuss the following:
- 1) Councilmembers' access to the agenda.
 - 2) The placement of public documents, including meeting minutes on the County's website.
 - 3) Equitable and timely circulation of Council Services documents.
 - 4) General access to information by the public and Councilmembers.

[Referred 06/16/2009]

- C 2009-202 Communication (05/08/2009) from the Housing Director, requesting Council approval to decline the repurchase of Unit No. 602, Hookena at Puhī, located at 2080 Manawalea Street, Līhu'e, Kaua'i, Hawai'i, 96766, and provide the owner with a one-year waiver of the resale restriction. (*Deferred 07/08/2009*)

- C 2009-260 Request (07/16/2009) from the County Attorney for an agenda item on July 22, 2009 to consider the evaluation of officers and/or employees where consideration of matters affecting privacy will be involved and associated matters.

LEGAL DOCUMENT:

- C 2009-261 Communication (07/06/2009) from the Director of Parks and Recreation, transmitting for Council approval to secure a shared-use path construction right-of-entry and easement at the Department of Land & Natural Resources parcel for improvements to the Lydgate Park to Kapa'a Bike/Pedestrian Path as follows:
- Grant of Perpetual, Non-Exclusive Easement to the County of Kaua'i, Bike/Pedestrian Purposes, and Issuance of a Right-of-Entry Permit, Kapa'a, Kawaihau, Kaua'i, Tax Map Key: (4) 4-6-14:portion of 30, dated May 8, 2009 (Board of Land and Natural Resources PSF No. 09KD-039 (Kaua'i)); and
 - To indemnify, defend, and hold the State of Hawai'i, Department of Land & Natural Resources harmless.

CLAIMS:

C 2009-262 Communication (07/01/2009) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alan K. Buchan for damages to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2009-263 Communication (07/06/2009) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Myles Azeka for damages to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

COMMITTEE REPORT:

PLANNING COMMITTEE REPORT:

CR-PL 2009-06: on Bill No. 2291 A BILL FOR AN ORDINANCE AMENDING SECTION 8-24.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE
[Approved.]

RESOLUTIONS:

Resolution No. 2009-46, RESOLUTION ESTABLISHING A CROSSWALK, STOP SIGNS, SHARED-USE PATH, AND REDEFINING TRAFFIC LANES ON PAPALOA ROAD, KAPA'A DISTRICT, COUNTY OF KAUAI

Resolution No. 2009-47, RESOLUTION REPEALING RESOLUTION NO. 2006-20, AND REAPPOINTING MEMBERS TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION

Resolution No. 2009-48, RESOLUTION TO ESTABLISH A SPECIAL ADVISORY COMMITTEE TO REVIEW AND RECOMMEND AMENDMENTS TO THE RULES OF THE COUNTY COUNCIL OF THE COUNTY OF KAUAI

BILLS FOR FIRST READING:

Proposed Draft Bill No. 2320 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC PARKS AND RECREATION

Proposed Draft Bill No. 2321 – A BILL FOR AN ORDINANCE ESTABLISHING A NEW ARTICLE 19, CHAPTER 22, KAUAI COUNTY CODE 1987, RELATING TO PLASTIC BAG REDUCTION

Proposed Draft Bill No. 2322 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (ADU Building Permit deadline extension for non-residentially zoned land)

BILLS FOR SECOND READING:

Bill No. 2291 – A BILL FOR AN ORDINANCE AMENDING SECTION 8-24.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*See CR-PL 2009-06; Planning Committee recommended approval.*)

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. (“H.R.S.”) §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4, H.R.S. §92-5(a), and Kaua‘i County Charter §3.07E. (Confidential reports on file in the County Attorney’s Office and/or the County Clerk’s Office. Discussions held in Executive Session are closed to the public.)

ES-392 Pursuant to Haw. Rev. Stat. sections 92-4, 92-5(a)(2), (4) and (8), and Kaua‘i County Charter §3.07(E), the purposes of this executive session are to consider the evaluation of officers and/or employees where consideration of matters affecting privacy will be involved and associated matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ADJOURNMENT.

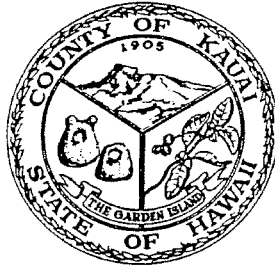
NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

Bill No. 2319 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (Amending Article 27, Chapter 8, Kauai County Code 1987, relating to Shoreline Setbacks and Coastal Protection)

For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, ROOM 206, LIHU'E, KAUAI. TELEPHONE NO. 241-6371.

BERNARD P. CARVALHO JR.
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

GARY HEU
ADMINISTRATIVE ASSISTANT

'09 JUL 9
EDMOND P. K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUAI
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHUE, KAUAI, HAWAII 96766

RECEIVED
THE COUNTY OF KAUAI
COUNTY OF KAUAI

July 1, 2009

Honorable Kaipo Asing, Chairman
And Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawaii 96766

Subject: Resolution for Establishing a Crosswalk, Stop Signs, Shared-Use Path, and Redefining Traffic Lanes on Papaloa Road

Dear Chair Asing and Council Members:

We request your action on the proposed subject council resolution. The County Engineer, based on planning, engineering and traffic investigation, recommends that a tabletop crosswalk be placed across Papaloa Road approximately 350 feet north from its intersection with Lanikai Street, that three way stop signs be installed at the Papaloa Road and Lanikai Street intersection with crosswalks at the north and east sides, that the traffic lanes be reduced to a 10 foot width with parking on the westerly shoulder of Papaloa Road from a point approximately 100 feet from its intersection with Lanikai Street to a point approximately 700 feet east, and that a shared-use path be constructed along Papaloa Road

Please call me at 241-4455 should you have any questions.

Very truly yours,

APPROVED:

LEONARD A. RAPOZO JR.
Director, Parks & Recreation Department

BERNARD P. CARVALHO JR.
Mayor

DH

cc: CE
DCE
Building Division, Engineering Division, Fire Department, Police Department

C2009-248



RECEIVED

'09 JUL 10 10:41

DIVISION OF PURCHASING
COUNTY OF KAUI, DEPT OF FINANCE
4444 RICE STREET, ROOM 303
LIHUE, KAUI, HAWAII 96766

July 6, 2009

Honorable Bill "Kaipo" Asing
Kauai County Council Chairperson
County of Kauai

Dear Chairperson Asing:

RE: FY 08/09 4th QUARTER STATEMENT OF EQUIPMENT PURCHASES

The following Statements are submitted pursuant to **Section 18** of the Operating Budget Ordinance **Number B-2008-672**:

1. Equipment Schedule for Various Agencies:
 - a. Mayor's Office
 - b. Council Services
 - c. County Clerk
 - d. County Attorney
 - e. Civil Defense
 - f. Economic Development
 - g. Elderly Affairs
 - h. Finance
 - i. Fire
 - j. Housing
 - k. Liquor
 - l. Parks & Recreation
 - m. Personnel
 - n. Planning
 - o. Police
 - p. Prosecuting Attorney
 - q. Public Works
 - r. Transportation
2. Schedule of Grants & Miscellaneous Equipment Procurement

Please feel free to call on any questions.

Sincerely,

Elmer Muraoka
Assistant Chief Procurement Officer

Concurrence:

WALLACE REZENTES, JR.
DIRECTOR OF FINANCE

BERNARD CARVALHO
MAYOR

C 2009-249

COUNTY COUNCIL

Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



Council Services Division
4396 Rice Street, Room 206
Lihu'e, Kaua'i, Hawai'i 96766-1371

OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

RECEIVED

July 9, 2009

'09 JUL 10 P3:57

Members of the Kaua'i County Council
4396 Rice Street, Suite 206
Lihu'e, Hawai'i 96766

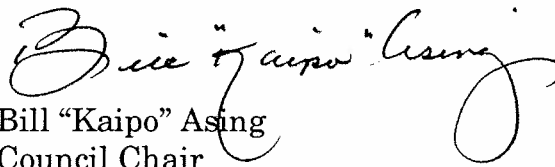
OFFICE OF
THE COUNTY CLERK
COUNTY OF HAWAII

Dear Councilmembers:

Attached for your consideration is a resolution to repeal Resolution No. 2006-20 and reappoint Theresita Kinnaman and Jean Nishida Souza to the Public Access, Open Space, Natural Resources Preservation Fund Commission.

Thank you for your consideration in this matter.

Sincerely,


Bill "Kaipo" Asing
Council Chair

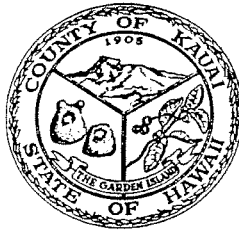
LP/wa

Attachment

cc: 7/22/2009 Council Meeting Agenda

C2009-250

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Lihue, Kauai, Hawaii 96766-1371

RECEIVED



MEMORANDUM

'09 JUL 16 P 3:47

July 16, 2009

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

TO: All Councilmembers

FROM:  Dickie Chang, Councilmember
 Jay Furfaro, Council Vice Chair

RE: Resolution To Establish A Special Advisory Committee To Review And Propose Amendments To The Rules Of The County Council Of The County Of Kauai

Attached for your review and consideration is a Resolution To Establish A Special Advisory Committee To Review And Propose Amendments To The Rules Of The County Council Of The County Of Kauai.

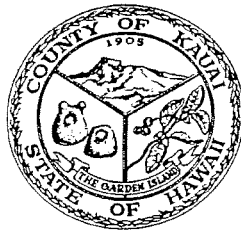
The proposed resolution involves the establishment of a committee consisting of three members from the community to review our rules.

Should you have any questions, please feel free to see me. Your attention to this matter is appreciated.

pm
Att.
cc: July 22, 2009 Council Agenda

C 2009-251

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
'09 JUL 10 P 1:38 (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Līhu'e, Kaua'i, Hawai'i 96766-1371

OFFICE OF THE COUNTY CLERK
THE COUNTY OF KAUI
COUNTY OF KAUI

July 9, 2009

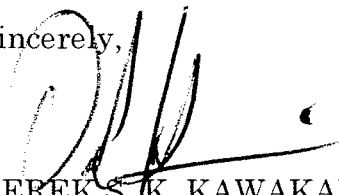
The Honorable Bill "Kaipo" Asing
Chair, Kaua'i County Council
4396 Rice Street, Suite 206
Līhu'e, Hawai'i 96766

Dear Chair Asing and Members of the County Council:

I am requesting your support of a proposed bill which I am asking to be placed on July 22, 2009 Council agenda. This bill relates to Chapter 19, Article 1, Section 19-1.4, Kaua'i County Code 1987, relating to Public Parks and Recreation. The bill proposes the following:

- Reinstates the prohibition (that expired December 2002) of possessing or consuming any intoxicating liquor between the hours of 11:00 p.m. and 6:00 a.m., provided that this section shall not apply to campers with valid camping permits (Sec. 19-1.4(a)(20)).
- Removes the expiration clause (Sec. 19-1.4(e)).

Thank you for your consideration in this matter.

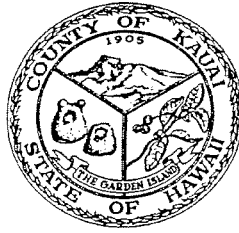
Sincerely,

DEREK S. K. KAWAKAMI
Councilmember

Attachment
cc: 7/22/09 Council Meeting Agenda

C2009-252

AN EQUAL OPPORTUNITY EMPLOYER

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Lihue, Kauai, Hawaii 96766-1371

July 9, 2009 **RECEIVED**

'09 JUL 10 P4:17

The Honorable Bill "Kaipo" Asing
Chair, Kauai County Council
4396 Rice Street, Suite 206
Lihue, Hawaii 96766

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

Dear Chair Asing and Members of the County Council:

We are requesting your consideration of a proposed bill which we are asking to be placed on July 22, 2009 Council agenda. This bill adds a new Article 19 in Chapter 22 of the Kauai County Code 1987 relating to plastic bag reduction at retail establishments.

Thank you for your consideration in this matter.

Sincerely,

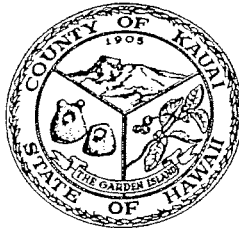
TIM BYNUM
Councilmember

LANI KAWAHARA
Councilmember

Attachment
cc: 7/22/09 Council Meeting Agenda

C 2009-253

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Lihue, Kauai, Hawaii 96766-1371

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MEMORANDUM

'09 JUL 16 P 4:57

July 16, 2009

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

TO: All Councilmembers

FROM: Jay Furfaro, Vice Chair 

RE: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE

Attached for your review and consideration is a proposed Bill For An Ordinance To Amend Chapter 8, Kauai County Code 1987, As Amended, Relating To The Comprehensive Zoning Ordinance.

The proposed bill involves extending the deadline for applicants to obtain building permits for additional dwelling units on non-residentially zoned land.

Should you have any questions, please feel free to see me. Your attention to this matter is appreciated.

pm
Att.
cc: July 22, 2009 Council Agenda

C2009-254

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

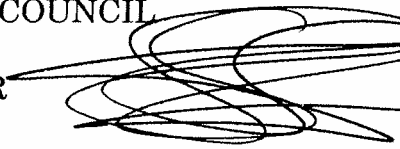
Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Lihu'e, Kaua'i, Hawai'i 96766-1375

MEMORANDUM

July 10, 2009

TO: BILL "KAIPO" ASING, COUNCIL CHAIR
AND MEMBERS OF THE COUNTY COUNCIL

FROM: JAY FURFARO, COUNCILMEMBER 

RE: POSSIBLE CONFLICT OF INTEREST
COMMUNICATION # C 2009-239- July 8, 2009 Council Agenda

RECEIVED
09 JUL 15 P2:34
OFFICE OF THE COUNTY CLERK
THE COUNTY OF KAUAI

Pursuant to Section 20.04(B), Charter, Sec. 3-1.9, Kaua'i County Code 1987, and Council Rule No. 8, this is to follow-up on my oral declaration at the above-mentioned meeting, and to provide written disclosure on the record, of a possible conflict of interest on the following, because of my position as Secretary for the Salvation Army and Treasurer for the Kōkua Soup Kitchen.

- C 2009-239 Communication (06/30/2009) from the Director of Parks & Recreation, requesting Council approval to donate a set of two (2) wooden picnic tables with an approximate value of \$800 to the Salvation Army Līhu'e Corps to service the Kōkua Soup Kitchen.

For reasons stated above, I recused myself from any discussion and deliberation on this communication.

Thank you for your attention in this matter.

cc: 7/22/09 Council Agenda
Board of Ethics

Si/Lc
D:2009-10-13

Bernard P. Carvalho, Jr.
Mayor



RECEIVED
Gary K. Heu
Administrative Assistant
'09 JUL -9 A 8 59

OFFICE OF THE MAYOR
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 235, Līhu'e, Hawai'i 96766
TEL (808) 241-4900 FAX (808) 241-6877

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

July 1, 2009

Council Chair Bill "Kaipo" Asing and
Members of the Kaua'i County Council
Kaua'i County Council
4396 Rice Street, Room 206
Līhu'e, Hawai'i 96766

Re: National Methamphetamine Training & Technical Assistance Center Grant

Dear Chair Asing and Members of the Council:

The Office of the Mayor's Anti-Drug Program requests Council's approval to apply, receive and expend funds in the amount of \$11,000.00 from the National Methamphetamine Training & Technical Assistance Grant.

This grant will be used to organize and educate our community members and stakeholders on the need for an adolescent residential substance abuse treatment center on Kaua'i. This goal is outlined in our Kaua'i Community Drug Response Plan and does not require matching funds.

We request consideration of this grant as it will provide an opportunity to continue the efforts of our Anti-Drug Program to benefit our community members.

Sincerely,

Approved:

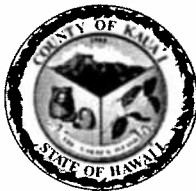
Theresa Koki
Anti-Drug Coordinator

Bernard P. Carvalho
Mayor

C 2009-256

Bernard P. Carvalho
Mayor

Gary K. Heu
Administrative Assistant



KAUAI COUNTY HOUSING AGENCY
Pi'ikoi Building 4444 Rice Street Suite 330
Lihue Hawaii 96766

Eugene K. Jimenez
Housing Director

Kenneth N. Rainforth
Executive Assistant

July 6, 2009

RECEIVED

'09 JUL -7 P 4 :30

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

Honorable Chair Bill "Kaipo" Asing
And Council members
Kaua'i County Council
4396 Rice Street
Lihue, Kaua'i, Hawai'i 96766

Attention: Economic Development/Housing Committee Chair Dickie Chang

Dear Chair Asing:

SUBJECT: Request to Decline Repurchase of Unit No. 44, Villas at Puali

The owners of the Unit No. 44 at the Villas at Puali, located in Puhi at 1988 Hokunui Place, Lihue, Hawai'i 96766, purchased a 3-bedroom, 2-bath single family attached CPR unit in March 2006 for \$465,000.00. Due to economics and relocation, the owner needs to now sell their unit.

Attached is a Repurchase Disclosure Schedule that calculates the repurchase price at \$539,850.00. Pursuant to the Housing Agency's affordable for sale housing prices, this price would be affordable to households earning approximately one-hundred forty percent (200%) of Kaua'i's median household income.

The Housing Agency recommends that the County not exercise its repurchase right to buyback this property and that the Housing Agency issue the owners a one-year waiver of the County's repurchase right effective the date of the Council's decision. Such waiver provides the owner the ability to sell the unit on the open market for a one-year period. The Housing Agency's recommendation to decline repurchase is based on the affordability level of this unit and that we believe our repurchase price is too close to market value.



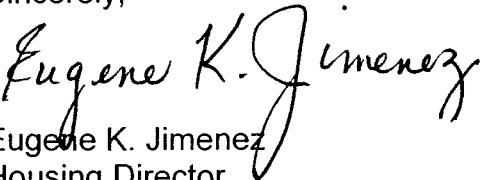
2009-257

Honorable Chair Bill Kaipo Asing
July 6, 2009
Page 2

The Housing Agency requests the Kaua'i County Council to decline its option to repurchase Unit No. 44, Villas at Puali, located at 1988 Hokunui Place, Līhu'e, Hawai'i 96766 and permit market sale of the unit for a period of one-year.

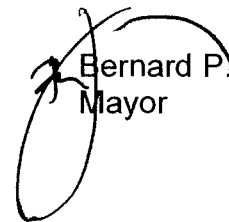
Thank you for your assistance with this matter.

Sincerely,


Eugene K. Jimenez
Housing Director


Kenneth N. Rainforth
Executive Assistant

APPROVED;


Bernard P. Carvalho, Jr.
Mayor

EKJ/ptr

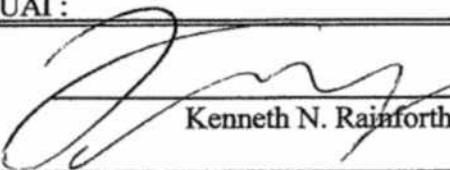
ptr/villas at puali



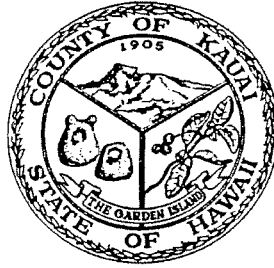
© 2009-257

REPURCHASE DISCLOSURE SCHEDULE
KAUAI COUNTY HOUSING AGENCY

Document Preparation Date June 12, 2009
 Anticipated Closing Date August 18, 2009

Owner :		Lot No :	
Project :	Villas at Puali, #44	Lot Size :	
Address :	1988 Hokunui Place	TMK :	4.3.3.003.039.0044
	Lihue, Hawaii 96766		
March 23, 2006	Recording Date Of Original Sale	Inspected :	
8/18/2009	Estimated Closing Date of Repurchase	By :	
1244	Days of Ownership Period		
1. ORIGINAL PURCHASE PRICE			465,000.00
2. ORIGINAL SALE CLOSING COSTS :			
a.	Escrow Fee & Notary	248.33	
b.	Recording Fees	87.00	
c.	Title Insurance	310.00	
d.	Document Preparation Fees	585.42	
e.	Tax Service Fee	70.00	
f.	Appraisal Fee to FmHA	468.75	
g.	Mortgage Recording Fee/HHRF	0.00	
h.		0.00	
i.		0.00	\$ 1,769.50
3. COST OF CAPITAL IMPROVEMENTS ADDED - See Pages 4 & 5			\$ 4,100.00
4. MORTGAGE BALANCE:			
	Principal	366,713.52	
	Interest & Late Fees	0.00	
	Subsidy Recapture		0.00
		\$ 366,713.52	
5. SIMPLE INTEREST @		4.30%	PER YEAR
a.	Cost of Original Sale (Lines 1 & 2)	\$ 68,406.67	
b.	Improvements Added (Line 3)	\$ 560.30	\$ 68,966.96
	ESTIMATED CASH EQUITY :	\$ 173,136.48	
6. TOTAL REPURCHASE PRICE			\$ 539,836.46
COUNTY OF KAUAI :		say,	\$ 539,850.00
Prepared By		6 July 2009	Date
	Kenneth N. Rainforth		
SELLER'S ACCEPTANCE OF REPURCHASE PRICE :			
Seller			Date
	N/A - for financing purposes only		

BERNARD P. CARVALHO JR.
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

GARY HEU
ADMINISTRATIVE ASSISTANT

RECEIVED

'09 JUL -9 A8 58
EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766

July 8, 2009

Honorable Kaipo Asing, Chairman
And Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawaii 96766

Subject: Federal American Recovery and Reinvestment Act of 2009 Funding for the Lydgate Park to Kapaa Bike/Pedestrian Path

Dear Chair Asing and Council Members:

We request approval to apply for, receive, and expend \$4.2 million of federal funds for the Lydgate Park to Kapaa phase of the Nāwiliwili to Anahola bike and pedestrian path project.

Currently \$4.2 million is programmed for the project. This funding will be a grant with no matching funds required.

Please call me at 241-4455 should you have any questions.

Very truly yours,

LEONARD A. RAPOZO JR.
Director, Parks & Recreation Department

APPROVED:

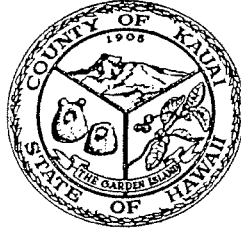
BERNARD P. CARVALHO JR.
Mayor

DH
cc: CE
DCE
Building Division, P.W. Fiscal

C 2009-258

COUNTY COUNCIL

Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Lihue, Kauai, Hawaii 96766-1371

June 16, 2009

RECEIVED
09 JUN 16 19:28
OFFICE OF THE COUNTY CLERK
COUNTY OF KAUAI

Honorable Bill "Kaipo" Asing, Council Chair
and members of the County Council
County of Kauai
4396 Rice Street
Lihue, HI 96766

RE: Request for agenda time at the July 8, 2009 Council Meeting

We respectfully request agenda time at the July 8, 2009 Council Meeting to discuss the following matters.

1. Councilmembers' access to the agenda.
2. The placement of public documents, including meeting minutes, on the County's website.
3. Equitable and timely circulation of council service documents.
4. General access to information by the public and Councilmembers.

We believe this is a modest and reasonable request. It also reflects the wording of an online citizen petition with 290 citizen signatures.

Sincerely,

Lani T. Kawahara
Councilmember

Tim Bynum
Councilmember

cc: Councilmembers

C 2009-259

COUNTY OF KAUAI
OFFICE OF THE COUNTY ATTORNEY

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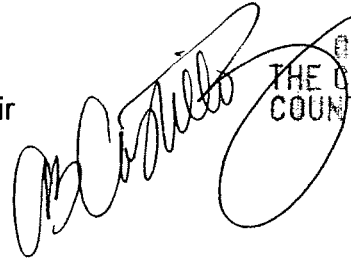
CONFIDENTIAL
Attorney-Client Communication
and/or Attorney Work-Product

09 JUL 16 P 6 :23

July 16, 2009

TO: Honorable Bill "Kaipo" Asing, Council Chair
and Councilmembers

FROM: Alfred B. Castillo, Jr., County Attorney



OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

RE: REQUEST FOR AN AGENDA ITEM ON JULY 22, 2009 TO
CONSIDER THE EVALUATION OF OFFICERS AND/OR
EMPLOYEES WHERE CONSIDERATION OF MATTERS
AFFECTING PRIVACY WILL BE INVOLVED AND ASSOCIATED
MATTERS

Pursuant to Haw. Rev. Stat. sections 92-4, 92-5(a)(2), (4) and (8), and Kaua'i County Charter §3.07(E), the Office of the County Attorney requests an agenda item to consider the evaluation of officers and/or employees where consideration of matters affecting privacy will be involved and to consult with the Council's attorney .

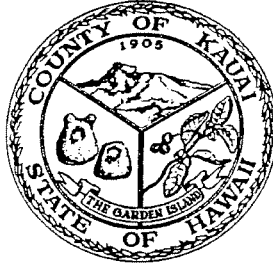
For notice and posting purposes, this agenda item should be described as follows:

"Pursuant to Haw. Rev. Stat. sections 92-4, 92-5(a)(2), (4) and (8), and Kaua'i County Charter §3.07(E), the purposes of this executive session are to consider the evaluation of officers and/or employees where consideration of matters affecting privacy will be involved and associated matters.

This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item."

C 2009-260

BERNARD P. CARVALHO, JR.
MAYOR



LEONARD A. RAPOZO, JR.
DIRECTOR
TELEPHONE 241-4456

RECEIVED

GARY K. HEU
ADMINISTRATIVE ASSISTANT

'09 JUL -9 A10 41 KYLAN K. DELA CRUZ
DEPUTY DIRECTOR
TELEPHONE 241-4460

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUAI
DEPARTMENT OF PARKS AND RECREATION
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 105
LIHUE, KAUAI, HAWAII 96766

July 6, 2009

Honorable Kaipo Asing, Chairman
And Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawaii 96766

Subject: Shared-Use Path Construction Right of Entry and Easement at the DLNR Parcel (TMK 4-4-6-14: portion of 30)

Dear Chair Asing and Council Members:

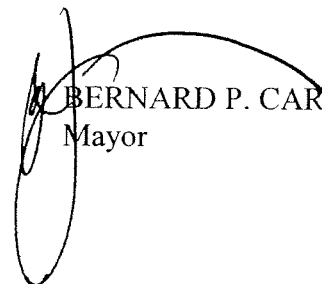
We request your approval to secure a shared-use path construction right-of-entry and easement at the Department of Land and Natural Resources parcel. The purpose of the easement is to improve an existing pedestrian easement to provide an ADA compliant shared-use path connecting from Kūhi'ō Highway to Gore Park as part of the Lydgate Park to Kapa'a Bike/Pedestrian Path. Attached are one original and three copies of the easements.

Please call me at 241-4455 should you have any questions.

Very truly yours,

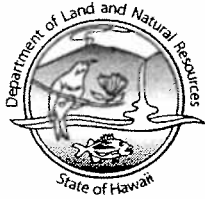
APPROVED:


LEONARD A. RAPOZO, JR.
Director, Parks & Recreation Department


BERNARD P. CARVALHO, JR.
Mayor

DH
cc: CE
DCE
Building Division

C2009-261



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 205A
Lihue, Hawaii 96766
PHONE: (808) 274-3492
FAX: (808) 241-3535

May 11, 2009

Ref. No.: 09KD-039

Douglas Haigh, Building Division Chief
Department of Public Works
County Of Kauai
4444 Rice Street
Lihue, HI 96766

Dear Mr. Haigh:

Subject: Grant of Perpetual, Non-Exclusive Easement to the County of Kauai, Bike/Pedestrian Purposes, and Issuance of a Right-of-Entry Permit, Kapaa, Kawaihau, Kauai, Tax Map Key:(4) 4-14: 30.

We are pleased to inform you that at its meeting of May 8, 2009, under agenda item D-3 (copy enclosed), the Board of Land and Natural Resources approved your request for a perpetual easement ~~for waterline purposes~~ and Issuance of a right-of-entry permit. *Jan*

Please provide us with a CAD map, together with metes and bounds description, of the leased area. Please note that this map and description must be prepared by a licensed surveyor. *Jan*

The Board also granted a construction right-of-entry to County of Kauai for the purpose of planning and construction pursuant to the following the terms and conditions:

1. This right-of-entry shall be effective from May 15, 2009 and shall terminate upon the execution of the easement document.
2. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall procure, at their own cost and expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Department (\$500,000 per incident/\$1,000,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage; that said policy shall cover the entire right-of-entry area or premises, including all improvements and grounds and all roadways or sidewalks on or adjacent to the said right-of-entry area or premises in the control or use by its consultants, contractors and/or persons acting for or on its behalf. County of Kauai, its consultants, contractor and/or

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persons acting for or on its behalf furnish the Department with a certificate(s) showing the policy(s) to be initially in force, keep certificate(s) on deposit during the entire permit period and furnish a like certificate(s) upon each renewal of the policy(s). The procuring of this policy shall not release or relieve County of Kauai, its consultants, contractor and/or persons acting for or on its behalf of its responsibility under this right-of-entry as set forth herein or limit the amount of its liability under this right-of-entry.

3. At all times herein, County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall keep the right-of-entry area or premises in a strictly clean, sanitary and orderly condition.
4. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for cleaning and restoring the area or premises to its original condition or a condition satisfactory to the Department of Land and Natural Resources upon completion of the day's event. All trash shall be removed from the area or premises.
5. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the right-of-entry area or premises, now in force or which may be in force.
6. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall indemnify, defend, and hold the State of Hawaii, Department of Land and Natural Resources harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: (1) any act or omission on the part of County of Kauai, its consultants, contractors and/or persons acting for or on its behalf relating to County of Kauai, its consultants, contractors and/or persons acting for or on its behalf use, occupancy, maintenance, or enjoyment of the right-of-entry area or premises; (2) any failure on the part of County of Kauai, its consultants, contractors and/or persons acting for or on its behalf to maintain the right-of-entry area or premises and areas adjacent thereto in County of Kauai, its consultants, contractors and/or persons acting for or on its behalf use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of County of Kauai, its consultants, contractors and/or persons acting for or on its behalf to maintain the area or premises in a safe condition; and (3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of County of Kauai, its consultants, contractors and/or persons acting for or on its behalf non-observance or non-performance of any of the terms, covenants, and conditions of this right-of-entry or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.
7. All equipment shall be placed within the right-of-entry area or premises described on the attached map.
8. No alcoholic beverages will be served or permitted in the right-of-entry area or premises.

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9. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf will be responsible for providing security for the right-of-entry area or premises during this event.
10. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall supply to Land Division a name and local telephone number of the contact person who can be reached at any time around the clock during this event.
11. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area or premises any such materials except to use in the ordinary course of County of Kauai, its consultants, contractors and/or persons acting for or on its behalf business, and then only after written notice is given to the State of Hawaii, Department of Land and Natural Resources of the identity of such materials and upon the Department's consent which consent may be withheld at the Department's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by County of Kauai, its consultants, contractors and/or persons acting for or on its behalf, then the Government Agency, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at the Department's request concerning County of Kauai, its consultants, contractors and/or persons acting for or on its behalf best knowledge and belief regarding the presence of hazardous materials on the right-of-entry area or premises placed or released by County of Kauai, its consultants, contractors and/or persons acting for or on its behalf.
12. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf agree to indemnify, defend and hold the State of Hawaii, Department of Land and Natural Resources harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area or premises occurring while County of its consultants, contractors and/or persons acting for or on its behalf is/are in possession, or elsewhere if caused by County of Kauai, its consultants, contractors and/or persons acting for or on its behalf. These covenants shall survive the expiration or earlier termination of this right-of-entry.

For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

C 2009-261

13. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
14. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall not store any personal belongings in the right-of-entry area or premises during the effective period of this right-of-entry.
15. All costs associated with the construction within the right-of-entry area or premises shall be the sole responsibility of the County of Kauai, its consultants, contractors and/or persons acting for or on its behalf.
16. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered, County of Kauai, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall stop work and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 immediately.
17. In the event any historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the right-of-entry area or premises, County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall immediately stop all premises utilization or work or both and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 in compliance with Chapter 6E, Hawaii Revised Statutes.
18. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf, in the exercise of the rights granted herein, shall comply with all of the requirements of the federal, state, and county authorities and shall observe all county ordinances and state and federal laws, rules and regulations, now in force or which may hereinafter be in force.
19. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall comply with all applicable federal, state and county environmental impact regulations, including but not limited to Chapter 343, Hawaii Revised Statutes, as amended, and regulations governing historic preservation.
20. County of Kauai, its consultants, contractors and/or persons acting for or on its behalf shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from County of Kauai, its consultants, contractors and/or persons acting for or on its behalf use, maintenance, repair and operation of the right-of-entry area or premises, and shall take immediate corrective action in the event of such pollution or contamination to immediately remove the cause of such pollution or contamination, and shall immediately clean the right-of-entry area or premises and its surrounding waters of such pollutant or contaminant and restore to the State of Hawaii, Department of Land and Natural Resources satisfaction the areas affected by such

C2009-261

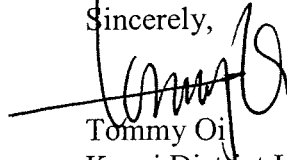
pollution or contamination, all at County of Kauai, its consultants, contractors and/or persons acting for or on its behalf own cost and expense.

21. All disputes or questions arising under this right-of-entry shall be referred to the Chairperson of the Board of Land and Natural Resources for a determination and resolution of the dispute or question. The Chairperson's decision shall be final and binding on the parties herein.
22. This right-of-entry is revocable and terminable at anytime for any reason in the sole and absolute discretion of the Chairperson.
23. This right-of-entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
24. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions as it deems necessary while this right-of-entry is in force.

If you have any questions regarding the survey map, please contact DAGS Survey Division at (808) 586-0380.

Should you have no objections tot the above-mentioned items, kindly sign in the space provided below and submit your signed concurrence to Kauai Land Office. If you have other questions, please feel free to contact me at 274-3491. Thank you.

Sincerely,



Tommy Oi
Kauai District Land Agent

~~WE CONCUR:~~

~~County Of Kauai~~

By its:

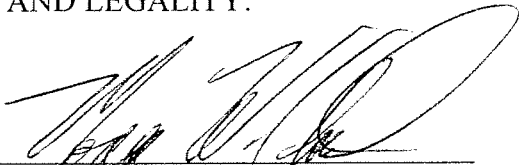
Date:

Enclosure:

cc: Central Files
Land Board Member

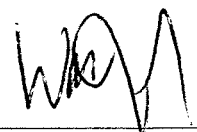
2009-261

APPROVED AS TO FORM
AND LEGALITY:



Deputy County Attorney

COUNTY OF KAUAI

By  _____
Director of Finance

By _____
County Clerk

C 2009-261

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09KD-039

KAUAI

Grant of Perpetual, Non-Exclusive Easement to County of
Kauai for Bike/Pedestrian Purposes, and Issuance of a Right-
of-Entry Permit, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-
6-14:portion of 30.

APPLICANT:

County of Kauai, whose mailing address is 4444 Rice Street, Suite
175, Lihue, Hawaii 96766

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kapaa, Kawaihau, Kauai,
identified by Tax Map Key: (4) 4-6-14:portion of 30, as shown on
the attached map labeled Exhibit A and B-1, B-2 & B-3.

AREA:

0.49 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

May 08, 2009

D-3

C 2009-261

CHARACTER OF USE:

Right, privilege and authority to construct, uses, maintain and repair a bike/pedestrian right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on April 23, 2007 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Board of Land and Natural Resources at its December 9, 2005 meeting under Item D-3 approved to recommend to the Governor a set-aside to the County of Kauai for developing affordable housing on several State parcels. The Board's approval requires the County of Kauai to submit County Council approval, funding commitment, development plans, construction plans, government permits and approvals, and construction contract. At this time the set aside has not been completed.

Tax Map Key: (4) 4-6-14:30 is one of the parcels identified. Within Parcel 30 is an existing, undocumented, pedestrian right-of-way running from the beginning of Kawaihau Road along the eastside of Hundley Tract Subdivision to Iwaena Road. This pedestrian path does not meet ADA standards. The County of Kauai's Lydgate Park to Lihi Park Bike and Pedestrian Project will realign this existing pedestrian path to conform to ADA standards. The Lydgate Park to Lihi Park Bike and Pedestrian Project will be partially funded by Federal Highway Funds and qualifies for Federal Stimulus Funds.

By letter dated March 25, 2009 from Donald Fujimoto, County Engineer to Eugene Jimenez, Director of County Housing Agency, Mr. Jimenez concurred on the issuance of the bike/pedestrian easement.

This path (or easement) will also benefit the County Housing Agency

C2009-261

affordable housing project in providing pedestrian access to Kawaihau Road.

The County of Kauai has requested a right-of-entry permit for management, planning, construction, and maintenance purposes because this project qualifies for Federal Stimulus Funds and it is necessary to start construction of the bike/pedestrian path (or easement) as soon as possible.

The following Agencies were solicited for comments and no comments were received:

County Agencies:

Planning Department, Public Works and Department of Water

State Agencies:

Historic Preservation and Department of Transportation-Highways Division

The following Agencies responded:

Department of Health: We have reviewed the subject proposal submitted and have no environmental health concerns to offer for your consideration at this time.

Office of Hawaiian Affairs: See Exhibit C

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to County of Kauai covering the subject area for Bike/Pedestrian purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a right-of-entry permit to the County of Kauai, for management, planning, construction, and maintenance purposes, which are by this reference incorporated herein and further subject to the following:

2009-261

- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Charlene E. Urdin

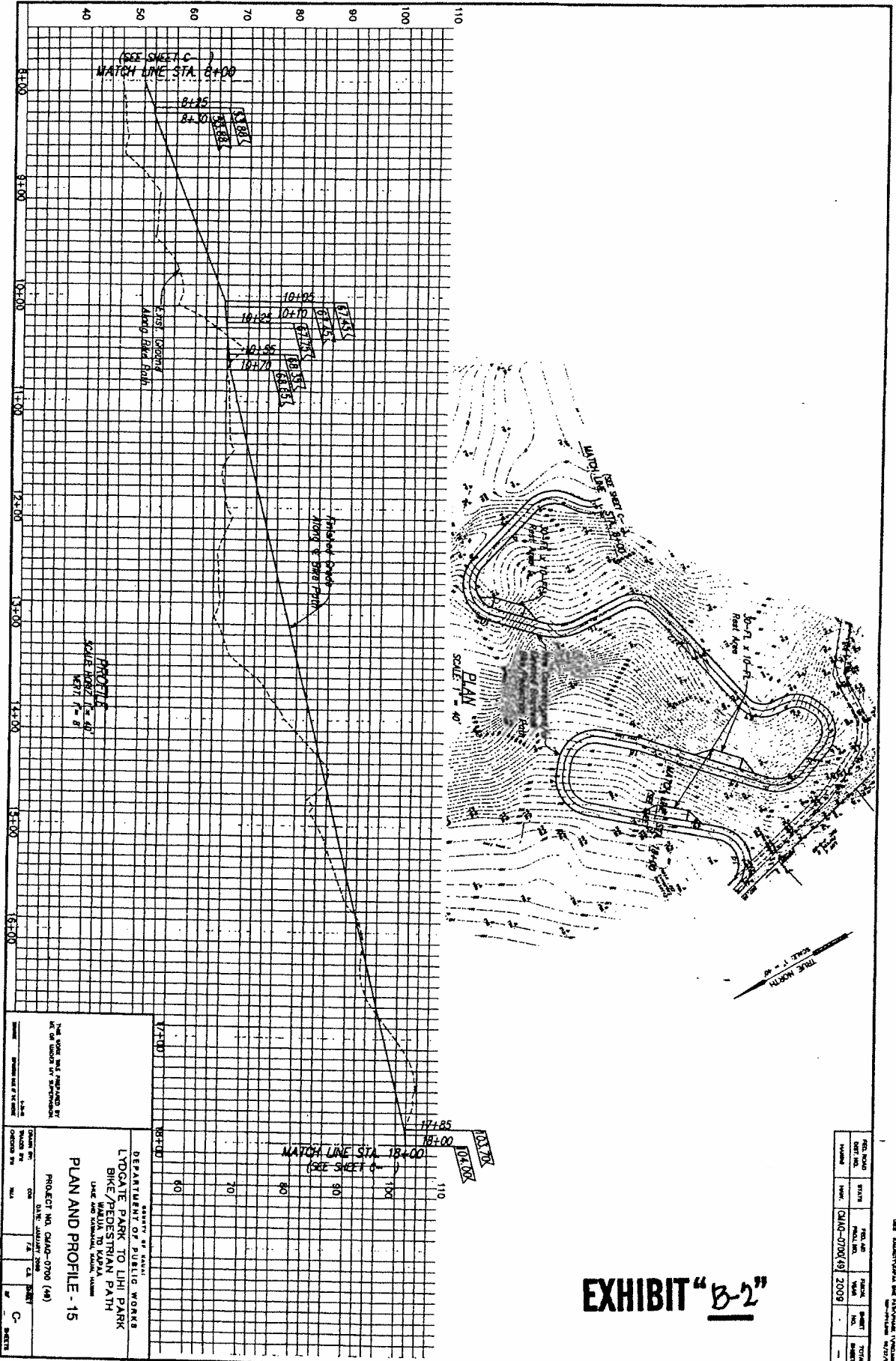
for Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:

LHT

Laura H. Thiele, Chairperson

wa



PROJECT NO.	STATE	FED. AID PROJ. NO.	CONTRACT NO.	DATE
CHAS-0709(49)	2009			

EXHIBIT "B-2"

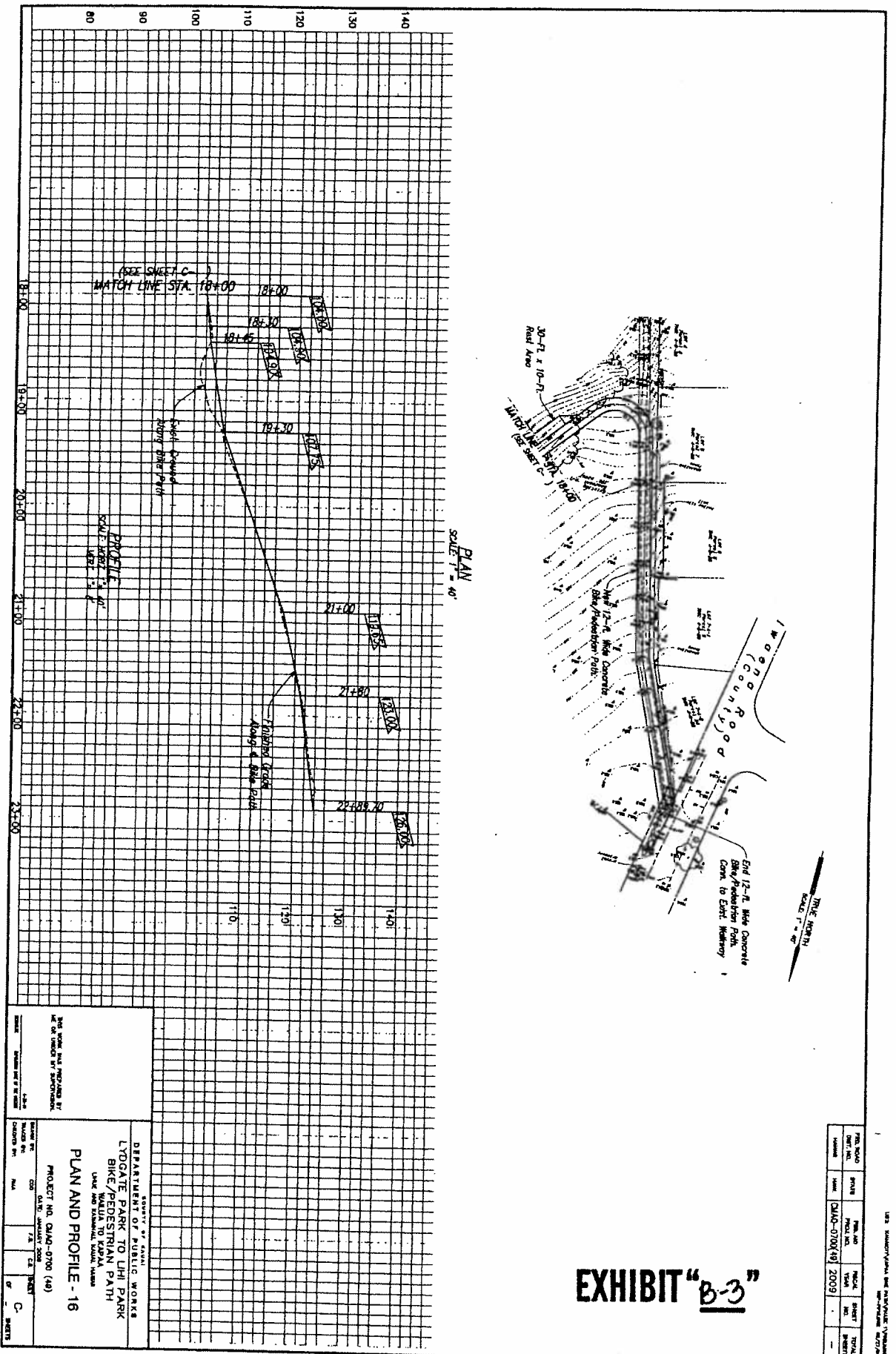
THE STATE AND COUNTY OF CALIFORNIA
 DEPARTMENT OF PUBLIC WORKS
 COUNTY OF SAN DIEGO
 LYDGATE PARK TO LIJI PARK
 BIKE/PEDESTRIAN PATH
 WALTON TO KAPPA
 (4th AND 5TH STATIONS, SOUTH SIDE)
 PROJECT NO. CHAS-0709 (49)
 DATE: AUGUST 2009

DATE	BY	NO.	REVISION

2009-261

PROJECT NO.	DATE	BY	SCALE
040-0708(4)	2009		

EXHIBIT "B-3"



DEPARTMENT OF PUBLIC WORKS
 COUNTY OF HENRIK
 LYDGATE PARK TO LHM PARK
 BIKE/PEDESTRIAN PATH
 WALKWAY TO KAPPA
 UNDER AND EXHAUSTION TUNNEL, MASSA

PROJECT NO. 040-0708 (44)
 DATE: 04/20/09

DRAWN BY: []
 CHECKED BY: []
 IN CHARGE: []
 SCALE: 1" = 40'
 SHEET: C OF 3 SHEETS

C2009-261

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD09/4260

April 16, 2009

Tommy Oi
Kaua'i District Land Agent
Department of Land and Natural Resources
Land Division
3060 Eiwa Street, Room 205A
Lihu'e, HI 96766

PM1:28:19
APR 20 '09

RE: Request for comments on a proposed grant of a perpetual, non-exclusive easement to the County of Kaua'i for bike/pedestrian purposes, with immediate right-of-entry, Kapa'a, Kawaihau, Kaua'i; TMK: 4-6-014: 030; Ref. No.: 09KD-039

Aloha e Tommy Oi,

The Office of Hawaiian Affairs (OHA) is in receipt of the above-mentioned letter dated April 3, 2008. The proposed easement and access would allow the County of Kaua'i to construct, use, maintain and repair a right-of-way over and across approximately 0.49 acres of ceded lands. This would further allow for the expedited construction of a bike/pedestrian path using Federal Stimulus Funds. OHA apologizes for the delayed response and offers the following comments.

While we support the intent of this proposal, OHA seeks assurances that should iwi kūpuna or Native Hawaiian cultural or traditional deposits be found during the construction of the project, work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

Also, because these are ceded lands, we also seek assurances that language in the easement for management by the County will reflect that the lands are ceded. For this reason, OHA questions the language of the Recommendation to the Board for section 1.B. that allows for the possibility that the Grantee could sell, assign, convey or otherwise transfer the easement.

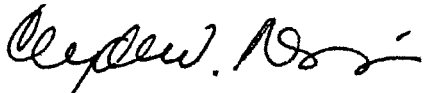
EXHIBIT " C "

C2009-261

Tommy Oi, Kaua'i District Land Agent
April 16, 2009
Page 2

Thank you for the opportunity to comment and for the detailed submission that was sent directly to the Honolulu office for review. If you have further questions, please contact Heidi Guth at (808) 594-1962 or e-mail her at heidig@oha.org.

'O wau iho nō me ka 'oia 'i'o,



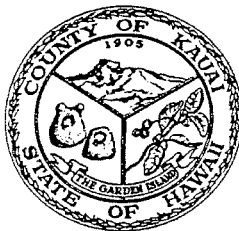
Clyde W. Nāmu'o
Administrator

C: OHA Kaua'i Community Resource Coordinator

EXHIBIT " C "

C 2009-261

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



Council Services Division
4396 Rice Street, Room 206
Lihue, Kauai, Hawaii 96766-1371

OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

RECEIVED

July 1, 2009

'09 JUL -2 A7:31

The Honorable Bill "Kaipo" Asing
Chair, and Members
of the County Council
County of Kauai
Lihue, Hawaii 96766

RECEIVED
THE COUNTY CLERK
COUNTY OF KAUAI

Chair and Members:

Pursuant to Section 23.06, Charter of the County of Kauai, we transmit a claim filed against the County of Kauai by Mr. Alan K. Buchan for damage to his personal property.

A copy has been sent in advance to the County Attorney's Office.

Very truly yours,

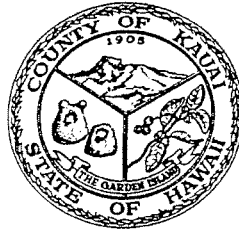
PETER A. NAKAMURA
County Clerk

Enclosure

cc: Alfred B. Castillo, Jr., County Attorney
Alan K. Buchan

C2009-262

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



Council Services Division
4396 Rice Street, Room 206
Līhu'e, Kaua'i, Hawai'i 96766-1371

OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

July 6, 2009

The Honorable Bill "Kaipo" Asing
Chair, and Members
of the County Council
County of Kaua'i
Līhu'e, Hawai'i 96766

RECEIVED

'09 JUL -6 P3:27

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUI

Chair and Members:

Pursuant to Section 23.06, Charter of the County of Kaua'i, we transmit a claim filed against the County of Kaua'i by Myles Azeka for damage to his vehicle.

A copy has been sent in advance to the County Attorney's Office.

Very truly yours,

PETER A. NAKAMURA
County Clerk

Enclosure

cc: Alfred B. Castillo, Jr., County Attorney
Myles Azeka

C2009-263

COUNTY COUNCIL

COUNTY OF KAUA'I

Resolution

ESTABLISHING A CROSSWALK, STOP SIGNS, SHARED-USE PATH,
AND REDEFINING TRAFFIC LANES ON
PAPALOA ROAD, KAPA'A DISTRICT, COUNTY OF KAUA'I

WHEREAS, Chapter 16, Article 2 of the Kaua'i County Code, authorizes the County Council to determine and designate official traffic control devices, shared-use path upon which the operation of mopeds are prohibited, and redefine traffic lanes; and

WHEREAS, Papaloa Road is located in the Kapa'a District, County of Kaua'i, State of Hawai'i; and

WHEREAS, the County Engineer, based on planning, engineering and traffic investigation, has recommended that a tabletop crosswalk be placed across Papaloa Road approximately 350 feet north from its intersection with Lanikai Street, that three way stop signs be installed at the Papaloa Road and Lanikai Street intersection with crosswalks at the north and east sides, that the traffic lanes be reduced to a 10 foot width with parking on the westerly shoulder of Papaloa Road from a point approximately 100 feet from its intersection with Lanikai Street to a point approximately 700 feet east, and that a shared-use path be constructed along Papaloa Road; now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII, that:

SECTION 1. A pedestrian tabletop crosswalk be, and is hereby established and made official across Papaloa Road approximately 350 feet north from its intersection with Lanikai Street, as shown on the map designated as Exhibit "A," which is attached hereto and incorporated herein by reference.

SECTION 2. The County Engineer shall mark and post appropriate signs at the crosswalk established herein in accordance with the provisions provided thereby by law.

SECTION 3. A three way stop sign and crosswalk be and is hereby established and made official at the Papaloa Road and Lanikai Street intersection as shown on the map designated as Exhibit "A."

Reso. No. 2009-46

SECTION 4. A shared-use path (including bicycle use) upon which the operation of mopeds are prohibited shall be constructed along Papaloa Road as shown on the map designated as Exhibit "A."

SECTION 5. All persons convicted of any violation of the traffic code provisions relating to crosswalks, stop sign, and use of mopeds where prohibited shall be subject to the penalties provided for in Title VI, Chapter 16, Section 16-21.6, Kaua'i County Code 1987, County of Kaua'i.

SECTION 6. The traffic lanes be reduced to a 10 foot width with parking on the westerly shoulder of Papaloa Road as shown on the map designated as Exhibit "A."

SECTION 7. Any person convicted of violating any provisions of this Resolution shall be subject to the penalties prescribed in Section 16-21.6, Kaua'i County Code 1987, as amended.

BE IT FURTHER RESOLVED, that the County Clerk be directed to provide copies of this Resolution to the Mayor, County Engineer, and the Director of Parks and Recreation.

BE IT FURTHER RESOLVED, that this Resolution shall take effect upon its approval and posting of appropriate signs and/or markings.

INTRODUCED BY:

LANI T. KAWAHARA
(By Request)

V:CS OFFICE FILES/RESOLUTION-PAPALOA ROAD/SHIKI

	Aye	Nay	Exc	Recused
Boing				
Bynum				
Chang				
Furfaro				
Kaneshiro				
Kawahara				
Kawakami				
Total				

Certificate Of Adoption

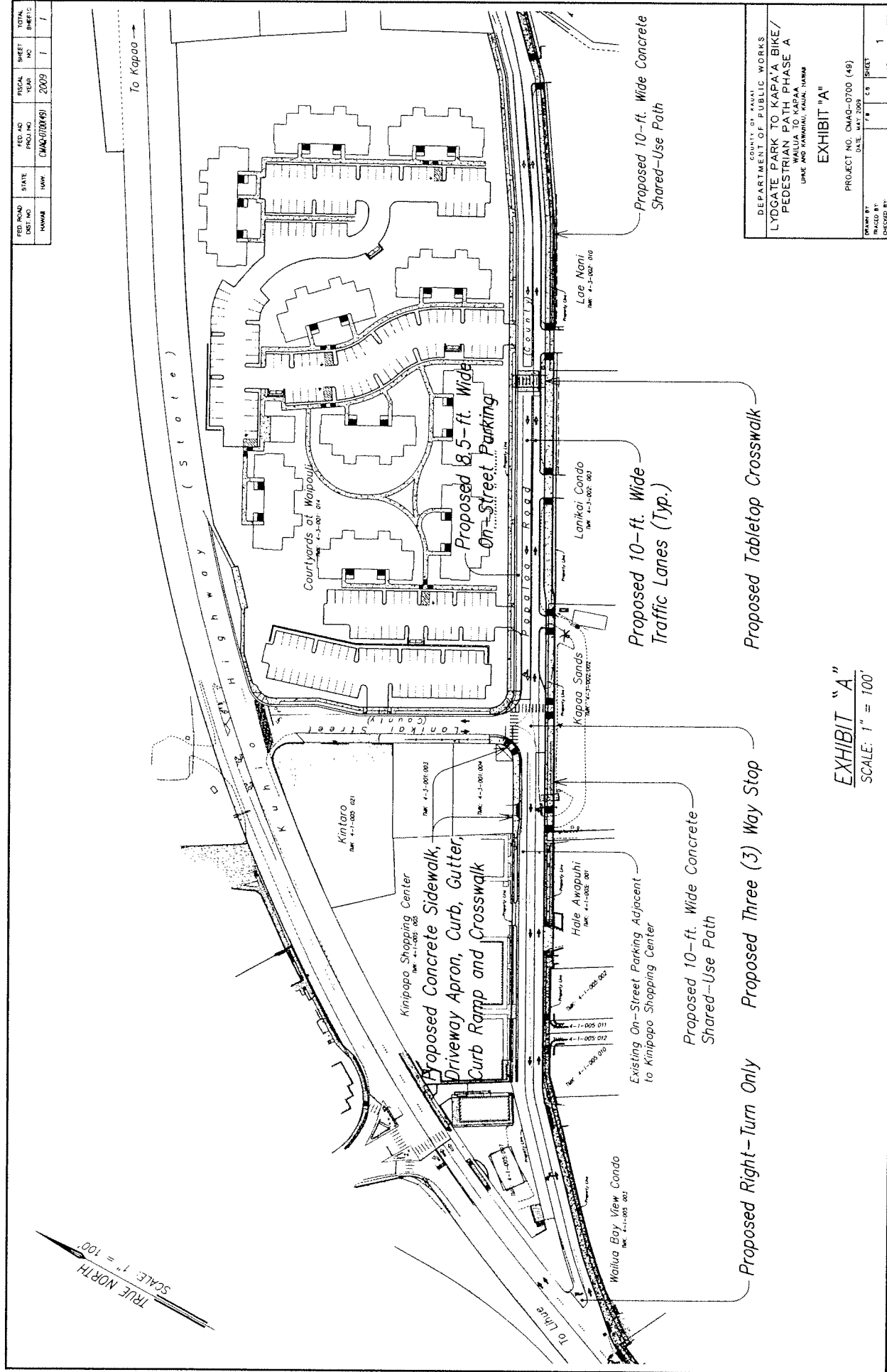
We hereby certify that Resolution No. _____
was adopted by the Council of the County of Kaua'i, State of
Hawaii, Lihue, Kaua'i, Hawaii, on

County Clerk
Dated

Chairman & Presiding Officer

Reso. No. 2009-46

FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII		06A-0700(49)	2009	1	1



DATE	BY	NO.	OF	SHEETS
MAY 2009		1	1	1

COUNTY OF HAWAII
 DEPARTMENT OF PUBLIC WORKS
 LYDGGATE PARK TO KAPA'A BIKE/
 PEDESTRIAN PATH PHASE A
 URS AND TRANSPORTATION PLANNING AND DESIGN
 EXHIBIT "A"
 PROJECT NO. OMAQ-0700 (49)
 DATE: MAY 2009

EXHIBIT "A"
SCALE: 1" = 100'

Reso. No. 2009-46

COUNTY COUNCIL

COUNTY OF KAUAI

Resolution

RESOLUTION REPEALING RESOLUTION NO. 2006-20, AND REAPPOINTING MEMBERS TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Resolution No. 2006-20 is hereby repealed:

SECTION 2. Pursuant to Ordinance No. 812, the Kauai County Council hereby approves the following Council reappointments as follows:

PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION

Development Plan Area (3-Year Term)	Term Expires
Kōloa-Po'ipū-Kalāheo	
Theresita Kinnaman (Second Term)	May 1, 2012
Hanapēpē-Ele'ele	
Jean Nishida Souza (Second Term)	May 1, 2012

SECTION 3. This resolution shall take effect upon its approval.

SECTION 4. The County Clerk shall transmit a copy of this resolution to the Boards and Commissions Office and the Planning Department for appropriate distribution.

Introduced by:

Bill "Kaipo" Asing
BILL "KAIPO" ASING
(By Request)

	Aye	Nay	Exc	Recused
Asing				
Bynum				
Chang				
Furfaro				
Kaneshiro				
Kawahara				
Kawakami				
Total				

Certificate Of Adoption

We hereby certify that Resolution No. _____ was adopted by the Council of the County of Kauai, State of Hawaii, Lihue, Kauai, Hawaii, on _____

County Clerk
Dated

Chairman & Presiding Officer

Reso. No. 2009-47

COUNTY COUNCIL

COUNTY OF KAUA'I

Resolution

RESOLUTION TO ESTABLISH A SPECIAL ADVISORY COMMITTEE
TO REVIEW AND RECOMMEND AMENDMENTS TO THE
RULES OF THE COUNTY COUNCIL OF THE COUNTY OF KAUA'I

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. There is hereby established a Special Advisory Committee to review and recommend amendments to the Rules of the County Council of the County of Kaua'i.

SECTION 2. The purpose of the Special Advisory Committee shall be to review and recommend amendments, if necessary, to the Rules of the County Council of the County of Kaua'i.

SECTION 3. The members of the Special Advisory Committee shall be Mr. Teofilo Tacbian, Mr. Ronald Kouchi, and the Honorable George Masuoka, ret. In the event any member is unable to serve, Mr. Randall Francisco shall serve in their place.

SECTION 4. The Special Advisory Committee's scope of work is to review the Rules of the County Council of the County of Kaua'i and to recommend if the Rules should be amended or clarified.

SECTION 5. The Special Advisory Committee will report to the Kaua'i County Council within ninety (90) days of the adoption of this resolution.

SECTION 6. This resolution shall take effect upon its approval.

Introduced by:

DICKIE CHANG

JAY FURFARO

	Aye	Nay	Exc	Recused
Boing				
Bynum				
Chang				
Furfaro				
Kaneshiro				
Kawahara				
Kawakami				
Total				

Certificate Of Adoption

We hereby certify that Resolution No. _____ was adopted by the Council of the County of Kaua'i, State of Hawaii, Lihue, Kaua'i, Hawaii, on

County Clerk

Chairman & Presiding Officer

Dated

Reso No. 2009-48

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
PUBLIC PARKS AND RECREATION**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 19, Article 1, Section 19-1.4 of the Kauai County Code 1987, as amended, is hereby amended as follows:

“Sec. 19-1.4 General Prohibitions Applicable To All Parks And Recreation Facilities.

- (a) No person at a park or recreation facility shall:
 - (1) Abandon any vehicle or other personal property.
 - (2) Leave any vehicle or other personal property unattended for longer than twenty-four (24) hours.
 - (3) Operate or use any audio devices including radios, television sets, musical instruments or noise-producing devices such as electric generators, or other equipment driven by motors or engines, in such a manner and at such times that produces unreasonable noise as defined in HRS Chapter 711-1101, unless authorized by the Director or his designated representative on a permit.
 - (4) Use utilities and appurtenances for non-recreational, commercial, or other activities, unless authorized by the Director or his designated representative on a permit.
 - (5) Install aerial or other special radio, telephone, or television equipment, unless authorized by the County Engineer or his designated representative on a permit.
 - (6) Operate or use public address systems, whether fixed, portable or mounted on a vehicle, unless authorized by the Director or his designated representative on a permit.
 - (7) Disturb or interfere with any other person occupying an area, or participating in any authorized activity.
 - (8) Lead or let loose any dogs or other domestic animals, unless authorized by the Director or his designated representative on a permit.
 - (9) Use, carry or possess firearms and weapons of any description, except for bows and arrows for archery competitions and air rifles for air rifle competitions when authorized by the Director or his designated representative on a permit.

Proposed Bill 2320

(10) Drive or park motorized vehicles, including dune buggies, motorcycles, minicycles, and scooters, or ride horses, except on designated roads and parking areas, unless authorized by the County Engineer or his designated representative by signage or on a permit.

(11) Mark, deface, or remove any natural feature or natural resources.

(12) Destroy, injure, deface or remove in any manner any public building, sign, equipment, monument, marker or other structure.

(13) Destroy, dig or remove tree, shrub or other plant, unless authorized by the County Engineer or his designated representative on a permit.

(14) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, unless authorized by the County Engineer or his designated representative on a permit, except for a pre-fab and manufactured quick tent no larger than 20 feet x 20 feet for an event or gathering.

(15) Start a fire except within designated grills, portable grills, and fireplaces. No fire shall be left unattended and all fires shall be fully extinguished after use.

(16) Throw or drop a lighted cigarette, cigar, pipe heel, match or other burning material, except to start a fire within designated grills, portable grills, and fireplaces as allows in paragraph 15.

(17) Use roller skates, roller blades, skateboards, or bicycles except in designated areas authorized by the County Engineer or his designated representative through signage.

(18) Dance on any gymnasium floor while wearing shoes, provided that dancing with shoes shall be permitted if a protective covering over the floor is used.

(19) Dispose litter in other than designated trash receptacles.

(20) Possess or consume any intoxicating liquor between the hours of 11:00 P.M. and 6:00 A.M., provided that this section shall not apply to campers with valid camping permits.

(21) Operate or use air-horns, unless authorized by the Director or his designated representative on a permit, or to start or end events or races. As used herein, air-horn means a device intended to produce a sound signal by means of compressed air or gas or exhaust gas.

(b) Entering or remaining in a park area when [manifestly] obviously under the influence of alcohol, narcotics or other drugs, to a degree that may endanger oneself or other persons or property, or unreasonably annoy persons in the vicinity is prohibited.

(c) County Employees authorized by the County Engineer or the Director shall have the authority to issue citations and charges for any violations of the provisions of this Section.

(d) Any person convicted of violating any provision of this Section or as the same may be amended or supplemented, shall be punished by a fine not exceeding \$500.00 nor less than \$15.00. In addition, the County shall have the right to avail itself of any civil remedy appropriate under the circumstances.

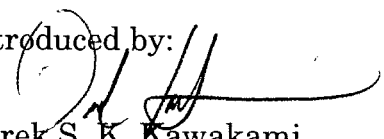
[(e) Expiration. Section 19-1.4(a)(20) is hereby repealed 18 months after its enactment.]”

SECTION 2. If any provision of this Ordinance, or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 3. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, the brackets, bracketed material and underscoring need not be included.

SECTION 4. This Ordinance shall take effect upon its approval.

Introduced by:


Derek S. K. Kawakami

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE ESTABLISHING
A NEW ARTICLE 19, CHAPTER 22, KAUAI COUNTY CODE 1987,
RELATING TO PLASTIC BAG REDUCTION

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The production and use of plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to unsightly litter; creating an additional burden on the landfill; contributing to potential death of marine animals through ingestion and entanglement; and requiring the use of millions of barrels of crude oil for their manufacture.

The Council of the County of Kauai finds and declares that to preserve the health, safety, welfare and scenic beauty of Kauai, the distribution of plastic bags should be regulated and prohibited.

The purpose of this legislation is to encourage customers to bring their own reusable bags when shopping. If the customer forgets to bring their own bag, or chooses not to, this ordinance does not prevent the retail establishment from providing recyclable bags for sale. This effort will lessen the negative impact on our environment caused by plastic shopping bags. Produce bags in grocery stores will still be permissible.

SECTION 2. Chapter 22, Kauai County Code 1987, is hereby amended by adding a new Article 19 to be appropriately designated and to read as follows:

“ARTICLE 19. PLASTIC BAG REDUCTION

Sec. 22-19.1 Definitions.

As used in this Article, unless the content clearly requires otherwise:

“Biodegradable Bag” means a bag that is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves and food waste. When placed in a landfill it will decompose at the same rate as other biodegradable materials.

Proposed Bill 2021

“Checkout Bag” means a bag that is provided by a retail establishment at the checkstand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Checkout bags does not include bags provided solely for produce, bulk food, or meat at a produce, bulk food or meat department within a grocery store, supermarket, produce or meat market or other similar retail establishment.

“Recyclable Paper Bag” means a bag that meets all the following requirements: (1) contains no old growth fiber; (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled content; and (3) displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bag.

“Retail Establishment” means any commercial business facility that sells goods directly to the ultimate consumer, including, but not limited to, grocery stores, pharmacies, liquor stores, “mini-marts,” and retail stores and vendors selling clothing, food and personal items.

“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric and/or is made of a durable material at least 2.25 millimeters thick and suitable for reuse.

Sec. 22-19.2 Mandatory Use of Recyclable Checkout Bags.

(a) All retail establishments shall provide only the following as checkout bags to customers: recyclable paper bags, biodegradable bags and/or reusable bags.

(b) Nothing in this ordinance shall preclude any retail establishment from offering checkout bags for sale to customers.

Sec. 22-19.3 Enforcement and Penalties.

(a) Any person who violates this Article shall be subject to civil penalties as follows: (1) \$100.00 for the first violation, (2) \$200.00 for the second violation within the same year, and \$500.00 for each additional violation in the same year. Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate fine and may be cited as such.

(b) The County Engineer or designee will have primary responsibility for enforcement of this Article. The County Engineer or designee is authorized to promulgate regulations and to take any and all other actions reasonably necessary to enforce this Article, including, but not limited to, entering the premises of any affected Retail Establishment to verify compliance.

(c) The County Attorney may seek legal, injunctive, or other equitable relief to enforce this Article.

Sec. 22-19.4 No Conflict with Federal or State Law.

Nothing in this Article shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

Sec. 22-19.5 Exemptions.

The County Engineer, or his designee, may exempt an entity from the requirements of this chapter for an interim period no longer than eighteen (18) months upon sufficient showing by the applicant that the provisions of this chapter would cause undue hardship. This request must be submitted in writing to the County. The phrase "undue hardship" may include, but is not limited to, the following:

(a) Situations where there are no acceptable alternatives to plastic shopping bags for reasons which are unique to the entity.

(b) Situations where compliance with the requirements of this article would deprive a person of a legally protected right."

SECTION 3. Severability. If any provision of this Article, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

SECTION 4. This ordinance shall take effect on July 1, 2010.

Introduced by:


TIM BYNUM


LANI T. KAWAHARA

Date of Introduction:

Lihu'e, Kaua'i, Hawai'i

Proposed Bill 2321

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8,
KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO THE COMPREHENSIVE ZONING ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose: The Kauai County Council finds that due to the recession and tight credit market, lot owners have been unable to obtain financing to construct houses. The purpose of this bill is to extend the deadline for obtaining a building permit from December 15, 2009 to December 15, 2014 for the owners of lots who have (1) obtained an Additional Dwelling Unit ("ADU") Facilities Clearance Form on or before June 15, 2007, or (2) who have submitted a building permit application and an ADU Facilities Clearance Form signed by the employees of the agencies listed on the form by November 22, 2006.

SECTION 2. Article 26, Section 8-26.1(d) of Kauai County Code 1987, as amended, is hereby amended as follows:

"(d) Notwithstanding the expiration of Section 8-26.1(a), and subject to compliance with all applicable legal requirements and conditions, a building permit for an additional dwelling unit shall be granted for a lot in existence as of December 31, 2006 which, up to December 31, 2006, was eligible to apply for an additional dwelling unit under Section 8-26.1(a) and for which an ADU Facilities Clearance Form is certified as complete by the Planning Director as of June 15, 2007 or for which an ADU Facilities Clearance form was signed by the authorized employees of all agencies or departments listed in the ADU Facilities Clearance Form and submitted with a building permit application prior to [the adoption of this ordinance,] November 22, 2006, provided that:

(1) The term "lot in existence as of December 31, 2006," as used in Section 8-26.1(d) shall not apply to any lot created by the relocation of a kuleana lot by consolidation and resubdivision pursuant to the provisions of Chapter 9, Kauai County Code 1987, as amended ("Subdivision Ordinance"), where such consolidation and resubdivision occurs after December 31, 2006.

(2) All applicable county requirements not inconsistent with Section 46-4(c), Hawaii Revised Statutes, and the county's zoning provisions applicable to residential use are met, including, but not limited to, building height, setback, maximum lot coverage, parking, and floor area requirements.

(A) If the additional dwelling unit is to be built in a Special Treatment District or Constraint District, all

requirements of such district shall be met.

(B) Notwithstanding any other provision to the contrary, for lots in the Urban and Rural State Land Use Districts which were re-zoned from Residential to Open District after September 1, 1972, the maximum lot coverage shall be the same as the residential district requirement.

(3) The provisions of this subsection shall not apply to lots developed under a project development, or other multi-family development, or similar provisions where the aggregate number of dwelling units for such development exceeds the density otherwise allowed in the zoning district, or where additional dwelling units are specifically prohibited by zoning ordinance.

(4) For lots on which an additional dwelling unit is developed, no guest house under Sec. 8-3.3(a)(2) shall be allowed. An existing guest house may be converted into an additional dwelling unit, but no additional guest house may be constructed.

(5) The following public facilities are found adequate to service the additional dwelling unit:

(A) Public sanitary sewers, an individual wastewater system (or cesspool), or a private sanitary sewer system built to County standards and approved by the Department of Health.

(B) For sewerred areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system shall be confirmed in writing by the Department of Health.

(C) The availability of water (including, but not limited to, source, transmission, and storage lines/facilities) shall be confirmed in writing by the Department of Water.

(D) Approval in writing from the Kaua'i Fire Department is required for all parcels.

(E) The lot must have direct access to a street which has an all weather surface (asphalt or concrete) roadway pavement continuous to the major thoroughfare, or if the street does not have such all weather surface at the time of application for a building permit, there exist funds specifically appropriated in the capital improvement budget ordinance for such roadway pavement. The Planning Director and County Engineer shall apply the standards and criteria for requiring road improvements established in the Subdivision Ordinance and the "Kaua'i County Planning Commission Road Widening Policy" (as may be amended from time to time), for those roads which are considered substandard.

(6) An ADU Facilities Clearance Form as prescribed by the Planning Director shall be completed prior to application for a building permit and shall be submitted with the building permit application. Completion of the ADU Facilities Clearance form shall not guarantee the issuance of a building permit. All requirements and conditions on

the completed ADU Facilities Clearance Form shall be met prior to issuance of a building permit based on legal requirements at the time of building permit issuance. The Planning Director shall certify the ADU Facilities Clearance Form as complete, only if every signature blank on the form has been signed by the respective department or agency, and the applicant has signed an affidavit prescribed by the Planning Director verifying 1) that there is no restriction or covenant applicable in any deed, lease, or other recorded document which prohibits the construction or placement of an additional dwelling unit on the applicable lot, and 2) that the applicant understands that completion of an ADU Facilities Clearance Form does not guarantee or vest any right to a building permit, and that all conditions and requirements in existence at the time of building permit application shall be met before a building permit can be issued. The Planning Department shall keep a record of all ADU Facilities Clearance Forms that are issued and shall retain the original affidavits and the original ADU Facilities Clearance Forms that are certified as complete by the Department.

(7) Nothing contained in this section shall affect private covenants or deed restrictions that prohibit the construction of a second dwelling unit on any lot.

(8) Notwithstanding any law to the contrary, no building permit for an additional dwelling unit shall be issued pursuant to this Section after December 15, [2009.] 2014.”

SECTION 3. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, the brackets, bracketed material and underscoring need not be included.

SECTION 5. This Ordinance shall take effect on _____.

Introduced by:

JAY FURFARO

DATE OF INTRODUCTION:

LĪHU‘E, KAUA‘I, HAWAII

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