

RECEIVED

COUNCIL MEETING NOTICE AND AGENDA

WEDNESDAY, AUGUST 13, 2014

9:00 A.M. OR SOON THEREAFTER

**COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LIHU'E, KAUA'I, HAWAII 96766**

14 AUG -7 P3:39
OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

E. MINUTES of the following meetings of the Council:

1. June 25, 2014 Council Meeting
2. July 9, 2014 Council Meeting
3. July 9, 2014 Public Hearing re: Resolution No. 2014-36 and Resolution No. 2014-37
4. July 16, 2014 Special Council Meeting
5. July 23, 2014 Council Meeting
6. July 23, 2014 Special Council Meeting
7. July 23, 2014 Public Hearing re: Bill No. 2547

F. CONSENT CALENDAR:

1. C 2014-216 Communication (07/07/2014) from the Director of Planning, transmitting the Planning Commission's recommendation to amend Chapter 8, Article 17, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance, to increase the fee charged by the Planning Department from \$500 to \$750 for non-conforming use certificate fees charged as a part of the County's Transient Vacation Rental (TVR) program. *(Copies of the Planning Department Director's Report and the Minutes of the May 27, 2014 Planning Commission Meeting on file in the County Clerk's Office.) (See Proposed Draft Bill (No. 2540))*

2. C 2014-217 Communication (07/08/2014) from the Director of Finance, transmitting for Council information, the Period 11 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of May 31, 2014, pursuant to Section 21 of Ordinance No. B-2013-753, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2013-2014. *(Copies of the Period 11 Financial Reports as of May 31, 2014 on file in the County Clerk’s Office.)*

3. C 2014-218 Communication (07/16/2014) from the Director of Finance, transmitting for Council information, the Period 12 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of June 30, 2014, pursuant to Section 21 of Ordinance No. B-2013-753, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2013-2014. *(Copies of the Period 12 Financial Reports as of June 30, 2014 on file in the County Clerk’s Office.)*

4. C 2014-219 Communication (07/18/2014) from the County Engineer, transmitting for Council consideration, proposed amendments to Section 21 of the Kaua‘i County Code 1987, as amended, Relating To Integrated Solid Waste Management To Establish Variable Rates For The Collection Of Residential And Commercial Refuse, to establish variable rates for refuse collection service, also known as the “Pay As You Throw (PAYT)” system, as recommended in the Kaua‘i County PAYT Implementation Plan prepared by Econservation Institute through a grant from the Environmental Protection Agency (EPA), which addresses Phase 1 of the plan. *(See Proposed Draft Bill (No. 2551))*

G. COMMUNICATIONS:

1. C 2014-220 Communication (07/18/2014) from Councilmember Hooser, requesting the presence of the Acting Manager and Chief Engineer from the Department of Water, to provide the Council with an update on the Department’s upcoming initiatives as it relates to the Water Plan 2020, upcoming budgetary needs, other financial obligations as a semiautonomous entity of the County of Kaua‘i, the status of the Kahili Horizontal Directionally Drilled Well project, and the quarterly reports on the financial status and activities of management and operations as required by the Charter of the County of Kaua‘i.

2. C 2014-221 Communication (07/07/2014) from the Chief of Police, requesting Council approval to accept and utilize a vehicle acquired from the Asset Forfeiture Program for law enforcement purposes, replacing a vehicle that was previously disposed, a black 2001 Nissan Xterra SUV, VIN No. 5N1ED28TX1C525387, that was assigned to the Vice Section.

3. C 2014-222 Communication (07/10/2014) from the Executive on Transportation, requesting Council approval to receive, indemnify, and expend Federal Transit Administration (FTA) Section 5304 Statewide Planning Funds, in the amount of \$200,000, to support the Transportation Agency's completion of a Short Range Transit Plan for the County of Kaua'i.

4. C-2014-223 Communication (07/10/2014) from the County Engineer, requesting Council approval for the Department of Public Works Automotive Division to purchase two (2) 120-gallon 10-hp 3 phase compressors, at a cost of \$15,000 each (total \$30,000), to replace two (2) old 120-gallon 10-hp 3 phase compressors.

5. C 2014-224 Communication (07/16/2014) from the First Deputy County Attorney, transmitting for Council information the Quarterly Report on Settled Claims Against the County of Kaua'i from April 1, 2014 through June 30, 2014.

6. C 2014-225 Communication (07/25/2014) from the County Attorney, requesting authorization to expend additional funds up to \$50,000 for Special Counsel's continued services provided in Syngenta Seeds, Inc., a Delaware corporation, et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court), and related matters.

7. C 2014-226 Communication (07/25/2014) from the County Attorney, requesting authorization to expend additional funds up to \$50,000 for Special Counsel's continued services provided in Eric Y. Shibuya vs. County of Kaua'i, et al., Civil No. 13-1-0345 (Fifth Circuit Court), and related matters.

8. C 2014-227 Communication (07/25/2014) from the County Attorney, requesting authorization to expend additional funds up to \$30,000 for Special Counsel's continued services to represent Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters.

H. COMMITTEE REPORT:1. COMMITTEE OF THE WHOLE:**a. CR-COW 2014-10: on Bill No. 2547**

A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC [Approved.]

I. BILLS FOR FIRST READING:

1. Proposed Draft Bill (No. 2540) – A BILL FOR AN ORDINANCE AMENDING ARTICLE 17, CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO NONCONFORMING USE CERTIFICATES FOR SINGLE FAMILY VACATION RENTALS (*Referred to the Planning Commission 03/27/2014*)

2. Proposed Draft Bill (No. 2551) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 21, SECTIONS 21-1.3 AND 21-9.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT TO ESTABLISH VARIABLE RATES FOR THE COLLECTION OF RESIDENTIAL AND COMMERCIAL REFUSE (PAY AS YOU THROW)

J. BILL FOR SECOND READING:

1. Bill No. 2547 – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC (*See also CR-COW 2014-10; the Committee of the Whole recommended approval on second and final reading.*)

K. EXECUTIVE SESSION: *Pursuant to Hawai'i Revised Statutes (HRS) §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 HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (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.)*

1. ES-746 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(e), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
2. ES-747 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in Syngenta Seeds, Inc., a Delaware corporation, et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court), and related 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.
3. ES-748 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in Eric Y. Shibuya vs. County of Kaua'i, et al., Civil No. 13-1-0345 (Fifth Circuit Court), and related 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.
4. ES-749 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued representation of Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related 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.

5. ES-750 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(2), and Sections 3.07(d) and 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council for discussion and decision on whether to sanction Councilmember Tim Bynum pursuant to Section 3.07.D of the Kaua'i County Charter, and related matters. The purpose of this Executive Session is to consider the discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting will be held.

6. ES-751 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide a briefing regarding EEOC Charge Nos. 486-2013-00066, 486-2013-00345, 486-2013-00047, 486-2013-00343, 486-2013-00005, 486-2013-00342 concerning the County of Kaua'i, Kaua'i Police Department, and to obtain settlement authority, and related 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.

L. ADJOURNMENT.

M. PUBLIC HEARING 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.

*[*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.]*

For a copy of the notice, please go to:

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. Bill No. 2548 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Time Share Tax Classification Proposal)
2. Bill No. 2549 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Residential Investor Tax Classification Proposal)
3. Bill No. 2550 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Vacant Land Re-Classification)

- N. 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, SUITE 209, LĪHUʻE, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.