

COUNCIL MEETING NOTICE AND AGENDA

THURSDAY, JANUARY 12, 2017

8:30 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS

HISTORIC COUNTY BUILDING

4396 RICE STREET, SUITE 201

LĪHU‘E, KAUA‘I, HAWAII 96766

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. November 16, 2016 Council Meeting
2. November 16, 2016 Public Hearing re: Resolution No. 2016-60, Bill No. 2639, and Bill No. 2640
3. December 1, 2016 Inaugural Meeting

E. INTERVIEW:

1. BOARD OF REVIEW:

- [Russell M. Wong](#) – Term ending 12/31/2019

F. CONSENT CALENDAR:

1. [C 2017-20](#) Communication (11/18/2016) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointments to various Boards and Commissions for the County of Kaua‘i:
 - a. Civil Service Commission
 - Vonnell F. Ramos – Term ending 12/31/2019
 - b. Cost Control Commission
 - Preston I. S. Chong – Term ending 12/31/2019
(See Resolution No. 2017-09 and Resolution No. 2017-10)

2. [C 2017-21](#) Communication (11/30/2016) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Maryanne W. Kusaka to the Liquor Control Commission – Term ending 12/31/2019. **(See Resolution No. 2017-11)**
3. [C 2017-22](#) Communication (12/16/2016) from Councilmember Brun, providing written disclosure of a possible conflict of interest and recusal regarding Bill No. 2643, Repealing Article 23 of Chapter 22, Relating to Pesticides and Genetically Modified Organisms, as he is employed by Syngenta Seeds on Kauaʻi.
4. [C 2017-23](#) Communication (12/19/2016) from the Director of Finance, transmitting for Council information, the Schedule of Fund Balances for the Fiscal Year Ended June 30, 2016, pursuant to Section 19.14 of the Charter of the County of Kauaʻi.
5. [C 2017-24](#) Communication (12/28/2016) from the Mayor, submitting his veto of Bill No. 2635, Draft 2, Relating to the Wailua Golf Course. **(See Bill to Lay on Table)**
6. [C 2017-25](#) Communication (12/28/2016) from the Housing Director, transmitting for Council consideration, a Resolution Amending Resolution No. 2016-53, Approving The Lima Ola Workforce Housing Project Pursuant To Section 201H-38, Hawaiʻi Revised Statutes, to clarify and reference the proper Tax Map Key (TMK) for the project, which is now TMK (4) 2-1-001:054 and was modified to reflect the TMK assigned to the parcel after the subdivision of the parcel. **(See Resolution No. 2017-12)**

G. BILL TO LAY ON TABLE:

Pursuant to Section 4.03A of the Kauaʻi County Charter, the Council must enter the objections of the Mayor in the journal of the Council and “Lay the Veto on the Table.” The Council may, after five (5) and within thirty (30) days after the Bill has been so returned, reconsider the vote upon the Bill.

This agenda item is only for the purpose of laying the veto on the table. The Council will NOT be voting to override or sustain the Mayor’s veto at this meeting.

Any future Council Meeting to override or sustain the Mayor’s veto will be scheduled pursuant to Hawaiʻi Revised Statutes (HRS), Chapter 92.

1. [Bill No. 2635, Draft 2](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE WAILUA GOLF COURSE **(Mayoral Veto December 28, 2016; Received by the Office of the County Clerk on December 29, 2016)**

H. COMMUNICATIONS:

1. [C 2017-06](#) Communication (10/20/2016) from the Fire Chief, requesting Council approval of the indemnification language contained in State Lease No. DOT-A-16-0005, to release and indemnify the State of Hawai'i Department of Transportation Airports Division. *(See also CR-PST 2017-02; the Public Safety & Transportation Committee recommended approval on January 4, 2017.)*

2. [C 2017-26](#) Communication (12/20/2016) from the Director of Economic Development, requesting Council approval to receive and expend funds in the amount of \$161,120.00, from the State of Hawai'i, Division of Vocational Rehabilitation (DVR), and to indemnify the State DVR, for the County of Kaua'i's Workforce Innovation and Opportunities Act (WIOA)/DVR 2017 Summer Youth Employment Program (DVR-SYEP), which enables the County of Kaua'i to conduct a summer youth employment program for vocational rehabilitation participants (with special needs) with subsidized summer jobs to acquire work experience in a safe environment in addition to helping them develop good work habits.

3. [C 2017-27](#) Communication (12/22/2016) from the Housing Director, requesting Council approval for the following:
 - a. Fee simple acquisition from the owners of the residential unit at 3920 Haoa Street, #113, Līhu'e, Kaua'i, Hawai'i, TMK: (4) 3-5-001-165-0003, for not more than \$191,550.00;
 - b. Fee simple resale of the residential unit situated at 3920 Haoa Street, #113, Līhu'e, for not more than \$191,550.00, to a participant on the Affordable Housing Program Waitlist and will be subject to the County of Kaua'i's Restriction on Sale or Transfer, Debt and Use for a period of twenty (20) years;
 - c. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

4. [C 2017-28](#) Communication (12/30/2016) from the Hawai'i State Association of Counties President Michael P. Victorino, transmitting for Council approval, the Hawai'i State Association of Counties (HSAC) Executive Committee's nomination of Hawai'i County Councilmember Dru Kanuha to fill a vacancy on the board of the National Association of Counties' Western Interstate Region (WIR) for the term ending on June 30, 2017, pursuant to the Bylaws of the Hawai'i State Association of Counties, Inc. ***(See Resolution No. 2017-13)***

I. LEGAL DOCUMENT:

1. [C 2017-29](#) Communication (12/29/2016) from the Director of Finance, requesting Council approval to enter into a Memorandum of Agreement (MOA) between the State of Hawai'i's Department of Defense and the County of Kaua'i for use of the Kapa'a Armory.
 - Memorandum of Agreement Between the State Department of Defense and the County of Kaua'i

J. CLAIMS:

1. [C 2017-30](#) Communication (12/05/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by David R. Wellington, for property damage and for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. [C 2017-31](#) Communication (12/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Bacon Universal Company, Inc., for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. [C 2017-32](#) Communication (12/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Bacon Universal Company, Inc., for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. [C 2017-33](#) Communication (12/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Bacon Universal Company, Inc., for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i.
5. [C 2017-34](#) Communication (12/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Bacon Universal Company, Inc., for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i.
6. [C 2017-35](#) Communication (12/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Bacon Universal Company, Inc., for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i.

K. COMMITTEE REPORTS:1. PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

- a. **CR-PWPR 2017-05:** on PWPR 2017-04 Communication (12/28/2016) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide a briefing on the Kaua'i Community Recycling Services, Inc. (KCRS) contract and the temporary closure of the HI5 redemption centers operated by KCRS. **[Received for the Record.]**
- b. **CR-PWPR 2017-06:** on PWPR 2017-03 Communication (12/05/2016) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide an update on the Lepeuli Fencing Project. **[Received for the Record.]**

2. PLANNING COMMITTEE:

- a. **CR-PL 2017-01:** on Bill No. 2634 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, TO ALLOW MULTIPLE FAMILY DWELLING UNITS IN ALL RESIDENTIAL ZONING DISTRICTS (*Kauai County Council, Applicant*) **[Approved.]**

3. PUBLIC SAFETY & TRANSPORTATION COMMITTEE:

- a. **CR-PST 2017-02:** on C 2017-06 Communication (10/20/2016) from the Fire Chief, requesting Council approval of the indemnification language contained in State Lease No. DOT-A-16-0005, to release and indemnify the State of Hawai'i Department of Transportation Airports Division. **[Approved.]**

L. RESOLUTIONS:

1. [Resolution No. 2017-09](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Vonnell F. Ramos*)
2. [Resolution No. 2017-10](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION (*Preston I. S. Chong*)
3. [Resolution No. 2017-11](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Maryanne W. Kusaka*)
4. [Resolution No. 2017-12](#) – RESOLUTION AMENDING RESOLUTION NO. 2016-53, APPROVING THE LIMA OLA WORKFORCE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES
5. [Resolution No. 2017-13](#) – RESOLUTION APPROVING A NOMINATION TO FILL AN UNEXPIRED TERM ON THE WESTERN INTERSTATE REGION BOARD OF DIRECTORS FOR FISCAL YEAR 2017

M. BILL FOR SECOND READING:

1. [Bill No. 2634](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, TO ALLOW MULTIPLE FAMILY DWELLING UNITS IN ALL RESIDENTIAL ZONING DISTRICTS (*Kauai County Council, Applicant*) (*See also CR-PL 2017-01; the Planning Committee recommended approval on second and final reading.*)

N. EXECUTIVE SESSION: *Pursuant to Hawaii 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 at the Office of the County Attorney and/or the Office of the County Clerk. Discussions held in Executive Session are closed to the public.)*

1. ES-883 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(2), 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Kaua'i County Council, requests an Executive Session to brief the Council on matters regarding the Notice of Violation and Order (NOVO) from the State of Hawai'i Department of Health, Clean Water Branch for National Pollutant Discharge Elimination System (NPDES) Permit related violations and penalties at four (4) refuse transfer stations, and related matters. 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. ***(Deferred December 14, 2016)***

2. ES-888 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, on behalf of the Kaua'i County Council, requests an Executive Session to allow Special Counsel to provide the Council with a briefing in Syngenta Seeds, Inc., et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court); Nos. 14-16833 and 14-16848 (United States Court of Appeals for the Ninth Circuit), 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-889 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 regarding the claims filed against the County of Kaua'i by Bacon Universal Company, Inc., and related matters. 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.

O. ADJOURNMENT.

- P. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for a public hearing on the following. After the public hearing, 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 at the Office of the County Clerk 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/Council/PublicHearings>

1. [Bill No. 2641](#) – A BILL FOR AN ORDINANCE AUTHORIZING THE EXECUTION OF A LONG-TERM LEASE AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION
2. [Bill No. 2642](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Transportation Agency – Six (6) New On-Call Driver Positions*)
3. [Bill No. 2643](#) – A BILL FOR AN ORDINANCE TO AMEND THE KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 23 OF CHAPTER 22, RELATING TO PESTICIDES AND GENETICALLY MODIFIED ORGANISMS
4. [Bill No. 2644](#) – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-94-82 RELATING TO ZONING DESIGNATION IN HANĀMA‘ULU, KAUAI (*Amfac Property Development Corp.*) (ZA-2017-1)

- Q. 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, LĪHU‘E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

***TO VIEW MEETINGS OR MEETING ARCHIVES, PLEASE VISIT: WWW.KAUAI.GOV/WEBCASTMEETINGS.**