

# COUNCIL MEETING NOTICE AND AGENDA

WEDNESDAY, JUNE 28, 2017

8:30 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS

HISTORIC COUNTY BUILDING

4396 RICE STREET, SUITE 201

LĪHUʻE, KAUAʻI, HAWAII 96766

## A. MEETING CALLED TO ORDER.

## B. ROLL CALL.

## C. APPROVAL OF AGENDA.

## D. MINUTES of the following meetings of the Council:

1. May 31, 2017 Council Meeting
2. June 14, 2017 Council Meeting
3. June 14, 2017 Public Hearing re: Bill No. 2650, Bill No. 2651, Bill No. 2653, and Bill No. 2654

## E. INTERVIEWS:

### 1. BOARD OF REVIEW:

- [Christopher Alan White – Term ending 12/31/2019](#)

### 2. CHARTER REVIEW COMMISSION:

- [Jan W. TenBruggencate – Term ending 12/31/2019](#)
- [Ricky R. Watanabe – Term ending 12/31/2019](#)

## F. CONSENT CALENDAR:

1. [C 2017-147](#) Communication (06/01/2017) from the Director of Finance, transmitting for Council information, the Period 10 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of April 30, 2017, pursuant to Section 21 of Ordinance No. B-2016-812, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2016-2017. (*Copies of the Period 10 Financial Reports as of April 30, 2017 on file in the Office of the County Clerk.*)

2. [C 2017-148](#) Communication (06/09/2017) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal regarding C 2017-143, relating to a Water System Use Agreement between Grove Farm Company, Inc., and the County of Kaua'i, for the Adolescent Treatment and Healing Center, as he is a Project Manager employed by Grove Farm Company, Inc.
  
3. [C 2017-149](#) Communication (06/21/2017) from Councilmember Yukimura, providing written disclosure of a possible conflict of interest and recusal regarding ES-907, relating to a Notice to Appeal of Sunshine Law Complaint (S Appeal 17-11), as she filed the appeal with the Office of Information Practices, as she is involved in the appeal.

#### G. COMMUNICATIONS:

1. [C 2017-150](#) Communication (05/30/2017) from the Fire Chief, requesting Council approval to accept a donation from the Kaua'i Lifeguard Association (KLA), of one (1) Kawasaki 4x4 Utility Vehicle, valued at \$13,710.82, to be used by the Ocean Safety Bureau for emergency response and training purposes.
  
2. [C 2017-151](#) Communication (06/01/2017) from the Executive on Aging, requesting Council approval to receive and expend State General Funds for Fiscal Year 2018 and to indemnify the State Executive Office on Aging, in the amount of \$530,816.00 to be used by the County of Kaua'i, Agency on Elderly Affairs for the provision of Kupuna Care and Elder Abuse services, which includes adult day care, case management, home delivered meals, transportation, homemaker services, personal care, elder abuse, and administrative costs for Kupuna Care.
  
3. [C 2017-152](#) Communication (06/01/2017) from the Executive on Aging, requesting Council approval to receive and expend State General Funds for Fiscal Year 2018 and to indemnify the State Executive Office on Aging, in the amount of \$88,863.00 to be used by the County of Kaua'i, Agency on Elderly Affairs for the operating costs of the Aging and Disability Resource Center, which includes consultant services, inter-island travel, travel to conferences, postage, printing resource directory, online training programs, promotional items, replace electronic equipment, and supplies.

4. [C 2017-153](#) Communication (06/07/2017) from Councilmember Chock, transmitting for Council consideration, proposed amendments to Chapter 5A, Article 11 and 11A, Kaua'i County Code 1987, as amended, relating to Real Property Tax, to clarify the legislative intent when a property is transferred in/out of a trust, as well as provide consistent interpretation as to the meaning of the term "transfer." (*See Proposed Draft Bill (No. 2658)*)
  
5. [C 2017-154](#) Communication (06/15/2017) from the County Attorney, requesting authorization to expend funds up to \$50,000.00 for Special Counsel services to represent the Council regarding: (1) Actions taken by the Director of Human Resources regarding the pay adjustment request for the County Clerk; and (2) The process involved with filing a complaint against the Administration pertaining to a possible violation of the separation of powers, and related matters.
  
6. [C 2017-155](#) Communication (06/16/2017) from Council Chair Rapozo, transmitting for Council consideration, proposed amendments to Chapter 5A, Section 5A-11A.1, Kaua'i County Code 1987, as amended, relating to the Long Term Affordable Rental Program, to adjust the 2018 tax year rental rates to the 2015 tax year rental rates, and to set the 2015 tax year rates as the base program rates going forward, with an annual adjustment using the Consumer Price Index for all Urban Consumers (CPI-U). (*See Proposed Draft Bill (No. 2659)*)

#### H. CLAIM:

1. C 2017-156 Communication (06/13/2017) from the County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance as subrogee of Mark Clay Ackelson, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:1. BUDGET & FINANCE COMMITTEE:**a. CR-BF 2017-11:** on Bill No. 2651

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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Hanalei Coastal Property, Tax Map Key No: (4) 5-8-012:002*) **[Received for the Record.]**

**b. CR-BF 2017-12:** Bill No. 2652

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-813, AS AMENDED, RELATING TO THE CAPITAL 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Hanalei Coastal Property, Tax Map Key No: (4) 5-8-012:002*) **[Received for the Record.]**

**c. CR-BF 2017-13:** on Bill No. 2653

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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Kekaha Coastal Property, Tax Map Key No: (4) 1-2-013:041*) **[Received for the Record.]**

**d. CR-BF 2017-14:** on Bill No. 2654

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-813, AS AMENDED, RELATING TO THE CAPITAL 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Kekaha Coastal Property, Tax Map Key No: (4) 1-2-013:041*) **[Received for the Record.]**

**J. BILLS FOR FIRST READING:**

1. [Proposed Draft Bill \(No. 2658\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 11 AND 11A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX

2. [Proposed Draft Bill \(No. 2659\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-11A.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE BENEFICIAL TAX RATE FOR PROPERTY USED FOR LONG-TERM AFFORDABLE RENTAL

**K. BILLS FOR SECOND READING:**

1. [Bill No. 2651](#) – 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Hanalei Coastal Property, Tax Map Key No: (4) 5-8-012:002*) (*See also CR-BF 2017-11; the Budget & Finance Committee recommended Bill No. 2651 be received for the record.*)

2. [Bill No. 2652](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-813, AS AMENDED, RELATING TO THE CAPITAL 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Hanalei Coastal Property, Tax Map Key No: (4) 5-8-012:002*) (*See also CR-BF 2017-12; the Budget & Finance Committee recommended Bill No. 2652 be received for the record.*)

3. [Bill No. 2653](#) – 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 HAWAI‘I, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Kekaha Coastal Property, Tax Map Key No: (4) 1-2-013:041*) (*See also CR-BF 2017-13; the Budget & Finance Committee recommended Bill No. 2653 be received for the record.*)

4. [Bill No. 2654](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-813, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAI‘I, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Kekaha Coastal Property, Tax Map Key No: (4) 1-2-013:041*) (*See also CR-BF 2017-14; the Budget & Finance Committee recommended Bill No. 2654 be received for the record.*)

L. 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 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-908 Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4, 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 the Council with a briefing on the retention of Special Counsel services provided to represent the Council regarding: (1) actions taken by the Director of Human Resources regarding the pay adjustment request for the County Clerk; and (2) how to proceed with a complaint against the Administration pertaining to a possible violation of the separation of powers, 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.
2. ES-909 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 the Council with a briefing and request for authority to settle the case of Christina Pilkington vs. County of Kaua‘i, et al., Civil No. 14-1-0123 (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.

M. ADJOURNMENT.

- N. 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. 2655](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, TO ALLOW FOR THE CREATION OF A NEW UNIVERSITY DISTRICT *(County of Kaua'i Planning Department, Applicant)*
2. [Bill No. 2656](#) – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNITS 2 AND 13 BETWEEN JULY 1, 2017 AND JUNE 30, 2019
3. [Bill No. 2657](#) – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNITS 3 AND 4 BETWEEN JULY 1, 2017 AND JUNE 30, 2019

- O. 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, LIHU'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](http://WWW.KAUAI.GOV/WEBCASTMEETINGS).**