

**COUNCIL MEETING NOTICE AND AGENDA**  
**WEDNESDAY, AUGUST 22, 2018**  
**8:30 A.M. OR SOON THEREAFTER**  
COUNCIL CHAMBERS  
HISTORIC COUNTY BUILDING  
4396 RICE STREET, SUITE 201  
LIHU'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. July 11, 2018 Council Meeting
2. August 8, 2018 Public Hearing re: Bill No. 2715 and Bill No. 2716

E. CONSENT CALENDAR:

1. [C 2018-175](#) Communication (07/13/2018) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Elesther Calipjo to the Planning Commission (*Business*) – Partial Term ending 12/31/2019. (**See Resolution No. 2018-27**)
2. [C 2018-176](#) Communication (07/26/2018) from Councilmember Chock, transmitting for Council consideration and confirmation, Council appointee Aubrey Summers to the Kaua'i Historic Preservation Review Commission (*Architecture*) – Term ending 12/31/2020. (**See Resolution No. 2018-28**)

F. COMMUNICATIONS:

1. [C 2018-177](#) Communication (06/27/2018) from the Deputy Chief of Police, requesting Council approval, to accept funding from the Enhanced 911 (E-911) Board, in the amount up to \$312,000.00, which will be used for the remodel of the Kaua'i Public Safety Answering Point (PSAP), as there have been tremendous advancements in ergonomics, technical functionality, and equipment for the Emergency Services Dispatchers.

2. [C 2018-178](#) Communication (07/09/2018) from the Chief of Police, requesting Council approval of the indemnification provision in the Intergovernmental License Agreement for Law Enforcement Participants of the Sexual Assault Management System (SAMS 1.0), by and between the County of Kaua'i and the City of Portland, which will allow comprehensive tracking of sexual assault cases and evidence, allowing the Kaua'i Police Department to better serve victims of sexual assault, increase efficiency of multi-agency case collaboration and insure compliance with new sexual assault legislation.
  - Intergovernmental License Agreement for Law Enforcement Participants of the Sexual Assault Management System (SAMS 1.0)
  
3. [C 2018-179](#) Communication (07/11/2018) from Michael A. Dahilig, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, to distinguish two (2) Agriculture Districts, encourage agriculture production, and to discourage the development of "Gentlemen Estates" on lands suitable for long-term agriculture production. (*Copies of the Draft Ordinance for Zoning Amendment (ZA-2014-4); Minutes of the March 25, 2014 and March 27, 2018 Planning Commission Meetings; Director's Report; and Supplemental to the Director's Report #1, on file in the Office of the County Clerk.*) (**See Proposed Draft Bill (No. 2719)**)
  
4. [C 2018-180](#) Communication (07/25/2018) from the Fire Chief, requesting Council approval, to accept a donation of the following items from the Kaua'i Lifeguard Association (KLA):
  - One (1) solar public announcement system, valued at \$6,510.00, which will be utilized by the Ocean Safety Bureau to outfit the Pinetrees Tower in Hanalei;
  - Eight (8) Bennett surfboards, valued at \$10,068.00, which will be used in the Junior Lifeguard program for educational and promotional purposes, and for documentation of lifeguard training exercises; and
  - One (1) Canon camera, Model #1053585, valued at \$1,249.99, which will be used in the Junior Lifeguard program for educational and promotional purposes, and for documentation of lifeguard training exercises.
  
5. [C 2018-181](#) Communication (07/26/2018) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in the amount of \$51,313.00, from the Hawai'i Tourism Authority's (HTA) Kūkulu Ola Program, and to indemnify HTA, for the Ka Leo O Nā Kupa-Ni'hau Language Preservation Program.

6. [C 2018-182](#) Communication (07/31/2018) from the Executive on Transportation, requesting Council approval to apply for, receive, and expend Federal Transit Administration (FTA) Section 5311 Non Urbanized Area Formula Program grant funds, in the amount of \$1,068,000.00, and FTA Section 5339 Non Urbanized Area Formula Program grant funds in the amount of \$900,000.00, and to indemnify the FTA. The Section 5311 grant will fund fifty percent (50%) of bus driver wages, hourly pay, and fringe benefit line items, and the Section 5339 grant will fund eighty percent (80%) of vehicle purchases and miscellaneous transit facility expenses.
7. [C 2018-183](#) Communication (08/06/2018) from the Fire Chief, requesting Council approval to accept, receive, and expend Federal funds, in the amount of \$63,025.00, from the Federal Emergency Management Agency, Assistance to Firefighters Grants (AFG), to be used by the Kaua'i Fire Department (KFD) to purchase a Command Certification Program (CPC) administered through a state-of-the-art Command Training Center (CTC) for Command & Control Training; and to purchase eight (8) laptop computers, eight (8) wireless mice, instructor and simulator software, twelve (12) two-way radios, twelve (12) headsets, three (3) Teledyne boxes, and subscription services for each KFD officer, which are all necessary to run the simulations.
8. [C 2018-184](#) Communication (08/13/2018) from Councilmember Kawakami, transmitting for Council consideration the following measures for inclusion in the 2019 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2019 County of Kaua'i Legislative Package:
- A Bill for An Act Relating to Tort Liability, to make an exemption from tort liability for the State and Counties arising from lifeguard services, except for gross negligence or wanton acts or omissions.
  - A Bill for An Act Relating to Taxation, to provide a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
  - A Bill for An Act Relating to Taxation, to provide a taxpayer who hires an elderly individual a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
  - A Bill for An Act Relating to Zoning, to allow Counties with populations less than one hundred thousand to enact a zoning ordinance to amortize or phase out nonconforming single-family transient vacation rental units over a reasonable period of time.
  - A Bill for An Act Relating to Transient Accommodations, to proscribe licensing requirements and enforcement provisions for transient vacation rentals under the department of commerce and consumer affairs, which takes effect on January 1, 2020.

9. [C 2018-185](#) Communication (08/13/2018) from Council Chair Rapozo, transmitting for Council consideration the following measure for inclusion in the 2019 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2019 County of Kaua'i Legislative Package:
- A Bill for An Act Relating to Unadjudicated Traffic Fines, to transfer certain fines and forfeitures collected for uncontested traffic infractions to the counties.
10. [C 2018-186](#) Communication (08/13/2018) from Councilmember Kawakami and Councilmember Kaneshiro, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 23, Kaua'i County Code 1987, As Amended, Relating to the Sunshine Market, to expand the list of agricultural products allowed to be sold at Sunshine Markets to include meat, shellfish, eggs, and whole fish. **(See Proposed Draft Bill (No. 2720))**

#### G. LEGAL DOCUMENTS:

1. [C 2018-187](#) Communication (07/30/2018) from the Acting County Engineer, recommending Council approval of a Right-of-Entry Permit between the County of Kaua'i and the State of Hawai'i, Department of Land and Natural Resources (DLNR) and to indemnify the State DLNR, to allow for construction of the shared-use path between Elsie H. Wilcox Elementary School, the Kaua'i War Memorial Convention Hall, and the Lihu'e Ball Park (Tax Map Key (TMK): (4) 3-6-003:021 & 22 (State-owned)).
- Right-of-Entry Permit (by letter dated April 5, 2018, addressed to Douglas Haigh, Chief of the Building Division, signed by Suzanne D. Case, Chairperson, Board of Land and Natural Resources Commission on Water Resource Management)
2. [C 2018-188](#) Communication (08/10/2018) from the Acting County Engineer, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the State of Hawai'i, Department of Transportation, on State lands situated at Tax Map Key (TMK) (4) 1-8-008:004 (por.) and (4) 1-8-008:076, Hanapēpē, Kaua'i, Hawai'i, to allow the County to install protective measures for the Salt Ponds in Hanapēpē and assist in preserving a clean environment for the cultural practice of salt making.
- Right-of-Entry Agreement

H. CLAIM:

1. [C 2018-189](#) Communication (08/15/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Heather Barth on behalf of Mary K. Offley, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:1. PLANNING COMMITTEE:

- a. **CR-PL 2018-08:** on Bill No. 2687 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, SECTION 8-2.1(A) AND SECTION 8-4.2(A), AND CHAPTER 10, SECTION 10-5A.7(A), KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE AND LIHU'E TOWN CORE URBAN DESIGN DISTRICT **(Approved as Amended.)**

2. BUDGET & FINANCE COMMITTEE

- a. **CR-BF 2018-29:** on Bill No. 2715 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-842, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2018 THROUGH JUNE 30, 2019, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND HIGHWAY FUND-CIP (*Salt Pond Wastewater Improvements and Hanapēpē Moi Road Pedestrian Safety Improvement Projects - \$765,000.00*) **(Approved.)**
- b. **CR-BF 2018-30:** on Bill No. 2716 A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-6.4(C) AND SECTION 5A-11A.1 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Licensed Day Care Provider Homestead Tax Classification*) **(Approved.)**

### 3. COMMITTEE OF THE WHOLE

- a. **CR-COW 2018-04:** on COW 2018-02 Communication (06/27/2018) from the Mayor, requesting agenda time for a briefing from Smith Dawson & Andrews, Inc., Washington, D.C. consultants, to provide a recap of the services and activities they provided to the County during Fiscal Year 2017-2018 as part of their professional services contract. **(Received for the Record.)**

#### J. RESOLUTIONS:

1. [Resolution No. 2018-27](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Elesther Calipjo – Business*)
2. [Resolution No. 2018-28](#) – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE KAUA'I HISTORIC PRESERVATION REVIEW COMMISSION (*Aubrey Summers – Architecture*)

#### K. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2719\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO AGRICULTURE DISTRICTS (ZA-2014-4) (*County of Kaua'i Planning Department, Applicant*)
2. [Proposed Draft Bill \(No. 2720\)](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO SUNSHINE MARKETS

#### L. BILLS FOR SECOND READING:

1. [Bill No. 2687, Draft 1](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, SECTION 8-2.1(A) AND SECTION 8-4.2(A), AND CHAPTER 10, SECTION 10-5A.7(A), KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE AND LIHU'E TOWN CORE URBAN DESIGN DISTRICT (*See also CR-PL 2018-08; the Planning Committee recommended approval as amended to Bill No. 2687, Draft 1 on August 15, 2018.*)

2. [Bill No. 2715](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-842, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2018 THROUGH JUNE 30, 2019, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND HIGHWAY FUND-CIP (*Salt Pond Wastewater Improvements and Hanapēpē Moi Road Pedestrian Safety Improvement Projects - \$765,000.00*) (See also CR-BF 2018-29; the Budget & Finance Committee recommended approval on second and final reading.)

3. [Bill No. 2716](#) – A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-6.4(C) AND SECTION 5A-11A.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Licensed Day Care Provider Homestead Tax Classification*) (See also CR-BF 2018-30; the Budget & Finance Committee recommended approval on second and final reading.)

M. 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-959 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauai 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 The Hertz Corporation v. Roselyn Martin, et al., Civil No. 17-1-0137 (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.
2. ES-960 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauai 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 Habitat Conservation Plan for the County of Kauai 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.

3. ES-961 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 Cameron Raymond v. County of Kaua'i, et al., CV 15-00212 ACK-RLP (United States 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.

#### N. ADJOURNMENT.

- 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, LĪHU'E, KAUA'I, HAWAI'I 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).