

**COUNCIL MEETING NOTICE AND AGENDA
WEDNESDAY, SEPTEMBER 12, 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 25, 2018 Council Meeting
2. August 8, 2018 Council Meeting
3. August 22, 2018 Special Emergency Council Meeting

E. CONSENT CALENDAR:

1. [C 2018-191](#) Communication (08/15/2018) from the Director of Finance and Accounting Systems Administrator, transmitting for Council information, the Inventory Report for the Fiscal Year Ending June 30, 2018. *(Copy on file in the Office of the County Clerk.)*

2. [C 2018-192](#) Communication (08/24/2018) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing Crosswalks On 'Elepaio Road And 'Alae Road, Waimea District, County Of Kaua'i. ***(See Resolution No. 2018-29)***

3. [C 2018-193](#) Communication (08/24/2018) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing A Crosswalk On Papālina Road At Pu'u Road, Kōloa District, County Of Kaua'i. ***(See Resolution No. 2018-30)***

4. [C 2018-194](#) Communication (08/27/2018) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing Maximum Speed Limits Of Twenty-Five (25 MPH), Thirty-Five (35 MPH), Forty (40 MPH), And Forty-Five Miles Per Hour (45 MPH) Along Ala Kinoiki, Kōloa District, County Of Kauaʻi, State Of Hawaiʻi. (*See Resolution No. 2018-31*)

5. [C 2018-195](#) Communication (09/04/2018) from Council Chair Rapozo, transmitting for Council consideration, a Resolution Designating September 2018 As National Suicide Prevention Month For The County Of Kauaʻi. (*See Resolution No. 2018-32*)

F. COMMUNICATIONS:

1. [C 2018-184](#) Communication (08/13/2018) from Councilmember Kawakami, transmitting for Council consideration the following measures for inclusion in the 2019 Hawaiʻi State Association of Counties (HSAC) Legislative Package and the 2019 County of Kauaʻi 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. (*See also CR-EDIR 2018-02; the Economic Development & Intergovernmental Relations Committee recommended approval with the exception of A Bill for An Act Relating to Transient Accommodations on September 5, 2018.*)

2. [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.
(See also CR-EDIR 2018-03; the Economic Development & Intergovernmental Relations Committee recommended approval on September 5, 2018.)
3. [C 2018-196](#) Communication (08/16/2018) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$27,591.00, from the Edward J. Byrne Memorial Justice Assistance Grant (JAG) Fiscal Year 2018 Local Solicitation Grant, to continue employment of the 1.00 Full-Time Equivalent (FTE) Process Server to continue process serving for the Office of the Prosecuting Attorney, purchase office supplies, and allow officers of the Kaua'i Police Department to attend training sessions. The grant will commence October 1, 2017 through September 30, 2021.
4. [C 2018-197](#) Communication (08/21/2018) from Council Chair Rapozo, transmitting for Council consideration, a Proposed Draft Bill to authorize the procurement of the services of a contract auditor, a certified public accountant, or firm of certified public accountants to conduct the independent audits of all County funds and accounts as required pursuant to Sections 3.12 and 32.02(A)(1) of the Charter of the County of Kaua'i, as amended, and the Single Audit Act of 1984 and to approve a contract from appropriations of a later fiscal year for more than one fiscal year. ***(See Proposed Draft Bill (No. 2722))***
5. [C 2018-198](#) Communication (08/29/2018) from the Housing Director, requesting the Council's approval to perform the following:
 - a. Acquire under the County's Community Development Block Grant (CDBG) Program a residential unit at 1633 Kuahale Street, Kapa'a, Kaua'i, Hawai'i, 96746, Tax Map Key (TMK): (4) 4-6-38-45, for a purchase price of not more than \$485,000.00, based on the fee simple market appraisal, which will be obtained through this transaction;
 - b. Resale of 1633 Kuahale Street, Kapa'a, Kaua'i, Hawai'i, 96746, by leasehold for not more than the leasehold market appraisal, which will be obtained through this transaction; and
 - c. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

6. [C 2018-199](#) Communication (08/29/2018) from the Fire Chief, requesting Council approval to establish one (1) Temporary As Needed (TAN) operator position to accommodate emergency staffing needs, pursuant to the Hawai'i Fire Fighters Association Contract Agreement as outlined in Section 27, for an additional brush truck assigned to the Hanalei Fire Station to use in emergency situations, including but not limited to, incident management, natural disasters, flooding, emergency proclamations, evacuation, isolation, and to shelter-in-place.

7. [C 2018-200](#) Communication (08/31/2018) from the County Attorney, requesting authorization to expend funds of up to \$5,000.00 for Special Counsel services to prepare an amicus brief on behalf of the County of Kaua'i for the Ninth Circuit appeal entitled Young v. State of Hawai'i et al.

8. [C 2018-201](#) Communication (08/31/2018) from the First Deputy County Attorney, requesting Council approval of the indemnification provisions contained in the User Agreement for the Grammar Refresher (Self-Paced Tutorial) course, to be taken by each staff member of the Office of the County Attorney to better support the needs of the attorneys.

G. LEGAL DOCUMENT:

1. [C 2018-202](#) Communication (08/29/2018) from the Acting County Engineer, recommending Council approval of a Department of Water Elevation Agreement and indemnification language contained therein, between the County of Kaua'i Department of Public Works and the County of Kaua'i Department of Water, for Tax Map Key (TMK) (4) 3-8-018:012 (4940-C Maalo Road), Līhu'e, Kaua'i, Hawai'i, to document that the Department of Public Works is aware that the subject property is at such an elevation that it cannot be assured of dependable water supply.

- Elevation Agreement for TMK (4) 3-8-018:012

H. CLAIM:

1. [C 2018-203](#) Communication (08/29/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Kresta Painter, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

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

- a. **CR-PWPR 2018-09:** on PWPR 2018-07 Communication (08/22/2018) from Council Chair Rapozo, requesting the presence of the Administration, to provide a briefing on the Administration's plans for Salt Pond Beach Park and surrounding areas. **(Received for the Record.)**
- b. **CR-PWPR 2018-10:** on PWPR 2018-08 Communication (08/30/2018) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide a briefing on the status of the Kaua'i Resource Center HI5 redemption center and other recycling programs/locations. **(Received for the Record.)**

2. ECONOMIC DEVELOPMENT & INTERGOVERNMENTAL RELATIONS COMMITTEE:

- a. **CR-EDIR 2018-02:** on 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. **(Approved with the exception of A Bill for An Act Relating to Transient Accommodations.)**

b. CR-EDIR 2018-03: on 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. **(Approved.)**

3. PUBLIC SAFETY & TRANSPORTATION COMMITTEE:

a. CR-PST 2018-03: on PST 2018-02

Communication (08/09/2018) from Council Chair Rapozo, requesting the presence of the Executive on Transportation, to provide a briefing on the County Transportation Agency's request for Council approval relating to the Fiscal Year 2018 Federal Transit Administration (FTA) Section 5339(c) Grant to be used to purchase electric-powered buses. **(Received for the Record.)**

J. RESOLUTIONS:

1. [Resolution No. 2018-29](#) – RESOLUTION ESTABLISHING CROSSWALKS ON ‘ELEPAIO ROAD AND ‘ALAE ROAD, WAIMEA DISTRICT, COUNTY OF KAUA‘I

2. [Resolution No. 2018-30](#) – RESOLUTION ESTABLISHING A CROSSWALK ON PAPĀLINA ROAD AT PU‘U ROAD, KŌLOA DISTRICT, COUNTY OF KAUA‘I

3. [Resolution No. 2018-31](#) – RESOLUTION ESTABLISHING MAXIMUM SPEED LIMITS OF TWENTY-FIVE (25 MPH), THIRTY-FIVE (35 MPH), FORTY (40 MPH), AND FORTY-FIVE MILES PER HOUR (45 MPH) ALONG ALA KINOIKI, KŌLOA DISTRICT, COUNTY OF KAUA‘I, STATE OF HAWAII

4. [Resolution No. 2018-32](#) – RESOLUTION DESIGNATING SEPTEMBER 2018 AS NATIONAL SUICIDE PREVENTION MONTH FOR THE COUNTY OF KAUA‘I

K. BILLS FOR FIRST READING:

1. [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 (*Deferred August 22, 2018*)

2. [Proposed Draft Bill \(No. 2722\)](#) – A BILL FOR AN ORDINANCE AUTHORIZING THE PROCUREMENT OF THE SERVICES OF A CONTRACT AUDITOR AND APPROVING A CONTRACT FOR A CONTRACT AUDITOR FROM APPROPRIATIONS OF A LATER FISCAL YEAR FOR MORE THAN ONE FISCAL YEAR

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-962 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.

2. ES-963 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 an additional briefing update and request for authority to settle the case of Klaus H. Burmeister, et al. v. County of Kaua'i, CV 16-00402 LEK-KJM (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.

3. ES-964 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 to prepare an amicus brief on behalf of the County of Kaua'i for the Ninth Circuit appeal entitled Young v. State of Hawai'i et al., and other matters. The 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-965 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 case of City & County of Honolulu, et. al. v. David Y. Ige, et al., Civil No. 18-1-1326-08 DEO (First Circuit Court). 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.

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. 2717](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ELECTRICAL CODE
2. [Bill No. 2718](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TAXICABS

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.**