

**COUNCIL MEETING NOTICE AND AGENDA  
WEDNESDAY, NOVEMBER 28, 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 meeting of the Council:

1. November 14, 2018 Public Hearing re: Bill No. 2723, Bill No. 2724, and Bill No. 2725

E. CONSENT CALENDAR:

1. [C 2018-256](#) Communication (10/03/2018) from Council Vice Chair Kagawa, transmitting for Council consideration, a request to receive and file Resolution No. 2013-38, a Resolution Supporting Kaua'i's Fishermen, Ocean Gatherers, And Recreational Ocean Users, which has been deferred since February 27, 2013 pending studies and reports by the National Oceanic and Atmospheric Administration (NOAA), because the substance contained in the Resolution may be considered inaccurate at this point in time. **(See Resolution No. 2013-38)**
2. [C 2018-257](#) Communication (11/07/2018) from the Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2018-2019, pursuant to Section 17 of Ordinance No. 2018-841, the Operating Budget of the County of Kaua'i for Fiscal Year 2018-2019.

F. COMMUNICATIONS:

1. [C 2018-258](#) Communication (11/07/2018) from the Fire Chief, transmitting for Council consideration, a proposed amendment to Ordinance No. B-2018-841, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2018-2019, by revising the amounts estimated in the General Fund, to establish two (2) new Full-Time Ocean Safety Officer II positions with benefits and one (1) new Ocean Safety Officer I (nineteen (19) hours/week) position to provide an acceptable level of lifeguard service at 'Anini Beach Park. (*Kaua'i Fire Department – Two (2) Full-Time Ocean Safety Officer II and One (1) Ocean Safety Officer I Positions*) (**See Proposed Draft Bill (No. 2731)**)
  
2. [C 2018-259](#) Communication (11/07/2018) from the Director of Economic Development, requesting Council approval to receive and expend additional funds in the amount \$10,000.00, and to indemnify the State Department of Labor and Industrial Relations (DLIR), to work with the Department of Education (DOE) – Natural Resources Pathway and Future Farmers of America (FFA) programs at Kaua'i, Kapa'a, and Waimea High Schools in providing summer internship programs for students to work on Kaua'i farms, ranches, and agriculture-related businesses.
  
3. [C 2018-260](#) Communication (11/14/2018) from the Director of Economic Development, requesting Council approval to receive and expend State funds, in the amount of \$49,574.00, and to indemnify the State of Hawaii, Department of Health, for Malama Kaua'i's coordination of activities and develop infrastructure to build community-based food systems as part of the SNAP program.
  
4. [C 2018-261](#) Communication (11/15/2018) from the First Deputy County Attorney, requesting authorization to expend additional funds up to \$250,000.00 from the Claims and Judgments account to satisfy the County of Kaua'i's self-insured retention limit concerning the litigation of: Mark N. Begley vs. County of Kaua'i, et al., Civil No. CV16-00350, and related matters.
  
5. [C 2018-262](#) Communication (11/15/2018) from Councilmember Yukimura and Council Chair Rapozo, requesting Council consideration, for the public release of the following County Attorney opinion regarding Affordable Housing Preservation:
  - County Attorney Opinion dated November 8, 2018 (Tracking No. 18-1258)

6. [C 2018-263](#) Communication (11/15/2018) from the Director of Economic Development, requesting Council approval to receive and expend State funds, in the amount of \$136,000.00, and to indemnify the State of Hawai'i, Department of Agriculture, for additional support funding for 'Āina Hookupu O Kilauea's completion of the irrigation line from the Kilauea Dam to the Kilauea Community Agricultural Center.
7. [C 2018-264](#) Communication (11/16/2018) from Councilmember Yukimura and Council Chair Rapozo, transmitting for Council consideration, a proposed amendment to Ordinance No. B-2018-841, as amended, relating to the Operating Budget of the County of Kauai, for the Fiscal Year July 1, 2018 through June 30, 2019, by revising the amounts estimated in the G.E. Tax Fund, to fund Increased Weekend Bus Service. (***See Proposed Draft Bill (No. 2732)***)
8. [C 2018-265](#) Communication (11/21/2018) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide a status update on the Lepeuli fencing project.

#### G. LEGAL DOCUMENTS:

1. [C 2018-252](#) Communication (10/24/2018) from the Director of Parks & Recreation, recommending for Council approval, a License between the County of Kaua'i and Club Moto Kaua'i, a Hawai'i nonprofit corporation, for the Kalepa Motocross Track, Tax Map Key (TMK): (4) 3-009-002:36 (por.), Lihu'e, Kaua'i, Hawai'i, for a twenty (20) year license to develop, construct, use, and maintain a new motocross track. Approval of the License is also requested.
  - License  
(***Deferred November 14, 2018***)
2. [C 2018-266](#) Communication (10/16/2018) from the Director of Economic Development, recommending Council approval of a 60-Year Lease Agreement, between the County of Kaua'i and 'Āina Ho'okupu O Kilauea, to continue the development of the Kilauea Community Agriculture Center, formerly known as the Kilauea Ag Park, Tax Map Key (TMK) No. (4) 5-2-004:047 (por.) and 99 (por.).
  - Lease Agreement

3. [C 2018-267](#) Communication (11/02/2018) from the Fire Chief, recommending Council approval to enter into a Memorandum of Agreement (MOA) with the University of Hawai'i (UH), through Kapi'olani Community College, and to indemnify the UH and their employees and agents, for the Emergency Medical Technician Training Course education program ("EMT Course") attended by eligible participating employees of the Kaua'i Fire Department.
  - Memorandum of Agreement By and Between the University of Hawai'i and the Kaua'i Fire Department, County of Kaua'i
  
4. [C 2018-268](#) Communication (11/15/2018) from the Director of Parks & Recreation, recommending for Council approval, a License Agreement between the County of Kaua'i and Club Moto Kaua'i, a Hawai'i nonprofit corporation, for the Kalepa Motocross Track, Tax Map Key (TMK): (4) 3-009-002:36 (por.), Lihu'e, Kaua'i, Hawai'i, for a forty (40) year license agreement to develop, construct, use, and maintain a new motocross track. Approval of the License Agreement is also requested.
  - License Agreement

#### H. CLAIMS:

1. [C 2018-269](#) Communication (11/02/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Fredulin Casticimo, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
  
2. [C 2018-270](#) Communication (11/13/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Franklin Dureg, for damage to his 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 2018-12:** on Bill No. 2710, Draft 2      A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ENERGY CODE  
[Approved.]
- b. **CR-PWPR 2018-13:** on Bill No. 2724      A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO OUTDOOR SIGNS [Approved.]

2. COMMUNITY ASSISTANCE & VETERANS ASSISTANCE COMMITTEE:

- a. **CR-CAVS 2018-02:** on Bill No. 2725      A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AFFORDABLE HOUSING PRESERVATION [Motion to Approve Failed.]

3. PLANNING COMMITTEE:

- a. **CR-PL 2018-11:** on PL 2018-05      Communication (11/05/2018) from Committee Vice Chair Yukimura, requesting the presence of the Planning Director, to participate in a briefing on Important Agricultural Lands (IAL) that will provide the Planning Committee with an enhanced understanding of the intention behind, and process of, identifying IAL as mandated by the Hawai'i State Constitution, Article 11, Section 3, given by the following panelists:
- Kathy K. Sokugawa, Acting Planning Director, City and County of Honolulu (or designee);
  - Leo Asuncion, Director of the State Office of Planning (or designee);

- Scott Enright, Chair of the Department of Agriculture, State of Hawai'i (or designee); and
- Daniel Orodener, Executive Director of the State Land Use Commission (or designee). **[Received for the Record.]**

#### **4. BUDGET & FINANCE COMMITTEE:**

- a. **CR-BF 2018-33:** on Bill No. 2723 A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-1.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX **[Approved.]**

#### **J. RESOLUTION:**

1. [Resolution No. 2013-38](#) – RESOLUTION SUPPORTING KAUAI'S FISHERMEN, OCEAN GATHERERS, AND RECREATIONAL OCEAN USERS (*Deferred February 27, 2013*)

#### **K. BILLS FOR FIRST READING:**

1. [Proposed Draft Bill \(No. 2731\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-841, AS AMENDED, RELATING TO THE OPERATING 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 GENERAL FUND (*Kauai Fire Department – Two (2) Full-Time Ocean Safety Officer II and One (1) Ocean Safety Officer I Positions*)

2. [Proposed Draft Bill \(No. 2732\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-841, AS AMENDED, RELATING TO THE OPERATING 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 G.E. TAX FUND (*Increased Weekend Bus Service – \$475,000.00*)

#### **L. BILLS FOR SECOND READING:**

1. [Bill No. 2710, Draft 2](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ENERGY CODE (*See also CR-PWPR 2018-12; the Public Works / Parks & Recreation Committee recommended approval on second and final reading.*)

2. [Bill No. 2723](#) – A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-1.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*See also CR-BF 2018-33; the Budget & Finance Committee recommended approval on second and final reading.*)

3. [Bill No. 2724](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO OUTDOOR SIGNS (*See also CR-PWPR 2018-13; the Public Works / Parks & Recreation Committee recommended approval on second and final reading.*)

4. [Bill No. 2725](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AFFORDABLE HOUSING PRESERVATION (*See also CR-CAVS 2018-02; Community Assistance & Veterans Assistance Committee recommended Bill No. 2725 be received for the record.*)

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-971 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 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 litigation of Mark N. Begley vs. County of Kauai, et al., Civil No. CV16-00350, 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-972 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), (4), and (8), the purpose of this Executive Session is to consider matters that require confidentiality under state law, to wit, the hiring of a County Auditor, including interviewing any candidates, and terms and conditions of employment. The further purpose of this Executive Session is to meet with the Council's legal counsel on questions and issues relating to the Council's powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as such powers, duties, privileges and immunities and/or liabilities, claims and or potential claims relate to the foregoing item, and to take such action as the Council deems appropriate.

M. 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, LIHU'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).