

**COUNCIL MEETING NOTICE AND AGENDA  
WEDNESDAY, DECEMBER 14, 2016  
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. October 19, 2016 Council Meeting
2. November 2, 2016 Council Meeting

E. INTERVIEWS:

1. COST CONTROL COMMISSION:
  - [Preston I. S. Chong – Term ending 12/31/2019](#)
2. CIVIL SERVICE COMMISSION:
  - [Vonnell F. Ramos – Term ending 12/31/2019](#)
3. LIQUOR CONTROL COMMISSION:
  - [Maryanne W. Kusaka – Term ending 12/31/2019](#)

F. CONSENT CALENDAR:

1. [C 2017-02](#) Communication (10/17/2016) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Roy M. Morita to the Police Commission – Term ending 12/31/2019. (***See Resolution No. 2017-04***)

2. [C 2017-03](#) Communication (10/31/2016) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointments to the various Boards and Commissions for the County of Kaua'i:
  - a. Board of Ethics
    - Mia R. Shiraishi – Term ending 12/31/2018
  - b. Board of Water Supply
    - Thomas J. Canute – Term ending 12/31/2019
  - c. Planning Commission
    - Donna Apisa (Business) – Term ending 12/31/2018  
**(See Resolution No. 2017-05, Resolution No. 2017-06, and Resolution No. 2017-07)**
  
3. [C 2017-04](#) Communication (11/15/2016) from the Director of Human Resources, transmitting for Council information, the November 15, 2016 Human Resources Reports, pursuant to Section 19 of Ordinance No. B-2016-812, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2016-2017, which includes new hires, transfers, reallocations, promotions, and vacancies for the period of July 1, 2016 to November 15, 2016.
  
4. [C 2017-05](#) Communication (11/17/2016) from Council Chair Rapozo, transmitting for Council consideration, the nomination of Councilmember Arryl Kaneshiro to fill the remaining term of Councilmember KipuKai Kuali'i as a Director on the National Association of Counties (NACo) Board of Directors. **(See Resolution No. 2017-08)**

#### G. COMMUNICATIONS:

1. [C 2016-243](#) Communication (11/04/2016) from Council Chair Rapozo, requesting the presence of the Managing Director, to provide the Council with a briefing on the auction and relocation of the old Kapa'a Police Substation building near Kapa'a Beach Park. **(Deferred November 16, 2016)**

2. [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 Proposed Draft Bill (No. 2641))**
3. [C 2017-07](#) Communication (11/03/2016) from the Executive on Aging, requesting Council approval to receive and expend funds, in the amount of \$500.00, from the National Kidney Foundation of Hawai'i, to be used for County of Kaua'i Agency on Elderly Affairs Diabetes Self-Management Programs.
4. [C 2017-08](#) Communication (11/14/2016) from the Fire Chief, requesting Council approval to accept a donation from the Kaua'i Lifeguard Association (KLA), of one (1) New 2016 Ram 4x4 V-8 Pickup Truck (\$43,152.83), one (1) Truck Rack (\$749.95), one (1) Light Bar with Siren and Speakers (\$2,496.86), and one (1) New 2016 Yamaha Jet Ski and Trailer (\$15,819.23), for a total amount of \$62,218.87, which will be utilized by the West District roving patrol unit.
5. [C 2017-09](#) Communication (11/14/2016) from the Director of Economic Development, requesting Council approval to receive and expend funds, in the amount of \$20,000.00, and indemnify the Hawai'i Tourism Authority, to provide greetings at the Harbor area for most ships docking at Pier II at Nāwiliwili during calendar year 2017.
6. [C 2017-10](#) Communication (11/16/2016) from the Executive on Transportation, transmitting for Council consideration, proposed amendments to Ordinance No. B-2016-812, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2016-2017, by revising the amounts estimated in the General Fund, to fund six (6) additional on-call Bus Driver positions to reduce overtime expenses and increase the efficiency of transit operations. *(Transportation Agency – Six (6) New On-Call Driver Positions)* **(See Proposed Draft Bill (No. 2642))**

7. [C 2017-11](#) Communication (11/18/2016) from Council Chair Rapozo and Council Vice Chair Kagawa, transmitting for Council consideration, a Proposed Draft Bill to Repeal Chapter 22, Article 23 of the Kaua'i County Code 1987, as amended, Relating to Pesticides and Genetically Modified Organisms (also known as Ordinance No. 960 and Bill No. 2491, Draft 2). (***See Proposed Draft Bill (No. 2643)***)
  
8. [C 2017-12](#) Communication (11/29/2016) from the Planning Director, transmitting the Planning Commission's recommendation to amend Condition No. 7 of Ordinance No. PM-94-82, relating to affordable housing at Tax Map Key (TMK) 3-7-03: por. 1, Hanamā'ulu, Kaua'i. (*Copies of the Draft Ordinance for Zoning Amendment (ZA-2017-1), Director's Report and Supporting Documentation, and Excerpt Minutes from the November 22, 2016 Planning Commission Meeting, on file in the Office of the County Clerk.*) (***See Proposed Draft Bill (No. 2644)***)
  
9. [C 2017-13](#) Communication (12/01/2016) from the County Attorney, requesting approval of its recommendation for authorization to expend additional funds up to \$900.00 to close out Special Counsel's services provided to represent the Planning Department in Transient Vacation Rental (TVR) Appeals and related matters.
  
10. [C 2017-14](#) Communication (12/02/2016) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds and to indemnify the State of Hawai'i, Department of the Attorney General, in the amount of \$48,462.00, to be used for salaries/wages and supplies for the Domestic Violence Prosecution Unit.

#### H. LEGAL DOCUMENTS:

1. [C 2017-15](#) Communication (11/16/2016) from the Executive on Aging, recommending Council approval to enter into a Memorandum of Understanding (MOU) and Network Partner Agreement with Kim Gropper, LCSW, who will be involved with the Aging and Disability Resource Center (ADRC).
  - Memorandum of Understanding Between the County of Kaua'i Agency on Elderly Affairs and Kim Gropper, LCSW; and
  - County of Kaua'i Agency on Elderly Affairs Network Partner Agreement.

2. [C 2017-16](#) Communication (12/02/2016) from the Housing Director, recommending Council approval of a conveyance by the County of Kaua'i and Rice Hoala Partners, LLP to the Board of Water Supply, County of Kaua'i, for Kaniko'o at Rice Camp, Tax Map Key (TMK) No. (4) 3-6-004:020, Lihu'e, Kaua'i, Hawai'i, for maintenance and repair of potable water pipelines and related meters, valves, and other associated waterworks facility improvements and appurtenances.
- Grant of Easement
  - Conveyance of Water Facility

#### I. CLAIMS:

1. C 2017-17 Communication (11/15/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Wilber & Associates, P.C. for State Farm Insurance on behalf of Robin R. Avina, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2017-18 Communication (11/21/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alamo Rent A Car as subrogee of Larry Castillo, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. C 2017-19 Communication (12/05/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Catherine Heartsong, for damage to her personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

#### J. COMMITTEE REPORTS:

##### 1. PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

- a. **CR-PWPR 2017-01:** on PWPR 2017-01 Communication (11/10/2016) from Councilmember Chock, requesting the presence of the Director of Parks & Recreation, to provide an update on the repair/replacement of playground equipment located at the Anahola Village Park. **[Received for the Record.]**

- b. **CR-PWPR 2017-02:** on PWPR 2017-02 Communication (11/28/2016) from Committee Chair Kagawa, requesting the presence of the Acting County Engineer, to discuss the building permit review, issuance, and inspection process. **[Received for the Record.]**
- c. **CR-PWPR 2017-03:** on Bill No. 2628 A BILL FOR AN ORDINANCE TO AMEND CHAPTERS 18, 20, AND 23 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REVOCABLE PERMITS IN COUNTY DESIGNATED RIGHTS-OF-WAY **[Received for the Record.]**
- d. **CR-PWPR 2017-04:** on Bill No. 2635, Draft 1 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE WAILUA GOLF COURSE **[Approved as Amended.]**

## **2. ECONOMIC DEVELOPMENT & INTERGOVERNMENTAL RELATIONS COMMITTEE:**

- a. **CR-EDIR 2017-01:** on EDIR 2017-01 Communication (09/26/2016) from the Director of Economic Development, requesting agenda time to provide a presentation on the Tourism Strategic Plan for Fiscal Year 2015-2016. **[Received for the Record.]**

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

- a. **CR-BF 2017-01:** on Bill No. 2639 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 (*Kauai Fire Department, Training Bureau, Other Small Equipment, Fifty (50) Automated External Defibrillators – \$151,000.00*) **[Approved.]**

**b. CR-BF 2017-02:** on Bill No. 2640

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 (*Kauai Fire Department, Fire Operations Public Safety, Sixty (60) Self-Contained Breathing Apparatus (SCBA) – \$390,000.00*) **[Approved.]**

**3. PUBLIC SAFETY & TRANSPORTATION COMMITTEE:****a. CR-PST 2017-01:** on Bill No. 2573, Draft 2

A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE UNDER CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DECLARING A PUBLIC NUISANCE **[Received for the Record.]**

**K. RESOLUTIONS:**

1. [Resolution No. 2016-60](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF A PUBLIC PEDESTRIAN BEACH ACCESS EASEMENT IN LAND REQUIRED FOR PUBLIC USE, TO WIT: A PUBLIC PEDESTRIAN BEACH ACCESS EASEMENT TO KUKUI'ULA BAY, KUKUI'ULA, COUNTY OF KAUAI, HAWAII, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN (***Public Hearing held on November 16, 2016***)

2. [Resolution No. 2017-04](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE POLICE COMMISSION (*Roy M. Morita*)

3. [Resolution No. 2017-05](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Mia R. Shiraishi*)

4. [Resolution No. 2017-06](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Thomas J. Canute*)

5. [Resolution No. 2017-07](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Donna Apisa – Business*)

6. [Resolution No. 2017-08](#) – RESOLUTION APPROVING A NOMINATION TO FILL AN UNEXPIRED TERM ON THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS FOR FISCAL YEAR 2017

L. BILLS FOR FIRST READING:

1. [Proposed Draft 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. [Proposed Draft 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. [Proposed Draft 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. [Proposed Draft Bill \(No. 2644\)](#) – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-94-82 RELATING TO ZONING DESIGNATION IN HANAMAULU, KAUAI (*Amfac Property Development Corp.*) (*ZA-2017-1*)



M. BILLS FOR SECOND READING:

1. [Bill No. 2573, Draft 2](#) – A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE UNDER CHAPTER 22, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO DECLARING A PUBLIC NUISANCE (*See also CR-PST 2017-01; the Public Safety & Transportation Committee recommended Bill No. 2573, Draft 2 be received for the record.*)

2. [Bill No. 2628](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTERS 18, 20, AND 23 OF THE KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO REVOCABLE PERMITS IN COUNTY DESIGNATED RIGHTS-OF-WAY (*See also CR-PWPR 2017-03; the Public Works / Parks & Recreation Committee recommended Bill No. 2628 be received for the record.*)

3. [Bill No. 2635, Draft 2](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE WAILUA GOLF COURSE (*See also CR-PWPR 2017-04; the Public Works / Parks & Recreation Committee recommended approval as amended to Bill No. 2635, Draft 2 on December 7, 2016.*)

4. [Bill No. 2639](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA‘I, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kaua‘i Fire Department, Training Bureau, Other Small Equipment, Fifty (50) Automated External Defibrillators – \$151,000.00*) (*See also CR-BF 2017-01; the Budget & Finance Committee recommended approval on second and final reading.*)

5. [Bill No. 2640](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA‘I, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kaua‘i Fire Department, Fire Operations Public Safety, Sixty (60) Self-Contained Breathing Apparatus (SCBA) – \$390,000.00*) (*See also CR-BF 2017-02; the Budget & Finance Committee recommended approval on second and final reading.*)

N. 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-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 November 16, 2016)***
2. ES-885 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 Klaus Burmeister et. al., vs. County of Kaua'i, et al., 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-886 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 Special Counsel's continued representation of the Planning Department in Transient Vacation Rental (TVR) Appeals and related 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-887 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 in the case of Grant W. Gribble v. County of Kaua'i, Fifth Circuit Court Civil No. 08-1-023, to obtain settlement authority, 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.

O. ADJOURNMENT.

P. 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, LĪHUʻE, KAUAI, HAWAIʻI 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).