

**COUNCIL MEETING NOTICE AND AGENDA**  
**WEDNESDAY, DECEMBER 18, 2019**  
**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 20, 2019 Public Hearing re: Resolution No. 2019-53, Bill No. 2760, and Bill No. 2761

E. INTERVIEWS:

1. PLANNING COMMISSION:

- [Lori J. Otsuka \(\*Business\*\)](#) – Term ending 12/31/2022

2. KAUA‘I HISTORIC PRESERVATION REVIEW COMMISSION:

- [Carolyn R. Larson \(\*History\*\)](#) – Term ending 12/31/2022

3. LIQUOR CONTROL COMMISSION:

- [Randall T. Nishimura](#) – Term ending 12/31/2022

4. SALARY COMMISSION:

- [Patrick H. Ono](#) – Term ending 12/31/2022

F. CONSENT CALENDAR:

1. [C 2019-264](#) Communication (11/12/2019) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Stella Bumacod Fujita to the Board of Review – Term ending 12/31/2020. **(See Resolution No. 2019-70)**
  
2. [C 2019-265](#) Communication (11/19/2019) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Julie Anne Simonton to the Board of Water Supply – Term ending 12/31/2022. **(See Resolution No. 2019-71)**
  
3. [C 2019-266](#) Communication (11/21/2019) from Councilmember Cowden, transmitting for Council consideration, a Resolution Urging The Legislature Of The State Of Hawai'i To Repeal The Statutory Provisions Preempting Stricter County Regulation Of The Sale Of Cigarettes, Tobacco Products, And Electronic Smoking Devices. **(See Resolution No. 2019-72)**
  
4. [C 2019-267](#) Communication (12/11/2019) from Councilmember Chock, transmitting for Council consideration, a Resolution Expressing The County of Kaua'i's Support For Use Of Act 35 (2019) Funds For Hydrologic And Hydraulic Analysis. **(See Resolution No. 2019-73)**

G. COMMUNICATIONS:

1. [C 2019-268](#) Communication (11/21/2019) from the Managing Director, requesting agenda time to deliver a presentation on the upcoming 'Ohana Zone project at Pua Loke.
  
2. [C 2019-269](#) Communication (11/25/2019) from Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnification language contained in the renewal of software license agreements for the MSAB, Inc. XRY Logical & Physical License and XRY Cloud License, which allows the Kaua'i Police Department authorized use and access to MSAB software updates, which is required for court admissibility.

3. [C 2019-270](#) Communication (12/02/2019) from Councilmember Cowden, requesting the presence of Lawrence J. Dill, P.E., District Engineer, Kaua'i District, Hawai'i Department of Transportation, to provide a briefing on the current status of the Kapa'a Transportation Solutions report.
  
4. [C 2019-271](#) Communication (12/06/2019) from the County Attorney, requesting Council approval to expend additional funds up to \$100,000.00 for Special Counsel's continued services to represent the Planning Department in Transient Vacation Rental (TVR) appeals and related matters.

#### H. LEGAL DOCUMENT:

1. [C 2019-272](#) Communication (12/10/2019) from the Housing Director, recommending Council approval of the Grant of Easement and Conveyance of Water Facility documents for the associated utilities needed to complete the Koa'e Makana Project, Tax Map Key (TMK) No. 2-6-004:019, Kōloa, Kaua'i, Hawai'i:
  - Grant of Easement and Conveyance of Water Facility by and between the County of Kaua'i and Koa'e Workforce Housing, L.P. and the Board of Water Supply, County of Kaua'i, for the reading of water meters and for the construction, installation, re-installation, maintenance, repair, and removal of potable water pipelines and related meters, valves, and other associated waterworks facility improvements and appurtenances.

#### I. CLAIM:

1. C 2019-273 Communication (12/02/2019) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Ridge K. Papa-Hawelu, for personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i.

J. COMMITTEE REPORTS:1. PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

- a. **CR-PWVS 2019-10:** on PWVS 2019-06      Communication (10/21/2019) from Councilmember Cowden, requesting the presence of the Deputy County Engineer, to provide a briefing on the status of the flood management of the Waimea River, to include, but not be limited to, current status of the River, work completed, timetable of work to be performed, detailed cost estimates, homeowners flood insurance implications, and the participation by the various Federal and State entities. **[Received for the Record.]**
- b. **CR-PWVS 2019-11:** on Bill No. 2761      A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 2, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 12-2.4, RELATING TO TINY HOUSES **[Approved.]**

2. PLANNING COMMITTEE:

- a. **CR-PL 2019-16:** on Bill No. 2745      A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE LIHU'E TOWN CORE URBAN DESIGN DISTRICT **[Approved.]**

3. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2019-17:** on COW 2019-03      Communication (11/19/2019) from Lawrence J. Dill, P.E., Kaua'i District Engineer, State of Hawai'i Department of Transportation – Highways Division, requesting agenda time to present the details of a three (3) year study on the implementation of a road user charge as an alternative funding mechanism to the current gas tax and share the progress to-date, which is funded by a grant from the Federal Highway Administration. **[Received for the Record.]**

- b. CR-COW 2019-18:** on Bill No. 2760      A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Waimea River Mouth Emergency Work – \$625,000.00*) **[Approved.]**
- c. CR-COW 2019-19:** on Bill No. 2762      A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the Prosecuting Attorney, Victim Witness Counselor II Positions – \$23,069.00*) **[Approved.]**
- d. CR-COW 2019-20:** on Bill No. 2763      A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 13 BETWEEN JULY 1, 2019 AND JUNE 30, 2021 **[Approved.]**

K. RESOLUTIONS:

1. [Resolution No. 2019-70](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF REVIEW (*Stella Bumacod Fujita*)
2. [Resolution No. 2019-71](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Julie Anne Simonton*)

3. [Resolution No. 2019-72](#) – RESOLUTION URGING THE LEGISLATURE OF THE STATE OF HAWAII TO REPEAL THE STATUTORY PROVISIONS PREEMPTING STRICTER COUNTY REGULATION OF THE SALE OF CIGARETTES, TOBACCO PRODUCTS, AND ELECTRONIC SMOKING DEVICES

4. [Resolution No. 2019-73](#) – RESOLUTION EXPRESSING THE COUNTY OF KAUAI'S SUPPORT FOR USE OF ACT 35 (2019) FUNDS FOR HYDROLOGIC AND HYDRAULIC ANALYSIS

L. BILLS FOR SECOND READING:

1. [Bill No. 2745](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE LIHU'E TOWN CORE URBAN DESIGN DISTRICT (*See also CR-PL 2019-16; the Planning Committee recommended approval on second and final reading.*)

2. [Bill No. 2760](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Waimea River Mouth Emergency Work – \$625,000.00*) (*See also CR-COW 2019-18; the Committee of the Whole recommended approval on second and final reading.*)

3. [Bill No. 2761](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 2, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 12-2.4, RELATING TO TINY HOUSES (*See also CR-PWVS 2019-11; the Public Works & Veterans Services Committee recommended approval on second and final reading.*)

4. [Bill No. 2762](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the Prosecuting Attorney, Victim Witness Counselor II Positions – \$23,069.00*) (*See also CR-COW 2019-19; the Committee of the Whole recommended approval on second and final reading.*)

5. [Bill No. 2763](#) – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 13 BETWEEN JULY 1, 2019 AND JUNE 30, 2021 (*See also CR-COW 2019-20; the Committee of the Whole 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-1014 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 for Special Counsel's continued services to represent the Planning Department in Transient Vacation Rental (TVR) appeals 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. 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 in 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. 2764](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CLASS IV ZONING PERMITS OF THE COMPREHENSIVE ZONING ORDINANCE (*County of Kaua'i, Applicant*) (ZA-2020-3)
2. [Bill No. 2765](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE HOUSING DEVELOPMENT FUND (*Waimea Parcel Mowing, Canal Cleaning, and Security – \$230,000.00*)

- P. NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

\*TO VIEW MEETINGS OR MEETING ARCHIVES, PLEASE VISIT: [WWW.KAUAI.GOV/WEBCASTMEETINGS](http://WWW.KAUAI.GOV/WEBCASTMEETINGS).