

## COUNTY COUNCIL

Arryl Kaneshiro, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Felicia Cowden  
Luke A. Evslin  
KipuKai Kualii



## OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk  
Scott K. Sato, Deputy County Clerk

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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihue, Kauai, Hawaii 96766

On March 16, 2020, Governor David Y. Ige issued a Supplementary Emergency Proclamation related to COVID-19 which suspended Chapter 92 of the Hawai'i Revised Statutes (HRS), relating to Public Agency Meetings and Records (also known as the Sunshine Law). Governor Ige continued the suspension of Chapter 92 with his Sixth Supplementary Emergency Proclamation dated April 25, 2020. On May 5, 2020, Governor Ige issued his Seventh Supplementary Emergency Proclamation amending his earlier suspension of Chapter 92. Chapter 92 of the HRS was suspended to the extent necessary in order to enable boards to conduct business in-person or through remote technology without any board members or members of the public physically present in the same location. Boards shall consider reasonable measures to allow public participation consistent with social distancing practices, such as providing notice of meetings, allowing the submission of written testimony on items which have been posted on an agenda, providing board packets available electronically, live streaming of meetings, and posting minutes of meetings online. Furthermore, if a board has the staffing, technological, and other resources to hold a secure video teleconference (video and audio), it must in good faith, attempt to provide the public with the opportunity to observe the meeting as it happens, and provide an opportunity to deliver oral testimony. No board deliberation or action shall be invalid, if such good faith efforts to implement remote technology for public observations and comments do not work.

The meetings of the Kauai County Council will be conducted as follows until further notice:

- Meetings will be noticed pursuant to HRS Chapter 92.
- The meeting will be closed to the public to be consistent with social distancing practices.
- Councilmembers and/or resource individuals may appear via remote technology.
- The meeting will be live streamed and also available as an archived meeting after completion, at [www.kauai.gov/webcastmeetings](http://www.kauai.gov/webcastmeetings). Captions will be provided. Please note video production services or enhancements will not be available.
- Written testimony may be submitted on any agenda item and is appreciated at least one (1) hour prior to the meeting. Written testimony may be submitted to [counciltestimony@kauai.gov](mailto:counciltestimony@kauai.gov), sent via facsimile to 241-6349, or mailed to the Office of the County Clerk, Council Services Division at 4396 Rice Street, Suite 209, Lihue, Hawaii 96766. Any testimony received after this time will be incorporated into the record as appropriate.
- Oral testimony will be taken at the beginning of the meeting on any agenda item via the Zoom remote technology platform and it shall be the responsibility of the testifier to ensure that the Zoom software is downloaded **prior** to the meeting. Anyone interested in providing oral testimony shall provide a request to the Office of the County Clerk, Council Services Division at least one (1) hour prior to the meeting to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov) or by calling (808) 241-4188. This request shall include your name, telephone number, E-mail address, and the specific agenda item(s) that you will be testifying on. After oral testimony has been taken, members of the public should continue watching the meeting via the live stream link found at [www.kauai.gov/webcastmeetings](http://www.kauai.gov/webcastmeetings).
- Minutes of meetings will be completed pursuant to HRS Chapter 92 and posted to the Council's website upon completion and approval.

**COUNCIL MEETING NOTICE AND AGENDA**  
**WEDNESDAY, JULY 8, 2020**  
**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. June 17, 2020 Council Meeting
2. June 17, 2020 Public Hearing re: Bill No. 2793
3. June 24, 2020 Special Council Meeting

E. INTERVIEW:

1. BOARD OF ETHICS:

- [Kelly M. Gentry](#) — Term ending 12/31/2022

F. CONSENT CALENDAR:

1. [C 2020-172](#) Communication (06/08/2020) from the Director of Finance, transmitting for Council information, the Period 10 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of April 30, 2020, pursuant to Section 21 of Ordinance No. B-2019-856, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2019-2020. *(Copies of the Period 10 Financial Reports as of April 30, 2020 on file in the Office of the County Clerk.)*

2. [C 2020-173](#) Communication (06/10/2020) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to C 2020-169, regarding a Right-of-Entry Agreement to construct and/or repair portions of Puhi Road for sidewalks and grading, as well as for construction related to the Puhi Road drainage system, as he is employed by Grove Farm Company, Inc.
  
3. [C 2020-174](#) Communication (06/23/2020) from the Director of Finance, transmitting for Council information, the Period 11 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of May 31, 2020, pursuant to Section 21 of Ordinance No. B-2019-856, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2019-2020. *(Copies of the Period 11 Financial Reports as of May 31, 2020 on file in the Office of the County Clerk.)*

#### G. COMMUNICATIONS:

1. [C 2020-175](#) Communication (06/17/2020) from Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnity provision within the Paul Coverdell Forensic Science Improvement Grant contract (request to apply for, receive, and expend grant funds approved during the February 5, 2020 Council Meeting), which will provide funding from the State of Hawaiʻi Department of the Attorney General to prepare for ANSI-ASQ National Accreditation Board (ANAB) in the forensic disciplines of Crime Scene Investigation and Friction Ridge Collection and Enhancement.
  
2. [C 2020-176](#) Communication (06/18/2020) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, a Proposed Draft Bill to amend Chapter 5A, Article 11, Kauaʻi County Code 1987, as amended, relating to Real Property Tax. ***(See Proposed Draft Bill (No. 2795))***
  
3. [C 2020-177](#) Communication (06/22/2020) from the Managing Director, requesting Council approval to accept and expend additional Emergency Use funding in the amount of \$38,542,373.54 from the State of Hawaiʻi pursuant to Act 12, Session Laws of Hawaiʻi 2018 as amended by Act 35, Session Laws of Hawaiʻi 2019, for disaster relief and mitigation measures, as a result of the heavy rains and flooding that occurred in April 2018.

4. [C 2020-178](#) Communication (06/24/2020) from the County Attorney, requesting Council approval to indemnify and hold harmless, the eHawaii.gov entities from claims of third parties arising out of the use of the services or materials provided. The agreement will provide free access to the Bureau of Conveyances LandShark Platform in order to review deeds of conveyances, grants of easements, rights of entries, mortgage releases, land leases, infrastructure agreements, and etcetera.
  
5. [C 2020-179](#) Communication (06/29/2020) from the Managing Director, requesting Council approval to apply for and receive Federal funds from the Federal Emergency Management Agency (FEMA) in an amount not to exceed \$2,000,000.00 for the reimbursement of expenditures related to the COVID-19 pandemic disaster.
  
6. [C 2020-180](#) Communication (06/30/2020) from the Managing Director, requesting agenda time for a briefing and discussion concerning the expenditure of \$650,000.00 in emergency moneys (from the \$2,000,000.00 previously appropriated by the Council) for the construction of additional permanent supportive housing units at Kealaula on Pua Loke.

#### H. LEGAL DOCUMENTS:

1. [C 2020-181](#) Communication (06/10/2020) from the Emergency Management Administrator, recommending Council approval of an Issuance of Immediate Construction and Management Right-of-Entry Permit and the indemnification provision contained therein, by and between the County of Kaua'i and the State of Hawai'i Department of Land and Natural Resources, for a parcel located at Tax Map Key (TMK) No. (4) 5-8-012:009, Wainiha, Hanalei, Kaua'i, to allow for the County's contractor to proceed with the construction of the infrastructure for the Set Aside to the County of Kaua'i for a proposed site for community gatherings, baseyard operations, storage, and public parking.
  - Issuance of an Immediate Construction and Management Right-of-Entry Permit

2. [C 2020-182](#) Communication (06/15/2020) from the Acting County Engineer, recommending Council approval, of a Limited Right-of-Entry Permit and associated terms between the County of Kaua'i and the State of Hawai'i Department of Hawaiian Home Lands (DHHL), to allow for the removal of approximately fifteen (15) cubic yards of sand from the Anahola river mouth area situated at Tax Map Key (TMK) Nos. (4) 4-8-12:10 (por.) and (4) 4-8-18:028 and 029 (por.), for the placement of sand bags to repair erosion along 'Aliomanu Road in Anahola.
- Limited Right-of-Entry Permit

## I. COMMITTEE REPORTS:

### 1. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2020-04:** on FED 2020-03 Communication (05/28/2020) from Council Chair Kaneshiro, requesting the presence of the Director of Finance, to provide a briefing and overview of the County of Kaua'i's various Real Property Tax programs – tax credits, exemptions, forms, taxpayer education/outreach, and deadlines. **[Received for the Record.]**

### 2. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2020-14:** on COW 2020-04 Communication (05/28/2020) from Councilmember Cowden, requesting the presence of the Boards & Commissions Administrator, to provide a briefing on the proposed amendments to the Kaua'i County Charter under consideration by the Charter Review Commission. **[Received for the Record.]**
- b. **CR-COW 2020-15:** on COW 2020-05 Communication (06/09/2020) from Council Chair Kaneshiro and Councilmember Chock, requesting the presence of the Managing Director, Prosecuting Attorney, and Housing Director, for a briefing on the status of the County's Adolescent Treatment and Healing Center. **[Received for the Record.]**

J. BILL FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2795\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Mixed Use Tax Exemption*)

K. 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-1027 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 authority for a possible settlement proposal in a claim filed by Progressive Advanced Insurance Company a/s/o James Vaughn 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.

L. ADJOURNMENT.

M. PUBLIC HEARING NOTE: Pursuant to the Supplementary Emergency Proclamation dated March 16, 2020, the Sixth Supplementary Emergency Proclamation dated April 25, 2020, and the Seventh Supplementary Emergency Proclamation dated May 5, 2020, issued by Governor David Y. Ige, all meetings of the Council will be closed to the public consistent with social distancing practices. The public hearing will be read into the record and testimony may be submitted in writing to [counciltestimony@kauai.gov](mailto:counciltestimony@kauai.gov); via facsimile to (808) 241-6349; or mailed to the Office of the County Clerk, Council Services Division at 4396 Rice Street, Suite 209, Lihu'e, Hawai'i 96766. Oral testimony will be taken via the Zoom remote technology platform and it shall be the responsibility of the testifier to ensure that the Zoom software is downloaded **prior** to the meeting. Anyone interested in providing oral testimony shall provide a request to the Office of the County Clerk, Council Services Division at least one (1) hour prior to the meeting to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov) or by calling (808) 241-4188. This request shall include your name, telephone number, E-mail address, and the specific agenda item(s) that you will be testifying on. After oral testimony has been taken, members of the public should continue watching the meeting via the live stream link found at [www.kauai.gov/webcastmeetings](http://www.kauai.gov/webcastmeetings).

The Council will convene into a public hearing on the following item(s) on this meeting date and will convene/reconvene the Council/Committee Meeting thereafter.

*[\*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. [Resolution No. 2020-28](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF AN EASEMENT INTEREST IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, SITUATED AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUA'I, HAWAI'I, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

N. 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).