

## 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. The suspension of Chapter 92 was subsequently continued through additional Supplementary Emergency Proclamations, the most recent being his Fourteenth Supplementary Emergency Proclamation dated October 13, 2020. 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, OCTOBER 21, 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 meeting of the Council:

1. October 7, 2020 Council Meeting

E. CONSENT CALENDAR:

1. [C 2020-249](#) Communication (10/01/2020) from the Deputy Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2020-2021, pursuant to Section 17 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2020-2021.
2. [C 2020-250](#) Communication (10/06/2020) from Hugo D. Cabrera, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2020 through September 30, 2020.
3. [C 2020-251](#) Communication (10/07/2020) from Councilmember Cowden, providing written disclosure of a possible conflict of interest and recusal relating to the Mayoral Reappointment of Dean A. Toyofuku to the Board of Ethics, due to an interest in a matter before the Board of Ethics.

4. [C 2020-252](#) Communication (10/09/2020) from Council Chair Kaneshiro, transmitting for Council consideration and confirmation, the reappointment of Aubrey Summers to the Kaua'i Historic Preservation Review Commission (*Architecture*) – Term ending 12/31/2023. (***See Resolution No. 2020-55***)

#### F. COMMUNICATIONS:

1. [C 2020-253](#) Communication (09/22/2020) from the Director of Finance and the Budget Administrator, requesting Council approval to accept and expend the appropriations provided to the County of Kaua'i by the State Legislature of 2019 at its Regular Session, Act 40, as amended by Act 6, SLH 2020 in the amount of \$15,500,000.00, via Appropriation Warrant No. 220 dated July 7, 2020 and other pertinent attachments.
2. [C 2020-254](#) Communication (09/29/2020) from Mark Begley, Assistant Chief of Police, Patrol Services Bureau, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$638,771.27, from the recurring National Highway Traffic Safety Administration (NHTSA) grant to be used towards the following traffic-related functions: data traffic records, distracted driver, occupant protection, road blocks, speed, youth deterrence, traffic services, purchase of equipment, supplies, training, travel expenses, media expenses, et cetera.
3. [C 2020-255](#) Communication (09/30/2020) from the Executive on Transportation, requesting Council approval to receive and expend the Federal Transit Administration (FTA) Section 5311 grant, in the amount of \$1,089,829.00, and a FTA Section 5339 grant, in the amount of \$1,400,000.00, and to indemnify the FTA. The 5311 grant will be used to fund the fifty percent (50%) grant portion of bus driver wages, hourly pay, and fringe benefit line items along with other bus service needs including professional cleaning services for all vehicles and transit facilities. The 5339 grant will be used to fund the eighty percent (80%) grant portion of vehicle purchases, equipment, and transit facility maintenance expenses.

4. [C 2020-256](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to provide the initial funding to award debris removal contracts, fund repair costs to parks facilities, and replenish protective measure expenditures as a result of the March 2020 rain event. Submittal to the Federal Emergency Management Agency (FEMA) for these expenses is expected to result in a seventy-five percent (75%) reimbursement of eligible costs. **(See Proposed Draft Bill (No. 2806))**
  
5. [C 2020-257](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to fund the anticipated half year shortfall in Transient Accommodations Tax (TAT) revenue through December 31, 2020, due to COVID-19. **(See Proposed Draft Bill (No. 2807))**
  
6. [C 2020-258](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, and A Bill For An Ordinance Amending Ordinance No. B-2020-867, As Amended, Relating To The Capital Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The Bond Fund And General Fund-CIP, to defund the Ho'olako/Ka'ana Parcel Improvements project and thereby restore \$1,400,000.00 to the General Fund Unassigned Fund Balance. **(See Proposed Draft Bill (No. 2808) and Proposed Draft Bill (No. 2809))**

7. [C 2020-259](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to authorize the use of General Funds for eleven (11) positions that were formerly grant-funded to receive retroactive arbitrated awards as a part of the Hawai'i Government Employees Association (HGEA). **(See Proposed Draft Bill (No. 2810))**
  
8. [C 2020-260](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-866, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The General Fund, to provide necessary funding to continue the County's protective measures in mitigating and managing the impacts of COVID-19 in 2021. **(See Proposed Draft Bill (No. 2811))**
  
9. [C 2020-261](#) Communication (10/08/2020) from the Director of Finance and the Budget Administrator, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2020-867, As Amended, Relating To The Capital Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2020 Through June 30, 2021, By Revising The Amounts Estimated In The Bond Fund And General Fund-CIP, to procure a system to adequately address the Human Resource / Payroll System needs. **(See Proposed Draft Bill (No. 2812))**

#### G. CLAIMS:

1. [C 2020-262](#) Communication (10/01/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Alan Yamamoto, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

2. [C 2020-263](#) Communication (10/13/2020) from the County Clerk, transmitting a claim filed against the County of Kauaʻi by Wilber & Associates O/B/O USAA as subrogee of Shere-Khan Smoot, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kauaʻi.
  
3. [C 2020-264](#) Communication (10/13/2020) from the County Clerk, transmitting a claim filed against the County of Kauaʻi by Garden Isle Disposal, Inc., for damage to their property, pursuant to Section 23.06, Charter of the County of Kauaʻi.

#### H. COMMITTEE REPORTS:

##### 1. PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

- a. **CR-PWVS 2020-03:** on PWVS 2020-03 Communication (09/17/2020) from Committee Chair Kagawa, requesting the presence of the Acting County Engineer and the Acting Solid Waste Chief, to continue the discussion that was previously held regarding the concerns relating to the Solid Waste Division's scheduling, overtime, and repair and maintenance to facilities and equipment at the refuse transfer stations. **[Received for the Record.]**

##### 2. HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

- a. **CR-HIR 2020-01:** on Bill No. 2774, Draft 4 A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAʻI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAʻI **[Approved as Amended.]**

##### 3. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2020-07:** on Bill No. 2803 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAʻI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Home Exemption Requirements*) **[Approved.]**

I. RESOLUTION:

1. [Resolution No. 2020-55](#) – RESOLUTION CONFIRMING COUNCIL REAPPOINTMENT TO THE KAUA'I HISTORIC PRESERVATION REVIEW COMMISSION (*Aubrey Summers – Architecture*)

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2806\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Parks & Recreation RAIN20 Event – \$660,000.00*)

2. [Proposed Draft Bill \(No. 2807\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Transient Accommodations Tax Revenue Reduction (Half Year) – \$7,467,500.00*)

3. [Proposed Draft Bill \(No. 2808\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*General Fund Unassigned Fund Balance (Ho'olako/Ka'ana Parcel Improvements) – \$1,400,000.00*)

4. [Proposed Draft Bill \(No. 2809\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-867, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND GENERAL FUND-CIP (*Ho'olako/Ka'ana Parcel Improvements Defunding – \$4,500,000.00*)

5. [Proposed Draft Bill \(No. 2810\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*HGEA Retroactive Raises – Grant-Funded Positions*)



6. [Proposed Draft Bill \(No. 2811\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-866, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*COVID-19 Funding For 2021 – \$2,000,000.00*)

7. [Proposed Draft Bill \(No. 2812\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2020-867, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2020 THROUGH JUNE 30, 2021, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND GENERAL FUND-CIP (*HRMS, Payroll & Personnel System – \$1,335,000.00*)

#### K. BILLS FOR SECOND READING:

1. [Bill No. 2774, Draft 5](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI (*See also CR-HIR 2020-01; the Housing & Intergovernmental Relations Committee recommended approval of Bill No. 2774, Draft 5 on October 7, 2020.*)

2. [Bill No. 2803](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Home Exemption Requirements*) (*See also CR-FED 2020-07; the Finance & Economic Development Committee recommended approval on second and final reading.*)

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-1036 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kauai 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, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. 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.

#### M. ADJOURNMENT.



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).