

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
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
Lihu'e, 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 Eighteenth Supplementary Emergency Proclamation dated February 12, 2021. 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. 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, sent via facsimile to 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. 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 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.
- 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, APRIL 7, 2021
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. March 24, 2021 Council Meeting

E. INTERVIEWS:

1. LIQUOR CONTROL COMMISSION:

- [Lorna A. Nishimitsu – Term ending 12/31/2023](#)

2. PLANNING COMMISSION:

- [Gerald T. Ako – Term ending 12/31/2023](#)

F. CONSENT CALENDAR:

1. [C 2021-79](#) Communication (03/10/2021) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing A Crosswalk On Kakela Makai Drive Near Pua Melia Street, Kōloa District, County Of Kaua‘i. (***See Resolution No. 2021-16***)

2. [C 2021-80](#) Communication (03/17/2021) from the Director of Finance, transmitting for Council information, the Period 7 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of January 31, 2021, pursuant to Section 21 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2020-2021. *(Copies of Period 7 Financial Reports as of January 31, 2021 on file in the Office of the County Clerk.)*
3. [C 2021-81](#) Communication (03/17/2021) from the Housing Director, transmitting for Council consideration, a Resolution Authorizing The Filing Of The Kauaʻi County 2021 Action Plan (Community Development Block Grant) With The Department Of Housing And Urban Development, United States of America, For A Grant Under Title I Of The Housing And Community Development Act Of 1974 and 1987 (Public Laws 93-383 and 100-242), As Amended. **(See Resolution No. 2021-17)**
4. [C 2021-82](#) Communication (03/29/2021) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor’s Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation to Kauaʻi Soil Conservation in the Department of Public Works – Grant-In-Aid, as he is a Director for the East Kauaʻi Soil & Water Conservation District.
5. [C 2021-83](#) Communication (03/29/2021) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor’s Proposed Operating Budget for Fiscal Year 2021-2022, regarding any applicable appropriation to Puhī Metals Recycling – Soil Testing General Liabilities in the Department of Finance – Administration and any applicable 800 MHz Radio Site Lease appropriation in the Emergency Management Agency, as he is a Project Manager employed by Grove Farm Company, Inc.
6. [C 2021-84](#) Communication (03/29/2021) from Council Vice Chair Chock, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor’s Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation for Leadership Development & Training in the Office of the Mayor, as he is a volunteer and facilitator for the annual Leadership Kauaʻi adult class. Additionally, Leadership Kauaʻi and his company, Kupu aʻe Leadership Development, are partners in leadership initiatives on Kauaʻi.

7. [C 2021-85](#) Communication (03/29/2021) from Councilmember Kualii, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2818, the Mayor's Proposed Operating Budget for Fiscal Year 2021-2022, regarding the appropriation to Sexual Assault/Domestic Violence Community Program in the Office of Economic Development – Administration, as he is the Director of Operations for the YWCA. The YWCA may be a potential applicant for these funds.

G. COMMUNICATIONS:

1. [C 2021-86](#) Communication (03/01/2021) from the Office of the Mayor, transmitting for Council approval, the donation of a 50-foot utility pole valued at \$1,900.00, from Kaua'i Island Utility Cooperative, to replace the existing utility pole that is timeworn and requires replacement at the Hanalei Police/Fire Station, which holds the radio antennae that is critical for public safety communications on the North Shore of Kaua'i.
2. [C 2021-87](#) Communication (03/05/2021) from Susan Burriss, Chair of the Board of Ethics, referring to the Council, pursuant to Kaua'i County Charter Section 20.05, Complaint No. BOE-20-001, a Stipulation Related To An Ethics Complaint Against Councilmember Felicia Cowden.
3. [C 2021-88](#) Communication (03/12/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept on-going Federal fund reimbursements from Immigration and Customs Enforcement, Homeland Security Investigations, for the Kaua'i Police Department's roles and responsibilities when working through coordinated efforts with local, State, and Federal law enforcement agencies via a Memorandum of Agreement.
4. [C 2021-89](#) Communication (03/15/2021) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in the amount of \$25,000.00, from 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 in providing summer internship programs for students to work on Kaua'i farms, ranches, and agriculture-related businesses.

5. [C 2021-90](#) Communication (03/19/2021) from Councilmember Evslin and Council Vice Chair Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To Transient Accommodations. ***(See Proposed Draft Bill (No. 2822))***

6. [C 2021-91](#) Communication (03/23/2021) 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 second half of the year shortfall in Transient Accommodations Tax (TAT) revenue through June 30, 2021, due to COVID-19. ***(See Proposed Draft Bill (No. 2823))***

7. [C 2021-92](#) Communication (03/24/2021) from Council Vice Chair Chock, requesting Council approval to submit an application for the 2021 Vacant Property Leadership Institute (VPLI) on behalf of the County of Kaua'i, to include receipt and expenditure of awarded program funding.

H. CLAIMS:

1. [C 2021-93](#) Communication (03/19/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Sandra I. Rivera, for personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i.

2. [C 2021-94](#) Communication (03/19/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Kaua'i Island Utility Cooperative, for personal property and property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. RESOLUTIONS:

1. [Resolution No. 2021-16](#) – RESOLUTION ESTABLISHING A CROSSWALK ON KAKELA MAKAI DRIVE NEAR PUA MELIA STREET, KŌLOA DISTRICT, COUNTY OF KAUA'I

2. [Resolution No. 2021-17](#) – RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2021 ACTION PLAN (COMMUNITY DEVELOPMENT BLOCK GRANT) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AND 1987 (PUBLIC LAWS 93-383 AND 100-242), AS AMENDED

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2822\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TRANSIENT ACCOMMODATIONS

2. [Proposed Draft Bill \(No. 2823\)](#) – 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 (*Transient Accommodations Tax Revenue Reduction (Second Half of the Year) – \$7,467,500.00*)

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-1049 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kauai County Charter section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and/or decision-making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.

2. ES-1050 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i 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 consult with the Council's legal counsel regarding the stipulation related to the Board of Ethics complaint against Councilmember Felicia Cowden. 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 Governor David Y. Ige's COVID-19 Supplementary Emergency Proclamations, the most recent being his Eighteenth Supplementary Emergency Proclamation dated February 12, 2021, 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; 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 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.

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. 2021-13](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF EASEMENT INTERESTS IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, WAIPOULI, DISTRICT OF PUNA, COUNTY OF KAUAI, HAWAII, 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.