

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

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Council Services Division
4396 Rice Street, Suite 209
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On August 5, 2021, Governor David Y. Ige issued an Emergency Proclamation related to COVID-19 Response, which suspended Chapter 92 of the Hawai'i Revised Statutes (HRS), relating to Public Agency Meetings and Records (also known as the Sunshine Law). 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, 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 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, AUGUST 18, 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. August 4, 2021 Council Meeting

E. CONSENT CALENDAR:

1. [C 2021-182](#) Communication (08/04/2021) from Councilmember Kualii, transmitting for Council consideration, a Resolution Authorizing The Acquisition Of Land For Public Use, To Wit: The 23.5-Acre Parcel Of Land, Situated At Kilauea, District Of Ko'olau, County Of Kaua'i, Hawaii, TMK (4) 5-2-005-024, And Determining And Declaring The Necessity Of The Acquisition Thereof By Eminent Domain (*See Resolution No. 2021-27*)

F. COMMUNICATIONS:

1. [C 2021-183](#) Communication (07/08/2021) from the Chief of Police, requesting Council approval to partner with Corteva Agriscience on a Public Safety Messaging campaign, whereby Corteva Agriscience, would make direct payments totaling approximately \$9,000.00 to KONG Radio Station (KQNG FM 93.5), for radio airtime over the course of the remaining 2021 calendar year, and the Kaua'i Police Department (KPD) would create and read messages on the radio covering various topics (i.e., traffic safety, ocean safety, crime prevention tips et cetera) directed at residents and visitors to Kaua'i, in return stating sponsorship by Corteva Agriscience.

2. [C 2021-184](#) Communication (07/23/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnification language contained in the subscription service agreement for use of the Garmin GPS devices by Kaua'i Police Department detectives for search and rescue efforts.

3. [C 2021-185](#) Communication (07/23/2021) from the Life's Choices Kaua'i Coordinator, requesting Council approval to apply for, receive, and expend additional State funds in the amount of \$110,000.00, and approval to indemnify the State of Hawai'i, Department of Health, Alcohol and Drug Abuse Division (ADAD), Partnership for Success (PFS) grant, for the reoccurring grant period of September 30, 2021 through September 29, 2022, to support coordination for a Substance Abuse Prevention System (SAPS) and provide services to build capacity of the substance abuse prevention system and support implementation of efforts to address underage drinking.

4. [C 2021-186](#) Communication (07/27/2021) from the Housing Director, requesting Council approval to receive and expend Federal funds, in the amount of \$3,050,000.00, from the Homeowner Assistance Program as authorized by the American Rescue Plan Act (ARPA) of 2021 (Public Law No: 117-2), to mitigate financial hardships associated with the Coronavirus pandemic by helping homeowners at risk of losing their housing with payments for qualified expenses related to mortgage and other housing costs. The total subsidy per household may not exceed \$30,000.00.

5. [C 2021-187](#) Communication (07/28/2021) from the Fire Chief, requesting Council approval to receive and expend State funds, in the amount of \$344,962.00, to provide lifeguard services at Kē'e Beach, Hā'ena State Park, from July 1, 2021 through June 20, 2022.

6. [C 2021-188](#) Communication (07/29/2021) from the Deputy Planning Director, transmitting for Council approval a request to apply for, receive, and expend Transient Oriented Development (TOD) Capital Improvement Program (CIP) Planning Funds in an amount of up to \$500,000.00, for pre-planning, master planning, other planning studies, and infrastructure assessment for TOD projects and TOD infrastructure identified through State-County consultation, coordination, and collaboration aligned with shared TOD goals and objectives, and to indemnify the State of Hawai'i in accordance with the State of Hawai'i General Conditions (AG-008 103D) for administering the subject program.

7. [C 2021-189](#) Communication (07/29/2021) from the Deputy Planning Director, transmitting the Planning Commission's recommendation to approve the petition to amend Ordinance No. PM-2006-383, as amended, by Ordinance No. PM-2009-394, Relating to Zoning Designation in Nāwiliwili, Kaua'i. *(Copies of the Draft Ordinance for Zoning Amendment (ZA-2021-3), Petition for a Boundary Amendment, Director's Report dated June 30, 2021, Supplemental Director's Report dated July 12, 2021, Testimony of public hearing dated July 13, 2021, and an Excerpt of the July 13, 2021 Planning Commission meeting minutes, on file in the Office of the County Clerk.) (See Proposed Draft Bill (No. 2831))*

8. [C 2021-190](#) Communication (08/03/2021) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5, Section 5-2.4, Kaua'i County Code 1987, As Amended, Relating To Motor Vehicle Certificate Of Ownership And Registration Fees. ***(See Proposed Draft Bill (No. 2832))***

9. [C 2021-191](#) Communication (08/03/2021) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 17, Section 17-1.1 Kaua'i County Code 1987, As Amended, Relating To The General Provisions Relating To Motor Vehicles And Traffic Regulations. ***(See Proposed Draft Bill (No. 2833))***

10. [C 2021-192](#) Communication (08/04/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$210,453.00 in State General Funds for Fiscal Year 2022, and to indemnify the State Executive Office on Aging, for Kupuna Care services (\$187,843.00) and Elder Abuse Case Management services (\$22,610.00), for the period starting July 1, 2021 through June 30, 2022.

11. [C 2021-193](#) Communication (08/05/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$38,782.00 in State General Funds for State Fiscal Year 2022, and to indemnify the State Executive Office on Aging; funds will be used for the provision of the Aging and Disability Resource Center (ADRC), which includes staff development, outreach, awareness, education, and collaboration with the No Wrong Door (NWD) Network.

12. [C 2021-194](#) Communication (08/11/2021) from Councilmember Evslin and Councilmember Carvalho, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 8, Kaua'i County Code 1987, As Amended, Relating To The Comprehensive Zoning Ordinance, And Chapter 22, Kaua'i County Code 1987, As Amended, Relating To Public Health, Safety And Welfare (***See Proposed Draft Bill (No. 2834)***)

G. LEGAL DOCUMENT:

1. [C 2021-195](#) Communication (08/04/2021) from the Acting County Engineer, recommending Council approval of a Grant of Easement made by and between the County of Kaua'i and 4253 Rice Street LLC, conveying Lihu'e Town Core Project Easement Portion of Tax Map Key (TMK) No. (4) 3-7-009:036, Lihu'e, Kaua'i, Hawai'i, for a perpetual non-exclusive easement to build, construct, reconstruct, rebuild, repair, maintain and operate electrical infrastructure, curb, and sidewalk improvements for public access purposes.
 - Grant of Easement (Easement A-1, "Fairview Business Tract")

H. CLAIMS:

1. [C 2021-196](#) Communication (08/03/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by McKenna Allen, for towing fees, pursuant to Section 23.06, Charter of the County of Kaua'i.

2. [C 2021-197](#) Communication (08/04/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Foster Lee Brown III, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

3. [C 2021-198](#) Communication (08/04/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Russell Morita, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. [C 2021-199](#) Communication (08/09/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mia Melamed, for towing fees, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. RESOLUTION:

1. [Resolution No. 2021-27](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF LAND FOR PUBLIC USE, TO WIT: THE 23.5-ACRE PARCEL OF LAND, SITUATED AT KĪLAUEA, DISTRICT OF KO'OLAU, COUNTY OF KAUA'I, HAWAII, TMK (4) 5-2-005-024, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2831\)](#) – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, AS AMENDED BY ORDINANCE NO. PM-2009-394, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUA'I

2. [Proposed Draft Bill \(No. 2832\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, SECTION 5-2.4, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES

3. [Proposed Draft Bill \(No. 2833\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17, SECTION 17-1.1 KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE GENERAL PROVISIONS RELATING TO MOTOR VEHICLES AND TRAFFIC REGULATIONS

4. [Proposed Draft Bill \(No. 2834\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE

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-1059 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, on behalf of the Council, requests an Executive Session to consult with the County Attorney on matters related to the Governor's Emergency Proclamation Related to the Covid-19 Response, specifically the vaccine and testing requirements for County employees. 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 Response Emergency Proclamation dated August 5, 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. [Bill No. 2825](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A 1.20(b), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Overpayment*)

2. [Bill No. 2826](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-12.9 AND 5A-12.10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Appeals*)
3. [Bill No. 2827](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-1.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DISPOSITION OF UNCLAIMED MONIES
4. [Bill No. 2828](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, ESTABLISHING A COMMERCIAL VEHICULAR RENTAL REAL PROPERTY TAX CLASS
5. [Bill No. 2829](#) – A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 5, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX

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.