

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
Lihu'e, Kaua'i, Hawai'i 96766

On October 1, 2021, Governor David Y. Ige issued an Emergency Proclamation related to COVID-19 Delta 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 Kaua'i 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, OCTOBER 20, 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. October 6, 2021 Council Meeting

E. INTERVIEW:

1. CIVIL SERVICE COMMISSION:

- [Beverly Ann Gotelli](#) – Term ending 12/31/2023

F. CONSENT CALENDAR:

1. [C 2021-229](#) Communication (10/01/2021) from Councilmember Kualii, transmitting for Council consideration, a Resolution Repealing Resolution No. 2014-08 And Acknowledging The Necessity To Expedite Permit Processing For Workforce Housing (***See Resolution No. 2021-29***)
2. [C 2021-230](#) Communication (10/01/2021) from the Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2021-2022, pursuant to Section 17 of Ordinance No. B-2021-877, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2021-2022.
3. [C 2021-231](#) Communication (10/05/2021) from Andrew S. Michaels, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2021 through September 30, 2021.

4. [C 2021-232](#) Communication (10/07/2021) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing A Crosswalk And A Pedestrian Lane On Kōloa Road, Kōloa District, County of Kaua'i (***See Resolution No. 2021-30***)

G. COMMUNICATIONS:

1. [C 2021-233](#) Communication (09/15/2021) from the Chief of Police, Deputy Chief of Police, and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept and utilize four (4) vehicles acquired through the State of Hawai'i Department of the Attorney General's Asset Forfeiture process, for law enforcement purposes.
2. [C 2021-234](#) Communication (09/30/2021) from the Executive on Aging, requesting Council approval to receive and expend funding from the State Executive Office on Aging, and Americans Recovery Plan in the amount of \$111,870.00, and indemnify the State Executive Office on Aging for the provision of Senior Center Services that will be contracted to the Department of Parks & Recreation for an array of services, which may include exercise/physical activities and recreation/leisure activities at each of the nine (9) neighborhood centers during the period of December 1, 2021 through December 1, 2023.
3. [C 2021-235](#) Communication (10/05/2021) from the Planning Director, requesting Council approval to receive and expend a grant from the Department of Health, Chronic Disease Prevention and Health Promotion Division, State of Hawai'i, Special Funds in the amount of \$30,000.00, to implement the "Quick Build" Demonstration Project via Memorandum of Agreement for the period of November 1, 2021 through October 31, 2022.
4. [C 2021-236](#) Communication (10/05/2021) from the Director of Parks & Recreation, requesting agenda time for a briefing from HHF Planners (Consultants), on the Black Pot Beach Park Master Plan.
5. [C 2021-237](#) Communication (10/06/2021) from the Director of Finance and the County Attorney, transmitting for Council consideration, A Bill For An Ordinance To Amend Ordinance No. B-2021-877, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2021 Through June 30, 2022, By Revising The Amounts Estimated In The General Fund, to provide the necessary funding to enable the County to meet its settlement obligations for the duration of the current Fiscal Year. (***See Proposed Draft Bill (No. 2839)***)

6. [C 2021-238](#) Communication (10/07/2021) from the County Attorney, requesting Council approval for authorization to expend funds up to \$50,000.00 to retain special counsel to represent Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kaua'i Police Department in the matter of Paul N. Applegate vs. County of Kaua'i, et al., Civil No. 1:21-CV-364 (U.S. District Court for the District of Hawai'i).

7. [C 2021-239](#) Communication (10/07/2021) from the Chief of Police, Deputy Chief of Police, and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept a donation from Hawai'i Health and Harm Reduction Center (HHHRC) of thirty-six (36) pieces of Narcan (Naloxone HCL) Nasal Spray 4mg valued at \$4,500.00, to assist in reducing opioid overdose mortality.

8. [C 2021-240](#) Communication (10/08/2021) from the Emergency Management Administrator, requesting Council approval to receive and expend Fiscal Year 2021 Homeland Security Grant Program funds, in the amount of \$570,000.00, from the United States Department of Homeland Security, via the State of Hawai'i Department of Defense, for continued use in enhancing the capability of State and local units of government to prevent, deter, respond to, and recover from threats and incidents of terrorism, as well as "all hazards" catastrophic preparedness initiatives prior to December 31, 2023.

9. [C 2021-241](#) Communication (10/08/2021) from the Emergency Management Administrator, requesting Council approval to receive and expend grant funds, in the amount of \$150,000.00, for the Fiscal Year 2021, from the United States Department of Homeland Security, via the State of Hawai'i Department of Defense – Hawai'i Emergency Management Agency, to be used to support two (2) existing Kaua'i Emergency Management Agency staff positions necessary to support the day-to-day prevention, protection, mitigation, response, and recovery activities.

10. [C 2021-242](#) Communication (10/08/2021) from the Managing Director, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2021-877, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2021 Through June 30, 2022, By Revising The Amounts Estimated In The General Fund to account for and appropriate the revenue from the County of Kaua'i Transient Accommodations Tax (KTAT). (*See Proposed Draft Bill (No. 2840)*)

H. LEGAL DOCUMENT:

1. [C 2021-243](#) Communication (10/07/2021) from the Planning Director, recommending Council approval of a Dedication Deed, from Stephen L. Palama and Kathy S. Palama, conveying to the County of Kaua'i, Lot 130-G-2, Kalāheo Homesteads (Second Series), Kalāheo, Hawai'i, for roadway purposes, situated at Tax Map Key (TMK) No. (4) 2-3-020:001 (portion):

- Dedication Deed

I. COMMITTEE REPORTS:

1. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2021-09:** on Bill No. 2832 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES [**Approved.**]
- b. **CR-FED 2021-10:** on Bill No. 2833 A BILL FOR AN ORDINANCE AMENDING CHAPTER 17, SECTION 17-1.1 KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE GENERAL PROVISIONS RELATING TO MOTOR VEHICLES AND TRAFFIC REGULATIONS [**Approved.**]

2. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2021-11:** on Bill No. 2835 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-877, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Special Election - Prosecuting Attorney - \$475,000.00*)
[Approved.]

J. RESOLUTIONS:

1. [Resolution No. 2021-29](#) – RESOLUTION REPEALING RESOLUTION NO. 2014-08 AND ACKNOWLEDGING THE NECESSITY TO EXPEDITE PERMIT PROCESSING FOR WORKFORCE HOUSING

2. [Resolution No. 2021-30](#) – RESOLUTION ESTABLISHING A CROSSWALK AND A PEDESTRIAN LANE ON KŌLOA ROAD, KŌLOA DISTRICT, COUNTY OF KAUAI

K. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2839\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-877, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*General Liability – \$900,000.00*)

2. [Proposed Draft Bill \(No. 2840\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-877, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*County of Kauai Transient Accommodations Tax – \$9,000,000.00*)

L. BILLS FOR SECOND READING:

1. [Bill No. 2832](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES (*See also CR-FED 2021-09; the Finance & Economic Development Committee recommended approval on second and final reading.*)

2. [Bill No. 2833](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17, SECTION 17-1.1 KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE GENERAL PROVISIONS RELATING TO MOTOR VEHICLES AND TRAFFIC REGULATIONS (*See also CR-FED 2021-10; the Finance & Economic Development Committee recommended approval on second and final reading.*)

3. [Bill No. 2835](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-877, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2021 THROUGH JUNE 30, 2022, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Special Election - Prosecuting Attorney - \$475,000.00*) (*See also CR-COW 2021-11; 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-1062 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 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, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

2. ES-1063 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 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 authorization to expend funds up to \$50,000.00 to retain Special Counsel to represent Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kaua'i Police Department in the matter of Paul N. Applegate vs. County of Kaua'i, et al., Civil No. 1:21-CV-364 (U.S. District Court for the District of Hawai'i). This briefing and consultation involves the 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: Pursuant to Governor David Y. Ige's COVID-19 Delta Response Emergency Proclamation dated October 1, 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. 2836](#) – 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 (*County of Kaua'i Planning Department, Applicant*) (ZA-2021-4)
2. [Bill No. 2837](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE 1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE KAUAI COUNTY HOUSING AGENCY

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.