

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
Lihue, Kauai, Hawaii 96766

Effective January 1, 2022, Act 220, Session Laws of Hawaii (SLH) 2021 adds a new option to the Sunshine Law that allows boards to hold remote meetings via interactive conference technology (ICT), such as online meeting platforms, teleconferences, videoconference, and voice over internet protocol.

Pursuant to Act 220, SLH 2021 and Governor David Y. Ige's Emergency Proclamation Related to COVID-19 (Omicron Variant) dated January 26, 2022, the meetings of the Kauai County Council will be conducted as follows until further notice:

- Meetings will be noticed pursuant to Hawaii Revised Statutes (HRS) Chapter 92.
- The meeting will be closed to the public to be consistent with social distancing practices due to the COVID-19 pandemic.
- 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.
- The meeting may also be accessed at <https://tinyurl.com/KauaiCountyCouncil022322>.
- 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 (808) 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. It is recommended that anyone interested in providing oral testimony 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 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays). 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 may continue watching the meeting via the livestream link found at www.kauai.gov/webcastmeetings or may listen to the meeting on the oral testimony Zoom link.
- All accommodations pursuant to Act 220, SLH 2021 shall be submitted to the Office of the County Clerk, Council Services Division as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Requests can be made via E-mail to cokcouncil@kauai.gov or by calling (808) 241-4188 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays).
- 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, FEBRUARY 23, 2022
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. February 9, 2022 Council Meeting
2. February 9, 2022 Public Hearings re: Bill No. 2842 and Bill No. 2843

E. INTERVIEWS:

1. POLICE COMMISSION:

- [Monica L. Belz](#) – Term ending 12/31/2024

2. BOARD OF ETHICS:

- [Rose Ramos-Benzel](#) – Term ending 12/31/2022

3. CHARTER REVIEW COMMISSION:

- [Coty “Buffy” Trugillo](#) – Term ending 12/31/2023

4. BOARD OF REVIEW:

- [Jerry M. Nishihira](#) – Term ending 12/31/2023

F. COMMUNICATIONS:

1. [C 2022-30](#) Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$98,500.00, and to indemnify the State of Hawai'i, Department of the Attorney General, to support a 0.50 Full-Time Equivalent (FTE) Deputy Prosecuting Attorney who will work with the Kaua'i Police Department's Vice Investigators and focus fifty percent (50%) of their time on methamphetamine trafficking and opioid focused prosecution, and to cover a portion of fringe benefit costs and office supplies. The anticipated contract date is for the period of July 1, 2022 through June 30, 2023.

2. [C 2022-31](#) Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$48,689.00, and to indemnify the State of Hawai'i, Department of the Attorney General, to be used for salaries/wages and supplies for the Domestic Violence Prosecution Unit. This recurring grant and funds will be utilized for the tentative period commencing June 1, 2022 to January 15, 2023.

3. [C 2022-32](#) Communication (01/28/2022) from the Acting Prosecuting Attorney, requesting Council approval to receive and expend Federal funds, in the amount of \$35,790.00, from the Edward J. Byrne Memorial Justice Assistance Grant (JAG) Fiscal Year 2021 Local Solicitation Grant, to continue employment of one (1) Full-Time Equivalent (FTE) Process Server to continue process serving for the Office of the Prosecuting Attorney for three (3) months, purchase office supplies, and allow officers of the Kaua'i Police Department to attend training sessions. The grant will cover expenses for the time period October 1, 2020 through September 30, 2024.

4. [C 2022-33](#) Communication (02/02/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Section 5A-11.26, And Section 5A-9.1(a), Kaua'i County Code 1987, As Amended, Relating To Real Property Tax, to repeal the Tree Farm Development Exemption, as it results in tree farm operators receiving a more substantial tax relief measure than agricultural farmers who have been granted an Agricultural Dedication under Kaua'i County Code Section 5A-9.1. ***(See Proposed Draft Bill (No. 2845))***

5. [C 2022-34](#) Communication (02/03/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, By Repealing Article 10, Relating To Valuation Of Wasteland, to repeal the valuation of wasteland, as the last known "wasteland" designation was granted in 1991 and no such designation exists today. **(See Proposed Draft Bill (No. 2846))**

6. [C 2022-35](#) Communication (02/03/2022) from Councilmember DeCosta, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, By Repealing Section 5A-11.25, Relating To Orchard Development Exemption, to repeal the Orchard Development Exemption, as there are no active participants with this exemption and it has not been used for a number of years. **(See Proposed Draft Bill (No. 2847))**

7. [C 2022-36](#) Communication (02/07/2022) from Jodi A. Higuchi Sayegusa, Deputy Director of Planning, transmitting the Public Access, Open Space, Natural Resources Preservation Fund Commission's recommendation to accept the Amended Grant of Easement and request to use up to \$1,500,000.00 of the Public Access, Open Space, Natural Resources Preservation Fund for improvements to the coastal access easement that accesses Kaumumene (Hideaways Beach) Tax Map Key (TMK) Nos. (4) 5-4-11:04 and (4) 5-4-12:11. *(Copies of the Planning Department's report of January 13, 2022, Grant of Easement, Draft Minutes from the Commission's January 13, 2022 meeting, and two (2) draft bills that would amend the 2021-2022 budget on file in the Office of the County Clerk.)* **(See Proposed Draft Bill (No. 2848) and Proposed Draft Bill (No. 2849))**

G. LEGAL DOCUMENT:

1. [C 2022-37](#) Communication (02/10/2022) from Mark L. Bradbury, Deputy County Attorney, recommending Council approval of an Extinguishment of Easement "P-1" and Grant of Easement "P-2" made by and between the County of Kaua'i and the Association of Apartment Owners of Pu'u Po'a and SOF-XI Kaua'i PV Hotel, L.P., a Foreign Limited Partnership authorized to do business in the State of Hawai'i, Tax Map Key (TMK) Nos. (4) 5-4-11:04 and (4) 5-4-12:11, related to the coastal access easement that accesses Kaumumene (Hideaways Beach).
 - Extinguishment of Easement "P-1" and Grant of Easement "P-2"

H. CLAIM:

1. [C 2022-38](#) Communication (02/07/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Visa Card Benefit Services/AGA Service Company as subrogee for Todd Chung, for damage to his rental vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:1. PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

- a. **CR-PWVS 2022-02:** on PWVS 2022-02 Communication (12/22/2021) from Councilmember Cowden, requesting the presence of the Acting County Engineer and the Director of Finance, to provide a briefing regarding electronic plan review and the electronic building permit system to include:
 - Successes (such as improvements in effectively and efficiently processing permits) and challenges with the project overall;
 - Successes and challenges with the system, selected software, and implementation;
 - Observations or feedback received regarding the customer experience (frustration, satisfaction, or neither); and
 - Advice and lessons learned that can assist other County departments implement more electronic processes. **[Received for the Record.]**

2. PLANNING COMMITTEE:

- a. **CR-PL 2022-01:** on Bill No. 2834 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE **[Approved as Amended.]**

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2845\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-11.26, AND SECTION 5A-9.1(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tree Farm Development Exemption*)

2. [Proposed Draft Bill \(No. 2846\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 10, RELATING TO VALUATION OF WASTELAND

3. [Proposed Draft Bill \(No. 2847\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING SECTION 5A-11.25, RELATING TO ORCHARD DEVELOPMENT EXEMPTION

4. [Proposed Draft Bill \(No. 2848\)](#) – 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Kaumumene (Hideaways Beach) Operating Budget – \$1,500,000.00*)

5. [Proposed Draft Bill \(No. 2849\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2021-878, AS AMENDED, RELATING TO THE CAPITAL 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*Kaumumene (Hideaways Beach) CIP Budget – \$1,500,000.00*)

K. BILL FOR SECOND READING:

1. [Bill No. 2834, Draft 1](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE (*See also CR-PL 2022-01; the Planning Committee recommended approval as amended to Bill No. 2834, Draft 1 on February 9, 2022.*)

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.)*

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.