

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**

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 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 suspension of Chapter 92 with his Sixth Supplementary Emergency Proclamation dated April 25, 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 holding meetings open to the public. 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, live streaming of meetings, and posting minutes of meetings online. No board deliberation or action shall be invalid, if such measures are not taken.

The Kaua'i County Council's meetings 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.
- 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, MAY 6, 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 meetings of the Council:

1. April 22, 2020 Council Meeting
2. April 22, 2020 Public Hearing re: Bill No. 2781 and Bill No. 2782

E. INTERVIEW:

1. LIQUOR CONTROL COMMISSION:

- [Dee Crowell](#) – Term ending 12/31/2022

F. CONSENT CALENDAR:

1. [C 2020-113](#) Communication (03/30/2020) from Councilmember Evslin, transmitting for Council consideration and confirmation, the appointment of Jonathan Thomas Lucas to the Public Access, Open Space, Natural Resources Preservation Fund Commission (Kōloa-Po‘ipū-Kalāheo) – Term ending 12/31/2022. (**See Resolution No. 2020-25**)
2. [C 2020-114](#) Communication (04/09/2020) from the Director of Finance, transmitting for Council information, the Period 8 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of February 29, 2020, pursuant to Section 21 of Ordinance No. B-2019-856, relating to the Operating Budget of the County of Kaua‘i for Fiscal Year 2019-2020. (*Copies of Period 8 Financial Reports as of February 29, 2020 on file in the Office of the County Clerk.*)

3. [C 2020-115](#) Communication (04/16/2020) from the Director of Finance, transmitting for Council information, the Third Quarter Statement of Equipment Purchases for Fiscal Year 2019-2020, pursuant to Section 17 of Ordinance No. B-2019-856, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2019-2020.

G. COMMUNICATIONS:

1. [C 2020-116](#) Communication (04/07/2020) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$74,118.00, to be used for salaries/wages and supplies for the Domestic Violence Prosecution Unit, and to indemnify the State of Hawai'i, Department of the Attorney General.
2. [C 2020-117](#) Communication (04/08/2020) from Bryson Ponce, Assistant Chief of Police, requesting Council approval to use \$90,000.00 in unexpended salaries for the unbudgeted purchase of one hundred ten (110) ballistic helmets with face shields for patrol officers.
3. [C 2020-118](#) Communication (04/15/2020) from the Executive on Aging, requesting Council approval of the Agency on Elderly Affairs' 4-Year Area Plan on Aging (from October 1, 2019 through September 30, 2023), which serves as the blueprint and framework for the next four (4) years in the planning and development of aging services and programs for the County of Kaua'i. (*Copies of the 4-Year Area Plan on Aging on file in the Office of the County Clerk.*)
4. [C 2020-119](#) Communication (04/17/2020) from Troy K. Tanigawa, Acting County Engineer, requesting Council approval to indemnify the State of Hawai'i as outlined in Condition No. 3 of the State of Hawai'i Department of Land and Natural Resources' (DLNR) Emergency CDUP KA-20-14 letter for temporary emergency erosion control along the damaged section of 'Aliomanu Road in Anahola.
5. [C 2020-120](#) Communication (04/22/2020) from the Planning Director, requesting Council approval to receive and expend State funds in the amount of \$49,500.00, from the State of Hawai'i Department of Health (DOH) Chronic Disease Prevention and Health Promotion program, and to indemnify the State DOH, for the Supplemental Nutrition Assistance Program Education (SNAP Ed) allowable "Quick Build" Demonstration Project.

6. [C 2020-121](#) Communication (04/23/2020) from Troy K. Tanigawa, Acting County Engineer, requesting Council approval to apply for, receive, and expend State funds in the amount of \$303,666.23, from the State of Hawai'i Department of Health (DOH), and to indemnify the State DOH for the Fiscal Year 2021 grant cycle, for the HI-5 Deposit Beverage Container program to be used to fund two (2) HI-5 Recycling Specialist positions.
7. [C 2020-122](#) Communication (04/23/2020) from Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept ongoing funding reimbursements for joint law enforcement operations relating to the Hawai'i Internet Crimes Against Children (HI ICAC) Task Force via a Memorandum of Understanding (MOU) with the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP).
8. [C 2020-123](#) Communication (04/23/2020) from the Prosecuting Attorney, requesting Council approval to receive and expend an increase in funds, from \$211,385.00 to \$224,353.00, for contract 16-DJ-07, from the State of Hawai'i, Department of the Attorney General, to continue the Sexual Assault Prosecution Unit to June 15, 2020.
9. [C 2020-124](#) Communication (04/23/2020) from the Housing Director and Life's Choices Kaua'i Coordinator, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$30,000.00, to supplement the Partnership for Success grant, for prevention capacity-building activities including the Hawai'i Coalition Academy Training, Underage Drinking Prevention Youth Convention, and Statewide Substance Use Prevention Symposium.
10. [C 2020-125](#) Communication (04/23/2020) from Solomon K. Kanoho, Acting Fire Chief, requesting Council approval to apply for, receive, and expend a U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), Assistance to Firefighters Grant (AFG) to purchase a Raman and Fourier Transform Infrared (FTIR) system Hazardous Materials (HazMat) Spectrometer which will be used to identify solid and liquid chemicals and explosives, and is critical in maintaining the Kaua'i Fire Department's (KFD) response capabilities to HazMat incidents. The total budget for this project is \$148,950.00 of which FEMA AFG would cover \$135,409.09, and KFD would be responsible for the remaining \$13,540.91, in a ninety percent/ten percent (90%/10%) cost share based on total FEMA contributions.

11. [C 2020-126](#) Communication (04/23/2020) from Solomon K. Kanoho, Acting Fire Chief, requesting Council approval to apply for, receive, and expend a U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), Assistance to Firefighters Grant (AFG) to purchase a new Initial Attack Mini-Pumper apparatus for Kaua'i's rural Wildland Urban Interface (WUI) population, valued at \$293,000.00 of which FEMA AFG would cover \$266,363.64, and KFD would be responsible for the remaining \$26,636.36, in a ninety percent/ten percent (90%/10%) cost share based on total FEMA contributions.

12. [C 2020-127](#) Communication (04/24/2020) from the Executive on Aging, requesting Council approval to apply for, receive, and expend funds, in the amount of \$138,184.00, and to indemnify the State Executive Office on Aging for the Healthy Aging Contract for State Fiscal Year 2020, which will be used towards EnhanceFitness and Better Choices Better Health workshops.

13. [C 2020-128](#) Communication (04/24/2020) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$87,170.00, from the Coronavirus Emergency Supplemental Funding Program, for the Pastor, Police, and Pancake Program; grant funds will be shared with the Kaua'i Police Department and will be used for equipment and overtime costs in response to COVID-19 for the period January 20, 2020 through January 19, 2022.

14. [C 2020-129](#) Communication (04/24/2020) from Nalani K. Kaauwai Brun, Director of Economic Development, requesting Council approval to apply for, receive, and expend funds, in the amount of \$300,000.00, from the Hawai'i Farm Bureau, for the Kūpuna Kare with Farmer Fare program, which benefits kūpuna and farmers on Kaua'i.

15. [C 2020-130](#) Communication (04/28/2020) from the Director of Finance and Budget Administrator, transmitting for Council consideration, a proposed Emergency Ordinance pursuant to Charter Sections 4.02K and 18.02, to reauthorize \$957,278.00 from the Reserve Fund (Disaster Response), to be used for continued funding of emergency expenditures related to the Novel Coronavirus COVID-19. **(See Proposed Draft Bill (No. 2792))**

H. LEGAL DOCUMENTS:

1. [C 2020-131](#) Communication (04/16/2020) from Troy K. Tanigawa, Acting County Engineer, recommending Council approval of a Grant of Easements and Transfer of Sewer Line document and the indemnity clause under Paragraph 9, to allow the Department of Public Works Wastewater Management Division to install an emergency generator adjacent to the Port Allen Sewage Pump Station.
 - Grant of Easements and Transfer of Sewer Line by and between the County of Kaua'i and Alexander & Baldwin, LLC and A&B Properties Hawai'i, LLC, Tax Map Key (TMK) No. (4) 2-001-003: 026, 040.

2. [C 2020-132](#) Communication (04/24/2020) from the Housing Director, recommending Council approval of a Waiver, Release and Indemnity Agreement for Tax Map Key (TMK) No. (4) 3-8-005:028 and 029 between the County of Kaua'i and Pua Loke Housing Partners, L.P., and County of Kaua'i Board of Water Supply. The purpose of this agreement is to have the County of Kaua'i and Pua Loke Housing Partners, L.P. waive, release, and indemnify the Department of Water from any liability for injuries or damages that might arise during construction activities on the property as part of the permitting process, and to authorize the County Clerk to sign legal documents related to the Waiver, Release and Indemnity Agreement with the Department of Water.
 - Waiver, Release and Indemnity Agreement

I. CLAIM:

1. [C 2020-133](#) Communication (04/20/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Kori White, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

J. COMMITTEE REPORTS:1. PLANNING COMMITTEE:

- a. **CR-PL 2020-04:** on Bill No. 2777 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEFINITIONS (*County of Kaua'i Planning Department, Applicant*) (ZA-2016-3) **[Received for the Record.]**

b. CR-PL 2020-05: on Bill No. 2778

A BILL FOR AN ORDINANCE AMENDING SECTION 8-4.3(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS FOR RESIDENTIAL STRUCTURES NOT INVOLVING THE SUBDIVISION OF LAND (*County of Kaua'i Planning Department, Applicant*) (ZA-2020-13) **[Approved.]**

K. RESOLUTION:

1. [Resolution No. 2020-25](#) – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Jonathan Thomas Lucas*)

L. EMERGENCY BILL:

1. [Proposed Draft Bill \(No. 2792\)](#) – AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. B-2020-861, RELATING TO THE FUNDING OF EMERGENCY EXPENDITURES TO MEET THE PUBLIC EMERGENCY CAUSED BY THE NOVEL CORONAVIRUS “COVID-19,” BY REAUTHORIZING THE AMOUNTS ESTIMATED IN THE GENERAL FUND

M. BILLS FOR SECOND READING:

1. [Bill No. 2777](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEFINITIONS (*County of Kaua'i Planning Department, Applicant*) (ZA-2016-3) (*See also CR-PL 2020-04; the Planning Committee recommended Bill No. 2777 be received for the record.*)

2. [Bill No. 2778](#) – A BILL FOR AN ORDINANCE AMENDING SECTION 8-4.3(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS FOR RESIDENTIAL STRUCTURES NOT INVOLVING THE SUBDIVISION OF LAND (*County of Kaua'i Planning Department, Applicant*) (ZA-2020-13) (*See also CR-PL 2020-05; the Planning Committee recommended approval on second and final reading.*)

N. 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.)

O. ADJOURNMENT.

P. PUBLIC HEARING NOTE: Pursuant to the Supplementary Emergency Proclamation dated March 16, 2020 and the Sixth Supplementary Emergency Proclamation dated April 25, 2020, both issued by Governor David Y. Ige, 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. The Council will convene into a public hearing on the following item(s) on this meeting date and will reconvene the Council Meeting to complete any unfinished business 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. 2791](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2019-856, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2019 THROUGH JUNE 30, 2020, BY REVISING THE AMOUNTS ESTIMATED IN THE G.E. TAX FUND (*G.E. Tax Surcharge Reduction (COVID-19) – (\$2,000,000.00)*)

Q. 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.**