

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

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

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 Seventeenth Supplementary Emergency Proclamation dated December 16, 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 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, 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, JANUARY 27, 2021
8:30 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LĪHU‘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. January 13, 2021 Council Meeting
2. January 13, 2021 Public Hearing re: Bill No. 2816

E. CONSENT CALENDAR:

1. [C 2021-23](#) Communication (01/07/2021) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of August 13, 2020.
2. [C 2021-24](#) Communication (01/12/2021) from Aaron D. Larrimore, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua‘i from October 1, 2020 through December 31, 2020.
3. [C 2021-25](#) Communication (01/15/2021) from Councilmember Chock, providing written disclosure of a possible conflict of interest and recusal relating to ES-1040, relating to the utilization of Public Access, Open Space, Natural Resources Preservation Fund for the acquisition of real property for land conservation purposes, as he was recently on the Board of Directors for Mālama Hulē‘ia who acts as stewards of the land in Hulē‘ia, which is on the Public Access, Open Space, Natural Resources Preservation Fund Commission’s list for potential acquisitions.
4. [C 2021-26](#) Communication (01/15/2021) from Councilmember Evslin, providing written disclosure of a possible conflict of interest and recusal relating to ES-1040, relating to the utilization of Public Access, Open Space, Natural Resources Preservation Fund for the acquisition of real property for land conservation purposes, as he was recently on the Board of Directors for Mālama Hulē‘ia who acts as stewards of the land in Hulē‘ia, which is on the Public Access, Open Space, Natural Resources Preservation Fund Commission’s list for potential acquisitions.

F. COMMUNICATIONS:

1. [C 2021-27](#) Communication (01/11/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval to accept funding reimbursements from the Treasury Executive Office for Asset Forfeiture (TEAOF). These reimbursed funds are being offered to the County of Kaua'i, Kaua'i Police Department by the United States Secret Service based on the Department entering into membership of the Hawai'i-Pacific Cyber Fraud Task Force per Memorandum of Understanding executed on June 11, 2019. The amount offered is variable based on available Asset Forfeiture Funds each fiscal year. These funds are limited to use for digital forensics and cyber fraud investigations as needed.

2. [C 2021-28](#) Communication (01/11/2021) from the Executive on Aging, requesting Council approval to receive and expend a total of \$713,668.00 in State General Funds for Fiscal Year 2021, and to indemnify the State Executive Office on Aging to be used for the provision of Kupuna Care, which includes case management, adult day care, assisted transportation, attendant care, kupuna care transportation, personal care, and home-delivered meals.

3. [C 2021-29](#) Communication (01/11/2021) from the Director of Parks and Recreation, 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 And Golf Fund, to fund an estimated revenue shortfall of \$250,000.00, due to the golf course closures and play restrictions that resulted from the COVID-19 pandemic. (***See Proposed Draft Bill (No. 2817)***)

4. [C 2021-30](#) Communication (01/12/2021) from the 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 fifty (50) portable handheld Motorola radios, totaling \$660,000.00; and one (1) Ford F-550 4-Door Crew Cab 500-GPM Initial Attack Pumper totaling \$340,000.00. The total budget for this project is \$1,000,000.00, of which FEMA AFG would cover \$900,000.00, and the Kaua'i Fire Department (KFD) would be responsible for the remaining \$100,000.00, in a ninety percent/ten percent (90%/10%) cost share based on total FEMA contributions.

5. [C 2021-31](#) Communication (01/13/2021) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to commercial uses in the Agriculture Zoning District. *(ZA-2021-1) (Copies of the Draft Ordinance for Zoning Amendment (ZA-2021-1) (Proposed Draft Bill (No. 2804)); Director's Report (December 29, 2020); and Supplement #1 to the Director's Report (January 12, 2021),; and testimony received on or since the public hearing on December 8, 2020, on file in the Office of the County Clerk.) (See Proposed Draft Bill (No. 2804))*

6. [C 2021-32](#) Communication (01/15/2021) from the County Attorney, requesting authorization to expend additional funds up to \$200,000.00 for Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters. The representation will include cases in Federal Court, the State Courts, administrative contested cases, agency hearings, and arbitrations.

G. LEGAL DOCUMENT:

1. [C 2021-33](#) Communication (01/07/2021) from the Housing Director, recommending Council approval of a Declaration of Covenants and Restrictions by the County of Kaua'i for the following HOME Investments Partnerships Program (HOME) and Housing Trust Fund (HTF) Assisted Projects, and to authorize the County Clerk to sign all related legal documents:
 - Declaration of Covenants and Restrictions for Waimea Huakai Apartments (HOME) TMK No. (4) 1-6-008-006, (4) 1-6-008-060, (4) 1-6-008-061 (Waimea Huakai Partners, LP, Developer)
 - Declaration of Covenants and Restrictions for Pua Loke Apartments (HOME) TMK No. (4) 3-8-005-028, (4) 3-8-005-029 (Pua Loke Housing Partners LP, Owners)
 - Declaration of Covenants and Restrictions for Pua Loke Apartments (HTF) TMK No. (4) 3-8-005-028, (4) 3-8-005-029 (Pua Loke Housing Partners LP, Developer)

H. CLAIM:

1. [C 2021-34](#) Communication (01/11/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i, by Douglas D. Bosse, for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

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

- a. **CR-PWVS 2021-01:** on PWVS 2021-01 Communication (12/30/2020) from Council Chair Kaneshiro, requesting the presence of the Acting County Engineer, to provide a briefing on the progress of the County's road resurfacing/repaving projects, update on upcoming road resurfacing/repaving projects for calendar years 2021 and 2022, and to discuss the potential modification in scheduled projects due to reduced amounts of General Excise Tax surcharge funding. **[Received for the Record.]**

2. PLANNING COMMITTEE:

- a. **CR-PL 2021-01:** on Bill No. 2813 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*County of Kaua'i Planning Department, ZA-2020-14*) (*Shoreline Setback And Coastal Protection*) **[Approved as Amended.]**

3. HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE:

- a. **CR-HIR 2021-01:** on HIR 2021-01 Communication (12/30/2020) from Council Chair Kaneshiro, requesting the presence of the Housing Director, to provide a briefing on the County's recent affordable housing accomplishments and an update on future affordable housing projects. **[Received for the Record.]**

4. PUBLIC SAFETY & HUMAN SERVICES COMMITTEE

- a. **CR-PSHS 2021-01:** on PSHS 2021-01 Communication (12/03/2020) from Councilmember Cowden, requesting the presence of the Chief of Police, to provide a briefing on the Police Department Comprehensive Workload Study, conducted by Matrix Consulting Group, to include:
- Summary of Matrix Consulting Group's findings;
 - Synopsis of activity indicators, such as, call volume, types of calls, temporary restraining orders, warrants, et cetera;
 - COVID-19 quarantine and management key points; and
 - Significant successes and challenges. **[Received for the Record.]**

5. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2021-01:** on Bill No. 2814 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Residential Investor Assessed Value Reduction*) **[Approved.]**

6. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2021-01:** on Bill No. 2815 A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS AND NOTES; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH REFUNDING BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC; PROVIDING FOR THE RETIREMENT OF THE BONDS TO BE REFUNDED; AND AUTHORIZING THE TAKING OF OTHER ACTIONS RELATING TO THE ISSUANCE AND SALE OF THE REFUNDING BONDS AND THE RETIREMENT OF THE BONDS TO BE REFUNDED **[Approved.]**

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2804\)](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN THE AGRICULTURE ZONING DISTRICT

2. [Proposed Draft Bill \(No. 2817\)](#) – 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 AND GOLF FUND (*Golf Fund Projected Revenue Deficit—\$250,000.00*)

K. BILLS FOR SECOND READING:

1. [Bill No. 2813, Draft 1](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*County of Kauai Planning Department, ZA-2020-14*) (*Shoreline Setback And Coastal Protection*) (*See also CR-PL 2021-01; the Planning Committee recommended approval of Bill No. 2813, Draft 1 on January 13, 2021.*)

2. [Bill No. 2814](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Residential Investor Assessed Value Reduction*) (*See also CR-FED 2021-01; the Finance & Economic Development Committee recommended approval on second and final reading.*)

3. [Bill No. 2815](#) – A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS AND NOTES; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH REFUNDING BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC; PROVIDING FOR THE RETIREMENT OF THE BONDS TO BE REFUNDED; AND AUTHORIZING THE TAKING OF OTHER ACTIONS RELATING TO THE ISSUANCE AND SALE OF THE REFUNDING BONDS AND THE RETIREMENT OF THE BONDS TO BE REFUNDED (*See also CR-COW 2021-01; the Committee of the Whole recommended approval on second and final reading.*)

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.)

1. ES-1039 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 requests an Executive Session with the Council to provide the Council with a briefing and request for settlement authority in the matter of County of Kaua'i vs. KAPHA North Shore, LLC, Civil No. 18-1-0031 (Fifth Circuit Court). 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. (**Deferred January 13, 2021**)

2. ES-1041 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 provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. 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.

3. ES-1042 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 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 provide the Council with a briefing on Special Counsel's continued services to represent the County of Kaua'i in general civil litigation matters. The representation will include cases in Federal Court, the State Courts, administrative contested cases, agency hearings, and arbitrations. 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.

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.