

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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Scott K. Sato, Deputy County Clerk

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Council Services Division
4396 Rice Street, Suite 209
Lihue, 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 Nineteenth Supplementary Emergency Proclamation dated April 9, 2021. 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, APRIL 21, 2021
8:30 A.M. OR SOON THEREAFTER
COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LIHU'E, KAUA'I, HAWAI'I 96766

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. April 7, 2021 Council Meeting
2. April 7, 2021 Public Hearing re: Resolution No. 2021-13

E. CONSENT CALENDAR:

1. [C 2021-95](#) Communication (03/19/2021) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointments to various Boards and Commissions for the County of Kaua'i:
 - a. Liquor Control Commission
 - Lorna A. Nishimitsu – Term ending 12/31/2023
 - b. Planning Commission
 - Gerald T. Ako (*Labor*) – Term ending 12/31/2023
(*See Resolution No. 2021-18 and Resolution No. 2021-19*)

2. [C 2021-96](#) Communication (04/06/2021) 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 28, 2021, pursuant to Section 21 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kauaʻi for Fiscal Year 2020-2021. *(Copies of Period 8 Financial Reports as of February 28, 2021 on file in the Office of the County Clerk.)*
3. [C 2021-97](#) Communication (04/06/2021) from Mark L. Bradbury, Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kauaʻi from January 1, 2021 through March 31, 2021.
4. [C 2021-98](#) Communication (04/12/2021) from Councilmember Cowden, providing written disclosure of a possible conflict of interest and recusal relating to C 2021-87 and ES-1050, as these items involve a stipulation agreement that she was a party to.
5. [C 2021-99](#) Communication (04/14/2021) from Councilmember Evslin and Councilmember DeCosta, transmitting for Council consideration, a Resolution Supporting Digital Equity And Urging Development Of Broadband Infrastructure To Bolster COVID-19 Recovery And Foster Economic Development. ***(See Resolution No. 2021-20)***

F. COMMUNICATIONS:

1. [C 2021-100](#) Communication (04/06/2021) from the Executive on Transportation, requesting Council approval to apply for, receive, and expend a Fiscal Year 2021 Federal Transit Administration (FTA) Section 5339(c) Low or No Emission (Low-No) Bus Program competitive grant, in the amount of \$2,550,000.00, and to indemnify the FTA. The 5339(c) grant will provide eighty-five percent (85%) of the cost to replace three (3) diesel-powered buses, which have exceeded their useful service lives with three (3) electric-powered buses.
2. [C 2021-101](#) Communication (04/07/2021) from the Fire Chief, requesting Council approval to accept a donation of five (5) Custom Surf Rescue Boards, valued at \$10,563.00, from the Kauaʻi Lifeguard Association (KLA), on behalf of the friends and family of Zachary Rose.

G. CLAIMS:

1. [C 2021-102](#) Communication (03/25/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Arnold A. Lane, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. [C 2021-103](#) Communication (03/29/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Makai Water Service's, LLC, for damage to personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. [C 2021-104](#) Communication (03/31/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Leslie A. Burgermyer, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. [C 2021-105](#) Communication (04/05/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Wendy Nishida, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

H. COMMITTEE REPORTS:1. PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:

- a. **CR-PSHS 2021-02:** on PSHS 2021-02 Communication (03/19/2021) from Todd L. Watts, PE, PMP, Director for Real Property Investments and Deployments, U.S. Department of Defense, requesting agenda time for Dr. Buff Crosby, Charla Schreiber, and local consultant Dawn Chang, to present information regarding the Missile Defense Agency's Homeland Defense Radar - Hawai'i (HDR-H) Environmental Impact Statement. **[Received for the Record.]**

2. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2021-02:** on FED 2021-01 Communication (03/05/2021) from the Director of Economic Development, requesting agenda time to present an update on the distribution of Rapid 'Ohi'a Death and status of detections across the island, as well as share the management and outreach efforts that are being undertaken to slow the spread of the disease. **[Received for the Record.]**

I. RESOLUTIONS:

1. [Resolution No. 2021-13](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF EASEMENT INTERESTS IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, WAIPOULI, DISTRICT OF PUNA, COUNTY OF KAUA'I, HAWAI'I, AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN (**Public hearing held on April 7, 2021**)

2. [Resolution No. 2021-18](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Lorna A. Nishimitsu*)

3. [Resolution No. 2021-19](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Gerald T. Ako – Labor*)

4. [Resolution No. 2021-20](#) – RESOLUTION SUPPORTING DIGITAL EQUITY AND URGING DEVELOPMENT OF BROADBAND INFRASTRUCTURE TO BOLSTER COVID-19 RECOVERY AND FOSTER ECONOMIC DEVELOPMENT

J. 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-1051 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.

2. ES-1052 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 on workforce housing requirements for Tax Map Key No. (4) 2-8-014-032. 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.

K. ADJOURNMENT.

- L. PUBLIC HEARING NOTE: Pursuant to Governor David Y. Ige's COVID-19 Supplementary Emergency Proclamations, the most recent being his Nineteenth Supplementary Emergency Proclamation dated April 9, 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. 2820](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 22, ARTICLE 24, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CAT LICENSING PROGRAM (*Cat Microchipping Program*)
2. [Bill No. 2821](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 22, ARTICLE 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DOG LICENSES AND REGULATION (*Dog Microchipping and Regulations*)

M. 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.