

## 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  
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 Eighteenth Supplementary Emergency Proclamation dated February 12, 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](http://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](mailto: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](mailto: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](http://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, MARCH 10, 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 meetings of the Council:

1. February 24, 2021 Council Meeting
2. February 24, 2021 Public Hearing re: Bill No. 2804 and Bill No. 2817

E. CONSENT CALENDAR:

1. [C 2021-50](#)      Communication (01/29/2021) from the Mayor, transmitting for Council consideration and confirmation, the appointment of Ryan de la Pena to the Board of Ethics – Term ending 12/31/2023. **(See Resolution No. 2021-12)**
  
2. [C 2021-51](#)      Communication (02/11/2021) from the Acting County Engineer, transmitting for Council consideration, a 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 **(See Resolution No. 2021-13)**

F. COMMUNICATIONS:

1. [C 2021-44](#) Communication (02/08/2021) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in a total amount of \$310,173.00, and to indemnify the United States Department of Labor and the State Department of Labor & Industrial Relations, regarding the following Kaua'i Workforce Development Board – Workforce Innovation & Opportunities Act (WIOA) programs:
  - Adult Program (\$81,505.00);
  - Dislocated Worker Program (\$111,879.00);
  - Youth Program (\$85,773.00); and
  - Administrative Costs (\$31,016.00).

***(Deferred February 24, 2021)***
  
2. [C 2021-52](#) Communication (01/27/2021) from the Executive on Aging, requesting Council approval to apply for, receive, and expend grant funding awarded by the Corporation for National and Community Service to the County of Kaua'i, Agency on Elderly Affairs, Kaua'i Retired and Senior Volunteer Program (RSVP) for the three-year period of April 1, 2021 to March 31, 2024, in the amount of \$75,000.00 per year, combined with matching County funds in the amount of \$165,936.00, to assist Kaua'i RSVP in carrying out the national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C., Chapter 22).
  
3. [C 2021-53](#) Communication (02/03/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnification language contained in the estimate for software license renewal agreement for the use of the MSAB, Inc. XRY Logical & Physical and XRY Cloud Licenses, which allows the Kaua'i Police Department authorized software use and access to MSAB digital forensics software updates, which is required for court admissibility of the product usage.
  
4. [C 2021-54](#) Communication (02/23/2021) from the Chief of Police and Bryson Ponce, Assistant Chief of Police, Investigative Services Bureau, requesting Council approval of the indemnification language contained in the renewal of software license agreements for use of the Cellebrite UFED 4PC and UFED Cloud Licenses, which allows the Kaua'i Police Department authorized software use and access to Cellebrite digital forensics software updates, which is required for court admissibility of the product usage.

5. [C 2021-55](#) Communication (02/23/2021) from the Fire Chief, requesting Council approval to apply for, receive, and expend a United States Department of Homeland Security Fiscal Year 2020 Staffing for Adequate Fire and Emergency Response (SAFER) Grant in the amount of \$4,199,754.84, for twelve (12) vacant firefighter positions for a three-year period.
  
6. [C 2021-56](#) Communication (02/24/2021) from the Emergency Management Administrator, requesting Council approval to accept a donation valued at \$365,193.40, from the Hawai'i Community Foundation, of three (3) mobile laboratories to be used for "point of care" COVID-19 testing and vaccination programs to serve communities and hard-to-reach populations. The Hawai'i Community Foundation's Kaua'i Health Fund, seeded by the Chan Zuckerberg Kaua'i Community Fund, is making this donation to support the County's COVID-19 Emergency Response.
  
7. [C 2021-57](#) Communication (02/24/2021) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, for the second allotment in the amount of \$33,214.00 for Fiscal Year 2021 (total amount of funds including the previous approved awards is \$41,274.00), and to indemnify the State Executive Office on Aging, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals.

#### G. LEGAL DOCUMENTS:

1. [C 2021-58](#) Communication (02/16/2021) from the Acting County Engineer, recommending Council approval of the Property Adjustment Agreement with Islander on the Beach, to construct a privacy wall to mitigate the potential impact of the shared-use path immediately adjacent to the property, Tax Map Key (TMK) No. (4) 4-3-002:013, Kapa'a, Kaua'i, Hawai'i:
  - Property Adjustment Agreement

2. [C 2021-59](#) Communication (02/26/2021) from the Housing Director, recommending Council approval of two (2) Right-of-Entry Agreements and the associated indemnification and attorneys' fees provisions between the County of Kaua'i and McBryde Sugar Company, LLC.
- Right-of-Entry Agreement for Grading and Drainage purposes; Tax Map Key (TMK) No. (4) 2-1-001-054,
  - Right-of-Entry Agreement for Construction Vehicles Access and Washdown Station; TMK No. (4) 2-1-001-055.

#### H. COMMITTEE REPORTS:

##### 1. PARKS & RECREATION / TRANSPORTATION COMMITTEE:

- a. **CR-PRT 2021-01:** on PRT 2021-01 Communication (02/02/2021) from the Director of Parks and Recreation, requesting agenda time to provide an update on the current and future status of the ongoing camping permit program for the Houseless Community in County Beach Parks that started on March 4, 2020. **[Received for the Record.]**

##### 2. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2021-02:** on COW 2021-01 Communication (02/12/2021) from Council Chair Kaneshiro, requesting the presence of the Managing Director, to provide a briefing on the current status of COVID-19 travel restrictions and other upcoming COVID-19 initiatives or updates for the County of Kaua'i. **[Received for the Record.]**

#### I. RESOLUTIONS:

1. [Resolution No. 2021-12](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Ryan de la Pena*)

2. [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, HAWAII, AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

*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-1045 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 in the matter of Matthew Mannisto, Esq., as Personal Representative of the Estate of Leslie Gae Lutao, Deceased, et al. vs. County of Kaua'i, et al., Civil No. 19-1-0107 JKW (Fifth Circuit Court), and related matters. 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-1046 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, on behalf of the Council, requests an Executive Session to provide a briefing on the Adolescent Treatment and Healing Center, and related matters. 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-1047 Pursuant to Hawai'i Revised Statutes Sections (HRS) 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 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. 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](http://WWW.KAUAI.GOV/WEBCASTMEETINGS).