

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
Lihu'e, Kaua'i, Hawai'i 96766

On August 5, 2021, Governor David Y. Ige issued an Emergency Proclamation related to COVID-19 Response, which suspended Chapter 92 of the Hawai'i Revised Statutes (HRS), relating to Public Agency Meetings and Records (also known as the Sunshine Law). 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 Kaua'i 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, 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 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, SEPTEMBER 15, 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. September 1, 2021 Council Meeting
2. September 1, 2021 Public Hearing re: Bill No 2830

E. CONSENT CALENDAR:

1. [C 2021-207](#) Communication (08/11/2021) from the Director of Finance, transmitting for Council information, the Fourth Quarter Statement of Equipment Purchases for Fiscal Year 2020-2021, pursuant to Section 17 of Ordinance No. B-2020-866, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2020-2021.

F. COMMUNICATIONS:

1. [C 2021-208](#) Communication (08/19/2021) from the Planning Director, transmitting the Planning Commission's recommendation to amend Chapter 10, Kaua'i County Code 1987, as amended, relating to the Lihu'e Town Core Urban Design District. (*Copies of the Draft Ordinance for Zoning Amendment (ZA-2021-4), Director's Report dated August 10, 2021, Supplemental Director's Report dated August 10, 2021, Agency Comments from the Department of Public Works-Engineering Division dated July 30, 2021, and from the State Department of Health dated July 16, 2021, and Planning Commission meeting minutes, on file in the Office of the County Clerk.*) (**See Proposed Draft Bill (No. 2836)**)

2. [C 2021-209](#) Communication (08/30/2021) from the Housing Director, requesting Council approval to receive and expend Federal funds, in the amount of \$81,112.00, from the Homeowner Assistance Program as authorized under Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (Public Law No: 116-136), to cover costs associated with the administrative burden of implementing the Homeowner Assistance Program.

3. [C 2021-210](#) Communication (09/01/2021) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance To Amend Chapter 2, Article 1, Kaua'i County Code 1987, As Amended, Relating To The Kaua'i County Housing Agency. **(See Proposed Draft Bill (No. 2837))**

4. [C 2021-211](#) Communication (09/02/2021) from Council Chair Kaneshiro, requesting agenda time for a briefing from Spire Hawai'i, LLP (external auditors), to provide a presentation on the Performance Audit of the Department of Public Works, Solid Waste Division.

5. [C 2021-212](#) Communication (09/03/2021) from the Managing Director, requesting agenda time to provide a briefing on the spending strategy for American Rescue Plan Act Non-Entitlement Unit (ARPA-NEU) funds received by the County in accordance with the Council's previous approval of agenda item C 2021-144 on June 16, 2021.

G. LEGAL DOCUMENT:

1. [C 2021-213](#) Communication (09/08/2021) from the Acting County Engineer, recommending Council approval, of a Limited Right-of-Entry Permit and associated terms between the County of Kaua'i and the State of Hawai'i Department of Hawaiian Home Lands (DHHL), to allow for the removal of approximately fifteen (15) cubic yards of sand from the Anahola River mouth area situated at Tax Map Key (TMK) Nos. (4) 4-8-12:10 (por.) and (4) 4-8-18:028 and 029 (por.), for the placement of sand bags to repair erosion along 'Aliomanu Road in Anahola.
 - Limited Right-of-Entry Permit

H. CLAIMS:

1. [C 2021-214](#) Communication (08/19/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Kelsie A. Norton, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. [C 2021-215](#) Communication (08/25/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Lyrisen and Julian Brun, for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. [C 2021-216](#) Communication (08/26/2021) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Darlien Pausch, for personal injury and potential loss of income, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:1. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE:

- a. **CR-FED 2021-05:** on Bill No. 2825 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-1.20(b), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Overpayment*) [**Approved as Amended.**]
- b. **CR-FED 2021-06:** on Bill No. 2826 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-12.9 AND 5A-12.10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Appeals*) [**Approved.**]
- c. **CR-FED 2021-07:** on Bill No. 2827 A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-1.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DISPOSITION OF UNCLAIMED MONIES [**Approved.**]

2. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2021-09:** on Bill No. 2829 A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 5, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX **[Approved as Amended.]**

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2836\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED (*County of Kauai Planning Department, ZA-2021-4*)
2. [Proposed Draft Bill \(No. 2837\)](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE 1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE KAUAI COUNTY HOUSING AGENCY

K. BILLS FOR SECOND READING:

1. [Bill No. 2825, Draft 1](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-1.20(b), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Overpayment*) (*See also CR-FED 2021-05; the Finance and Economic Development Committee recommended approval as amended to Bill No. 2825, Draft 1 on September 1, 2021.*)
2. [Bill No. 2826](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-12.9 AND 5A-12.10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Appeals*) (*See also CR-FED 2021-06; the Finance and Economic Development Committee recommended approval on second and final reading.*)
3. [Bill No. 2827](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-1.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DISPOSITION OF UNCLAIMED MONIES (*See also CR-FED 2021-07; the Finance and Economic Development Committee recommended approval on second and final reading.*)
4. [Bill No. 2829, Draft 1](#) – A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 5, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX (*See also CR-COW 2021-09; the Committee of the Whole recommended approval as amended to Bill No. 2829, Draft 1 on September 1, 2021.*)

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-1060 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 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 Alison Joan Sanchez v. County of Kaua'i, et al., Civil No. 10-1-0265 JKW (Fifth Circuit Court). 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.

M. ADJOURNMENT.

- N. PUBLIC HEARING NOTE: Pursuant to Governor David Y. Ige's COVID-19 Response Emergency Proclamation dated August 5, 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, Līhu'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. [Resolution No. 2021-27](#) – RESOLUTION AUTHORIZING THE ACQUISITION OF LAND FOR PUBLIC USE, TO WIT: THE 23.5-ACRE PARCEL OF LAND, SITUATED AT KĪLAUEA, DISTRICT OF KO‘OLAU, COUNTY OF KAUAI, HAWAII, TMK (4) 5-2-005-024, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN
2. [Bill No. 2831](#) – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, AS AMENDED BY ORDINANCE NO. PM-2009-394, RELATING TO ZONING DESIGNATION IN NAWILIWILI, KAUAI (*Tower Kaua‘i Lagoons Sub 1, LLC; 2014 Kaua‘i Lagoons Golf, LLC; Tower Kaua‘i Lagoons Land, LLC; Tower Kaua‘i Lagoons Sub 7, LLC, Applicant*) (ZA-2021-3)
3. [Bill No. 2832](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5, SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES
4. [Bill No. 2833](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17, SECTION 17-1.1 KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE GENERAL PROVISIONS RELATING TO MOTOR VEHICLES AND TRAFFIC REGULATIONS
5. [Bill No. 2835](#) – 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 GENERAL FUND (*Special Election - Prosecuting Attorney - \$475,000.00*)

O. 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.