

## 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  
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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

Effective January 1, 2022, Act 220, Session Laws of Hawai'i (SLH) 2021 adds a new option to the Sunshine Law that allows boards to hold remote meetings via interactive conference technology (ICT), such as online meeting platforms, teleconferences, videoconference, and voice over internet protocol.

Pursuant to Act 220, SLH 2021, the meetings of the Kaua'i County Council will be conducted as follows until further notice:

- Meetings will be noticed pursuant to Hawai'i Revised Statutes (HRS) Chapter 92.
- 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 (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. Any testimony received after this time will be incorporated into the record as appropriate.
- Oral testimony will be taken in-person or via the Zoom remote technology platform. It shall be the responsibility of the testifier to ensure that the Zoom software is downloaded **prior** to the meeting. It is recommended that anyone interested in providing oral testimony 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 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays). 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 may continue watching the meeting via the livestream link found at [www.kauai.gov/webcastmeetings](http://www.kauai.gov/webcastmeetings) or may listen to the meeting on the oral testimony Zoom link that can be accessed at <https://tinyurl.com/KauaiCountyCouncil090722>.
  - Video: Meeting ID: 896 8663 0691; Passcode: FARMK2
  - Dial-In: +1 253 215 8782; Meeting ID: 896 8663 0691; Passcode: 218424
- All accommodations pursuant to Act 220, SLH 2021 shall be submitted to the Office of the County Clerk, Council Services Division as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Requests can be made via E-mail to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov) or by calling (808) 241-4188 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays).
- 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 7, 2022  
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. August 17, 2022 Council Meeting
2. August 17, 2022 Public Hearing re: Bill No. 2876

E. CONSENT CALENDAR:

1. [C 2022-191](#) Communication (08/08/2022) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of May 12, 2022.
2. [C 2022-192](#) Communication (08/10/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, a Resolution Urging Federal, State, And County Elected Officials To Support The Funding And Implementation Of The Use Of Mosquito Birth Control To Bring Kaua'i's Native Forest Birds Back From Near-Extinction And Towards Abundance. (**See Resolution No. 2022-31**)

3. [C 2022-193](#) Communication (08/12/2022) from Councilmember Cowden, transmitting for Council consideration, the following measure for inclusion in both the 2023 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2023 County of Kaua'i Legislative Package:
  - A Bill for an Act Relating To Emergency Powers, to amend Hawai'i Revised Statutes (HRS) Section 127A-1(c), Section 127A-13, and Section 127A-14, clarifying that the powers granted for emergency purposes shall not be inconsistent with the State Constitution, provides parameters for the duration of suspension of laws and requires justification for the suspension; specifies parameters for when a state of emergency is terminated; and allows the authorization of the issuance of a proclamation arising from the same emergency or disaster as a previous proclamation that was terminated by the legislature, upon request of the governor and adoption of concurrent resolution by the legislature. (***See Resolution No. 2022-32***)
  
4. [C 2022-194](#) Communication (08/16/2022) from Councilmember Cowden, transmitting for Council consideration, a Resolution Requesting That The Director Of The Hawai'i Department Of Commerce And Consumer Affairs Amend The Administrative Rules Governing The Hawai'i Cable Communication System To Require Cable Franchisees To Broadcast Public, Educational, And Government Access Programming In High-Definition At A Video And Audio Quality Equivalent To All Other Cable Network Programming. (***See Resolution No. 2022-33***)
  
5. [C 2022-195](#) Communication (08/16/2022) from the Director of Finance and the Accounting Systems Administrator, transmitting for Council information, the Inventory Report for the Fiscal Year Ending June 30, 2022. (*Copy on file in the Office of the County Clerk.*)
  
6. [C 2022-196](#) Communication (08/25/2021) from the Housing Director, transmitting for Council consideration, a Resolution Declaring Intention To Issue Tax-Exempt Bonds To Finance The Acquisition, Construction, And Development Of The Lima Ola Project; Declaring Intention To Reimburse Expenditures From The Proceeds Of Tax-Exempt Bonds; And Authorizing Further Actions Relating To The Bonds. (***See Resolution No. 2022-34***)

F. COMMUNICATIONS:

1. [C 2022-197](#) Communication (08/09/2022) from the Housing Director, requesting Council approval to receive and expend \$3,557,201.85 in National Housing Trust Fund (HTF) Fiscal Year (FY) 2022 funds and to indemnify the Hawai'i Housing Finance and Development Corporation (HHFDC), for the Lima Ola Phase I, Multi-Family Affordable Housing Development project in 'Ele'ele via a Request for Proposal.
  
2. [C 2022-198](#) Communication (08/10/2022) from Councilmember Cowden, requesting the presence of County Attorney, to provide a briefing on the recent opioid settlement with various pharmaceutical companies to include the following:
  - The settlement amount for Kaua'i;
  - Parameters of spending the settlement; and
  - Any other community/municipal restrictions associated with the implementation of programs tied to the settlement.
  
3. [C 2022-199](#) Communication (08/12/2022) from the Chief of Police and Elliott K. Ke, Assistant Chief of Police, Administrative & Technical Bureau, requesting Council approval to receive and expend funding from the Enhanced 911 (E-911) Board, in the amount of \$1,012,149.00, for annual recurring and non-recurring expenditures to operate 911 services as part of the Kaua'i Police Department's (KPD's) Public Safety Answering Point (PSAP) and the Alternate Dispatch Center (ADC), and for travel expenses for designees to attend Board-approved trainings available out-of-state.
  
4. [C 2022-200](#) Communication (08/15/2022) 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 Guest House, as transmitted by the Kaua'i County Council in Proposed Draft Bill (No. 2860). *(Copies of the Draft Ordinance for Zoning Amendment (ZA-2022-11); Planning Commission's Agenda dated July 26, 2022; Director's Report dated July 15, 2022 with exhibits; and Memorandum No. 1 to Planning Commission with submitted public testimony (ZA-2022-11), on file in the Office of the County Clerk.)*

5. [C 2022-201](#) Communication (08/15/2022) from the Housing Director, requesting Council approval to receive and expend a Fiscal Year (FY) 2022 HOME Investment Partnership Program (HOME) Community Housing Development Organization (CHDO) grant in the amount of \$450,005.85, and to indemnify the Hawai'i Housing Finance and Development Corporation (HHFDC), for the Wailua Scattered Lot Development project via a Request for Proposal.
6. [C 2022-202](#) Communication (08/18/2022) from Councilmember Evslin, requesting Council reconsideration of Bill No. 2872, Relating to Real Property Tax, taken on August 17, 2022, to revise the effective date that the Ordinance would have taken effect.
7. [C 2022-203](#) Communication (08/23/2022) from the Councilmember Evslin, transmitting for Council consideration, A Bill For An Ordinance Amending Ordinance No. B-2022-886, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2022 Through June 30, 2023, By Revising The Amounts Estimated In The General Fund, for software necessary to implement a tiered real property tax structure. ***(See Proposed Draft Bill (No. 2887))***
8. [C 2022-204](#) Communication (08/24/2022) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8 (Comprehensive Zoning Ordinance), Chapter 12 (Building Code), and Chapter 13 (Electrical Code), Kaua'i County Code 1987, as amended, relating to the Electric Vehicle charging infrastructure requirements for parking, as transmitted by the Kaua'i County Council in Proposed Draft Bill (No. 2877). *(Copies of the Draft Ordinance for Zoning Amendment (ZA-2023-1); Planning Commission Agenda; and Director's Report dated August 23, 2022, on file in the Office of the County Clerk.)*
9. [C 2022-205](#) Communication (08/24/2022) from Patrick Ono, Chair of the Salary Commission, transmitting for Council consideration, Salary Commission Resolution No. 2022-1, Relating to the Salaries of Certain Officers and Employees of the County of Kaua'i, which was adopted by the Salary Commission at its July 27, 2022 meeting.
  - Salary Commission Resolution No. 2022-1

10. [C 2022-206](#) Communication (08/25/2022) from the Housing Director, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$291,545.00, and to indemnify the United States Department of Housing & Urban Development (HUD), for the continuation of the two (2) Housing Choice Voucher Family Self-Sufficiency (HCVFSS) Program Coordinator's salaries and fringe benefits.

#### G. CLAIMS:

1. [C 2022-207](#) Communication (08/08/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Byron Cleeland, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. [C 2022-208](#) Communication (08/10/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Henry H. Furutani for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. [C 2022-209](#) Communication (08/23/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Progressive Advanced Insurance Company, as subrogee for Chris Bartlett, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. [C 2022-210](#) Communication (08/26/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Eric Phillips and Malissa Phillips, as parents/legal guardians of Jonas Phillips (a minor), c/o De Costa Hempey LLC, for personal injury, medical bills, and damages, pursuant to Section 23.06, Charter of the County of Kaua'i.

#### H. COMMITTEE REPORTS:

##### 1. PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

- a. **CR-PWVS 2022-04:** on Bill No. 2873 A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO BUILDING AND CONSTRUCTION REGULATIONS **[Approved as Amended.]**

- b. **CR-PWVS 2022-05:** on Bill No. 2874 A BILL FOR AN ORDINANCE AMENDING SECTIONS 25-11.1, 25-12.1, 25-13.4, AND 25-13.9 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SEWERS [**Approved.**]

## **2. PLANNING COMMITTEE:**

- a. **CR-PL 2022-09:** on Bill No. 2868 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO APPLICATION OF REGULATIONS (*County of Kauai Planning Department, Applicant*) (ZA-2022-4) [**Received for the Record.**]

## **3. FINANCE & ECONOMIC DEVELOPMENT COMMITTEE**

- CR-FED 2022-09:** on FED 2022-01 Communication (07/28/2022) from Councilmember Cowden, requesting the presence of the Director of Finance, to provide a briefing on the County of Kauai's Residential Investor tax classification. [**Received for the Record.**]

## **I. RESOLUTIONS:**

1. [Resolution No. 2022-31](#) – RESOLUTION URGING FEDERAL, STATE, AND COUNTY ELECTED OFFICIALS TO SUPPORT THE FUNDING AND IMPLEMENTATION OF THE USE OF MOSQUITO BIRTH CONTROL TO BRING KAUAI'S NATIVE FOREST BIRDS BACK FROM NEAR-EXTINCTION AND TOWARDS ABUNDANCE
2. [Resolution No. 2022-32](#) – RESOLUTION APPROVING A STATE BILL RELATING TO EMERGENCY MANAGEMENT FOR INCLUSION IN THE 2023 COUNTY OF KAUAI LEGISLATIVE PACKAGE AND THE 2023 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE
3. [Resolution No. 2022-33](#) – RESOLUTION REQUESTING THAT THE DIRECTOR OF THE HAWAII DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS AMEND THE ADMINISTRATIVE RULES GOVERNING THE HAWAII CABLE COMMUNICATION SYSTEM TO REQUIRE CABLE FRANCHISEES TO BROADCAST PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS PROGRAMMING IN HIGH-DEFINITION AT A VIDEO AND AUDIO QUALITY EQUIVALENT TO ALL OTHER CABLE NETWORK PROGRAMMING

4. [Resolution No. 2022-34](#) – RESOLUTION DECLARING INTENTION TO ISSUE TAX-EXEMPT BONDS TO FINANCE THE ACQUISITION, CONSTRUCTION, AND DEVELOPMENT OF THE LIMA OLA PROJECT; DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT BONDS; AND AUTHORIZING FURTHER ACTIONS RELATING TO THE BONDS

J. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2860\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GUEST HOUSE (*Kauai County Council, Applicant*) (**Referred to the Planning Commission on May 18, 2022**)

2. [Proposed Draft Bill \(No. 2877\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 (COMPREHENSIVE ZONING ORDINANCE), CHAPTER 12 (BUILDING CODE), AND CHAPTER 13 (ELECTRICAL CODE), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE CHARGING INFRASTRUCTURE REQUIREMENTS FOR PARKING (**Referred to the Planning Commission on July 20, 2022**)

3. [Proposed Draft Bill \(No. 2887\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2022-886, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2022 THROUGH JUNE 30, 2023, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Real Property Tax Tiered Software-\$150,000*)

K. BILL FOR RECONSIDERATION:

1. [Bill No. 2872](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tiered Residential Investor & Vacation Rental Tax Classifications*) (**Adopted on August 17, 2022**)

L. BILLS FOR SECOND READING:

1. [Bill No. 2868](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO APPLICATION OF REGULATIONS (*County of Kauai Planning Department, Applicant*) (ZA-2022-4) (*See also CR-PL 2022-09; the Planning Committee recommended Bill No. 2868 be received for the record.*)



2. [Bill No. 2873, Draft 1](#) – A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO BUILDING AND CONSTRUCTION REGULATIONS (*See also CR-PWVS 2022-04; the Public Works & Veterans Services Committee recommended approval of Bill No. 2873, Draft 1 on second and final reading on August 17, 2022.*)

3. [Bill No. 2874](#) – A BILL FOR AN ORDINANCE AMENDING SECTIONS 25-11.1, 25-12.1, 25-13.4, AND 25-13.9 OF THE KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO SEWERS (*See also CR-PWVS 2022-05; the Public Works & Veterans Services Committee recommended approval on second and final reading.*)

M. 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-1080 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 Grove Farm Company, Incorporated vs. County of Kaua‘i, et al., Civil No. 5CCV-22-0000057 (Fifth Circuit Court). This briefing and consultation involve the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item. (***Deferred on August 17, 2022***)

2. ES-1081 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 obtain settlement authority of Esther Richman’s real property tax claim 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.

N. ADJOURNMENT.

- O. PUBLIC HEARING NOTE: 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.

Testimony may be submitted in writing to [counciltestimony@kauai.gov](mailto: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, Lihue, Hawai'i 96766. Oral testimony may be given 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. It is recommended that anyone interested in providing oral testimony 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 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays). 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 may continue watching the meeting via the livestream link found at [www.kauai.gov/webcastmeetings](http://www.kauai.gov/webcastmeetings) or may listen to the meeting on the oral testimony Zoom link. All accommodations pursuant to Act 220, Session Laws of Hawai'i 2021 shall be submitted to the Office of the County Clerk, Council Services Division as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Requests can be made via E-mail to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov) or by calling (808) 241-4188 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays).

*[\*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. 2878](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL RENTAL UNITS (*County of Kauai Planning Department, Applicant*) (ZA-2022-8)
  2. [Bill No. 2879](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 12, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CONSTRAINT DISTRICT(S) (*County of Kauai Planning Department Applicant*) (ZA-2022-12)
- P. 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](mailto: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).