

## 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

Telephone: (808) 241-4188  
Facsimile: (808) 241-6349  
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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/KauaiCountyCouncil112322>.
  - Video: Meeting ID: 885 2321 3266; Passcode: xA63Q0
  - Dial-In: +1 253 215 8782; Meeting ID: 885 2321 3266; Passcode: 518544
- 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, NOVEMBER 16, 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 meeting of the Council:

1. October 19, 2022 Council Meeting

E. INTERVIEW:

1. KAUA'I HISTORIC PRESERVATION REVIEW COMMISSION:

- [Lee S. Gately \(At-Large\) – Term ending 12/31/2023](#)

F. CONSENT CALENDAR:

1. [C 2022-261](#) Communication (10/11/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Laurie Yoshida to the Police Commission – Term ending 12/31/2025. **(See Resolution No. 2022-54)**
2. [C 2022-262](#) Communication (10/20/2022) from Councilmember Evslin, transmitting for Council consideration and confirmation, the appointment of William Kinney (*Anahola – Hā'ena*) to the Public Access, Open Space, Natural Resources Preservation Fund Commission – Term ending 12/31/2023. **(See Resolution No. 2022-55)**
3. [C 2022-263](#) Communication (11/02/2022) from the Director of Finance, transmitting for Council information, the Fourth Quarter Statement of Equipment Purchases for Fiscal Year 2021-2022, pursuant to Section 22 of Ordinance No. B-2021-877, as amended, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2021-2022.

4. [C 2022-264](#) Communication (11/03/2022) from Council Vice Chair Chock, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2890, A Bill For An Ordinance Amending Ordinance No. B-2022-886, As Amended, Relating To The Operating Budget Of The County Of Kauaʻi, State Of Hawaiʻi, For The Fiscal Year July 1, 2022 Through June 30, 2023, By Revising The Amounts Estimated In The Public Access, Open Space, Natural Resources Preservation Fund (*OSC Waipā Foundation Acquisition of Halulu Fishpond*), as his company Kupu aʻe Leadership Development, sometimes uses Waipā Foundation property as a site for leadership initiatives.

#### G. COMMUNICATIONS:

1. [C 2022-265](#) Communication (10/26/2022) from the Acting County Engineer, requesting Council approval to purchase unbudgeted equipment of a Trimble GPS tracking equipment specific for the CAT 836k Compactor at the Kekaha Landfill, at an estimated cost of \$36,500.00. This equipment is vital for proper tracking of landfill compaction and increasing airspace gain by visualizing current site conditions allowing landfill staff to best direct operations to be more effective.
2. [C 2022-266](#) Communication (10/28/2022) from the Housing Director, requesting Council approval to receive and expend an amended total amount of up to \$16,700,000.00 from the State via the federal American Rescue Plan Act (ERA2) (originally submitted as Communication (03/16/2022) C 2022-74 requesting \$2,260,000.00 and amended up to \$16,000,000.00 during the April 6, 2022 Council Meeting).
3. [C 2022-267](#) Communication (10/28/2022) from Mason K. Chock, Hawaiʻi State Association of Counties (HSAC) President, transmitting for the Kauaʻi County Council's consideration, the following proposals to be included in the 2023 HSAC Legislative Package, which were approved by the HSAC Executive Committee on October 25, 2022:
- A Bill For An Act Relating To The Employees' Retirement System (*County of Maui*)
  - A Bill For An Act Relating To Special Management Areas (*County of Maui*)
  - A Resolution Requesting The Department Of Health To Adopt Rules For A Permit To Discharge Pollutants That Consider The Major Factors That Are Considered In Identifying The Functional Equivalent Of A Direct Discharge For Point Sources Or Non-Point Sources (*County of Hawaiʻi*)
  - A Bill For An Act Relating To The Regulation Of Tobacco Products (*County of Hawaiʻi*)
  - A Bill For An Act Relating To Traffic Fines (*County of Hawaiʻi*) (**See Resolution No. 2022-56**)

4. [C 2022-268](#) Communication (11/03/2022) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, in the amount of \$7,546.00 for the Fiscal Year 2023, and to indemnify the State Executive Office on Aging, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals.
  
5. [C 2022-269](#) Communication (11/03/2022) from the Executive on Aging, requesting Council approval to apply for, receive, and expend Year 3 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 \$153,679.00, 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).
  
6. [C 2022-270](#) Communication (11/04/2022) from the Director of Finance, requesting Council approval of the terms contained in the DOXO, Inc. Provider Terms of Service, including the indemnification and tax obligation clauses, which is used to process payments to the County of Kaua'i for real property taxes as well as sewer payments, to change the payment method to the County of Kaua'i from check to automatic clearing house (ACH).
  
7. [C 2022-271](#) Communication (11/09/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Tax. ***(See Proposed Draft Bill (No. 2891))***
  
8. [C 2022-272](#) Communication (11/09/2022) from Councilmember Evslin and Councilmember Chock, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Section 12.7(B) And Adding A New Section 12.15, Kaua'i County Code 1987, As Amended, Relating To Real Property Taxes, Appeals Settled By Director. ***(See Proposed Draft Bill (No. 2892))***

## H. LEGAL DOCUMENTS:

1. [C 2022-273](#) Communication (11/02/2022) from the Acting County Engineer, recommending Council approval of the following Right-of-Entry Agreement to build, construct, reconstruct, rebuild, repair, maintain, and operate a bike and pedestrian shared-use path across Airport-owned land for access (sidewalks and pathways) purposes for the Nāwilili Park-Ahukini Landing Bike/Pedestrian path segment of Ke Ala Hele Makalae:
  - Right-of-Entry Agreement by and between the County of Kauaʻi and Hawaiʻi Department of Transportation (HDOT) Airport, Parcels Tax Map Key Nos. (4) 3-5-001:005 (por.), (4) 3-5-001:008 (por.), (4) 3-5-001:009 (por.), (4) 3-5-001:109 (por.), (4) 3-5-001:128 (por.), (4) 3-5-001:158 (por.), (4) 3-5-001:160 (por.), (4) 3-5-001:092 (por.), and (4) 3-7-002:999 (por.).
  
2. [C 2022-274](#) Communication (11/09/2022) from the Director of Parks & Recreation, recommending Council approval of an Adopt-A-Park Agreement for stewardship of Kane-I-Olu-Uma Heiau Complex Poʻipū Beach Mauka Preserve, Tax Map Key (TMK) (4) 2-8-17:13, 14, 23, and 24, to include additional lands situated at TMK (4) 2-8-017:011 (por.) into the portions of the Kane-I-Olu-Uma Heiau Complex.
  - Adopt-A-Park Agreement Amendment II

## I. CLAIMS:

1. [C 2022-275](#) Communication (10/24/2022) from the County Clerk, transmitting a claim filed against the County of Kauaʻi by DB Insurance Co. Ltd., for damage to personal property, pursuant to Section 23.06, Charter of the County of Kauaʻi.
  
2. [C 2022-276](#) Communication (10/28/2022) from the County Clerk, transmitting a claim filed against the County of Kauaʻi by Patricia Darmody, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kauaʻi.

J. COMMITTEE REPORT:1. HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE

- a. **CR-HIR 2022-04:** on Bill No. 2888 A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 9, SECTION 6-9.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING DEVELOPMENT FUND [**Approved.**]

K. RESOLUTIONS:

1. [Resolution No. 2022-54](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE POLICE COMMISSION (*Laurie Yoshida*)

2. [Resolution No. 2022-55](#) – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*William Kinney – Anahola – Hā‘ena*)

3. [Resolution No. 2022-56](#) – RESOLUTION APPROVING PROPOSALS FOR INCLUSION IN THE 2023 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

L. BILLS FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2891\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tax Credit Residential Investor*)

2. [Proposed Draft Bill \(No. 2892\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 12.7(b) AND ADDING A NEW SECTION 12.15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES, APPEALS SETTLED BY DIRECTOR

M. BILL FOR SECOND READING:

1. [Bill No. 2888](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 9, SECTION 6-9.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING DEVELOPMENT FUND (*See also CR-HIR 2022-04; the Housing & Intergovernmental Relations Committee recommended approval on second and final reading.*)

N. 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-1084 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and decision making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.
  
2. ES-1085 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval to settle a workers' compensation claim. This deliberation and decision making involves matters that require the consideration of information that must be kept confidential due to significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, and evaluation. This information is protected from disclosure pursuant to state or federal law, including the Health Insurance Portability and Accountability Act.
  
3. ES-1086 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 Charles Rapozo vs. County of Kaua'i et al., Civil No. 5CC171000136, 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.

O. ADJOURNMENT.

- P. 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, Līhu'e, 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. 2889](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-6.3(g), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Nīhau Minimum Tax*)

- Q. 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).