

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

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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. 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 (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 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 or may listen to the meeting on the oral testimony Zoom link that can be accessed at <https://tinyurl.com/KauaiCountyCouncil121422>.
 - Video: Meeting ID: 886 1056 2375; Passcode: s4zEDT
 - Dial-In: +1 669 444 9171; Meeting ID: 886 1056 2375; Passcode: 074006
- 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 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, DECEMBER 14, 2022
8:30 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LĪHUʻE, KAUAʻI, HAWAII 96766

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. November 2, 2022 Council Meeting
2. November 16, 2022 Public Hearing re: Bill No. 2889
3. November 23, 2022 Council-Elect Meeting
4. December 1, 2022 Inaugural Meeting

E. INTERVIEW:

1. KAUAʻI HISTORIC PRESERVATION REVIEW COMMISSION:

- [Victoria Wichman \(Archaeology\)](#) – Term ending 12/31/2024

F. CONSENT CALENDAR:

1. [C 2023-03](#) Communication (11/16/2022) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral reappointments to various Boards and Commissions for the County of Kauaʻi:
 - a. Board of Ethics
 - Rose Ramos-Benzel – Term ending 12/31/2025
 - Kelly M. Gentry – Term ending 12/31/2025
 - b. Board of Water Supply
 - Julie Simonton – Term ending 12/31/2025
 - c. Charter Review Commission
 - Bronson Bautista – Term ending 12/31/2025

- d. Civil Service Commission
 - Beverly Gotelli – Term ending 12/31/2025
 - e. Liquor Control Commission
 - Dee Crowell – Term ending 12/31/2025
 - Randall Nishimura – Term ending 12/31/2025
 - Leland Kahawai – Term ending 12/31/2025
 - f. Public Access, Open Space, Natural Resources Preservation Fund Commission
 - Mark Ono (*Kapa‘a-Wailua*) – Term ending 12/31/2025
 - g. Planning Commission
 - Francis DeGracia, Jr. (*Labor*) – Term ending 12/31/2025
 - Lori Otsuka (*Business*) – Term ending 12/31/2025
 - Jerry Ornellas (*Environmental*) – Term ending 12/31/2025
 - h. Salary Commission
 - Patrick Ono – Term ending 12/31/2025
(See Resolution No. 2023-04, Resolution No. 2023-05, Resolution No. 2023-06, Resolution No. 2023-07, Resolution No. 2023-08, Resolution No. 2023-09, Resolution No. 2023-10, Resolution No. 2023-11, Resolution No. 2023-12, Resolution No. 2023-13, Resolution No. 2023-14, Resolution No. 2023-15, and Resolution No. 2023-16)
2. [C 2023-04](#) Communication (12/02/2022) from Councilmember Evslin, transmitting for Council consideration and confirmation, Council appointee Lee S. Gately (At-Large) to the Kaua‘i Historic Preservation Review Commission – Term ending 12/31/2023. **(See Resolution No. 2023-17)**
 3. [C 2023-05](#) Communication (12/02/2022) from Council Chair Rapozo, transmitting for Council consideration, a Resolution appointing Councilmember Bernard P. Carvalho, Jr. as representative and Councilmember Bill DeCosta as alternate to the Hawai‘i State Association of Counties Executive Committee. **(See Resolution No. 2023-18)**

G. COMMUNICATIONS:

1. [C 2023-06](#) Communication (11/03/2022) from the Director of Human Resources, requesting Council approval of the attorney fees and costs provision in the Law Enforcement Testing and Assessment (LETA) Services Agreement, which will be used for civil service written promotional examinations for Ocean Safety Officers, which aligns with the current promotional recruitments for Fire and Police.

2. [C 2023-07](#) Communication (11/04/2022) from the Chief of Police, requesting Council approval to accept and expend additional funds from the Hawai'i High Intensity Drug Trafficking Area (HIDTA) program, in the amount of \$70,000.00, for payment of overtime, replacement of K9 drug detector dogs, training, replacement of old equipment, and the purchase of new technology. The increase would bring the new award amount to \$231,400.00.

3. [C 2023-08](#) Communication (11/16/2022) from Ka'āina S. Hull, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to approve Chapter 8, Kaua'i County Code 1987, as amended, relating to Zoning designation in Lāwa'i Homesteads, Kaua'i (*Kurt Bosshard and Steven Absher, Applicants*). (*Copies of the Draft Ordinance for Zoning Amendment (ZA-2023-2), Planning Commission's Agenda dated October 25, 2022, Director's Report dated October 19, 2022, and Draft Planning Commission Meeting Minutes (ZA-2023-2), on file in the Office of the County Clerk.*) **(See Proposed Draft Bill (No. 2893))**

4. [C 2023-09](#) Communication (11/17/2022) from the Emergency Management Administrator, requesting Council approval to apply for, receive, and expend United States Department of Homeland Security (DHS) grant funds, via the State of Hawai'i Department of Defense – Hawai'i Emergency Management Agency (HI-EMA), in the amount of \$150,000.00 with a 50% cost-match, for the Fiscal Year 2022 Emergency Management Performance Grant, which will support two (2) existing Kaua'i Emergency Management Agency (KEMA) staff positions (Emergency Management Staff Specialist and Emergency Management Program Support Technician II), which support day-to-day prevention, protection, mitigation, response, and recovery activities.

5. [C 2023-10](#) Communication (11/17/2022) from the Fire Chief, requesting Council approval to purchase non-budgeted equipment of one (1) Fire Engine with Fiscal Year 2023 funds in the amount of \$900,000.00, which will replace a Fire Engine for the Kaiākea Fire Station, and due to supply chain issues and increased demand, Fire Apparatus manufacturers are advising of a two-year turnaround time for delivery from the time of order.
6. [C 2023-11](#) Communication (12/01/2022) from the Director of Finance, requesting Council approval to accept terms contained within Elavon's Terms of Service Agreement for over-the-counter transactions, to also include online payments associated with the Land Information Management System (LIMS).

H. CLAIMS:

1. [C 2023-12](#) Communication (11/14/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Dordick Law Corporation representing Evan Schaben, for personal injury and medical bills, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. [C 2023-13](#) Communication (11/21/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Craig Koga, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. [C 2023-14](#) Communication (11/22/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Melva Christunas, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. [C 2023-15](#) Communication (11/25/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by John Mullen & Company representing DB Insurance Company, as subrogee of Kim Murriera, for damage to personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.
5. [C 2023-16](#) Communication (11/29/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Merlene Takemoto, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORT:1. COMMITTEE OF THE WHOLE**a. CR-COW 2023-01:** on 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 (*Niihau Minimum Tax*)
[Approved]

J. RESOLUTIONS:

1. [Resolution No. 2023-04](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Rose Ramos-Benzel*)

2. [Resolution No. 2023-05](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Kelly M. Gentry*)

3. [Resolution No. 2023-06](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF WATER SUPPLY (*Julie Simonton*)

4. [Resolution No. 2023-07](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Bronson Bautista*)

5. [Resolution No. 2023-08](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Beverly Gotelli*)

6. [Resolution No. 2023-09](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Dee Crowell*)

7. [Resolution No. 2023-10](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Randall Nishimura*)

8. [Resolution No. 2023-11](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Leland Kahawai*)

9. [Resolution No. 2023-12](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Mark Ono – Kapa‘a–Wailua*)

10. [Resolution No. 2023-13](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Francis DeGracia, Jr. – Labor*)

11. [Resolution No. 2023-14](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Lori Otsuka – Business*)

12. [Resolution No. 2023-15](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Jerry Ornellas – Environmental*)

13. [Resolution No. 2023-16](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE SALARY COMMISSION (*Patrick Ono*)

14. [Resolution No. 2023-17](#) – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE KAUA‘I HISTORIC PRESERVATION REVIEW COMMISSION (*Lee S. Gately – At-Large*)

15. [Resolution No. 2023-18](#) – RESOLUTION APPOINTING BERNARD P. CARVALHO, JR. AS REPRESENTATIVE AND BILL DECOSTA AS THE ALTERNATE TO THE EXECUTIVE COMMITTEE OF THE HAWAII STATE ASSOCIATION OF COUNTIES

K. BILL FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2893\)](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION IN LAWA‘I HOMESTEADS, KAUA‘I (*Kurt Bosshard and Steven Absher, Applicants*)

L. BILL FOR SECOND READING:

1. [Bill No. 2889](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-6.3(g), KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Ni‘ihau Minimum Tax*) (*See also CR-COW 2023-01; the Committee of the Whole 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-1087 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauai 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 regarding In the Matter of the Tax Appeal of Hope Kallai, Case No. 1CTX-22-0000126 (Tax Appeal Court of the State of Hawai'i). 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 by approximately 8:30 a.m., or soon thereafter, and will convene/reconvene the Council Meeting thereafter.

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 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 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 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 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. 2890](#) – 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 PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*OSC Waipā Foundation Acquisition of Halulu Fishpond*)
2. [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*)
3. [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

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 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.