

KAUA'I COUNTY COUNCIL
MEETING NOTICE AND AGENDA
WEDNESDAY, DECEMBER 6, 2023
8:30 A.M. OR SOON THEREAFTER
COUNCIL CHAMBERS, HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201, LIHU'E, KAUA'I, HAWAII 96766

MEETING INFORMATION:

- **Oral Testimony:** Accepted in-person at the Council Chambers.
- **Written Testimony:** May be submitted before any meeting via: email to counciltestimony@kauai.gov; fax to (808) 241-6349; mail to the Office of the County Clerk, Council Services Division at 4396 Rice Street, Suite 209, Līhu'e, Hawai'i, 96766; or hand-delivery at Suite 209 during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays).
- **Courtesy Livestream, Video, and Minutes:** Meeting livestream (recorded video to follow) is available at www.kauai.gov/Government/Council/Webcast-Meetings. If the courtesy livestream is unavailable for any reason, the meeting will proceed. Meeting minutes will be completed pursuant to Hawai'i Revised Statutes (HRS) Chapter 92 and electronically posted at www.kauai.gov/Government/Council following Council approval.
- **Courtesy Remote Oral Testimony:** This is not a remote meeting pursuant to HRS Section 92-3.7. The option of remote oral testimony is offered as a courtesy only. To register, testifiers shall sign up via emailing remote.signup@kauai.gov, indicating the agenda item(s) they would like to provide testimony on. Registration emails are due no later than 12:00 Noon the day prior to the meeting. Those who timely register will receive remote testimony access and instructions via reply email. Those wishing to view the meeting but not provide testimony will be directed to the courtesy livestream (via the website link above). If the courtesy remote testimony access is unavailable for any reason, the meeting will proceed.
- **Additional Note for Both Methods of Oral Testimony:** Generally, each agenda item is addressed (and oral testimony received) in the order listed in the agenda; however, agenda items may occur out of order without notice and oral testimony is not accepted for completed agenda items. Those seeking the guaranteed ability to testify should report: (1) in-person, and (2) by the meeting start time.
- **For Further Assistance:** 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.

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. November 1, 2023 Council Meeting
2. November 15, 2023 Council Meeting
3. November 15, 2023 Public Hearing re: Bill No. 2910

E. INTERVIEWS:

1. BOARD OF ETHICS:

- [Amber K. Mokuahi](#) – Term ending 12/31/2025

2. CHARTER REVIEW COMMISSION:

- [Jan TenBruggencate](#) – Term ending 12/31/2025

3. CIVIL SERVICE COMMISSION:

- [Piikea Keyes-Saiki](#) – Term ending 12/31/2026

4. BOARD OF REVIEW:

- [Christopher A. White](#) – Term ending 12/31/2025
- [Jody H.K. Kjeldsen](#) – Term ending 12/31/2026

F. CONSENT CALENDAR:

1. [C 2023-242](#) Communication (10/24/2023) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral reappointments to various Boards and Commissions for the County of Kaua'i:
 - a. Board of Ethics
 - Ryan de la Pena – Term ending 12/31/2026
 - b. Board of Review
 - Stella Fujita – Term ending 12/31/2026
 - c. Charter Review Commission
 - Coty Trugillo – Term ending 12/31/2026

d. Civil Service Commission

- Jeffrey S. Iida – Term ending 12/31/2026

e. Cost Control Commission

- Andre N. Lister – Term ending 12/31/2026
- Paul A. Pancho – Term ending 12/31/2026

f. Liquor Control Commission

- Lorna A. Nishimitsu – Term ending 12/31/2026
- Tess Shimabukuro – Term ending 12/31/2026

g. Planning Commission

- Gerald T. Ako (*Labor*) – Term ending 12/31/2026
- Helen A. Cox (*Environmentalist*) – Term ending 12/31/2026

h. Police Commission

- Mary Kay Hertog – Term ending 12/31/2026
- Walton D.Y. Hong – Term ending 12/31/2026

(See Resolution No. 2023-67, Resolution No. 2023-68, Resolution No. 2023-69, Resolution No. 2023-70, Resolution No. 2023-71, Resolution No. 2023-72, Resolution No. 2023-73, Resolution No. 2023-74, Resolution No. 2023-75, Resolution No. 2023-76, Resolution No. 2023-77, and Resolution No. 2023-78)

2. [C 2023-243](#)

Communication (11/06/2023) from Council Chair Rapozo, transmitting for Council consideration and confirmation, the reappointments to various Boards and Commissions for the County of Kauaʻi:

a. Kauaʻi Historic Preservation Commission

- Lee S. Gately (*At-Large*) – Term ending 12/31/2026

b. Public Access, Open Space, Natural Resources Preservation Fund Commission

- William Kinney (*Anahola to Hāʻena*) – Term ending 12/31/2026
- Mai Shintani (*At-Large*) – Term ending 12/31/2026

(See Resolution No. 2023-79, Resolution No. 2023-80, and Resolution No. 2023-81)

G. COMMUNICATIONS:

1. [C 2023-244](#) Communication (11/07/2023) from the Fire Chief, transmitting for Council consideration, A Bill For An Ordinance To Amend Ordinance No. B-2023-891, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2023 Through June 30, 2024, By Revising The Amounts Estimated In The General Fund, for the purchase and delivery of one (1) of factory-made fire engine for the Kalāheo Fire Station. (*See Proposed Draft Bill (No. 2911)*)

2. [C 2023-245](#) Communication (11/09/2023) from the Emergency Management Administrator, requesting Council approval to receive and expend State funds, in the amount of \$780,000.00, from the United States Department of Homeland Security, via the State of Hawai'i Department of Defense, to be used to enhance the capability of state and local units of government to prevent, deter, respond to, and recover from threats and incidents of terrorism, as well as "all hazards" catastrophic preparedness initiatives. This grant has a three-year performance period with no cost-share requirement.

3. [C 2023-246](#) Communication (11/13/2023) from the Fire Chief, requesting Council approval to receive, accept, and expend State funds, in the amount of \$580,000.00, from the State Legislature, which will be used for Water Safety Officer positions and equipment including vehicles and lifeguard towers at Kē'e Beach, Hā'ena State Park, from July 1, 2023 through June 30, 2024.

4. [C 2023-247](#) Communication (11/15/2023) from the Housing Director, requesting Council approval to dispose of various records, pursuant to Hawai'i Revised Statutes (HRS) Section 46-43 and Resolution No. 2008-39 (2008), as amended, which have been kept for over seven (7) years and are no longer of use or value, and includes Finance and Accounting records, which have been retained more than seven (7) years, and Section 8 Housing Choice Voucher Program records, which have been retained for at least three (3) years. (*List of various records to be disposed of on file in the Office of the County Clerk.*)

- 5. [C 2023-248](#) Communication (11/21/2023) from the County Attorney, requesting authorization to expend additional funds up to \$100,000.00 for Special Counsel’s continued services to represent the County of Kaua’i in condemnation proceedings entitled County of Kaua’i vs. B & D Properties, LLC et al., Civil No. 5CCV-22-0000013, Fifth Circuit Court, State of Hawai’i.

- 6. [C 2023-249](#) Communication (11/21/2023) from the Executive on Transportation, requesting Council approval to purchase six (6) non-budgeted buses with Federal Transit Administration (FTA) Section 5311 American Rescue Plan Act (ARPA) funds. These buses are beyond the thirteen (13) originally budgeted for and included in the County’s Statement of Equipment Purchases for Fiscal Year (FY) 2023-2024. The Transportation Agency was provided additional funds to purchase these additional vehicles without requesting any additional County funds.

- 7. [C 2023-250](#) Communication (11/22/2023) from the Deputy Director of Planning, requesting Council approval to apply for, receive, and expend National Oceanic and Atmospheric Administration (NOAA) Coastal Zone Management (CZM) Habitat Protection and Restoration Bipartisan Infrastructure Law (BIL) Competition Grant funds in the amount of \$409,500.00, and to indemnify the State of Hawai’i, to be used for Habitat Restoration Planning, Engineering, and Design for the Historic Salt Pans at Hanapēpē, Kaua’i, Hawai’i. The project aims to develop and implement immediate design solutions to projected coastal impacts, such as dune restoration and other mitigative measures, and identify long-term solutions to preserve the hydrogeologically unique, historically significant, and actively cultivated *wahi pana*.

- 8. [C 2023-251](#) Communication (11/22/2023) from the Deputy Director of Planning, requesting Council approval to apply for, receive, and expend National Oceanic and Atmospheric Administration (NOAA) Climate Resiliency Regional Challenge Grant funds in the amount of \$1,068,510.00, and to indemnify NOAA, to establish a Climate-Resilient Kaua’i Collaborative with three (3) staff over a three-year period. The objective of the program is to build partnerships, engage stakeholders, secure funding, and empower coastal communities with the knowledge needed to adapt in the face of climate change.

9. [C 2023-252](#) Communication (11/24/2023) from the Director of Parks & Recreation, requesting Council approval to accept donations from The Hanalei Initiative, a 501(c)(3) not-for-profit corporation, of a public playground adjacent to the Hanalei Neighborhood Center, valued at \$112,026.49, and a basketball court at Waioli Town Park, which includes resurfacing and new backboards, valued at \$97,131.36.

10. [C 2023-253](#) Communication (11/30/2023) from the County Engineer, requesting Council approval of indemnification and other terms and conditions for an emergency rental of a bulldozer from Hawthorne Pacific Corp., to complete required daily tasks for proper refuse management while the Kekaha Landfill's CAT D8 bulldozer is repaired.

H. LEGAL DOCUMENT:

1. [C 2023-254](#) Communication (11/24/2023) from the Managing Director, requesting Council acceptance and approval of a Dedication Deed, from Alexander & Baldwin, LLC to the County of Kaua'i, land donation of the parcel, including the viewing platform and the blowhole known as Spouting Horn, located at Tax Map Key (TMK) No. (4) 2-6-003-019:
 - Dedication Deed

I. CLAIMS:

1. [C 2023-255](#) Communication (11/14/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Brad P. Candido, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

2. [C 2023-256](#) Communication (11/20/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Electrical Contractors Hawai'i, Inc., for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

3. [C 2023-257](#) Communication (11/27/2023) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jason Matsumoto, for vehicle damage and personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i.

J. COMMITTEE REPORT:1. PARKS & RECREATION / TRANSPORTATION COMMITTEE:

- a. **CR-PRT 2023-05:** on Bill No. 2910 A BILL FOR AN ORDINANCE
AMENDING CHAPTER 6,
ARTICLE 13, KAUAI COUNTY
CODE 1987, AS AMENDED,
RELATING TO RECOVERY OF
RESCUE EXPENSES [**Approved.**]

K. RESOLUTIONS:

1. [Resolution No. 2023-67](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Ryan de la Pena*)
2. [Resolution No. 2023-68](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF REVIEW (*Stella Fujita*)
3. [Resolution No. 2023-69](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Coty Trugillo*)
4. [Resolution No. 2023-70](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Jeffrey S. Iida*)
5. [Resolution No. 2023-71](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE COST CONTROL COMMISSION (*Andre N. Lister*)
6. [Resolution No. 2023-72](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE COST CONTROL COMMISSION (*Paul A. Pancho*)
7. [Resolution No. 2023-73](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Lorna A. Nishimitsu*)
8. [Resolution No. 2023-74](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Tess Shimabukuro*)

9. [Resolution No. 2023-75](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Gerald T. Ako – Labor*)

10. [Resolution No. 2023-76](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Helen A. Cox – Environmentalist*)

11. [Resolution No. 2023-77](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE POLICE COMMISSION (*Mary Kay Hertog*)

12. [Resolution No. 2023-78](#) – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE POLICE COMMISSION (*Walton D.Y. Hong*)

13. [Resolution No. 2023-79](#) – RESOLUTION CONFIRMING COUNCIL REAPPOINTMENT TO THE KAUAI HISTORIC PRESERVATION REVIEW COMMISSION (*Lee S. Gately – At-Large*)

14. [Resolution No. 2023-80](#) – RESOLUTION CONFIRMING COUNCIL REAPPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*William Kinney – Anahola to Hā'ena*)

15. [Resolution No. 2023-81](#) – RESOLUTION CONFIRMING COUNCIL REAPPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Mai Shintani – At-Large*)

L. BILL FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2911\)](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2023-891, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2023 THROUGH JUNE 30, 2024, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Fire Engine #5, Kalāheo Replacement - \$1,000,000.00*)

M. BILL FOR SECOND READING:

1. [Bill No. 2910](#) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO RECOVERY OF RESCUE EXPENSES (*See also CR-PRT 2023-05; the Parks & Recreation / Transportation 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-1112 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 to obtain settlement authority in the case of Paul Applegate vs. County of Kaua'i et. al., case number CV21-00364 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.

2. ES-1113 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 on Special Counsel's continued services to represent the County of Kaua'i in condemnation proceedings entitled County of Kaua'i vs. B & D Properties, LLC, et al., Civil No. 5CCV-22-0000013, Fifth Circuit Court, 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.

O. ADJOURNMENT.