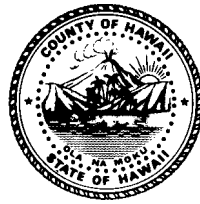


JAMES Y. ARAKAKI  
*Chairman & Presiding Officer*

J. CURTIS TYLER, III  
*Vice Chairman*



AARON S.Y. CHUNG  
LENINGRAD ELARIONOFF  
FRED C. HOLSCHUH, M.D.  
BOB JACOBSON  
BOBBY JEAN LEITHEAD-TODD  
JOE REYNOLDS  
GARY SAFARIK

## COUNTY COUNCIL

*County of Hawai'i  
Hawai'i County Building  
25 Aupuni Street  
Hilo, Hawai'i 96720*

### 10<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, April 16, 2003  
9:00 a.m.

INVOCATION	Pastor Harlan Kalles of Family Christian Center
CALL TO ORDER	9:07 a.m.
ROLL CALL	All present
PLEDGE OF ALLEGIANCE	
APPROVAL OF MINUTES	March 7, 2003 – approved as amended

(Note: Please turn cell phones, pagers, and other mobile communication devices on silent mode.)

**PETITIONS, MEMORIALS, COMMUNICATIONS, CERTIFICATES OF MERIT AND EXPRESSIONS OF CONDOLENCE**

**STATEMENTS FROM THE PUBLIC ON ITEMS LISTED ON THE ORDER OF BUSINESS**

**ORDER OF RESOLUTIONS**

Res. 53-03: Authorizes the temporary barricading of stub-outs on Lako and Kinau Streets in Kailua-Kona, as permitted under Chapter 24 of the Hawai'i County Code 1983 (1995 edition). {The Police Department requests to temporarily barricade these stub-outs due to reports of illicit activities such as loitering, littering, drinking and drug use occurring along stub-outs located on both of these streets.};

Re: Comm. 173  
Intr. by: Mr. Reynolds  
Approved: PWIRC-15

and  
Comm. 173.6: From Thomas F. and Brenda Niblock, dated April 3, 2003.

ADOPTED

8 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Chung

Res. 54-03: Supports the formation of a committee or advisory board to provide citizen input for the Pōhakuloa Training Area.

Re: Comm. 176  
Intr. by: Mr. Jacobson  
Negative: PWIRC-16

FAILED

1 AYE: Council Member Jacobson

8 NOES: Council Members Chung, Elarionoff, Holschuh, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

Res. 57-03: Authorizes the acceptance of ten thousand dollars (\$10,000) from the Daniel R. Sayre Memorial Fund for use by the Waiākea and Kailua Rescue Stations. {Funds will be used for the purchase of necessary equipment for the Waiākea and Kailua rescue stations to increase the safety and efficiency for ocean search and rescue.}

Re: Comm. 182  
 Intr. by: Mr. Chung  
 Approved: FC-79

ADOPTED

8 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Chung

Res. 58-03: Transfers/appropriates an appropriation out and from the designated fund account(s) and credits same to a designated fund account(s). {Transfers/appropriates \$500,000 out and from the Provision for Compensation Adjustment – General Fund account; credits same to the Worker's Compensation – General Fund account.}

Re: Comm. 184  
 Intr. by: Mr. Chung  
 Approved: FC-82

ADOPTED

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

Res. 59-03: Authorizes the Director of Finance to quitclaim a portion of the County's interest, and to grant a right-of-entry to a portion of Kula'imano Homestead Road, identified as Parcel 1A, containing an area of approximately 617 square feet, between Tax Map Keys:(3)2-8-016 and 2-8-020, to the State of Hawai'i. {The State Department of Transportation project consists of widening the Hawai'i Belt Road and Kula'imano Road Intersection.};

Re: Comm. 185  
 Intr. by: Mr. Chung  
 Approved: FC-83

And

Comm. 185.1: From Finance Director William Takaba, dated April 1, 2003.

ADOPTED

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 69: Amends the State Land Use Boundaries Map, H-7 for the County of Hawai'i, by changing the district classification from the Agricultural to the Urban District at Pua'a 1st, North Kona, Hawai'i, covered by Tax Map Key 7-5-10:61 (Approx. 9.262 acres). {Pua'a Development, LLC, Applicant.}

Re: Comm. 167  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-24

**PASSED 1<sup>ST</sup> READING**

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

Bill 70: Amends Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) (Draft 2) of the Hawai'i County Code, by changing the district classification from Agricultural (A-5a) to Multiple-Family Residential (RM-2.5) at Pua'a 1st, North Kona, Hawai'i, covered by Tax Map Key 7-5-10:61 (Approx. 9.262 acres). {Pua'a Development, LLC, Applicant.}

Re: Comm. 167.1  
 Intr. by: Ms. Leithead-Todd  
 Approved: PC-25

**PASSED 1<sup>ST</sup> READING**

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

Bill 71: Amends the State Land Use Boundaries Map, H-25 for the County of Hawai'i, by changing the district classification from the Agricultural to the Rural District at 'Ouli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-9:9 (Approx. 6.104 acres). {Erwin L. Baldwin, Applicant.}

Re: Comm. 168  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-26

**PASSED 1<sup>ST</sup> READING**

6 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki

NOES: None

3 ABSENT & EXCUSED: Council Members Chung, Reynolds and Safarik

Bill 72: Amends Section 25-8-7 (North and South Kohala Districts Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at 'Ōuli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-9:9 (Approx. 6.104 acres). {Erwin L. Baldwin, Applicant.}

Re: Comm. 168  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-27

PASSED 1<sup>ST</sup> READING

6 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki

NOES: None

3 ABSENT & EXCUSED: Council Members Chung, Reynolds and Safarik

Bill 73: Amends the State Land Use Boundaries Map, H-14 for the County of Hawai'i, by changing the district classification from the Agricultural to the Rural District at 'Ōuli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:3 (Approx. 5.1233 acres). {Philip R. and Diane C. Delmer, Applicant.}

Re: Comm. 169  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-28

PASSED 1<sup>ST</sup> READING

6 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki

NOES: None

3 ABSENT & EXCUSED: Council Members Chung, Reynolds and Safarik

Bill 74: Amends Section 25-8-7 (North and South Kohala Districts Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at 'Ōuli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:3 (Approx. 5.1233 acres). {Philip R. and Diane C. Delmer, Applicant.}

Re: Comm. 169  
 Intr. by: Ms. Leithead-Todd  
 Approved: PC-29

PASSED 1<sup>ST</sup> READING

6 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki

NOES: None

3 ABSENT & EXCUSED: Council Members Chung, Reynolds and Safarik

Bill 75: Amends the State Land Use Boundaries Map, H-25 for the County of Hawai'i, by changing the district classification from the Agricultural to the Rural District at 'Ouli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:12 (Approx. 6.5215 acres). {Theodore T. and Susan T. Herhold, Applicant.}

Re: Comm. 170  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-30

PASSED 1<sup>ST</sup> READING

6 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki  
 NOES: None  
 3 ABSENT & EXCUSED: Council Members Chung, Reynolds and Safarik

Bill 76: Amends Section 25-8-7 (North and South Kohala Districts Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at 'Ouli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:12 (Approx. 6.5215 acres). {Theodore T. and Susan T. Herhold, Applicant.}

Re: Comm. 170  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-31

PASSED 1<sup>ST</sup> READING

7 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Tyler and Chairman Arakaki  
 NOES: None  
 2 ABSENT & EXCUSED: Council Members Chung and Safarik

Bill 77: Amends the State Land Use Boundaries Map, H-14 for the County of Hawai'i, by changing the district classification from the Agricultural to the Rural District at 'Ouli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:31 (Approx. 5.0126 acres). {Paula K. Kusters, Applicant.}

Re: Comm. 171  
 Intr. by: Ms. Leithead-Todd (B/R)  
 Approved: PC-32

PASSED 1<sup>ST</sup> READING

7 AYES: Council Members Chung, Elarionoff, Jacobson, Leithead-Todd, Reynolds, Tyler and Chairman Arakaki  
 NOES: None  
 2 ABSENT & EXCUSED: Council Members Holschuh and Safarik

Bill 78: Amends Section 25-8-7 (North and South Kohala Districts Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at 'Ōuli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-11:31 (Approx. 5.0126 acres). {Paula K. Kusters, Applicant.}

Re: Comm. 171  
Intr. by: Ms. Leithead-Todd (B/R)  
Approved: PC-33

PASSED 1<sup>ST</sup> READING

8 AYES: Council Members Chung, Elarionoff, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki  
NOES: None  
1 ABSENT & EXCUSED: Council Member Holschuh

Bill 79: Amends Ordinance No. 02-77, as amended, relating to Public Improvements and financing thereof for the fiscal year July 1, 2002 to June 30, 2003. {Adds PUBLIC WORKS – Hardening of Essential Facilities (\$869,434); funds to be provided from Federal Grants Receivable (\$652,076) and General Obligation Bonds, Capital Projects Fund – Fund Balance and/or other Sources (\$217,358), for a total of \$869,434.};

Re: Comm. 174  
Intr. by: Mr. Chung  
Approved: FC-78  
2/3 Vote: Section 10-6(d), Hawai'i County Charter

and  
Comm. 174.1: From Acting Division Chief Brian Kajikawa, Public Works Department, dated April 1, 2003.

PASSED 1<sup>ST</sup> READING

7 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki  
NOES: None  
2 ABSENT & EXCUSED: Council Members Reynolds and Safarik

Bill 80: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Increases revenues of \$3,000 from Contribution from Private Source; appropriates same to Rescue Equipment – Private.}

Re: Comm. 182  
 Intr. by: Mr. Chung  
 Approved: FC-80

PASSED 1<sup>ST</sup> READING

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki  
 NOES: None

Bill 81: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Appropriates revenues of \$17,334.67 from Fund Balance from Prior Year; appropriates same to Transfer to Capital Projects Fund.}

Re: Comm. 183  
 Intr. by: Mr. Chung  
 Approved: FC-81

PASSED 1<sup>ST</sup> READING

7 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik and Chairman Arakaki  
 2 NOES: Council Members Leithead-Todd and Tyler

Bill 82: Amends Ordinance No. 02-77, as amended, relating to Public Improvements and financing thereof for the fiscal year July 1, 2002 to June 30, 2003. {Adds ENVIRONMENTAL MANAGEMENT – Kalaniana'ole Interceptor Sewer Rehabilitation – State Revolving Funds (\$5,000,000); funds to be provided from State Revolving Funds (\$5,000,000).}

Re: Comm. 186  
 Intr. by: Mr. Chung  
 Approved: FC-84  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 1<sup>ST</sup> READING

7 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki  
 NOES: None  
 2 ABSENT & EXCUSED: Council Members Reynolds and Safarik

**ORDER OF THE DAY (SECOND OR FINAL READING)**

Bill 67: Amends Ordinance No. 02-77, as amended, relating to Public Improvements and financing thereof for the fiscal year July 1, 2002 to June 30, 2003. {Establishes Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) projects (Federal aid) (\$3,000,000) and Local Road Improvements (\$3,000,000) for a total of \$6,000,000; funds to be provided from that portion of the Highway Fund which is designated as the Fuel Tax Increase Account No. 3104.06, and which consists of the increase fuel tax revenues created pursuant to Resolution Nos. 192-97 and 241-98.};

Re: Comm. 162  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: April 2, 2003  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

and

Comm. 162.1: From Public Works Director Bruce C. McClure, dated April 7, 2003, transmitting for consideration a revision to Exhibit "A" of Bill 67, as follows: Deletes the "*Komohana Street Widening & Extension*" project and adds the "*Kuakini Highway Widening (Hualalai to Ali'i Highway)*" project to the FHWA Road Improvement Program category of the exhibit.

**AMENDED TO DRAFT 2 & PASSED 2<sup>ND</sup> & FINAL READING**

7 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Tyler and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Reynolds and Safarik

Bill 68: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Appropriates revenues of \$750,000 from Federal Grants – Community Oriented Policing Services (COPS) in Schools; appropriates same to Community Oriented Policing Services (COPS) in Schools.}

Re: Comm. 164  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: April 2, 2003

**PASSED 2<sup>ND</sup> & FINAL READING**

7 AYES: Council Members Elarionoff, Holschuh, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

1 NO: Council Member Jacobson

1 ABSENT & EXCUSED: Council Member Chung

Bill 83: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Appropriates revenues of \$50,000 from Federal Grants – Taking Care of Our Own; appropriates same to Taking Care of Our Own.}

Re: Comm. 187  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: April 2, 2003

PASSED 2<sup>ND</sup> & FINAL READING

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

Bill 84: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Increases revenues of \$15,101.94 from Block Grant Program Income; appropriates same to Residential Emergency Repair Program.}

Re: Comm. 188  
 Intr. by: Mr. Reynolds  
 1<sup>st</sup> Reading: April 2, 2003

PASSED 2<sup>ND</sup> & FINAL READING

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

Bill 85: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Increases revenues of \$9,400 from Federal – 2002 HOME Investment Partnerships (HOME) Program and \$25,544.21 from HOME – Program Income, for a total of \$34,944.21; appropriates \$7,000 to Office of Housing and Community Development (OHCD) Administration, \$2,400 to Kamuela Senior Housing, and \$25,544.21 to Kamuela Senior Housing, for a total of \$34,944.21.}

Re: Comm. 189  
 Intr. by: Mr. Reynolds  
 1<sup>st</sup> Reading: April 2, 2003

PASSED 2<sup>ND</sup> & FINAL READING

8 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Chung

Bill 86: Amends Ordinance No. 02-76, as amended, the Operating Budget for the County of Hawai'i for the fiscal year ending June 30, 2003. {Increases revenues of \$389,791 from Federal Grants – Workforce Investment Act 2002; appropriates \$168,243 to Workforce Investment Act Administration/Planning 2002, and \$221,548 to Workforce Investment Act Programs 2002, for a total of \$389,791.}

Re: Comm. 190  
 Intr. by: Mr. Reynolds  
 1<sup>st</sup> Reading: April 2, 2003

**PASSED 2<sup>ND</sup> & FINAL READING**

8 AYES: Council Members Elarionoff, Holschuh, Jacobson, Leithead-Todd, Reynolds, Safarik, Tyler and Chairman Arakaki  
 NOES: None  
 1 ABSENT & EXCUSED: Council Member Chung

**REPORTS**

PEMC Recommends the confirmation of Ms. Penny M. Fox and Mr. Roy T. Hinokawa to the  
 Rept. 3 Hawai'i County Veterans Advisory Committee.  
 (C-180):

**APPROVED**

**REFERRALS FOR EXECUTIVE SESSION**

(The purpose of the meeting is to consult with Corporation Counsel relating to matters involving potential County liability, as authorized by Sections 92-4 and 92-5, HRS. Note: 2/3 Vote - Pursuant to §92-4, HRS, and Rule 12 of Rules of Procedure of the County Council.)

Comm. 40.1: WILLIAM SILVA, ET. AL. V. COUNTY OF HAWAI'I, ET. AL. CIV. NO. 97-622.  
 From Corporation Counsel Lincoln S. T. Ashida, dated March 31, 2003.

**CONCUR W/RECOMMENDATION OF CORPORATION COUNSEL**

Comm. 202: FRANCIS ROTHMAN VS. COUNTY OF HAWAI'I, CIVIL NO. 02-1-0044K.  
 From Deputy Corporation Counsel Harry P. Freitas, dated April 7, 2003.

**CONCUR W/RECOMMENDATION OF CORPORATION COUNSEL**

**OTHER BUSINESS**

(Including but not limited to consideration of vetoed items, if any, or reconsideration of actions on agenda items.)

**ANNOUNCEMENTS**MONDAY, APRIL 21, 2003

PLANNING COMMITTEE	9:00 a.m.	COUNCILROOM
WORKSHOP RE. BILL 163		
(GENERAL PLAN -		
DELIBERATION ON THE AGRICULTURAL LAND USE SECTIONS)		

PUBLIC WORKS & INTER-	4:00 p.m.	PIHA HOMESTEADS, N. HILO
GOVERNMENTAL RELATIONS		
COMMITTEE SITE VISIT RE. RES. 41-03		

TUESDAY, MAY 6, 2003

COMMITTEES	TBA	COUNCILROOM
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WEDNESDAY, MAY 7, 2003

COUNCIL	9:00 a.m.	COUNCILROOM
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**STATEMENTS FROM THE PUBLIC**

**ADJOURNMENT**      12:44 p.m.

(Note: B/R, as listed next to the name of an Introducer, signifies that the Council Member has agreed to introduce legislation "By Request" and on behalf of the requesting party; however, it does not necessarily signify their support of or opposition to the proposal.)

The meeting place is accessible for persons with physical disabilities. Persons who need special accommodations to attend this meeting should call 961-8255 by April 14, 2003. Persons using TDDs may call 961-8521. Those desiring to speak on matters listed on the Order of Business must register at the County Clerk's Office prior to the convening of the meeting. Copies may be viewed at the Hawai'i County Services Office at 75-5706 Kuakini Highway, Suite 103, Kailua-Kona, Hawai'i 96740; at the Office of the County Clerk at 25 Aupuni Street, Hilo, Hawai'i 96720; and the County Council's Kona Branch Office at 77-6399 Nalani Street, Suite 104, Kailua-Kona, Hawai'i 96740.

Government Access Television: Channel 52 (Hilo and Kona) Wednesday, April 23, 2003, at 6 p.m.; Sunday, April 27, 2003, at 10:30 a.m.; and Wednesday, April 30, 2003, at 6 p.m.