

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*

### 16<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, July 23, 2003  
9:00 a.m.

INVOCATION                      Pastor Linda Petrucelli of the United Community Church

CALL TO ORDER                9:10 a.m.

ROLL CALL                        All Present

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES      May 21, 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. 81-03: Authorizes the acceptance of a monetary donation of \$600 to the Hawai'i County Fire Department. {Donation made by Wal-Mart Kona. Funds are earmarked for purchase of educational materials to be distributed to the public in commemoration of Fire Prevention Week, October 5-11, 2003.}

Re: Comm. 270  
Intr. by: Mr. Chung  
Approved: FC-110

**ADOPTED**

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

NOES: None

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

Res. 82-03: Authorizes the Office of the Mayor to enter into an agreement with the State of Hawai'i Department of Defense, State Civil Defense, Pursuant to HRS 46-7, for the FY 2003 State Homeland Security Grant Program. {Program funds to be used for the purchase of specialized equipment to enhance state and county capability to respond to incidents of terrorism involving the use of chemical, biological, radiological, nuclear or explosive (CBRNE) weapons, and also provides for protection of critical infrastructure and prevention of terrorist incidents; for costs related to the design, development, conduct and evaluation of CBRNE Training Program; and for costs associated with implementing each state's Homeland Security Strategy.}

Re: Comm. 271  
Intr. by: Mr. Chung  
Approved: FC-112

and

Comm. 271.1: From Director of Finance William Takaba, dated July 11, 2003, transmitting Resolution 82-03, Draft 2; and

Res. 82-03: Authorizes the Office of the Mayor to enter into agreements with the State of Hawai'i Department of Defense, State Civil Defense, Pursuant to HRS 46-7, for the FY 2003 State Homeland Security Grant Program. {Draft 2 authorizes the Mayor to enter into multiple agreements (instead of one agreement) pertaining specifically to the State Homeland Security Grant Program.}

**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. 83-03: Authorizes the Office of the Mayor to enter into an agreement with the Research Corporation of the University of Hawai'i (RCUH), pursuant to HRS 46-7, for a Title V Juvenile Delinquency Prevention Program to be implemented at the Lanakila Learning Center. {Funds to be used to address transportation, curriculum supplies and equipment needs as well as provide job training incentives and after-school recreation activities for "at risk" students.}

Re: Comm. 272  
 Intr. by: Mr. Chung  
 Approved: FC-114

**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. 84-03: Authorizes the Office of the Mayor to enter into an agreement with Laupahoehoe High and Elementary School, Pursuant to HRS 46-7, for a Title V Juvenile Delinquency Prevention Program. {Funds to be used to expand their Native Hawaiian Community-Based Education Learning Center providing services to students from kindergarten to grade 12, including tutoring, diagnostic testing, time management counseling and career-related activities to develop skills for success in the workplace and home, and development of leadership skills.}

Re: Comm. 273  
 Intr. by: Mr. Chung  
 Approved: FC-115

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

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 115: Amends Section 25-8-5 (Kailua Urban Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Multiple Family Residential (RM-1) to Village Commercial (CV-7.5) at Honuaula, North Kona, Hawai'i, covered by Tax Map Key 7-5-22:40. (Approx. 7,500 square feet.) {Chrystal T. Yamasaki, applicant.}

Re: Comm. 257  
 Intr. by: Ms. Leithead-Todd  
 Approved: PC-45

**AMENDED TO DRAFT 2 & PASSED 1<sup>ST</sup> 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 117:  
 (Draft 2)

Amends Chapter 4, Section 4-32.1, Hawai'i County Code 1983 (1995 edition) relating to the training; appointment; powers of humane officer. {Transfers duties for training, appointment and authorization of power of humane officers from the Finance Director to the Police Chief.}

Re: Comm. 267.1  
 Intr. by: Mr. Chung  
 Approved: FC-108

**PASSED 1<sup>ST</sup> 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 118:  
 (Draft 2)

Amends Chapter 2 of the Hawai'i County Code 1983 (1995 edition), as amended, relating to sister city relationships.

Re: Comm. 268.1  
 Intr. by: Mr. Arakaki  
 Approved: PWIRC-23

**AMENDED TO DRAFT 3 & PASSED 1<sup>ST</sup> 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 119:

Amends Ordinance No. 03-91, as amended, the operating budget for the County of Hawai'i for the fiscal year ending June 30, 2004. {Increases revenues of \$600 in the Contribution from Private Source; appropriates same to Fire Protection-Other Current Expenses.}

Re: Comm. 270  
 Intr. by: Mr. Chung  
 Approved: FC-111

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

**6 AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tyler, and Chairman Arakaki.

**NOES:** None

**3 ABSENT & EXCUSED:** Council Members Chung, Elarionoff and Leithead-Todd

Bill 120: Amends Ordinance No. 03-91, as amended, the operating budget for the County of Hawai'i for the fiscal year ending June 30, 2004. {Appropriates revenues of \$599,400 in the Federal Grants - State Homeland Security Grant Program; appropriates same to State Homeland Security Grant Program.}

Re: Comm. 271

Intr. by: Mr. Chung

Approved: FC-113

and

Comm. 271.1: From Director of Finance William Takaba, dated July 11, 2003, transmitting Bill 120, Draft 2; and

Bill 120: Amends Ordinance No. 03-91, as amended, the operating budget for the County of Hawai'i for the fiscal year ending June 30, 2004. {Draft 2 appropriates additional revenues of \$2,250,000 in the Federal Grants – State Homeland Security Grant Program – Part II, for a total of \$2,849,400; appropriates same to State Homeland Security Grant Program – Part II, for a total of \$2,849,400.}

(Draft 2)

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

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

**NOES:** None

**2 ABSENT & EXCUSED:** Council Members Chung and Elarionoff

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

Bill 260: Amends Chapter 14 (General Welfare) of the Hawai'i County Code 1983 (Draft 8) (1995 Edition), as amended, relating to Smoking in Certain Places in the County of Hawai'i. {The purpose of this bill is to expand the present prohibitions of smoking in certain places, contained in Chapter 14, Article 4 of the Hawai'i County Code. Draft 8 is the form of bill with all applicable changes made to date. The major amendments contained in Draft 8 are as follows: (1) exemption for bars but excluding nightclubs; (2) amended definitions of "bar," "enclosed or partially enclosed area," and "nightclub"; and (3) the provision relating to private residences used as child, adult day or health care facilities would apply only during hours of operation.}

Re: Comm. 13.286

Intr. by: Mr. Holschuh

1<sup>st</sup> Reading: June 18, 2003

**NOTE: At the conclusion of the Council's July 2 meeting, Draft 5 of the bill was amended by a proposed Draft 6, as further amended. Because the bill was substantively amended on July 2, pursuant to Council Rules, second and final reading was deferred. A motion to**

**pass the Bill 260, as amended, is pending.**

- and
- Comm. 13.225: From Robert Reed; and
- Comm. 13.279: From Lorraine Ellison, postcard; and
- Comm. 13.280: From Leta Schooler, dated July 9, 2003; and
- Comm. 13.281: From Joe Cherner, dated July 3, 2003; and
- Comm. 13.282: Article entitled, "The EPA's Secondhand Smoke Charade"; and
- Comm. 13.283: From Fred & Diane Holschuh, dated July 10, 2003; and
- Comm. 13.284: From Steven J. Hironaka, General Manager, Nihon Restaurant, dated July 10, 2003; and
- Comm. 13.285: From Christa Wagner; and
- Comm. 13.287: From Legislative Auditor Connie Kiriu, dated July 14, 2003, submitting comments relating to identification of inconsistencies and suggestions for appropriate amendments regarding Bill 260, Draft 8; and
- Comm. 13.288: From Council Member Bobby Jean Leithead-Todd, dated July 14, 2003, supporting Mr. Holschuh's amendments to Bill 260, Draft 8, and clarifying references to nightclubs being deleted in Sections 14-21(a)(2) and 14-22(a)(3), making the bill more consistent in its application; and
- Comm. 13.289: From Council Member Fred Holschuh, dated July 14, 2003, submitting his observations and comments relating to: (1) amending the definition of "bar" and "enclosed or partially enclosed area"; (2) inclusion of an exemption for separate bar areas in restaurants until March 1, 2005; and (3) exempting nightclubs; and
- Comm. 13.290: From C. R. Seifert, II, President, Seifert Enterprises, Inc., Charley's Bar & Grill, dated July 11, 2003.
- Comm. 13.291: From Council Member Leningrad Elarionoff, dated July 15, 2003, clarifying his position to permit smoking in nightclubs as it is allowed in bars.

**AMENDED TO DRAFT 9 & PASSED 2<sup>ND</sup> AND FINAL READING**

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

NOES: None

Bill 47: Amends Chapter 25, of the Hawai'i County Code 1983 (1995 Edition), relating to  
(Draft 3) Zoning (Permitted Uses in the Industrial Commercial Mixed Use (MCX) District).

Re: Comm. 114.2  
Intr. by: Ms. Leithead-Todd  
1<sup>st</sup> Reading: July 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 116: 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 'Ōuli, South Kohala, Hawai'i, covered by Tax Map Key 6-2-9:9. {Erwin L. Baldwin, Applicant.} {Revises Ordinance 03-70 (Bill 71) which was effective on May 13, 2003. A portion of the description (Number 3) was inadvertently not printed in the approved ordinance.}

Re: Comm. 168.1  
 Intr. by: Ms. Leithead-Todd  
 1<sup>st</sup> Reading: July 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**

FC Rept. 109: Recommends the acceptance of a donation of a 19" TV/VCR from the Kmart  
 (Comm. 269) Corporation for use by the Department of Parks & Recreation, Aquatics Division, for use by all pool facilities to teach American Red Cross Water Safety classes.

**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. 283: GUY B. SHEPARD VS. JOHN DOES 1-10, CIVIL NO. 02-1-0368  
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated July 14, 2003.

**CONCUR WITH 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**

	<u>TUESDAY, AUGUST 5, 2003</u>	
COMMITTEES	TBA	COUNCILROOM
	<u>WEDNESDAY, AUGUST 6, 2003</u>	
COUNCIL	9:00 a.m.	COUNCILROOM
	<u>TUESDAY, AUGUST 19, 2003</u>	
COMMITTEES	TBA	COUNCILROOM

WEDNESDAY, AUGUST 20, 2003

COUNCIL

9:00 a.m.

COUNCILROOM

**STATEMENTS FROM THE PUBLIC**

None

**ADJOURNMENT**

5:47 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 July 21, 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, July 30, 2003, at 6 p.m.; Sunday, August 3, 2003, at 10:30 a.m.; and Wednesday, August 6, 2003, at 6 p.m.