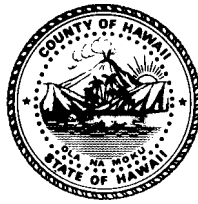


JAMES Y. ARAKAKI
Chairman & Presiding Officer

J. CURTIS TYLER, III
Vice Chairman



AARON S.Y. CHUNG
LENINGRAD ELARIONOFF
FRED C. HOLSCHUH, M.D.
BOB JACOBSON
JOE REYNOLDS
GARY SAFARIK
MICHAEL C. TULANG

COUNTY COUNCIL

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

21st Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Wednesday, October 8, 2003
9:00 a.m.

INVOCATION

Stewart Hussey, President, The Christian Science Church

CALL TO ORDER

9:11 a.m.

ROLL CALL

All present except Council Member Jacobson

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

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

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

Comm. 349: APPOINTMENT OF COUNCIL MEMBER GARY SAFARIK TO THE WESTERN INTERSTATE REGION (WIR) BOARD OF DIRECTORS

From Chair Leningrad Elarionoff, Committee on Public Works and Intergovernmental Relations, dated September 16, 2003, requesting confirmation of the above appointment.

Waived: PWIRC

CONFIRMED APPOINTMENT

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

ORDER OF RESOLUTIONS

Res. 94-03: Authorizes the receipt and expenditure of state funding appropriated by the state legislature pursuant to Act 3, Special Session Laws of Hawai'i 2003, for the establishment of an adolescent treatment center and for community anti-drug efforts on the Island of Hawai'i. {The adolescent treatment center treats poly-drug abuse; the anti-drug efforts are aimed at preventing crystal methamphetamine use.}

Re: Comm. 323
Intr. by: Mr. Chung
Approved: FC-128
Deferred: September 17, 2003

[Note: There is a pending motion by Mr. Safarik and duly seconded by Mr. Reynolds to adopt Resolution 94-03.]

ADOPTED

7 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, and Chairman Arakaki
1 NO: Council Member Tyler
1 ABSENT & EXCUSED: Council Member Jacobson

Res. 97-03: Requests that the Department of Public Works, the Planning Department, the Office of the Corporation Counsel and the Legislative Auditor's Office form a multi-agency task force to develop a roads-in-limbo policy.

Re: Comm. 332
Intr. by: Mr. Elarionoff and Mr. Safarik
Approved: PWIRC-28

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 98-03:

Authorizes the acceptance of a monetary donation of Eighteen Thousand Dollars (\$18,000) from the Daniel R. Sayre Memorial Fund to the Hawai'i County Fire Department. {Funds to be used for the purchase of rescue and fire equipment.}

Re: Comm. 334

Intr. by: Mr. Chung

Approved: FC-130

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 99-03:

Authorizes the Office of the Mayor to enter into an agreement with the State of Hawai'i Department of Transportation, pursuant to HRS 46-7, for a Community Policing Grant. {Funds to be used to purchase three digital cameras to increase the effectiveness and professionalism of the Community Policing Officers in Kona.}

Re: Comm. 335

Intr. by: Mr. Chung

Approved: FC-132

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 100-03:

Authorizes the Office of the Mayor to enter into an agreement with the United States of America, pursuant to HRS 46-7, for a Public Health Preparedness and Response from Bioterrorism Grant. {Funds to be used by the Hawai'i County Fire Department to purchase a fully-equipped trailer configured for use as a medical response unit to mass casualty incidents resulting from weapons of mass destruction or natural disaster.}

Re: Comm. 336

Intr. by: Mr. Chung

Approved: FC-134

ADOPTED

7 AYES: Council Members Chung, Elarionoff, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Holschuh and Jacobson

Res. 101-03:

Creates a Housing and Community Development Specialist IV position and a Housing and Community Development Specialist III position for the Office of Housing and Community Development. {These positions are needed to develop and implement two new programs, the Family Self-Sufficiency and the Homeownership, both in connection with the Section 8 Existing Housing Program.}

Re: Comm. 337

Intr. by: Mr. Chung

Approved: FC-135

ADOPTED

7 AYES: Council Members Chung, Elarionoff, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Holschuh and Jacobson

Res. 102-03:

Authorizes the Office of the Mayor to enter into an agreement with the State of Hawai'i Department of Transportation, pursuant to HRS 46-7, for a Click It or Ticket Program grant. {The program's goal is to reduce the number of vehicle collision fatalities and injuries to front and rear seat occupants, aged 17 and under, by increasing seatbelt usage rate of youth and teens.}

Re: Comm. 338

Intr. by: Mr. Chung

Approved: FC-136

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 103-03: Authorizes the Office of the Mayor to enter into an agreement with the State of Hawai'i Department of Transportation, pursuant to HRS 46-7, for a Traffic Investigation Program grant. {The program's goal is to increase the quality of alcohol- and speed-related traffic fatality investigations by providing training and equipment to Hawai'i County police officers.}

Re: Comm. 339
 Intr. by: Mr. Chung
 Approved: FC-138

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 105-03: Transfers/appropriates an appropriation out and from the designated fund account(s) and crediting same to a designated fund account(s). {Transfers \$325,000 out and from Contingency Relief; appropriates \$100,000 to Office of Management – Other Current Expenses and \$225,000 to Cost of Sale – Hamakua Land, for a total of \$325,000.}

Re: Comm. 341
 Intr. by: Mr. Chung
 Approved: FC-140

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 111-03: Repeals Resolution No. 05-02, appointing Members of the Committee on Planning, and designates the Chair and Vice Chair thereof.

Re: Comm. 363
 Intr. by: Mr. Arakaki
 Waived: FC

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 112-03: Repeals Resolution No. 06-02, appointing Members of the Committee on Public Works and Intergovernmental Relations, and designates the Chair and Vice Chair thereof.

Re: Comm. 363
 Intr. by: Mr. Arakaki
 Waived: FC

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Res. 113-03: Repeals Resolution No. 07-02, appointing Members of the Committee on Parks and Environmental Management, and designates the Chair and Vice Chair thereof.

Re: Comm. 363
 Intr. by: Mr. Arakaki
 Waived: FC

ADOPTED

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

BILLS FOR ORDINANCES (FIRST READING)

Bill 139 Amends Ordinance No. 03-91, as amended, the operating budget for the
 (Draft 2): County of Hawai'i for the fiscal year ending June 30, 2004. {Increases revenues in Adolescent Treatment Center (\$300,000) and Community Anti-Drug Efforts (\$100,000), for a total of \$400,000; appropriates same to Adolescent Treatment Center and Community Anti-Drug Efforts.}; and

Re: Comm. 323.3
 Intr. by: Mr. Chung
 Approved: FC-129
 Deferred: September 17, 2003

Comm. 323.4: From Finance Director William Takaba, dated September 4, 2003, transmitting Bill 139, Draft 3. {Draft 3 replaces the revenue base account numbers 3303.29 (Adolescent Treatment Center) and 3303.30 (Community Anti-Drug Efforts) with the proper state grants base account numbers 3305.34 (Adolescent Treatment Center) and 3305.35 (Community Anti-Drug Efforts), respectively.}; and

Bill 139 Amends Ordinance No. 03-91, as amended, the operating budget for the
(Draft 3): County of Hawai'i for the fiscal year ending June 30, 2004; and
Comm. 323.6: From Managing Director, Dixie Kaetsu, dated September 15, 2003,
requesting deferral of Bill 139.

PASSED 1ST READING

7 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, and Chairman Arakaki

1 NO: Council Member Tyler

1 ABSENT & EXCUSED: Council Member Jacobson

Bill 141: Amends Chapter 24, of the Hawai'i County Code 1983 (1995 edition),
relating to vehicles and traffic. {Proposals include: new bus stop, delete
mid-block crosswalk, and adjust passenger loading zone located on
Kilauea Avenue.}; and

Re: Comm. 330

Intr. by: Mr. Elarionoff

Approved: PWIRC-29

Comm. 330.3: From Beverly Ann McCall, Principal, Waiakeawaena School, dated
September 18, 2003; and

Comm. 330.4: From Danielle Spain, PTA President, Waiakeawaena Elementary
School, dated September 18, 2003.

PASSED 1ST READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 142: Amends Chapter 24, of the Hawai'i County Code 1983 (1995 edition)
relating to vehicles and traffic. {Adds a two-vehicle taxi stand at the pier in
Kailua-Kona.}

Re: Comm. 331

Intr. by: Mr. Tyler

Approved: PWIRC-27

PASSED 1ST READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 143: 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 in Contribution from Private Source (\$6,000); appropriates
same to Rescue Equipment – Private.}

Re: Comm. 334
Intr. by: Mr. Chung
Approved: FC-131

PASSED 1ST READING

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

Bill 144: 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 in Federal Grants (\$900) – Community Policing Grant; appropriates same to Community Policing Grant.}

Re: Comm. 335
Intr. by: Mr. Chung
Approved: FC-133

PASSED 1ST READING

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

Bill 145: 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 in Federal Grants (\$15,444) – Click It or Ticket Program; appropriates same to Click It or Ticket Program.}

Re: Comm. 338
Intr. by: Mr. Chung
Approved: FC-137

PASSED 1ST READING

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

Bill 146: 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 in Federal Grants (\$15,000) – Traffic Investigation Program; appropriates same to Traffic Investigation Program.}

Re: Comm. 339
Intr. by: Mr. Chung
Approved: FC-139

PASSED 1ST READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 147
(Draft 2):

Amends Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the district classification from Agricultural (A-3a) to Family Agricultural (FA-1a) at Kohanaiki, North Kona, Hawai'i, covered by Tax Map Key 7-3-7:27 & 50 (approx. 53.163 acres). {Hualalai Vistas, LLC, applicant.}

Re: Comm. 342.3
Intr. by: Mr. Tyler (B/R)
Approved: PC-57

PASSED 1ST READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 148
(Draft 2):

Amends Chapter 14, Article 10, of the Hawai'i County Code, as amended, relating to Exceptional Trees. {Designates an '□hi'a tree located at Tax Map Key 1-5-1:56, Ka'ohē Homesteads, P□hoa, as an "Exceptional Tree" of the County of Hawai'i.}

Re: Comm. 343.2
Intr. by: Mr. Tyler (B/R)
Approved: PC-58

PASSED 1ST READING

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

Bill 156:

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 in Federal Grants – Bioterror Trailer (\$60,000); appropriates same to Bioterror Trailer (\$60,000).}

Re: Comm. 336.1
Intr. by: Mr. Chung
Waived: FC

PASSED 1ST READING

6 AYES: Council Members Elarionoff, Holschuh, Reynolds,

Tulang, Tyler, and Chairman Arakaki
 NOES: None
 3 ABSENT & EXCUSED: Council Members Chung, Jacobson, and Safarik

Bill 157: Amends Chapter 24 of the Hawai'i County Code 1983 (1995 edition), relating to Vehicles and Traffic. {Changes hours of one-way traffic to be between 7:00 a.m. and 2:30 p.m. on school days only located on Pakalana Street in Honoka'a.}; and

Re: Comm. 361
 Intr. by: Mr. Holschuh
 Waived: PWIRC

Comm. 361.1: From Edwin Castillo, Jr., Chairman, Hamakua Safety Council, dated September 24, 2003; and

Comm. 361.2: From Natalie Gonsalves, Principal, Honoka'a Elementary School, dated September 29, 2003.

PASSED 1ST READING

8 AYES: Council Members Chung, Elarionoff, Holschuh, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

1 ABSENT & EXCUSED: Council Member Jacobson

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 133: Amends Chapter 24 of the Hawai'i County Code 1983 (1995 edition) relating to Vehicles and Traffic. {Deletes existing mid-block crosswalk on Mamalahoa Highway in front of Central Kona Union Church.}; and

Re: Comm. 304
 Intr. by: Mr. Elarionoff
 Deferred: September 4, 2003
 1st Reading: September 17, 2003

PASSED 2ND & FINAL READING

6 AYES: Council Members Elarionoff, Holschuh, Reynolds, Safarik, Tulang, and Chairman Arakaki

1 NO: Council Member Tyler

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 136
(Draft 3): Amends Ordinance No. 97-65 which amended Ordinance No. 92-123, which changed the district classification from Agricultural (A-20a) to Agricultural (A-1a) at Ola'a, Puna, Hawai'i, covered by Tax Map Key 1-7-17:3 (approx. 45.945 acres). {Kapoho Properties, applicant.}

Re: Comm. 309.3
Intr. by: Mr. Arakaki
1st Reading: September 17, 2003

PASSED 2ND & FINAL READING

6 AYES: Council Members Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, and Chairman Arakaki

1 NO: Council Member Tyler

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 137: Amends Section 15-68.1, Hawai'i County Code, Parks and Recreational Facility Schedule-Parks, Kohala, by renaming the Samuel M. Spencer Beach Park "Spencer Park at '□hai'ula Beach" and the pavilion at '□hai'ula "Samuel Mahuka Spencer Pavilion."

Re: Comm. 315
Intr. by: Mr. Elarionoff
1st Reading: September 17, 2003

PASSED 2ND & FINAL READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

Bill 138: 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 in Contribution from Private Source (\$10,000); appropriates same to Hawai'i Island Methamphetamine Summit – Private (\$10,000).}

Re: Comm. 322
Intr. by: Mr. Chung
1st Reading: September 17, 2003

PASSED 2ND & FINAL READING

7 AYES: Council Members Elarionoff, Holschuh, Reynolds,
Safarik, Tulang, Tyler, and Chairman Arakaki

NOES: None

2 ABSENT & EXCUSED: Council Members Chung and Jacobson

REPORTS

FINANCIAL REPORT: Monthly Financial Status Report from the Department of Finance for the month ended July 31, 2003.

APPROVED

FINANCIAL REPORT: Monthly Financial Status Report from the Department of Finance for the month ended August 31, 2003.

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. 40.3: WILLIAM SILVA, ET AL., V. COUNTY OF HAWAI'I, ET AL., CIVIL NO. 97-622
 From Corporation Counsel Lincoln S. T. Ashida, dated September 19, 2003.
CONCUR W/RECOMMENDATION OF CORPORATION COUNSEL

Comm. 283.1: GUY B. SHEPARD V. JOHN DOES 1-10, CIVIL NO. 02-1-0368
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated September 29, 2003.
CONCUR W/RECOMMENDATION OF CORPORATION COUNSEL

Comm. 362: WALTER JOHN KELLY, ET AL., V. 1250 OCEANSIDE PARTNERS, ET AL., CIV. NO. 00-1-0192K
 From Corporation Counsel Lincoln S. T. Ashida, dated September 29, 2003.
FILED

OTHER BUSINESS

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

ANNOUNCEMENTS

	<u>TUESDAY, OCTOBER 21, 2003</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, OCTOBER 22, 2003</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
	<u>TUESDAY, NOVEMBER 4, 2003</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, NOVEMBER 5, 2003</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM

STATEMENTS FROM THE PUBLIC**ADJOURNMENT** 4:08 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 October 6, 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, October 15, 2003, at 6 p.m.; Sunday, October 19, 2003, at 10:30 a.m.; and Wednesday, October 22, 2003, at 6 p.m.