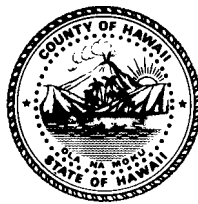


JAMES Y. ARAKAKI  
*Chairman & Presiding Officer*

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*

26<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, December 17, 2003  
9:00 a.m.

INVOCATION	Reverend Richard Ragle, Hilo Church of the Nazarene
CALL TO ORDER	9:12 a.m.
ROLL CALL	All Present
PLEDGE OF ALLEGIANCE	
APPROVAL OF MINUTES	July 23, 2003 - APPROVED

(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. 128-03: Authorizes the Payment of Funds of a Later Fiscal Year and More Than One Fiscal Year for a Multi-Year Lease of Real Property for the Prosecuting Attorney's Waimea Office. {This five-year lease agreement is for 600 square feet of office space in the Holomua Center in Waimea.}

Re: Comm. 416  
Intr. by: Mr. Chung  
Approved: FC-178

**ADOPTED**

**9 AYES:** Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki.

**NOES:** None.

**ABSENT & EXCUSED:** None.

Res. 129-03 (Draft 2): Relates to the Preparation of (1) a North Kona Regional Sewerage Master Plan; and (2) a Council Initiated Improvement District Implementation Study for the Construction of Certain Wastewater and Recycled Water System Improvements for Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, Hawai'i. {Thrust of this initiative facilitates sewerage improvements in the rapidly developing Kaloko Industrial Area and to plan and consider the greater regional needs of the North Kona coastline. Further, requests Resolution 70-01, relating to this resolution, be filed (deferred at Council's May 2, 2001, meeting).}

Re: Comm. 417.4  
Intr. by: Mr. Tyler  
Approved: FC-179

**ADOPTED**

**9 AYES:** Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki.

**NOES:** None.

**ABSENT & EXCUSED:** None.

and

Res. 70-01 (2001): Relates to the Construction of Improvements by Assessments at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, Hawai'i.

Re: Comm. 179  
Intr. by: Mr. Tyler (B/R)

Approved: FC-65  
 Deferred: May 2, 2001  
 Note: Comm. 417.4 requests Res. 70-01 be filed

**FILED**

Res. 130-03: Authorizes the Acceptance of Playground Equipment for the Wai'ōhinu Park. {Donation from Friends of Wai'ōhinu Park of keiki playground equipment, for ages 1-5 (estimated value of \$17,868.64).}

Re: Comm. 419  
 Intr. by: Mr. Chung  
 Approved: FC-181

**ADOPTED**

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki.

NOES: None.

ABSENT & EXCUSED: None.

Res. 131-03: Authorizes the Corporation Counsel, and His Authorized Representatives, to Enter Into an Agreement With the Individually Named Parties, Who Are and/or Were Employees of the County of Hawai'i at the Time of the Alleged Incident, to Represent Them in the Civil Action Entitled *Samuel Carvalho, Sr. vs. Shane Salis, et al.*, Civil No. 03-00243 SOM/BMK.

Re: Comm. 425  
 Intr. by: Mr. Chung  
 Waived: FC

**ADOPTED**

5 AYES: Council Members Chung, Holschuh, Reynolds, Tulang, and Chairman Arakaki.

4 NOES: Council Members Elarionoff, Jacobson, Safarik, and Tyler.

ABSENT & EXCUSED: None.

Res. 132-03: Authorizes the Corporation Counsel, and His Authorized Representatives, to Enter Into an Agreement With the Individually Named Party, Who is an Employee of the County of Hawai'i, to Represent Him in the Civil Action Entitled *Wendell Tangaro vs. Joseph Botelho, et al.*, Civil No. 03-00211 DAE/LEK.

Re: Comm. 426  
 Intr. by: Mr. Chung  
 Waived: FC

**ADOPTED**

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

1 NOES: Council Member Jacobson.

ABSENT & EXCUSED: None.

Res. 133-03: Authorizes the Corporation Counsel, and His Authorized Representatives, to Enter Into an Agreement With the Individually Named Parties, Who Are Current and Former Employees of the County of Hawai'i, to Represent Them in the Civil Action Entitled *Michael L. Dubberstein v. County of Hawai'i, et al.*, Civil No. 03-00552 SOM/BMK (Civil No. 03-1-0152K).

Re: Comm. 427

Intr. by: Mr. Chung

Waived: FC

**ADOPTED**

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

2 NOES: Council Members Jacobson and Tyler.

ABSENT & EXCUSED: None.

Res. 134-03: Authorizes the Corporation Counsel, and His Authorized Representatives, to Enter Into an Agreement With the Individually Named Party, Who is an Employee of the County of Hawai'i, to Represent Him in the Civil Action Entitled *Kealoha M.J. Wells, et al., v. Mark Farias, et al.*, Civil No. 02-1-0149K.

Re: Comm. 428

Intr. by: Mr. Chung

Waived: FC

**ADOPTED**

5 AYES: Council Members Elarionoff, Holschuh, Reynolds, Tulang, and Chairman Arakaki.

4 NOES: Council Members Chung, Jacobson, Safarik, and Tyler.

ABSENT & EXCUSED: None.

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 140: Amends Ordinance No. 03-90, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2003 to June 30, 2004. {Adds PARKS & RECREATION: Ho'okena Beach Park Water Meter (\$33,000); funds to be provided from General Obligation Bonds, Capital Projects Fund-Fund Balance and/or Other Sources (\$33,000).}

Re: Comm. 327

Intr. by: Mr. Jacobson

Approved: FC-185

2/3 Vote: Section 10-6(d), Hawai'i County Charter

and

Comm. 327.5: From Council Member Bob Jacobson, dated December 8, 2003, transmitting a revised FY2004 Data Project/Financial Impact Statement.

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

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

Bill 178  
(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 General Industrial (MG-3a) to Project District at Ooma 2<sup>nd</sup>, North Kona, Hawai'i, Covered by Tax Map Key 7-3-9:22 (approx. 83.0 acres). {Clifto's Kona Coast, LLC, applicant.}

Re: Comm. 400.11  
Intr. by: Mr. Elarionoff  
Approved: PC-65

**DEFERRED – PUBLIC HEARING TO BE HELD JANUARY 16, 2004**

Bill 183  
(Draft 2): Amends Chapter 2 of the Hawai'i County Code 1983 (1995 Edition), Administration, Relating to the Establishment of a Disaster and Emergency Fund. {Creates a special fund providing immediate response to repair county facilities and infrastructure due to damages caused by natural or man-made disasters or other emergencies, and to clean up property when such action serves a public purpose.}

Re: Comm. 414.1  
Intr. by: Mr. Arakaki  
Approved: FC-177

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

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

Bill 184: Amends Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Single Family Residential (RS-10) to Industrial-Commercial Mixed (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-37:41 (124,002 sq. ft.). {State of Hawai'i, Department of Land and Natural Resources, applicant.}

Re: Comm. 415  
Intr. by: Mr. Elarionoff  
Approved: PC-66

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

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

Bill 185: Amends Ordinance No. 03-90, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2003 to June 30, 2004. {Adds POLICE: Microwave Relocation & System Renovation – Private (\$700,000); funds to be provided from Private Contributions (\$700,000).}

Re: Comm. 418  
Intr. by: Mr. Chung  
Approved: FC-180  
2/3 Vote: Section 10-6(d), Hawai'i County Charter

and

Comm. 418.1: From Major Elroy Osorio, Jr., Technical Services, Police Department, dated December 3, 2003, transmitting an amended Project Data Report.

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

**8 AYES:** Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tyler, and Chairman Arakaki.

**NOES:** None.

**1 ABSENT & EXCUSED:** Council Member Tulang.

Bill 186: Amends Ordinance No. 03-90, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2003 to June 30, 2004. {Adds PUBLIC WORKS: Flood Disaster Projects – County Match (\$500,000); funds to be provided from General Obligation Bonds, Capital Projects Fund-Fund Balance and/or Other Sources (\$500,000).}

Re: Comm. 420  
Intr. by: Mr. Chung  
Approved: FC-182  
2/3 Vote: Section 10-6(d), Hawai'i County Charter

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

**8 AYES:** Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tyler, and Chairman Arakaki.

**NOES:** None.

**1 ABSENT & EXCUSED:** Council Member Tulang.

Bill 187 (Draft 2): Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition) Relating to Vehicles and Traffic by Exempting Totally Disabled Veterans from Certain Fees. {Exempts totally disabled veterans from certain motor vehicle fees.}

Re: Comm. 421.1  
Intr. by: Mr. Chung  
Approved: FC-183

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

**8 AYES:** Council Members Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki.

NOES: None.

1 ABSENT & EXCUSED: Council Member Chung.

Bill 188: 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 Fund Balance From Previous Year (\$312,215); appropriates same to Landfills – Other Current Expenses.}

Re: Comm. 422

Intr. by: Mr. Chung

Approved: FC-184

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

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

NOES: None.

1 ABSENT & EXCUSED: Council Member Chung.

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

Bill 179: 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 in Federal Grants – Puna Regional Circulation Plan (\$120,000); appropriates same to Puna Regional Circulation Plan.}

Re: Comm. 404

Intr. by: Mr. Chung

1<sup>st</sup> Reading: December 3, 2003

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

9 AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chairman Arakaki.

NOES: None.

ABSENT & EXCUSED: None.

Bill 180: 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 State Grants – Coordinated Services Purchase of Services (\$8,352); appropriates same to Coordinated Services Salaries and Wages. Funds will supplement the current salaries and wages budget of Coordinated Services Program and enable staff to provide in-home chore services to an increased number of disabled/older adults.}

Re: Comm. 405

Intr. by: Mr. Chung

1<sup>st</sup> Reading: December 3, 2003

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

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

Bill 181: 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 in Federal Grants – Rural Paratransit System Study (\$100,000); appropriates same to Rural Paratransit System Study.}

Re: Comm. 411  
Intr. by: Mr. Chung  
1<sup>st</sup> Reading: December 3, 2003

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

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

Bill 182: 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 in Federal Grants – Jaws of Life (\$44,000); appropriates same to Jaws of Life.}

Re: Comm. 412  
Intr. by: Mr. Chung  
1<sup>st</sup> Reading: December 3, 2003

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

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

**REPORTS**

**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. 166.1: JACK BRUNTON V. COUNTY OF HAWAI'I, ET AL.,  
CIV. NO. CV02-00414 SOM LEK  
From Corporation Counsel Lincoln S. T. Ashida, dated November 26, 2003.

**DEFERRED**

**OTHER BUSINESS**

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

**ANNOUNCEMENTS**

	<u>THURSDAY, DECEMBER 18, 2003</u>	
PLANNING COMMITTEE WORKSHOP RE GENERAL PLAN	9:00 a.m.	COUNCIL ROOM
	<u>TUESDAY, JANUARY 6, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, JANUARY 7, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
	<u>THURSDAY, JANUARY 22, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>FRIDAY, JANUARY 23, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM

**STATEMENTS FROM THE PUBLIC****ADJOURNMENT 10:50 A.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 December 15, 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, December 24, 2003, at 6 p.m.; Sunday, December 28, 2003, at 10:30 a.m.; and Wednesday, December 31, 2003, at 6 p.m.