

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*

33<sup>rd</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawaii

Wednesday, April 7, 2004  
9:00 a.m.

INVOCATION

Pastor Ed Nakamoto, New Hope Christian Fellowship

CALL TO ORDER

9:15 a.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

February 4, 2004; and February 19, 2004

**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. 160-04: Authorizes the Acceptance of a Donation of Real Property From Surety Kohala Corporation; Tax Map Key No. (3)5-4-009:001 (Por.) {Located in Honopueo, North Kohala, Hawai'i, consisting of 8,000 square feet.}

Re: Comm. 512  
Intr. by: Mr. Chung  
Approved: FC-228

*and*

Comm. 512.1: From Deputy Corporation Counsel Patricia K. O'Toole, dated March 22, 2004, transmitting Resolution 160, Draft 2. Draft 2 incorporates the following amendments: 1) Deletes the words "more or less" in the first WHEREAS clause and NOW, THEREFORE clause; 2) Property description and map attached as "Exhibit A"; 3) Deed for the donation attached as "Exhibit B"; and 4) Indicates the parties receiving copies of the resolution following its adoption.

*and*

Res. 160-04: Authorizes the Acceptance of a Donation of Real Property From Surety  
(Draft 2): Kohala Corporation; Tax Map Key No. (3)5-4-009:001 (Por.)

**ADOPTED:**

**AYES:** Council Members Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chair Arakaki – 6.

**NOES:** None.

**ABSENT & EXCUSED:** Council Members Chung, Elarionoff, and Holschuh – 3.

Res. 165-04: Creates a Deputy Division Chief Position for the Department of Environmental Management Wastewater Division. {Position to improve management of the administration duties, facilitate a reorganization plan of duties for more efficient operations and effective use of resources, assist the Division Chief with administration duties, and responsible for the activities of the Wastewater capital improvement and equipment replacement programs.}

Re: Comm. 542  
Intr. by: Mr. Chung (B/R)  
Approved: FC-229

**ADOPTED:**

AYES: Council Members Holschuh, Jacobson, Reynolds, Safarik, and Tulang – 5.  
NOES: Council Member Tyler and Chair Arakaki - 2.  
ABSENT & EXCUSED: Council Members Chung and Elarionoff – 2.

Res. 167-04: Authorizes the Acceptance of a Monetary Donation of \$500 to the Hawai'i County Police Department from Kona Coast Resort. {Funds to be used for the Hawai'i County Police Department's Special Response Team.}

Re: Comm. 545  
Intr. by: Mr. Chung  
Approved: FC-231

**ADOPTED:**

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

Res. 170-04: Authorizes the Office of the Mayor to Enter Into an Agreement With the United States of America, Pursuant to HRS 46-7, for the Substance Abuse & Mental Health Services Administration (SAMHSA) Grant for the Hawai'i Island Adolescent Treatment Program. {Funds to be used to set up a residential substance abuse treatment program for youth on the Island of Hawai'i.}

Re: Comm. 550  
 Intr. by: Mr. Chung  
 Approved: FC-233

**ADOPTED:**

**AYES:** Council Members Chung, Holschuh, Jacobson, Reynolds, Safarik, Tulang, and Chair Arakaki – 7.  
**NOES:** Council Member Tyler - 1.  
**ABSENT & EXCUSED:** Council Member Elarionoff – 1.

Res. 174-04: Authorizes the 1) Extension of the Public Sewer Along Alahou Street; and 2) Reimbursement for the Cost of Construction of the Extension for Onix Management, Inc. at Kailua-Kona, Hawai'i.

Re: Comm. 570  
 Intr. by: Mr. Reynolds  
 Waived: PEMC

**ADOPTED:**

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

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 233: Amends the State Land Use Boundaries Map, H-15 for the County of Hawai'i, by Changing the District Classification From the Agricultural to the Urban District at Waikoloa, South Kohala, Hawai'i, Covered by Tax Map Key 6-8-2:Portion of 33 (approx. 14.902 acres). {Applicant: Bay Pacific Development LLC.}

Re: Comm. 514  
Intr. by: Mr. Elarionoff  
Approved: PC-80

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

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

Bill 234: 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 Open (O) to Limited Industrial (ML-1a) at Waikoloa, South Kohala, Hawai'i, Covered by Tax Map Key 6-8-2:Portion of 33 (approx. 14.902 acres). {Applicant: Bay Pacific Development LLC.}

Re: Comm. 514  
Intr. by: Mr. Elarionoff  
Approved: PC-81

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

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

Bill 244: 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/Donation from Private Source (\$500); appropriates same to Police Administration Division – Other Current Expenses.}

Re: Comm. 545  
Intr. by: Mr. Chung  
Approved: FC-232

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

**AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chair Arakaki – 7.

**NOES:** None.

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

Bill 246: 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 – Substance Abuse & Mental Health Services Administration (\$893,987); appropriates same to Substance Abuse & Mental Health Services Administration Grant.}

Re: Comm. 550  
Intr. by: Mr. Chung  
Approved: FC-234

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

**AYES:** Council Members Chung, Holschuh, Jacobson, Reynolds, Safarik, Tulang, and Chair Arakaki – 7.

**NOES:** Council Member Tyler - 1.

**ABSENT & EXCUSED:** Council Member Elarionoff – 1.

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

Bill 219  
(Draft 2): 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 (\$4,686,988); appropriates same to the following: Coqui Frog Eradication Efforts (\$45,000), Data Systems – Equipment (\$20,000), Engineering Division – Other Current Expenses (\$221,000), Fire Protection – Other Current Expenses (\$84,639), Parks and Recreation – Friends of the Park (\$10,000), Transfer to Capital Projects Fund (\$4,171,349), and Transfer to Solid Waste Fund (\$135,000), for a total of \$4,686,988. }

Re: Comm. 473.4  
Intr. by: Mr. Arakaki  
1<sup>st</sup> Reading: March 5, 2004

**PASSED 2<sup>nd</sup> & FINAL READING:**

**AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chair Arakaki – 7.

**NOES:** None.

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

*and*

Comm. 473.5: From Building Chief Brian Kajikawa, Public Works Department, transmitting a copy of a letter report from William Bradley, Industrial Hygiene Technician, EnviroQuest, Inc., relating to the documentation of asbestos at the Hawai'i County Building, Hilo, Hawai'i.

Bill 221: 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 – County (\$500,000); funds to be provided from General Fund and/or Other Sources (\$500,000). }

Re: Comm. 474  
Intr. by: Mr. Chung  
1<sup>st</sup> Reading: March 5, 2004  
2/3 Vote: Section 10-6(d), Hawai'i County Charter

**PASSED 2<sup>nd</sup> & FINAL READING:**

**AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, and Chair Arakaki – 6.

**NOES:** Council Member Tyler - 1.

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

Bill 222: 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. {Increases PARKS AND RECREATION: Repairs to Facilities ([\$500,000] \$750,000); funds to be provided from General Fund and/or Other Sources (\$250,000).}

Re: Comm. 475  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: March 5, 2004  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

**PASSED 2<sup>nd</sup> & FINAL READING:**

**AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chair Arakaki – 7.

**NOES:** None.

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

Bill 224 (Draft 2): Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition) Relating to Vehicles and Traffic. {Proposes a Freight Loading Zone along Ali'i Drive south of the Hale Halawai parking lot.}

Re: Comm. 482.2  
 Intr. by: Mr. Safarik  
 1<sup>st</sup> Reading: March 17, 2004

**PASSED 2<sup>nd</sup> & FINAL READING:**

**AYES:** Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, Tyler, and Chair Arakaki – 7.

**NOES:** None.

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

Bill 227: 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: Machado Acres Park (\$205,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$205,000).}

Re: Comm. 494  
 Intr. by: Mr. Arakaki  
 1<sup>st</sup> Reading: March 5, 2004  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

**PASSED 2<sup>nd</sup> & FINAL READING:**

AYES: Council Members Holschuh, Jacobson, Reynolds, Safarik, Tulang, and Chair Arakaki – 6.  
 NOES: Council Member Tyler - 1.  
 ABSENT & EXCUSED: Council Members Chung and Elarionoff – 2.

Bill 232: Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition) Relating to Vehicles and Traffic. {Proposes a Passenger Loading Zone on the mauka side of Keawe Street at Waianuenue Avenue.}

Re: Comm. 513  
 Intr. by: Mr. Safarik  
 1<sup>st</sup> Reading: March 17, 2004

**PASSED 2<sup>nd</sup> & FINAL READING:**

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

**REPORTS**

FINANCIAL REPORT: Monthly Financial Status Report from the Department of Finance for the Month Ended February 29, 2004.

**APPROVED**

FC-230 (Comm. 543): Recommends the acceptance of painting supplies (valued at \$586.57) from Kubo's Kustoms to the Hawai'i County Police Department for the restoration of the Department's van used by the Special Response Team.

**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. 553: CLAIM AGAINST THE COUNTY OF HAWAI'I – ALLSTATE INSURANCE COMPANY/ANTHONY GERMANO  
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated March 9, 2004.  
**CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL**

Comm. 554: LESLIE S. ABURAMEN – CLAIM AGAINST THE COUNTY OF HAWAI'I  
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated March 9, 2004.  
**CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL**

Comm. 565: JANET BEVINS V. COUNTY OF HAWAI'I; CIVIL NO. 03-1-0069K  
 From Deputy Corporation Counsel Brandon A. K. Gonzalez, dated March 19, 2004.  
**CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL**

**OTHER BUSINESS**

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

**ANNOUNCEMENTS**

	<u>TUESDAY, APRIL 20, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM

	<u>WEDNESDAY, APRIL 21, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM

	<u>TUESDAY, MAY 4, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM

	<u>WEDNESDAY, MAY 5, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM

**STATEMENTS FROM THE PUBLIC/ADJOURNMENT**

(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 5, 2004. 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 14, 2004, at 6 p.m.; Sunday, April 18, 2004, at 10:30 a.m.; and Wednesday, April 21, 2004, at 6 p.m.