

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*

34th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Wednesday, April 21, 2004
9:00 a.m.

INVOCATION

Reverend Tim Carigon, Hilo Missionary Church

CALL TO ORDER

9:03 a.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

March 5, 2004
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

Comm. 594: HAWAI'I STATE ASSOCIATION OF COUNTIES (HSAC) FY 2004-2005 ANNUAL BUDGET
From Public Works and Intergovernmental Relations Chair Gary Safarik, dated April 7, 2004, transmitting for Council's consideration and approval, the Hawai'i State Association of Counties (HSAC) proposed Annual Budget for FY2004-2005.

Waived: PWIRC

APPROVED

ORDER OF RESOLUTIONS

Res. 161-04 Acknowledges and Recognizes the Second Saturday of October as "Lā Ho'āla Ala (Draft 3): Hele" Day ("Trail Revitalization" Day).

Re: Comm. 520.3
Intr. by: Mr. Jacobson
Approve: PWIRC-43

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: None.

Res. 169-04 Authorizes a Grant of Easement for Retaining Wall Purposes at Kona Heights (Draft 2): Subdivision, Increment II, FP 1077, Hienaloli 5th & 6th, North Kona, Island, County and State of Hawai'i, Tax Map Key: (3)7-5-29:Portion of Aloha Kona Drive and Nele Place, to Ms. Beth Ann Frye. {Fair market value of the retaining wall easement with an area of 29 square feet is \$572.}

Re: Comm. 547.1
Intr. by: Mr. Chung
Approve: FC-239

ADOPTED:

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

NOES: Council Member Elarionoff – 1.

ABSENT & EXCUSED: Council Member Holschuh – 1.

Res. 172-04: Authorizes the Acquisition of Private Properties by Eminent Domain, being Portions of Tax Map Keys: (3)2-4-003-022, 2-4-063-120, and 2-4-063-121, Situate at Waiakea, District of South Hilo, County and State of Hawai'i, for the Kawailani Street Bridge Replacement.

Re: Comm. 558
Intr. by: Mr. Arakaki
Approve: PWIRC-41
Note: First of two required readings, Section 101-13, Hawai'i Revised Statutes

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: Council Members Chung and Holschuh – 2.

Res. 177-04: Authorizes the Mayor of the County of Hawai'i to Execute and Submit the 2004 Action Plan and All Other Related Documents to the United States Department of Housing and Urban Development for the 2004 Community Development Block Grant and to the State's Housing and Community Development Corporation of Hawai'i for the HOME Investment Partnerships Programs.

Re: Comm. 579
Intr. by: Mr. Safarik
Approve : CHA - April 6, 2004

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: None.

BILLS FOR ORDINANCES (FIRST READING)

Bill 178 Amends Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25
 (Draft 2): (Zoning Code) of the Hawai'i County Code, by Changing the District
 Classification from General Industrial (MG-3a) to Project District at Ooma 2nd,
 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: December 17, 2003
 Public Hearing: January 23, 2004

AMENDED TO DRAFT 3 AND PASSED 1ST READING:

AYES: Council Members Chung, Elarionoff, Holschuh, Safarik,
 Tulang, and Chair Arakaki – 6.

NOES: Council Members Jacobson, Reynolds, and Tyler – 3.

ABSENT & EXCUSED: None.

and

- Comm. 400.12: From Planning Director Christopher J. Yuen, dated December 16, 2003, proposing language regarding the fair share condition in Condition "MM."; *and*
- Comm. 400.13: From Nicholle Davis; *and*
- Comm. 400.14: From Louis Copman, M. D., dated December 20, 2003; *and*
- Comm. 400.15: From Kathy McMillen, dated December 20, 2003; *and*
- Comm. 400.16: From Michele Nobriga-Oppliger, dated December 15, 2003; *and*
- Comm. 400.17: From Aaron Stene, dated December 22, 2003; *and*
- Comm. 400.18: From Marty and Donna Hansen, dated December 23, 2003; *and*
- Comm. 400.19: From Janice Palma-Glennie, dated December 29, 2003; *and*
- Comm. 400.20: From Richard M. Johnson; Thomas Barry, dated January 23, 2004; Kathy McKowen; and M. Oda, dated January 23, 2004; *and*
- Comm. 400.21: From Les Thuet, Keopu Estate Coffee Farm, dated January 26, 2004; *and*
- Comm. 400.22: From Charles Beyer; *and*
- Comm. 400.23: Postcards from 150 individuals; *and*
- Comm. 400.24: From Chet Hilburn Wooley; *and*
- Comm. 400.25: From G. William Huneke, dated January 12, 2004; *and*
- Comm. 400.26: From Kanak Napeahi Kupuna Alii; *and*
- Comm. 400.27: From Jerry Rothstein, dated January 23, 2004; *and*
- Comm. 400.28: From Doug Perrine; *and*
- Comm. 400.29: From E. F. Skip Brown; *and*
- Comm. 400.30: From Reverend Ken Brooks, dated January 19, 2004; *and*
- Comm. 400.31: From Steve and Georgeann Johnson, dated January 20, 2004; *and*
- Comm. 400.32: From James Karkheck, dated January 23, 2004; *and*
- Comm. 400.33: From Stanley Bond, Resource Manager, Kaloko-Honokohau National Historical Park; *and*
- Comm. 400.34: From David (Bones) Inkster; *and*
- Comm. 400.35: From Duane Erway, President, Plan to Protect Kona, dated January 23, 2004; *and*

(Note: Communications 400.36 through 400.53 are continued on the next page.)

- Comm. 400.36: From Leslie K. Laird, dated January 18, 2004; *and*
 Comm. 400.37: From Burke K. Matsuyama, Kohanaiki Business Park Association; *and*
 Comm. 400.38: From Bob Smith, dated January 21, 2004; *and*
 Comm. 400.39: From Daniel C. Olson; *and*
 Comm. 400.40: Ad sponsored by Kohanaiki 'Ohana, Na Keiki He'e Nalu, Sierra Club, and Allstar Mortgage; *and*
 Comm. 400.41: From Karen Eoff, dated January 23, 2004; *and*
 Comm. 400.42: From Ginger Thomas; *and*
 Comm. 400.43: From Eric von Platen Luder, President, Kona-Kohala Chamber of Commerce, dated January 22, 2004; *and*
 Comm. 400.44: From Charles Beyer, dated January 24, 2004; *and*
 Comm. 400.45: From David and Denise Dressler, dated January 19, 2004; *and*
 Comm. 400.46: From Kathy Melby and Philip Story, dated January 29, 2004; *and*
 Comm. 400.47: From Aaron Stene, dated January 30, 2004; *and*
 Comm. 400.48: Postcards from 45 individuals; *and*
 Comm. 400.49: From Robert G., dated February 23, 2004; *and*
 Comm. 400.50: From Jeff Smith, Executive Director, Natural Energy Laboratory of Hawai'i Authority (NELHA), dated February 24, 2004; *and*
 Comm. 400.51: From Laura Nutting, dated March 19, 2004; *and*
 Comm. 400.52: From Kaulana Scalise, dated January 24, 2004; and Melanie K., dated February 4, 2004; *and*
 Comm. 400.53: From Sidney M. Fuke, Planning Consultant, dated March 18, 2004.

(Note: There is a pending motion by Mr. Elarionoff and duly seconded by Mr. Holschuh to approve Bill 178, Draft 2.)

- Bill 228
 (Draft 2): Amends Ordinance No. 03-49 of the County of Hawai'i Adopted on March 25, 2003, as Amended by Ordinance No. 03-125 Adopted on August 27, 2003, Relating to the Issuance of General Obligation Bonds. {Adds two new CIP Projects, Pū'āinakō Sewer Improvement District and North Kona Sewer Improvement District.}

Re: Comm. 500.1
 Intr. by: Mr. Chung (B/R)
 Approve: FC-236

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: None.

Bill 230: Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition) Relating to Vehicles and Traffic. {Proposes to change the posted speed limit reducing it from 40 MPH to 35 MPH along Kaloko Drive due to excessive speeding.}

Re: Comm. 504
 Intr. by: Mr. Safarik
 File: PWIRC-42

FILED

Bill 236: Ordinance to Initiate a Charter Amendment to the Hawai'i County Charter (2000), Relating to the Legislative Branch-Vacancy in Office. {Allows the voters of a council district in the County of Hawai'i to elect their council member when a vacancy has occurred during a two-year term (only when a vacancy occurs in the last ten months of a council term would the current appointment procedures apply)}.

Re: Comm. 518
 Intr. by: Mr. Arakaki
 Approve: FC-238

PASSED 1ST READING:

AYES: Council Members Elarionoff, Holschuh, Jacobson, Reynolds, Tulang, and Chair Arakaki – 6.
NOES: Council Members Chung, Safarik, and Tyler – 3.
ABSENT & EXCUSED: None.

Bill 239: 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: Prosecuting Attorney's Office at Aupuni Center (\$3,450,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$3,450,000). Funds to be used for the design and construction of offices at Aupuni Center for the Prosecuting Attorney and his staff.}

Re: Comm. 523
 Intr. by: Mr. Chung
 Approve: FC-237
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 1ST READING:

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

Bill 245: Amends Chapter 21 of the Hawai'i County Code 1983 (1995 Edition), Relating to Sewers (Laterals). {Requires the County to construct the lateral when a landowner is required to hook up to the sewer system in order to receive final inspection approval.}

Re: Comm. 549
Intr. by: Mr. Arakaki
Approve: PEMC-15

PASSED 1ST READING:

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

NOES: Council Members Jacobson and Tyler – 2.

ABSENT & EXCUSED: None.

Bill 250: Amends Chapter 21, of the Hawai'i County Code 1983 (1995 Edition), Relating to Sewer Connection Requirements. {Deletes provisions that allow exceptions to the connection requirements for lots accessible to a sewer and establishes a process for requesting a variance/exemption to the connection requirements.}

Re: Comm. 566
Intr. by: Mr. Reynolds (B/R)
File: PEMC-16

DEFERRED TO MAY 5TH COUNCIL MEETING:

and

Comm. 566.4: From Marjorie Erway, dated April 5, 2004.

Bill 257: 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 – Block Grant (\$2,797,603); appropriates same to the following: Hale Ohana Family Transitional Shelter – Renovations (\$163,000), Removal of Architectural Barriers – Americans with Disabilities Act Compliance – Various County Facilities (\$1,646,603), Solid Waste Recycle Centers – Design and Construction (\$250,000), Kohala Senior Center Roof Replacement (\$85,000), Care-A-Van Acquisition of Vehicles (four) (\$106,000), Construction Management (\$181,000), and Administration, Planning & Fair Housing (\$366,000), for a total of \$2,797,603.

Re: Comm. 580
 Intr. by: Mr. Safarik
 Approve: CHA – April 6, 2004

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: Council Member Chung – 1.

Bill 258: 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 – 2004 HOME Program (\$1,086,413); appropriates same to the following: 2020 Kino'ole Senior Residences (\$930,580), Downpayment Assistance (69,833), and Office of Housing and Community Development Administration (\$86,000), for a total of \$1,086,413.

Re: Comm. 581
 Intr. by: Mr. Safarik
 Approve: CHA – April 6, 2004

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: None.

ORDER OF THE DAY (SECOND OR FINAL 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
 1st Reading: April 7, 2004

PASSED 2nd & FINAL READING:

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

NOES: None.

ABSENT & EXCUSED: None.

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
 1st Reading: April 7, 2004

PASSED 2nd & FINAL READING:

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

NOES: None.

ABSENT & EXCUSED: None.

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
 1st Reading: April 7, 2004

PASSED 2nd & FINAL READING:

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

NOES: None.

ABSENT & EXCUSED: None.

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
 1st Reading: April 7, 2004

PASSED 2nd & FINAL READING:

AYES: Council Members Chung, Elarionoff, Holschuh, Jacobson, Reynolds, Safarik, Tulang, and Chair Arakaki – 8.

NOES: Council Member Tyler – 1.

ABSENT & EXCUSED: None.

REPORTS

FC-235 Recommends the appointment of Mr. Jeffrey B. Judd (Council District 6) to the
 (Comm. 563): Salary Commission.

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. 409.2: SAMUEL CARVALHO, SR. V. SHANE SALIS, ET AL., CIVIL NO. 03-00243 SOM/BMK

From Deputy Corporation Counsel Harry P. Freitas, dated April 8, 2004.

CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 592: KEOLA KANAE V. KAHIKI M. H. HODSON, CIVIL NO. 02-00399 SOM/LEK
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated April 12, 2004.

CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 593: RANDALL SAUNDERS VS. COUNTY OF HAWAI'I; ATX-2004-10

From Deputy Corporation Counsel Joseph K. Kamelamela, dated April 12, 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, MAY 4, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, MAY 5, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
	<u>TUESDAY, MAY 18, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, MAY 19, 2004</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES - HILO	5:00 p.m.	
	<u>THURSDAY, MAY 20, 2004</u>	
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES - KONA	6:00 p.m.	OHANA KEAUHOU BEACH RESORT

STATEMENTS FROM THE PUBLIC/ADJOURNMENT 3:32 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 19, 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 28, 2004, at 6 p.m.; Sunday, May 2, 2004, at 10:30 a.m.; and Wednesday, May 5, 2004, at 6 p.m.