

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*

35<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, May 5, 2004  
9:00 a.m.

INVOCATION

Pastor Harlan Kalles, Family Christian Center

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

March 17, 2004

(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. 607: NOMINATIONS TO THE HAWAI'I STATE ASSOCIATION OF COUNTIES (HSAC) EXECUTIVE COMMITTEE FOR FISCAL YEAR 2004-2005  
 From Public Works and Intergovernmental Relations Chair Gary Safarik, dated April 23, 2004, requesting Council's consideration in submitting nominations for the following positions: 1) HSAC Executive Committee; 2) Western Interstate Region (WIR) Board; 3) HSAC Special Committee on Solid Waste Management; and 4) National Association of Counties (NACo) Transportation Steering Committee.

Waived: PWIRC

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

**ORDER OF RESOLUTIONS**

Res. 176-04: Repeals Resolution 99-01 and Authorizes the Director of Finance to Accept the Return of Real Property Being Parcel 11, Situate at Kauhakō, South Kona, Island, County and State of Hawai'i, Tax Map Key: (3)8-6-009:011. {Department of Water Supply desires to return said parcel as they have decided not to build the standpipe facility at this site.}

Re: Comm. 578  
 Intr. by: Mr. Chung  
 Approve: FC-243

Res. 178-04: Amends Resolution No. 37-03 by Increasing the Square Footage of Office Space in the Kona Driver License Section's Multi-Year Lease. {Total office space to be leased at 75-5722 Hanama Place will be 2,622 square feet at a cost of \$6,009/month, replacing the original amounts of 2,000 square feet and \$4,584/month, respectively.}

Re: Comm. 583  
 Intr. by: Mr. Chung  
 Approve: FC-244

Res. 179-04: Approves the Cost Items Decided Upon by an Arbitration Panel Affecting Hawai'i Government Employees Association (HGEA) Units 02, 03, 04, 13 and Employees Excluded from those Units for the Contract Period July 1, 2003, through June 30, 2005. {Cost items are across-the-board increases, step movements, and an increase in mileage reimbursement.}

Re: Comm. 584  
 Intr. by: Mr. Chung  
 Approve: FC-245

Res. 180-04  
(Draft 3): Supports Expediting the Process to Bring Online One of the Three Waste Reduction Technologies Enumerated in the Final Draft of the Integrated Solid Waste Management Plan.

Re: Comm. 591.4  
Intr. by: Mr. Tulang  
Approve : PEMC-17

*and*

Comm. 591.3: From Joyce Alberta Folena and Gregory Todd Smith, dated April 22, 2004; *and*  
Comm. 591.5: From Council Member Joseph Reynolds, dated April 22, 2004.

Res. 181-04: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers \$10,000 out and from the Clerk-Council Service - Miscellaneous Contract Service account; and credits same to Clerk-Council Service - Overtime Salaries and Wages account. Funds to be used to support upcoming public hearings, the archiving project, and extra work hours due to staff shortage in the Council section.};

Re: Comm. 596  
Intr. by: Mr. Arakaki  
Waived: FC

*and*

Res. 181-04  
(Draft 2): Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers \$25,000 out and from the Clerk-Council Service – Miscellaneous Contract Service account; and credits same to Clerk-Council Service – Overtime Salaries and Wages Reprographics – Rental/Lease of Equipment account. Purpose of the \$15,000 amendment is to cover the significant increase in copies being reproduced.};

Re: Comm. 596.1  
Intr. by: Mr. Arakaki  
Waived: FC

*and*

Comm. 596.2 From Finance Chair Aaron S. Y. Chung, dated April 26, 2004, requesting Resolution 181-04 and Resolution 181-04, Draft 2, be waived from the Finance Committee.

Res. 182-04: Recognizes May as National Drug Court Month.

Re: Comm. 608  
Intr. by: Mr. Chung  
Waived: FC

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 189: Amends Chapter 2, of the Hawai'i County Code 1983 (1995 Edition), by Adding a New Article to Provide for the Establishment of a Shippers' Wharf Committee Trust Fund. {Establishment of this fund within the Hawai'i County Code allows the County to properly administer the funds of the Shipper's Wharf Committee Trust Fund, as instructed under the provisions of the April 2001 Order of the Third Circuit Court.}

Re: Comm. 423  
 Intr. by: Mr. Chung  
 File: FC-248

Bill 209 (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-5a) to Single Family Residential (RS-7.5) at Puapuaa 2nd, North Kona, Hawai'i, Covered by Tax Map Key 7-5-20:71 and 72 (approx. 10.1 acres). {Lehua Lani, LLC, applicant.}

Re: Comm. 455.5  
 Intr. by: Mr. Elarionoff  
 Negative: PC-88 (due to a vote of 3 ayes, 3 noes & 3 excused)

*and*

Comm. 455.4: From Kawika Locke, Luana Nascimento, Ynez Blas, Lovena Youdfrian, and Dana Locke, dated April 19, 2004; *and*  
 Comm. 455.6: From Tonino Benson, submitting a petition containing 49 signatures; *and*  
 Comm. 455.7: From William LaMarco, dated April 25, 2004; *and*  
 Comm. 455.8: From Peter Benson, dated April 26, 2004; *and*  
 Comm. 455.9: From Mary Benson, dated April 26, 2004, submitting a petition containing 23 signatures.

Bill 213 (Draft 2) (1998): Amends Chapter 2, Administration, of the Hawai'i County Code 1983 (1995 Edition), by Adding a New Article Entitled "Condemnation Notification Procedures."

Re: Comm. 770.01  
 Intr. by: Mr. Yagong  
 Approve: PWPC-109/(1998)  
 File: PWIRC-46

*and*

Comm. 611: From Assistant Corporation Counsel Gerald Takase, dated April 27, 2004.

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: April 21, 2004

*and*

Comm. 566.4: From Marjorie Erway, dated April 5, 2004; *and*  
 Comm. 566.5: Copy of letter from Deputy Corporation Counsel Ivan M. Torigoe, dated November 25, 2002; *and*  
 Comm. 566.6: From Council Member Gary Safarik, dated April 21, 2004.

**(Note: There is a pending motion by Mr. Jacobson and duly seconded by Mr. Tyler to approve Bill 250.)**

Bill 253: Amends Chapter 2 and Chapter 18 of the Hawai'i County Code 1983 (1995 Edition), as Amended, Relating to Administration and to Mass Transit. {Properly identifies the departments and agencies under the direct or administrative supervision of the managing director, instead of the Mayor; replaces all references of "mass transportation" and "transportation coordinator" with "mass transit" and "mass transit administrator", respectively; and reflects the recent conversion of the mass transit administrator position from exempt to civil service and to note it now as the agency's chief administrator.}

Re: Comm. 568  
 Intr. by: Mr. Chung  
 Approve: FC-249

Bill 254: Authorizes the Issuance of General Obligation Bonds of the County of Hawai'i for the Purpose of Financing Various Public Improvements of the County of Hawai'i; Fixing the Form, Denominations, and Certain Other Details of Such Bonds and Providing for their Sale to the Public; and Authorizing the Issuance and Sale of a Like Principal Amount of General Obligation Bond Anticipation Notes in Anticipation of the Issuance and Sale of Such Bonds. {General obligation bonds not to exceed \$40 million for the purpose of financing critical and overdue highway construction and road improvement projects with an apportionment of the proceeds among the districts.}

Re: Comm. 572  
 Intr. by: Mr. Chung  
 Approve: FC-240

Bill 256  
(Draft 2): Adopts a Pay Plan for Persons Employed by the County Other Than Those Whose Pay is Otherwise Provided for, Designating Payroll Periods, Pay Days, Prescribing Requirements with Respect to Official Fidelity Bonds, and Repealing Ordinance No. 03-86 and All Amendments Thereto, said Ordinance to be Known as the Salary Ordinance of 2004;

Re: Comm. 576.1  
Intr. by: Mr. Arakaki  
Approve: FC-242

*and*

Comm. 576.2: From Legislative Auditor Constance R. Kiriu, dated April 20, 2004.

Bill 259: Amends Ordinance No. 99-41 of the County of Hawai'i Adopted on April 12, 1999, as Amended by Ordinance No. 00-56 Adopted on May 17, 2000, Relating to the Issuance of General Obligation Bonds for the Purpose of Financing Various Public Improvements for the County of Hawai'i. {Amendments include: Prosecuting Attorneys Office at Aupuni Center (\$1,750,000), Scottie White Bridge Replacement (\$240,000), and Wood Valley Road Repairs (\$500,000).}

Re: Comm. 585  
Intr. by: Mr. Chung  
Approve: FC-246

Bill 260: Amends Chapter 24, Article 4, Section 24-17 of the Hawai'i County Code 1983 (1995 Edition), Relating to Vehicles and Traffic. {Increases the annual weight tax rate for passenger vehicles and trucks and non-commercial vehicles from ½ cent per pound to ¾ cent per pound; and for trucks or commercial vehicles from 1 cent per pound to 2 cents per pound.};

Re: Comm. 589  
Intr. by: Mr. Chung, Mr. Safarik, Mr. Reynolds,  
Mr. Holschuh, Mr. Elarionoff, Mr. Arakaki,  
and Mr. Jacobson  
Approve: FC-247

*and*

Comm. 589.3: From Council Chair James Y. Arakaki, dated April 22, 2004, transmitting Bill 260, Draft 3. {Draft 3 amends SECTION 1 to include Mass Transit Agency services; and submits corrected Exhibits A and B (which show no impact on motorcycles).};

*and*

*(Bill 260, Draft 3, is continued on the next page.)*

Bill 260  
(Draft 3): Amends Chapter 24, Article 4, Section 24-17 of the Hawai'i County Code 1983 (1995 Edition), Relating to Vehicles and Traffic.

Intr. by: Mr. Tulang, Mr. Reynolds, Mr. Elarionoff,  
Mr. Jacobson, Mr. Holschuh, Mr. Arakaki,  
and Mr. Chung

Bill 265: 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 – Workforce Investment Act 2004 (\$2,079,858); appropriates to the following: Workforce Investment Act – Administration Planning 2004/05 (\$207,985), Workforce Investment Act – Adult Program 2004-05 (\$720,450), Workforce Investment Act – Dislocated Worker Program 2004-05 (\$394,231), Workforce Investment Act – Youth Program 2004-05 (\$757,192), for a total of \$2,079,858.}

Re: Comm. 609  
Intr. by: Mr. Safarik  
Waived: CHA

Bill 272  
(2002): Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition), Relating to Vehicles and Traffic, to Clarify the Director of Public Works' Authority to Regulate Parking at County Facilities. {Includes the new Aupuni Center facility; parking at such facilities to include public off-street parking, employee parking, and special parking; authority to establish employee parking regulations; and authority to issue special permits for special events.}

Re: Comm. 782  
Intr. by: Mr. Elarionoff  
No Recommendation: PWIRC-5/(2002) (due to a vote of  
3 ayes, 3 noes & 3 excused)  
File: PWIRC-45

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

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 Kawaiiani Street Bridge Replacement.

Re: Comm. 558  
Intr. by: Mr. Arakaki  
1<sup>st</sup> Reading: April 21, 2004  
Note: Second of two required readings,  
Section 101-13, Hawai'i Revised Statutes

Bill 178  
(Draft 3): 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. 400.62  
Intr. by: Mr. Elarionoff  
Deferred: December 17, 2003  
Public Hearing: January 23, 2004  
1<sup>st</sup> Reading: April 21, 2004

*and*

Comm. 400.55: From Lane Kaaiaai, dated April 20, 2004; *and*  
Comm. 400.56: From Dr. Robert Warmington, dated April 21, 2004; *and*  
Comm. 400.57: From Louis Copman, M.D., dated April 19, 2004; *and*  
Comm. 400.58: From Cliff M. Morris, Managing Member, Clifto's Kona Coast, LLC; *and*  
Comm. 400.59: From Mark Wilson, dated April 20, 2004; *and*  
Comm. 400.60: From Aaron Stene, dated April 21, 2004; *and*  
Comm. 400.61: From Richard A. Pound, G. Paul, and Jan Edward J., dated April 20, 2004; *and*  
Comm. 400.63: From Larry K. Bryan, dated April 24, 2004.

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)  
1<sup>st</sup> Reading: April 21, 2004

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  
1<sup>st</sup> Reading: April 21, 2004  
2/3 Vote: Second of three required readings, Section 15-1(a), Hawai'i County Charter

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  
1<sup>st</sup> Reading: April 21, 2004  
2/3 Vote: Section 10-6(d), Hawai'i County Charter

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  
1<sup>st</sup> Reading: April 21, 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  
1<sup>st</sup> Reading: April 21, 2004

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  
1<sup>st</sup> Reading: April 21, 2004

**REPORTS**

- FINANCIAL REPORT: Monthly Financial Status Report from the Department of Finance for the Month Ended March 31, 2004.
- PWIRC-44 (Comm. 582): Recommends denial of the sign variance request and that Communication 582 be filed.
- PC-82 (Comm. 564): Recommends approval of the nomination of Phil A. Davis to the Kailua Village Design Commission.
- PC-83 (Comm. 564): Recommends approval of the nomination of Francis I. Kuailani, Sr., to the Kailua Village Design Commission.
- PC-84 (Comm. 586): Recommends approval of the nomination of Diane Gentry (Council District 5) to the Board of Appeals.
- PC-85 (Comm. 587): Recommends approval of the nomination of Bernard M. Konanui (Council District 5) to the Water Board.
- FC-241 (Comm. 575): Recommends the acceptance of monetary donations of \$25 and \$30 by Patrick and Patricia Milligan, and Ruth Ching (in memory of Bernard Schwab), for programs at the Pana'ewa Rainforest Zoo.

**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. 603: CLAIM AGAINST THE COUNTY OF HAWAI'I/EDWARD R. PAKCHONG  
From Deputy Corporation Counsel Joseph K. Kamelamela, dated April 19, 2004.
- Comm. 362.1: WALTER JOHN KELLY, ET. AL. V. 1250 OCEANSIDE PARTNERS, ET. AL.  
CIVIL NO. 00-1-00192K  
From Deputy Corporation Counsel Ivan M. Torigoe, dated April 26, 2004.

**OTHER BUSINESS**

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

**ANNOUNCEMENTS**

COMMITTEES	<u>TUESDAY, MAY 18, 2004</u> TBA	COUNCIL ROOM
COUNCIL	<u>WEDNESDAY, MAY 19, 2004</u> 9:00 a.m.	COUNCIL ROOM
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES – HILO	5:00 p.m.	
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES – KONA	<u>THURSDAY, MAY 20, 2004</u> 6:00 p.m.	OHANA KEAUHOU BEACH RESORT
HEARING ON VEHICLE WEIGHT TAX (TO FOLLOW)	To Follow	

**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 May 3, 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, May 12, 2004, at 6 p.m.; Sunday, May 16, 2004, at 10:30 a.m.; and Wednesday, May 19, 2004, at 6 p.m.