

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*

40<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Friday, July 23, 2004  
9:00 a.m.

INVOCATION

Reverend Midori Kondo, Honpa Hongwanji Hilo Betsuin

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

May 19, 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**

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

**ORDER OF RESOLUTIONS**

Res. 198-04 (Draft 2): Accepts the Dedication of Road Right-of-Way Approximately 15,768 Square Feet for the Kikaha Street Extension from Gerald T. Kodama, Situate at Waiākea, District of South Hilo, County and State of Hawai'i, Bearing Tax Map Key (3) 2-4-003:074 (Por.), to the County of Hawai'i;

Re: Comm. 652.1  
Intr. by: Mr. Safarik  
Approve: PWIRC-55

*and*  
Comm. 652.2: From Council Member Gary Safarik, dated July 14, 2004.

Res. 200-04: Authorizes the Acceptance of a Donation of Equipment to the Aquatics Division of the Department of Parks and Recreation from the Neighborhood Place of Kona's Pulama Project and is valued at \$2,400. {To be used for the Junior Lifesaving and Guardstart programs at the Konawaena Pool.}

Re: Comm. 660  
Intr. by: Mr. Chung  
Approve: FC-268

Res. 201-04: Authorizes the Payment of Funds of a Later Fiscal Year and of More than One Fiscal Year for Multi-Year Leases for Two (2) Copiers for the Office of the Corporation Counsel's Family Support Division. {This five-year lease agreement for the copiers will increase staff productivity via faster digital copying, scanning, and network printing.}

Re: Comm. 661  
Intr. by: Mr. Chung  
Approve: FC-269

Res. 202-04: Approves the Cost Items Provided for in a Supplemental Agreement Affecting SHOPO Bargaining Unit 12 and Employees Excluded from Bargaining Unit 12 for the Period July 1, 2004 Through June 30, 2007. {Cost item presented is an increase to the automobile allowance for police officers, both included and excluded, from the bargaining unit. }

Re: Comm. 662  
 Intr. by: Mr. Chung  
 Approve: FC-270

Res. 203-04: Authorizes the Acquisition of Private Property by Eminent Domain or Negotiation for the Pahoia Village Resource Park, Pahoia, District of Puna, County and State of Hawai'i, Being Tax Map Key: (3)1-5-002:024;

Re: Comm. 663  
 Intr. by: Mr. Safarik  
 Approve: PWIRC-56  
 Note: First of two required readings,  
 Section 101-13, Hawai'i Revised Statutes

*and*

Comm. 663.9: From Finance Director William Takaba, dated July 9, 2004; *and*  
 Comm. 663.10: From Council Member Gary Safarik, dated July 14, 2004, transmitting Resolution 203-04, Draft 2. {Draft 2 places a limit on land acquisition costs.}; *and*  
 Res. 203-04 (Draft 2): Authorizes the Acquisition of Private Property by Eminent Domain or Negotiation for the Pahoia Village Resource Park, Pahoia, District of Puna, County and State of Hawai'i, Being Tax Map Key: (3)1-5-002:024;

Intr. by: Mr. Safarik

*and*

Comm. 663.11: From Director of Finance William Takaba, dated July 15, 2004.

Res. 204-04: Authorizes the Acceptance of a Monetary Donation of Two Thousand Dollars (\$2,000) from the Daniel R. Sayre Memorial Foundation to the Hawai'i County Fire Department. {Funds to be used for the purchase of a Fire Cranial Audio Transmission (C.A.T.) Portable Command Post 2001-CP radio. }

Re: Comm. 665  
 Intr. by: Mr. Chung  
 Approve: FC-271

Res. 205-04: Authorizes the Payment of Funds of a Later Fiscal Year and of More than One Fiscal Year for a Multi-Year Lease for a Copier for the Parks and Recreation Department's Elderly Activities Division. {This three-year lease agreement for the copier should increase the productivity and efficiency of the division.};

Re: Comm. 666  
Intr. by: Mr. Chung  
Approve: FC-273

*and*

Comm. 666.1: From Elderly Activities Division Director Harold Bugado, Parks and Recreation – Elderly Activities Division, dated July 12, 2004.

Res. 206-04: Approves the Cost Adjustments Authorized by the Appropriate Authority for Excluded Managerial Employees of the County of Hawai'i for the period July 1, 2003, Through June 30, 2005. {Cost items presented are an across-the-board increase and step movements.}

Re: Comm. 671  
Intr. by: Mr. Chung  
Approve: FC-274

Res. 207-04: Authorizes the Office of the Mayor to Enter into an Agreement with the State of Hawai'i Department of the Attorney General, Pursuant to HRS 46-7, for the Weed and Seed Coordinator Grant. {Funds to be used to subcontract with an agency for the coordination of the Weed and Seed project in Pāhoa town.}

Re: Comm. 681  
Intr. by: Mr. Chung  
Waived: FC

Res. 208-04: Authorizes the Office of the Mayor to Enter into an Agreement with the State of Hawai'i Department of the Attorney General, Pursuant to HRS 46-7, for the Sex Offender Publication and Tracking Program Grant. {Funds to be used to assist in a statewide program to register and track sex offenders.}

Re: Comm. 682  
Intr. by: Mr. Chung  
Waived: FC

Res. 209-04: Authorizes the Acceptance of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) from the United States Department of the Interior National Park Service. {Funds to be used to purchase a fire engine for Fire Station 19, located at Kilauea Military Camp (KMC), to ensure continued fire and emergency services in the Volcano area.}

Re: Comm. 685  
 Intr. by: Mr. Chung  
 Waived: FC

Res. 211-04: Resolution of Final Determination to Proceed to Create, Define, Finance and Construct a Water System Improvement District for the Kona Coastview and Kona Wonderview Subdivisions. {Timely adoption of this resolution will facilitate a critical timetable of actions by the Council, which includes adoption of an ordinance establishing assessments for the Kona Coastview and Kona Wonderview Water Improvement District, adoption of bond ordinances to close all loans for this project, and to facilitate timely start-up of construction.};

Re: Comm. 693  
 Intr. by: Mr. Tyler  
 Waived: FC

*and*

Comm. 693.1: From Amber and Dan Ellis, dated July 7, 2004; *and*  
 Comm. 693.2: Bid Tabulations, Submitted by the Legislative Auditor's Office; *and*  
 Comm. 693.3: From Elaine Coats, dated July 12, 2004; *and*  
 Comm. 693.4: From Joseph M. Gatti and Amy R. Fine, dated July 12, 2004; *and*  
 Comm. 693.5: General Layout Plan (Map), Submitted by the Legislative Auditor's Office; *and*  
 Comm. 693.6: Improvement District Information Summary, Submitted by the Legislative Auditor's Office; *and*  
 Comm. 693.7: From Susan McGeachy, dated July 12, 2004; *and*  
 Comm. 693.8: From John Delmon Dykes, Jr., dated June 28, 2004; *and*  
 Comm. 693.9: From John Delmon Dykes, Jr., dated July 9, 2004; *and*  
 Comm. 693.10: From Lorraine P. Shin, State Director, USDA Rural Development, dated July 9, 2004; *and*  
 Comm. 693.11: From John Delmon Dykes, Jr., dated July 13, 2004.

Res. 212-04: Authorizes the Mayor or His Duly Authorized Representative to Negotiate and to Execute Necessary Documents with RS10 Kalaoa, LLC, to Satisfy Condition "K" of Ordinance No. 97-56.

Re: Comm. 694  
 Intr. by: Mr. Safarik  
 Approve: CHA – July 7, 2004

Res. 213-04: Authorizes the Mayor or His Duly Authorized Representative to Negotiate and to Execute Necessary Documents with WB KD Acquisitions, LLC, to Satisfy Condition "T" of Ordinance No. 99-42.

Re: Comm. 695  
Intr. by: Mr. Safarik  
Approve: CHA – July 7, 2004

Res. 214-04: Accepts the Donation of a Roadway Lot Known as Ainaloa Boulevard from the Ainaloa Community Association, Inc. {Replaces Resolution 217-02, which was filed at the Council's June 16, 2004, meeting.}

Re: Comm. 696  
Intr. by: Mr. Safarik  
Waived: PWIRC

#### **BILLS FOR ORDINANCES (FIRST READING)**

Bill 282: Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Contribution from Private Source (\$2,000); appropriates same to Rescue Equipment – Private.}

Re: Comm. 665  
Intr. by: Mr. Chung  
Approve: FC-272

Bill 283: Amends the State Land Use Boundaries Map, H-14 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Rural District at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-11:10 (approx. 5.832 acres). {Nedra Roberts, Applicant.}

Re: Comm. 667  
Intr. by: Mr. Elarionoff  
Approve: PC-94

Bill 284: Amends Section 25-8-7 (North and South Kohala District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-11:10 (approx. 5.832 acres). {Nedra Roberts, Applicant.}

Re: Comm. 667  
Intr. by: Mr. Elarionoff  
Approve: PC-95

Bill 285: Amends the State Land Use Boundaries Map, H-14 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Rural District at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-11:16 (approx. 5.002 acres). {Gary and Betsy Queen, Applicant.}

Re: Comm. 668  
Intr. by: Mr. Elarionoff  
Approve: PC-96

Bill 286: Amends Section 25-8-7 (North and South Kohala District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Agricultural (A-5a) to Residential and Agricultural (RA-2a) at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-11:16 (approx. 5.002 acres). {Gary and Betsy Queen, Applicant.}

Re: Comm. 668  
Intr. by: Mr. Elarionoff  
Approve: PC-97

Bill 287: Amends Section 25-8-2 (North and South Kona District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Agricultural (A-20a) to Agricultural (A-10a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-26:15 (approx. 25.687 acres.) {William H. McClintick, Applicant.}

Re: Comm. 669  
Intr. by: Mr. Elarionoff  
Approve: PC-98

Bill 292: Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. { Appropriates revenues in Federal Grants – Weed & Seed Coordinator (\$52,222); appropriates same to Weed & Seed Coordinator. }

Re: Comm. 681  
 Intr. by: Mr. Chung  
 Waived: FC

Bill 293: Amends Ordinance 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. { Appropriates revenues in Federal Grants – Sex Offender Publication & Tracking Program (\$147,179); appropriates same to Sex Offender Publication & Tracking Program. }

Re: Comm. 682  
 Intr. by: Mr. Chung  
 Waived: FC

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

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 and May 5, 2004  
 Public Hearing: January 23, 2004  
 1<sup>st</sup> Reading: April 21, 2004

*and*

Comm. 400.55: From Lane Kaaiyai, 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.

**(Note: There is a pending motion by Mr. Elarionoff and duly seconded by Mr. Reynolds to approve Bill 178, Draft 3.)**

Bill 279  
(Draft 2): Amends Chapter 2, Article 16 of the Hawai'i County Code 1983 (1995 Edition), Administration, Relating to Travel and Other Expenses. {Increases the allowable daily rental cost of U-drive cars and parking charges from \$50 to \$75 a day.};

Re: Comm. 646.1  
Intr. by: Mr. Arakaki (B/R)  
1<sup>st</sup> Reading: July 8, 2004

*and*

Comm. 646.3: From Finance Director William Takaba, dated June 30, 2004.

## REPORTS

FC-267  
(Comm. 659): Recommends the acceptance of a monetary donation of \$50 by Patrick and Patricia Milligan (in memory of Mrs. Miyako Takeda and Mrs. Joyce Watts), to the Parks and Recreation Department 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. 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.

Deferred: May 5, May 19, June 2, and July 8, 2004

*and*

Comm. 362.2: From Deputy Corporation Counsel Ivan M. Torigoe, dated May 4, 2004; *and*  
Comm. 362.3: From Deputy Corporation Counsel Ivan M. Torigoe, dated May 17, 2004; *and*  
Comm. 362.4: From Deputy Corporation Counsel Ivan M. Torigoe, dated June 1, 2004; *and*  
Comm. 362.5: From Deputy Corporation Counsel Ivan M. Torigoe, dated July 1, 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, AUGUST 3, 2004</u> TBA	COUNCIL ROOM
COUNCIL	<u>WENDESDAY, AUGUST 4, 2004</u> 9:00 a.m.	COUNCIL ROOM
COMMITTEES	<u>TUESDAY, AUGUST 17, 2004</u> TBA	COUNCIL ROOM
COUNCIL	<u>WENDESDAY, AUGUST 18, 2004</u> 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 July 21, 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, July 28, 2004, at 6 p.m.; Sunday, August 1, 2004, at 10:30 a.m.; and Wednesday, August 4, 2004, at 6 p.m.