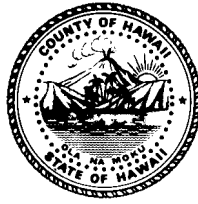


JAMES Y. ARAKAKI  
*Chairman & Presiding Officer*

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*

42<sup>nd</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, August 18, 2004  
9:00 a.m.

INVOCATION                      Reverend Brian Welsh, Haili Church

CALL TO ORDER                **9:11 a.m.**

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES      June 2, 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**

**ORDER OF RESOLUTIONS**

Res. 226-04: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits the Same to a Designated Fund Account(s).  
{Transfers/appropriates \$8,703.50 out and from the Clerk-Council Services – Contingency Relief Miscellaneous Charges account; credits same to the Prosecuting Attorney – Weed & Seed Coordinator account.}

Re: Comm. 726  
Intr. by: Mr. Safarik  
Waived: FC

**AMENDED WITH DRAFT 2 & ADOPTED:**

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

**NOES:** None.

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

**BILLS FOR ORDINANCES (FIRST READING)**

Bill 249: Amends Section 25-8-28 (Ka'u 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 Project District at Palima and Paauau, Ka'u, Hawai'i, Covered by Tax Map Key 9-6-5:18 and 9-6-6:4 (approx. 171.782 acres, more or less). {Hester Farming Co., LLC, Applicant.};

Re: Comm. 561  
Intr. by: Mr. Elarionoff  
Deferred: May 19, 2004  
Public Hearing: June 7, 2004  
Approve: PC-90

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

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

**NOES:** Council Members Jacobson and Tyler – 2.

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

*and*

Comm. 561.3: From Samuel Keolamauloa Kaluna, II, Prime Minister, Na Kupuna Council O Hawai'i Nei, Na Kupuna Council Hawai'i Moku, dated June 9, 2004; *and*

Comm. 561.4: From Richard and Sandra Reha, and Mary and Clint Strong, dated June 3, 2004; *and*

- Comm. 561.5: Petition containing 16 signatures; *and*
- Comm. 561.6: Petition containing 69 signatures; *and*
- Comm. 561.7: From "Very Concerned Citizens"; *and*
- Comm. 561.8: From Sidney M. Fuke, of "Sidney Fuke, Planning Consultant", dated August 10, 2004.

**(Note: There is a pending motion by Mr. Elarionoff and duly seconded by Mr. Holschuh to approve Bill 249.)**

Bill 289: Repeals Ordinance No. 03-41 and Amends Chapter 24 of the Hawai'i County Code 1983 (1995 Edition) Relating to Vehicles and Traffic. {Removes the passenger loading zone fronting the former After Hours Clinic located at 140 Kinoole Street and restores this space to regular parking.}

Re: Comm. 676  
 Intr. by: Mr. Safarik  
 Approve: PWIRC-57

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

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

**NOES:** None.

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

Bill 299: Amends the State Land Use Boundaries Map, H-2 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Urban District at O'oma 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-3-10: Portion of 3 (approx. 10.001 acres). {Westpro Development, Inc., Applicant.}

Re: Comm. 699  
 Intr. by: Mr. Elarionoff  
 Approve: PC-102

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

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

**NOES:** Council Member Jacobson – 1.

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

Bill 300  
(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 Multiple Family Residential (RM-4) at O'oma 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-3-10:Portion of 3 (approx. 10.001 acres). {Westpro Development, Inc., Applicant.}

Re: Comm. 699.3  
Intr. by: Mr. Elarionoff  
Approve: PC-106

**AMENDED TO DRAFT 3 & PASSED 1<sup>ST</sup> READING:**

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

**NOES:** None.

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

Bill 301: Amends the State Land Use Boundaries Map, H-7 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Rural District at Kohanaiki, North Kona, Hawai'i, Covered by Tax Map Key 7-3-19:28 (approx. 4.07 acres). {Tom Smith, Applicant.}

Re: Comm. 700  
Intr. by: Mr. Elarionoff  
Approve: PC-103

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

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

**NOES:** None.

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

Bill 302  
(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-3a) to Residential and Agricultural (RA-.5a) at Kohanaiki, North Kona, Hawai'i, Covered by Tax Map Key 7-3-19:28 (approx. 4.07 acres). {Tom Smith, Applicant.}

Re: Comm. 700.3  
Intr. by: Mr. Elarionoff  
Approve: PC-104

**AMENDED TO DRAFT 3 & PASSED 1<sup>ST</sup> READING:**

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

**NOES:** None.

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

Bill 303: Amends Ordinance No. 92 91 Which Amended Ordinance No. 89-50, Which Reclassified 47,680 Square Feet of Land from Single Family Residential (RS-10) to General Commercial (CG-10) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-28:29 (approx. 47,680 square feet). {DJSM, LLC, Applicant.} (Time extension to Condition C to secure Final Plan Approval.)

Re: Comm. 702  
Intr. by: Mr. Elarionoff  
Approve: PC-105

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

**AYES:** Council Members Elarionoff, Holschuh, Safarik, Tulang, and Chair Arakaki – 5.

**NOES:** Council Members Jacobson and Tyler – 2.

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

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

Bill 280 (Draft 2): Amends the Hawai'i County Code 1983 (1995 Edition), as Amended, by Adding a New Chapter Relating to Business Improvement Districts. {Enables the establishment and creation of Business Improvement Districts, which provides an alternate method of financing supplemental services and improvements when public funds are not available.}

Re: Comm. 647.9  
Intr. by: Mr. Tyler  
1<sup>st</sup> Reading: August 4, 2004

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

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

**NOES:** None.

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

Bill 290: 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 Federal Grants – Victims Services Coordinator Project (\$5,000); appropriates same to Victims Services Coordinator. Program includes the hiring of a Victims Services Coordinator to service the on-going needs of victims from domestic violence/sexual assault while cases remain under investigation and for the purchasing of equipment and supplies.}

Re: Comm. 678  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: August 4, 2004

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

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

**NOES:** None.

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

Bill 294  
 (Draft 2): 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 Agricultural (A-3a) to Single Family Residential (RS-10) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-4-38:8 (approx. 4.334 acres). {Gerald Yamada, Applicant.}

Re: Comm. 686.1  
 Intr. by: Mr. Elarionoff  
 1<sup>st</sup> Reading: August 4, 2004

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

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

**NOES:** None.

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

Bill 295: Amends Ordinance No. 93 62, Which Reclassified Lands from Limited Industrial (ML-20) to General Industrial (MG-1a) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-1-7:9 (approx. 1.028 acres). {Hilo Storage Partners, LLC, Applicant.} (Amendment to Change of Zone Ordinance No. 93-62, Condition F, deletes curb/gutter/sidewalk requirement along Ocean View.)

Re: Comm. 687  
 Intr. by: Mr. Elarionoff  
 1<sup>st</sup> Reading: August 4, 2004

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

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

**NOES:** None.

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

Bill 296: Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds PUBLIC WORKS: Kilauea Corridor Traffic Signal Upgrade Project – Federal (\$500,000); funds to be provided from Federal Grants Receivable (\$500,000). Funds to be used to cover anticipated construction bid amount, cost of construction engineering and possible future costs such as change orders due to unforeseen conditions relating to upgrading the signal systems at the intersections of Kilauea Avenue with Kawaihani Street, Kawili Street, Mohouli Street, Aupuni Street, and Kekūanaō‘a Street; including asphalt concrete paving; and constructing curb ramps, and concrete curb/gutter/sidewalks. }

Re: Comm. 689  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: August 4, 2004  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

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

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

**NOES:** None.

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

Bill 297: 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 – Automated External Defibrillator Access Program (\$62,000); appropriates same to Automated External Defibrillator Access Program. }

Re: Comm. 690  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: August 4, 2004

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

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

**NOES:** None.

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

Bill 298: Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds PUBLIC WORKS: Kuakini Highway Improvements, Palani Road to Hualalai Road - Federal (\$6,000,000); funds to be provided from Federal Grants Receivable (\$6,000,000). Funds to be used to cover anticipated construction bid amount, cost of construction engineering/management, and possible future costs such as increase in utility costs and change orders due to unforeseen conditions relating to the widening of Kuakini Highway within the project limits, concrete curb/gutter/sidewalk, paving, drainage improvements, retaining walls, traffic signal improvements and utility relocation.}

Re: Comm. 691  
 Intr. by: Mr. Chung  
 1<sup>st</sup> Reading: August 4, 2004  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

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

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

**NOES:** None.

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

Bill 305: Provides for the Cost of Water System Improvements in "Improvement District No. 18 – Kona Coastview and Kona Wonderview Subdivisions," District of North Kona, County of Hawai'i, Fixing the Portion of the Cost to be Assessed Against Benefited Land, Imposing Assessment Lien Against Each Assessment Unit Assessed According to the Assessment, Providing for Payment of Assessments in Installments, Authorizing Finance Director to Negotiate Sale and Distribute Official Statement, and Final Assessment Roll.

Re: Comm. 712  
 Intr. by: Mr. Tyler  
 1<sup>st</sup> Reading: August 4, 2004

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

**AYES:** Council Members Elarionoff, Holschuh, Jacobson, Safarik, Tulang, and Tyler – 6.

**NOES:** Chair Arakaki – 1.

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

Bill 306: Authorizes the Issuance of General Obligation Bonds of the County of Hawai'i in an Aggregate Principal Amount Not to Exceed \$4,296,400.00 for the Purpose of Financing a Portion of the Costs of Constructing Public Water System Improvements in "Improvement District No. 18 – Kona Coastview and Kona Wonderview Subdivisions"; Fixing the Form, Denomination, and Certain Details of Such Bonds; and Providing for the Sale of Such Bonds.

Re: Comm. 713  
 Intr. by: Mr. Tyler  
 1<sup>st</sup> Reading: August 4, 2004

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

**AYES:** Council Members Elarionoff, Holschuh, Jacobson, Safarik, Tulang, and Tyler – 6.

**NOES:** Chair Arakaki – 1.

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

**REPORTS**

FC-282 (Comm. 706): Recommends approval of the nomination of Ms. Karolyn P. Lundkvist (Council District 5) to the Police Commission.

**APPROVED**

PC-101 (Comm. 707): Recommends approval of the nomination of Ms. Rene Siracusa (Council District 5) to the Planning 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. 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.

**CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL**

Deferred: May 5, May 19, June 2, July 8, July 23, and August 4, 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; *and*

Comm. 362.6: From Deputy Corporation Counsel Ivan M. Torigoe, dated July 22, 2004; *and*

Comm. 362.7: From Deputy Corporation Counsel Ivan M. Torigoe, dated August 3, 2004.

Comm. 630.1: ELEANOR QUIOCHO VS. COUNTY OF HAWAI'I, ET AL. – CIVIL NO. 02-1-0306; PAULYN ESTIOKO, ET AL. VS. COUNTY OF HAWAI'I, ET AL. – CIVIL NO. 02-1-0307; MARGARET PARONG, ET AL. VS. COUNTY OF HAWAI'I, ET AL. – CIVIL NO. 02-1-0308; SHERMAN WASSMAN VS. COUNTY OF HAWAI'I, ET AL. – CIVIL NO. 02-1-0310  
 From Deputy Corporation Counsel Harry P. Freitas, dated August 9, 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**

FINANCE COMMITTEE WORKSHOP RE BILL 49, DRAFT 3	<u>TUESDAY, AUGUST 24, 2004</u> 6:30 p.m.	WAIMEA ELEM. SCHOOL CAFETERIA
COMMITTEES	<u>TUESDAY, AUGUST 31, 2004</u> TBA	COUNCIL ROOM
COUNCIL	<u>WEDNESDAY, SEPTEMBER 1, 2004</u> 9:00 a.m.	COUNCIL ROOM
COMMITTEES	<u>TUESDAY, SEPTEMBER 14, 2004</u> TBA	COUNCIL ROOM
COUNCIL	<u>WEDNESDAY, SEPTEMBER 15, 2004</u> 9:00 a.m.	KING KAMEHAMEHA'S KONA BEACH HOTEL CONFERENCE ROOM 4

**STATEMENTS FROM THE PUBLIC/ADJOURNMENT 4:16 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 August 16, 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, August 25, 2004, at 6 p.m.; Sunday, August 29, 2004, at 10:30 a.m.; and Wednesday, September 1, 2004, at 6 p.m.