

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*

43<sup>rd</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Hilo, Hawai'i

Wednesday, September 1, 2004  
9:00 a.m.

INVOCATION                      Deacon Leroy Andrews, St. Joseph Church

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES              June 16, 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. 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  
Deferred: July 23, 2004

Res. 215-04: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$363,221 out and from Contingency Relief; credits same to Transfer to Solid Waste Fund. Funds to help the Environmental Management Department comply with its Consent Agreement with the State Department of Health and to help implement measures to increase diversion from both the Hilo and Pu'uanahulu landfills.}

Re: Comm. 709  
Intr. by: Mr. Chung  
Approve: FC-283

Res. 216-04: Creates Two (2) Equipment Operator III Positions and Two (2) Solid Waste Transfer Station Attendant Positions for the Department of Environmental Management Solid Waste Division's South Hilo Sanitary Landfill. {These positions to help conserve airspace at the landfill, increase compaction of waste, and reduce environmental liabilities relative to litter control, storm water management, and the hazardous waste exclusion program.}

Re: Comm. 709.1  
Intr. by: Mr. Chung  
Approve: FC-292

Res. 219-04: Accepts the Dedication of Roadway Lot A (1.033 Acres), for Road Right-of-Way from Hawai'i Island Community Development Corporation, a Nonprofit Corporation, Situate at Pu'ukapu, Waimea, South Kohala, County and State of Hawai'i, Bearing Tax Map Key (3) 6-4-034:055, to the County of Hawai'i.

Re: Comm. 717  
Intr. by: Mr. Safarik  
Approve: PWIRC-58

Res. 220-04: Authorizes the Receipt and Expenditure of Bay Clinic's Hawai'i County Youth Anti-Drug Fund Community Grant Program Award of \$1,000 to the Department of Parks and Recreation. {Funds to be used to defray costs incurred by the Recreation Division's Honoka'a Summer Fun Youth Camp.}

Re: Comm. 718  
Intr. by: Mr. Chung  
Approve: FC-284

Res. 221-04: Authorizes the Acceptance of a Donation of Fifteen (15) First Responder Medical Kits and Three (3) Mega Medic Kits to the Hawai'i County Fire Department from the Ocean View Community Association, Inc., and is valued at \$3,000. {Funds to be used by the Ocean View Volunteer Fire Department.}

Re: Comm. 719  
Intr. by: Mr. Chung  
Approve: FC-286

Res. 222-04: Authorizes the Acceptance of an Automatic External Defibrillator (AED) for the County of Hawai'i, Department of Parks and Recreation Honoka'a Pool from Mr. Lawrence M. O. Chun, in memory of Sergeant First Class Wesley John Kealoha Batalona, U.S. Army Retired, and is valued at \$1,200.

Re: Comm. 721  
Intr. by: Mr. Holschuh  
Approve: FC-288

Res. 223-04: Creates a Victims Services Technician (Temporary) Position for the Hawai'i County Police Department. {This position to assist the Juvenile Aid Section with the administrative and technical support of the Domestic Violence and Sexual Assault Unit.}

Re: Comm. 723  
Intr. by: Mr. Chung  
Approve: FC-289

Res. 224-04  
(Draft 3): Requests the Mayor to Develop a Transition and Implementation Plan for Conversion from Subsidized Private Vehicles in Police Service to a County-Owned Fleet of Police Vehicles Commencing in Fiscal Year 2006-07. {Establishes a Police Fleet Implementation Working Group to be supported by a \$20,000 Council contingency fund appropriation.}

Re: Comm. 724.3  
Intr. by: Mr. Chung  
Approve: FC-290

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

Bill 304: 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 Transfer from General Fund (\$363,221); appropriates to the following accounts: Landfills Salary and Wages (\$93,096), Recycling Program (\$112,500), Pu'uana'hulu - West Hawai'i Landfill Other Current Expenses (\$125,000), Pension Accumulation - Landfill (\$12,103), Federal Insurance Contributions Act Employer Share - Landfill (\$7,122), and Employee Health Plans - Landfill (\$13,400), for a total of \$363,221.}

Re: Comm. 709  
Intr. by: Mr. Chung  
Approve: FC-291

Bill 307: 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 - Youth Anti-Drug Community Grant (\$1,000); appropriates same to Youth Anti-Drug Community Grant.}

Re: Comm. 718  
Intr. by: Mr. Chung  
Approve: FC-285

Bill 308: 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 - Traffic Investigation Program (\$6,800); appropriates same to Traffic Investigation Program. Funds to be used for travel expenses to attend and participate in the statewide Traffic Investigation Training on Maui.}

Re: Comm. 720  
Intr. by: Mr. Chung  
Approve: FC-287

Bill 309  
(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 Open (O) to Industrial-Commercial Mixed (MCX-20) and General Industrial (MG-1a) at Honokohau 1<sup>st</sup> and 2<sup>nd</sup>, North Kona, Hawai'i, Covered by Tax Map Key 7-4-8:Portion 13 & 30 (Parcel 1 approx. 186.733 acres, Parcel 2 approx. 85.733 acres, and Parcel 3 approx. 9.901 acres. {West Hawai'i Business Park, LLC, Applicant.});

Re: Comm. 722.3  
Intr. by: Mr. Elarionoff  
Approve: PC-107

*and*

Comm. 722.2: From Planning Committee Chair Leningrad Elarionoff, dated August 24, 2004.

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

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  
1<sup>st</sup> Reading: August 18, 2004

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  
1<sup>st</sup> Reading: August 18, 2004

Bill 300  
(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 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. 699.4  
Intr. by: Mr. Elarionoff  
1<sup>st</sup> Reading: August 18, 2004

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  
 1<sup>st</sup> Reading: August 18, 2004

Bill 302  
 (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 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. 700.5  
 Intr. by: Mr. Elarionoff  
 1<sup>st</sup> Reading: August 18, 2004

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  
 1<sup>st</sup> Reading: August 18, 2004

*and*

Comm. 702.1: From Planning Committee Chair Leningrad Elarionoff, dated August 21, 2004, transmitting Bill 303, Draft 2. Draft 2 incorporates the metes and bounds description; *and*

Bill 303  
 (Draft 2): 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.}

Intr. by: Mr. Elarionoff

**REPORTS****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. 403.2:            WENDELL TANGARO V. JOSEPH BOTELHO, ET AL., CIVIL NO. 03-00211  
DAE/LEK  
 From Deputy Corporation Counsel Harry P. Freitas, dated August 19, 2004.

**OTHER BUSINESS**

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

Comm. 400.114:        MAYOR'S VETO MESSAGE REGARDING BILL 178, DRAFT 5, RELATING  
TO THE CHANGE OF ZONE REQUEST BY CLIFTO'S KONA COAST, LLC,  
APPLICANT

From Mayor Harry Kim, dated August 23, 2004, returning Bill 178, Draft 5, stating his reason for disapproval, as listed;  
*and*

Bill 178  
 (Draft 5):            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. 400.93  
 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  
 Held Over:          July 23, 2004  
 2<sup>nd</sup> Reading:        August 4, 2004  
 Mayor's Veto:      August 23, 2004

**Note: In order for this bill to become law, the Council must vote (by majority) to reconsider it, within 30 days after it is returned; and to approve it again (2/3 majority vote) (See Article III, Section 3-12, Hawai'i County Charter).**

**For purposes of Chapter 92, Hawai'i Revised Statutes, notice is hereby provided that both motions may be offered and discussed at this meeting.**

**ANNOUNCEMENTS**

	<u>TUESDAY, SEPTEMBER 14, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM

	<u>WEDNESDAY, SEPTEMBER 15, 2004</u>	
COUNCIL	9:00 a.m.	KING KAMEHAMEHA'S KONA BEACH HOTEL CONFERENCE ROOM 4

**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 August 30, 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, September 8, 2004, at 6 p.m.; Sunday, September 12, 2004, at 10:30 a.m.; and Wednesday, September 15, 2004, at 6 p.m.