

JAMES Y. ARAKAKI
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Vice Chairman



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MICHAEL C. TULANG

COUNTY COUNCIL

*County of Hawai'i
Hawai'i County Building
25 Aupuni Street
Hilo, Hawai'i 96720*

48th Session

ORDER OF BUSINESS

Hawai'i County Council
Ohana Keauhou Beach Resort
Kailua-Kona, Hawai'i

Wednesday, November 24, 2004
9:00 a.m.

INVOCATION

Pastor Jason Meechan, Thy Word Ministries – Kona

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

(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. 859: HAWAI'I STATE ASSOCIATION OF COUNTIES (HSAC) 2005 LEGISLATIVE PACKAGE
 From HSAC Vice President Michael Tulang, dated November 9, 2004, transmitting for Council's consideration and approval nine proposals for inclusion in the 2005 HSAC Legislative Package.

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

ORDER OF RESOLUTIONS

Res. 255-04: Amends Salary Ordinance No. 04-60 to Add Exempt Classes of Work for Persons Employed by the Office of the County Council and Office of Housing and Community Development Whose Pay is Not Otherwise Provided for;

Re: Comm. 810
 Intr. by: Mr. Chung (B/R)
 Waived: FC
 Deferred: October 20 and November 10, 2004

and

Res. 255-04 (Draft 2): Amends Salary Ordinance No. 04-60 to Add Exempt Classes of Work for Persons Employed by the Office of the County Council and Office of Housing and Community Development Whose Pay is Not Otherwise Provided for. Draft 2 adds the Election Clerk I position under Section 7.01 of the bill;

Re: Comm. 810.1
 Intr. by: Mr. Chung (B/R)
 Deferred: October 20 and November 10, 2004

and

Res. 255-04 (Draft 3): Amends Salary Ordinance No. 04-60 to Add Exempt Classes of Work for Persons Employed by the Office of the County Council and Office of Housing and Community Development Whose Pay is Not Otherwise Provided for. {Draft 3 is the result of the following amendments made to Draft 2 on October 20, 2004: deletes Legislative Analyst I, II, and III; deletes Council Services Supervisor, Council Services Assistant I and II, and Legislative Information and Reference Technician; and deletes related information in the recitals.}

Re: Comm. 810.2
 Intr. by: Mr. Chung
 Deferred: October 20 and November 10, 2004

(Note: There is a pending motion by Mr. Chung and duly seconded by Mr. Jacobson to approve Resolution 255-04; and a pending motion by Mr. Chung and duly seconded by Mr. Jacobson to amend Resolution 255-04 with Draft 2, as amended on October 20, 2004.)

Res. 258-04: Authorizes the Acceptance of a Monetary Donation of \$1,500 to the Hawai'i County Fire Department as part of Wal-Mart Hilo's community involvement program. {Funds to be used to purchase educational materials to be distributed to the public in commemoration of Fire Prevention Week in October and of Emergency Medical Services Week in May 2005.}

Re: Comm. 830
Intr. by: Mr. Chung
Approve: FC-341

Res. 259-04: Authorizes the Office of the Mayor to Enter Into an Agreement with the State of Hawai'i Department of Transportation, Pursuant to HRS 46-7, for a Highway Safety Training Grant for the Office of the Prosecuting Attorney. {Funds to be used to conduct Statewide training sessions on Driving Under the Influence Enforcement and Prosecution and on Crash Reconstruction Dynamics, vehicles and occupant kinematics.}

Re: Comm. 831
Intr. by: Mr. Chung
Approve: FC-343

Res. 260-04: Authorizes the Office of the Mayor to Enter Into an Agreement with the State of Hawai'i Department of Transportation, Pursuant to HRS 46-7, for the Hawai'i County Fire Department's Spine Board Equipment Purchase Project. {Funds to be used to purchase 50 radio translucent spine boards, eliminating the need to transfer patients from spinal immobilization boards to obtain x-rays.}

Re: Comm. 832
Intr. by: Mr. Chung
Approve: FC-345

Res. 262-04: Authorizes the (1) Extension of the Public Sewer from Ali'i Drive Mauka and Across Walua Road; and (2) Reimbursement for the Cost of Construction of the Extension by Bolton, Inc. at Wai'aha, North Kona, Hawai'i.

Re: Comm. 836
Intr. by: Mr. Tyler
Approve: PEMC-21

Res. 263-04: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year for Multi-Year Lease (5-years) for a Copier for the Department of Finance Accounts Division. {Current copy machine lease to expire December 2004.}

Re: Comm. 839
 Intr. by: Mr. Chung
 Approve: FC-349

Res. 273-04: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Appropriates \$89,500 out and from Clerk-Council Services – Contingency Relief account; credits to the following: Research and Development Hawai'i County Resource Center (\$23,000), Research and Development Tourism Promotion (\$7,500), Transfer to Capital Improvement Project Fund (\$46,500), and Parks and Recreation Friends of the Park (\$12,500), for a total of \$89,500.}

Re: Comm. 861
 Intr. by: Mr. Tulang
 Waived: FC

Res. 274-04: Authorizes the Corporation Counsel, and His Authorized Representatives, to Enter into an Agreement with the Individually Named Party, Who is an Employee of the County of Hawai'i, to Represent Him in the Civil Action Entitled *Thomas G. Nauman Vs. Paul Bugado, Et Al.*, Civil No. 04-00392 DAELEK.

Re: Comm. 801.1
 Intr. by: Mr. Chung
 Waived: FC

BILLS FOR ORDINANCES (FIRST READING)

Bill 354: 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 State Grants – Product Development Program (\$75,000); appropriates same to Product Development Program – State. Funds to ensure that the contract management procedures and the overall administration of the Department of Research and Development's Product Enrichment Program continue to run smoothly.}

Re: Comm. 813
 Intr. by: Mr. Chung
 Approve: FC-340

Bill 357
(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 Single Family Residential (RS-10) to Industrial – Commercial Mixed (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-49:26 (approx. 22,300 square feet). {Automotive Supply Center, Ltd., Applicant.}

Re: Comm. 822.1
Intr. by: Mr. Elarionoff
Approve: PC-118

Bill 358
(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 Single Family Residential (RS-10) to Industrial-Commercial Mixed (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-37:31 (approx. 22,300 square feet). {Island Ohana Dental, Applicant.}

Re: Comm. 823.1
Intr. by: Mr. Elarionoff
Approve: PC-119

Bill 359
(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 Family Agricultural (FA-3a) to Single Family Residential (RS-15) at Waiakea Homesteads, South Hilo, Hawai'i, Covered by Tax Map Key 2-4-38:16 (approx. 2.5138 acres). {Betty Wung, Applicant.}

Re: Comm. 824.1
Intr. by: Mr. Elarionoff
Approve: PC-120

Bill 360
(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 Single Family Residential (RS-10) to Residential – Commercial Mixed Use (RCX-10) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-21:30 (approx. 9,367 square feet). {Glenn Ahuna, Applicant.}

Re: Comm. 825.1
Intr. by: Mr. Elarionoff
Approve: PC-121

Bill 361: 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 (\$1,500); appropriates to the following: Fire Protection – Other Current Expense (\$500) and Fire Prevention – Other Current Expense (\$1,000), for a total of \$1,500.}

Re: Comm. 830
Intr. by: Mr. Chung
Approve: FC-342

Bill 362: 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 – Driving Under the Influence and Crash Reconstruction Training Grant (\$24,144); appropriates same to Federal Grants – Driving Under the Influence and Crash Reconstruction Training Grant.}

Re: Comm. 831
Intr. by: Mr. Chung
Approve: FC-344

Bill 363: 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 – Spine Boards (\$10,163.20); appropriates same to Fire Grants – Spine Boards – Federal.}

Re: Comm. 832
Intr. by: Mr. Chung
Approve: FC-346

Bill 364: 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 – Coordinated Services (\$23,500); appropriates same to Coordinated Services – Equipment. Funds to enable the Department of Parks and Recreation's Coordinated Services Program to replace one of their current vehicles, which is unable to be repaired or costs too much to repair.}

Re: Comm. 838
Intr. by: Mr. Chung
Approve: FC-348

Bill 373: 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 POLICE DEPARTMENT: South Kona Police Station, refueling station, and radio tower – plans, designs, construction (\$3,685,000); funds to be provided from General Obligation Bonds, Capital Projects Fund Balance and/or Other Sources (\$3,685,000). Funds to be used for planning, design, and construction for a new police station in South Kona. }

Re: Comm. 860
 Intr. by: Mr. Reynolds
 Waived: FC
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 49 Amends Chapter 19, Articles 1,7 and 8 of the Hawai'i County Code 1983
 (Draft 4): (1995 Edition), Relating to Real Property Tax Definitions; Non-Dedicated Agricultural Use Assessment and Agricultural Use Dedication. {Proposes amendments to real property tax provisions to support the agriculture industry through property tax incentives, and to close loopholes that enable some non-farmers to take advantage of tax provisions intended to help the agriculture industry. }

Re: Comm. 118.38
 Intr. by: Mr. Chung and Mr. Tyler
 1ST Reading: November 10, 2004

Bill 248 Amends Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25
 (Draft 5): (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Agricultural 1-Acre (A-1a), Neighborhood Commercial - 40,000 Square Foot (CN-40), Single Family Residential - 7,500 Square Foot and 10,000 Square Foot (RS-7.5 and RS-10) and Open (O) to Project District at South Hilo, Hawai'i, Covered by Tax Map Key 2-3-44:19, 2-3-49:53 and 2-3-37:1 (171.504 acres). {Western United Life Assurance Company, Applicant.} {Draft 5 differs from Draft 4 by 1) correcting the maximum allowable units from 550 to 500; 2) amending Condition I relating to mitigating the impact of commercial areas to residential neighbors; 3) reducing the right-of-way width of Ponahawai extension from 80 to 60 feet; 4) allowing new street connections to existing streets to be for emergency access; 5) allowing the 5-acre park to be passive rather than active; and 6) other clarifying amendments. }

Re: Comm. 560.45
 Intr. by: Mr. Elarionoff
 1ST Reading: November 10, 2004

Bill 327
(Draft 4): Amends Ordinance No. 91-71, Which Amended Ordinance No. 89-54, Which Reclassified 2.23 Acres of Land from a Multiple Family Residential 1,000 Square Foot (RM-1) to a Resort-Hotel 1,000 Square Foot (V-1) District at Puaa 2nd, North Kona, Hawai'i, Covered by Tax Map Key 7-5-9:40 (approx. 2.23 acres). {Kona Oasis, Inc., Applicant.} {Draft 4 differs from Draft 3 by 1) adding a standard 5-year deadline to complete construction; 2) requiring movement restrictions to an approved conceptual alignment; 3) requiring completion of roadway improvements to issuance of an occupancy permit; 4) requiring sewer connection prior to occupancy; and 5) making minor clarifying amendments.}

Re: Comm. 770.9
Intr. by: Mr. Elarionoff
Deferred: October 20, 2004
1st Reading: November 10, 2004

Bill 329
(Draft 3): 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 7-3-27:21 (approx. 20.992 acres). {Thad E. Bond, Applicant.} {Draft 3 amends Condition K, wherein the figures and text were adjusted to reflect one additional lot, instead of two; and the word "additional" was added where appropriate in this condition.}

Re: Comm. 786.2
Intr. by: Mr. Elarionoff
1st Reading: November 10, 2004

Bill 341
(Draft 3): 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 Family Agricultural (FA-3a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-25:7 (approx. 20.477 acres). {Phil Knierim, Applicant.} {Draft 3 amends Condition G(3) by replacing "20%" with "33%"; Condition L, wherein the figures and text were adjusted to reflect five additional lots, instead of six, and the word "additional" was added where appropriate in this condition.}

Re: Comm. 787.2
Intr. by: Mr. Elarionoff
1st Reading: November 10, 2004

Bill 342: 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 Urban District at Kalaoa 1st and 2nd, North Kona, Hawai'i, Covered by Tax Map Key 7-3-011:068 (approx. 1.8628 acres). {Lilian Mahi, Applicant. }

Re: Comm. 788
Intr. by: Mr. Elarionoff
1st Reading: November 10, 2004

Bill 343
(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 - 5 Acres (A-5a) to Single Family Residential - 20,000 Square Feet (RS-20) at Kalaoa 1st and 2nd, North Kona, Hawai'i, Covered by Tax Map Key 7-3-011:068 (approx. 1.8628 acres). {Lilian Mahi, Applicant. } {Draft 3 amends Condition K by adding the word "additional" where appropriate in this condition. }

Re: Comm. 788.2
Intr. by: Mr. Elarionoff
1st Reading: November 10, 2004

Bill 344
(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 Neighborhood Commercial (CN-10) to Industrial-Commercial Mixed (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-32:93 (approx. 59,356 square feet). {WKSP Limited Partnership, Applicant. }

Re: Comm. 793.1
Intr. by: Mr. Elarionoff
1st Reading: November 10, 2004

Bill 345: 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 – Repeat Offenders Project (\$16,800); appropriates same to Repeat Offenders Project. }

Re: Comm. 795
Intr. by: Mr. Chung
1st Reading: November 10, 2004

Bill 346: 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 – Geopowering the West (\$9,560); appropriates same to Geopowering the West.}

Re: Comm. 796
Intr. by: Mr. Chung
1st Reading: November 10, 2004

Bill 347: 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 – Community Oriented Policing Services – Police (\$200,000); appropriates same to Community Oriented Policing Services – Police.}

Re: Comm. 797
Intr. by: Mr. Chung
1st Reading: November 10, 2004

Bill 348
(Draft 2): Amends Ordinance No. 04-59 of the County of Hawai'i on May 19, 2004 Relating to the Issuance of General Obligation Bonds for the Purpose of Financing Various Public Improvements for the County of Hawai'i. {Proceeds to be apportioned as follows: North and South Kona (\$23,000,000); South Kohala (\$10,000,000); Puna (\$7,000,000); four park-and-ride facilities in Hāmākua, South Kona, North Kona, and Puna (\$1,500,000); Sand Gulch by-pass road in Hāmākua (\$2,400,000); Laupāhoehoe Point emergency access road (\$100,000); transportation enhancement projects in Hilo (\$1,000,000); and island wide facility planning efforts to include \$2,000,000 for the identification of roadway corridors, wastewater facilities planning and expansion, solid waste facilities planning and implementation and multimodal transportation planning and implementation, for a total bond authorization of \$47,000,000.}

Re: Comm. 798.7
Intr. by: Mr. Chung
1st Reading: November 10, 2004

Bill 349: 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 Fund Balance from Previous Year (\$298,200); appropriates same to Highway Maintenance Administration Equipment. Funds to be used for the purchase of seven 6-passenger dump trucks with radio accessories for the new additional positions being requested (ref. to Res. 225-04 and Bill 310) and will be funded from the available fund balance. }

Re: Comm. 803
 Intr. by: Mr. Chung
 1st Reading: November 10, 2004

Bill 350
 (Draft 4): 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 Fund Balance from Previous Year (\$4,042,488); appropriates to the following: Research and Development Salaries and Wages (\$37,488), Building Repair and Maintenance Other Current Expense (\$80,000), Transfer to Capital Project Fund – General Fund (\$600,000), Transfer to Self Insurance Fund (\$2,500,000), Planning Other Current Expense Miscellaneous Contract Services (\$750,000), Mass Transit Other Current Expense Miscellaneous Contract Services (\$75,000), for a total of \$4,042,488. Pursuant to Section 10-8 of the Hawai'i County Charter relating to supplemental appropriations, certifies there is an excess balance of \$6,697,734.37 in the General Fund fund balance as of June 30, 2004 and, therefore, proposes to fund a portion of this amount for the above projects. }

Re: Comm. 804.17
 Intr. by: Mr. Arakaki
 1st Reading: November 10, 2004

Bill 352: Amends Chapter 21, of the Hawai'i County Code 1983 (1995 Edition), Relating to Sewer Service Charges. { Allows sewer customers to document accurate readings of discharge into the County sewer system and for customers to be charged only for the amount actually discharged into the County system. };

Re: Comm. 808
 Intr. by: Mr. Tyler
 1st Reading: October 20, 2004
 Deferred: November 10, 2004

and
 Comm. 808.1: From Environmental Management Director Barbara Bell, dated October 28, 2004.

(Comm. 808.2 continues on the next page.)

Comm. 808.2: From Environmental Management Director Barbara Bell, dated November 16, 2004.

(Note: There is a pending motion by Mr. Tyler and duly seconded by Mr. Tulang to approve Bill 352. There is a pending motion by Mr. Tyler and seconded by Mr. Holschuh to further amend Bill 352 with the following language inserted before the second to the last sentence of Section 2: "When the metering system is located on public property, it shall be acceptable to the County and installed in accordance with the rules and regulations set forth by the Department of Water Supply.")

REPORTS

FC-339
(Comm. 812): Recommends the acceptance of a \$643 donation to the Parks and Recreation Department from the Potluckers Golf Club for programs at the Pana'ewa Rainforest Zoo.

FC-347
(Comm. 837): Recommends the acceptance of the Art Work entitled "Recycle Right Now" (estimated value of \$100) to the Department of Environmental Management from Ms. Toby S. Hazel.

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.)

OTHER BUSINESS

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

ANNOUNCEMENTS

	<u>MONDAY, DECEMBER 6, 2004</u>	
COUNCIL SINE DIE	10:00 a.m.	COUNCIL ROOM
COUNCIL NEW	3:00 p.m.	COUNCILROOM
	<u>MONDAY, DECEMBER 20, 2004</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>TUESDAY, DECEMBER 21, 2004</u>	
COUNCIL	9:00 a.m.	SHERATON KEAUHOU BAY RESORT AND SPA

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 November 22, 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, December 1, 2004, at 6 p.m.; Sunday, December 5, 2004, at 10:30 a.m.; and Wednesday, December 8, 2004, at 6 p.m.