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JAMES Y. ARAKAKI
PETE HOFFMANN
FRED C. HOLSCHUH, M.D.
DONALD IKEDA
BOB JACOBSON
K. ANGEL PILAGO
GARY SAFARIK

COUNTY COUNCIL

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

16th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Thursday, July 7, 2005
9:00 a.m.

INVOCATION	Senior Pastor Morris Niimi of Puna New Hope Christian Fellowship
CALL TO ORDER	9:15 a.m.
ROLL CALL	
PLEDGE OF ALLEGIANCE	
APPROVAL OF MINUTES	May 18, 2005 - APPROVED

(Note: Please turn cell phones, pagers, and other mobile communication devices on silent mode.)

PETITIONS, MEMORIALS, COMMUNICATIONS, CERTIFICATES OF MERIT AND EXPRESSIONS OF CONDOLENCE

9:00 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF RESOLUTIONS

ORDER OF RESOLUTIONS

Res. 109-05: Authorizes the Acceptance of a Donation of Fourteen "Liberty Coats" and Twenty-four "Liberty Pants" to the Hawai'i County Fire Department. {Donation by Cooper Center Council to support the volunteer fire program with an estimated value of \$19,591.}

Re: Comm. 296
Intr. by: Ms. Isbell
Approve: FC-110

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 118-05: Authorizes the Corporation Counsel and His Authorized Representatives to Enter Into Agreements With the Individually Named Parties, Who are Employees of the County of Hawai'i, to Represent Them in the Civil Action Entitled *THOMAS SCHMIDT vs. HAWAI'I COUNTY POLICE DEPARTMENT, ET AL.*, Civil No. CV04-00573 SPK/KSC.

Re: Comm. 316
Intr. by: Ms. Isbell
Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Safarik – 1.

Res. 119-05: Welcomes Sister-City Sumoto City's Delegation to the County of Hawai'i and Supports the Commemoration and Celebration from July 20 through July 22, 2005, of the Fifth Anniversary of Sisterhood Between Hawai'i County and Sumoto City.

Re: Comm. 317
Intr. by: Mr. Ikeda
Waived: PWIRC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 121-05: Amends the Adopted Rules of Procedure and Organization of the Council of the County of Hawai'i. {Amends Rules regarding public testimony and the number of copies of written testimony to be submitted in order to accommodate public inspection.}

Re: Comm. 322
Intr. by: Mr. Higa
Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Holschuh, Ikeda, Isbell, Pilago, and Chair Higa – 6.

NOES: Council Members Hoffmann, Jacobson, and Safarik – 3.

ABSENT & EXCUSED:None.

Res. 122-05: Supports the Establishment of a Volunteer Fire Station Within the Ainaloa Subdivision by the Ainaloa Community Association.

Re: Comm. 332
Intr. by: Mr. Safarik
Waived: PSPRC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 123-05: Authorizes the Office of the Mayor to Enter Into an Agreement with the State of Hawai'i Department of Human Services, Pursuant to HRS 46-7, for the Temporary Assistance for Needy Families (TANF) Grant. {Funds would be used to provide assistance to needy families; end dependence of needy parents by promoting job preparation, work, and marriage; prevent and reduce out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families.}

Re: Comm. 334
Intr. by: Ms. Isbell
Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 124-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
 {Transfers/appropriates \$54,672 out and from Clerk-Council Services-Contingency Relief; and credits same to Police-Administration Services Salaries and Wages. Requests funding be transferred from the Contingency Relief account into the Police Department's budget to fund their Administrative Division Safety Officer position in order to continue their safety program. }

Re: Comm. 336
 Intr. by: Ms. Isbell
 Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Holschuh – 1.

Res. 104-03 (2002-2004): Authorizes the Sale, in Fee Simple, of Lot 1, Situate Between Kailua-Keauhou Road and Kailua-Keauhou Middle Road, at Hōlualoa 1st and 2nd, North Kona, Hawai'i (approx. 1.002 acres).

Re: Comm. 340
 Intr. by: Mr. Chung
 Waived: FC

AMENDED TO DRAFT 2 & ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED: None.

; and

Comm. 340: From Finance Committee Chair Virginia Isbell, dated June 28, 2005, requesting this matter be waived from the Committee. States that this measure was heard at the Finance Committee meeting held on September 16, 2003, and was postponed pending discussion between Mr. J. Curtis Tyler, III, P.A.T.H., Administration, and adjacent landowners to possibly use property for extension of bicycle/walking path and scenic overlook.

Res. 125-05: Authorizes the Sale, Transfer or Exchange, in Fee Simple, of Lot 6 of "Crossroads" Situate at Lanihau 1st, North Kona, Hawai'i, and the Repeal of Resolution No. 217-04. {States the disposition of Lot 6 by sale or exchange would facilitate the acquisition of other parcels of land identified by the County of Hawai'i as desirable for public use. }

Re: Comm. 337
 Intr. by: Ms. Isbell
 Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED: None.

Res. 126-05: Abolishes the Finance Subcommittee on Technology and Communications, Authorizing the Establishment of the Finance Subcommittee on Technology and Telecommunications, and Appointing Council Member Gary Safarik as Chair. {Subcommittee would serve as a liaison between the Council and the Administration on technology infrastructure projects and other issues with emphasis on issues relating to the police communication system.}

Re: Comm. 338
 Intr. by: Ms. Isbell
 Waived: FC

POSTPONED INDEFINITELY

Res. 127-05: Supports the Department of Veteran's Affairs Pacific Center for Residential Rehabilitation Program in Hilo, Hawai'i. {Supports the efforts of our Congressional delegation to service veterans through the Department of Veterans Affairs (VA) Pacific Center for Residential Rehabilitation Program.}

Re: Comm. 339
 Intr. by: Mr. Arakaki, Mr. Ikeda, Mr. Hoffmann, Mr. Jacobson, Mr. Pilago, Mr. Holschuh, Mr. Higa, Ms. Isbell, and Mr. Safarik
 Waived: HSEDC

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 214-04 (2002-2004): Accepts the Donation of a Roadway Lot Known as Ainaloa Boulevard from the Ainaloa Community Association, Inc.

Re: Comm. 696
 Intr. by: Mr. Safarik
 Waived: PWIRC
 Deferred: July 23 and September 1, 2004

; and

Comm. 328: From Assistant Corporation Counsel Gerald Takase, dated June 20, 2005, transmitting Resolution 214-04, Draft 2. Draft 2 identifies the following: 1) roadway lot description for Ainaloa Boulevard as filed with the Land Court; 2) the form of the deed to accomplish the said donation; and 3) the distribution of copies of the Resolution. States that this matter was deferred by the Council pending receipt of an order of subdivision from the Land Court, which order was filed on May 16, 2005.

; and

Res. 214-04 (Draft 2): Accepts the Donation of a Roadway Lot Known as Ainaloa Boulevard from the Ainaloa Community Association, Inc.

Intr. by: Mr. Safarik

ADOPTED:
AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.
NOES: None.
ABSENT & EXCUSED:None.

; and

Comm. 328.1: From Council Member Gary Safarik, dated June 27, 2005, explaining the changes between Resolution 214-04 and Resolution 214-04, Draft 2.

10:00 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 23 (Draft 2): Amends Chapter 14, Hawai'i County Code 1983 (1995 Edition), by Adding a New Article to Provide Enhanced Public Notice of Proposed Development. {Requires developers to post signs notifying the public of proposed development of property.}

Re: Comm. 70.7
Intr. by: Mr. Jacobson
Approve: PC-10

POSTPONED FOR TWO WEEKS

; and

Comm. 70.9: From Mayor Harry Kim, dated June 8, 2005, transmitting the Planning Commission's favorable recommendation and comments regarding Bill 23, Draft 2.

Bill 29: Amends the State Land Use Boundaries Map, H-7 and H-8 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Urban District at Puapua'aiki 1st and Puapua'anui 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-017:019 (approx. 14.872 acres). {Suffolk Investment, LLC, Applicant.}

Re: Comm. 106
Intr. by: Mr. Pilago and Mr. Hoffmann
Approve: PC-24

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Pilago, Safarik, and Chair Higa – 8.
NOES: Council Member Jacobson – 1.
ABSENT & EXCUSED:None.

Bill 30
 (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 Multiple Family Residential (RM-2.5) at Puapua'aiki 1st and Puapua'anui 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-17:19 (approx. 14.872 acres). {Suffolk Investment, LLC, Applicant.}

Re: Comm. 106.71
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-25

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Pilago, Safarik, and Chair Higa – 8.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED:None.

; *and*

- Comm. 106.67: From Lillian Fox, dated June 15, 2005; *and*
- Comm. 106.68: From Connie K. Vohden, President, Kahakai Estates Board of Directors, dated June 14, 2005; *and*
- Comm. 106.69: From Greg and Claudia Taylor, dated June 8, 2005; *and*
- Comm. 106.70: From Josephine Keliipio, dated June 20, 2005.

Bill 31: Amends the State Land Use Boundaries Map, H-7 and H-8 for the County of Hawai'i, by Changing the District Classification from the Agricultural to the Urban District at Puapua'aiki 1st and Puapua'anui 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-17:1 (approx. 14.973 acres). {Puaa Development, LLC, Applicant.}

Re: Comm. 107
 Intr. by: Mr. Pilago and Mr. Hoffmann
 Approve: PC-26

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Pilago, Safarik, and Chair Higa – 8.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED:None.

Bill 32
 (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 Neighborhood Commercial (CN-20) at Puapua'aiki 1st and Puapua'anui 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-17:1 (approx. 14.973 acres). {Puaa Development, LLC, Applicant.}

Re: Comm. 107.3
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-27

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Pilago, Safarik, and Chair Higa – 8.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED:None.

Bill 80: Amends Chapter 23, Article 3, Division 1, Section 23-23 Hawai'i County Code 1983 (1995 Edition), Relating to Subdivision of Land. {Adds the Department of Environmental Management to the list of departments with requirements and standards for subdivisions; and applies restrictions to subdivisions on land classified as Agricultural by the State Land Use Commission, or zoned Family Agricultural, Agricultural, or Intensive Agricultural by the County.}

Re: Comm. 211
 Intr. by: Mr. Jacobson
 Negative: PC-28

FILED

Bill 115: Amends Chapter 2, Article 6, Section 2-16.1 of the Hawai'i County Code 1983 (June 2005 Edition), Administration, Relating to the Establishment of Volunteer Fire Stations. {Establishes the Ainaloa Volunteer Fire Station.}

Re: Comm. 333
 Intr. by: Mr. Safarik
 Waived: PSPRC

PASSED 1ST READING:

AYES: Council Members Arakaki, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Hoffmann – 1.

Bill 116: Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {ADDS PARKS AND RECREATION: Honl's Beach Property Acquisition (\$3,100,000); funds to be provided from General Obligation Bonds, Capital Projects Fund-Fund Balance and/or Other Sources (\$3,100,000). Acquisition of this property would preserve valuable, scenic, oceanfront open space for public benefit as public beach recreational opportunities in North Kona, especially along Ali'i Drive, are limited.}

Re: Comm. 335
 Intr. by: Ms. Isbell
 Waived: FC
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

10:30 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 92 Amends Ordinance No. 92 7, Which Reclassified Lands from Agricultural
 (Draft 2): (A-3a) to Single Family Residential (RS-10) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-4-3:Por. 21 (approx. 6.0003 acres). {Puluwai, LLC, Applicant. Request: Time Extension to Conditions B, C, and O.}

Re: Comm. 241.1
 Intr. by: Mr. Hoffmann and Mr. Pilago
 1st Reading: June 15, 2005

PASSED 2ND & FINAL READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 109: Amends Chapter 11 of the Hawai'i County Code 1983 (1995 Edition), as Amended, Relating to Affordable Housing by Amending Sections 11-3(3), 11-4(a)(2), 11-15(e) and Section 11-5(c).

Re: Comm. 72.25
 Intr. by: Mr. Hoffmann
 1st Reading: June 1, 2005
 Postponed: June 15, 2005

PASSED 2ND & FINAL READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED: None.

REPORTS

FINANCIAL REPORT: Monthly Financial Status Report from the Department of Finance for the Month Ended May 31, 2005.

ACCEPTED

FC-109 (Comm. 284): Recommends the acceptance of a portable tent (estimated value of \$139) donated by Trace Evidence; and a library of educational materials (estimated value of \$500) donated by Dr. Leonard G. Horowitz, D.M.D., M.A., M.P.H., to the Police Department.

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. 311: CLAIM AGAINST THE COUNTY/STATE FARM INSURANCE & LEONARDO AFAN
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated June 23, 2005.
CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 312: CLAIM AGAINST THE COUNTY/USAA INSURANCE ON BEHALF OF YVETTE ERECE
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated June 23, 2005.
CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 329: DANIEL DESPRES V. ERIKA FRITTS, ET AL.; CIVIL NO. 04-1-129K
 From Deputy Corporation Counsel Brandon A. K. Gonzalez, dated June 27, 2005.
CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 330: MICHAEL L. DUBBERSTEIN VS. COUNTY OF HAWAI'I, ET AL. CIVIL
NO. 03-00552 SOM/BMK
From Deputy Corporation Counsel Joseph K. Kamelamela, dated June 27, 2005.
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

COMMITTEES	<u>THURSDAY, JULY 21, 2005</u> TBA	COUNCIL ROOM
COUNCIL	<u>FRIDAY, JULY 22, 2005</u> 9:00 a.m.	COUNCIL ROOM
COMMITTEES	<u>TUESDAY, AUGUST 2, 2005</u> TBA	COUNCIL ROOM
COUNCIL	<u>WEDNESDAY, AUGUST 3, 2005</u> 9:00 a.m.	COUNCIL ROOM

STATEMENTS FROM THE PUBLIC/ADJOURNMENT 4:32 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 July 5, 2005. Persons using TDDs may call 961-8521. 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 Kona Council Members' Office at the Kailua Trade Center, 75-5706 Hanama Place, Suite 109, Kailua-Kona, Hawai'i 96740.

Note: Videoconference from the Kona Mayor's Office and the Pāhoa Neighborhood Facility is available for this meeting.

Submitting Testimony: Those persons wishing to testify in person or by videoconference must register with the Council/Clerk's staff. Those testifying in person and submitting written testimony at the meeting in Hilo should bring **sixteen (16)** copies of the testimony for distribution at the meeting. Those testifying by videoconference from the Mayor's Office in Kailua-Kona, located at Hanama Place, 75-5706 Kuakini Hwy., Suite 103, and the Pāhoa Neighborhood Facility should bring one copy of the testimony. Those persons unable to testify in person or by videoconference may submit testimony (1) by mail to the County Clerk's Office in Hilo at the above address, (2) by facsimile to (808) 961-8912, or (3) by e-mail to counciltestimony@co.hawaii.hi.us. Copies will be made and distributed at the meeting when transmitted in a timely manner. In any case, both oral and written testimony will be considered public record.

Government Access Television: Channel 52 (Hilo and Kona) Thursday, July 14, 2005, at 6 p.m.; Sunday, July 17, 2005, at 10:30 a.m.; and Thursday, July 21, 2005, at 6 p.m.

(Hawai'i Tribune Herald – July 6, 2005)

(West Hawai'i Today – July 5, 2005)