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K. ANGEL PILAGO
GARY SAFARIK

COUNTY COUNCIL

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

24th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Wednesday, November 9, 2005
9:00 a.m.

INVOCATION

Captain Michael Lutcher of Salvation Army

CALL TO ORDER

9:07 a.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

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

9:00 A.M.: STATEMENTS FROM THE PUBLIC ON PETITIONS, MEMORIALS, COMMUNICATIONS, CERTIFICATES OF MERIT AND EXPRESSIONS OF CONDOLENCE

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

Comm. 452.2: PROPOSALS FOR INCLUSION IN THE 2006 HAWAI'I STATE ASSOCIATION OF COUNTIES (HSAC) LEGISLATIVE PACKAGE

From HSAC Vice President K. Angel Pilago, dated October 26, 2005, requesting that the following legislation be considered for inclusion in the 2006 HSAC Legislative Package: 1) A Bill for an Act Relating to the Sunshine Law, which amends Section 92-10, HRS, to exempt all elected legislative boards, including the county councils; and 2) A Resolution Proposal Repealing the Sunset Dates for Three State Statutes that Provide the Counties with Liability Protection for Public Use of Certain County Recreation Areas, which consolidates the two Bills for an Act Relating to Public Land Liability as well as A Bill for an Act Relating to Liability, which repeals the sunset dates of three statutes stated previously, providing the state and county governments with liability protection for public use of certain state or county recreational areas.

Waived: PWIRC

FILED (APPROVED ITEM NO. 2 FOR INCLUSION IN THE 2006 HSAC LEG. PKG.; ITEM NO. 1 FAILED)

Comm. 500: PRESENTATION REGARDING A DOCUMENTARY FILM HONORING THE U.S. ARMY'S 1ST AND 2ND FILIPINO INFANTRY REGIMENTS AND UPCOMING YEAR-LONG FILIPINO CENTENNIAL CELEBRATION IN DECEMBER 2005

From Council Chair Stacy K. Higa, dated October 18, 2005, stating that the coordinators of this event, Carol Brown and Lorraine Godoy, would be providing information regarding this Veteran's Day event.

Waived: FC

FILED

9:15 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF RESOLUTIONS**ORDER OF RESOLUTIONS**

Res. 180-05: Authorizes the Acceptance of a Donation of an Assortment of Rescue Equipment to the Hawai'i County Fire Department. {Donated by the Kanoelani Chapter of the American Business Women's Association and would be used to enhance the rescue capabilities of the firefighters at the Waimea Fire Station, with an estimated value of \$250.}

Re: Comm. 469
 Intr. by: Ms. Isbell
 Approve: FC-164

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Res. 181-05: Authorizes the Acceptance of a Donation of a Billiard Table to the Department of Parks and Recreation. {Donated by the Ka'u Ho'olaule'a Committee and would be used by the patrons of the Na'alehu Community Center, with an estimated value of \$3,072.}

Re: Comm. 470
 Intr. by: Ms. Isbell
 Approve: FC-165

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Res. 182-05: Authorizes the Acceptance of a Monetary Donation of \$2,000 to the Hawai'i County Police Department. {Donated by Big Island Candies and would be used by the ICE Task Force and Vice officers in their methamphetamine investigations.}

Re: Comm. 471
 Intr. by: Ms. Isbell
 Approve: FC-166

ADOPTED:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Res. 183-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year for Two Boom Trucks (five-year lease agreement). {Trucks would be used by the Environmental Management Department's Solid Waste Division to collect bulky items such as white goods, sofas, mattresses, large tires, and engine blocks deposited at County transfer stations, which would be taken to County scrap metal facilities and landfills.}

Re: Comm. 472
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-168

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

Res. 184-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year for One Landfill Compactor (five-year lease agreement). {Compactor would be used by the Environmental Management Department's Solid Waste Division at the West Hawai'i landfill to maximize trash compaction, reduce airspace in the waste, and be in compliance with Department of Health regulations.}

Re: Comm. 473
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-169

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

Res. 185-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year for Eight 75 Cubic Yard Refuse Trailers (five-year lease agreement). {Refuse trailers would be used by the Environmental Management Department's Solid Waste Division to replace current trailers at the transfer stations which are in excess of ten years of age, require extensive repairs, and reached the end of their useful life.}

Re: Comm. 474
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-170

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

Res. 186-05: Authorizes the Finance Director to Dispose of Donated Lands Situate at South Hilo, Hawai'i, Being Tax Map Key:(3)2-3-030:004, by Either Public Auction, Sale or Lease by Sealed Bid, Sale or Lease by Negotiations or Exchange. {Property contains an area of 60.59 acres, requires ongoing maintenance and is not considered a feasible site for future County facilities (previously acquired in 1917 for the purpose of protecting the watershed for the City of Hilo).}

Re: Comm. 476
 Intr. by: Ms. Isbell
 Approve: FC-171

FILED (MOTION TO FILE)

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED:Council Members Arakaki and Safarik – 2.

Res. 194-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$84 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development Hawai'i County Resource Center (\$84). Discretionary funds from Council District 2 would be used to purchase materials to build bins to hold recycled cans and bottles for the Pu'u'eo Community Association Recycling Project.}

Re: Comm. 499
 Intr. by: Mr. Ikeda
 Waived: FC

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED:Council Members Arakaki and Safarik – 2.

Res. 200-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$500 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development Hawai'i County Resource Center (Facilitating Extraordinary Accomplishments in Hawai'i Youth (FEAHY) Workshop) (\$500). Discretionary funds from Council District 8 would be used to support the FEAHY Workshop.}

Re: Comm. 518
 Intr. by: Mr. Pilago
 Waived: FC

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED:Council Members Arakaki and Safarik – 2.

9:45 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 156: Amends Chapter 11 (Housing), Article 1, Section 11-4(d), Hawai'i County Code 1983 (2005 Edition), to Include Affordable Housing Requirements for Industrial Park Developments. {Requires industrial park developments, consisting of multiple individual enterprises which cumulatively generate over 100 employees on a fulltime equivalent basis, to earn one affordable housing credit for every four fulltime equivalent jobs created. }

Re: Comm. 463
 Intr. by: Mr. Hoffmann
 Negative Recommendation: PC-36 (due to a vote of 4 ayes, 3 noes and 2 absent & excused)

POSTPONED TO 12/7/05 COUNCIL MEETING

Bill 157: Amends Section 25-8-12 (Kawaihae-Puako District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Open (O) to Industrial-Commercial Mixed (MCX-1a) at Kawaihae 1st, South Kohala, Hawai'i, Covered by Tax Map Key 6-1-3:15 (approx. 1.32 acres). {State of Hawai'i, Department of Land and Natural Resources, Applicant. }

Re: Comm. 464
 Intr. by: Mr. Pilago and Mr. Hoffmann
 Approve: PC-37

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 158: Amends Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Multiple Family Residential (RM-1) to Multiple Family Residential (RM-10) at Kalalau, South Hilo, Hawai'i, Covered by Tax Map Key 2-6-8:Portion of 22 (approx. 0.55 acre). {Johanna Leaird Revocable Living Trust, Applicant. }

Re: Comm. 465
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-38

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 159
(Draft 2): Amends Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), Related to Plan Approval and Landscaping. {Proposes to delete Plan Approval and Landscaping requirements for the construction of one single-family dwelling and accessory buildings per lot within various zoning districts.}

Re: Comm. 466.1
Intr. by: Mr. Pilago and Mr. Hoffmann
Approve: PC-39

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 160: Amends Ordinance No. 05-86, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2006. {Increases revenues in Contribution from Private Source (\$2,000); appropriates same to the Police Department's Criminal Investigation Division – Juvenile Aid Bureau – Vice Section Other Current Expense account.}

Re: Comm. 471
Intr. by: Ms. Isbell
Approve: FC-167

PASSED 1ST READING:

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

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

10:15 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 146: Amends Chapter 24, of the Hawai'i County Code 1983 (2005 Edition), Relating to Vehicles and Traffic. {Authorizes 20 mile per hour speed limits along Hōkū'ula Road, Spencer Road, Konokohau Road, and Laelae Road.}

Re: Comm. 424
Intr. by: Mr. Ikeda
1st Reading: October 18, 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 152: 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. {Increases FIRE: Pāhoa Fire Station [\$2,009,000] \$2,809,000; funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$800,000). Estimated costs of construction for the fire station has gone up due to the current boom in the construction industry. }

Re: Comm. 443
 Intr. by: Ms. Isbell
 1st Reading: October 18, 2005
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

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 153: 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 FIRE: Central Fire Station Roof Repair (\$390,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$390,000). Funds would be used for the design and repair of the Department's leaking roof and water damaged ceiling. }

Re: Comm. 444
 Intr. by: Ms. Isbell
 1st Reading: October 18, 2005
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

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 154
 (Draft 2): Amends Chapter 18, Article 4, Division 1, Subsection 18-90(h), of the Hawai'i County Code 1983 (2005 Edition), Relating to Public Transportation. {Designates the entire County of Hawai'i as a transportation kōkua zone, expanding on the successful kōkua zones currently provided between Pāhoa and Hilo and Ocean View and Kawaihae. }

Re: Comm. 450.1
 Intr. by: Mr. Ikeda
 1st Reading: October 18, 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 155: Amends Ordinance No. 05-86, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2006. { Appropriates revenues in State Grants – Coordinated Services – Purchase of Services (\$69,127); appropriates same to Coordinated Services – Other Current Expense. }

Re: Comm. 454
 Intr. by: Ms. Isbell
 1st Reading: October 18, 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

FC-163 (Comm. 467): Recommends acceptance of the following donations to the Parks and Recreation Department: Two Nigerian Dwarf Goats and one Pot Belly Pig from the Friends of the Zoo to be used as petting zoo animals for the Children's Petting Zoo at the Pana'ewa Rainforest Zoo (estimated value of \$250); and 32 cubic yards of cinder from Sanford's Service Center, Inc., to be used for the beautification of Kahakai Park in Hawaiian Beaches (estimated value of \$261.68).

APPROVED

REFERRALS FOR EXECUTIVE SESSION

The Council anticipates convening an executive meeting regarding the following cases, pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, as amended, for the purpose of consulting with the Corporation Counsel and/or its attorney on questions and issues pertaining to the Council's powers, duties, privileges, immunities and liabilities, including the current status of the litigation. A 2/3 vote, pursuant to HRS Section 92-4 and Rule 12 of the Rules of Procedure of the County Council is necessary to hold an executive meeting.

Comm. 513: SHANNON ROBYN, ET AL. VS. ALBERT PACHECO, ET AL., CIVIL NO. 02-1-0373
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated October 28, 2005.
CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

Comm. 514: JAMES S. PARRISH AND LISA R. PARRISH, ET. AL. V. THE HONORABLE RONALD IBARRA, JUDGE OF THE THIRD CIRCUIT COURT, STATE OF HAWAI'I, ET. AL. CIVIL NO. 05-651; JAMES R. PARRISH AND LISA R. PARRISH, ET. AL. V. THE STATE OF HAWAI'I, ET. AL. CIVIL NO. 05-1-0315.
 From Corporation Counsel Lincoln S. T. Ashida, dated October 28, 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

	<u>MONDAY, NOVEMBER 21, 2005</u>	
COMMITTEES	TBA	COUNCIL ROOM
COUNCIL PUBLIC HEARING RE RES. 171-05 (STATE HARBORS)	6:00 p.m.	PĀHOA NEIGHBORHOOD FACILITY
	<u>TUESDAY, NOVEMBER 22, 2005</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
COUNCIL PUBLIC HEARING RE RES. 171-05 (STATE HARBORS)	6:00 p.m.	COUNCIL ROOM
	<u>WEDNESDAY, NOVEMBER 30, 2005</u>	
COUNCIL PUBLIC HEARING RE RES. 171-05 (STATE HARBORS)	6:00 p.m.	NA‘ALEHU COMMUNITY CENTER
	<u>TUESDAY, DECEMBER 6, 2005</u>	
COMMITTEES	TBA	SHERATON KEAUHOU BAY RESORT & SPA
COUNCIL PUBLIC HEARING RE RES. 171-05 (STATE HARBORS)	6:00 p.m.	SHERATON KEAUHOU BAY RESORT & SPA
	<u>WEDNESDAY, DECEMBER 7, 2005</u>	
COUNCIL	9:00 a.m.	SHERATON KEAUHOU BAY RESORT & SPA
COUNCIL PUBLIC HEARING RE RES. 171-05 (STATE HARBORS)	7:00 p.m.	WAIMEA MIDDLE SCHOOL CAFETERIA

ADJOURNMENT 2:32 p.m.

Note: B/R, when listed next to the name of an Introducer, signifies that the Council Member has agreed to introduce legislation "By Request" on behalf of the requesting party. It does not necessarily signify support of or opposition to the proposal.

The meeting place is accessible for persons with disabilities. Persons who need special accommodations to attend this meeting should call 961-8255 by November 7, 2005. Persons using TDDs may call 961-8521.

Copies of an item listed on the agenda 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; at the Kona Council Members' Office at the Kailua Trade Center, 75-5706 Hanama Place, Suite 109, Kailua-Kona, Hawai'i 96740; and at the Waimea Council Members' Office at the Holomua Center, 64-1067 Māmalahoa Highway, Suite 5, Waimea, Hawai'i 96743.

Videoconferencing is available at the following locations:

- Kona Council Office at the Kailua Trade Center; and
- Waimea Council Office at the Holomua Center.

If, for technical reasons the video connection cannot be made and/or is disrupted, the scheduled meeting will continue.

- Videoconferencing from the Pāhoa Neighborhood Facility will not be available.

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 Kona Council Office and the Waimea Council Office 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.

Notice to Lobbyists: If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist. {Article 15, Section 2-91.3(b), Hawai'i County Code} A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." {Article 15, Section 2-91.3(a)(6), Hawai'i County Code} Registration forms and expenditure report documents are available at the Office of the County Clerk-Council, 25 Aupuni Street, Hilo, Hawai'i 96720.

Government Access Television: Channel 52 (Hilo and Kona) Wednesday, November 16, 2005, at 6 p.m.; Sunday, November 20, 2005, at 10:30 a.m.; and Wednesday, November 23, 2005, at 6 p.m.

(Hawai'i Tribune Herald – November 6, 2005)
(West Hawai'i Today – November 6, 2005)