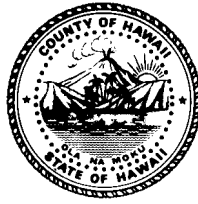


STACY K. HIGA
Chair & Presiding Officer

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Vice Chair



JAMES Y. ARAKAKI
PETE HOFFMANN
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GARY SAFARIK

COUNTY COUNCIL

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

25th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Tuesday, November 22, 2005
9:00 a.m.

INVOCATION

Stewart Hussey, President, The Christian Science Church

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

September 8, 2005

(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. 178-05: Authorizes the Acquisition of Private Property by Eminent Domain, Being Road B, Tax Map Key:(3)7-3-005:101, Situate at Kalaoa, North Kona, County and State of Hawai'i, for the Development and Construction of a Connector Road Between Holu Street and Ke'oke'o Street, Kona, Hawai'i. {Road B contains an area of 9,676 square feet and the connection of these streets would provide a regional benefit for a public purpose and use which would benefit the County of Hawai'i by improving traffic circulation.}

Re: Comm. 468
Intr. by: Mr. Ikeda
Approve: PWIRC-27
Note: First of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 179-05: Authorizes the Acquisition of Private Property by Eminent Domain, Being Road A, Tax Map Key:(3)7-3-005:102, Situate at Kalaoa, North Kona, County and State of Hawai'i, for the Development and Construction of a Connector Road Between 'Ili 'Ili Street and Kiekie Street, Kona, Hawai'i. {Road A contains an area of 14,267 square feet and the connection of these streets would provide a regional benefit for a public purpose and use which would benefit the County of Hawai'i by improving traffic circulation.}

Re: Comm. 468
Intr. by: Mr. Ikeda
Approve: PWIRC-28
Note: First of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 189-05: Authorizes the Acceptance of a Government Road Reserve (Tax Map Key: (3)6-5-005:022), Situate at Waimea, District of South Kohala, County and State of Hawai'i, from the State of Hawai'i, for the Waimea Trails and Greenways Project (approx. 0.028 acre).

Re: Comm. 479
Intr. by: Mr. Ikeda
Approve: PWIRC-29

Res. 190-05: Supports the Coqui Frog Working Group's Consolidated Efforts to Control and Eradicate Coqui Frogs in Hawai'i County. {Encourages citizens to volunteer and assist the working group in its outreach education, monitoring, and eradication efforts.}

Re: Comm. 490
Intr. by: Mr. Pilago
Approve: EMC-8

and;

Comm.490.5: From Scott Susman, Kaloko Coqui Coalition, dated November 8, 2005.

Res. 191-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$300 out and from Clerk-Council Services – Contingency Relief account; credits same to Parks and Recreation, Recreation Division Equipment. Discretionary funds from District 2 would be used to supplement the purchase of a basketball/volleyball scoreboard for the Pi'ihonua Gym.}

Re: Comm. 489
Intr. by: Mr. Ikeda
Approve: FC-172

Res. 192-05: Adopts the "Envision Downtown Hilo 2025: A Community-Based Vision and Living Action Plan (August 2005)" as a Community Visioning and Planning Process that Can Serve as a Model for the County of Hawai'i.

Re: Comm. 495
Intr. by: Mr. Hoffmann and Mr. Pilago
Approve: PC-43

Res. 195-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More than One Fiscal Year for Multi-Year Lease for Seven Copiers for the Hawai'i County Police Department. {Copiers would be used in the Department's district offices in North Hilo, Hāmākua, Kohala, Ka'u, Kea'au, and Pāhoa and the Kona Driver's License office. Currently, copiers in use are constantly being repaired which causes many non-operational periods and their leases have expired.}

Re: Comm. 504
Intr. by: Ms. Isbell
Approve: FC-175

Res. 196-05: Authorizes the Finance Director to Convey Lands Situated at Manowai'ōpae Homesteads, North Hilo, Hawai'i, Being TMK: (3)3-6-003:035 to the Department of Water Supply for Well and Reservoir Expansion. {The Department, owner of the adjacent parcel, would like to consolidate these parcels and acquire more land for the expansion of the well and reservoir facilities.}

Re: Comm. 505
Intr. by: Ms. Isbell
Approve: FC-176

Res. 197-05: Authorizes the Office of the Mayor to Enter Into an Agreement with the United States of America, Pursuant to HRS 46-7, for the Assistance to Firefighters Grant for the Hawai'i County Fire Department. {Funds would be used to purchase and install venting systems for all fire stations to reduce or eliminate fire personnel's exposure to exhaust fumes generated by fire apparatuses and ambulances.}

Re: Comm. 506
Intr. by: Ms. Isbell
Approve: FC-177

Res. 198-05: Amends Salary Ordinance No. 05-88 to Amend the Pay Rates for the Student Intern, Student Helper I, Student Helper II, and Senior Community Services Aid Classes of Work. {Amended pay rates are an increase in the State of Hawai'i's minimum hourly wage rate (effective on January 1, 2006) from \$6.25 to \$6.75 and to \$7.25 beginning January 1, 2007; as well as amends the hourly pay rate for the Student Helper II class of work.}

Re: Comm. 507
Intr. by: Ms. Isbell
Approve: FC-179

Res. 199-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More than One Fiscal Year for Multi-Year Lease (five years) for a Copier for the Department of Finance Purchasing Division. {The current copier, which is on a month-to-month maintenance contract, has been very problematic the past few months and obtaining a more technically advanced copier would be more cost effective, eliminate down time, and increase office productivity.}

Re: Comm. 508
Intr. by: Ms. Isbell
Approve: FC-180

Res. 207-05: Designates the Chair and Vice Chair of Certain Council Committees. {Proposes to change the designations of the Chair and Vice Chair of certain Council Committees.}

Re: Comm. 537
 Intr. by: Mr. Higa
 Waived: FC

Res. 208-05: Authorizes the Director of Finance to Negotiate a Fifty-Five Year Lease with the Hawai'i Island Community Development Corporation for the Purpose of Development and Construction of a 30-Unit Senior Rental Housing Project at a Set Lease Rental Amount of \$10 Per Year.

Re: Comm. 543
 Intr. by: Mr. Hoffmann
 Approve: CHA – November 9, 2005

10:30 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 89
 (Draft 2): Amends Ordinance No. 95-51 Amending Ordinance No. 90-160, Which Reclassified Lands from an Unplanned (U) and Multiple Family Residential (RM-1.5) to Open (O) and Residential-Agricultural (RA-1a) at Waikoloa, South Kohala, Hawai'i, Covered by Tax Map Key 6-8-02:Portion of 16 and 6-8-03:Portion of 32 (approx. 761 acres); Requesting a Time Extension to Condition B. {Waikoloa Mauka, LLC, Applicant (formerly Waikoloa Development Company).}

Re: Comm. 230.8
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-44

Bill 161: Amends Chapter 14, Article 10, of the Hawai'i County Code, as Amended, Relating to Exceptional Trees. {Removes the Quinine Tree at Kalakaua Park along Waianuenue Avenue from the list of Exceptional Trees for Hawai'i County.}

Re: Comm. 492
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-40

Bill 162: Amends Section 25-8-11 (Lalamilo-Puukapu Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Agricultural (A-40a) to Agricultural (A-5a) at Waimea, South Kohala, Hawai'i, Covered by Tax Map Key 6-4-17:40 (approx. 43.88 acres). {Yoshio Inaba, et al., Applicant.}

Re: Comm. 493
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Negative Recommendation: PC-41 (due to 4 ayes and 5 noes)

Bill 163: 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 Neighborhood Commercial (CN-10) to Industrial-Commercial Mixed (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-49:24 (approx. 28,264 square feet). {Jim Winniman, Applicant.}

Re: Comm. 494
 Intr. by: Mr. Hoffmann and Mr. Pilago
 Approve: PC-42

Bill 164: 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 Transfer from General Fund (\$12,000); appropriates same to Streetlights Other Current Expense (Kea'au Agricultural Lots Subdivision). Funds would be used for the installation of streetlights to improve community safety.}

Re: Comm. 502
 Intr. by: Ms. Isbell
 Approve: FC-173

Bill 165: 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 an appropriation and adds two related projects as follows: ENVIRONMENTAL MANAGEMENT: Nā'ālehu and Pāhala Large Capacity Cesspool Replacement – County [\$330,000] (~~\$450,000~~), Nā'ālehu and Pāhala Large Capacity Cesspool Replacement – State Revolving Funds (\$2,000,000), and Nā'ālehu and Pāhala Large Capacity Cesspool Replacement – Federal (\$1,400,000); funds shall be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$120,000), State Revolving Funds (\$2,000,000), and Federal Grants Receivable (\$1,400,000), for a total of \$3,850,000. Funds would provide a sewer system to existing homes in the Nā'ālehu and Pāhala area currently serviced by non-county owned large capacity cesspools; this project consists of performing a study, design, and construction of a sewer collection and septic system.}

Re: Comm. 503
 Intr. by: Ms. Isbell
 Approve: FC-174
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 166: 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 Federal Grants – Assistance to Firefighters (\$406,016); appropriates same to Assistance to Firefighters.}

Re: Comm. 506
Intr. by: Ms. Isbell
Approve: FC-178

Bill 167
(Draft 2): Amends Chapter 24, Article 4, of the Hawai'i County Code 1983 (2005 Edition), as Amended, Relating to Motor Vehicle Driver's License Fees. {Adds a new provisional license fee (effective on January 9, 2006) of \$5 per year, which is valid only until a person reaches age 19.}

Re: Comm. 509.1
Intr. by: Ms. Isbell
Approve: FC-181

Bill 169
(2002-2004): Amends Chapter 19, of the Hawai'i County Code 1983 (1995 Edition), Real Property Taxes, Relating to Charitable Purposes Exemptions. {Clarifies "Section 19-77. Charitable, etc., purposes." by recognition of Federal income tax 501(c)(3) designation for certain nonprofit organizations and documentation requirements for those claiming this exemption.}

Re: Comm. 385
Intr. by: Mr. Chung
Approve: FC-182

Bill 170
(2002-2004): Amends Chapter 19, of the Hawai'i County Code 1983 (1995 Edition), Relating to Real Property Taxes, by Realigning Water Tank Exemptions. {Clarifies "Section 19-54. Water tanks." by removing it from Article 7 and placing it in Article 10.}

Re: Comm. 386
Intr. by: Mr. Chung
Approve: FC-183

Bill 171: Amends Chapter 2, Article 42, Hawai'i County Code 1983 (2005 Edition), Relating to the Public Access, Open Space, and Natural Resources Preservation Commission. {Adds language to Ordinance No. 05-85 regarding Commissioners' terms.}

Re: Comm. 538
Intr. by: Mr. Jacobson
Waived: FC

Bill 172: 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 Block Grant Program Income (\$121,766.88); appropriates same to Removal of Architectural Barriers.}

Re: Comm. 544
 Intr. by: Mr. Hoffmann
 Approve: CHA – November 9, 2005

Bill 173: 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 HOME – Program Income (\$96,910.48); appropriates same to Hualalai Elderly Housing Phase III.}

Re: Comm. 545
 Intr. by: Mr. Hoffmann
 Approve: CHA – November 9, 2005

1:30 P.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)

ORDER OF THE DAY (SECOND OR FINAL READING)

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
 1st Reading: November 9, 2005

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
 1st Reading: November 9, 2005

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
1st Reading: November 9, 2005

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
1st Reading: November 9, 2005

REPORTS

PSPRC-16
(Comm. 510): Recommends approval of the nomination of Mr. Gary Yoshiyama (Council District 2) to the Liquor Adjudication Board.

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. 491: REQUEST FOR EXECUTIVE MEETING REGARDING "SERIAL COMMUNICATIONS" AND THE STATE OF HAWAI'I OFFICE OF INFORMATION PRACTICES (OIP)
From Corporation Counsel Lincoln S. T. Ashida, dated October 17, 2005.

(Note: The purpose of the executive meeting is to discuss the Corporation Counsel's interpretation, work product, and recommendations concerning the State of Hawai'i OIP's prohibition against "serial communication" of board members, and to discuss the Council's powers, duties, privileges, immunities, and liabilities thereto. The discussion will also cover the possibility of litigation involving the County of Hawai'i, pertaining to an interpretation of the OIP's opinion. This meeting is closed to the public pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, as amended.)

Comm. 527: CLAIM AGAINST THE COUNTY/FIRST INSURANCE – H.O.V.E. ROAD MAINTENANCE
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated November 3, 2005.

Comm. 535: RUSSELL VS. COUNTY OF HAWAI'I, CIVIL NO. 97-01102 SPK
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated November 7, 2005.

OTHER BUSINESS

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

ANNOUNCEMENTS

	<u>TUESDAY, NOVEMBER 22, 2005</u>	
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

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 18, 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 30, 2005, at 6 p.m.; Sunday, December 4, 2005, at 10:30 a.m.; and Wednesday, December 7, 2005, at 6 p.m.

(Hawai'i Tribune Herald – November 18, 2005)

(West Hawai'i Today – November 18, 2005)