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## COUNTY COUNCIL

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

26<sup>th</sup> Session

### ORDER OF BUSINESS

Hawai'i County Council  
Sheraton Keauhou Bay Resort and Spa  
78-128 Ehukai Street  
Kailua-Kona, Hawai'i

Wednesday, December 7, 2005  
9:00 a.m.

INVOCATION

Pastor Terry Meechan of Thy Word Ministries – Kona

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

September 21, 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. 202-05: Requires the County Office of Elections to Provide Candidates for Public Office with a Copy of Ordinance No. 04-142 (Hawai'i County Sign Code), Section 3-7(A), Signs Prohibited in All Districts. {Ensures that public streets and highways are kept free from signs which distract motorists' attention while driving, which is necessary for the promotion and preservation of the public health, safety, and welfare of the people of the County.}

Re: Comm. 528  
Intr. by: Mr. Hoffmann  
Negative Recommendation: PSPRC-17

Res. 203-05: Rescinds Resolution 249-96 Authorizing the Acceptance of the Donation of Real Properties from Daniel Isami Funakoshi, Tax Map Keys: (3)1-2-034:078 and 1-2-034:094, and Authorizes the Mayor to Convey Said Real Properties Back to Daniel Isami Funakoshi. {Donated properties located in Kalapana Seaview Estates was not inundated by lava as originally believed, therefore, Mr. Funakoshi expressed a desire to have the parcels returned to him and agreed to pay the back taxes.}

Re: Comm. 530  
Intr. by: Ms. Isbell  
Approve: FC-185

Res. 204-05: Authorizes the Acceptance of a Monetary Donation of \$2,250 to the Hawai'i County Fire Department. {Donated by Wal-Mart Hilo as part of its "Safe Neighborhood Grant" program and would be used towards the purchase of educational materials to be distributed to the public in commemoration of Fire Prevention Week and Emergency Medical Services Week.}

Re: Comm. 531  
Intr. by: Ms. Isbell  
Approve: FC-186

Res. 205-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates a total of \$33,788,751 out and from the following accounts: Employee Retirement System Pension Accumulation Fund (\$13,380,880), FICA Employer Share (\$4,253,871), and Employee Health Plans (\$16,154,000); credits same to the following accounts: Retirement Benefits (\$13,380,880), FICA Employer Share (\$4,253,871), and Health Benefits (\$16,154,000), for a total of \$33,788,751. Due to the recent conversion to the new FRESH payroll system, it became necessary to renumber certain general ledger accounts to create consistency among the various funds, which had been budgeted in the old account numbering scheme.}

Re: Comm. 534  
Intr. by: Ms. Isbell  
Approve: FC-189

Res. 209-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$3,313 out and from Clerk-Council Services – Contingency Relief account; credits same to Humane Society – Animal Control Services. Requests funding be transferred from the Contingency Relief account into the Humane Society account as the Police Department has completed contract negotiations for the first of two additional one-year extensions with the Hawai'i Island Humane Society to cover Fiscal Year 2005-06. Funds would be used for transportation related expenses, such as mileage costs, for the Society.}

Re: Comm. 553  
Intr. by: Ms. Isbell  
Waived: FC

Res. 216-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$3,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Parks and Recreation Aquatics Pool Equipment (Lifeguard Tower – Honoka'a Swimming Pool). Discretionary funds from District 1 would be used towards funding a lifeguard tower for the Honoka'a Swimming Pool.}

Re: Comm. 566  
Intr. by: Mr. Holschuh  
Waived: FC

Res. 217-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$2,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development Tourism Promotion Miscellaneous Contract Services (Big Island Filipino Community Council for North Kohala Filipino Centennial Celebration). Discretionary funds would be used to fund the Big Island Filipino Community Council for the North Kohala Filipino Centennial Celebration, to be administered by the Department of Research and Development on December 10, 2005.}

Re: Comm. 569  
Intr. by: Mr. Hoffmann  
Waived: FC

Res. 218-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$5,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development Tourism Promotion, Miscellaneous Contract Services (Big Island Filipino Community Council for Kea'au and Hilo). Discretionary funds from District 3 would be used for a supplemental grant to the Big Island Filipino Community Council to support the Centennial Anniversary of Filipinos in Hawai'i.}

Re: Comm. 570  
Intr. by: Mr. Arakaki  
Waived: FC

Res. 219-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$6,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Parks and Recreation Lifeguard Stands (Kawamoto Swim Stadium – Hoolulu Complex. Discretionary funds from District 4 would be used to purchase two lifeguard stands to be installed in the Kawamoto Swim Stadium – Hoolulu Complex.}

Re: Comm. 572  
Intr. by: Mr. Higa  
Waived: FC

Res. 220-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year for a Multi-Year Lease (5 years) for Two Copiers for the Office of the Prosecuting Attorney. {Replacing current copiers would save a considerable amount of staff time, greatly improve office efficiency and productivity, and be more cost effective.}

Re: Comm. 573  
Intr. by: Ms. Isbell  
Waived: FC

Res. 221-05: Requests the State Legislature to Appropriate Funds for Necessary Repairs and Refurbishing of the Konawaena and Laupāhoehoe Swimming Pools and Replacement of the Honoka‘a Swimming Pool. {Appropriations are as follows: \$1,500,000 for repairs to the Konawaena Swimming Pool, \$1,000,000 for repairs to the Laupāhoehoe Swimming Pool, and \$4,000,000 for the replacement of the Honoka‘a Swimming Pool.}

Re: Comm. 574  
Intr. by: Mr. Holschuh  
Waived: FC

Res. 222-05: Authorizes the Payment of Funds of a Later Fiscal Year and More Than One Fiscal Year for a Multi-Year Lease (1 year) of Real Property for the Office of the County Council-Clerk. {The 5,000 square feet of office space for the Election's Division is located at 111 East Puainako Street, Hilo, at an approximate cost of \$8,594 per month, including taxes.}

Re: Comm. 575  
Intr. by: Ms. Isbell  
Waived: FC

Res. 223-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$60,000 out and from Clerk-Council Services – Salaries and Wages account; credits same to Election Division Other Current Expense. Funds would be used to supplement the Election Division's move to the Prince Kuhio Plaza, which required additional financing to fulfill its financial obligation for the fiscal year ended June 30, 2006.}

Re: Comm. 576  
Intr. by: Ms. Isbell  
Waived: FC

**10:00 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:	November 9, 2005

**(Note: There is a pending motion by Mr. Hoffmann and duly seconded by Mr. Jacobson to approve Bill 156.)**

Bill 168: 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 PUBLIC WORKS: Kaūmana Drive Flood Protection – Federal (\$300,000); funds to be provided from Federal Grants Receivable (\$300,000). The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) will reimburse the County of Hawai'i for consultant fees necessary to prepare a plan to provide flood protection to homes along Kaūmana Drive between Chong Street and one-half mile above Wilder Road (work will be based on the Waipāhoehoe Stream flood analysis completed by the NRCS in 2003).}

Re:	Comm. 529
Intr. by:	Ms. Isbell
Approve:	FC-184
2/3 Vote:	Section 10-6(d), Hawai'i County Charter

Bill 169: 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 (\$2,250); appropriates to Fire Protection – Other Current Expense (\$1,250) and Fire Prevention – Other Current Expense (\$1,000), for a total of \$2,250.}

Re:	Comm. 531
Intr. by:	Ms. Isbell
Approve:	FC-187

Bill 170: 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 PUBLIC WORKS: North Kona Connector Roads (\$500,000); funds to be provided from Fund Balance – Designated (\$500,000). Funds would be used for the acquisition, construction, improvements, and/or ancillary costs associated with the development of four connector roads that lie between the Kona Coastview/Wonderview and Kona Palisades subdivisions. The four road connections are: Nana-Holoholo, Ahi'ahi-Kauhale, Holu-Ko'oke'o, and 'Ili'ili-Ki'ek'ie}

Re: Comm. 533  
 Intr. by: Ms. Isbell  
 Approve: FC-188  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

**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)**

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  
 1<sup>st</sup> Reading: November 22, 2005  
 Note: Second 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  
 1<sup>st</sup> Reading: November 22, 2005  
 Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Bill 89  
(Draft 3): 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. 230.9  
Intr. by: Mr. Hoffmann and Mr. Pilago  
1<sup>st</sup> Reading: November 22, 2005

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 Waiuanuenue Avenue from the list of Exceptional Trees for Hawai'i County.}

Re: Comm. 492  
Intr. by: Mr. Hoffmann and Mr. Pilago  
1<sup>st</sup> Reading: November 22, 2005

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  
1<sup>st</sup> Reading: November 22, 2005

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  
1<sup>st</sup> Reading: November 22, 2005

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  
1<sup>st</sup> Reading: November 22, 2005

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  
 1<sup>st</sup> Reading: November 22, 2005  
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

*and*

Comm. 503.3: From Mayor Harry Kim, dated November 22, 2005.

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  
 1<sup>st</sup> Reading: November 22, 2005

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  
 1<sup>st</sup> Reading: November 22, 2005

Bill 169  
 (Draft 2)  
 (2002-2004): Amends Chapter 19, of the Hawai'i County Code 1983 (2005 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. 568  
 Intr. by: Ms. Isbell  
 1<sup>st</sup> Reading: November 22, 2005

Bill 170  
(Draft 2)  
(2002-2004): Amends Chapter 19, of the Hawai'i County Code 1983 (2005 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. 565  
Intr. by: Ms. Isbell  
1<sup>st</sup> Reading: November 22, 2005

Bill 171  
(Draft 2): 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. 538.2  
Intr. by: Mr. Jacobson  
1<sup>st</sup> Reading: November 22, 2005

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  
1<sup>st</sup> Reading: November 22, 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  
1<sup>st</sup> Reading: November 22, 2005

## REPORTS

### 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.

**OTHER BUSINESS**

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

**ANNOUNCEMENTS**

COUNCIL PUBLIC HEARING RE: RES. 171-05 (STATE HARBORS)	<u>WEDNESDAY, DECEMBER 7, 2005</u> 7:00 p.m.	WAIMEA MIDDLE SCHOOL CAFETERIA
COUNCIL	<u>WEDNESDAY, DECEMBER 21, 2005</u> 9:00 a.m.	COUNCIL ROOM
COMMITTEES	<u>WEDNESDAY, JANUARY 4, 2006</u> TBA	COUNCIL ROOM
COUNCIL	<u>THURSDAY, JANUARY 5, 2006</u> 9:00 a.m.	COUNCIL ROOM

**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 December 5, 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.

Submitting Testimony: Those persons wishing to testify in person must register with the Council/Clerk's staff. Those testifying in person and submitting written testimony at the meeting should bring **sixteen (16)** copies of the testimony for distribution at the meeting. Those persons unable to testify in person 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](mailto: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, December 14, 2005, at 6 p.m.; Sunday, December 18, 2005, at 10:30 a.m.; and Wednesday, December 21, 2005, at 6 p.m.

(Hawai'i Tribune Herald – December 4, 2005)  
(West Hawai'i Today – December 4, 2005)