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COUNTY COUNCIL

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

40th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Friday, July 7, 2006
9:00 a.m.

INVOCATION

Pastor Bob Tominaga of Thy Word Ministries

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, CERTIFICATES OF MERIT, EXPRESSIONS OF CONDOLENCE, AND COMMUNICATIONS**9:00 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF RESOLUTIONS****ORDER OF RESOLUTIONS**

Res. 376-06: Requests the Mayor and His Administration to Work with Kamehameha Schools on Future Development of Lands Mauka of the KPC Villages, LLC Parcel to Provide for Completion of the Proposed "Village Bypass" Connector Road Between Ali'i Drive and Kuakini Highway. {To ascertain whether by negotiation, friendly condemnation, or developer requirement that a connector road be constructed or, in the alternative, the reimbursement to the County of any and all costs related to said connector.}

Re: Comm. 904
Intr. by: Ms. Isbell
Approve: PWIRC-46

Res. 380-06: Authorizes the Acceptance of the Donation of a Search Canine to the Hawai'i County Police Department. {Donated by Canines for Kids, Inc., with the canine and training valued at \$8,000. Canine "Katie" would be used to locate missing children primarily in the West Hawai'i area.}

Re: Comm. 926
Intr. by: Ms. Isbell
Approve: FC-308

Res. 403-06: Authorizes the Mayor or His Duly Authorized Representative to Negotiate, Execute and Submit the Necessary Documents for an Estoppel Agreement with the National Electrical Benefit Fund for a Pre-Development Loan with the Waikoloa Workforce Housing, LLC. {The Hawai'i County Housing Agency (HCHA) at its meeting held on June 19, 2006, approved the County of Hawai'i executing an Estoppel Agreement with the National Electricians Benefit Fund for a pre-development loan for the Waikoloa Employee Housing Project.}

Re: Comm. 961
Intr. by: Mr. Hoffmann
Waived: CHA

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

Bill 289: Amends the State Land Use Boundaries Maps for the County of Hawai'i by Changing the District Classification from the Agricultural to the Rural District at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-9:17 (approx. 5.900 acres). {Scott T. Nakahara, Applicant.}

Re: Comm. 906
 Intr. by: Mr. Pilago
 Approve: PC-90

Bill 290: Amends Section 25-8-7 (North and South Kohala Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Agricultural – 5 Acre (A-5a) to Residential and Agricultural – 2 Acre (RA-2a) at Ouli, South Kohala, Hawai'i, Covered by Tax Map Key 6-2-9:17 (approx. 5.900 acres). {Scott T. Nakahara, Applicant.}

Re: Comm. 906
 Intr. by: Mr. Pilago
 Approve: PC-91

Bill 291: Amends Section 25-8-2 (North and South Kona District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Agricultural – 20 Acre (A-20a) to Agricultural – 10 Acre (A-10a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-048:005 (approx. 21.389 acres). {Thomas E. Shockley, Applicant.}

Re: Comm. 907
 Intr. by: Mr. Pilago
 Approve: PC-92

Bill 295: Amends Chapter 19 of the Hawai'i County Code 1983 (2005 Edition), Real Property Taxes, Relating to Real Property Tax Exemptions. {Proposed amendment adds a new section allowing for tax exempt status to real property held by the Hawai'i Island Housing Trust, which was created to manage property deeded to the County of Hawai'i for affordable and employee housing.}

Re: Comm. 922
 Intr. by: Ms. Isbell
 Approve: FC-306

;and

(Note: Comm. 922.1/Bill 295, Draft 2, continues on the next page.)

Comm. 922.1: From Deputy Corporation Counsel Patricia K. O'Toole, dated June 23, 2006, transmitting Bill 295, Draft 2. Draft 2 changes the phrase "individual homeowners/lessees" to "individual homeowners"
;*and*

Bill 295 (Draft 2): Amends Chapter 19 of the Hawai'i County Code 1983 (2005 Edition), Real Property Taxes, Relating to Real Property Tax Exemptions.

Intr. by: Ms. Isbell

Bill 307: 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 Federal Grants – Workforce Investment Act 2006 (\$1,420,008); appropriates to the following: Workforce Investment Act – Administration Planning 2006-07 (\$141,999), Workforce Investment Act – Adult Program 2006-07 (\$490,933), Workforce Investment Act – Dislocated Worker Program 2006-07 (\$287,991), Workforce Investment Act – Youth Program 2006-07 (\$499,085), for a total of \$1,420,008.}

Re: Comm. 962
Intr. by: Mr. Hoffmann
Approve: CHA – June 19, 2006

(Note: Subsequent Bill 310 replaces Bill 307 and recommends that it be filed.)

Bill 310: Amends Ordinance No. 06-79, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2007. {Increases revenues in Federal Grants – Workforce Investment Act 2006 (\$1,420,008); appropriates to the following: Workforce Investment Act – Administration Planning 2006-07 (\$141,999), Workforce Investment Act – Adult Program 2006-07 (\$490,933), Workforce Investment Act – Dislocated Worker Program 2006-07 (\$287,991), Workforce Investment Act – Youth Program 2006-07 (\$499,085), for a total of \$1,420,008. (This bill reflects a change in the title by referencing the current fiscal year, which ends on June 30, 2007. Previous Bill 307 referenced last fiscal year, thereby, the recommendation that it be filed.)}

Re: Comm. 966
Intr. by: Mr. Ikeda
Waived: CHA

10:45 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)**ORDER OF THE DAY (SECOND OR FINAL READING)**

Res. 387-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-013:007, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements along Komohana Street in South Hilo include constructing concrete retaining walls and drywells, erecting guardrails, striping, marking paving, roadway shoulders, and adjusting utility boxes containing an area of 2,023 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

(Note: Subsequent Resolutions 388-06 through 400-06 regarding Eminent Domain contains the same language relating to roadside safety improvements: “constructing concrete retaining walls and drywells, erecting guardrails, striping, marking paving, roadway shoulders, and adjusting utility boxes”.)

Res. 388-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-2-038:017, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Kino'ole Street in South Hilo containing an area of 900 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 389-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-2-038:018, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Kino'ole Street in South Hilo containing an area of 480 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 390-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-2-038:015, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Kino'ole Street in South Hilo containing an area of 1,034 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 391-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:024, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 1,640 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 392-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-013:011, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 2,700 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 393-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:029, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 900 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 394-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:028, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 900 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 395-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:027, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 160 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 396-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:026, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 1,640 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 397-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:023, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 900 square feet.}

Re: Comm. 944
Intr. by: Mr. Ikeda
1st Reading: June 21, 2006
Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 398-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:025, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 160 square feet.}

Re: Comm. 944
 Intr. by: Mr. Ikeda
 1st Reading: June 21, 2006
 Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 399-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-013:046, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 1,800 square feet.}

Re: Comm. 944
 Intr. by: Mr. Ikeda
 1st Reading: June 21, 2006
 Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Res. 400-06: Authorizes the Acquisition of Private Property by Eminent Domain, Being Portion of Tax Map Key:(3)2-4-012:022, Situate at Waiākea, County and State of Hawai'i, for the South Hilo Roadside Improvements Project. {Roadside safety improvements will be performed along Komohana Street in South Hilo containing an area of 894 square feet.}

Re: Comm. 944
 Intr. by: Mr. Ikeda
 1st Reading: June 21, 2006
 Note: Second of two required readings, Section 101-13, Hawai'i Revised Statutes

Bill 224
 (Draft 5): Amends Section 25-8-3 (North Kona 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-3a) and Open to Project District (PD) at Kau, North Kona, Hawai'i, Covered by Tax Map Key 7-2-5:1 (approx.725.2 acres). {Hiluhilu Development, LLC, Applicant. Draft 5 amendments relate to the following: Adds new Item No. 11 in Condition X (relating to Makalei Drive), adds/deletes language in Condition EE (relating to University of Hawai'i), and makes other minor grammatical changes.}

Re: Comm. 687.81
 Intr. by: Mr. Higa
 Postponed: June 5, 2006 (Drafts 1, 2, and 3)
 1st Reading: June 21, 2006

;and

(Comm. 687.82/Bill 224, Draft 6, continues on the next page.)

Comm. 687.82: From Council Chair Stacy K. Higa, dated June 23, 2006, transmitting Bill 224, Draft 6. Draft 6 amendments relate to the following: Adds/deletes language in Condition EE (relating to connectivity of the University of Hawai'i site as well as the design and construction of the University's building)
;and

Bill 224
(Draft 6): Amends Section 25-8-3 (North Kona 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-3a) and Open to Project District (PD) at Kau, North Kona, Hawai'i, Covered by Tax Map Key 7-2-5:1 (approx. 725.2 acres). {Hiluhilu Development, LLC, Applicant.}

Intr. by: Mr. Higa

Bill 225: Planning Director Initiated Amending Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), Relating to Modifications of the Conditions of Ordinance No. 93 45, and Further Amending the Ordinance by Deleting Tax Map Key 7-2-05:1. The Remaining Area of 273.82 Acres is Retained as Agricultural (A-3a) at Kau, North Kona, Hawai'i, Covered by Tax Map Key 7-2-15:1-43, 46-86.

Re: Comm. 688
Intr. by: Mr. Pilago
Postponed: June 5, 2006
1st Reading: June 21, 2006

Bill 281: 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 Single Family Residential (RS-10) to Neighborhood Commercial (CN-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-034:012 (approx. 20,000 square feet). {Kathy Tripp, Applicant.}

Re: Comm. 883
Intr. by: Mr. Pilago
1st Reading: June 21, 2006

REPORTS

FINANCIAL
REPORT: Monthly Financial Status Report from the Finance Department for the Month Ended May 31, 2006.

FC-305
(Comm. 924): Recommends approval of the nomination of Ms. Joanne Balberde-Kamalii (Council District 3) to the Civil Service Commission.

- FC-307
(Comm. 923): Recommends the acceptance of two monetary donations of \$100 each from Kandi's Drive Inn and Fukunaga Electrical to the Department of Parks and Recreation to dray the cost of supplies purchased for the Recreation Division's Hilo District Biggest Easter Egg Hunt; and a monetary donation of \$25 from Bank of Hawai'i – Ka'u Branch to the Department of Parks and Recreation to dray the cost of supplies purchased for the Puna District Ka'u Easter Program at Pāhala Community Center.
- PC-88
(Comm. 931): Recommends approval of the nomination of the following individuals to the Kailua Village Design Commission: Ms. Theresa L. Andreae (Council District 8), Mr. Stephen J. Herbert (Council District 8), Ms. Cynthia L. Hope (Council District 7), Ms. Fanny Au Hoy (Council District 8), Ms. Sally Marone (Council District 7), and Mr. David M. Ross (Council District 7).
- PC-89
(Comm. 106.83): Recommends approval of a conveyance agreement relating to the provisions between Puaa Development, LLC, and Suffolk Investment, LLC, and the Innovations Public Charter School Foundation. {References Ordinance Nos. 05-113 and 05-115 which outlined a process for the development and use of five acres of land for a school.}

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. 514.3: JAMES R. 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 June 6, 2006. {The purpose of the executive meeting is to discuss the Corporation Counsel's interpretation, work product, and recommendations concerning the litigation in this case, including but not limited to the payment of special counsel fees and costs, which necessarily involve discussion concerning the Council's powers, duties, privileges, immunities, and liabilities thereto. This meeting is closed to the public pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, as amended.}

Postponed: June 21, 2006

- Comm. 948: CLAIM AGAINST THE COUNTY/VERNA M. BADUA
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated June 20, 2006.
- Comm. 960: CLAIM AGAINST THE COUNTY/LANDS OF PARADISE, LLC
 From Deputy Corporation Counsel Joseph K. Kamelamela, dated June 23, 2006.

OTHER BUSINESS

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

ANNOUNCEMENTS

	<u>TUESDAY, JULY 18, 2006</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>WEDNESDAY, JULY 19, 2006</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM
	<u>MONDAY, JULY 31, 2006</u>	
COMMITTEES	TBA	COUNCIL ROOM
	<u>TUESDAY, AUGUST 1, 2006</u>	
COUNCIL	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 July 5, 2006. 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. **Please submit a separate testimony for each item.** 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) Friday, July 14, 2006, at 6 p.m.; Sunday, July 16, 2006, at 10:30 a.m.; and Wednesday, July 19, 2006, at 6 p.m.

(Hawai'i Tribune Herald – July 2, 2006)
(West Hawai'i Today – July 2, 2006)