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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*

45th Session

ORDER OF BUSINESS

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

Wednesday, September 20, 2006
9:00 a.m.

INVOCATION

Reverend Tullos Jones of Kona Baptist Church

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.)

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

Res. 437-06: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
 {Transfers/appropriates \$50,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Environmental Management Transfer to Capital Projects Fund – G (Kapoho Wastewater Treatment Plant Facility Feasibility Study). Discretionary funds from District 5 would be used to supplement funding for a study on the feasibility of constructing a wastewater treatment facility serving Kapoho Vacationland Estates and Farm Lots, Kapoho Beach Lots and public restrooms at the Wai O Pae Marine Life Conservation District within Kapoho Vacationland Estates.}

Re: Comm. 1032
 Intr. by: Mr. Safarik
 Approve: FC-326

Res. 438-06 (Draft 2): Urges the United States Congress to Support Tightened Agricultural Inspections for Incoming Cargo and Passengers to Hawai'i. {Supports efforts addressing the prevention of the continued introduction of alien species to Hawai'i.}

Re: Comm. 1034.2
 Intr. by: Mr. Jacobson
 Approve: PWIRC-51

;and

Comm. 1034.1: From Council Member Bob Jacobson, dated September 7, 2006, transmitting information requested at the September 6, 2006, Public Works and Intergovernmental Relations Committee meeting.

Res. 440-06: Creates a Business Manager Position, a Contracts Technician Position, and a Clerk III Position for the Department of Environmental Management. {The duties and responsibilities for these positions include: provide common oversight for all the Business Services Section's functions and help establish new policies and procedures as well as to improve and keep existing policies current; and improve the timeliness and efficiency of drafting and processing the department's contracts.}

Re: Comm. 1038
 Intr. by: Ms. Isbell
 Negative: FC-328 (due to 4-eyes, 3-noes, and 2-absent and excused)

Res. 441-06: Creates an Administrative Services Assistant Position for the Department of Environmental Management's Solid Waste Division. {This position would provide clerical and other assistance to the Solid Waste Division Chief, Engineering, and special programs staff.}

Re: Comm. 1039
Intr. by: Ms. Isbell
Approve: FC-330

Res. 442-06: Creates a Civil Engineer IV Position for the Department of Public Works. {The purpose of this position is to increase the Department's ability to deliver Capital Improvement Program projects and design services for its Highway Maintenance, Traffic, and Building Divisions.}

Re: Comm. 1041
Intr. by: Ms. Isbell
Approve: FC-332

Res. 446-06: 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 Parks Maintenance Rental/Lease of Equipment ADA Compliant Portable Toilet (Hakalau Veteran's Park). Discretionary funds from District 1 would be used towards the rental of an ADA compliant portable toilet for Hakalau Veteran's Park for the remainder of Fiscal Year 2006-07.}

Re: Comm. 1050
Intr. by: Mr. Holschuh
Waived: FC

Res. 453-06: Accepts the Dedication of the Parcel Described as TMK:7-3-009:055 to Satisfy the Affordable Housing Requirements Pursuant to Chapter 11 of the Housing Code and Approving the Agreement Executed on July 14, 2006, by and Between TSA Corporation and the County of Hawai'i to Comply with Hawai'i County Code, Chapter 11, Housing.

Re: Comm. 1065
Intr. by: Mr. Hoffmann
Approve: CHA – September 6, 2006

Res. 455-06: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$65,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development New Industry and Industry Development Miscellaneous Contract Services (the Kohala Center for the Hawai'i County Energy Sustainability Plan). Discretionary funds from District 9 would be used to fund the preparation of the Hawai'i County Energy Sustainability Plan authorized by Council Resolution No. 419-06, Draft 3.}

Re: Comm. 1069
Intr. by: Mr. Hoffmann
Waived: FC

Res. 456-06: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$15,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development New Industry and Industry Development Miscellaneous Contract Services (The Kohala Center for the Hawai'i County Energy Sustainability Plan). Discretionary funds from District 8 would be used to fund the preparation of the Hawai'i County Energy Sustainability Plan authorized by Council Resolution No. 419-06, Draft 3.}

Re: Comm. 1070
Intr. by: Mr. Pilago
Waived: FC

Res. 457-06: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$10,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development New Industry and Industry Development Miscellaneous Contract Services (The Kohala Center for the Hawai'i County Energy Sustainability Plan). Discretionary funds from District 6 would be used to fund the preparation of the Hawai'i County Energy Sustainability Plan authorized by Council Resolution No. 419-06, Draft 3.}

Re: Comm. 1071
Intr. by: Mr. Jacobson
Waived: FC

Res. 458-06: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$14,800 out and from Clerk-Council Services – Contingency Relief account; credits to the following: Department of Parks and Recreation – Recreation Division Equipment (Puna-Ka‘u Computer Equipment) (\$10,500), Department of Parks and Recreation – Recreation Division Other Current Expense (Puna-Ka‘u Fax Machines) (\$1,455), and Department of Parks and Recreation – Recreation Division Other Current Expense (Puna-Ka‘u Reading Books) (\$2,845), for a total of \$14,800. Discretionary funds from District 5 would be used to purchase equipment and supplies (computers and printers, video recorders, fax machines, and reading books) for the purpose of providing increased public service to the communities in the Puna and Ka‘u districts.}

Re: Comm. 1072
Intr. by: Mr. Safarik
Waived: FC

Res. 459-06: Creates Two Clerk III Positions for the Office of the County Clerk. {These positions are needed due to the increased amount of transcribing and archiving work, and to accommodate Council Resolution 402, Draft 4, amending the Rules of Procedures of the Council, which provides that the Council hold an equal number of meetings in East Hawai'i and West Hawai'i.}

Re: Comm. 1074
Intr. by: Mr. Higa
Waived: FC

Res. 460-06: Authorizes the Payment of Funds of a Later Fiscal Year and More Than One Fiscal Year for a Multi-Year Lease (5 years) of Real Property for the Legislative Research Branch and the Reprographic Division at 333 Kīlauea Avenue in Hilo. {Lease with BF Hilo Partners would be for approximately 2,516 square feet of office space, and the approximate cost per month, including general excise tax is \$4,201.72.}

Re: Comm. 1075
Intr. by: Mr. Higa
Waived: FC

Res. 461-06: Authorizes the Payment of Funds of a Later Fiscal Year and More Than One Fiscal Year for a Multi-Year Lease (2 years) of Real Property for the Waimea Council Office of the Office of the County Council-Clerk. {Lease with Holomua Center, LLC, would be for 600 square feet of office space located at 64-1067 Māmalahoa Highway, Waimea, and the approximate cost per month, including common area charges and general excise tax is \$1,250.}

Re: Comm. 1076
Intr. by: Mr. Higa
Waived: FC

Res. 462-06: Authorizes the Payment of Funds of a Later Fiscal Year and More Than One Fiscal Year for a Multi-Year Lease (3 years) of Real Property for the Kona Council Office of the Office of the County Council-Clerk. {Lease with Pres-Kailua Trade Center, LLC, a Hawai'i Limited Liability Company, would be for 1,689 square feet of office space, located at 75-5706 Hānama Place, Suite 109, Kailua-Kona, and the approximate cost per month, including general excise tax is \$3,518.73.}

Re: Comm. 1077
Intr. by: Mr. Higa
Waived: FC

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

BILLS FOR ORDINANCES (FIRST READING)

Bill 317: Amends Chapter 24, Article 10, Section 24-264 of the Hawai'i County Code 1983 (2005 Edition) as Amended, Relating to Vehicles and Traffic. {Proposed three-way stop at Middle Ke'ei Road and Painted Church Road intersection will be a temporary measure until intersection improvements are completed under Engineering Division's Capital Improvement Project.}

Re: Comm. 993
Intr. by: Mr. Ikeda
Approve: PWIRC-50

Bill 325: 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 – Rural Fire Assistance (\$9,335); appropriates same to Rural Fire Assistance. Funds would be used by the Hawai'i Ocean View Volunteer Fire Department to enhance fire protection capabilities of rural fire districts by providing fire suppression tools and equipment.}

Re: Comm. 1023
Intr. by: Ms. Isbell
Approve: FC-325

Bill 326: Amends Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to a University District. {Establishes a "University" special district, which would provide greater flexibility in establishing a mix of uses intended to enhance the campus environment of a university or college.}

Re: Comm. 1030
 Intr. by: Mr. Higa
 Recommends adoption with understanding that it will first be referred to the Planning Director and Planning Commission: HSEDC-5

Bill 327: Amends Ordinance No. 06-80, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2006 to June 30, 2007. {Adds ENVIRONMENTAL MANAGEMENT: Kapoho Wastewater Treatment Plant Facility Feasibility Study (\$100,000), and Kapoho Wastewater Treatment Plant Facility Feasibility Study – State (\$150,000), for a total of \$250,000; funds shall be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$100,000) and State Grants Receivable (\$150,000), for a total of \$250,000.}

Re: Comm. 1032
 Intr. by: Mr. Safarik
 Approve: FC-327
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 330: 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 Environmental Management Department Administration Charges (\$117,192); appropriates to the following: Environmental Management Salaries and Wages (\$104,922), Environmental Management Other Current Expense (\$3,270), and Environmental Management Equipment (\$9,000), for a total of \$117,192.}

Re: Comm. 1038
 Intr. by: Ms. Isbell
 Negative: FC-329 (due to 4-ayes, 3-noes, and 2-absent and excused)

Bill 331: Amends Ordinance No. 06-79, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2007. {Appropriates revenues in Fund Balance Reserved for Liquor Control (\$20,000); appropriates same to Public Programs. Funds would be used to conduct programs for the public which promotes compliance to liquor laws.}

Re: Comm. 1040
 Intr. by: Ms. Isbell
 Approve: FC-331

Bill 337: Amends Chapter 14, Article 10, of the Hawai'i County Code 1983 (2005 Edition), Relating to Exceptional Trees. {Designates the Brazilian Fern Tree (*Schizolobium parahyba*) as an "Exceptional Tree"; Tax Map Key 7-5-1:114; located at Moeauoa 1, North Kona; Gwendolyn C. Hobbs, Owner.}

Re: Comm. 1067
 Intr. by: Mr. Pilago
 Waived: PC

Bill 338: Amends Chapter 14, Article 10, of the Hawai'i County Code 1983 (2005 Edition), Relating to Exceptional Trees. {Designates the Moreton Bay Fig (*Ficus macrophylla*) as an "Exceptional Tree"; Tax Map Key 7-5-6:12; located at North Kona, portion of Kailua Village; Burgess, Inc., Owner.}

Re: Comm. 1068
 Intr. by: Mr. Pilago
 Waived: PC

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 299 (Draft 2): Amends Ordinance No. 04-106, Which Reclassified Lands from Agricultural 5-Acres (A-5a) to Multiple Family Residential - 4,000 Square Feet (RM-4) at O'oma 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-3-010:051 (Formerly 7-3-010:Portion of 3) (approx. 10.001 acres). {Seascape Development, LLC, Applicant. Requests an amendment to Condition H.}

Re: Comm. 935.2
 Intr. by: Mr. Pilago
 1st Reading: September 7, 2006

Bill 323: 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 Coqui Frog Eradication and Control (\$1,000,000); appropriates same to Coqui Frog Eradication and Control.}

Re: Comm. 1013
 Intr. by: Ms. Isbell
 1st Reading: September 7, 2006

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

	<u>WEDNESDAY, SEPTEMBER 20, 2006</u>	
COUNCIL PUBLIC HEARING RE: BILL 300 (ALCOHOL USE IN COUNTY PARKS AND FACILITIES)	6:00 p.m.	SHERATON KEAUHOU BAY RESORT & SPA
	<u>TUESDAY, OCTOBER 10, 2006</u>	
COMMITTEES	TBA	COUNCIL ROOM – HILO
	<u>WEDNESDAY, OCTOBER 11, 2006</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM – HILO
	<u>TUESDAY, OCTOBER 24, 2006</u>	
COMMITTEES	TBA	COUNCIL ROOM – HILO
	<u>WEDNESDAY, OCTOBER 25, 2006</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM – HILO

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 September 18, 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.

Submitting Testimony: Those persons wishing to testify must register with the Council/Clerk's staff. Those testifying in person and submitting written testimony should bring **seventeen (17)** 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*. **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) Wednesday, September 27, 2006, at 6 p.m.; Sunday, October 1, 2006, at 10:30 a.m.; and Wednesday, October 4, 2006, at 6 p.m.

(Hawai'i Tribune Herald – September 17, 2006)
(West Hawai'i Today – September 17, 2006)