

PETE HOFFMANN
Chair & Presiding Officer

K. ANGEL PILAGO
Vice Chair



BRENDA FORD
STACY K. HIGA
DONALD IKEDA
BOB JACOBSON
EMILY I. NAEOLE
DOMINIC YAGONG
J YOSHIMOTO

COUNTY COUNCIL

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

2nd Session

ORDER OF BUSINESS

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

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

INVOCATION

~~Pastor Keith Elliot of Kona Church of God~~
Council Member Emily I. Naeole

CALL TO ORDER

9:02 a.m.

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

Comm. 5: NOMINATION OF MR. DWAYNE T. MUKAI (COUNCIL DISTRICT 4) TO THE WATER BOARD
From Mayor Harry Kim, dated November 15, 2006, recommending approval of the above nomination.

Waived: PC

APPROVED

Comm. 6: NOMINATION OF MR. HENRY K. POMROY, JR., (COUNCIL DISTRICT 2) TO THE FIRE COMMISSION
From Mayor Harry Kim, dated November 15, 2006, recommending approval of the above nomination.

Waived: PSPRC

APPROVED

Comm. 16: NOMINATION OF COUNCIL MEMBER BOB JACOBSON TO THE NATIONAL ASSOCIATION OF COUNTIES (NACo) STEERING COMMITTEE ON TRANSPORTATION
From Council Member Bob Jacobson, dated November 30, 2006.

Waived: PWIRC

APPROVED

ORDER OF RESOLUTIONS

Res. 18-06: Resolution to the Hawai'i State Legislature to Revise and Clarify Hawai'i Revised Statutes Section 486-120.6, Recommending that Any Coffee Labeled "Kona Coffee Blend" Shall Contain a Minimum of 75% Kona Coffee and Shall be Labeled Accordingly.

Re: Comm. 23

Intr. by: Ms. Ford

Waived: HSEDC

ADOPTED:

AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8.

NOES: Council Member Higa – 1.

ABSENT & EXCUSED:None.

Res. **19-07 19-06**: 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 Public Works Transfer to Highway Fund (Traffic Division Equipment, Miscellaneous Equipment). Discretionary funds from District 9 would be used to purchase two Smart Signs to help control speeding on Paniolo Drive in Waikoloa Village by alerting drivers of their vehicle speed in real time.}

Re: Comm. 25
 Intr. by: Mr. Hoffmann
 Waived: FC

ADOPTED:

AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Higa – 1.

Res. 534-06 (2004-2006): Authorizes the Acceptance of a Donation of an Assortment of Equipment to the Hawai'i Fire Department. {Donated by Waikoloa Village Association, with an estimated total value of \$1,483.96.}

Re: Comm. 1208
 Intr. by: Ms. Isbell
 Approve: FC-368

ADOPTED:

AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Higa – 1.

Res. 535-06 (2004-2006): Authorizes the Receipt and Expenditure of State Funding Appropriated by the State Legislature Pursuant to Act 100, Session Laws of Hawai'i 2006, to Provide Transportation Services for the Homeless and Disabled. {Funds would be used to purchase two minivans to provide transportation services to the elderly homeless and disabled.}

Re: Comm. 1209
 Intr. by: Mr. Hoffmann
 Approve: FC-369

ADOPTED:

AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Higa – 1.

9:15 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 8: Gives the Mayor of the County of Hawai'i the Authority to Waive Certain Requirements as Provided by Chapters 3 (Advertising & Signs), 5 (Building), 9 (Electricity), 17 (Plumbing), 20 (Waiver of Tip Fees for Landfill for Emergency Debris), 22 (Streets & Sidewalks), and 25 (Zoning) of the Hawai'i County Code. {Waives certain requirements of the Hawai'i County Code in order to expedite repairs and reconstruction of buildings and infrastructure damage by the earthquake that struck Hawai'i Island on October 15, 2006. A similar ordinance, Ordinance No. 06-130, was passed by the Council on October 24, 2006, which will be automatically repealed on the 61st day following its adoption (December 24, 2006). This proposal provides additional time for people to obtain necessary permits to repair damages received from the earthquake.}

Re: Comm. 21
Intr. by: Mr. Hoffman

PASSED 1ST READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 147
(Draft 2)
(2004-2006):

Amends Chapter 15, Article 1, Section 15-7, of the Hawai'i County Code 1983 (2005 Edition), Relating to Parks and Recreation. {Proposal changes the penalty for violations in Chapter 15 by reducing the maximum imprisonment from 90 to 30 days; and any person convicted of violating any provision shall be punished by a fine not exceeding \$1,000.}

Re: Comm. 425.2
Intr. by: Mr. Jacobson
Approve: PSPRC-42

PASSED 1ST READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 231
(2002-2004): Amends Chapter 25 (Zoning Code) of the Hawai'i County Code, Relating to Scenic Corridors. {Adds a new division to Chapter 25, Article 6, Hawai'i County Code 1983 (2005 Edition) entitled, "Division 6. Scenic Corridors," which delineates criteria and procedures for the establishment and initiation of scenic corridors.}

Re: Comm. 509
Intr. by: Mr. Reynolds (B/R)
Approve: PC-129;

PASSED 1ST READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

and

Comm. 24: From Planning Committee Chair K. Angel Pilago, dated December 8, 2006, requesting that Bill 265, Draft 3, be filed. States that a Committee Report was not submitted, which recommended that this bill be filed;

and

Bill 265
(Draft 3)
(2002-2004): Amends Chapter 25 (Zoning Code) of the Hawai'i County Code, Relating to Scenic Corridor Overlay Districts. {Amendments serve as a policy framework for the creation of Scenic Corridor Overlay Zones in the County of Hawai'i.}

Re: Comm. 99.9
Intr. by: Ms. Leithead-Todd
File: Via PC-129

FILED

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 345
(2004-2006): Planning Director Initiated Amends Chapter 25, Article 1, Subsection 25-1-5(b), (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to the Definition of Family. {Amends the definition of "Family" to include a group of not more than eight unrelated persons, plus any program staff, living in a facility licensed or certified by the Department of Health.}

Re: Comm. 1102
Intr. by: Mr. Pilago
Approve: PC-128

POSTPONED TO JANUARY 4, 2007, COUNCIL MEETING

Bill 364
(2004-2006):

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 State Grants – Transportation for the Homeless and Disabled (\$80,000); appropriates same to Transportation for the Homeless and Disabled.}

Re: Comm. 1209
Intr. by: Ms. Isbell
Approve: FC-370

PASSED 1ST READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 365
(Draft 2)
(2004-2006):

Amends Chapter 14, Article 4, Hawai'i County Code 1983 (2005 Edition), Relating to Smoking in Certain Places in the County of Hawai'i. {Amends Section 1 definition for "tobacco products" and Section 2 to include all of Section 14.21 to the new subsection.}

Re: Comm. 1210.1
Intr. by: Ms. Isbell
Approve: PSPRC-41

PASSED 1ST READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

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 360
(2004-2006):

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 State Grants – Narcotics Task Force (\$3,699); appropriates same to Narcotics Task Force. Funds would be used for the interdiction of drugs within the County of Hawai'i via the apprehension/arrest/conviction of the individuals smuggling narcotics into/within our island.}

Re: Comm. 1181
Intr. by: Ms. Isbell
1st Reading: November 29, 2006

PASSED 2ND & FINAL READING:

AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 363
(2004-2006):

Amends Chapter 2, Article 42, Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to the Public Access, Open Space, and Natural Resources Preservation Fund. {Reinstates the purpose section (d) which was inadvertently omitted during the petition process relating to acquiring lands or property entitlements in the County of Hawai'i for purposes listed in this section.}

Re: Comm. 1201
Intr. by: Ms. Isbell
1st Reading: November 29, 2006

PASSED 2ND & FINAL READING:

AYES: Council Members Ford, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 7.

NOES: Council Member Ikeda – 1.

ABSENT & EXCUSED: Council Member Higa – 1.

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.

Comm. 22: VINCE PALENCA VS. COUNTY OF HAWAI'I, ET AL.; CIVIL NO. 06-1-0057
From Deputy Corporation Counsel Joseph K. Kamelamela, dated December 6, 2006.

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

WEDNESDAY, JANUARY 3, 2007

COMMITTEES

TBA

COUNCIL ROOM – HILO
333 Kīlauea Avenue
Ben Franklin Building
Second Floor

THURSDAY, JANUARY 4, 2007

COUNCIL

9:00 a.m.

COUNCIL ROOM – HILO
333 Kīlauea Avenue
Ben Franklin Building
Second Floor

THURSDAY, JANUARY 18, 2007

COMMITTEES

TBA

COUNCIL ROOM – HILO
333 Kīlauea Avenue
Ben Franklin Building
Second Floor

FRIDAY, JANUARY 19, 2007

COUNCIL

9:00 a.m.

COUNCIL ROOM – HILO
333 Kīlauea Avenue
Ben Franklin Building
Second Floor

ADJOURNMENT 4:16 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 December 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 333 Kīlauea Avenue, 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 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 25 Aupuni Street, Hilo, Hawai'i 96720, (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, 333 Kīlauea Avenue, Hilo, Hawai'i 96720.

Government Access Television: Channel 52 (Hilo and Kona) Wednesday, December 27, 2006, at 6 p.m.; Sunday, December 31, 2006, at 10:30 a.m.; and Wednesday, January 3, 2007, at 6 p.m.

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