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DOMINIC YAGONG
J YOSHIMOTO

COUNTY COUNCIL

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

4th Session

ORDER OF BUSINESS

Hawai'i County Council
**333 Kīlauea Avenue
(Ben Franklin Building)
Second Floor, Council Room
Hilo, Hawai'i**

Friday, January 19, 2007
9:00 a.m.

INVOCATION

Pastor Bob Tominaga of Thy Word Ministries

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

December 4, 2006 (10 a.m. – 51st Session)
December 4, 2006 (3 p.m. – 1st Session)

(Note: Please turn cell phones, pagers, and other mobile communication devices on silent mode.)

*Serving the Interests of the People of Our Island
Hawai'i County is an Equal Opportunity Provider and Employer.*

MEMORIALS, CERTIFICATES OF MERIT, AND EXPRESSIONS OF CONDOLENCE

9:00 A.M.: STATEMENTS FROM THE PUBLIC ON COMMUNICATIONS AND ORDER OF RESOLUTIONS

COMMUNICATIONS

Comm. 91: REQUEST TO DISCUSS THE STATUS OF VIDEOCONFERENCING, EQUIPMENT, AND STAFFING OF COMMITTEE AND COUNCIL MEETINGS IN WEST HAWAI'I
 From Council Member Donald Ikeda, dated January 10, 2007, requesting to discuss the status of videoconferencing, equipment, and staffing Committee and Council meetings to be held in West Hawai'i. Cites Resolution 402-06 (Draft 4) and Council Rule 2 relating to the above-mentioned provisions.

Waived: FC

ORDER OF RESOLUTIONS

Res. 20-07: Enhances the Role of the Hawai'i County Council as the Policy Making Body for the County of Hawai'i by Directing that the Council Take a More Proactive Role in the Annual Budget Process. {Provides specific input to the Mayor regarding Council funding priorities for the 2007-08 fiscal year, and asks that the Mayor include the identified funding priorities in the operating budget which would be submitted to the Council on March 1, 2007. Specific funding priorities include: provide adequate funding and resources for Community Development Plans around the island; increase mid-level management personnel in the Parks and Recreation and Planning Departments; increase the number of positions in the Fire Department; allocate funds for college tuition expenses for cadets enrolled in the Police Department's Cadet Program; and prioritize capital improvement projects indicating specific funding sources for each project. }

Re: Comm. 31
 Intr. by: Mr. Hoffmann
 Approve: FC-10

Res. 22-07: Authorizes the Acceptance of a Monetary Donation of \$2,000 to the Hawai'i County Police Department. {Donated by Wal-Mart Hilo as part of its community involvement program and funds would be used for general law enforcement related purposes. }

Re: Comm. 39
 Intr. by: Mr. Yagong
 Approve: FC-14

Res. 23-07: Authorizes the Office of the Mayor to Enter Into an Agreement with the State of Hawai'i Department of Agriculture, Pursuant to HRS 46-7, for the County of Hawai'i's Coqui Frog Eradication and Control Program. {Funds would be used to purchase citric acid anhydrous for the control of the coqui frog on the Island of Hawai'i.}

Re: Comm. 40
Intr. by: Mr. Yagong
Approve: FC-16

Res. 27-07: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$20,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Parks and Recreation Parks Maintenance Other Current Expense Honu'apo Concrete Barrier(s). Discretionary funds from District 6 would be used for the placement of 150 concrete barriers to protect the shoreline and grassy areas at Honu'apo.}

Re: Comm. 60
Intr. by: Mr. Jacobson
Waived: FC

Res. 31-07: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$4,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Department of Research and Development Tourism Promotion (Friends of the Palace Theater-5th Annual Hilo Chinese New Year Festival). Discretionary funds from District 6 would be used to support performances of the Lion Dancers that will be performing at the 5th Annual Hilo Chinese New Year Festival on February 16, 2007.}

Re: Comm. 70
Intr. by: Mr. Jacobson
Waived: FC

Res. 32-07: 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 Parks and Recreation Park Maintenance Other Current Expense (Placement of Portable Restroom at Old Hakalau Mill Site). Discretionary funds from District 1 would be used towards the rental of a portable restroom for Lot 3D (Old Hakalau Mill Site) for one year.}

Re: Comm. 71
Intr. by: Mr. Yagong
Waived: FC

9:30 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 1: 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 Limited Industrial – 1 Acre (ML-1a) to Industrial-Commercial Mixed 1-Acre (MCX-1a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-51:96 (approx. 46,246 square feet). {C&R Development, LLC, Applicant.}

Re: Comm. 3
Intr. by: Mr. Pilago
Approve: PC-1
Postponed: January 4, 2007

(Note: There is a pending motion by Mr. Pilago and duly seconded by Ms. Naeole to approve Bill 1.)

and;

Comm. 3.1: From Council Member Bob Jacobson, dated January 4, 2007, submitting for Council's consideration a proposed amendment to add a new Section 10 requiring the developer to construct curbs, gutters and sidewalks fronting Maiau and Kamanu Streets.

Bill 3: 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: Greenwaste and Composting Facility at the West Hawai'i Sanitary Landfill (\$1,750,000); funds shall be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$1,750,000). Funds would be used to construct a legally permitted composting facility at the resource recovery area adjacent to the West Hawai'i Sanitary Landfill at Pu'uanahulu.}

Re: Comm. 11
Intr. by: Mr. Yagong
Approve: FC-3
2/3 Vote: Section 10-6(d), Hawai'i County Charter
Postponed: January 4, 2007

(Note: There is a pending motion by Ms. Naeole and duly seconded by Mr. Pilago to approve Bill 3.)

and; Comm. 11.3.

Bill 9: 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 – Gang Response System (\$7,346); appropriates same to Gang Response – Kona. Additional funds would be used to involve community-based agencies and government organizations to work together to address youth gangs and the issues surrounding these groups.}

Re: Comm. 35
Intr. by: Mr. Yagong
Approve: FC-11

Bill 10: 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 PARKS AND RECREATION: Waimea District Park (\$149,000); funds shall be provided from Fair Share Assessment Contributions (\$149,000). Funds would be used to master plan a new Waimea District Park to serve the recreational needs of the District of South Kohala.}

Re: Comm. 36
Intr. by: Mr. Yagong
Approve: FC-12
2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 11: 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 PARKS AND RECREATION: Kamehameha Park Comfort Station (\$250,000); funds shall be provided from Fair Share Assessment Contributions (\$250,000). Funds would be used to construct the comfort station according to the design commissioned by Kohala Ranch LLC and reviewed and approved by the Parks and Recreation Department.}

Re: Comm. 37
Intr. by: Mr. Yagong
Approve: FC-13
2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 13: 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 Contribution from Private Source (\$2,000); appropriates same to Police Administration Division – Other Current Expense.}

Re: Comm. 39
Intr. by: Mr. Yagong
Approve: FC-15

Bill 14: 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 Grant – Coqui Frog Eradication Supplies (\$140,000); appropriates same to Coqui Frog Eradication Supplies.}

Re: Comm. 40
Intr. by: Mr. Yagong
Approve: FC-17

Bill 16: 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 PUBLIC WORKS: ADA Curb Ramp Compliance (\$1,500,000); funds shall be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$1,500,000). Funds would be used to construct curb cuts at street intersections throughout the island enabling persons with disabilities to use public sidewalks.}

Re: Comm. 43
Intr. by: Mr. Yagong
Approve: FC-18
2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 18: 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 Contribution from Private Source (\$10,000); appropriates same to Paniolo Drive Smart Signs - Private. Funds would be used to purchase two Smart Signs to be used to help control speeding on Paniolo Drive in Waikoloa Village by alerting drivers of their vehicle speed in real time.}

Re: Comm. 53
Intr. by: Mr. Yagong
Waived: FC

Bill 20: 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 – Reed Act (Act 190) (\$1,925,556); appropriates same to Reed Act – 2006-07.}

Re: Comm. 72
Intr. by: Mr. Hoffmann
Approve: CHA – January 3, 2007

Bill 220
(2004-2006): Amends the State Land Use Boundaries Maps for the County of Hawai'i by Changing the District Classification from the Agricultural to the Urban District at Keonepoko, Puna, Hawai'i, Covered by Tax Map Key 1-5-7:53 (approx. 3.317 acres). {Timothy Lynn Gardner, Applicant.}

Re: Comm. 680
Intr. by: Mr. Pilago
Approve: PC-4
Postponed: January 4, 2007

(Note: There is a pending motion by Mr. Pilago and duly seconded by Mr. Yagong to approve Bill 220.)

and;

Comm. 56.1: From Council Member K. Angel Pilago, dated January 4, 2007, transmitting a copy of a Hawai'i Supreme Court decision in "*GATRI v. Blane*", stating that this information appears relative to Bills 220 and 221; *and*

Comm. 56.6: From Council Member Bob Jacobson, dated January 4, 2007, submitting for Council's consideration a proposed amendment to Bill 220 (and subsequent Bill 221) adding a new Section 2 prohibiting a left turn in or out from Highway 130 or from the subject property; *and* Communications 56.7, 56.13 through 56.15, 56.18, 56.20, and 56.23 through 56.25.

Bill 221
(Draft 2)
(2004-2006): Amends Section 25-8-26 (Pahoa 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-1a) to Industrial-Commercial Mixed (MCX-1a) at Keonepoko, Puna, Hawai'i, Covered by Tax Map Key 1-5-7:53 (approx. 3.317 acres). {Timothy Lynn Gardner, Applicant.}

Re: Comm. 680.1
Intr. by: Mr. Safarik (B/R)
Approve: PC-5
Postponed: January 4, 2007

(Note: There is a pending motion by Mr. Pilago and duly seconded by Mr. Yagong to approve Bill 221, Draft 2.)

and;

Comm. 56: From Planning Director Christopher J. Yuen, dated December 22, 2006, stating their opposition to these bills and provides additional comments listed in this communication; *and* Communications 56.2, 56.4, 56.5; *and*

Comm. 56.6: From Council Member Bob Jacobson, dated January 4, 2007, submitting for Council's consideration a proposed amendment to Bill 221 (and previous Bill 220) adding a new Section 2 prohibiting a left turn in or out from Highway 130 or from the subject property; *and* Communications 56.8 through 56.11, 56.16, 56.17; *and*

Comm. 56.19: From Fire Chief Darryl Oliveira, dated January 4, 2007, submitting comments regarding Condition E relating to the applicant's contribution of \$200,000 to the County of Hawai'i towards the construction of a service road; *and* Communications 56.21 and 56.22.

1:00 P.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)**ORDER OF THE DAY (SECOND OR FINAL READING)**

Bill 4
(Draft 2): 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 – Gang Response System (\$5,000); appropriates same to Gang Response – Hilo. Funds would be used to involve community-based agencies and government organizations to work together to address youth gangs and the issues surrounding these groups.}

Re: Comm. 12.1
Intr. by: Mr. Yagong
1st Reading: January 4, 2007

Bill 5: 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 Contribution from Private Source (\$2,500); appropriates same to Fire Prevention – Other Current Expense.}

Re: Comm. 13
Intr. by: Mr. Yagong
1st Reading: January 4, 2007

Bill 6: 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 Contribution from Private Source (\$2,000); appropriates same to Fire Prevention – Other Current Expense.}

Re: Comm. 14
Intr. by: Mr. Yagong
1st Reading: January 4, 2007

Bill 7: 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 – Hawai'i County Police Department (HCPD) Clickit or Ticket (\$700); appropriates same to HCPD Clickit or Ticket. Funds would be used to reduce the fatalities and injuries to front and rear seat occupants aged 17 and under, of motor vehicle collisions by improving awareness of state laws.}

Re: Comm. 15
Intr. by: Mr. Yagong
1st Reading: January 4, 2007

Bill 15: 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 PUBLIC WORKS: Palani Road Safety Improvements – Federal (\$1,700,000); funds shall be provided from Federal Grants Receivable (\$1,700,000). Funds would be used to realign the eastern terminus of Kealaka 'a Street to intersect Palani Road at Palihilo Street to form a new intersection that would improve vehicular and pedestrian access and safety for users of the high traffic volume intersection. }

Re: Comm. 41
Intr. by: Mr. Yagong
1st Reading: January 4, 2007
2/3 Vote: Section 10-6(d), Hawai'i County Charter

Bill 17
(Draft 2): Amends Chapter 11 (Housing Code) of the Hawai'i County Code 1983 (2005 Edition, as Amended) by Adding Language to Section 11-6 to Provide Clarification for Determining the In-Lieu Fee.

Re: Comm. 44.1
Intr. by: Mr. Hoffmann
1st Reading: January 4, 2007

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)
1st Reading: December 20, 2006
Postponed: January 4, 2007

(Note: There is a pending motion by Mr. Pilago and duly seconded by Mr. Jacobson to approve Bill 231.)

Bill 345
(Draft 2)
(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. Draft 2 adds additional language to this definition to include "provided that if more than one dwelling on a lot is used for such a facility, the number of unrelated persons in each dwelling shall not exceed five, plus any program staff". }

Re: Comm. 67.20
Intr. by: Mr. Pilago
Approve: PC-128
Postponed: December 20, 2006
1st Reading: January 4, 2007 (Note: Pursuant to Council Rule No. 12-9(b), due to the tie vote of 4-ayes, 4-noes, and 1-absent & excused, this matter has been placed on this agenda.)

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. 54: REQUEST FOR REPRESENTATION OF DETECTIVE REED MAHUNA, PROSECUTING ATTORNEY JAY T. KIMURA, AND DEPUTY PROSECUTING ATTORNEY SANDRA L. FREITAS; CIVIL NO. 06-00640DAE/KSC
From Deputy Corporation Counsel Michael J. Udovic, dated December 27, 2006.
- Comm. 66: THOMAS YOUNG V. COUNTY OF HAWAI'I, CIVIL NO. 05-01-164K.
From Deputy Corporation Counsel Joseph K. Kamelamela, dated December 29, 2006.
- Comm. 75: REQUEST FOR REPRESENTATION OF FORMER HAWAI'I COUNTY POLICE DETECTIVE ALEXANDER GRAVES; VANESSA HALDEMAN, ET AL. V. RUTH GOLDEN, ET. AL., CIVIL NO. 05-00810 DAE/KSC.
From Deputy Corporation Counsel Joseph K. Kamelamela, dated January 5, 2007.
- Comm. 76: RUSSELL VS. COUNTY OF HAWAI'I, CIVIL NO. 97-01102 SPK.
From Deputy Corporation Counsel Joseph K. Kamelamela, dated January 5, 2007.

OTHER BUSINESS

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

ANNOUNCEMENTSTUESDAY, JANUARY 23, 2007

HOUSING AGENCY	8:30 a.m.	COUNCIL ROOM – HILO 333 Kīlauea Avenue Ben Franklin Building Second Floor
PUBLIC WORKS AND INTERGOVERNMENTAL RELATIONS COMMITTEE	10:00 a.m.	COUNCIL ROOM – HILO 333 Kīlauea Avenue Ben Franklin Building Second Floor
PUBLIC SAFETY AND PARKS AND RECREATION COMMITTEE	12:30 p.m.	COUNCIL ROOM – HILO 333 Kīlauea Avenue Ben Franklin Building Second Floor
ENVIRONMENTAL MANAGEMENT COMMITTEE	1:00 p.m.	COUNCIL ROOM – HILO 333 Kīlauea Avenue Ben Franklin Building Second Floor

TUESDAY, FEBRUARY 6, 2007

COMMITTEES	TBA	SHERATON KEAUHOU BAY RESORT & SPA
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WEDNESDAY, FEBRUARY 7, 2007

COUNCIL	9:00 a.m.	SHERATON KEAUHOU BAY RESORT & SPA
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WEDNESDAY, FEBRUARY 21, 2007

COMMITTEES	TBA	SHERATON KEAUHOU BAY RESORT & SPA
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THURSDAY, FEBRUARY 22, 2007

COUNCIL	9:00 a.m.	SHERATON KEAUHOU BAY RESORT & SPA
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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 January 17, 2007. 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.

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 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.** For testimonies submitted by e-mail or fax, 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) Friday, January 26, 2007, at 6 p.m.; Sunday, January 28, 2007, at 10:30 a.m.; and Wednesday, January 31, 2007, at 6 p.m.

(Hawai'i Tribune Herald – January 16, 2007)
(West Hawai'i Today – January 16, 2007)