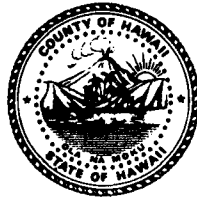


PETE HOFFMANN  
*Chair & Presiding Officer*

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*

43<sup>rd</sup> Session

### ORDER OF BUSINESS

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

Wednesday, August 13, 2008  
8:30 a.m.

INVOCATION

Reverend Tullos Jones of Kona Baptist Church

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

June 18 and July 23, 2008

2008 AUG 6 PM 2 19  
RECEIVED  
COUNTY OF HAWAII

(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****8:30 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF RESOLUTIONS (EXCEPT RESOLUTION 710-08)****COMMUNICATIONS****ORDER OF RESOLUTIONS**

- Res. 701-08: Urges the United States Military to Add a Hawai'i County Council-Designated Member to the Citizen Monitoring System Proposed by Resolution No. 639-08, Draft 2. {Resolution 639-08, Draft 2, adopted by the Council on July 2, 2008, urged the U.S. Military to establish a citizen monitoring system as part of an eight-point plan to address the hazards of depleted uranium at the Pōhakuloa Training area. Designates a private citizen, Dr. Lorrin Pang, as the Council's representative to the citizens' advisory committee.}; and PWIRC-89.
- Res. 702-08: Authorizes the Mayor to: (1) Enter Into a Consent Agreement and Final Order ("CAFO") with the United States Environmental Protection Agency (EPA) to Settle Violations of the Federal Clean Air Act Relating to Annual Gas Emissions Reports and Controls for the West Hawai'i Landfill, and (2) Enter Into a Funding Agreement with Waste Management of Hawai'i, Inc. (WMH), for Receipt of Funds and for County Responsibility for Completion of a Supplemental Environmental Project at the Closed Kailua-Kona Landfill in Satisfaction of the CAFO. {WMH failed to comply with certain Clean Air Act requirements. In lieu of the EPA's demand for a civil penalty of \$135,000, the EPA is willing to settle the violations for a civil penalty of \$33,500 with the remaining \$101,500 to be used by the County and WMH to complete a Supplemental Environmental Project intended to provide significant environmental or public health protection and improvements at the old closed Kailua-Kona Landfill.}; and FC-301.
- Res. 705-08: 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 Hawai'i County Resource Center (Hilo Coast United Church of Christ/Honomū Computer Resource Center). Contingency Relief funds from District 1 would be used to help defray operational costs by the Honomū Computer Resource Center.}
- Res. 707-08: Authorizes the Director of Finance to Amend the Existing Lease with the Hawai'i Island Community Development Corporation to a Term of Sixty-Five (65) Years. {Parcel is located on Ainakea Drive, Kohala, Hawai'i, TMK:3/5-3-11:102 and contains an area of 136,165 square feet. Amends the lease from 55 years to 65 years.}

- Res. 708-08: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$30,000 out and from Clerk-Council Services-Contingency Relief account; credits same to Department of Parks and Recreation Transfer to Capital Project Fund-General (Discretionary Projects-District 9, Kēōkea Beach Park). Contingency Relief funds from District 9 would be used towards the installation of an emergency telephone line and equipment at Kēōkea Beach Park.}
- Res. 709-08: Authorizes the Director of Finance to Negotiate a Seventy-Five Year Lease with the Hawai'i Island Community Development Corporation for the Purpose of Development of Senior Housing at a Set Lease Rental Amount of \$10.00 Per Year.  
{Parcel is located at TMK:3/2-4-001:portion of 168.}
- Res. 719-08: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$1,000 out and from Clerk-Council Services-Contingency Relief account; credits same to Department of Parks and Recreation, Recreation Division Other Current Expense, Education-Recreation-Scientific Supplies (Halloween Party at the Pāhoa Neighborhood Facility). Contingency Relief funds from District 5 would be used towards a Halloween party at the Pāhoa Neighborhood Facility.}
- Res. 720-08: Authorizes the Office of the Mayor to Enter Into an Agreement with the State of Hawai'i Department of Defense, State Civil Defense, Pursuant to HRS 46-7, for the Underage Drinking Prevention Initiatives Grant. {Funds would be used to expand the Liquor Control Department's student-athlete mentoring program.}
- Res. 721-08: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).  
{Transfers/appropriates \$399 out and from Clerk-Council Services-Contingency Relief account; credits same to Department of Parks and Recreation Friends of the Park (NAS Pool Carpet Installation). Contingency Relief funds from District 5 would be used towards the installation of a new carpet at the NAS Pool.}
- Res. 722-08: 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 Mass Transit Agency, Mass Transit Other Current Expense (Brantley Center, Inc.). Contingency Relief funds from District 1 would be used to provide vocational and independent living skills training to people with mental, emotional, and/or physical disabilities.}

**9:45 A.M.: STATEMENTS FROM THE PUBLIC ON RESOLUTION 710-08 AND BILL 335  
(RELATING TO "LOWEST LAW ENFORCEMENT PRIORITY OF CANNABIS ORDINANCE")**

- Res. 710-08: Determines the Sufficiency of the Petition (Original and Supplementary) Filed by the Petitioners Committee for the Lowest Law Enforcement Priority of Cannabis Ordinance on June 23, 2008, Proposing to Amend the Hawai'i County Code (2005 Edition, as Amended), by Adding a New Article Relating to Law Enforcement. {Substitutes the Clerk's findings of insufficiency ("Exhibit 2") with this resolution as its own determination of sufficiency. (The Hawai'i County Charter requires the Council to review the Clerk's certificate and to approve or reject the certificate or to substitute its own determination of sufficiency of the petition by resolution.)} *and*;
- Comm. 1348: From County Clerk Casey Jarman, dated July 25, 2008, informing the Council that the petition entitled, "Lowest Law Enforcement Priority of Cannabis Ordinance" as presented by the Petitioner's Committee for the Lowest Law Enforcement Priority of Cannabis Ordinance, has been certified as insufficient under Hawai'i County Charter, Section 11-4(c)(1), as it is signed by less than the required number of qualified voters of the County (attaches the "Certificate of Insufficiency"). *and*;
- Comm. 1348.3: From Council Member Bob Jacobson, dated July 31, 2008, transmitting Bill 335. States that this is being introduced pursuant to the Hawai'i County Charter, Article XI, Section 11-6, Subsection (a), which states, "The County Council shall proceed immediately to consider an initiative or referendum petition which has been determined sufficient in accordance with the provisions of this article"; *and*
- Bill 335: Adds a New Article to the Hawai'i County Code (2005 Edition, as Amended). *and*;
- Comm. 1348.4: From Council Member Bob Jacobson, dated July 31, 2008, transmitting proposed amendments to Bill 335, relating to Sections 3, 8, and 10.

**11 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING) (EXCEPT BILL 335)**

*(NOTE: COUNCIL WILL TAKE A ONE-HOUR LUNCH BREAK CLOSE TO THE NOON HOUR.)*

**BILLS FOR ORDINANCES (FIRST READING)**

- Bill 318 (Draft 3): Adopts the County of Hawai'i Puna Community Development Plan (CDP). {The planning area for the Puna CDP encompasses the judicial district of Puna and the Volcano Census Designated Place that includes the Volcano Golf Course Subdivision in the District of Ka'u.}; PC-89.
- Bill 325: Amends Chapter 21, Article 5, Section 21-37 of the Hawai'i County Code 1983 (2005 Edition, as Amended) Relating to the Sewer Connection Loan Program. {Adds "Honoka'a" to the list of connection sites authorized to participate in the Sewer Loan Connection Program.}; EMC-15.

- Bill 326: Amends Chapter 20, Hawai'i County Code 1983 (2005 Edition, as Amended) by Adding a New Article 5 Pertaining to Plastic Bag Reduction. {Chapter 20, Relating to Refuse, adds a new Article 5 which proposes regulations to reduce the use of non-biodegradable plastic shopping bags by County businesses and encourages the use of environmentally preferable alternatives (such as recyclable paper bags or reusable bags).}; EMC-16.
- Bill 328: Amends Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. {Appropriates revenues in Contribution from Private Source (\$101,500); appropriates same to Environmental Protection Agency (EPA) Settlement-Private.}; FC-302.
- Bill 329: Amends Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. {Appropriates revenues in Fund Balance from Previous Year (\$593,663); appropriates same to the following: Geothermal Finance-Other Current Expense (\$13,413), Geothermal Public Works-Other Current Expense (\$24,000), Geothermal Mass Transit-Other Current Expense (\$116,250), Geothermal Mass Transit-Equipment (\$380,000), and Geothermal Parks and Recreation-Other Current Expense (\$60,000), for a total of \$593,663. A number of items have been requested for Lower Puna (utilizing the Geothermal Relocation and Community Benefits Fund), which include the following: Pāhoā Council Office lease, 12 new street lights in Puna Makai, bus driver contract(s) and the purchase of two 33-passenger buses to service Council District 5, and security guard contract(s) for the Pāhoā Community Center.}; FC-303.  
*and*;
- Comm. 1336.2: From Council Member Brenda J. Ford, dated July 30, 2008, transmitting an amendment to Bill 329 which decreases the appropriation by \$13,413 to \$580,250;  
*and*
- Comm. 1336.3: From Council Member Brenda J. Ford, dated August 1, 2008, transmitting an amendment to Bill 329 which adds an effective date of January 1, 2009.
- Bill 343: Amends Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. {Appropriates revenues in Federal Grants-Underage Drinking Prevention Initiatives (\$25,500); appropriates same to Underage Drinking Prevention Initiatives.}

**1:30 P.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING), REPORTS, AND REFERRALS FOR EXECUTIVE SESSION**

**ORDER OF THE DAY (SECOND OR FINAL READING)**

- Bill 292  
(Draft 3): Amends Ordinance No. 93-36 Which Reclassified Lands from Agricultural – 20 Acres (A-20a), Agricultural – 10 Acres (A-10a), and Agricultural – 3 Acres (A-3a) to Residential and Agricultural – 1 Acre (RA-1a) at Kukuau 1<sup>st</sup>, South Hilo, Hawai'i, Covered by Tax Map Key:2-4-8:Portions of 14 and 26; Request: Amendment to Change of Zone Ordinance No. 93-36. {Hilo Hillside Corporation, Applicant.}; *and*
- Comm. 1191.8: From Planning Director Christopher J. Yuen, dated June 18, 2008, transmitting a proposed amendment to Bill 292, Draft 3, relating to Condition C.
- Bill 315: Amends Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. {Amends Chapter 24, Article 10, Division 3, Section 24-275, Schedule 23 (Bus stop locations), paragraph (c) (South Hilo), by deleting Subparagraph (5) in order to add more two-hour parking (located along Kamehameha Avenue near Haili Street).}
- Bill 316: Amends Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. {Amends Chapter 24, Article 10, Division 5, Section 24-284, Schedule 32 (Two-hour parking areas), paragraph (c) (South Hilo), Subparagraph (9), to include applicable bus stops and loading zones during specified times as outlined in Chapter 24, Article 10, Divisions 3 and 6 (located along Kamehameha Avenue, from Waianuenue Avenue to Ponahawai Street).}
- Bill 330: Amends Ordinance No. 08-79, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2008, to June 30, 2009. {Adds PUBLIC WORKS: Flood Damage Repairs (12/07 Storms) – Federal Emergency Management Agency (FEMA) (\$1,000,000); funds shall be provided from Federal Grants Receivable (\$1,000,000). This appropriation represents FEMA's funding for the repair work for damages resulting from the December 2007 storms.}
- Bill 331: Amends Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. {Increases revenues in State Grants – Beverage Container Deposit Program (\$1,009,191); appropriates to the following: Beverage Container Deposit Program – Salaries and Wages (\$1,308), Beverage Container Deposit Program – Other Current Expense (\$1,006,883), and Beverage Container Deposit Program – Equipment (\$1,000), for a total of \$1,009,191. The additional funds would be used towards a Recycling/HI5 Education Center that would replace the current Certified Redemption Center at the Hilo Transfer Station, for temporary shelters for other Certified Redemption Centers, and for a Pilot Curbside Study.}
- Bill 332: Amends Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. {Appropriates revenues in Federal Grants – Waste Reduction and Recycling – Hawai'i Island Economic Development Board (HIEDB) (\$100,000); appropriates same to Waste Reduction and Recycling – HIEDB.}

**REPORTS**

FC-300  
(Comm. 1327): Recommends acceptance of a monetary donation of \$1,000 to the Parks and Recreation Department, donated by Mr. Franklin E. Zimring (in honor of Maury and Molly Zimring); and the donation of a carpet (estimated value of \$798.93) to the Parks and Recreation Department, donated by Paul's Enterprises, Ltd.

**REFERRALS FOR EXECUTIVE SESSION**

The Council anticipates convening an executive meeting regarding the following matter, pursuant to Section 92-5(a)(4) and (8), Hawai'i Revised Statutes, for the purpose of discussing a matter that must be kept confidential pursuant to law and to consult with Council's attorney on questions and issues pertaining to the Council's powers, duties, privileges, immunities, and liabilities. A 2/3 vote pursuant to HRS Section 92-4 and Rule 11 of the Rules of Procedure of the County Council is necessary to hold an executive meeting.

Comm. 1267.5: MELISSA M. CHANG V. COUNTY OF HAWAI'I, HAWAI'I COUNTY COUNCIL EEOC NO. 37B-2007-0006  
From Deputy Corporation Counsel Joseph K. Kamelamela, dated July 7, 2008.

Comm. 1252.1: MARK DE REUS, ET AL. VS. COUNTY OF HAWAI'I, ET AL. CIVIL NO. 06-1-0201K  
From Deputy Corporation Counsel Michael J. Udovic, dated July 22, 2008.

Comm. 1370: CLAIM AGAINST THE COUNTY/STATE FARM ON BEHALF OF JAMES E. HAZARD  
From Deputy Corporation Counsel Joseph K. Kamelamela, dated July 31, 2008.

Comm. 1371: CLAIM AGAINST THE COUNTY/MARLENE TIM SING  
From Deputy Corporation Counsel Joseph K. Kamelamela, dated July 31, 2008.

**OTHER BUSINESS**

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

**ANNOUNCEMENTS****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 for this meeting should call 961-8255 by *August 11, 2008*. TTY users may use Relay Service (711)(961-8255) to contact our office.

The agenda is available on the County Council-Clerk web page at [http://co.hawaii.hi.us/council/agendas\\_and\\_actions.htm](http://co.hawaii.hi.us/council/agendas_and_actions.htm). Copies of the agenda and items listed on the agenda are available at the County Clerk's Office, 333 Kīlauea Avenue, Hilo; the Office of the Mayor, 75-5706 Kuakini Highway, Suite 103, Kailua-Kona; the Kona Council Office, Kailua Trade Center, 75-5706 Hanama Place, Suite 109, Kailua-Kona; and the Waimea Council Office at the Holomua Center, 64-1067 Māmalahoa Highway, Suite 5, Waimea. For further information, please call 961-8255.

**Notice is hereby given** that pursuant to Hawai'i Revised Statutes (hereinafter "HRS") § 92-3.5, the Hawai'i County Council will be conducting its August 13, 2008, meeting via videoconference. Council Members will be present at the following locations:

**County Council Room – Ben Franklin Tower, 2<sup>nd</sup> Floor, 333 Kīlauea Avenue, Hilo, HI 96720**

**Sheraton Keauhou Bay Resort and Spa, 78-128 Ehukai Street, Kailua-Kona, HI 96740.**

Videoconferencing is available at the following locations until 4:30 p.m., or later in the event public witness testimony has not been completed:

- Hilo Council Room at the Ben Franklin Building, Second Floor; and
- Waimea Council Office at the Holomua Center.

If audio stream is lost for more than a short period of time, the meeting will be terminated.

- Videoconferencing from the Pāhoa Neighborhood Facility will not be available.

Submitting Testimony: Those wishing to testify in person must register with the County Clerk's staff. Those submitting written testimony at the meeting should bring **fourteen (14)** copies for distribution. Testimony may also be submitted (1) by mail to the County Clerk's Office in Hilo at 25 Aupuni St., Hilo, Hawai'i, 96720; (2) by facsimile to (808) 961-8912; or (3) by e-mail to [counciltestimony@co.hawaii.hi.us](mailto:counciltestimony@co.hawaii.hi.us). **Please submit separate testimony for each item.** For testimony received via e-mail or fax, copies will be distributed at the meeting when transmitted in a timely manner. All oral and written testimony will be made a part of the public record.

Viewing of Meetings on Government Access Television - Channel 52:  
Wednesday's, August 20 and 27, 2008, at 6 p.m.; and Sunday, August 24, 2008, at 10:30 a.m.

**UPCOMING MEETINGS**

	<u>WEDNESDAY, AUGUST 20, 2008</u>	
PLANNING COMMITTEE PUBLIC HEARING RE BILL 324 (IMPACT FEE)	6:00 p.m.	COUNCIL ROOM – HILO 333 Kīlauea Avenue Ben Franklin Building Second Floor
	<u>TUESDAY, AUGUST 26, 2008</u>	
COMMITTEES	TBA	SHERATON KEAUHOU BAY RESORT & SPA



