COUNTY COUNCIL

County of Hawai‘i
Hawai‘i County Building
25 Aupuni Street
Hilo, Hawai‘i 96720

48th Session

ORDER OF BUSINESS

Hawai‘i County Building
25 Aupuni Street
Hilo, Hawai‘i

September 5, 2018

9:00 a.m.

(Note: Please turn all communication devices to silent mode.)

INVOCATION

Jacob Bratton of Hilo Salvation Army Temple Corps

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

Serving the Interests of the People of Our Island
Hawai‘i County is an Equal Opportunity Provider and Employer.
PETITIONS, MEMORIALS, CERTIFICATES OF MERIT, AND EXPRESSIONS OF CONDOLENCE

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

(NOTE: COUNCIL MAY TAKE A LUNCH BREAK CLOSE TO THE NOON HOUR.)

APPROVAL OF MINUTES

August 17, 2016
August 8, 2018

COMMUNICATIONS

ORDER OF RESOLUTIONS

Res. 654-18: AWARDS A PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION MAINTENANCE STEWARDSHIP GRANT TO HO'OMALU KA'Ū

Approves a grant of $58,600 to Ho'omalu Ka'ū, a 501(c)(3) nonprofit organization, to protect, preserve, and restore the Kahuā Olohu, Kaunamano, Ka'ū property (Tax Map Key: 9-5-012:005), pursuant to Section 10-16 of the Hawai‘i County Charter.

Reference: Comm. 1018
Intr. by: Ms. David
Approve: FC-132

Res. 655-18: AWARDS A PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION MAINTENANCE STEWARDSHIP GRANT TO KOHANAIKI ‘OHANA

Approves a grant of $25,480 to Kohanaiki ‘Ohana, a 501(c)(3) nonprofit organization, to protect, preserve, and restore ‘O’oma Beach in North Kona (Tax Map Key: 7-3-009:004), pursuant to Section 10-16 of the Hawai‘i County Charter.

Reference: Comm. 1019
Intr. by: Ms. Eoff
Approve: FC-133
Res. 656-18: AWARES A PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION MAINTENANCE STEWARDSHIP GRANT TO PŌHĀHĀ I KA LANI
Approves a grant of $74,250 to Pōhāhā I Ka Lani, a 501(c)(3) nonprofit organization, to protect, preserve, and restore the Waipi'o Valley Lookout in Hāmākua (Tax Map Key: 4-8-004:006), pursuant to Section 10-16 of the Hawai‘i County Charter.

Reference: Comm. 1020
Intr. by: Ms. Poindexter
Approve: FC-134

Res. 663-18: REQUESTS THE HAWAI‘I STATE ASSOCIATION OF COUNTIES (HSAC) TO INCLUDE IN ITS 2019 LEGISLATIVE PACKAGE, A RESOLUTION URGING THE LEGISLATURE TO APPROPRIATE FUNDS TO EMPLOY LIFEGUARDS AND TO PURCHASE A LIFEGUARD TOWER AND RESCUE EQUIPMENT FOR KUA BAY AT KEKAHA KAI STATE PARK
Requests that the HSAC package include a request to the State Legislature to appropriate funds in the amount of $401,696 for Fiscal Year 2018-2019 to employ four lifeguards and to purchase a lifeguard tower and rescue equipment, with an additional appropriation of $325,696 for Fiscal Year 2019-2020 to continue the program.

Reference: Comm. 1035
Intr. by: Ms. Eoff
Waived: GREDC

Res. 664-18: TRANSFERS/APPROPRIATES AN APPROPRIATION OUT AND FROM A DESIGNATED FUND ACCOUNT AND CREDITS SAME TO A DESIGNATED FUND ACCOUNT TO PROVIDE A GRANT TO THE HAWAI‘I ISLAND PORTUGUESE CHAMBER OF COMMERCE CULTURAL AND EDUCATIONAL CENTER TO ASSIST WITH THE 140TH YEAR COMMEMORATION OF THE ARRIVAL OF PORTUGUESE IMMIGRANT FAMILIES TO HAWAI‘I
Transfers $2,000 from the Clerk-Council Services – Contingency Relief account (Council District 6); and credits to the Department of Research and Development, Tourism Promotion account.

Reference: Comm. 1036
Intr. by: Ms. David
Res. 666-18: AUTHORIZES THE EMPLOYMENT OF A PRIVATE ATTORNEY AS PART OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAIʻI TO REPRESENT THE COUNTY OF HAWAIʻI AND NAMED COUNTY OFFICIALS IN YOUNG VERSUS STATE OF HAWAIʻI, NO. 12-17808

Would allow the County to enter into an agreement with the State of Hawaiʻi to retain the legal services of Mr. Neal Katyal as special counsel, with the State to pay all fees and costs. The County desires to retain special counsel to seek an en banc review by the Ninth Circuit Court of Appeals of its decision published on July 24, 2018, finding that there is a constitutional right to open carry firearms pursuant to the Second Amendment of the United States Constitution and that a portion of Section 134-9 of the Hawaiʻi Revised Statutes violated the Second Amendment of the United States Constitution.

Reference: Comm. 1041
Intr. by: Ms. David (B/R)
Waived: FC
Note: Requires 2/3 vote of the entire membership, pursuant to Section 6-5.5, Hawaiʻi County Charter

BILLS FOR ORDINANCES (FIRST READING)


Amends Section 2-83, Fair Treatment, by adding a requirement that officers and employees of the County provide accurate and factual information to the public to the best of each officer’s or employee’s abilities and knowledge.

Reference: Comm. 959.3
Intr. by: Ms. O’Hara
Approve: FC-135
Bill 177:  
AMENDS SECTION 25-8-19 (NORTH HILO DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – TWENTY ACRES (A-20a) TO AGRICULTURAL – FIVE ACRES (A-5a) AT PĀPA’ALOA, NORTH HILO, HAWAI'I, COVERED BY TAX MAP KEY:  3-5-004:023 (Applicant: Charles and Kitura Andrus) (Area: approximately 11.06 Acres)  
The Windward Planning Commission forwards its favorable recommendation for this change of zone, which would allow the applicant to apply for subdivision of the property into two lots. The applicants currently reside in a home on one lot and plan to convey the other lot to their children. The property is located on Kihalani Homestead Road.

Reference: Comm. 1024  
Intr. by: Ms. Eoff (B/R)  
Approve: PC-69

Bill 178:  
AMENDS ORDINANCE NO. 07-166, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – ONE ACRE (A-1a) TO MULTIPLE FAMILY RESIDENTIAL – 5,500 SQUARE FEET (RM-5.5) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY:  2-3-037:015 (Applicant: Michelle A. Mitchell (formerly Malulani, Inc.) (Area: approximately 1.278 Acres)  
The Windward Planning Commission forwards its favorable recommendation for this amendment to request an additional five-year time extension to complete construction of a medical clinic on the property. The property is located on Ponahawai Street, approximately 650 feet east of its intersection with Komohana Street.

Reference: Comm. 1025  
Intr. by: Ms. Eoff (B/R)  
Approve: PC-70
Bill 179:  
AMENDS ORDINANCE NO. 08-20, WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL - 10,000 SQUARE FEET (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAIʻI, COVERED BY TAX MAP KEYS:  2-2-036:025 AND 026  
(Applicant: Dien-Jung Lin (formerly Dien-Jung Nekoba) (Area: 39,771 square feet)  
The Windward Planning Commission forwards its favorable recommendation for this amendment to request a time extension for completion of construction and payment of the water commitment fee. The properties are located on Kekūanaoʻa Street and Hīnano Street.  
Reference  Comm. 1026  
Intr. by:  Ms. Eoff (B/R)  
Approve:  PC-71

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 165  
(Draft 2):  
AMENDS CHAPTER 19, ARTICLE 10, OF THE HAWAIʻI COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO REAL PROPERTY TAX EXEMPTIONS FOR DISABLED OR UNEMPLOYABLE VETERANS  
Effective July 1, 2019, removes the phrase “totally disabled” from Section 19-73, and replaces with “100 percent disabled or 100 percent unemployable, or both.” Further amends Section 19-73 to exempt disabled or unemployable veterans from all real property tax, where “totally disabled” veterans are currently subject to the minimum tax provided for in Section 19-90(e).  
Reference:  Comm. 989.5  
Intr. by:  Mr. Kanuha  
First Reading:  August 8, 2018  
Postponed:  August 22, 2018  
(Note: There is a motion by Mr. Kanuha, seconded by Ms. David, to approve Bill 165, Draft 2.)

Appropriates revenues in the Research and Development Miscellaneous Private Contributions account ($1,200); and appropriates the same to the Essential Air Service Waimea-Kohala Airport - Private account. Funds would be used as a joint effort between government agencies and the local community to ensure the continuity of air service at the Waimea-Kohala airport.

Reference: Comm. 995
Intr. by: Ms. David (B/R)
First Reading: August 22, 2018


Increases revenues in the Federal Grants - Agricultural Crimes Project account ($106,789); and appropriates the same to the Agricultural Crimes Project account, for a total appropriation of $198,789. Funds would be used by the Office of the Prosecuting Attorney.

Reference: Comm. 996
Intr. by: Ms. David (B/R)
First Reading: August 22, 2018

Decreases revenues in the Real Property Taxes account by $3.9 million to address the anticipated reduction in Real Property Tax revenues resulting from devaluation of properties that were either destroyed or rendered inaccessible by the 2018 Kilauea lava flow. The following General Fund accounts are reduced accordingly: Information Technology Other Current Expenses (-$10,105), Planning Other Current Expenses (-$30,000), Business Development-Research and Development (-$10,000), Mass Transit Other Current Expenses (-$2,712,145), Mass Transit Equipment (-$1,050,000), Transfer to Public Access Open Space Preservation Fund (-$78,000), and Transfer to Public Access Open Space Preservation Maintenance Fund (-$9,750).

First Reading: August 22, 2018

; and


Establishes a General Excise Tax Surcharge revenue account and appropriates $10 million into this account as anticipated revenue, and establishes and applies these funds to two new General Excise Tax Surcharge Mass Transit expenditure accounts, as follows: Other Current Expenses ($4,412,145) and Equipment ($3,587,855). The remaining $2 million would be appropriated to the Transfer to Capital Projects Fund expenditure account to be used for bus shelters and road improvement projects, including Oneo Lane and the Ane Keohokālole extension.

Reference:  Comm. 997
Intr. by:  Ms. David (B/R)
First Reading: August 22, 2018


Amends Section 24-264, Schedule 12 (Stop intersections), paragraph (a), Hāmākua, by adding “Hauola Road, Pohakea Road intersection, all approaches.” The proposed all-way stop will allow for cars to still park along Hauola Road and minimize the line of sight requirements at the intersection.

Reference:  Comm. 998
Intr. by:  Ms. Ruggles (B/R)
First Reading: August 22, 2018
Bill 180:  

Appropriates revenues in the State Grants – Workforce Innovation Opportunity Act account ($4,063); and appropriates the same to the Workforce Innovation Opportunity Act – Sector Partnership Engagements account. Funds would be used by the Hawai‘i Island Economic Development Board to engage with the private sector to identify employment and training needs.

Reference:  Comm. 1031  
Intr. by:  Ms. David (B/R)  
First Reading: August 22, 2018

Bill 181:  

Appropriates revenues in the Federal Grants – Risk and Vulnerability Assessment – Volcanic Hazard account ($225,000); and appropriates the same to the Risk and Vulnerability Assessment – Volcanic Hazard account. Funds would be used by the Department of Research and Development to update the volcanic risk and vulnerability assessment of the Hawai‘i County Multi-Hazard Mitigation Plan.

Reference:  Comm. 1032  
Intr. by:  Ms. David (B/R)  
First Reading: August 22, 2018

REPORTS

PC-68  (Comm. 1027):  
NOMINATION OF FRANZ WEBER TO THE KONA COMMUNITY DEVELOPMENT PLAN ACTION COMMITTEE

Requires Council Confirmation by:  September 17, 2018 (Section 13-4(l), Hawai‘i County Charter)

AWESC-6  (Comm. 1028):  
NOMINATION OF GEORGE DONEV TO THE GAME MANAGEMENT ADVISORY COMMISSION

Requires Council Confirmation by:  September 17, 2018 (Section 13-4(l), Hawai‘i County Charter)
REFERRALS FOR EXECUTIVE SESSION
A 2/3 vote pursuant to Hawai‘i Revised Statutes, Section 92-4, and Rule Nos. 2 and 10 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

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 places are accessible for persons with disabilities. Persons who need special accommodations for this meeting should call 961-8255 by August 31, 2018. Relay users please call 711(961-8255) to contact our office.

Public attendance via courtesy site is available at the following locations until 4:30 p.m. or later in the event public testimony has not been completed:
- Kona Council Office, West Hawai‘i Civic Center, 74-5044 Ane Keohokālole Highway, Building A;
- Pāhoa Council Office, 15-2879 Pāhoa Village Road; and

Public attendance via courtesy site is also available at the following locations until public testimony has been completed:
- Nā‘ālehu State Office Building, 95-5669 Māmalahoa Highway; and
- Old Kohala Courthouse, 54-3900 Akoni Pule Highway, Kapa‘au.

If, due to unanticipated circumstances, the courtesy site is unavailable and/or participation is disrupted, the scheduled meeting will continue.

Live stream of County Council Meetings: Council meetings are available for live viewing. Click on Council Meetings on the County’s homepage at http://www.hawaiicounty.gov.

Copies of this agenda and items listed on the agenda are available on the County Clerk-Council web page at http://www.hawaiicounty.gov/lb-council-meeting. For further information, please call 961-8255.

Submitting Written Testimony: Those submitting written testimony at the meeting should bring fourteen (14) copies for distribution. Public testimony may also be submitted before 12:00 noon on
the business day prior to the meeting: (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 email to counciltestimony@hawaiicounty.gov. Please submit separate testimony for each item.

Submitting Video Testimony: Those submitting video testimony may email a complete web address (url) to videotestimony@hawaiicounty.gov before 12:00 noon on the business day prior to the meeting. The email shall indicate the appropriate Committee or Council meeting, the meeting date, agenda item (communication, bill, resolution or report number), and number of testifiers on the video submittal. Each video submittal shall be limited to a single agenda item. Video submittals may contain up to three individual testifiers and shall each be up to three minutes in length. Video testimony will not be played during the meeting; however, it will be distributed to Council Members prior to the meeting. The Office of the County Clerk reserves the right to refuse testimony containing inappropriate content or that is not in compliance with Council Rule 13 (Public Statements and Testimony).