

DRU MAMO KANUHA
Chair and Presiding Officer

VALERIE T. POINDEXTER
Vice Chair



AARON S. Y. CHUNG
MAILE "MEDEIROS" DAVID
KAREN EOFF
GREGGOR ILAGAN
DENNIS "FRESH" ONISHI
DANNY PALEKA
MARGARET WILLE

COUNTY COUNCIL

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

5th Session

COUNTY CLERK
COUNTY OF HAWAII
2015 JAN 29 PM 3:18

ORDER OF BUSINESS

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

February 4, 2015
9:00 a.m.

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

INVOCATION

Reverend Bryan Siebuhr of Honpa Hongwanji Hilo Betsuin

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PETITIONS, MEMORIALS, CERTIFICATES OF MERIT, AND EXPRESSIONS OF CONDOLENCE

Keith "Bradda Skibs" Nehls: Presentation of a Certificate of Merit Sponsored by Council Member Valerie T. Poindexter recognizing Keith "Bradda Skibs" Nehls for his devotion and generosity to the Hāmākua community.

Reference: Comm. 97

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (9:10 A.M.)

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

APPROVAL OF MINUTES

COMMUNICATIONS

ORDER OF RESOLUTIONS

Res. 46-15: URGES THE UNITED STATES DEPARTMENT OF TRANSPORTATION (DOT) TO APPROVE THE APPLICATION OF HAWAIIAN AIRLINES FOR ALLOCATION OF A NONSTOP ROUTE BETWEEN KONA, HAWAI'I, AND TOKYO, JAPAN

Supports Hawaiian Airlines' application for this nonstop route.

Reference: Comm. 75
Intr. by: Mr. Onishi
Waived: GREDC

Res. 47-15: TRANSFERS/APPROPRIATES AN APPROPRIATION OUT AND FROM THE DESIGNATED FUND ACCOUNT AND CREDITS SAME TO A DESIGNATED FUND ACCOUNT TO PROVIDE A GRANT TO BIG ISLAND WAVE RIDERS AGAINST DRUGS FOR THE 2015 WEST HAWAI'I'S COMMUNITY BEACH CLEAN-UP

Transfers/appropriates \$3,000 out and from the Clerk-Council Services – Contingency Relief account (Council District 8); and credits the same to the Department of Liquor Control, Public Programs, Miscellaneous Contract Services account (Big Island Wave Riders Against Drugs). Funds would be used to pay for activities, advertising, transportation, and other expenses for this event to be held on March 7, 2015.

Reference: Comm. 76
Intr. by: Ms. Eoff

Res. 48-15: AMENDS THE RULES OF PROCEDURE AND ORGANIZATION OF THE COUNCIL OF THE COUNTY OF HAWAI'I BY AMENDING RULE NO. 13, PUBLIC STATEMENTS AND TESTIMONY

Amends Council Rule 13 by removing the option of submitting video testimony.

Reference: Comm. 77
Intr. by: Ms. Wille

Res. 49-15: AMENDS THE RULES OF PROCEDURE AND ORGANIZATION OF THE COUNCIL OF THE COUNTY OF HAWAI'I BY AMENDING RULE NO. 14, MOTIONS

Amends Council Rule 14 by providing that the Chair may only recognize a motion to end debate if each Council Member was provided the opportunity to speak prior to the making of the motion.

Reference: Comm. 78
Intr. by: Ms. Wille

Res. 50-15: AMENDS THE RULES OF PROCEDURE AND ORGANIZATION OF THE COUNCIL OF THE COUNTY OF HAWAI'I BY AMENDING RULE NO. 2, MEETINGS

Amends Council Rule 2 by decreasing the number of votes required to allow a Committee or Council meeting to go beyond 6 p.m., requiring the Council's prior approval for any request of a presentation not related to a pending bill or resolution, and requiring equal time be allowed for and against the subject matter of any presentation relating to a pending bill or resolution.

Reference: Comm. 79
Intr. by: Ms. Wille

Res. 51-15: AUTHORIZES THE ACCEPTANCE OF A DONATION OF A FLAT SCREEN TELEVISION WITH ACCESSORIES, A DVD PLAYER, AND VOLLEYBALL NETS TO THE DEPARTMENT OF PARKS AND RECREATION

Donated by the Queen Lili'uokalani Children's Center with a total value of \$4,000 for use at the Kawānanakoa Gym in Keaukaha to assist with the implementation of video-based athletic training.

Reference: Comm. 84
Intr. by: Ms. Eoff
Waived: FC

Res. 52-15: AUTHORIZES THE ACCEPTANCE OF A DONATION OF A SELF-CONTAINED ICE MACHINE TO THE DEPARTMENT OF PARKS AND RECREATION

Donated by the Queen Lili'uokalani Children's Center and valued at \$3,050 for use at the Kawānanakoa Gym in Keaukaha to implement concessions, fundraising, and other activities associated with Keaukaha-based athletics.

Reference: Comm. 85
Intr. by: Ms. Eoff
Waived: FC

Res. 53-15: AUTHORIZES THE ACCEPTANCE OF A MONETARY DONATION OF \$5,000 TO THE DEPARTMENT OF PARKS AND RECREATION
Donated by Carol Ann Crocket for the beautification of the West Hawai'i Veterans Cemetery.

Reference: Comm. 86
Intr. by: Ms. Eoff
Waived: FC

Res. 54-15: AUTHORIZES THE OFFICE OF THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE STATE OF HAWAI'I DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT, PURSUANT TO HAWAI'I REVISED STATUTES SECTION 46-7, TO PROVIDE WORKERS' COMPENSATION ADMINISTRATION SERVICES
Renews a current agreement that expires on March 31, 2015, to provide the above services to the Parks and Recreation Department and the Police Department.

Reference: Comm. 87
Intr. by: Ms. Eoff
Waived: FC

Res. 56-15: AUTHORIZES THE OFFICE OF THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE STATE OF HAWAI'I DEPARTMENT OF THE ATTORNEY GENERAL, PURSUANT TO HAWAI'I REVISED STATUTES SECTION 46-7, FOR A WRONGFUL CONVICTION DEMONSTRATION PROJECT GRANT TO THE HAWAI'I COUNTY POLICE DEPARTMENT
Provides \$52,072 from the State's Department of the Attorney General's Crime Prevention and Justice Assistance Division to purchase recording equipment and related technology to record custodial interrogations of individuals by law enforcement personnel.

Reference: Comm. 89
Intr. by: Ms. Eoff
Waived: FC

Res. 57-15: AUTHORIZES THE OFFICE OF THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE STATE OF HAWAI'I DEPARTMENT OF THE ATTORNEY GENERAL, PURSUANT TO HAWAI'I REVISED STATUTES SECTION 46-7, FOR THE IMPROVE FORENSIC SERVICES GRANT TO THE HAWAI'I COUNTY POLICE DEPARTMENT

Provides \$25,641 from the State's Department of the Attorney General's Crime Prevention and Justice Assistance Division to pay for costs associated with keeping personnel updated in forensic science training and to purchase updated forensic science equipment.

Reference: Comm. 90
Intr. by: Ms. Eoff
Waived: FC

Res. 58-15: REQUESTS PUNA GEOTHERMAL VENTURE (PGV) TO REDUCE THE NOISE IMPACT TO RESIDENTS DURING THE NIGHT BY COMPLYING WITH ORDINANCE NO. 12-151

Requests that PGV comply with Ordinance 12-151 by restricting drilling operations at production well KS-16 to the hours of 7 a.m. to 7 p.m.

Reference: Comm. 92
Intr. by: Mr. Ilagan
Waived: AWESC

Res. 59-15: REQUESTS THE OFFICE OF THE CORPORATION COUNSEL TO INITIATE A DECLARATORY JUDGEMENT ACTION TO DETERMINE THE APPLICABILITY OF ORDINANCE NO. 12-151 TO PUNA GEOTHERMAL VENTURE'S (PGV) DRILLING OPERATIONS UNDER GEOTHERMAL RESOURCE PERMIT NO. 2, AND/OR TO SEEK INJUNCTIVE RELIEF

Requests the Office of the Corporation Counsel to re-examine issues relating to PGV's intent to conduct 24-hour drilling operations at production well KS-16.

Reference: Comm. 93
Intr. by: Mr. Ilagan
Waived: AWESC

BILLS FOR ORDINANCES (FIRST READING)

- Bill 21: AMENDS ORDINANCE NO. 14-82, AS AMENDED, RELATING TO PUBLIC IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014, TO JUNE 30, 2015
-
- Adds the Public Works Highway Administration Office Building Improvements project for \$500,000 to the Capital Budget. Funds for the project shall be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources. Funds would be used to expand and improve office space at the Highways Administration building.
- Reference: Comm. 83
 Intr. by: Ms. Eoff
 Waived: FC
 Note: Requires 2/3 vote of the entire membership to amend, pursuant to Section 10-6(e), Hawai'i County Charter
- Bill 22: AMENDS ORDINANCE NO. 14-81, AS AMENDED, THE OPERATING BUDGET FOR THE COUNTY OF HAWAI'I FOR THE FISCAL YEAR ENDING JUNE 30, 2015
-
- Appropriates revenues in the Federal Grants - Wrongful Conviction Demonstration Project account (\$52,072); and appropriates the same to the Wrongful Conviction Demonstration Project account. Funds would be used to purchase recording equipment and related technology to record custodial interrogations of individuals by law enforcement personnel.
- Reference: Comm. 89
 Intr. by: Ms. Eoff
 Waived: FC
- Bill 23: AMENDS ORDINANCE NO. 14-81, AS AMENDED, THE OPERATING BUDGET FOR THE COUNTY OF HAWAI'I FOR THE FISCAL YEAR ENDING JUNE 30, 2015
-
- Appropriates revenues in the Federal Grants - Improve Forensic Services account (\$25,641); and appropriates the same to the Improve Forensic Services account. Funds would be used to pay for costs associated with keeping personnel updated in forensic science training and to purchase updated forensic science equipment.
- Reference: Comm. 90
 Intr. by: Ms. Eoff
 Waived: FC

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 266:
(2012-2014) AMENDS CHAPTER 23, ARTICLE 4, SECTION 23-58 AND ARTICLE 5, SECTION 23-68 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO SUBMISSION OF THE PRELIMINARY PLAT AND FINAL PLAT FOR AN APPLICATION FOR SUBDIVISION
Requires the preliminary plat and final plat of a proposed subdivision be prepared, stamped, and signed by a surveyor.

Reference: Comm. 937
Intr. by: Ms. Eoff
First Reading: January 23, 2015

Bill 1: AMENDS CHAPTER 24, ARTICLE 10, DIVISION 1, SECTION 24-254, SCHEDULE 2 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO 20 MILE PER HOUR SPEED LIMIT
Adds portions of Mahi'ai Road to Subsection (g), Puna.

Reference: Comm. 12
Intr. by: Ms. Poindexter
First Reading: January 23, 2015

Bill 2
(Draft 2): AMENDS CHAPTER 24, ARTICLE 10, DIVISION 1, SECTION 24-255, SCHEDULE 3 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO 25 MILE PER HOUR SPEED LIMIT
Amends Subsection (g), Puna, to revise existing provision for a portion of Wright Road and to add Amaumau Road and portions of Mahi'ai and Wright Road.

Reference: Comm. 13.1
Intr. by: Ms. Poindexter
First Reading: January 23, 2015

Bill 3: AMENDS CHAPTER 24, ARTICLE 10, DIVISION 3, SECTION 24-275.1, SCHEDULE 23.1 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO NEW PUBLIC ROAD TAXI STAND LOCATION

Adds portion of Ali'i Drive to Subsection (f), Kona, to provide taxi parking between 10 p.m. and 8 a.m. daily.

Reference: Comm. 14
Intr. by: Ms. Poindexter
First Reading: January 23, 2015

Bill 7: AMENDS ORDINANCE NO. 14-82, AS AMENDED, RELATING TO PUBLIC IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014, TO JUNE 30, 2015

Establishes the following program appropriations to the Capital Budget: Roadway Projects (Engineering) (\$1,750,000); Bridge Inspection, Repair, and Replacement Program (Engineering) (\$1,500,000); and Local Road Improvements (Highways) (\$3,250,000), for a total of \$6.5 million. Funds for the program appropriations shall be provided from the portion of the Highway Fund which is designated as the Fuel Tax Increase Account No. 3104.06, and which consists of the increase fuel tax revenues created pursuant to Resolution No. 504-08. Exhibit A, attached to the bill, lists the specific projects in each category.

Reference: Comm. 26
Intr. by: Ms. Eoff
First Reading: January 23, 2015
Note: Requires 2/3 vote of the entire membership to amend, pursuant to Section 10-6(e), Hawai'i County Charter

Bill 10:

AMENDS ORDINANCE NO. 14-82, AS AMENDED, RELATING TO
PUBLIC IMPROVEMENTS AND FINANCING THEREOF FOR THE
FISCAL YEAR JULY 1, 2014, TO JUNE 30, 2015

Adds the Public Works Mauna Kea Visitor Information Station Access Road and Parking - Private project for \$55,000 to the Capital Budget. Funds for the project shall be provided from Private Contributions. Funds would be used to resurface the parking lot, pave a diagonal parking shoulder, install speed humps, and install lane and traffic-calming markings.

Reference: Comm. 45
Intr. by: Ms. Eoff
First Reading: January 23, 2015
Note: Requires 2/3 vote of the entire membership to amend, pursuant to Section 10-6(e), Hawai'i County Charter

Bill 11:

AMENDS ORDINANCE NO. 14-82, AS AMENDED, RELATING TO
PUBLIC IMPROVEMENTS AND FINANCING THEREOF FOR THE
FISCAL YEAR JULY 1, 2014, TO JUNE 30, 2015

Adds the Public Works Mass Transit Maintenance and Baseyard Facility - project for \$10 million to the Capital Budget. Funds for the project shall be provided from Federal Grants Receivable (\$4 million) and General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$6 million). Funds would be used to design and construct a new baseyard and administrative facility for the Mass Transit Agency.

Reference: Comm. 46
Intr. by: Ms. Eoff
First Reading: January 23, 2015
Note: Requires 2/3 vote of the entire membership to amend, pursuant to Section 10-6(e), Hawai'i County Charter

Bill 12: AMENDS ORDINANCE NO. 14-82, AS AMENDED, RELATING TO PUBLIC IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014, TO JUNE 30, 2015
 Establishes the following program appropriations to the Capital Budget: North Kona Engineering Projects (\$13,847.15); Roadway Projects (Engineering) (\$2,879,576.15); Bridge Inspection, Repair, and Replacement Program (\$10,588.21); Americans with Disabilities Act Curb Cut & Accessible Route Program (\$370,644.65); Local Road Improvement – North Hilo (\$109,019.82); and Local Road Improvement - North Kona (\$2,112.65), for a total of \$3,385,788.63. Funds for the program appropriations shall be provided from the lapsed Fuel Tax Increase funds in the Capital Projects Fund (\$3,385,788.63). Exhibit A, attached to the bill, lists the specific projects in each category.

Reference: Comm. 47
 Intr. by: Ms. Eoff
 First Reading: January 23, 2015
 Note: Requires 2/3 vote of the entire membership to amend, pursuant to Section 10-6(e), Hawai'i County Charter

Bill 13: AMENDS ORDINANCE NO. 14-81, AS AMENDED, THE OPERATING BUDGET FOR THE COUNTY OF HAWAI'I FOR THE FISCAL YEAR ENDING JUNE 30, 2015
 Appropriates revenues in the Fund Balance From Previous Year - Reserve account (\$54,000.40); and appropriates the same to the Transfer to Capital Projects Fund - Highway account. These fiscal year 2013-2014 excess fuel tax revenues would be expended by the Public Works Department.

Reference: Comm. 48
 Intr. by: Ms. Eoff
 First Reading: January 23, 2015

Bill 14: AMENDS CHAPTER 24, ARTICLE 10, DIVISION 1, SECTION 24-257, SCHEDULE 5 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO 35 MILE PER HOUR SPEED LIMIT
 Adds a portion of Wright Road to Subsection (g), Puna.

Reference: Comm. 50
 Intr. by: Ms. Poindexter
 First Reading: January 23, 2015

Bill 19: AMENDS ORDINANCE NO. 14-81, AS AMENDED, THE OPERATING BUDGET FOR THE COUNTY OF HAWAI'I FOR THE FISCAL YEAR ENDING JUNE 30, 2015

Appropriates revenues in the State Grants – Little Fire Ant (LFA) Control – Hawai'i Tourism Authority (HTA) account (\$50,000); and appropriates the same to the LFA Control – HTA account. Funds would be used to hire up to three staff members and to provide them with equipment and necessities such as bait for the LFA Control Program.

Reference: Comm. 68
Intr. by: Ms. Eoff
First Reading: January 23, 2015

REPORTS

REFERRALS FOR EXECUTIVE SESSION

Comm. 9.1: SPECIAL COUNSEL REQUEST FOR APPEAL OF HAWAI'I FLORICULTURE AND NURSERY ASSOCIATION, ET AL. VS. COUNTY OF HAWAI'I; CIVIL NO. 14-00267 BMK (FEDERAL DISTRICT COURT OF THE DISTRICT OF HAWAI'I) TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, CASE NO. 14-17538

From Deputy Corporation Counsel Katherine A. Garson, dated January 15, 2015, requesting an attorney-client confidential discussion to consult with the Council regarding the above-entitled matter, including a request for special counsel with approval of payment of costs not to exceed \$10,000.

Comm. 80: CLAIM REGARDING MAKANA FERNANDEZ (MINOR)

From Deputy Corporation Counsel Christopher P. Schlueter, dated January 14, 2015, requesting an attorney-client confidential discussion to consult with the Council on a personal injury incident occurring on January 2, 2013.

The Council anticipates convening executive meetings regarding the above matters, pursuant to Section 92-5(a)(4), for the purpose of consulting 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 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 *February 2, 2015*. Relay users please call 711(961-8255) to contact our office.

Public attendance via videoconference 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; and**
- **Waimea Council Office, Holomua Center, 64-1067 Māmalahoa Highway, Suite 5.**

Public attendance via videoconference is also available at the following locations until public testimony has been completed:

- **County Facility (former Bank of Hawai'i Building), 54-3888 Akoni Pule Highway, Kohala;**
- **Hawaiian Ocean View Estates Community Center, 92-8924 Leilani Circle; and**
- **Pāhoa Neighborhood Facility, 15-2710 Kauhale Street.**

If for technical or other unanticipated circumstances the video and/or audio connection cannot be made or 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 Council-Clerk 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 e-mail to counciltestimony@hawaiicounty.gov. **Please submit separate testimony for each item.**

Submitting Video Testimony: Those submitting video testimony may e-mail a complete web address (url) to videotestimony@hawaiicounty.gov **before 12:00 noon on the business day prior to the meeting.** The e-mail 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).

Viewing of Meetings on Government Access Television - Channel 55:

Wednesdays, February 11 (to follow the viewing of the January 23, 2015, meeting scheduled to start at 6 p.m.) and February 18, 2015, at 6 p.m.; Fridays, February 13 and 20, 2015, at 12 p.m.; and Sundays, February 15 and 22, 2015, at 9 a.m. (These airtimes are subject to preemption by broadcasts from the State Legislature, and are subject to change by Na Leo 'O Hawai'i. Please check the current legislative broadcast schedule on the Na Leo 'O Hawai'i website at <http://www.naleo.tv/tv-schedules/channel-55/>.)

UPCOMING MEETINGSTUESDAY, FEBRUARY 17, 2015

COMMITTEES

TBA

WEST HAWAI'I CIVIC CENTER
74-5044 Ane Keohokālole Highway
Building A

WEDNESDAY, FEBRUARY 18, 2015

COUNCIL

9:00 A.M.

WEST HAWAI'I CIVIC CENTER
74-5044 Ane Keohokālole Highway
Building A

TUESDAY, MARCH 3, 2015

COMMITTEES

TBA

COUNCIL ROOM - HILO
25 Aupuni Street

WEDNESDAY, MARCH 4, 2015

COUNCIL

9:00 A.M.

COUNCIL ROOM - HILO
25 Aupuni Street