

REGULAR SESSION

HAWAI'I COUNTY COUNCIL

TENTH SESSION

Hilo, Hawai'i
April 20, 2005

INVOCATION: Pastor Ed Nakamoto gave the morning's invocation.

CALL TO ORDER: The regular meeting of the Hawai'i County Council was called to order by Chairman and Presiding Officer Stacy K. Higa, at 9:05 a.m., in the Council Room, Hawai'i County Building.

ROLL CALL:

Present: Council Member James Y. Arakaki
Council Member Pete Hoffmann
Council Member Fred C. Holschuh, M. D.
Council Member Donald Ikeda
Council Member Virginia Isbell
Council Member Bob Jacobson
Council Member K. Angel Pilago
Council Chairman Stacy K. Higa

Absent & Excuse: Council Member Gary Safarik

Also Present: Harry Kim, Mayor (came in later)
Connie Kiriū, County Clerk
Alfred Robello, Executive Assistant to the Council Chair
Christopher J. Yuen, Director, Planning Department (came in later)
Earlanne Shintani, Council Aide III
Valerie Victorine, Admin. Asst. to the Leg. Aud., Ofc. of the Leg. Aud.
(came in later)
Arlene Waugh, Leg. Info. and Reference Tech., Ofc. of the County Clerk
Edwin Taira, Administrator, Office of Housing and Community Development
Mitchell Roth, Deputy Pros. Atty., Ofc. of the Pros. Atty.
Martha Rodillas, Private Secretary, Ofc. of the Corp. Counsel
William Gray, Purchasing Agent, Finance Dept. (came in later)
Elroy Osorio, Jr., Assistant Chief, Police Department
Dexter Veriato, Sergeant, Police Department
Nelson Ho, Deputy Director, Environmental Management Dept. (came in later)
Patricia Engelhard, Director, Parks and Recreation Department (came in later)

Ivan Torigoe, Dep. Corp. Counsel, Ofc. of the Corp. Counsel (came in later)
Lono Tyson, Operations Division Chief, Environmental Management Dept. (came in later)
Michael Kagami, Dep. Pros. Attorney, Ofc. of the Prosecuting Attorney
Barbara Bell, Director, Environmental Management Dept. (came in later)
Bruce McClure, Director, Public Works Department (came in later)
Karen Eoff, Council Aide III (via videoconference)
Jay Kimura, Pros. Atty., Ofc. of the Pros. Atty. (came in later)
Lincoln Ashida, Corp. Counsel, Ofc. of the Corp. Counsel (came in later)
Michael Udovic, Dep. Corp. Counsel, Ofc. of the Corp. Counsel (came in later)
Megan Mitchell, Council Leg. Asst. (via videoconference)
Glynis Yamada, Council Services Supervisor
Donna Lynn Leonard, Council Services Assistant II
Kay Nishibayashi, Accountant IV, Police Department

CHR. HIGA: At this time, by request, we have—I'm looking in the audience. We have many celebrities in the audience today. So, by request, I'm going to ask former Councilman Curtis Tyler, who's sitting in the back there, if he'd come up here and lead—at the podium—please lead the Council in the pledge of allegiance.

PLEDGE OF
ALLEGIANCE:

The Chair directed the Council to the next order of business, Pledge of Allegiance.

(At this time, Mr. Curtis Tyler, former Council Member, led the Council in the Pledge of Allegiance.)

MR. TYLER: Thank you for that honor, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Tyler.

APPROVAL
OF MINUTES:

The Chair directed the Council to proceed to the next order of business, Approval of Minutes.

CHR. HIGA: At this time, I'd like to entertain a motion for the approval of the minutes of March 1st, 2005.

Ms. Isbell moved to approve the minutes of March 1, 2005.
Seconded by Mr. Holschuh.

CHR. HIGA: Any discussion?

MR. HOLSCHUH: One typo, which I'll bring to the staff—out of that whole bunch of minutes. Terrific minutes, as usual. Thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Holschuh. Any more discussion? If not, all those in favor signify by saying "aye".

The voice vote, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Motion is carried. Okay. At this time we need to go to the Addendum. Correct?

MS. ISBELL: Yeah.

MS. KIRIU: Yes. That's correct.

CHR. HIGA: Okay. Do we do the petitions first?

PETITIONS,
MEMORIALS,
COMMUNI-
CATIONS,
CERTIFICATES
OF MERIT AND
EXPRESSIONS OF
CONDOLENCE:

The Chair directed the Council to proceed to the next order of business, Petitions, Memorials, Communications, Certificates of Merit and Expressions of Condolence.

CHR. HIGA: We're going to do the petitions.

MS. KIRIU: We can—do we have any?

CHR. HIGA: Do we have any petitions today?

MS. KIRIU: Or certificates?

CHR. HIGA: No petitions? Okay. At this time, though, I would like to recognize from our Sister City—from Ikaho—Mr. Hiroshi Shibata. Could you please come up and just be recognized? From the Board of—he's the Board of Education in our Sister City from Japan. Welcome, Mr. Shibata.

Amy, you want to say a few words? If not, he can just (inaudible). We're happy to have you here.

MR. IKEDA: And interpret for him.

MR. SHIBATA: Ohio gozaimasu. Good morning.

MR. ARAKAKI: Good morning.

MR. IKEDA: Good morning.

MR. HOLSCHUH: Good morning.

MR. SHIBATA: (Mr. Shibata addressed the Council and spoke in the Japanese language, which we are unable to translate and transcribe.)

(Note: Ms. Amy Awiyagi served as the interpreter for Mr. Shibata.)

MS. AWIYAGI: I'm here today. He's been here since yesterday for the purpose of the Sister City relationship with Ikaho. He visited Waiakea School yesterday and, for that reason, he came to prepare the schedule for their visitation August 14th to the 20th.

CHR. HIGA: Thank you. Thank you and welcome. And would you please come through and meet all the Council Members?

MS. AWIYAGI: Thank you very much. I need to take him to the airport (inaudible). He'll be back with us (inaudible).

CHR. HIGA: Thank you, Amy Awiyagi. Thank you.

MR. ARAKAKI: Thank you.

CHR. HIGA: Before we move on to the Addendum, at this time I want to welcome our Kona office. Aloha, Megan.

MS. MITCHELL: Good morning, Chairman Higa.

CHR. HIGA: We're going to go through, first, an addendum. Okay.

ADDENDUM:

STATEMENTS
FROM THE
PUBLIC ON
COMM. 1.12:

The Chair directed the Council to proceed to the next order of business, Statements from the Public on Communication 1.12.

COMM. 1.12
(WAIVED – FC):

Appointment of Mr. William E. Smith as Deputy County Clerk. From County Clerk Constance R. Kiriū, dated April 13, 2005, transmitting for Council's approval the appointment of Mr. William E. Smith to the position of Deputy County Clerk effective May 1, 2005; *and* From Lincoln S. T. Ashida, dated April 15, 2005.

COMM. 1.13:

CHR. HIGA: Okay. This time we going take some statements. First on the agenda here is Mr. Michael Udovic? Am I pronouncing that correct?

MICHAEL
UDOVIC:

The Chair called on Mr. Michael Udovic, who made the following statement regarding Communication 1.12:

MR. UDOVIC: Good morning, Chairman Higa. My name is Michael Udovic. I'm with the—

CHR. HIGA: Could you use the microphone, please? Thank you.

MR. UDOVIC: I'm with the Department of Corporation Counsel at this time. I've had the opportunity to work with Bill Smith since 1992. I was working in the Prosecutor's Office for about six months when he came on board. Since that time, he and I both worked on very, very—many cases together—worked on very complex issues. I had the opportunity to supervise Bill for a short period of time in that office. And during that period of time he has probably exhibited one of the most thorough and detailed analysis of various issues that I've seen.

The—one of the faults I think that Bill has, quite frankly, is that the County's electric bill is going to increase as a result of his presence there because he's the only person in the County—when I worked for the Prosecutor's Office—who arrived at the office before I did. I got there about 6:30 and he'd already been there for an hour working, usually. So you're going to see an increase in the electric consumption. But, other than that, I think you're going to be very, very satisfied with his work, and with his presence, and it's going to benefit not only this Council and the County as a whole, but all of the citizens of the Island of Hawai'i. Thank you.

CHR. HIGA: Thank you. Thank you very much. Our next speaker will be Mr. Mitch Roth.

MITCH ROTH: The Chair called on Mr. Mitch Roth, who made the following statement regarding Communication 1.12:

MR. ROTH: Good morning, Chairman Higa, and the rest of the Members of the County Council.

MR. PILAGO: Good morning.

MR. ROTH: Thank you very much for allowing me to come and speak in favor of Mr. Smith. I've, also, had the opportunity to work with Bill for the last seven years and, fortunately, my door is a couple of doors down. I guess, on behalf of the Prosecutor's Office, we'd like to thank you for taking our electric bill from 5:30 in the morning.

But, Bill is an interesting person. He has a rough exterior—a "tough as nails" prosecutor. But, for those who know him—and you can see most of these people are here on his behalf—they all know that he has a heart of gold and he will be a great addition to the County over at the Clerk's Office. So, thank you very much.

CHR. HIGA: Thank you, Mr. Roth. Megan, do you have any statements on that side for Mr. Smith?

MS. MITCHELL: Chairman Higa, we have no people here to testify this morning--so far.

CHR. HIGA: Thank you. Our next speaker will be Betsy Mitchell.

BETSY MITCHELL: The Chair called on Ms. Betsy Mitchell, who made the following statement regarding Communication 1.12:

MS. MITCHELL: Good morning. It's a pleasure to be here, particularly, for this reason. I've known Bill Smith for over 15 years. I've been in Volcano for 25. And I learned very quickly that if you're going to get anything done and make it work, you sometimes have to have expert advice. And we went to Bill for that. He never failed us. He was always there when we needed him—easy to work with—and we got much accomplished. As everyone knows, Volcano is a special place. So I do hope that this appointment will be approved. Thank you.

CHR. HIGA: Thank you, Ms. Mitchell. Our next speaker will be Rick Castbert.

RICK CASTBERT: The Chair called on Mr. Rick Castbert, who made the following statement regarding Communication 1.12:

MR. CASTBERT: Chairman Higa, Council Members, thank you for the opportunity to talk. My name is Rick Castbert. I am a Political Scientist at UH Hilo--been there for about 31 years.

I've known Bill for about five years and the way I got to know him was through a grant from the Office of Youth Services. I needed to know as much possible, in a short period of time, about the juvenile justice process—and everybody pointed me toward Bill. I learned a great deal from Bill. Bill's a very thorough individual. He put together a manual on the juvenile justice process that was invaluable to me in the work that I did for the Office of Youth Services. And, since then, I've worked with Bill in several committees in the Prosecutor's Office with the Youth Builder's Program.

As pointed out by others, Bill is a gruff exterior but a heart of gold. He's very thorough, very comprehensive, incorruptible, and I think he will be a great addition to your staff. Thank you.

CHR. HIGA: Thank you. Our next speaker will be Coco Pierson.

COCO PIERSON: The Chair called on Mr. Coco Pierson, who made the following statement regarding Communication 1.12:

MR. PIERSON: Mr. Chair, Members of the County Council, my name is Coco Pierson—and it's not a pleasure to be here. I would rather be at work. But I am very grateful that the law allows me to be here. Laws are very important. Mr. William Smith knows that.

Mr. William Smith used his position to be an apologist for the Police Commission when the Police Commission—by their own admission—had behaved improperly. And it was on record in "Executive Session" to reach consensus by admission in writing. When this information was taken to the Prosecutor's Office, what did we get from William Smith, the apologist for the Police Commission? Oh, just a poor choice of words. Consensus. This was a shameful thing. If this is integrity and uncorruptibility, I don't see it happening with William Smith.

Donald Abdul was the person who was quoted as the person admitting to consensus in an "Executive Session". Does anyone remember Donald Abdul and the people who voted along with him to put Wayne Carvalho in office—Chief of Police? How much are we paying for that? Well, when a Board and Commission can get away with this type of behavior and is not held accountable by the body that's supposed to be enforcing the laws, then we can expect to pay lots of money.

Let's move on to the persecution of Mr. Pranke. He could not be here today to fill in the details. Maybe William Smith can fill it in, if you ask him. There was no

evidence to suggest that he had trespassed. In fact, the evidence indicated otherwise. In spite of that, charges were brought against Del Pranke and it was—they were brought in such a way that he did not have benefit of a jury. It didn't go anywhere except to tangle up Mr. Pranke. William Smith knows about it because he would not talk to Del Pranke. So this is fair? This is even treatment? Please ask William Smith about this. Thank you.

CHR. HIGA: Thank you, Mr. Pierson. Last speaker will be—okay—I'm going to need some help with this one—Karen—don't know if that's a "g" or a "y". Karen. You can help me with your last name when you come to the microphone.

KAREN R. SHIOJI: The Chair called on Ms. Karen R. Shioji, who made the following statement regarding Communication 1.12 (SEE COMM. 1.18):

MS. SHIOJI: "Shioji."

CHR. HIGA: Oh, "Shioji". Okay. Thank you.

MS. SHIOJI: Hi, Council Chairman, Council Members. I'm Karen Shioji. I'm a probation officer with District Court. I've been there for the past 22 years. I have known Mr. Smith for at least 12. In my experience with him, he has been a very, very capable prosecuting attorney. He is very honorable and forthright. As stated several times earlier, he has a hard exterior but he has a heart of gold—and that is the truth.

Many times people may misconstrue laws and procedures maintained by office staff as personal vendettas, but Mr. Smith does not do any of that. And I would strongly urge you to confirm him as County Clerk. Thank you.

CHR. HIGA: Thank you, Ms. Shioji. Any more statements on the appointment of Mr. Bill Smith? If not, the Clerk already read the motion. Can I have a motion to file Communication 1.12 and approve the appointment of Mr. William Smith?

Ms. Isbell moved to approve the appointment of
Mr. William E. Smith as Deputy County Clerk. Seconded
by Mr. Pilago.

CHR. HIGA: Do you have any discussion? Mr. Jacobson.

MR. JACOBSON: Mr. Smith, could you come up and answer a couple of questions? I'm sure that a few of us may have some.

(At this time, Mr. William E. Smith, Nominee, came forward to address the Council Members.)

MR. JACOBSON: Thanks for coming in here and considering taking the job. Just having heard Coco Pierson, I'm left with a couple more questions. Are you able to elaborate anything more on what was just said regarding the Police Commission consensus procedures and Mr. Pranke's trespassing charges? I clearly remember the incident with Mr. Pranke because I remember viewing some of the videos themselves. But take your time and explain what you are able to.

MR. SMITH: It's been a while but I'll try and reach back. With regard to the trespassing charge—

CHR. HIGA: Speak a little bit more into the microphone, please. Thank you.

MR. SMITH: Oh, sorry. With regard to the trespassing charge, that was not a case that was assigned to me. I had nothing to do with that. So I can't provide you anything more than that.

With regard to the Police Commission, as I recall, Mr. Pranke did file a complaint, of sorts, with the Prosecutor's Office and I met with him and I met with Members of the Police Commission. At that time, I advised them—if I recall correctly—on the procedures that they needed to follow with regard to the Sunshine Law. I pointed out to them they needed to have the minutes published on time, they needed to have those be able to be distributed to the public, including to Mr. Pranke, and that, basically, it was my opinion—and the opinion I gave to Mr. Pranke at that time—that there, basically, was no conspiracy on the part of the Police Commission to withhold this information. That, if anything, it was a matter of their timing, or lack of timing as the case may be. And, to the best of my knowledge, after I had spoken to the Chairperson at that time—advised her on how to proceed—that there was no further problems that I was aware of.

If there was a request for me to prosecute a Member or Members of the Police Commission for a violation of the Sunshine Law, I could fairly say I declined to do that because I didn't think it was appropriate. And, as a Deputy Prosecuting Attorney, my basic position is—I don't put my signature on a complaint for adults or a petition for juveniles unless, at the time, I sign it, I genuinely feel that I can prove a criminal charge beyond a reasonable doubt—and I did not view that I could do that. And that's it.

MR. JACOBSON: Okay. Thank you very much for your forthright answers.

MR. SMITH: No problem.

MR. JACOBSON: That's all.

CHR. HIGA: Mr. Arakaki.

MR. ARAKAKI: Thank you, Mr. Chairman. I never had a chance—the chance to sit down and talk to you, Mr. Smith. I may have met you in passing but—

MR. SMITH: We've met at Family Court, sir.

MR. ARAKAKI: We did in Family Court?

MR. SMITH: You popped in one day to watch Judge Gaddis's courtroom.

MR. ARAKAKI: Okay. But I didn't formally sit down with you—

MR. SMITH: Right.

MR. ARAKAKI: And talk to you about this job. And I'm sorry I didn't do that. Would you tell us how—what you envision this job to be—Deputy County Clerk? See, because I never talked to you and I don't know what the others discussed with you in a meeting.

MR. SMITH: Well, my—well, part of my envision—and I'm still trying to get the whole vision because I have a stack of documents that Connie has been giving me each time I come to her office to read but, obviously—

CHR. HIGA: A little closer. Thank you.

MR. SMITH: I'm aware that the Deputy Clerk, in a sense, oversees the election process and the election of workers in the County; works very closely with the Chief Clerk of the County, Connie; and, in addition, aside from the little line at the bottom of the agreement that says, "and all other tasks as assigned" in every working relationship, working with the Members of the Council as well.

MR. ARAKAKI: Okay. I just want to let you know that all the calls I got were very supportive of you.

MR. SMITH: Oh, thank you.

MR. ARAKAKI: From the Prosecutor to Corporation Counsel and other people. And I saw Russell Kokubun's letter (SEE COMM. 1.14) this morning in support of you, which I think is a very good letter in support of you. He's your neighbor, I understand—

MR. SMITH: Yes, he is.

MR. ARAKAKI: In Volcano. Close to Mrs. Mitchell.

MR. SMITH: I mow across his lawn and bug him on weekends when he's over here.

MR. ARAKAKI: Okay. I just want to say that I think that I'd like to see the duties of the Deputy County Clerk expanded a little more. The Charter says the Clerk is the Elections Officer. So I'd like to see that remain—the Clerk remains the Elections Officer. I'd like to see the Deputy County Clerk take over the duties of Council Services to make sure that bill writings and all the things that happen in the operations side happens under the Deputy County Clerk because the Clerk has other duties to do—overseeing all the operations. Because, under the new plan, I understand, the Legislative Auditor will be doing auditing and won't be doing a lot of the things that the last, previous Legislative Auditors used to do, which was bill writing and administrative work.

So there's a void there—and my feeling is the void should be filled by the Deputy County Clerk. That's my feeling. I don't know about anybody else's feeling. I hope I'll be discussing one-on-one to see how they feel about it. But I'm just going say, out in the open, I think the Deputy County Clerk should manage the Office of Council Services. And this is how they do it in many other counties where they do have an Office of Council Services—they don't have Deputy County Clerks.

So we are a unique animal. I think we should change our way we do business and just not let the Deputy County Clerk just handle elections—which was the primary duties before because we have a very good Elections staff right now. So that's my *mana 'o*—how I see the Deputy County Clerk operating as you expand these duties under that little line "and all other things as required". Okay. Thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Arakaki. Ms. Isbell.

MS. ISBELL: Thank you very much. Mr. Smith, I enjoyed very much interviewing you last week and getting to know you a little better. I've also had many, many calls and we've got stacks of letters here—all supporting you. And, as you recall, I mentioned to you that you could just about do anything, including sitting where I'm sitting, I'm sure, doing a great job—much better even. But I wanted to let you know that I think that you will be an excellent person to have because of your skills and your background in law. And I have a whole stack of things I'm just very anxious to give to you to start working on it. I'm just working up to what I really want.

But, anyway, I have every faith in you. I think that your boss, the County Clerk Connie Kiriū, will—you will be a great asset to all of us. And I, frankly, look forward to working with you and to let you know that I feel that you probably—most of the skills that everybody wishes they had and the experience that you

bring with you over all the years you've worked in the Prosecuting Office, at Corporation Counsel—wherever it's been, it seems to me that—and the judge—I mean, you look at his resume and he's done everything that's possible. So the only thing you haven't done is gone paddling in a canoe with me. So, the next time you're in Kona, we'll put that on your list.

Thank you very much and I appreciate your willingness to be here and I think what Councilman Arakaki is saying makes a lot of good sense. And I believe that you will work out just fine. Thank you.

MR. SMITH: Thank you.

CHR. HIGA: Dr. Holschuh.

MR. HOLSCHUH: Thank you, Mr. Chairman. Good morning, Mr. Smith. I won't repeat all these accolades. I, too, read your resume in detail and I was incredibly impressed with what you've done in the past. I, actually, was wondering, with all these fine letters, if these guys wanted to get rid of you out of the Prosecutor's Office but—maybe the electric bill was getting overbearing. But, no—I, too, enjoyed meeting with you and talking with you and I've been incredibly impressed with the positive feedback I, too, have gotten and, hopefully, with the vote here—we welcome you aboard. Thank you very much for your willingness to serve. Thank you, Mr. Chairman.

MR. SMITH: Thank you.

CHR. HIGA: Thank you, Dr. Holschuh. Mr. Pilago.

MR. PILAGO: Thank you, Mr. Chair. Good morning, sir.

MR. SMITH: Good morning.

MR. PILAGO: You're at a very important juncture for this Council in that we're looking to establish a new staff structure, begin defining additional and clarified job duties for our staff, and also to underlie everything with strong expectations. I see the Deputy County Clerk as supervising our Council Services staff. I see the Deputy County Clerk as providing quality control towards our legislative output. But what I would like to hear from you is what is your vision, as you think, regarding your interface with this Council?

MR. SMITH: Well, I guess, simply put, my vision or to interface with the Council—to use your terms—is to assist each Council Member to the best of my ability—to allow them to do their job to the best of their ability. And I think that that really says it. You're representing the various communities on this island.

Obviously, you all want to do a great job for your constituents, in particular, but for the island as a whole. And I view my responsibility is to try and help you do that to the best of my ability.

MR. PILAGO: Thank you. Thank you for enabling our work to our constituents. Thank you for helping, sir. Thank you, Mr. Chair.

CHR. HIGA: Thank you, Mr. Pilago. Mr. Hoffmann.

MR. HOFFMANN: Thank you, Mr. Chairman, and good morning, Mr. Smith.

MR. SMITH: Good morning, Councilman.

MR. HOFFMANN: You and I haven't had a chance to get to know each other, but I didn't feel that was necessary after seeing the blizzard of paperwork that came across my desk. You've killed two trees already before you've even gotten started.

I, certainly, first of all, acknowledge and I extend to you my appreciation for your being willing to take on this particular task. I look forward to working with you. I trust that that will probably be in those—in that category "of other duties as assigned" and I'm sure that we'll find many opportunities in which to exchange opinions and views as to how best to help us do our job for the people of the County. Thank you, again, for being willing to serve.

MR. SMITH: Thank you.

CHR. HIGA: Thank you, Mr. Hoffmann. No more lights. But I'd like to make a statement. Mr. Smith, the sentiments of my colleagues here are mine—that I think you have good support. I think our County Clerk has done a good job at interviewing and looking—going through the process. And your name, according to her, kept on popping to the top.

So I want to just impress upon you that, as we go through our reorganization—a little bit—of the Council Services that's coming down, I believe you could do a good job for us because I think you're well rounded. I think you're able to do multi-tasks and I'm looking forward to you upgrading the services inside of our County Council area here. So I just wanted to tell you that I support your nomination today.

MR. SMITH: Thank you.

CHR. HIGA: No more discussion. Madam Clerk, would you please call the roll.

The roll call vote, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Congratulations, Mr. Smith.

MR. SMITH: Thank you.

CHR. HIGA: And the first thing I'm going to tell you is this.

MR. SMITH: Okay.

CHR. HIGA: I'll take—now that you're confirmed, I'll take a collection for him. We'll buy some candles for your office so that we don't have to worry about the light bill. Okay?

MR. SMITH: Thank you.

CHR. HIGA: I'm going to call for a short recess.

RECESS: At 9:35 a.m., the Chair called for a recess.

RECONVENE: The meeting reconvened at 9:38 a.m., with all Members present, with the exception of Mr. Safarik.

CHR. HIGA: Connie—Madam Clerk, are we going to go to Communication 206 first or are we going to "Statements From the Public"?

MS. KIRIU: We should probably go to Communication 206 unless there's any—

CHR. HIGA: Okay.

MS. KIRIU: Okay.

COMM. 206
(WAIVED-PWIRC): Nomination of Dain P. Kane to the National Association of Counties (NACo) Western Interstate Region (WIR) Board of Directors. From Council Member Gary S. Safarik, dated April 4, 2005, nominating Dain P. Kane to serve on NACo's Western Interstate Region Board of Directors.

Mr. Ikeda moved for the approval of the nomination of Dain P. Kane to the National Association of Counties (NACo) Western Interstate Region (WIR) Board of Directors. Seconded by Mr. Pilago.

MR. TYLER: Mr. Chairman, is the public going to be able to speak on this? Or are we going to have to wait until after the (inaudible)?

MS. KIRIU: Okay. You should allow—yes. I'm sorry.

CHR. HIGA: Okay.

MS. KIRIU: I didn't realize it was (inaudible).

CHR. HIGA: Anyone who wants to speak on Communication 206 at this time can come forward. Do you have any, Mr. Tyler?

MS. KIRIU: Or 207, probably, too.

MS. ISBELL: And 207.

CURTIS TYLER: The Chair called on Mr. Curtis Tyler, who made the following statement regarding Communications 206 and 207:

MR. TYLER: I'm sorry to interrupt—

CHR. HIGA: No, no. No problem.

MR. TYLER: You—from the gallery, Mr. Chairman. I did sign up to speak on both of these and I speak in favor of both of these. And I wanted to note, having been a former officer of HSAC and, indeed, its President for one year and Vice President for two years—that I've worked directly with Mr. Kane. And I can assure you that he is a man who brings a lot to the table in terms of the National Association of Counties. And he has served there.

In particular, this is—as a result of the State of Hawai'i or an—HSAC getting a second seat at the table for the Western Interstate Regional Board of Directors, which, if I understand it correctly, will now give us five seats at the table for NACo—which is almost unheard of for a State of this size. And that goes to show that the impact that this State has had on the NACo organization. And so, I strongly urge you to approve this. I'm assuming you will.

And, second of all, with respect to the budget, those of you who might not have looked at this budget closely, this budget parallels the—or the increases in here parallel the travel expenses for the second member and it's nice to know there's

also a decrease in there. And then there's an opportunity for sponsorship, which is something that your Board—your HSAC Board has talked about for a number of years. And they seem to be putting in effect. Thank you very much.

CHR. HIGA: Mr. Tyler—

MR. TYLER: I'm sorry to have interrupted.

CHR. HIGA: You might as well speak on 207 while you're there, too.

MR. TYLER: I just did.

CHR. HIGA: Okay. 206 and 207?

MR. TYLER: Yes, sir.

CHR. HIGA: Thank you.

MR. TYLER: I spoke in favor of both of them. Thank you.

CHR. HIGA: Okay. Anyone else wish to speak on 206 or 207? Megan, anybody wants to speak on 206 or 207?

MS. MITCHELL: No. We have someone that wants to speak on items later on the agenda.

CHR. HIGA: Okay. All right. Thank you. Mr. Jacobson.

MR. JACOBSON: I have to concur with what Mr. Tyler said. I know Dain Kane. He is very effective. I support his nomination—his service—completely. Thank you.

CHR. HIGA: Thank you. No further discussion. Madam Clerk.

The roll call vote, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Communication 207.

COMM. 207
(WAIVED-PWIRC): Proposed Hawai'i State Association of Counties (HSAC) FY 2005-2006 Annual Budget (Amended). From Council Member Gary S. Safarik, dated April 4, 2005, requesting approval of HSAC's FY 2005-2006 amended Annual Budget. The amendment corrects the expenditure NACo Miscellaneous account to \$1,200 instead of \$900.

Mr. Ikeda moved to approve the HSAC FY 2005-2006 amended Annual Budget. Seconded by Mr. Holschuh.

CHR. HIGA: Okay. Any discussion? No discussion. Madam Clerk.

The roll call vote, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. This time we're going to move to "Statements From the Public on Items Listed on the Order of Business". Before we go into that, I want to—one of the Council—new things we're doing around here to help expedite things—speakers are going to have three minutes to speak with a one-minute summary. And our staff will be putting up cards to, basically, help you—inform you about where you're at during the process to, kind of, expedite. I love the color-codedness of things here. They're very nice. I would have made it red. Right?

ANNOUNCE-
MENT:

Oh—and I also want to announce, today, we going take things a little bit out of the order here. At 11 a.m., by request, we're going to go into "Executive Session"—it should be pretty quick—to accommodate the Mayor and his staff. So we're going to move into "Executive Session" at 11 a.m. So I just want to make that announcement. Okay.

First speaker today will be Mr. Steven Pavao on Bill 82—in support of Bill 82. Mr. Pavao. And if I could ask the speakers to really speak into the microphone so that we can comply with our ADA requirements.

STEVEN PAVAO: The Chair called on Mr. Steven Pavao, representing Boys and Girls Club, who made the following statement regarding Bill 82:

MR. PAVAO: Thank you, Mr. Chair, and fellow Council Members. I don't want to take up too much of your valuable time. I'm just here to speak in favor of the County's Community Development Block Grant Budget which, as you voted

before in the Action Plan in the County's Housing Office, some of the funds would be used for the Boys and Girls Club—just renovations here in Hilo. Thank you, again.

CHR. HIGA: Thank you, Mr. Pavao. Any questions? Thank you. We're going to go to Megan in Kona—your speaker.

MS. MITCHELL: Thank you, Chairman Higa. Our speaker on this side is Elizabeth W. Meyerson. She is going to speak on two items on the agenda—Bill 48, which is in reference to the Queen Lili'uokalani Sewer; and Bill 53, the acquisition of Honu'apo. Bill 48—Mrs. Meyerson will be representing the Queen Lili'uokalani Village Community Association. And when she speaks on Bill 53, she'll be speaking in a personal capacity.

CHR. HIGA: Thank you.

ELIZABETH W.
MEYERSON:

The Chair called on Ms. Elizabeth W. Meyerson, Secretary, Queen Lili'uokalani Village Community Association (concerning Bill 48), who made the following statement regarding Bill 48 and Bill 53, Draft 2:

MS. MEYERSON: I am Secretary to Queen Lili'uokalani Village Community Association. I am representing the Association today as regards the gang sewer situation in our community. Since we are already paying sewer bills—and have for years—we are very happy that we may be getting something for our money. We must meet Federal mandates. Our *kuleana* is to *mālama* the 'āina. If the gang cesspools are not replaced, we are polluting the land. There is no other way to describe it. It's a mandate that we must do something or be fined. And we're very happy that the Council, in its wisdom, will consider passing this bill.

As concerns Bill 53, I have always been for open land. I was a teacher of ecology in High School. We did many projects to preserve lands. If we don't preserve open space now, it will go away. We're seeing three-story buildings rising all over the place—shopping centers all over. You can't even see the ocean in most places any more. All the residents who live here, whether they're future residents or current residents, need places to play. It's known that for your health you need to be able to play. If our recreational land is used up, it won't be there for that purpose. Children need wide open spaces. It's very important that we provide them today or they'll be gone tomorrow.

You can't wait to have money available when something comes up. You have to go through the proposal process and, by then, developers with ready cash have bought the land and built their buildings. So let's have the money available. Let's provide that money and do our job for this generation and all of the future generations. Thank you very much.

CHR. HIGA: Thank you. Questions? Our next speaker will be Mr. Danny Miller speaking on Bill 53 in support.

DANNY MILLER: The Chair called on Mr. Danny Miller, who made the following statement regarding Bill 53, Draft 2 (SEE COMM. 156.23):

MR. MILLER: I have a three-minute video that I want to show.

CHR. HIGA: Okay.

MR. MILLER: It illustrates, basically, who enjoys the park in Honu'apo.

CHR. HIGA: Okay. Thank you.

MR. MILLER: Can everyone see it now?

CHR. HIGA: Mr. Arakaki—I don't think Mr. Arakaki can see.

MR. ARAKAKI: I'm fine.

CHR. HIGA: Now Mr. Jacobson has to struggle.

MR. JACOBSON: He's just opening the door.

MR. MILLER: How's that?

MR. ARAKAKI: I'm okay.

MR. HOLSCHUH: We can get up if you want to show it some more to the crowd.

CHR. HIGA: Have to move the thing around.

(Note: The video presentation contained no narrative, only music.)

CHR. HIGA: Mr. Miller, we have a question for you.

MR. MILLER: Yes.

CHR. HIGA: Dr. Holschuh.

MR. HOLSCHUH: Yeah. Thank you, Mr. Chairman. That was beautiful and very touching. Was that just really filmed three days ago?

MR. MILLER: Yeah. I was down on Sunday. We wanted to show footage of how the community enjoys the area and how they use it and how access is so important. And I was just really fortunate to be there the day that one of the monk seals came in to feed in the pond. It appeared that the seal was fishing and feeding for fish. And I spoke to several fishermen and they said that they see the seal there on rocks and resting and it's, definitely, a really important habitat for the monk seals. So it's—and the monk seal is endangered—on the Federal endangered list and Honu'apo is critical to its survival.

MR. HOLSCHUH: Great pictures.

MR. MILLER: Thank you.

MR. HOLSCHUH: A priceless shot.

MR. MILLER: Thank you.

MR. HOLSCHUH: Thank you very much for sharing that with us.

MR. MILLER: Thank you.

MR. HOLSCHUH: Thank you, Mr. Chairman.

CHR. HIGA: Thank you. Any more questions? If not, thank you, Mr. Miller.

MR. MILLER: Thank you.

CHR. HIGA: Our next speaker will be Julia Neal on Bill 53 in support.

JULIA NEAL:

The Chair called on Ms. Julia Neal, who made the following statement regarding Bill 53, Draft 2:

MS. NEAL: When this was filmed on Sunday I started taking photos off the footage—and sending them around to marine biologists and so on to find out more about the importance—or if there is an importance—of having Honu'apo as a place for monk seals. And one of the things that I learned was that, in the Northern Islands, where there are more monk seals, the weight of the juveniles are—is down in recent years and their survival rate has been dropping. And that has something to do with a lot of the fishing that's been going on up there. And so the survival rate of the ones—the few that are being born in the inhabited Hawaiian Islands is, actually, higher and their weight is higher than in the Northern Islands.

So as the seals are—there're areas set aside for them and there's more protected places for them to go, it is going to help have—help the survival of the monk seal to have more places in the inhabited. We can't just depend on the Northern Islands for that. So, thank you so much for supporting this.

CHR. HIGA: Thank you. Our next speaker will be Susan O'Neill speaking on Resolution 65-05.

SUSAN O'NEILL: The Chair called on Ms. Susan O'Neill, who made the following statement regarding Resolution 65-05:

MS. O'NEILL: Thank you—and good morning to all of the Council Members.

MR. PILAGO: Good morning.

MS. O'NEILL: I chose 65-05 as the reason that I would come to the table because it speaks to Hawai'i Community Foundation and its support of many things in the community—and that word "community" is extremely important.

I just want to say very, very briefly that deliberations yesterday, in the past, and in the previous County Council have shown the commitment that Council Members have to our community. And our community is human and animal and all the flora and fauna and the ocean and the mountains. So what I want to say is that, as the invocation Pastor said this morning, that it's true that there are challenges and difficult times. But they do build character and, with patience, we can, together, move forward.

There are three words in my vocabulary these days about my own life, which I very much see and hope for our Council in the deliberations that are coming. One is "can do"—and I think that our Council can do for our community. The other one is "be bold"—and that's something that I think is happening as well. The last one is "have courage"—and it does take courage to take some stands that need to be taken and to deliberate them in the public forum.

You have a responsibility to the island—and that includes the people and the land. And we're hearing about the land today and, as we talk about open space and all the other issues, I know that you will do serious deliberation and make wise decisions. The Hawai'i Community Foundation does support so much in our community and, for that reason, I use that reason to say these words. Thank you very much.

CHR. HIGA: Thank you. Our next speaker will be Mr. Guy Enriques speaking on Bill 53 in support.

GUY ENRIQUES: The Chair called on Mr. Guy Enriquez, who made the following statement regarding Bill 53, Draft 2:

MR. ENRIQUES: Thank you very much. I want to echo that video we just saw. I mean, to me, that—somebody said "touching". I mean, that's home to me. I live out there—been—grow up there—the whole deal. But, I think, I understand that we voted earlier and I think it was pretty unanimous. But I want to be here today to make sure that we continue that vote because being there and what I see around me is a real estate that's just booming out there. It's incredible.

The real estate market out there is just wild. I mean, we've gone through the Hester project, the Savio project. Ka'u is like a lamb with a bunch of lions looking at it in terms of real estate. It's undeveloped, fee simple, and there for the highest bidder. Pastor talked about "gift of wisdom" this morning—and you have shown that already by voting unanimously, almost, for passing this bill. It's for all the reasons this lady just talked about, the monk seal, or the kids, whatever—but it is the last frontier.

Yesterday, I was out there fishing in some pretty rough water. But I got many opportunities to look up—and I fish from Apua Point, which is down where the flows are, all the way to Punalu'u, which I harbor my boat down there—but it is the most beautiful piece of earth on the country in this State right now—untouched.

If you were to drive—I coach at Kamehameha so I drive in three times a week now to work on my off-season volleyball team. You drive home—once you pass Volcano—there's not a light to be seen and it's beautiful. And there's some nights out there you look up on the snowy capped mountains with the moonlight—it's just unbelievable. And it's really up to you people.

And I know there'd be a lot of people here today but work cases—but, more importantly, our local people have a hard time just sitting here doing what I'm doing here today. So I know the words that I'm telling you are their words. They'd love to see Ka'u stay Ka'u. And this bill is just a small step. But it is the first step, 'cause I know we've lost some with some of the development on the hillside. We've lost some that we're not going to recover—I don't think. But here's our first step, Gentlemen, and Ms. Isbell—this is our first step. I hope you follow through on that for all the reasons that you've heard here today. Thank you.

CHR. HIGA: Thank you, Mr. Enriquez. Our next speaker will be Frank Castagnetti speaking on Bill 53 also in support.

FRANK
CASTAGNETTI:

The Chair called on Mr. Frank Castagnetti, who made the following statement regarding Bill 53, Draft 2 (SEE COMM. 156.26):

MR. CASTAGNETTI: Can you hear me all right? *Aloha*, Chairman Higa, County Council Members, Ladies and Gentlemen. I'm honored to provide additional testimony in support of Bill 53. I've previously provided written and verbal testimony at the second reading. I'm going to let that stand on its own merit.

However, again, for the record, my *ohana*—extended *ohana*—and I strongly and enthusiastically support the passage of Bill 53. We are committed to collaborating and working cooperatively with the County or any other entities that may be brought into this process in the efforts to preserve Honu'apo.

This area remains a vital, important, and irreplaceable natural support for our community. Honu'apo continues to provide vivid links and information to our past. It has significant importance with respect to our culture. It carries historical and archaeological evidence as to the ancestors of our—of this area. Additionally, as we've heard, it's an ecological support for wildlife—some which are already on the protected and endangered species registry.

Lastly, we believe that the commitment to preserving Honu'apo is in the spirit of healing our culture and *'āina*, by allowing *Kanaka Maoli* to, again, participate in, be responsible to, and take ownership of what is, in reality, our birthright. Thank you.

CHR. HIGA: Thank you. Our next speaker being Mr. John Replogle. Am I saying that correctly, hopefully? And on Bill 53—in support.

JOHN R.
REPLOGLE:

The Chair called on Mr. John R. Replogle, representing Honu'apo, who made the following statement regarding Bill 53, Draft 2:

MR. REPLOGLE: Thank you. Briefly, we started working down at Honu'apo approximately two years ago—we would go down and cut the grass, pick up the place --and the idea was to begin and get the community to start taking ownership of land that they, basically, thought was theirs forever. And everybody didn't show up with their rakes. But everybody did begin to find out that Honu'apo was for sale and we began to get the support—as I handed out last time, the petition—people who signed in support—and from there it grew. And, with the help of a lot of different people, we've come to this stage here where it's in your hands to take that first step to put forth the money that would secure this place and protect it forever.

And, at the last hearing, Mr. Arakaki, you spoke on your concerns that the Council or the County's obligation was to provide services to the people and not, necessarily, purchasing land. I would like to address that in that, with the purchase of this land, I believe that the service you will be providing the community is—it will give them an opportunity to have pride in their district where they live.

I have taken several classes from Ka'u High and Na'alehu Elementary down there—explained to them what's going on at Honu'apo. It's been somewhat of a governmental, ecological classroom, if you will—and we've had great response. I've had many people call me in the last week since the word of the monk seal sighting was—happened and said that the universe is on our side on this. And I hope you all will be on our side on this, too, and pass it unanimously so everyone knows that it's the right thing. Thank you.

CHR. HIGA: Thank you. Next speaker will be Mr. Josh Stanbro on Bill 53 in support.

JOSHUA
STANBRO:

The Chair called on Mr. Joshua Stanbro, representing Trust for Public Land, who made the following statement regarding Bill 53, Draft 2:

MR. STANBRO: *Aloha*, Chairman Higa, and Vice-Chair Isbell, and other Members of the Council. My name is Josh Stanbro from the Trust for Public Land. We've been working with the community to try to put together a solution to the Honu'apo issue. I'm speaking in support of Bill 53.

I would like to commend the Council for taking positive action two weeks ago on this bill and continuing to consider the issue today—and just wanted to elaborate a little bit on the profound benefits that Bill 53 has, not only for the Ka'u community but for the County as well. This first step—what folks are calling a first step—this appropriation of funds will, potentially, leverage \$2.5 million in outside funding to do this project. Obviously, if that dollar doesn't come through, then this commitment doesn't go any further than your vote today. But we do need that commitment to bring in those other funds to make this happen.

This bill can protect an area that the community has been, obviously, working on for the last couple years and trying to protect and has been utilizing for the past century, at least. Because of the profound cultural significance of this area I think what Bill 53 also does is it presents a win-win solution that could avoid a lot of community discord with the development plan down there and potentially protracted litigation, which is what we've seen in contested case hearings in other areas. So it can nip a situation in the bud.

This is also an area that local residents obviously—you've seen the video—this subsistence area—there's fishing, there's kids down there playing. It's a good

thing in terms of the health of the community. But, I think, one of the things that I wanted to draw attention to is that the Pastor earlier today admonished us to look inside and choose the right path. And I wanted to just acknowledge that the landowner, in this case—we hear so much about the real estate market and outside landowners doing this and doing that—but I just want to point out that the landowner has, basically, said "If this Council is willing to step forward, I'm willing to take the time to work with the community". And I think that needs to be recognized as a good faith effort on, at least, the part of one landowner that's not from here. They're from California—and we're working with them—and I would hope that we can work with them.

So, in closing, a lot of people have been saying with the video that it seals the deal or this is the seal of approval or—a bunch of other things have been running around—but I hope that you will continue to vote in favor of Bill 53. *Mahalo*.

CHR. HIGA: One moment. Some questions for you. Dr. Holschuh.

MR. HOLSCHUH: Thank you, Mr. Chairman. Good morning, Mr. Stanbro.

MR. STANBRO: Good morning, Doctor.

MR. HOLSCHUH: Thank you. That's a good one. I like that. That had the cutest face on it, that thing. It should be on a calendar. It probably will be. Actually, I wanted to ask you, kind of, a serious question. I've been thinking about this a lot and, obviously, nobody argues the value of this as a piece of public land and public acquisition, if you will. It's just a question of how we do this.

MR. STANBRO: Sure.

MR. HOLSCHUH: And how we protect County resources, ultimately. Let's get that straight. What I wanted to ask you is, I wasn't real clear and maybe we should just discuss this later when the bill comes up, but in case you're not going to be here, I just wanted to get a sense from you—I wasn't real clear that the commitment from the State and the Feds. for the two-and-a-half million were secure. Are you pretty sure they're secure? I mean, at the last discussion it was, sort of, like, they were going to be discussing the million dollars from the Legislature. Is this a done deal—definite?

MR. STANBRO: It's not a done deal—definite. But I think as you recognize—and a lot of these processes whether it's matching funding for this type of program or another one—these things work in tandem. So the State upped its ante. Basically, the appropriation was in a bill—a freestanding bill—and then when this body moved forward and approved a couple weeks ago—it moved, at that time, from the bill into the State budget, which is a much better and more

secure area. So you—it—what they're—I think what's happening is the State is saying, "Okay. You've moved. Now we move. Now you move, now. Now we move".

The conference hearings for the budget between the House and the Senate were last night. I haven't gotten word whether—I've had every assurance that it's in there and it's going to stay in there, but it has only been more secure as this process has moved along. In terms of the Federal funding, the funding has already been approved for Hawai'i, and the person who is, essentially, in charge of that has said, "As long as the County and State come through, I will obligate those Federal funds towards this project". So it's as good as it—in terms of the business that we're in. This is a solid as commitments get at this point in the process.

MR. HOLSCHUH: If they—thank you for explaining that. If they—say they backed out. Let's say the State pulled the million out. What would—would TPL be involved at that point in your thinking?

MR. STANBRO: Well, it depends. If, for whatever—if something cataclysmic happened and other funding pulled out, we would have to reassess whether we think the project is doable. Obviously, it's our job and the community's job to make sure that the Federal funding and the State—those folks hear about how—just as you are—hear about how important this project is. Obviously, if the other funding pulls out and we're not able to—if we don't think it's practical to get funding from elsewhere—we've talked about private funding, we've talked about potentially OHA—I mean, there's other places that we could try to do a long Hail Mary to go. But if that wasn't going to work out, these funds won't get expended by the County. They will—if the project doesn't happen, the 500,000 returns to you.

MR. HOLSCHUH: Okay. A final question. You said the developer has been very cooperative and I have no doubt about that. I take it—your word on that. I had, kind of, felt some pressure in the last presentation. I don't know whether Mr. Jacobson mentioned or you or somebody else that the developer had a "deadline of the end-of-the-year or else" kind of thing. And I—did I misinterpret that or are they willing to—

MR. STANBRO: Specifically, the developer—the landowner has said, "As long as the funding processes"—

MR. HOLSCHUH: The landowner—forgive me—yeah.

MR. STANBRO: Yeah—the landowner—"As long as the funding processes are moving forward, they're willing to hold off". Essentially, what that means is if, at any point along the way, this Council doesn't commit or the State doesn't

commit, then they'll probably break off and do what they originally planned to do with the property, which is 19 homes built in the area and around the pond. The "end-of-the-year deadline" is, essentially, if you take that positive step and the State takes a positive step, they will give us until the end of the year to make sure that we can get that funding in and wait to transfer the property at that point.

MR. HOLSCHUH: Okay. Thank you. Will you be here later?

MR. STANBRO: I will try. I've got a 12:30 flight so—

MR. HOLSCHUH: Okay. Thank you very much. Thank you, Mr. Chairman.

CHR. HIGA: Mr. Arakaki.

MR. ARAKAKI: Thank you. Every time I hear from you I learn something. So that's very good, Mr. Stanbro. What is the role of TPL in this whole negotiation?

MR. STANBRO: The Trust for Public Lands is a nonprofit entity.

MR. ARAKAKI: No. What is the role with this Honu'apo thing?

MR. STANBRO: We work as a principal with the landowner to purchase the property and then pass that property on. So, essentially, we serve as a facilitator. We can identify funding. We have lawyers on staff that can do the environmental assessment and the title research and make sure that, when it does go to the County, that there's no issues with it in terms of title or environment pollution or---

MR. ARAKAKI: So the ownership will be the County?

MR. STANBRO: Right. In the end, the ownership will be the County.

MR. ARAKAKI: Trust for Public Land wouldn't have any ownership in it?

MR. STANBRO: No.

MR. ARAKAKI: Okay. What would—what is the relationship of a group over there that said they want to take care of it, maintain it, or manage it—what is their—what—I don't understand that part—if the County owns it?

MR. STANBRO: Right. The County will own the fee simple the---under the property itself—the dirt. What TPL has tried to do because, in our work in Hawai'i, we've realized that budgets are stressed—especially local budgets. And, though the community wants to protect everything, that's not feasible. But one of the ways that you can get more done is if the community actually actively

participates in stewarding the land and helping the County or the State out. The State Parks program has a—it's sort of a—I think it's a *kokua* program where local communities members help take care of cultural resources.

In our work with the County of Maui, at Hana, the community expressed a strong desire that they wanted to help maintain the place, take out certain trees that were invasive, restore cultural sites—especially some of the important cultural resources there—keep an eye on it so that—and pick up trash and do those kind of things that takes the burden off of the County maintenance.

MR. ARAKAKI: Is this part of the deal of this purchase—that they will be managing this property?

MR. STANBRO: It can be structured that way, if it comes down to that. What we did with Maui County at Mu'olea Point is, basically, in the Agreement of Sale—we said that the County shall work with a local community group to help collectively steward the property. So these are very open and flexible. If the community group—especially if they can get their 501(c)(3) status—which I understand is what this group is going to go for—they can apply for grants outside of the County to bring—to help steward the property.

MR. ARAKAKI: What is the role of the Council legislative body in crafting this arrangement?

MR. STANBRO: Well, the—obviously, the funding here—this Bill 53 is the funding end of it. I would expect that any sort of resolution that came out of the Council in terms of what your *mana'o* is and what you would like to see the Mayor or the Planning Department or the Parks Department work in tandem with the community would be—I'm sure, well received.

MR. ARAKAKI: Okay. So I'm in favor of—in saving Honu'apo and all that. Why are you folks objecting to having the Federal government make it a national park— the bigger area—where it would actually preserve it for perpetuity?

MR. STANBRO: TPL doesn't object to a national park doing this.

MR. ARAKAKI: Oh, you don't object to that?

MR. STANBRO: No. I know that there's some folks in the community that have concerns about Federal ownership. In terms of TPL's standpoint, the process of doing the study—I think that Representative Case—we talked a little bit about last time—Representative Case is commissioning a study about the value of that coastline in terms of national park addition. That is fine. That's going to take a couple years and that doesn't—that won't preclude development in the meantime.

We've heard loud and clear from the community that this specific parcel—this area around Honu'apo—is the most heavily used by the community and the most, obviously, at risk of development right now. So this is not part of the Federal park process and we don't take a stand on that.

MR. ARAKAKI: But, if it became a national park, would that preclude the community from using the area? No, no, no—I was just (inaudible).

MR. STANBRO: No. I don't believe so. I believe that privately owned lands within—unless the national park acquires them—I don't know that they have any say over it if this is a County park within the national park.

MR. ARAKAKI: No, no. If a national park acquired—if the Federal government acquired it and turned it to a national park, would that preclude the community from using it?

MR. STANBRO: I don't know. I don't—

MR. ARAKAKI: Okay. No, no. That's okay.

MR. STANBRO: They could set their own rules. I'm not sure.

MR. ARAKAKI: If you don't know, that's fine.

MR. STANBRO: I'm not sure.

MR. ARAKAKI: Okay. Well, my whole thing has been using—objection to this—not preserving it. I'd love to preserve it—it's use of funds of taxpayer—property tax money to do this and I'm afraid that they might incur further monies. And I'd like to see Transit Accommodation Tax increase so we can earmark some of those monies to do that because that comes from the hotel industry and all that—and also Federal money, rather than using County monies—that's my objection. It's not the project itself. Thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Arakaki. Dr. Holschuh.

MR. HOLSCHUH: Yeah. Thank you, Mr. Chairman, for just letting me ask one more question. Mr. Stanbro, did—I may have misheard you when you were answering Mr. Arakaki—it, kind of, sounded like TPL was going to buy this. No? Did you say that? I—

MR. STANBRO: TPL serves as a principal. So we negotiate with the property owner—

MR. HOLSCHUH: Oh, so you are planning then—

MR. STANBRO: And we purchase it, but then we will pass it on. And the reason that we do that is because that guarantees that when we do purchase that property, there's no environmental issues, the title research has all been done, there's not outstanding easements over it—anything that could complicate it for the County. And that way we, sort of, clean it up before it goes on its way.

MR. HOLSCHUH: I think I misunderstood last—two weeks ago. I thought that this was going to be different than Maui, for instance, that you were not actively involved in the purchase of this. So that is your plan—to do this similar to the other ventures. Is that correct then?

MR. STANBRO: Every project that TPL works on, we will serve as a link in the chain—and we do that for a number of different reasons.

MR. HOLSCHUH: Okay.

MR. STANBRO: But mostly to, again, to protect whoever we are working with—whether it's the County or national parks or State parks or whoever else—that they are getting a property that's up to grade.

MR. HOLSCHUH: Okay. Good. Thank you. Thank you, Mr. Chairman.

CHR. HIGA: Okay. Mr. Pilago.

MR. PILAGO: Thank you, Mr. Chair. Good morning, Mr. Stanbro.

MR. STANBRO: Good morning.

MR. PILAGO: It's—I'd like to follow-up with Councilman Jimmy Arakaki. I think part of his concern was—and mine, too—is who are the participants of your community management team?

MR. STANBRO: I believe that the folks that had been working down there the past two years cleaning up—have the vision to get their 501(c)(3) established so that they can, officially, enter into an agreement, if that is the wish of the County—to partner at that area. I would have to defer to the folks in the community, themselves, who have been working down there.

MR. PILAGO: Thank you. I'm sure the people you work with in the community are very grateful for TPL support. I'm very especially pleased that you're there to help facilitate this process. Can you please give me a brief of what the strategic plan is—two questions—and where does it include the participation of the Native Hawaiian practitioners and the Native Hawaiian community?

MR. STANBRO: Although this is an early juncture in this project, TPL—in the last project in Maui and another project before that in Waianae—did provide some funding from our donors to do a strategic planning process, which is a critical point, if there is going to be community involvement and stewardship. What we would like to do—if that is an important part to this Council—we would like to work with the community to develop that plan. There is no plan currently. The—what that takes is a few months of meetings with the community to make sure that you reach out to all communities involved, including Native Hawaiian members of the community, to get their input. And I would defer to Auntie Pele who's here to talk about her long involvement with this project and what she would like to see happen.

MR. PILAGO: I just would—I just need reassurance that the voice of the native and indigenous people are firmly embedded in this project. As the video pointed out, and there's a lot of allusion to that, we're looking at subsistence customary and traditional practices. I do hope these things are brought to the forefront as we create this project down in Honu'apo.

And I'm going to go all the way back to Councilman Arakaki's issue. It appears that, somewhere along the line, we're going to be partners with you. I do hope that connection is established early. But, just so we can make sure if there are any other in kind or monetary support that goes back and forth, that we'll be able to discuss that as partners.

MR. STANBRO: I think that's a great point and I also think that there's a lot that the County can offer—a fledgling community group that wants to do projects like that. I know that the County has a program to identify grants that are out there—outside—Federal grants and private arena grants for nonprofit community groups throughout the island. It would be great to have that as a resource to the group as they get started so that, like I say, the burden doesn't fall, specifically, just on the Parks Department but can come from elsewhere.

MR. PILAGO: Thank you, Mr. Stanbro. And thank you to Ka'u community for supporting this. Thank you. Thank you, Mr. Chair.

CHR. HIGA: Thank you, Mr. Pilago. Mr. Jacobson.

MR. JACOBSON: Hello, Josh. Thanks so much for your extensive explanations. I think it's just important that people do understand that it's a pass through—you're there to grab the land and pay the people off and make sure it's clean and neat and then the County ends up with ownership. I think that's one of the great benefits.

Also, just regards to some of the management agreements, my understanding is that Parks and Recreation will be working with the community and having a

Friends of the Park agreement signed, so that there will be some maintenance—so that we don't have to take on huge amounts of maintenance costs. But I'm just especially grateful for your role in this here, Josh. Thank you very much.

CHR. HIGA: I have a question, Mr. Stanbro. I just want to make sure I'm hearing my colleagues. I just need to understand. There will be no stipulations on this pass through? It'll be real clean like what everybody said. There's—is there any stipulations that will tie or bound the County to any agreements when we accept this land?

MR. STANBRO: There will not be any that stipulate agreements for you. There will be now—because we're using Federal funding and we're leveraging so much Federal funding—there are limitations on the County's use of the property after that funding is utilized.

So, in essence, in order for you to get the funding to do this, you have to agree that the property won't be developed in the future. So the County is not going to be able—if you do, the way the provisions work from the Federal funding side—if you ever choose to try to develop the property, you have to pay them back—not just the value of the dollars they gave you but the current value of the property proportionate to what they gave. So, it serves as a penalty clause, if you were to build a strip mall at Honu'apo, basically.

CHR. HIGA: Right.

MR. STANBRO: But there's no—

CHR. HIGA: No other stipulations, though?

MR. STANBRO: No. And what I've tried to articulate earlier is that we, basically, put a suggestion in the title that we pass—that the County work with the community—and, essentially, that was to ensure—both sides wanted that. The community wanted to know that they would have a role in playing on the land. And the County wanted to know that because they didn't want to just know that they were going to have to have a crew out there all the time. They wanted to know that there would be eyes and ears on the ground there. So, it's from both sides, but it's very flexible.

CHR. HIGA: So, who has seen this agreement or this pass through? Pat Engelhard, the Mayor—I mean, has anybody seen what you just stated that there is this understanding? I mean, is it in writing somewhere?

MR. STANBRO: It's not in writing because we haven't gotten to the point where writing is required. If this bill is passed and then also the funding is available, the landowner fully commits, then—I mean, the Mayor and Parks Department,

evidently, has been briefed. And the Mayor has said that he is willing to do this and he wants to work with the community. So I—we have a verbal agreement in that sense but nothing in writing because it's a bit premature until we're sure that this is going to move forward. But we can show you that language, when the time comes, and have you reflect on it as well.

CHR. HIGA: If—and, again, I'm speaking hypothetically—if this body decided to put some things in to protect the County's interest in what—because, again, nothing's in writing—we put something on there to protect the County to make sure that whatever this agreement or whatever, it's all going to be contingent—that we do have a meeting of the minds and so forth—would that jeopardize any of the other funding mechanisms—like the Federal government and State?

MR. STANBRO: When you say "meeting of the minds" between—

CHR. HIGA: Well, you're saying—this agreement that you're talking about—there's nothing in writing. So all I'm saying is, if we put something in there—our funding is contingent upon making sure we'll release the money as long as the following agreements are met—that we put it from our side to protect the County's interest, will—is there anything that'll stall or hamper the negotiations between the other parties involved?

MR. STANBRO: I don't think so. I mean, I would be cautious that you didn't foreclose something that you didn't foresee because it's so early. But, essentially—I mean, maybe I'm overstating this. I don't want to give you the idea that there is an ironclad agreement that there's a contract that the County has to do anything. What it says is it suggests that the County shall work with the community on the land that can take the form of an MOU—and this is all after—this happens after the transfer.

CHR. HIGA: Okay. That answers my question, what you just said right there. Thank you.

MR. STANBRO: Okay. Okay. Just—it's a Memorandum of Understanding, essentially.

CHR. HIGA: Thank you. Mr. Ikeda.

MR. IKEDA: Mr. Stanbro, I do support the purchase of Honu'apo. And maybe I'm naïve, but how does TPL benefit from the purchase of the Honu'apo?

MR. STANBRO: Our mission is to conserve land for people. So—and we're nonprofit—so the benefit is that we get to do a good thing for the planet and for the community in Ka'u. We're—that's our mission—that's what we do.

And I hope you all are on our newsletter mailing list—and you can see the other projects around the islands and where we work. The other area where we've been working is—along the lines of Council Member Arakaki—is trying to get funding from the State level dedicated towards this type of work, so that the burden doesn't just fall squarely on the County and Feds. because they haven't participated before. So I spend a great deal of time working on these projects, but also working at the State level to try to get them to ante up, as well for these types of projects.

MR. IKEDA: Thank you.

CHR. HIGA: Mr. Jacobson.

MR. JACOBSON: And, just briefly, I suspect, Josh, that you will be turning any contracts over to our Corp. Counsel as is customary for any contracts to be inspected—

MR. STANBRO: Absolutely. Everything—

MR. JACOBSON: To represent the County interest. I think that that is the procedure.

MR. STANBRO: Yeah. There's a lot of steps after this. This is just the first step. And then it goes—the entire process—the letters of agreement and everything comes through the Administration and Corp. Council.

MR. JACOBSON: Thank you, Mr. Chair.

CHR. HIGA: Thank you, Mr. Jacobson. Thank you, Mr. Stanbro. Next speaker will be Pele Hanoa speaking on Bill 53 in support.

PELE HANOA: The Chair called on Ms. Pele Hanoa, representing Ka'u Preservation; and President, Na'alehu Community Club, who made the following statement regarding Bill 53, Draft 2:

MS. HANOA: Good morning, Chair Higa.

CHR. HIGA: Good morning.

MS. HANOA: Last time I was here it was a different face—congratulations that you're on here. And, Council Members, good morning. I'm here and I'm also speaking for my—the rest of the senior citizens from Ka'u—which I'm President of the Na'alehu Community Club.

The District of Ka'u is the largest of all the six districts on this island. We only have the Punalu'u Beach which is now—it's a mess—I'm telling you that. You—we have a lot of tourists buses that comes down to Punalu'u. But the reason why I'm saying I mention Punalu'u is because the next beach to protect and to save for the County to purchase or to take care of is Honu'apo. Honu'apo is the next beach to Punalu'u and Kaua—because you have more land there that we could use and a fishpond is right there. You saw the seal swimming into that pond. We have turtles into that pond—and that's the reason why it's called "*honu*", which is turtle, and "*apo*", to circle around—and that's what is "Honu'apo" is all about.

And, also, I'd like to let you know that Punalu'u will probably no longer be a park. Every time the high water comes over—every year—that road is closed. Every time we have a high, heavy rain, really pour down, the drainage—there's no drainage in the parking lot—all that water drains right down into Punalu'u Road. And that road is filled—it looks like a river.

The only place now that is going to be safe and protect—is Honu'apo. So I'm hoping that you folks think and see that Ka'u needs a parking area, 'cause Punalu'u is too little now. It's too small to accomplish anything because they have—the County put boulders on the sand. It's such a sad messy looking area, with the boulders on the sandburs—below the sandburs. And now they're not maintaining the road—the County refused to maintain the road. So there's sand—the busses pass over there. It's so sad.

Punalu'u has a road—old trail from Punalu'u to Honu'apo. C. Brewer destroyed part of the trail up in that Honu'apo area. There's no road now to go through to Honu'apo from the ocean side. It's in the Alakahakai Trail. They did a research on that. So now there's only one entrance—access to the old landing road going to Honu'apo. We need to maintain that and use that for public access, since they destroyed the old trail going down to Punalu'u.

I'd like to remind Council that—back to Council Arakaki when he was asking for national park—the national park—when they get involved in that, like our Kalapana, you have to be a resident before you can enter that. We had people from Ka'u coming around to fish in Halape. They were sent to Honolulu to the Federal court for passing over to Halape. So what we want—to keep it open space for all people to fish from Punalu'u all the way to Pahui—and that's where the endangered species, like the Hawksbill, lay their eggs in that whole stretch of 80 miles of shoreline.

And I'll also remind Mr. Arakaki that, in the past when he was there, all the Councilmen voted with DLNR to sell the road of Punalu'u and went to Honolulu to Judge Acuba—that told them they have no right to sell the coastal segment to anybody—so we're saved by that. And I thank you.

CHR. HIGA: Thank you, Ms. Hanoa. Any questions? None? Okay. The next speaker—and we're going to have to—is going to be Mr. Curtis Tyler who is going to be speaking on a whole bunch of stuff here.

MR. HOLSCHUH: Ten seconds each, yeah?

J. CURTIS TYLER,
III:

The Chair called on Mr. Curtis Tyler, who made the following statement regarding Resolution 71-05, Bill 74, Resolution 80-05, Resolution 81-05, Bill 65, Bill 367 (Draft 2 and 3), Bill 48, Bill 53 (Draft 2), Bill 72, and Communication 197::

CHR. HIGA: Mr. Tyler, help us out now.

MR. TYLER: I'll go as fast as I can.

CHR. HIGA: And see as fast as you can to go through this.

MR. TYLER: Yes, sir.

CHR. HIGA: Thank you.

MR. TYLER: There's one more item here. Thank you. First of all, before I begin, Mr. Chairman, *Aloha kakou ka kai ke kahi e ke kahi*. Let there be *aloha* between and among all of us here today. And it seems like there's a lot more *aloha* here and I want to congratulate you, Mr. Chairman, and Madam Vice Chair, on your selection by your peers by a unanimous vote. That tells me—and I believe that tells—you speak very loudly to this community that you are trying to act as one voice. And, when you do that, you send very good messages and good feelings to this community. So I thank you for that.

I also want to thank you, Mr. Chairman, and Members of the Council, for making it possible for videoconferencing in Kona. That's something that I wanted to have in the whole eight years I was here and I was unsuccessful in doing so. And, obviously, the folks from Kona have been more persuasive. And good morning to the people in Kona.

Now, Mr. Chairman, I'll go very quickly. I'll begin with Resolution 71-05 and Bill 74. And I realize that you—this is out of Committee—but I do want to express my concern about this with respect to Assistant Chief Osorio, who's here, regarding this. As I have always expressed my concern about the magnitude of the cost, and now, as I look at this, as—if my memory serves me correctly—we've gone from eight million to approximately 12 million, which is a very large increase. If your whole budget and everything else came in like that, the citizens would be in deep trouble in terms of having to cough up the monies.

Furthermore, I don't—aside from a problem arose with the Federal government, and the existing contractor, and the new contractor—will possibly be contracted by the end of April—there's a lot of questions in my mind, as a citizen. And if I were sitting where you are, I would be asking a lot of questions about what's going on here. And, finally, with respect to that, your proposal is to use operating funds for capital expenses. And I would say that that doesn't make a lot of sense. There's possibly one capital expense in here in terms of equipment of 500,000 being—but I would urge your caution on that.

Next item is Resolution 80-05, which a portion of which—16,000 of which is to continue the—to augment the lease of the Kona Council Office. Now—it's for \$16,000—I have no objection to that as long as it does not—it is not there as the result of this County paying for two offices. The old office that I occupied for eight years was empty for some time. I don't know if it's still empty. But, in any case, I'm sure Mrs. Isbell and Mr. Pilago would be able to answer any questions—and I don't know because I wasn't at the Committee meeting—if it's for the existing office, then *maika 'i*.

Resolution 81-05—I would just say "Finally, finally, finally". This needs to be passed today. And I want to thank, in particular, the Ashikawa family, and Mr. Gary Ashikawa, and the contractor—for working so hard to get this roadway connection—Holuholu Street Extension lot through to Nana. This is going to be the first north/south connection between the Kona Palisades or Ka'iminani—the *mauka-makai* road—and the Coastview-Wonderview and Highlands Subdivision. This is a milestone—absolute milestone. People have been waiting decades for this. I waited the whole time I was in the Council. And so, I want to thank the Ashikawa family, and I want to thank DPW, and the Administration for expediting this—and thank you very much, Mr. Ikeda, for waiving this up.

Moving right along. Bill 65, by Mr. Jacobson, regarding revisions to the County Code. I strongly support this—this is long overdue. You need a new County Code. Do you know how many times, over eight years, I couldn't get the law right on the first time? And the second time? And, in some cases, the third research? This is extremely important. Imagine what the public—when they're trying to get the law. So I would say that you need a new one. I think the Clerk should do it and it should—you should have quarterly updates. I strongly support that. And you also should make this available on CD's because you can put the whole Code on one CD—and that's very inexpensive. Somebody doesn't have to lug this big book around. And so, I would urge you to look into that.

The—how am I doing, Mr. Chairman? Moving along? Okay. Bill 367, Draft 2—this is the rezoning which you folks had a number of concerns about. And I think you had two hearings in Planning. I want to speak in strong support of this bill, as I have in the past. This bill, in my estimation, represents a new paradigm. And I have had a chance to review Draft 3, which is before you today.

And I support Draft 3 with one exception and I'll speak to that in a minute. But let me just say that, first of all, in Draft 3, what's proposed here is concurrency—that they can't have any occupancy until that widening of Kuakini is open. And I say, "Hooray" for that. And they can't even begin Phase II until that's begun. And, for those of you who might have worked with the applicant or applicant's representative, thank you very much on that.

The second thing is that this actually, given the size of the project, is going to result in lower density and, certainly, a lot lower heights right in the urban core of Kailua—and that's wonderful—even though it's not in the SMA, it is in the Coastal Zone Management Area. And I'm sure the people of future generations will thank you for not having these high-rise buildings, which were originally planned on one of the parcels.

Also, by having these housing units right in the community, including affordable housing units, you will be—you will not be adding to the urban sprawl dilemma that we find ourselves in so often with people having lived so far away because of the lack of—because of we just can't keep up with the infrastructure costs.

And I would like to say that, with respect to Draft 3, I just want to mention very briefly that Draft 3, under Condition Number "M"—proposed Condition Number "M"—contains language regarding landscaping plan. And it says, in the second sentence, "Said plan shall reflect, where feasible, the use of indigenous and water conserving-plants and comply with...", etcetera. I would like you to replace the word "indigenous" with "native" because "indigenous" does not include "endemic". And, really, what we need to be doing is planting more endemic plants—the ones that only occur here in Hawai'i nei.

And so, I would urge you—I would hope the applicant would find that to be a friendly amendment. I hope all of you would find it to be a friendly amendment.

Moving along. The—Bill No. 48. I appreciate Mrs. Meyerson's testimony this morning from the Queen Lili'uokalani Village. I would like to point out something to you. This proposal is—says to connect the sewer system via Kealaka'a and Kealekehe Parkway. The proposal that came in from wastewater—that was the original proposal—projected to cost in excess of 10 million, perhaps, as much as \$30 million. A lot of blue rock between there and where the connection is to La'i'opua. A lot of blue rock. The proposal was—and what I was told before I left this Council was that they were going to put an upgraded septic system in the Queen Lili'uokalani Village—not connect to the Kealakehe via Kealakehe Parkway. And so, there seems to be a mixed message here.

If this is to connect to the Kealakehe Sewer Waste Water System via the Kealakehe Parkway, I would strenuously—as strenuously as I can—oppose this

because it will cost multi-tens of millions of dollars. If this is to upgrade the gang cesspool system to a septic system, then—a proper septic system—which is what I was told it was going to be for—then I'm in 100% support of it. But, please, get this one straight because I'm reading—I'm seeing something different here. Almost done, sir. Thank you for the—

CHR. HIGA: Thank you.

MR. TYLER: Bill 53. I speak in strong support of this. Those of you who recall my stance on the Council for the land use—setting aside a percentage of the—of real property tax. Tens of thousands of people in this County were disappointed that that didn't pass—but this is a good start. You've heard from the community. They've spoken loudly and clearly. They've certainly spoken to me in the years gone past. And I think that this is the right thing to do, at the right time, for the right reason. And I want to thank Mr. Jacobson and Mr. Stanbro for their work on this. *E mau ke ea o ka 'āina i ka pono.*

Finally, two things. Bill 72, which pertains to corrections in the Sign Code. I take the full responsibility for any inadvertent drafting errors. However, I was advised that we had to do certain things. In any case, it's changed. I think this is very good that somebody caught this and we wouldn't want to have that the wrong way. I want to report to you that yesterday afternoon at 5 o'clock at the Kailua Village Design Commission, there were two applicants—the first two applicants under the new Sign Code who came in with beautiful signs complying with the law—not asking for a variance—doing the right thing. And I was down there to shake these people's hands and thank them for complying with the law and saying—and they're beautiful. And their businesses will do well. I certainly wish them well.

Finally, last item, Communication 197 pertaining to the request for "Executive Session" for a briefing on the Hokuli'a litigation. Two questions have been posed to me—almost weekly, sometimes daily—as I've traveled around the community. Many people have asked me "What's going to happen to Hokuli'a?" And I certainly don't know. But, two questions: Number one, why hasn't this gone to the LUC as the judge allowed? Why hasn't that happened? How many years has it been? Number two—that's what you should be asking yourself these questions—Number two is why are they coming after the County? We didn't sell them the land. We didn't make them any promises with respect to that. Why don't they go after the person who sold them the land? And, I'm sorry, I'm a simple person but these are the questions that people from all over this island are asking me. Why not? Why are they coming after the County? Because they're in our deep pocket? Don't let it happen, folks. Thank you very much.

CHR. HIGA: Thank you, Mr. Tyler.

MR. TYLER: I hope that was a new record.

CHR. HIGA: Hang on a second. We have some questions for you.

MR. TYLER: Oh, that's a surprise. Get on the receiving end.

CHR. HIGA: Mr. Jacobson.

MR. JACOBSON: Well, thanks for your comments. I'm left with some of those questions, yourself—I'm a simple man and I don't understand some of those last questions you posed. But I do have some answers for some of the other issues that, certainly, your idea of putting our County Code out on a CD has crossed our minds. We had an issue on the agenda yesterday to re-price it—so it's not 450 or some exorbitant amount—so that those people who want to have a hard copy—some people do need to have hard copies that are—you tend to like them yourself.

MR. TYLER: Yeah.

MR. JACOBSON: But it would be much more expensive. Having a CD, though—

MR. TYLER: Fifty cents is for a writeable CD.

MR. JACOBSON: Well, I'm not sure what we're going to come up with, but it's certainly not going to be \$100. It's going to be—

MR. TYLER: Maybe I'll donate some to you.

MR. JACOBSON: Some money. I don't know what it will ultimately cost, but we're working on that issue right now.

MR. TYLER: Good.

MR. JACOBSON: And I appreciate your kudos on this. Thank you. Thank you, Mr. Chairman.

MR. TYLER: You're welcome.

CHR. HIGA: Thank you, Mr. Jacobson. Mr. Hoffmann.

MR. HOFFMANN: Thank you, Mr. Chairman. And thank you, Mr. Tyler, for the welter of comments. I only want to address one of those, if I can, and that's referenced Bill 367. As you properly pointed out, this, we hope, is the first issue that we can make and statement we can make as a Council in a Planning Committee—reference concurrency. And I am very thankful that the developer

has both seen it that way and has made every effort, I think, that we could possibly ask in order to conform to our concerns regarding concurrency and a little bit of additional affordable housing, which shouldn't go unnoticed. There's 40% of the additional units in that effort that he's recommending that he'll go along with.

And, again, this is the way—as you point out and we want to emphasize—the way that the Planning Committee, Mr. Pilago, and myself, look at these issues—and I think we're on the right track here. So thank you for your comments, particularly, in that regard. And when you do speak to other people in the community that, perhaps, we don't speak to, tell them that we are trying to follow that effort and that intent in the balance of our applications that we see before the Planning Committee.

MR. TYLER: Thank you. I have and I will.

MR. HOFFMANN: Thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Hoffmann. Dr. Holschuh.

MR. HOLSCHUH: Thank you, Mr. Chairman. Mr. Tyler, it's always wonderful to hear you. Obviously, you disregarded the colored signs but—no—it's a pleasure to have you here. I'm kidding you, of course.

MR. TYLER: Three-minutes plus one, right? I thought I did very well.

MR. HOLSCHUH: But it was interesting the other day. No—I—Curtis says—I've always appreciated your comments and I think you certainly were a bulldog at getting at detail and I say that very respectfully. And Mr. Safarik made a joke in the recent minutes that we just approved. He called me "Mr. Tyler" and he said, "Oh, just joking. But you're picking up details in reviewing the minutes". And I said to him, "That's a compliment". And I mean that. Thank you, sir. Thank you, Mr. Chairman.

MR. TYLER: Thank you. Well, hopefully, the opportunities are in the details not just the devil.

CHR. HIGA: Thank you, Mr. Tyler. I—for me, I just want to say your ability to go through an agenda and pull everything out is as sharp as ever and I appreciate your willingness to give your *mana 'o* to us. Thank you.

MR. TYLER: Thank you, sir. *Aloha* to everyone.

MR. HOLSCHUH: Thanks, Curtis.

CHR. HIGA: We have five more speakers. So we going try to move along as best as possible. Wendy Vance on Bill 53 in support.

WENDY VANCE: The Chair called on Ms. Wendy Vance, representing Ka'u Preservation, who made the following statement regarding Bill 53, Draft 2:

MS. VANCE: *Ano Waia Me Ke Aloha*. I'll make it very short. I'm in favor of Bill 53—all the reasons that everybody here has stated. I don't need to go over each and every one. This is a unique opportunity. This is a chance for this Council to really be farsighted, to really be ahead of the ball. And I so much appreciate the work that you did two weeks ago on this bill and I encourage you to pass it today. *Mahalo*.

CHR. HIGA: Thank you. The next speaker will be Mr. David Vance on Bill 53 in support.

DAVID C. VANCE: The Chair called on Mr. David C. Vance, who made the following statement regarding Bill 53, Draft 2:

MR. VANCE: Thank you, Mr. Chairman, and Members of the Council. I will also keep it brief. One thing I'd like to say is I came on board with John Replogle two years ago. He mentioned that he had a cleanup project in the works—that Honu'apo was in danger of development—and without really knowing where we were going other than trying to preserve it, but having no real plan other than putting forth our energy wanting to be involved. That's the level that myself and many others—members of the community—came on board with.

So it's very exciting to see the process going along, somehow, magically—blessings coming our way and I appreciate that. I hope—there was so much support for Bill 53 last week. I hope that you will vote in favor of this today. It's a unique opportunity to save this incredible place for future generations. If it's not acted on in a timely fashion, the danger of development is right there. And once it's gone, it's not coming back. So I please ask you to vote in favor of Proposition 53. Thanks so much.

CHR. HIGA: Thank you. Next speaker will be Mr. Richard Esparza speaking on Bill 53 in support. Mr. Esparza? Left? He's, basically, said he's in support of Bill 53. Next speaker will be Ronald Self speaking on Bill 53—in support.

RONALD G. SELF: The Chair called on Mr. Ronald G. Self, representing Ka'u Preservation, who made the following statement regarding Bill 53, Draft 2:

MR. SELF: Good morning, Honorable Council. My name is Ron Self. I'm an attorney and I—is this better?

CHR. HIGA: Yeah. You can pull it down, if you need to.

MR. SELF: Okay.

CHR. HIGA: There you go. Thank you.

MR. SELF: There you go. Thank you. I'm an attorney and I represent Ka'u Preservation, which is a local group of people that have gotten together to preserve and protect the Ka'u Coast—obviously, part of that is Honu'apo. And I heard many of your questions on how does this all work, and is there a management plan, and what are the protections for Hawaiians and local people so that they may participate and help in this project. And I think we all need to understand that there are, really, three government agencies that are involved in this project. There's the 300-pound gorilla, and there's the 600-pound gorilla, and then there's the 900-pound gorilla. And, I guess, if each one of those is a government agency, I guess we all know maybe what this County is—the smallest of those entities.

The Federal government, right now, as most of you may know, is working on—through Fish and Wildlife—trying to get funding to do a study on the endangered species along the whole Ka'u Coast, which is approximately 80 miles. Honu'apo is part of that coast and it's in Conservation land of the State and, thus, is subject to the Endangered Species Act. So some of the issues that I think you need to understand are how does the Endangered Species Act affect what you're doing and also how are we going to help in the survival of these endangered species.

Luckily, Mr. Danny Miller miraculously was able to film the Hawaiian Monk Seal. The Hawaiian Monk Seal also has been spotted at Kaua Beach and, obviously, South Point. In fact, I believe a pup was born in South Point within the last year or so. The Hawksbill turtle, another critically endangered species, is there, but a species and group that we really need to start looking at in this particular County, in this State, and in this world are the Hawaiian people. And the culture and history of the Hawaiian people is best stated and best shown in this District of Ka'u. It is the undeveloped coastline where all the *heiaus* are, where all the history and culture still remain intact, where it's a vibrant, vibrant culture. If you look at the demographics, Ka'u has the largest percentage of Hawaiian people that live in that district of the whole State.

What we are trying to form in the management that Ka'u Preservation is trying to put together is a cooperative effort between the local people, the County, the State, and the Federal government. And we've worked hard to try to put these groups together. The State seems to be the hardest one to convince to do this, 'cause DLNR has done a pretty poor job of protecting. So we ask that you work with the State, too, and get them to realize that they need your help. So, if you have any questions, I'll be glad to help. I know my time's up now.

CHR. HIGA: Thank you.

MR. SELF: Okay.

CHR. HIGA: Thank you. Last speaker will be Mr. Bob Graham in support of Bill 53.

BOB GRAHAM: The Chair called on Mr. Bob Graham, representing Ka'u Preservation, who made the following statement regarding Bill 53, Draft 2:

MR. GRAHAM: Thank you, Members of the Council, for letting me speak today. Thank you, Mr. Jacobson, for introducing this bill. I heard from Keola and Earl Louis that live at Punalu'u—this morning, 6:30, she's in the hospital. She said, "Bob, please speak for me". And I said, "I'll try to make it short and simple, Keola". She says, "Well, a monk seal is a big deal". And that's how we're going to leave it right there—short and simple. It says enough. Danny Miller did a great job. And, again, the Endangered Species Act is ever present here. And you really can't go against a little monk seal, can you? Even you, Mr. Arakaki, I think we might have your vote—at least I hope we do this time. Thank you so much.

CHR. HIGA: Thank you. Okay. No more "Statements From the Public". We need to go into "Executive Session" at 11 o'clock but—

MR. ARAKAKI: Take them out of order.

CHR. HIGA: Huh?

MR. ARAKAKI: Take them out of order.

CHR. HIGA: But in case there's a lot extended. Which one? Fifty-three?

MR. ARAKAKI: Fifty-three.

MR. JACOBSON: Can we have a little break?

CHR. HIGA: Huh?

MR. JACOBSON: A little break.

MR. HOFFMANN: Take a break. Take a five-minute break.

CHR. HIGA: Well, I was going to take it out of order. The only thing I'm worried about is, if there's an extended debate on this, I wish not to prolong the

"Executive Session"—that's where I'm going. But there was one request that I think—because time is of the essence—Mr. Pilago had a request, which I'd like to honor because of what will come about from this. Mr. Pilago, you have the floor.

MR. PILAGO: Thank you, Mr. Chair. I'd like to take an item out of order and that is Item 13, Resolution 81-05, and move it from Page 5 to Page 2—in the middle of the page to the top of "Order of Resolutions"—if all right.

CHR. HIGA: Resolution—which is the—81-05? Is this correct?

MS. ISBELL: Yes.

MR. PILAGO: Correct. Item 13, Resolution 81-05, and move it to the top of "Order of Resolutions". And this is to accept the dedication of Road Lot A, Holoholo-Nana.

MR. HOFFMANN: Second.

CHR. HIGA: No problem. Let's move that.

CONSENT ITEM –
CHANGE ORDER
OF BUSINESS:

By general consent, the following items were taken out of order, as requested by Chairman Higa and with no objections from the Council Members.

RESOLUTION
NO. 81-05
(WAIVED-PWIRC)
(COMM. 219):

Accepts the Dedication of Road Lot A (Kukuinui Street) and Road Lot B (Ohikapua Place), Holoholo Street Extension Lot and Nana Street Extension Lot of Kukuinui Subdivision From RS10 Kalaoa, LLC, a Hawai'i Limited Liability Company, Situate at District of North Kona, County and State of Hawai'i, Tax Map Key (3) 7-3-10:37, to the County of Hawai'i.
{Acceptance of this dedication would provide needed interconnectivity between Nana Street in the Kona Wonderview Subdivision and Holoholo Street in the Kona Palisades Subdivision.} (Introduced by Mr. Higa.)

Mr. Pilago moved for the adoption of Resolution 81-05.
Seconded by Mr. Hoffmann.

CHR. HIGA: Okay. Director? Mr. Pilago, you have the floor.

MR. PILAGO: Thank you, sir. Good morning, Director McClure. For brevity and expediency, could you please give us a brief of this chronology of this project, participants, what do you expect from this Council, and what is planned for the rest of your schedule today—four things, please.

(At this time, Mr. Bruce McClure, Director, Public Works Department, came forward to address the Council Members.)

MR. McCLURE: Okay. There are a series of connector roads between Ka'iminani, the Kona Palisades, and the Kona Coastview, Wonderview on the north side. This is the first one. It's coming through from private. They built it. We had permission to use it from March 18th till now for emergencies only. The County actually installed the gates, so that it couldn't be used by the public, but only by us. The waterline has not even been dedicated—that's next week. We're expediting this all over the place and you folks have contributed with that expedition by waiving the thing.

We have other ones further up—Ahihi, Kauhale, and then the Ke'oke'o and Holu Street—that's the current one that has a barricade across it. We won't open that until we can get at least one other one. We have the appraisals, we're working closely with Corp. Counsel, and we will come in with condemnation to you folks—and we will explain in more detail at that time. We would, as soon as you—as soon as this guy passes—and I assume it will—I'm on the cell phone to our staff and we will open the road this morning.

CHR. HIGA: Excellent. Any more questions?

MS. ISBELL: Great.

CHR. HIGA: Mr. Pilago, are you done or—

MR. PILAGO: Thank you, Mr. Chair. Congratulations to you and your staff, Director, and credit also to Councilman Curtis Tyler for moving these things through during his tenure and under his watch. We also need to credit the Chairperson of Public Works, Mr. Donald Ikeda, for facilitating and waiving. I strongly support this project and, as Councilman Tyler earlier stated, this is a very important and momentous time that we're on because it begins our initiatives toward connector roads to alleviate our infrastructure and traffic problems, especially in West Hawai'i. Thank you, sir. Thank you, Mr. Chair.

CHR. HIGA: Thank you, Mr. Pilago. Mr. Ikeda.

MR. IKEDA: Yes. I would like to thank the Director of Public Works for the good job that they've done completing the connector roads. Thank you, Bruce.

CHR. HIGA: No more discussion. Madam Clerk.

The roll call vote on Resolution 81-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Mr. McClure, I hope to see you on the telephone. Make that call, Mr. McClure.

Madam Clerk, what I think I'm going to do is I need to go into "Executive Session" with the Mayor. But I'd like to think, with the indulgence of my colleagues, as soon as we come back out of "Executive Session" I'd like to take out of order Bill 53 since we have a lot of people here in the audience and I don't want to prolong them any longer than they need to be here. So, with indulgence, I think that's what our plan of action will be. For now, we're going to go—I need a motion to go into "Executive Session" then I'll put us into recess while we're locking up the place.

COMM. 210:

Request for Executive Session Re Waste Reduction Technology (Reference: Resolution 218-04). From Environmental Management Director Barbara Bell, dated April 7, 2005.

Mr. Jacobson moved to go into Executive Session in order to hold attorney-client privilege discussion regarding Communication Number 210, as authorized by Section 92-5(a)(4) of the Hawai'i Revised Statutes. Seconded by Mr. Ikeda.

CHR. HIGA: No discussion. All those in favor.

The voice vote to go into Executive Session, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. "Executive Session" and then we'll take a two-minute recess.

RECESS: At 11:03 a.m., the Chair called for a recess to allow the Clerk to clear the room.

RECONVENE: The meeting reconvened at 12:17 p.m., with all Members present, with the exception of Council Member Safarik.

COMM. 210: Request for Executive Session Re Waste Reduction Technology (Reference: Resolution 218-04). From Environmental Management Director Barbara Bell, dated April 7, 2005.

CHR. HIGA: I think I need a motion to file Communication 210.

MS. KIRIU: Yes.

MR. JACOBSON: Okay.

Ms. Isbell moved to close file on Communication 210.
Seconded by Mr. Holschuh.

MR. JACOBSON: Move to approve Bill 53 on second and final reading.

CHR. HIGA: Oh, no, no, wait, wait. We're filing Communication 210 first, Mr. Jacobson.

MR. JACOBSON: You asked.

MR. HOLSCHUH: (Inaudible) carried away.

CHR. HIGA: You must have a hot lunch date, huh?

MR. IKEDA: I'll make the motion.

CHR. HIGA: Virginia—Member Isbell—so moved already.

MR. IKEDA: Okay.

CHR. HIGA: Dr. Holschuh seconded.

MR. IKEDA: Okay.

CHR. HIGA: And—no discussion—all those in favor of filing Communication 210 signify by saying "aye".

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa— 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik - 1.

CHR. HIGA: Okay. Communication is filed. Now let's go out of order, Madam Clerk.

MS. KIRIU: At the top of Page 11?

CHR. HIGA: The majority of people here are for Bill 53, so I'd like to accommodate them.

MS. KIRIU: Okay.

CHR. HIGA: And they were—I thank you for your patience outside. Thank you.

ORDINANCE
BILL NO. 53
(DRAFT 2)
(COMM. 156.1):

Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004, to June 30, 2005. {Adds PARKS AND RECREATION: Coastal Land Acquisition at Honu'apo (\$500,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$500,000). This will allow the County to help preserve coastal open space, enhance public access to recreational areas, and provide for continued cultural practices.} (Introduced by Mr. Jacobson; passed First Reading on April 6, 2005.); *and*
COMM. 156.20: From Bob and Julie Jacobson, dated April 8, 2005.

Mr. Jacobson moved for the passage of Bill 53, Draft 2, on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Discussion? Mr. Jacobson.

MR. JACOBSON: If I could just briefly—Communication 156.20 was sent to me from Teresa Alderdyce. So, although it came on my e-mail, that's why I think it's addressed to me. And, just briefly, I appreciate the support that my colleagues have given me over this bill. I think that it's abundantly clear that the people of this area need this resource and I'd appreciate a positive vote from each and every one of you. So thank you so much. I yield the floor.

CHR. HIGA: Okay. No further discussion? Madam Clerk.

The roll call vote on Bill 53, Draft 2, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: Council Member Arakaki – 1.

ABSENT & EXCUSED: Council Member Safarik – 1.

(For informational purposes, Mr. Arakaki voted "kānalua" and "no".)

CHR. HIGA: Okay. Bill 53 is passed.

MR. JACOBSON: Thank you all.

CHR. HIGA: Any other Department?

MS. ISBELL: The Police Department.

CHR. HIGA: I want—Police Department? Which—Mr. Osorio, what are you guys here for, so that we don't prolong you?

MR. OSORIO: Resolution 71-05.

MS. ISBELL: The microwave.

MR. HOFFMANN: Oh, the microwave.

CHR. HIGA: 71-05. Let's—

MR. OSORIO: And also, Bill 57, sir.

CHR. HIGA: 71-05. My colleagues, is it all right if I take that out of order?

MR. IKEDA: Yes.

CHR. HIGA: All right.

RESOLUTION
NO. 71-05
(FC-77)
(COMM. 194):

Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$1,183,805 out and from the following: Police Headquarters – Salaries and Wages (\$12,000), Police Administration Division – Equipment (\$500,000), Drivers License and Traffic Services – Salaries and Wages (\$20,000), Criminal Investigation Division-Juvenile Aid Bureau-VICE – Salaries and Wages (\$50,000), South Hilo Police – Salaries

and Wages (\$140,000), Waimea Police – Salaries and Wages (\$150,000), Kona Police – Salaries and Wages (\$281,805), Puna Police – Salaries and Wages (\$30,000), for a total of \$1,183,805; credits to Transfer to Capital Projects Fund. Funds would be used for unanticipated costs related to delays to the Microwave Relocation and System Renovation Project which have resulted in cost overruns and for cost increases due to changes in the project's construction design at two sites.) (Introduced by Ms. Isbell, by request.)

Ms. Isbell moved for the adoption of Resolution 71-05 and Finance Committee Report 77. Seconded by Mr. Pilago.

(At this time, Mr. Elroy Osorio, Jr., Assistant Police Chief; and Ms. Kay Nishibayashi, Accountant IV, Police Department, came forward to address the Council Members.)

CHR. HIGA: Okay. Discussion? Mr. Hoffmann.

MR. HOFFMANN: Thank you, Mr. Chairman. First of all, thank you very much, Chief. I'm going to support this bill and—or rather, this particular resolution. Clearly, as the new guy on the block I, sort of, saw this one come through first. And I understand what you're trying to do and I know it's common practice to approach things like this at the year-end in order to make sure that money in the police budget that isn't filled from, obviously, unfilled positions is used for police purposes. I don't like that. And I'm going to tell you right now that next year, I'm not going to vote for it on that basis alone—not because you don't need this effort or that it's not well spent money. And I might have some questions about that, but simply because I think the budget process is not being followed properly in this particular way.

And I've gotten many different opinions on this—both from uniformed policemen as well as from residents—reference things like this. I'm going to go ahead with this because I recognize it's a little late in the process and I know it's been done before. But I will tell you right now, I won't vote for this type of a procedure next year. Thank you.

CHR. HIGA: Thank you, Mr. Hoffmann. Mr. Jacobson.

MR. JACOBSON: Well, good morning, Officer Osorio. Thanks for coming in today. I do have a couple questions regarding one of our testifiers earlier—mentioned a need to understand some of these cost overruns and cost increases due to changes in the project, construction design of two sides—and I think the last time you were before us I asked if you could come up with an estimate of what we've spent to-date, plus this—on this microwave system. So, if you could elaborate a little bit.

MR. OSORIO: I believe we provided those numbers to Councilperson—

MS. NISHIBAYASHI: No, not yet.

MR. OSORIO: Not yet. Okay.

MS. NISHIBAYASHI: We were requesting the schedules from the contractor, which we received. But I'm in the process of reviewing the schedules that we had because Chair—Finance Committee Chair Isbell had asked that we break it down by site and that was something that we needed to get from the contractor. So I have that but it hasn't, yet, been presented to the Finance Committee, yet.

But as far as the expenditures, though, that's part of the CIP Project Status Report that was presented, I believe, at the last Finance Committee that we were also present at. I can tell you, though, as of April 4th total expenditures—just actual expenditures—amounted to 9.7 million for this project that doesn't include the encumbrance to date.

MR. JACOBSON: Okay. Can you tell me a little bit about these cost overruns and cost increases due to changes in the project construction design at two sites?

MR. OSORIO: Yeah. As I testified at the—I believe it was April 8th hearing—the two remaining sites we were developing jointly with the Federal government—a project called "PACKMERS"—the funding that they had pledged in support of those sites has since been withdrawn because of problems that they are having with the way their funds are being dispersed.

So whether or not they're ever going to be able to come forward again—we're not certain. They believe they will, but we can't afford to wait, so we have to make up the deficit that they would have provided.

MR. JACOBSON: So the cost overruns are just, basically, a loss of funding from the Federal government?

MR. OSORIO: That and—

MR. JACOBSON: And that accounts for all the cost overruns?

MR. OSORIO: No, sir. There're also cost overruns in this particular request, I believe, which have to do with delays because of the fact that we've been waiting on the Federal government to release these monies for well over a year.

MR. JACOBSON: So equipment costs rose in the interim due to inflation and other --

MR. OSORIO: Equipment and steel costs.

MR. JACOBSON: Did any of the capacity—I mean, did the equipment improve because of this delay? Were we able to get better equipment or are we just still bidding on the same stuff that we looked at?

MR. OSORIO: Essentially, we're getting the same system that we bid for. Yeah.

MR. JACOBSON: Okay, thanks for answering my question. I appreciate it.

CHR. HIGA: Ms. Isbell.

MS. ISBELL: Yes, thank you very much. As you recall, I did ask for some more information because this is a very expensive microwave system and it has a lot of cost overruns. So I still haven't received that report and I, very reluctantly—I'm reluctant to continue to put money into this, especially when you're putting your wages money in, when your policemen need laptops—and we've talked about that with others, too.

Is that—when they're doing their "reports", they have to leave their station—the—where—in their car—go back to the office, do a paperwork report, and that takes them off of the road and out of, really, commission at the time. If you had some of this money going for that purpose, I don't think anybody would have any problems with it. Those are very important—and they'd be wireless laptops.

So, what I'd like to see is some real definitive reporting on why the Federal government resisted. They—you said they resisted because of the way the funds were being dispersed. When the towers are finally put in and you have the final numbers—what needs to be done to make them work?

MR. OSORIO: To make it work for—

MS. ISBELL: Yeah. Would you—are you going to have more than one aligned—one microwave system? What happens when the microwave towers are put in, there has to be some kind of software—some kind of thing that makes them work. Do you have that?

MR. OSORIO: Yes. The radio system that's going to support—as far as the radio transmission—

MS. ISBELL: Yeah.

MR. OSORIO: All of that is part of the project. As far as anything else, like, data transmission—no.

MS. ISBELL: Say that again?

MR. OSORIO: Voice transmission—

MS. ISBELL: Yeah.

MR. OSORIO: Will be supported by this project.

MS. ISBELL: Right.

MR. OSORIO: But not data transmission—not at this point.

MS. ISBELL: Not data transmission?

MR. OSORIO: Right.

MS. ISBELL: But I thought that was one of the most important parts?

MR. OSORIO: That's not what this project was originally designed to accomplish.

MS. ISBELL: Okay.

MR. OSORIO: We're trying to develop the system so that it will support that in the future, but that's going to require additional funding to accomplish that.

MS. ISBELL: Yeah. I have a real problem with this. I—as you know, I've introduced it "by request" because I felt that there were too many questions and not enough answers—and I still don't have the answers.

So I would—-are you—is that just to be run off and has to be dispersed or distributed or approved by someone or—the information you have?

MS. NISHIBAYASHI: I received the schedules from the contractor. But what hasn't happened and why I needed more time was to, actually, review the schedules to make sure that they were in line with where we thought the expenditures were at and then make sure they all tied into the total costs. And that's where I have them. I have the schedules to be distributed, but it hasn't been reviewed, yet, by us, internally. And I didn't want to give the schedules to the Committee that I hadn't reviewed, yet.

MS. ISBELL: Yeah, I understand. I don't have so much problem using whatever you have to make this happen. But I have a problem with the process and with the overruns—the cost overruns. I mean, this is—it's going to be about \$11 million, right, by the time you finish?

MR. OSORIO: A little more than that, yeah.

MS. ISBELL: Okay. Thank you very much.

CHR. HIGA: Mr. Pilago.

MR. PILAGO: Thank you, Mr. Chair. Thank you, Officer Osorio, and staff—thank you very much. I have some reservations. I'm asking you—strongly urging you and the Department to please prioritize your goals. Again, it's very important that we put officers on the ground—functioning, working, keeping our people safe.

I often hear how difficult it is to recruit officers, yet, I know that's been a historical pattern for asking this Council for Salary and Wages approval—and it's been given all the time.

My concern is, often when we come to the end of the program year, we're raiding the Salary and Wages funds to go into programs like this—I would like you and the Department, sir, to re-establish your priorities and do everything you can to put officers on the ground. I think that is our highest priority. And please try and change the strategy in respect to getting approval for salaries and wages all the time—and at the end of the year—shifting that into other projects. That's just something the new guy notices and it concerns me. Thank you.

CHR. HIGA: Thank you. No more discussions? Madam Clerk.

The roll call vote on Resolution 71-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda,
Jacobson, Higa, Isbell, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1

(For informational purposes, Ms. Isbell voted "kānalua" and "aye"; and Mr. Pilago voted "kānalua" and "aye".)

CHR. HIGA: Thank you.

MR. OSORIO: Thank you. We also have Sergeant Veriato on Bill 57.

CHR. HIGA: Yeah.

MR. OSORIO: Thank you.

CHR. HIGA: Madam Clerk.

ORDINANCE
BILL NO. 57
(FC-66)
(COMM. 165):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005.
{Increases revenues in Federal Grants – Speed Enforcement (\$26,000); appropriates same to Speed Enforcement. Additional funds would be used to purchase two speed boards displays with trailers, which would alert drivers of the speed they are traveling in hopes of reducing those that exceed the limit resulting in a decrease in the number of motor vehicle collisions.} (Introduced by Ms. Isbell.)

Mr. Ikeda moved for the passage of Bill 57 on first reading and to adopt Finance Committee Report 66. Seconded by Mr. Pilago.

CHR. HIGA: Thank you. Any discussion? Dr. Holschuh.

MR. HOLSCHUH: Thank you. You don't have to come up unless you want to. But I just want to say that, again, today I was driving through Pepe'ekeo following about six cars that were going significantly over the speed limit—not much, but a little bit—and, all of a sudden, they all slowed down and I thought something ran in the road and—lo and behold, it was this doggone sign again. This thing is—I mean, everybody slowed down to match that number. I swear, we ought to get more of these. And, maybe, you can come forward and just make a comment—but this is unbelievable, this thing. And I've seen this every darn time I've come in, in the last month that it's sitting there in Pepe'ekeo. Everybody slows down—and, maybe, they speed up after they go past it but it makes people think. No question.

(At this time, Mr. Dexter Veriato, Sergeant, Police Department, came forward to address the Council Members.)

MR. VERIATO: Thank you. Well, basically, we have four of these trailers right now—and the State of Hawai'i and our Department feels that it's a combined effort of enforcement and education. And the DOT has graciously offered us this money to purchase two more trailers for the west side because of all of the concerns with Queen Ka'ahumanu and the Kona side.

MR. HOLSCHUH: Well, thank you for that. And one other thing I just wanted to say is right—I didn't realize what the speeding fine was. I never thought—I haven't been caught speeding for many, many years. But, doggone it, there's a sign right there that says "speed limit". It has the "fine" listed underneath it, right after this thing. So that's a pretty big impact. Believe me. I think it was \$250, if I'm not mistaken. It was under the sign.

MR. VERIATO: Yeah. And—yes.

MR. HOLSCHUH: Pretty good. Anyway, keep up the good work.

MR. VERIATO: Thank you.

MR. HOLSCHUH: Thank you, Mr. Chairman.

CHR. HIGA: You must have been flying there, Dr. Holschuh, at \$250.

MR. HOLSCHUH: No.

CHR. HIGA: Council Member Jacobson.

MR. HOLSCHUH: No. I (inaudible).

CHR. HIGA: Oh, okay.

MR. JACOBSON: Well, I passed by one of these devices this morning and, actually, it not only scares people and makes them slow down but those of us—I actually looked and my speed was 55. I felt really good. It was positive re-enforcement. I may have gone faster and slower at other times but, today, I went, "Yeah, man". And it actually made me feel good—I didn't feel scared or nervous. People were behaving around me. It was a great thing.

And so, I think this is a simple aid that, hopefully, will take a little bit of heat off some of the cops for all the work that they have to do. So thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Jacobson. Mr. Hoffmann.

MR. HOFFMANN: Thank you. Just a technical question, Sarge—they catch—you can note the speed going in both directions, right? A car going by with the back to the speed—the locator. Correct?

MR. VERIATO: Well, actually, in the trailer itself there's a radar that affixes on cars approaching. So we can get cars coming this way. But, usually, not from the back because the radar just usually catches cars coming from the front.

MR. HOFFMANN: Really? Okay. Well, that—thank you. I mean, that just clarifies something.

MR. VERIATO: We could set them up to have a radar on each side. It's very possible.

MR. HOFFMANN: Okay. I understand what you mean. I just got some very conflicting things. I'm running along in a 35-mile speed zone and my thing flashes "37"—it seems that it's going there—and then I get a 50-mile-an-hour guy and I'm saying, "Oh, that's got to be the guy in the other lane going away". So I—but thank you. It was just my curiosity.

CHR. HIGA: Thank you, Mr. Hoffmann. No more discussion. Madam Clerk.

The roll call vote on Bill 57, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Passes first reading. Indulge the Council Members—we have a heavy agenda. It's getting late. I want to take—I want to recess for lunch but we're going to reconvene at 1:30.

MR. ARAKAKI: Can we just take a couple guys who's sitting over here so they can leave—like Mr. Mooers and—

CHR. HIGA: I think, Mr. Mooers, I promise to put you first right after, if you don't mind. You know why? We have some scheduling conflicts right now going on behind the scenes that I want to try to take care. So, with the indulgence of my colleagues, we'll recess and reconvene at 1:30. We have a 55-minute lunch. Okay? Thank you. We will recess.

RECESS: At 12:37 p.m., the Chair called for a recess.

RECONVENE: The meeting reconvened at 1:43 p.m., with all Members present, with the exception of Mr. Arakaki and Mr. Safarik.

CHR. HIGA: We're back in session. We have—we should—we have five.

MR. IKEDA: Yes, we have five.

CHR. HIGA: All right. Madam Clerk, again, trying to be fair to everyone who's in attendance today—if we could move Bill 61, 62, and 63?

MS. KIRIU: Okay.

CHR. HIGA: Thank you.

MS. KIRIU: And then, also, there's a firefighter thing.

CHR. HIGA: Yeah. We're going to—we'll go right down, then I have a couple lists and we'll take care of him.

ORDINANCE
BILL NO. 61
(DRAFT 2)
(PC-14)
(COMM. 173.1):

Amends Section 25-8-2 (North and South Kona District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification From Agricultural (A-20a) to Agricultural (A-10a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-26:11 (approx. 20.475 acres). {Kristina Deutsch, Applicant.} (Introduced by Mr. Hoffmann and Mr. Pilago.)

Mr. Hoffmann moved for the passage of Bill 61, Draft 2, on first reading and to adopt Planning Committee Report 14.
Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Mr. Jacobson.

MR. JACOBSON: As usual, I will be voting against this. I've never been able to see the wisdom of cutting up the forest to save it. So I will be getting—again, voting against this type of application. Thank you.

CHR. HIGA: Thank you, Mr. Jacobson. Mr. Holschuh.

MR. HOLSCHUH: Yeah, thank you, Mr. Chairman. I just wanted to be sure we changed the fair share contribution. It did get changed, did it not?

MS. KIRIU: Yes, it did.

MR. HOLSCHUH: Okay. Great. And that's on all three of these—I won't repeat the same thing.

MS. KIRIU: Yes.

MR. HOLSCHUH: Thank you. We want to be kind to our people in the community. Thank you, Mr. Chairman.

CHR. HIGA: Thank you, Mr. Holschuh. Any more discussion? If not, Madam Clerk.

The roll call vote on Bill 61, Draft 2, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
Pilago, and Chair Higa – 6.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

CHR. HIGA: Thank you. It passes first reading.

ORDINANCE
BILL NO. 62
(DRAFT 2)
(PC-15)
(COMM. 174.1):

Amends Section 25-8-2 (North and South Kona District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification From Agricultural (A-20a) to Agricultural (A-10a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-27:7 (approx. 20.254 acres). {Bruce B. Easley, Applicant.} (Introduced by Mr. Hoffmann and Mr. Pilago.)

Mr. Pilago moved for the passage of Bill 62, Draft 2, on first reading and to adopt Planning Committee Report 15.
Seconded by Mr. Holschuh.

CHR. HIGA: Any discussion? Mr. Jacobson.

MR. JACOBSON: As mentioned before, I will be voting against this. It destroys the forest in the words of saving it. And so, thank you.

CHR. HIGA: Thank you. Any further discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 62, Draft 2, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
Pilago, and Chair Higa – 6.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

CHR. HIGA: Passes first reading.

MR. HOFFMANN: I promise I'll say "aye" the next time, Mr. Chair.

CHR. HIGA: Thank you.

MR. HOFFMANN: I'm sorry. I don't know—

CHR. HIGA: I didn't want to leave you out there by yourself. That's why I did that.

MR. HOFFMANN: Thank you. I appreciate it.

CHR. HIGA: Bill 63.

ORDINANCE
BILL NO. 63
(DRAFT 2)
(PC-16)
(COMM. 175.1):

Amends Section 25-8-2 (North and South Kona District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification From Agricultural (A-20a) to Agricultural (A-10a) at Kaloko, North Kona, Hawai'i, Covered by Tax Map Key 7-3-27:6 (approx. 21.695 acres). {Matthew K. Mather, Applicant.} (Introduced by Mr. Hoffmann and Mr. Pilago.)

Mr. Hoffmann moved for the passage of Bill 63, Draft 2, on first reading and to adopt Planning Committee Report 16.
Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Mr. Jacobson.

MR. JACOBSON: Unfortunately, this doubles the density. It's more of the death of the forest and watershed by 1,000 cuts. I will oppose this bill. Thank you.

CHR. HIGA: Okay, Mr. Jacobson. Any further discussion? If not, Madam Clerk.

The roll call vote on Bill 63, Draft 2, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
Pilago, and Chair Higa -- 6.

NOES: Council Member Jacobson -- 1.

ABSENT & EXCUSED: Council Members Arakaki and Safarik -- 2.

CHR. HIGA: Thank you. Passes first reading. We're going to move to—you know what? Since Mr. Fuke is so kind, let's take the Fire Department.

MR. HOLSCHUH: Since he's so kind, let him sit there. He's such a nice fellow.

RESOLUTION
NO. 69-05
(FC-74)
(COMM. 192):

Commits to Funding the Cost Items Awarded to the Hawai'i Fire Fighters Association by Arbitration, Affecting Fire Fighters in Bargaining Unit 11 for the Contract Period July 1, 2005 Through June 30, 2007. {Cost items are across-the-board increases, step movements, and a bureau opportunity benefit incentive.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the adoption of Resolution 69-05 and Finance Committee Report 74. Seconded by Mr. Holschuh.

CHR. HIGA: Okay. Any discussion? Mr. Jacobson.

MR. JACOBSON: It's only right and proper that we should approve this arbitrated agreement. I feel that we are obligated under law and by our own moral code. So thank you. I will be supporting this.

CHR. HIGA: Thank you. Any further discussion? If not, Madam Clerk.

The roll call vote on Resolution 69-05, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

CHR. HIGA: Thank you. It passes first reading. Oh, is that the only one you had? Okay. Let's move on to Bill 60.

ORDINANCE
BILL NO. 60
(PC-13)
(COMM. 172):

Amends Section 25-8-7 (North and South Kohala District Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification From Agricultural (A-5a) to Family Agricultural 3-Acre (FA-3a) at Kahua 1st, North Kohala, Hawai'i, Covered by Tax Map Key 5-9-6:5 (approx. 7.740 acres). {Kimi Cook-Walls and Robert Walls, Applicant.} (Introduced by Mr. Pilago and Mr. Hoffmann.)

Mr. Hoffmann moved for the passage of Bill 60 on first reading and to adopt Planning Committee Report 13. Seconded by Mr. Holschuh.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 60, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
Pilago, and Chair Higa – 6.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

CHR. HIGA: Okay. Pass—Bill 60 passes first reading. Bill 367, Madam Clerk.

ORDINANCE
BILL NO. 367
(DRAFT 2)
(2002-2004)
(PC-124)
(COMM. 848.2):

Amends Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Agricultural (A-1a) and Resort-Hotel (V-1.25) to Multiple Family Residential (RM-2.5) at Auhaueae 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-9:67 and Portion of 54 (Parcel "A" approx. 169,792 square feet; and Parcel "B" approx. 103,751 square feet). {Kona Hale Ali'i, LLC, Applicant.} (Introduced by Mr. Elarionoff; Deferred on December 21, 2004.); *and*

COMM. 848.3
(2002-2004):
COMM. 848.5
(2002-2004):
COMM. 100:
COMM. 100.1:
COMM. 100.2:

From Planning Program Manager Norman Hayashi, Planning Department, dated December 13, 2004; *and*
From Planning Consultant Sidney M. Fuke, dated January 18, 2005; *and*
From Planning Director Christopher J. Yuen, dated February 8, 2005; *and*
From Sidney M. Fuke, Planning Consultant, dated April 8, 2005; *and*
From Planning Committee Co-Chairs Pete Hoffmann and K. Angel Pilago, dated April 19, 2005, transmitting Bill 367, Draft 3. Draft 3 amendments relate to the following: Amends Condition J; adds new Condition L, M, and P; re-letters Condition L to N, M to O, N to Q, O to R; and re-letters Conditions P, Q, R to S, T, and U; and Parcel "A" now correctly reads 169,792 square feet instead of 169,762 square feet on the map.

MS. KIRIU: We also have a Communication 100.2 from Planning Co-Chairs Pete Hoffmann and K. Angel Pilago, dated April 19th, 2005, transmitting Bill 367, Draft 3.

Mr. Hoffmann moved for the passage of Bill 367, Draft 2, on first reading and to adopt Planning Committee Report 124. Seconded by Mr. Ikeda.

CHR. HIGA: Okay. Any discussion? Mr. Hoffmann first.

MR. HOFFMANN: Thank you, Mr. Chairman. I have before us a Draft 3 for proposed Bill Number 367, which is before each one of the Council Members. I would like to make, therefore, an amendment to Bill 367, Draft 2, with this particular motion that's in front of you. And after I have a second, I'd like to explain.

MR. JACOBSON: Second.

MR. HOFFMANN: Thank you very much.

CHR. HIGA: Okay. Discussion on the amendment.

MR. HOFFMANN: Thank you, Mr. Chairman, and, again, this has been around for quite a while. Obviously, this particular application was initially proposed prior to our coming to the Council.

I'm satisfied that what we've tried to do here is to work with the developers in ensuring that we do have, first of all, a good development—one that promotes the principles, in any case, of smart growth in the middle of Kailua-Kona—one which takes into it, certainly, some attention the idea of concurrency.

Specifically, we've discussed this with the developer and Draft 3 proposes—as one of the initial amendment changes—to make sure that this particular development is not occupied prior to the conclusion of the Kuakini Highway extension project. We've also worked with the developer to make sure that the affordable housing units—instead of being only 20% of the additional number of units that he wrote—that is now at 40% of the additional 12 units that have been added to this effort.

And while I don't want to make this appear as though this is a monumental effort on anyone's part, it is a significant change, I think, in the manner in which we can approach developers on this nature. They, obviously, recognize or at least in this instance, have recognized the importance of smart growth, affordable housing, and concurrency—all of which, although very small steps, perhaps, in the total picture—nevertheless represents a change in direction and tenor in which we have approached this particular project. And I'd like to ask my Co-Chair to also speak to the other portion of this amendment, which he's worked extensively on as far as the archeological preservation and treatment plan, if I could yield the floor.

CHR. HIGA: Mr. Jacobson, do you mind? You were next or—

MR. JACOBSON: No. Feel free. I'd rather hear—

CHR. HIGA: Thank you.

MR. JACOBSON: Angel speak right now.

CHR. HIGA: Thank you. Mr. Pilago.

MR. PILAGO: Thank you, Mr. Jacobson. Thank you, Chairperson Higa. I disagree with Co-Chair. I think this is a very important place that we're on and I think this is a very significant document, as it sets a model for what may be all future discussion that Council Members and this Council have in respect to applicants.

I would like to speak to Condition "L" and I'll read it through. There was a new Condition "L" included. "The applicant shall identify an entity that would be responsible for the management and care of archaeological/cultural features...". And it goes down—"Within 60 days of identification of this entity, this area, with the concurrence of the County Council, shall be conveyed via lease or fee to the identified entity for \$1.00." To me, this is an important statement to imbed because it gives this Council the means to decide who this cultural entity is to help with the management of native resources.

So, what it does is—this Council plays a large part in not only deciding who this entity is but also in the conveyance—and the conveyances. It could be in lease or fee for \$1. So that's important because there are agricultural and historical lands that should not and cannot be altered in any way or if they are identified and applicable, they can be rehabilitated. So, it's these kinds of things that's critically important that we include.

So, in addition to the issues of concurrency, fair share contributions, landscaping—we come with this very important part where we identify a native community and seek ways to incorporate that native community into the planning processes and, actually, to give them a powerful voice. So I'm in favor—strongly in favor—of this application.

The other thing is a human element between applicant and Council people as, specifically, Co-Chair Hoffmann, myself, and applicant—Consultant Fuke. The discussions have been numerous and ongoing because there was a lot of consideration going back and forth. I give credit to the applicant for having—giving a lot of consideration to those issues that are important to us. I urge support of this long overdue document. Thank you, sir.

CHR. HIGA: Thank you, Mr. Pilago. Mr. Jacobson.

MR. JACOBSON: Could I have Sidney and the applicant step forward for a moment?

(At this time, Mr. Robert E. Saunders, Applicant, and Mr. Sidney Fuke, representative of the Applicant, came forward to address the Council Members.)

MR. JACOBSON: I'm going to be proposing an amendment. One of the testifiers earlier today mentioned that it might be an okay idea or a good idea, rather, to modify Condition "M" and I'll just read my changes.

Under the second sentence, it currently reads, "Said plan shall reflect, where feasible, the use of indigenous and water-conservative plants and comply with the guidelines outlined in the Planning Department Rule No. 17...".

AMENDMENT:

I would like to move to modify this to delete the words "indigenous and", and following the words "plants" delete the word "and." So it would read, "Said plan shall reflect, where feasible, the use of native water-conserving plants to comply with the guidelines outlined in Planning Department Rule No. 17 relating to landscaping". So, before I ask for a second on that, I'd like to see if the applicant or Mr. Fuke has any ideas on this—whether this is a friendly amendment or whether they can accept it or not.

MR. HOLSCHUH: Why don't I second it for discussion?

MR. JACOBSON: Well, I don't need it seconded, yet.

CHR. HIGA: Not yet. I think he's asking a question first before he makes that motion. That's the way I'm looking at it, Mr. Jacobson.

MR. JACOBSON: How do you guys react to that suggestion?

MR. FUKU: I think we're all—Mr. Chairman, and Members of this Council, I think that, in concept, it's okay. But we would like to retain the word "and" because what you want to do is, like, both have "native as well as"—and where you can't have "native", "water-conserving plants". But if you just say "native water-conserving plants", then it restricts all of the plant material to just be native.

MR. JACOBSON: But, otherwise, that would be acceptable?

MR. FUKU: Correct.

AMENDMENT
RESTATED:

MR. JACOBSON: So, thanks for your indulgence. At this point I will make that suggestion—"Native and water conserving plants". And, in that, "to" instead of an "and" after "plants" is okay?

MR. FUKU: Correct. Yes. Right.

MR. HOLSCHUH: Second.

MR. JACOBSON: "To comply with the guidelines". Thank you.

CHR. HIGA: So, Madam Clerk, we can vote on Mr. Jacobson's motion? He's amending what's—

MS. KIRIU: Yes.

CHR. HIGA: On the floor—now from Mr. Hoffmann. Correct?

MS. KIRIU: That's correct.

CHR. HIGA: So we have a second. Any discussion on that amendment? If not, we'll just signify by—all those in favor signify by saying "aye".

The voice vote to amend Bill 367, Draft 3, was as follows:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
Jacobson, Pilago, and Chair Higa – 7.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki and Safarik – 2.

MR. JACOBSON: Okay, thank you. I had another question, if I may, at this point. Just in looking at this, probably I should understand this, but it appears that only—not all of the units are going to be subject to the Affordable Housing Policy, right? Because some of the approvals were given on parts of the projects before?

MR. FUKU: That is correct. Like the impact fee, it would be applicable only to the additional units over and beyond what's entitled, however, inasmuch as there is understanding with this concern for affordable housing. In my discussions—our discussions with the Co-Chairs of the Planning Committee, it became painfully evident that affordable housing is a critical issue and so, the—Mr. Saunders and his people went back to their drawing boards and tried to see whether they could accommodate more. And so, this proposed amendment, as initiated by both of the Co-Chairs, reflects the developer's commitment to provide additional units on the property or within—to satisfy a 40% rather than the 20%.

I think, overall, like, if you look at the proposed amendments, the Council—if this is approved, like, will set a higher bar in terms of for standards—not only for

archaeological cultural resources, affordable housing, and overall infrastructure and concurrency issue. And I think that this bar, although set high, is something that the developer is prepared to meet the challenge.

MR. JACOBSON: Well, given the fact that this is where we want to put our density, and the fact that the Kona representatives believe so strongly in this, and the fact that the developer—the applicant, himself, has worked so hard to work with us—I give my support to this project. So thank you. I yield the floor.

CHR. HIGA: Thank you, Mr. Jacobson. Mr. Ikeda, you're next.

MR. IKEDA: Yes. I, too, would like to make amendments but maybe I don't have to—like, I had asked Sidney earlier, my concerns was underground lighting. So, as you had stated, most of your lighting within yours is going to be underground lighting from the post in your—

MR. SAUNDERS: Yeah. We won't have—

MR. IKEDA: You won't have—

MR. SAUNDERS: Poles strung from light fixtures—no. It'll be all trenched—the power distribution will be underground.

MR. IKEDA: All underground. So I don't have to make any amendment. I would like to make to make an amendment. I would like to—your ordinance to have covenants where you're going to restrict—right now, we're having a lot of problems with farm animals in residential areas.

So I would like to have a covenant restricting your subdivision to "domestic animals only" and limit—so, no farm animals. And limit your animals—maybe one or two at the very most—if you guys can have a covenant—or "no animals" if possible. And that also leads to the second section where we're having a lot of problems with barking dogs and so forth. So I would like to have covenants on the boom boxes and barking dogs also.

MR. SAUNDERS: Well, I know we've talked to the management company on their ideas on this and definitely, with the farm animals, there will be a covenant to restrict all that. With regard to domestic animals, quite frankly, we haven't taken it that far in terms of the number of animals or the weight of the dogs—all those kinds of things.

It's sufficient to say that we're going to want to make sure the people who buy into this project are not awoken in the middle of the night and don't have these

problems. So, if you wish to put in language, we'll certainly work with you, otherwise, I would say it's going to be in our best interest to address the very issues that you are raising right here.

MR. IKEDA: Right. So I think I would like to amend this and have the developer put in a covenant whereby they restrict animals where—restrict the number of animals and no farm animals in the development.

MR. JACOBSON: Where?

AMENDMENT: MR. IKEDA: There's no section. So we have to add it in later. Because these are the problems we're addressing right now—roosters and so forth. So I'll make a motion that the covenant is to restrict farm animals and the number of animals within the subdivision—and also about boom boxes.

CHR. HIGA: Is there a second to that motion?

MR. HOFFMANN: Well, I'll second the motion for discussion purposes. Okay.

CHR. HIGA: Okay. We're in the discussion phase. Mr. Fuke, you want to address that?

MR. FUKE: Sure. Yeah. As Mr. Saunders had indicated, this—whether it's stated or not, it will be part and parcel of the overall development package. And, if this is a legitimate concern—and we understand from Mr. Ikeda's perspective that it is a legitimate concern. What we would like to recommend, if this is the wish of the Council, that between now and second and final reading we can come up with the proposed language that would address specifically Mr. Ikeda's concern. And we would consider that, like, how we did with the "native" and "indigenous" plants—consider that as a friendly amendment.

CHR. HIGA: Okay. We're speaking on Mr. Ikeda's motion. So, Ms. Isbell, I think you want to—you're talking on the main motion, right?

MS. ISBELL: I had an amendment.

CHR. HIGA: Okay. All right. So, let's talk on—Mr. Hoffmann—on Mr. Ikeda's motion.

MR. HOFFMANN: Thank you. Thank you, Mr. Chairman. I think I understand what Council Member Ikeda is after and I certainly salute that, particularly, as we look ahead at other developments—particularly, in what can be considered an urban core area where there's high density of people.

I would like to have Mr. Fuke's assistance, then, and the language that he might be able to come up with can easily be presented at the next hearing if we agree in principle, Mr. Ikeda, that we want to see an amendment along this line—

MR. IKEDA: That's right.

MR. HOFFMANN: We might want to withdraw the amendment to do that right now--

MR. IKEDA: Okay.

MR. HOFFMANN: Pending the language that we would come up with. And I would say that maybe we need to reinforce this occasionally although—that the new Bill 4—that will look at animal behavior overall that Mr. Jacobson and the rest of us working on—could be cited, specifically, in this particular instance—whatever that final action might be. I think it's a good thing to expressly state that, occasionally, in instances like this. But I'd be very much interested in hearing what Mr. Fuke has to say. Don and I would ask that maybe we'd want to—let's withdraw your motion pending what Mr. Fuke would come up with prior to the next reading on this and then we can proceed.

AMENDMENT
WITHDRAWN:

MR. IKEDA: Okay. I'll withdraw my motion.

CHR. HIGA: You're withdrawing your motion?

MR. HOFFMANN: Thank you, Mr. Chairman.

MR. HOLSCHUH: Mr.—

CHR. HIGA: What was that?

MR. HOLSCHUH: Well, I kind of wanted to ask a question before this withdrawal.

MR. IKEDA: Sure. Go ahead.

MR. HOLSCHUH: Is that all right?

MR. IKEDA: Yes.

MR. HOLSCHUH: I mean, I can ask it at the main motion.

CHR. HIGA: I'll indulge—I mean, he withdrew his motion, but go ahead. I'll—

MR. HOLSCHUH: Well, I just—I don't disagree with the problems of animals that keep people up all night. Nobody hates this more than I, myself. Believe me. But have we ever done this before in a specific project like this? Do you know, Madam Clerk? Specifically—

MS. KIRIU: I'm not aware of any.

MR. HOLSCHUH: I'm not saying we shouldn't look at it. I mean, numbers of animals. If somebody wants to have three cats and they keep them inside—this is a little tricky. And that was my only concern.

CHR. HIGA: Thank you, Dr. Holschuh. Go ahead, Mr. Ikeda. You want to respond?

MR. IKEDA: Okay. At this present time, farm animals in residential areas are being enforced by our Planning Department. I believe there is a restriction—or supposedly restriction—about six animals, if I'm not mistaken. But it's—they're not enforcing the six animals. But there is a restriction or enforcement on farm animals in residential area.

MR. HOLSCHUH: Oh, yeah. I can, certainly, see they're not going to want a pig in their corridors. I mean—

MR. IKEDA: No, but it's happening.

MR. HOLSCHUH: I don't mean to be joking about it, but you're right. Yeah. This could be a problem but domestic animals and the numbers—that's pretty tricky and I'm still a little concerned about that.

CHR. HIGA: Okay. Thank you.

MR. HOLSCHUH: So you can come up with something and—

CHR. HIGA: Thank you. Mr. Pilago, did you have a comment? Or you want to—

MR. PILAGO: A comment.

CHR. HIGA: A comment? Go ahead.

MR. PILAGO: Both Co-Chair Hoffmann and myself have been privileged to work with this applicant and consultant. And, out of those discussions, we've been able to negotiate and compromise and broker a fair document.

What I would ask Councilman Ikeda to consider—if he would be willing to meet with Consultant Fuke, and try to draft the words and present it because this is only the first reading.

MR. IKEDA: Right.

MR. PILAGO: We have another opportunity—

MR. IKEDA: Right. This is the reason I withdraw my motion and I will work with Mr. Fuke.

MR. PILAGO: Oh, thank you. I would like it to move forward.

CHR. HIGA: Okay. Thank you.

MR. PILAGO: Thank you, sir.

CHR. HIGA: Okay. We're back on to the motion and—Ms. Isbell, you have the floor.

MS. ISBELL: Well, I have to pull a Dr. Holschuh on—I found a typo. No, I just want to make sure we get it right. On Page 3, in Part 1, there's an extra "the". It just needs to be taken out because it doesn't make any sense the way it's written.

CHR. HIGA: Page 3, where?

MS. ISBELL: Page 3 under Item Number 1, where it says \$3,061.27 and then underlined it says, "or, if the County Council so agrees, directly to the entity so designated under condition L to [the] further the".

(Note: This "typo" is contained in the cover letter in Communication 100.2, which transmitted Bill 367, Draft 3.)

CHR. HIGA: Got it.

MS. ISBELL: It just needs to be—it's just a typo but—

MR. IKEDA: Oh.

CHR. HIGA: It's basically to further instead of—yeah. Take the—

MS. ISBELL: It just needs a "the" removed.

CHR. HIGA: Take the "the" out.

MR. HOLSCHUH: Two "the's".

MR. JACOBSON: So is that a motion?

MR. HOLSCHUH: Moved and seconded.

MR. HOFFMANN: I think that's a friendly motion.

MS. ISBELL: It's a motion to remove the word "the" and to make it typographically correct.

MR. JACOBSON: Second.

CHR. HIGA: It's a typo. We have a second from—you know what? We'll go ahead and take care—all those in favor say "aye".

The voice vote, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Done. Thank you. Anything else?

MS. ISBELL: That's all.

CHR. HIGA: Okay. Thank you. Dr. Holschuh.

MR. HOLSCHUH: Are we on the—

CHR. HIGA: We're on the main—we're on the motion of—we approved Draft 3. So we approved this already. This is the main—

MR. IKEDA: It's amended.

CHR. HIGA: As amended—yes.

MR. HOLSCHUH: We approved Draft 3? We amended Draft 3? Yeah. I just wanted to make a comment and thank Mr. Saunders and Mr. Fuke and our two Planning Co-Chairs. I think this is pretty cool, the way it came out. It really is nice and I think it's a great improvement over what could have been there.

Mr. Chairman, may I—I don't expect Mr. Tyler to come forward but he's sitting in the back. And I presume, from your discussions this morning—you can just shake your head—I know you agreed with the Clerk's pronunciation of that long word but—because I saw you nodding your head—but, seriously, Mr. Tyler, you're okay with this? You appreciate this? Two thumbs up in the back of the room. So I'm very comfortable with this. Thank you very much, Mr. Chairman.

CHR. HIGA: Mr. Jacobson.

MR. JACOBSON: I'm going to go back and briefly touch on what Donald spoke of earlier in terms of modifying this. But, I think, in terms of practicalities for animals and boom boxes and those types of items I would suggest, perhaps, both Sidney and Donald, when it comes to crafting some of this stuff, there may be some constitutional issues when it comes time to restrict the number of farm animals—and that's where covenants are very, very convenient. That what we can't do by County law, you can accomplish by covenants. I think in the covenants, that's where we may be able to make the most effective use of these things. I'm not opposed to amending it, if necessary, but I think the practicality and some of the constitutional issues—when it comes down to restricting boom boxes or number of pets—we may be forced to ask the developer to make those considerations in it. And I guess that's all I had to say. Thank you.

CHR. HIGA: Thank you, Mr. Jacobson. Mr. Pilago.

MR. PILAGO: For clarification, Mr. Chair, is the motion on Bill 367, Draft 2, as amended by Draft 3?

CHR. HIGA: With Draft 3. That's correct.

MR. PILAGO: Thank you, sir.

CHR. HIGA: Yeah. As further amended by Ms. Isbell. That's correct.

MS. ISBELL: And further again—found another one.

CHR. HIGA: All right, Ms. Isbell. You have another friendly amendment?

FRIENDLY
AMENDMENT:

MS. ISBELL: Yes. These are all very friendly. Thank you. On Page 8 of the yellow sheets on Line Number "2" it should just have the word "to" in there. After the "...\$1,161 to the County to support police facilities". That's on Page 8 of the yellow sheet Item Number "2". And it's just to—"to the County". This was brought to my attention by one of our staff. So we just like to make it perfect.

MR. JACOBSON: Second.

CHR. HIGA: Okay. We have a second by Mr. Jacobson. All those in favor signify by saying "aye".

The voice vote to further amend Bill 367, Draft 3, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Amended, as further amended. Any more discussion on the main motion, as amended with Draft 3, and other amendments? Hearing none, Madam Clerk.

MS. KIRIU: So you haven't—have you already voted on Draft 3?

CHR. HIGA: We already voted on Draft 3 so—

MS. ISBELL: Now we're back to the original.

CHR. HIGA: Now we're back—oh, do we have to—we have to do Draft 2.

POINT OF ORDER: MR. HOFFMANN: Excuse me. A point of order, Mr. Chairman. I don't think we voted on Draft 3, as amended. We voted on the amendments to Draft 3.

MS. ISBELL: Yeah. You're right.

MR. HOFFMANN: So we're back to Draft 3, first, and then—

CHR. HIGA: As amended.

MR. HOFFMANN: As amended.

CHR. HIGA: Okay. All those in favor, as stated by Mr. Hoffmann, as amended, signify by saying "aye".

The voice vote to amend Bill 367, Draft 2, with Draft 3, as further amended, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay.

MS. ISBELL: Now we go back.

MR. HOFFMANN: Now we're back.

CHR. HIGA: Now we're back. Thank you.

MS. KIRIU: Back to the main motion.

The roll call vote on Bill 367, Draft 4, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay.

MR. FUKU: Thank you very much.

CHR. HIGA: Was that the last one? Okay. Madam Clerk, whichever one you want to start with is fine.

MS. KIRIU: Oh. From the beginning? Okay. We're starting from "Order of Resolutions" in the middle of Page 2.

RETURN TO
ORDER OF
BUSINESS:

The Chair directed the Council to return to the regular order of business.

ORDER OF
RESOLUTIONS:

The Chair directed the Council to proceed to the next order of business, Order of Resolutions.

RESOLUTION
NO. 64-05
(FC-69)
(COMM. 180):

Authorizes the Payment of Funds of a Later Fiscal Year or of More Than One Fiscal Year for a Multi-Year Lease of Real Property. {Authorizes the Fire Department to enter into a two-year lease for office space in Na‘alehu to serve as a base of operations for an advanced life support ambulance unit.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the adoption of Resolution 64-05 and Finance Committee Report 69. Seconded by Mr. Jacobson.

CHR. HIGA: Any discussion? If not, Madam Clerk.

The roll call vote on Resolution 64-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Resolution is passed. Next one.

RESOLUTION
NO. 65-05
(FC-70)
(COMM. 181):

Authorizes the Office of the Mayor to Enter Into an Agreement with the Hawai'i Community Foundation, Pursuant to HRS 46-7, for the Community Oriented Policing Services (COPS) Grant for the Office of the Prosecuting Attorney. {Awarded second year funding to continue the Drug Task Force project, which is staffed by two deputy prosecuting attorneys, who would complement the Police Department's enforcement efforts by providing prosecution services with regard to warrant review, charging decisions, preliminary hearings, grand jury, trial and appeals.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the adoption of Resolution 65-05 and Finance Committee Report 70. Seconded by Mr. Hoffmann.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Resolution 65-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Resolution 65-05 is passed. One moment—I just want to acknowledge—Megan, can you hear us over there?

MS. MITCHELL: Yes, I can.

CHR. HIGA: Thank you for being so patient and taking care of the Kona office. Thank you.

MS. MITCHELL: Thank you, Chairman Higa.

CHR. HIGA: Okay. Madam Clerk.

RESOLUTION
NO. 66-05
(FC-72)
(COMM. 183):

Creates a Housing and Community Development Specialist V Position for the Office of Housing and Community Development (OHCD). {This position would serve as a Housing Planner and would draft plans, long-range goals, and objectives for OHCD as well as conduct surveys and studies to determine the demand for and the feasibility of developing new single family or multi-family housing projects; conduct needs assessments to develop plans, goals, and objectives; and assist with the negotiation and implementation of affordable housing conditions.} (Introduced by Ms. Isbell, by request.)

Ms. Isbell moved for the adoption of Resolution 66-05
Finance Committee Report 72. Seconded by
Mr. Hoffmann.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Resolution 66-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Resolution 66-05 is passed.

RESOLUTION
NO. 67-05
(FC-73)
(COMM. 184):

Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$22,500 out and from Clerk-Council Services – Contingency Relief account; credits to the following: Research and Development Hawai'i County Resource Center (Rural South Hilo Community) (\$5,000), Parks and Recreation Parks Maintenance-Building and Construction (Honomū Gym ADA accessible water fountain replacement) (\$2,500), Transfer to Capital Improvement Project Fund Parks and Recreation, Capital Improvement Project Repairs to Facilities (Honoka'a Park Improvements) (\$15,000), for a total of \$22,500. Funding would include the following tasks: preparation of a study for the Rural South Hilo area to provide a district vision in preparation for a regional community development plan for the Hāmākua coast area; the purchase and installation of an ADA accessible water fountain for the Honomū Gym; and the mitigation of a health hazard caused by a mite problem in the Honoka'a Park.} (Introduced by Mr. Holschuh).

Mr. Holschuh moved for the adoption of Resolution 67-05 and Finance Committee Report 73. Seconded by Mr. Jacobson.

CHR. HIGA: Any discussion?

MR. HOLSCHUH: May I make a quick comment. It seems a little strange, "the mitigation of a health hazard caused by a mite problem". What we're doing is cutting down this one kind of tree that is actually almost all down. And it's really a tragedy. This one—I think it's called Formosan Koa. It's all around the park for some entomological reason, if that's the word. This mite grows in some seedpods or the larvae that grows in seedpods, in this tree, only in this park, and only in dry weather. And the kids are bitten by this mite and they're scratching

and getting infected. It's been going on and off for a couple of years. And it got outrageous—where we had hundreds and hundreds of signatures to please get rid of the trees.

So the trees are going down and some of this money will help P&R with that and then help replant some other trees other than—can harbor this mite. So thank you for letting me explain. I know it reads a little weird here when you read this—what are we going to do—the mitigation of mites? That's what it's about. Thank you.

CHR. HIGA: Thank you, Dr. Holschuh. Any further discussion? If not, Madam Clerk.

The roll call vote on Resolution 67-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Resolution 67-05 is passed.

RESOLUTION
NO. 70-05
(FC-75)
(COMM. 193):

Authorizes the Office of the Mayor to Enter Into an Agreement with the United States of America, Pursuant to HRS 46-7, for the Justice Assistance Grant. {Funds would support law enforcement, prosecution, prevention and education, corrections, drug treatment and planning, evaluation and technology improvement programs, which would be administered by the Office of the Prosecuting Attorney.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the adoption of Resolution 70-05
Finance Committee Report 75. Seconded by
Mr. Hoffmann.

CHR. HIGA: Any discussion? Mr. Jacobson.

MR. JACOBSON: Well, just as a point of information regarding what I was talking about taking the—some of the fund—the grants out of the budget yesterday. This is an example of one of the many grants that we vote on—on a daily basis. It's most proper that we do vote on them, so I'm happy to be voting in favor of this and I'm happy this is one of those grants that we're able to vote on—as we should be able to vote on all grants that come into the County. Thank you.

CHR. HIGA: Thank you, Mr. Jacobson. Any further discussion? Hearing none, Madam Clerk.

The roll call vote on Resolution 70-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Resolution 70-05 is passed.

RESOLUTION
NO. 78-05
(CHA)
(COMM. 214):

Authorizes the Mayor of the County of Hawai'i to Execute and Submit the 2005 Action Plan and All Other Related Documents to the United States Department of Housing and Urban Development for the 2005 Community Development Block Grant and to the State's Housing and Community Development Corporation of Hawai'i for the HOME Investment Partnerships and American Dream Downpayment Initiative Programs. (Introduced by Mr. Hoffmann.)

Mr. Hoffmann moved for the adoption of Resolution 78-05.
Seconded by Mr. Jacobson.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Resolution 78-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Resolution 78-05 is passed.

RESOLUTION
NO. 80-05
(WAIVED-FC)
(COMM. 218):

Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
{Transfers/appropriates \$22,000 out and from Clerk – Council Services Other Current Expense, Miscellaneous Contract Services; credits to Clerk-Council Services Other Current Expense, Rent of Land-Building (\$16,000) and Reprographic, Rental/Lease of Equipment (\$6,000), for a total of

\$22,000. Funds would provide for the remaining rent for the Kona Office as well as for anticipated copying charges for Fiscal Year 2005.} (Introduced by Mr. Higa.)

Ms. Isbell moved for the adoption of Resolution 80-05.
Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Resolution 80-05, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda,
Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Resolution 80-05 is passed.

BILLS FOR
ORDINANCES:

The Chair directed the Council to proceed to the next order of business, Bills for Ordinances.

ORDINANCE
BILL NO. 64
(PC-17)
(COMM. 176):

Amends Chapter 25 (Zoning Code) of the Hawai'i County Code Relating to Uses Within the General Industrial (MG) District. {Adds "commercial excavation" as a permitted use within the General Industrial (MG) District.} (Introduced by Mr. Pilago and Mr. Hoffmann.)

Mr. Hoffmann moved for the passage of Bill 64 on first reading and to adopt Planning Committee Report 17.
Seconded by Mr. Jacobson.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 64, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda,
Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. Bill 64 passed first reading.

ORDINANCE
BILL NO. 65
(FC-67)
(COMM. 177):

Amends Chapter 2, Article 27, Section 2-153 of the Hawai'i County Code, Relating to Revisions of the County Code. (Introduced by Mr. Jacobson.)

Mr. Jacobson moved for the passage of Bill 65 on first reading and to adopt Finance Committee Report 67.
Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Dr. Holschuh.

MR. HOLSCHUH: Thank you, Mr. Chairman. Mr. Tyler, could I ask you to come up to the table for a second?

(At this time, Mr. J. Curtis Tyler, III, former Council Member, came forward to address the Council Members.)

MR. HOLSCHUH: Do you have a copy of this—Bill 65? If you'll flip over to the second page—I'm asking Mr. Tyler to come up because this is the "diacritical marks king" of my tenure on the Council. I say that respectfully, Curtis. You made more comments and—I had asked this question and—

MR. TYLER: Page 2?

MR. HOLSCHUH: Yeah. This is the change to the Code. If you look under Item "(8)", where it says "Correct the spelling...", does that include, in your mind, the diacritical marks? Does the word "spelling"—

MR. TYLER: Mr. Chairman, may I respond to Dr. Holschuh?

CHR. HIGA: Sure, please. Thank you.

MR. TYLER: Thank you, Dr. Holschuh, for an opportunity. Yes. I wrote next to that "in accordance with the Code". In other words, the Code—I'm sorry I don't remember the section—we passed it back in 1997—I think Ms. Kiriū remembers. Essentially, I read that to mean that the appropriate diacriticals will be used. But it needs—probably, it either needs to say that or say "in accordance with the Code" and, perhaps, you would have the Code section. I'm sorry I don't know what it is right off hand.

MS. KIRIŪ: Yes, it's in Chapter 2. Actually, when I was meeting with Mr. Kimura from the University of Hawai'i at Hilo and Mr. Wilson—they both said that what I'm talking about is spelling. And so, that's why I put that down.

MR. HOLSCHUH: So you think—I asked this last time, but since he's here I wouldn't have made a big deal about this except we have this man here who talked about this all the time—and I say that respectfully. So you're comfortable, then, Connie, that spelling does it? We don't have to change this word?

MS. KIRIU: Yes. Well—and if we find anything that's a little more major than just diacriticals or—

MR. HOLSCHUH: Okay.

MS. KIRIU: If it starts to change the meaning then, certainly, we would come back to the Council—

MR. HOLSCHUH: Okay.

MS. KIRIU: With an amendment.

MR. HOLSCHUH: You okay with that, Mr. Tyler? Does that seem reasonable?

MR. TYLER: Yes, I am. I think that entirely encompasses everything.

MR. HOLSCHUH: Okay.

MR. TYLER: Because it might not just mean the diacriticals. It could be a situation where the spelling is incorrect.

MR. HOLSCHUH: Okay. Thank you.

MR. TYLER: The emphasis was on the wrong syllable. Thank you.

MR. HOLSCHUH: Thank you for your expertise.

MR. TYLER: Thank you for asking.

MR. HOLSCHUH: Thank you, Madam Clerk. Mr. Chairman, thank you.

CHR. HIGA: Thank you. Mr. Jacobson.

MR. JACOBSON: Just to remind you what I said last time—if you take a spelling test when you were in Grade school, if you missed your diacritical marks, you got it marked wrong—so it's spelling. Thank you.

CHR. HIGA: Thank you, Mr. Jacobson. Any more discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 65, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 65 is passed first reading.

ORDINANCE
BILL NO. 68
(FC-71)
(COMM. 181):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Appropriates revenues in Federal Grants – Community Oriented Policing Services – Prosecutors (\$200,000); appropriates same to Community Oriented Policing Services – Prosecutors.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the passage of Bill 68 on first reading and to adopt Finance Committee Report 71. Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 68, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 68 passes first reading.

ORDINANCE
BILL NO. 73
(FC-76)
(COMM. 193):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Appropriates revenues in Federal Grants – Justice Assistance Grant (\$115,645); appropriates same to Justice Assistance Grant.} (Introduced by Ms. Isbell.)

Ms. Isbell moved for the passage of Bill 73 on first reading and to adopt Finance Committee Report 76. Seconded by Mr. Jacobson.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 73, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Bill 73 passes first reading.

ORDINANCE
BILL NO. 74
(FC-78)
(COMM. 194):

Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds POLICE: Microwave Relocation and System Renovation (\$1,183,805); funds to be provided from General Fund and/or Other Sources (\$1,183,805).} (Introduced by Ms. Isbell, by request.)

CHR. HIGA: Ms. Isbell.

MS. ISBELL: Mr. Chair, I move to postpone Bill 74 until we get all of the information I requested. And the more I think about it, the more I think it's important that we have that—so that we can understand all of the implications of the financing of the microwave towers.

MR. JACOBSON: Second.

CHR. HIGA: Any discussion? Hearing none—I think we'll just go by voice vote on this. All those in favor of postponing Bill 74 signify by saying "aye".

The voice vote to postpone Bill 74, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Okay. The Bill is postponed.

ORDINANCE
BILL NO. 81
(CHA)
(COMM. 212):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Federal – 2005 HOME (\$1,006,554); appropriates to the following: Hualalai Elderly Housing Phase III (\$900,000), American Dream Downpayment Initiative (\$21,554), and Office of Housing and Community Development Administration (\$85,000), for a total of \$1,006,554).} (Introduced by Mr. Hoffmann.)

Mr. Hoffmann moved for the passage of Bill 81 on first reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 81, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 81 passes first reading.

ORDINANCE
BILL NO. 82
(CHA)
(COMM. 213):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Federal – Block Grant (\$2,672,100); appropriates to the following: Removal of Architectural Barriers – Americans with Disabilities Act Compliance – Various County Facilities (\$1,523,069), Boys and Girls Club – Phase 1 Renovations (\$541,337), The Arc of Hilo – Expansion Plans and Design (\$186,884), A Friendly Place – West Hawai'i One-Stop Homeless Resource Center (\$90,000), Construction Management (\$180,810), and Administration, Planning and Fair Housing (150,000), for a total of \$2,672,100).} (Introduced by Mr. Hoffmann.)

Mr. Hoffmann moved for the passage of Bill 82 on first reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 82, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 82 passes first reading.

ORDER OF THE DAY:

The Chair directed the Council to proceed to the next order of business, Order of the Day.

ORDINANCE
BILL NO. 47
(COMM. 143):

Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds PARKS AND RECREATION: Waikoloa – Ho'oko Street Park (\$200,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$200,000). Additional funds to enable power to be supplied to the park to provide both functional and security lighting for the new pavilion, restrooms and parking lot that were in the original contracted scope of work.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 47 on second and final reading. Seconded by Mr. Hoffmann.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 47, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 47 passes second and final reading.

ORDINANCE
BILL NO. 48
(COMM. 144):

Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds ENVIRONMENTAL MANAGEMENT: Queen Lili'uokalani Large Capacity Cesspool Replacement (\$500,000); funds

to be provided from General Obligation Bonds, Capital Projects Fund Fund Balance and/or Other Sources (\$500,000). Increases the existing project's appropriation for the design in order to connect the Queen Lili'uokalani subdivision, which is currently serviced by large capacity cesspools, to the County sewer system via Kealaka'a Street and Kealakehe Parkway.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 48 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Any discussion? Dr. Holschuh.

MR. HOLSCHUH: Yeah. I'm, kind of, confused. Is this the one Mr. Tyler brought up this morning? Is it not? Mr. Ho, are you here to speak about this?

MR. HO: I could.

MR. IKEDA: Yes, please.

MR. HOLSCHUH: Would you mind coming forward?

(At this time, Mr. Nelson Ho, Deputy Director, Environmental Management Department, came forward to address the Council Members.)

MR. HOLSCHUH: I just heard what Mr.—oh, thank you. Mr. Ho, thank you for being here. Good afternoon. I just heard what Mr. Tyler said this morning and, if I understand correctly, this is a long route to carry from Queen Lili'uokalani, from the housing project, to the sewer system. And, apparently, if I heard him correctly, there was discussion that it would be septic systems built on this property in lieu of doing that. So, which is it?

MR. HO: Well, I wasn't here—I was in a meeting and didn't hear the direct—the testimony, but I can fill you in on the project. And originally—yes, the Queen Lili'uokalani Village cesspools were to go to septic. But since that initial look was made, there've been a lot of projects, a lot of subdivisions coming on line.

We've identified State housing that wanted to hook up to any kind of sewer system that we would propose. So we got our consultants, Belt Collins, to take another look at it. And I think the preliminary analysis was that, yes, we could go forward—that there are possible alignments. Now, we don't have to go all the way down to Queen Ka'ahumanu Highway. Is that—we would just go to the top of Villages of La'i'opua—that's where there's existing sewers so we would just hook into that.

MR. HOLSCHUH: And that expense would be—is that—what I'm looking at here, ultimately—eight million eight hundred.

MR. HO: That's correct. Eight million dollars is our very rough estimate without the engineering studies. So we do want to get a firmer number, but that's our placeholder number for right now.

MR. HOLSCHUH: How much would it cost—have—cost to do the septic system? Do you have any idea?

MR. HO: I don't know. I'd have to go back and look for that.

MR. HOLSCHUH: It's an unfair question, I presume.

MR. HO: Yeah.

MR. HOLSCHUH: Okay. Well, Ms. Isbell, who's district is it? Yours? No?

MS. ISBELL: No. It's—

MR. HOLSCHUH: This is yours?

MS. ISBELL: Angel's.

MR. HOLSCHUH: May I address Mr. Pilago? Mr. Pilago, do you have any thoughts on what Mr. Tyler said and what Mr. Ho said just now? Or shall we go ahead—and I'm not trying to interfere with anything. I just was confused.

MR. PILAGO: Thank you very much for the concern. I favor passage of this immediately because there's been a lot of work—this is one of those where Department—both Deputy and Director—met with community. And some of this morning's testimony was in respect to that. So there's a lot of encouragement to move this forward. I know this is a minimal amount and it's likely to be added on later, but I would urge passage of it at this time.

MR. HOLSCHUH: When you say—if I may respond to that.

CHR. HIGA: You still have the floor, Dr. Holschuh.

MR. HOLSCHUH: "Minimal amount", meaning the 500,000—

MR. PILAGO: Correct.

MR. HOLSCHUH: Certainly, but the—I am reading the right capital financial impacts—that's 8,800,000. Is that the total amount to hook this up to La'i'opua?

MR. PILAGO: I don't know what total amount would be, sir, but I do encourage its passage because, if we do not, then we could incur much more in the future.

MR. HOLSCHUH: Okay. Thank you. Thank you, Mr. Pilago. Thank you, Mr. Chairman.

CHR. HIGA: Mr. Jacobson.

MR. JACOBSON: From my understanding of this project—I fully support it. I looked at it—being Chair of the Environmental Management Committee—and I looked at it. When this change came through, my first thought was that of Curtis Tyler—is that, "Oh, well, this is supposed to be something other than a sewer line". But, frankly, looking at all the potential risks, hazards, and the ultimate good of hooking everything up to the sewer system, I realize that this was a very good project and I fully support this. Thank you.

CHR. HIGA: Mr. Arakaki.

MR. ARAKAKI: Thank you, Mr. Chairman. I do support this. So I think we should sewer as much as we can, if we can within cost (inaudible). We going be hooking up a lot more people along the way?

MR. HO: Yeah. There are significant housing, schools—

MR. ARAKAKI: That's terrific.

MR. HO: That would be—

MR. ARAKAKI: That's terrific.

MR. HO: Sewered.

MR. ARAKAKI: Yeah. We should be doing this. If you have a choice between septics and sewers, sewers is always the better way to go. So I do appreciate your guys effort. Thank you.

CHR. HIGA: Mr. Pilago.

MR. PILAGO: Thank you, Mr. Chair. Thank you, Deputy Ho. A question regarding status of communication with EPA that's in respect to compliance.

MR. HO: Yes. We've given them our preliminary estimates and, frankly, they're so busy dealing with the rest of the State—Hawai'i County has been very responsive in trying to be in compliance with the help of Dennis Tulang and his efforts. So we're in good graces with EPA. I think they're going after a lot of other folks before they knock on our door again.

MR. PILAGO: Then you expect a letter that would indicate support for your efforts?

MR. HO: Yes.

MR. PILAGO: Thank you. Thank you, Mr. Chair.

CHR. HIGA: Thank you, Mr. Pilago. No further discussion. Madam Clerk.

The roll call vote on Bill 48, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 48 passes Second and Final Reading.

ORDINANCE
BILL NO. 49
(COMM. 145):

Amends Ordinance No. 04-75, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2004 to June 30, 2005. {Adds ENVIRONMENTAL MANAGEMENT: Honokohau Harbor Effluent Reuse – County (\$400,000) and Honokohau Harbor Effluent Reuse – State Revolving Funds (\$2,600,000); funds to be provided from General Obligation Bonds (\$400,000) and State Revolving Funds (\$2,600,000). Funds to be used to install an effluent reuse line from the Honokohau Harbor to Henry Street in conjunction with the State Department of Transportation's Queen Ka'ahumanu Widening Project.} (Introduced by Ms. Isbell, by request; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 49 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Thank you. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 49, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 49 passes Second and Final Reading.

ORDINANCE
BILL NO. 50
(COMM. 148):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Transfer from General Fund (\$12,500); appropriates same to North and South Kohala Road Other Current Expense (Ho'oko Road Sidewalk Improvement). On February 28, 2005, the Finance Committee amended Bill 40 to appropriate these funds for this project.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 50 on second and final reading. Seconded by Mr. Hoffmann.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 50, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 50 passes Second and Final Reading.

ORDINANCE
BILL NO. 51
(COMM. 149):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Transfer from General Fund (\$50,000); appropriates same to Recycling Program (Waikoloa Village Curbside Recycling Program Study). On February 28, 2005, the Finance Committee amended Bill 40 to appropriate these funds for this project.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 51 on second and final reading. Seconded by Mr. Hoffmann.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 51, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 51 passes Second and Final Reading.

ORDINANCE
BILL NO. 52
(COMM. 155):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Appropriates revenues in Fund Balance Reserved for Liquor Control (\$23,450); appropriates to Liquor Control – Other Current Expense (\$2,000), Liquor Control – Equipment (\$16,450), and Public Programs (\$5,000), for a total of \$23,450. Funds would be used to purchase a sound level meter and an I.D. digital camera system; to contract with a vendor to install a fiber optic connection to the County's Local Area Network; and to conduct programs to promote compliance to liquor laws.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 52 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 52, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 52 passes Second and Final Reading.

ORDINANCE
BILL NO. 54
(COMM. 157):

Amends Chapter 24, of the Hawai'i County Code 1983 (1995 Edition), Relating to Vehicles and Traffic. {Adds permanent "No Parking" signs to the four temporary loading zones along Ali'i Drive and starts a new 90-day period, which will end on June 15, 2005.} (Introduced by Mr. Ikeda; passed First Reading on April 6, 2005.)

Mr. Ikeda moved for the passage of Bill 54 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 54, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 54 passes Second and Final Reading.

ORDINANCE
BILL NO. 55
(COMM. 158):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Appropriates revenues in Federal Grants – Assistance to Firefighters (\$301,000); appropriates same to Assistance to Firefighters.} (Introduced by Ms. Isbell; passed First Reading on April 6, 2005.)

Ms. Isbell moved for the passage of Bill 55 on second and final reading. Seconded by Mr. Hoffmann.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 55, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 55 passes Second and Final Reading.

ORDINANCE
BILL NO. 58
(COMM. 168):

Amends Ordinance No. 04-74, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2005. {Increases revenues in Federal Grant – Special Purpose Grant Kona Homeless Shelter (\$670,613) and Federal Grant – Special Purpose Grant Reed's Bay Restoration (\$248,525), for a total of \$919,138; appropriates to Kona Homeless Shelter (\$670,613) and Reed's Bay Restoration (\$248,525), for a total of \$919,138.} (Introduced by Mr. Hoffmann; passed First Reading on April 6, 2005.)

Mr. Hoffmann moved for the passage of Bill 58 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Okay. Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 58, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 58 passes Second and Final Reading.

ORDINANCE
BILL NO. 72
(COMM. 191):

Amends Chapter 3, Article 2 of the Hawai'i County Code, Relating to Advertising and Signs. {Corrects inadvertent drafting errors found in Ordinance 04-142, which repealed the old Article 1 and added a new Article 1. While the County Council also intended to enact a new Article 2, relating to Kailua Village Signs, the ordinance failed to include a provision repealing the then-existing Article 2. Therefore, to avoid any ambiguity, this measure repeals Sections 3-51 through 3-78 of the older Article 2 as well as Sections 3-49 through 3-62 of the recently adopted Article 2. It then re-enacts the provisions of the new Article 2 that the 2004 Council intended to enact (Sections 3-49 through 3-62). This measure does not affect Article 1, which was correctly drafted and adopted.} (Introduced by Mr. Ikeda; passed First Reading on April 6, 2005.)

Mr. Ikeda moved for the passage of Bill 72 on second and final reading. Seconded by Mr. Pilago.

CHR. HIGA: Any discussion? Hearing none, Madam Clerk.

The roll call vote on Bill 72, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik – 1.

CHR. HIGA: Thank you. Bill 72 passes Second and Final Reading.

REPORTS: The Chair directed the Council to proceed to the next order of business, Reports.

(The were none.)

CHR. HIGA: Okay, where are we now, Madam Clerk?

MS. KIRIU: There are no "Reports". And I guess we have one referral for "Executive Session", yet.

CHR. HIGA: Okay. Lincoln's outside?

REFERRALS FOR EXECUTIVE SESSION: The Chair directed the Council to proceed to the next order of business, Referrals for Executive Session.

COMM. 197: Request for Executive Session Briefing on Hokuli'a Litigation. From Council Member Fred C. Holschuh, dated February 28, 2005 (Postponed: April 6, 2005).

Mr. Jacobson moved to go into Executive Session in order to hold attorney-client privilege discussion regarding Communication Number 197, as authorized by Section 92-5(a)(4) of the Hawai'i Revised Statutes. Seconded by Mr. Hoffmann.

CHR. HIGA: All those in favor signify by saying "aye".

The voice vote to go into Executive Session, was as follows:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa– 8.

NOES: None.

ABSENT & EXCUSED: Council Member Safarik.

CHR. HIGA: Okay. We're in "Executive Session".

MS. ISBELL: You might want to recess.

CHR. HIGA: We will recess for a few minutes—five minutes.

RECESS: At 2:58 p.m., the Chair called for a recess to allow the Clerk to clear the room.

RECONVENE: The meeting reconvened at 4:07 p.m., with all Members present, with the exception of Council Members Arakaki, Hoffmann, and Safarik.

COMM. 197: Request for Executive Session Briefing on Hokuli'a Litigation. From Council Member Fred C. Holschuh, dated February 28, 2005 (Postponed: April 6, 2005).

MR. JACOBSON: Mr. Chairman, I move to close file on Communication 197 and Communication 210. Can I move on both those at the same time?

CHR. HIGA: We already closed the other one. Just on Hokulia.

MR. JACOBSON: Okay.

Mr. Jacobson moved to close file on Communication 197.
Seconded by Mr. Ikeda.

CHR. HIGA: Okay. All those in favor signify by saying "aye".

The voice vote, was as follows:

AYES: Council Members Holschuh, Ikeda, Isbell, Jacobson,
Pilago, and Chair Higa – 6.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki,
Hoffmann, and Safarik – 3.

CHR. HIGA: Thank you, Mr. Jacobson. Jay, did you have anything that you
wanted to say before us?

(At this time, Mr. Jay Kimura, Prosecuting Attorney,
Office of the Prosecuting Attorney, replied from the
audience seating area.)

MR. KIMURA: (Inaudible.)

CHR. HIGA: We passed them all.

MR. IKEDA: We passed them all.

MR. KIMURA: You passed them all already?

MR. JACOBSON: Too late. We did your work.

CHR. HIGA: Thank you, Jay.

OTHER
BUSINESS:

The Chair directed the Council to proceed to the next order of business, Other
Business.

(There was none.)

ANNOUNCE-
MENTS:

The Chair directed the Council to proceed to the next order of business, Announcements.

COMMITTEES	<u>TUESDAY, MAY 3, 2005</u>	COUNCIL ROOM
	TBA	
COUNCIL	<u>WEDNESDAY, MAY 4, 2005</u>	COUNCIL ROOM
	9:00 a.m.	
HUMAN SERVICES AND ECONOMIC DEVELOPMENT COMMITTEE SPECIAL MEETING RE NONPROFITS	<u>THURSDAY, MAY 5, 2005</u>	COUNCIL ROOM
	9:00 a.m.	
COMMITTEES	<u>TUESDAY, MAY 17, 2005</u>	COUNCIL ROOM
	TBA	
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES (EAST HI)	5:00 p.m.	COUNCIL ROOM
COUNCIL	<u>WEDNESDAY, MAY 18, 2005</u>	COUNCIL ROOM
	9:00 a.m.	
COUNCIL PUBLIC HEARING RE REAL PROPERTY TAX RATES (WEST HI)	<u>THURSDAY, MAY 19, 2005</u>	SHERATON KEAUHOU BAY RESORT & SPA
	6:00 p.m.	

STATEMENTS
FROM THE
PUBLIC ON
ITEMS
NOT ON THE
AGENDA:

The Chair directed the Council to proceed to the next order of business, Statements from the Public on Items not on the Agenda.

(There were none.)

CHR. HIGA: At this time, we've come to the end of our agenda. Do we have any "Statements from the Public"?

ADJOURNMENT: There being no other business, at 4:08 p.m., Mr. Jacobson moved to adjourn the meeting. Seconded by Mr. Holschuh and carried by the following voice vote:

AYES: Council Members Holschuh, Ikeda, Isbell, Jacobson, Pilago, and Chair Higa – 6.

NOES: None.

ABSENT & EXCUSED: Council Members Arakaki, Hoffmann, and Safarik – 3.

A handwritten signature in black ink, appearing to read "Constantine R. Kiri".

COUNTY CLERK

CK/dl

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4 26 05 SPEAKER NO. 1

BILL/RESO./COMM./REPORT NO. Comm. 1.12

SUBJECT MATTER Confirmation of Wm. Smith

NAME Michael Udovic
(Please print clearly)

ADDRESS 173 Kame Rd. PHONE 964-1954
Papaikou HI

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4-20-05 SPEAKER NO. 3

BILL/RESO./COMM./REPORT NO. Comm 1.12

SUBJECT MATTER Appointment of William Smith

NAME Micha Rotu
(Please print clearly)

ADDRESS 3rd Rainbow Dr PHONE 961-0466

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4-22-12 SPEAKER NO. 4

BILL/RESO./COMM./REPORT NO. C-1.12

SUBJECT MATTER Bill Smith's resignation Sapper

NAME Betsy Mitchell
(Please print clearly)

ADDRESS Kenia Johnson PHONE 9677827

REPRESENTING _____
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 9/20/05 SPEAKER NO. 5

BILL/RESO./COMM./REPORT NO. C-1.12

SUBJECT MATTER CARE OF BILL SMITH

NAME RICK PASTERNAK
(Please print clearly)

ADDRESS 11 POKO PL. PHONE 961-6530
HILO

REPRESENTING SELF
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA☐ NOT ON AGENDA☒ OPPOSE☐ SUPPORTDATE 20 APRIL 05SPEAKER NO. 6BILL/RESO./~~COMM.~~/REPORT NO. 1.12SUBJECT MATTER William Smith APPOINTMENTNAME COCO PIERSON
(Please print clearly)ADDRESS PO Box 804 PHONE _____KEAUA HI 96749REPRESENTING SELF
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA☐ NOT ON AGENDA☐ OPPOSE☒ SUPPORTDATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. _____

SUBJECT MATTER Confirmation of Bill SmithNAME KAROL R. CYKOSI
(Please print clearly)ADDRESS 1228 Honua St. PHONE 959-4824Hilo, HI 96720REPRESENTING _____
(Please Indicate Whether Self or Organization) comm. 1-18

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☒ SUPPORT

DATE 4/30

BILL/RESO./COMM./REPORT NO.

Comm 206/207

SPEAKER NO. _____

SUBJECT MATTER

NAME

Charles Tyler
(Please print clearly)

ADDRESS _____

PHONE

325-6600

REPRESENTING Gaf

(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☐ SUPPORT

DATE _____

BILL/RESO./COMM./REPORT NO.

Bill 82

SPEAKER NO. 2

SUBJECT MATTER _____

NAME

Steven
(Please print clearly)

ADDRESS _____

PHONE _____

REPRESENTING _____

(Please Indicate Whether Self or Organization)

VC #11

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA

☐ NOT ON AGENDA

☐ OPPOSE

☒ SUPPORT

DATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. 198 + Bill 53, Draft 2

SUBJECT MATTER Queen Kiliuokalani Sewers / A

NAME Elizabeth W. Meyerson
(Please print clearly)

ADDRESS 74-3196 Kuna Place PHONE 326-5661
Kailua-Kona, HI 96742

REPRESENTING Queen Kiliuokalani Village Community Association
(Please Indicate Whether Self or Organization) (Secretary)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA

☐ NOT ON AGENDA

☐ OPPOSE

☒ SUPPORT

DATE 4/20/05

SPEAKER NO. 2

BILL/RESO./COMM./REPORT NO. 53, Draft 2

SUBJECT MATTER Honu Aps Preservation

NAME DANNY MILLER
(Please print clearly)

ADDRESS P.O. Box 286 PHONE 928-8111
11-A, HI

REPRESENTING Myself
(Please Indicate Whether Self or Organization) Comm 156.23

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
 County of Hawaii
 Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4/20/05 SPEAKER NO. 8

BILL/RESO./COMM./REPORT NO. 53.1001

SUBJECT MATTER HONUAPO

NAME Julia Neal
 (Please print clearly)

ADDRESS P.O. Box 941 PHONE 928-5712
Palmyra, HI 96771

REPRESENTING Self
 (Please indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
 County of Hawaii
 Hilo, Hawaii

☐ OPPOSE
☐ SUPPORT

DATE April 20, 2005 SPEAKER NO. 9

BILL/RESO./COMM./REPORT NO. Res. 65-05

SUBJECT MATTER HEF support of Offical Prosecuting Attorney

NAME Susan C. Neill
 (Please print clearly)

ADDRESS 2550 Hana Hwy Rd PHONE 933-9313
Hilo, HI

REPRESENTING _____
 (Please indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA☐ NOT ON AGENDA☐ OPPOSE☒ SUPPORTDATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. 53, Draft 2SUBJECT MATTER HONUAPUNAME GLY ENRIQUETES
(Please print clearly)ADDRESS P.O. Box 355PHONE 928-0036FAAANA #1 96777REPRESENTING SELF

(Please Indicate Whether Self or Organization)

needs to leave at 11 am

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA☐ NOT ON AGENDA☐ OPPOSE☒ SUPPORTDATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 53, Draft 2SUBJECT MATTER HONUAPUNAME FRANK CASTAGNETT
(Please print clearly)ADDRESS P.O. Box 1221

PHONE _____

Hilo HIREPRESENTING Self

(Please Indicate Whether Self or Organization)

Comp 1-26-26

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE☒ SUPPORTDATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. BILL 53, Draft 2SUBJECT MATTER HONNED #509000NAME John R Replege

(Please print clearly)

ADDRESS PO Box 1152PHONE 929-2454WAALEHA, HI 96772REPRESENTING HONNED

(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE☒ SUPPORTDATE 4/20/05

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 53, Draft 2SUBJECT MATTER HonoredNAME John R Replege

(Please print clearly)

ADDRESS 112 Hilo, Hawaii, 96770PHONE 808 933 1111HIREPRESENTING John R Replege

(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☒ SUPPORT

DATE 4/20/15

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. 58 1012

SUBJECT MATTER _____

NAME Paula...
(Please print clearly)

ADDRESS 7... PHONE _____

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☐ SUPPORT

DATE _____

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Reg 71-05/B.11 74

SUBJECT MATTER _____

NAME Curtis Tyler
(Please print clearly)

ADDRESS _____ PHONE 325-6600

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE _____ SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Res B1-05

SUBJECT MATTER _____

NAME Curtis Tyler
(Please print clearly)

ADDRESS _____ PHONE 325-6600

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE _____ SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 65

SUBJECT MATTER _____

NAME Curtis Tyler
(Please print clearly)

ADDRESS _____ PHONE 325-6600

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☒ SUPPORT

DATE 4/20

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 367

SUBJECT MATTER

NAME

Curtis Tyler
(Please print clearly)

ADDRESS _____

PHONE 325-6600

REPRESENTING Self

(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA

☐ NOT ON AGENDA

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☐ OPPOSE

☐ SUPPORT

DATE 4/20

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Com 197

SUBJECT MATTER

NAME

Curtis Tyler
(Please print clearly)

ADDRESS _____

PHONE 325-6600

REPRESENTING Self

(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE _____ SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 72

SUBJECT MATTER Curtis Tyler

NAME _____
(Please print clearly)

ADDRESS _____ PHONE 325-1601

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☐ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
County of Hawaii
Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4/20 SPEAKER NO. Bill 40 / Bill 54 / Bill 53

BILL/RESO./COMM./REPORT NO. Bill 40 / Bill 54 / Bill 53

SUBJECT MATTER Curtis Tyler

NAME _____
(Please print clearly)

ADDRESS _____ PHONE 325-6600

REPRESENTING Self
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA

☐ NOT ON AGENDA

☐ OPPOSE

☒ SUPPORT

DATE 4/2/15

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill # 53

SUBJECT MATTER Honolulu Council

NAME Wendy Vance
(Please print clearly)

ADDRESS PO Box 785 PHONE 945

REPRESENTING Kau
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

COUNTY COUNCIL

County of Hawaii

Hilo, Hawaii

☒ ON AGENDA

☐ NOT ON AGENDA

☐ OPPOSE

☒ SUPPORT

DATE 4/2/15

SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. 53

SUBJECT MATTER _____

NAME Wendy Vance
(Please print clearly)

ADDRESS _____ PHONE _____

REPRESENTING _____
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
 County of Hawaii
 Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4/21/05 SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. Bill 53, Draft 2

SUBJECT MATTER Honoapiʻiki

NAME RONALD G. SELF
(Please print clearly)

ADDRESS P.O. Box 478 PHONE 937-1591

REPRESENTING Kaui Preservation
(Please Indicate Whether Self or Organization)

PUBLIC STATEMENT REGISTRATION FORM

☒ ON AGENDA
☐ NOT ON AGENDA

COUNTY COUNCIL
 County of Hawaii
 Hilo, Hawaii

☐ OPPOSE
☒ SUPPORT

DATE 4-20-05 SPEAKER NO. _____

BILL/RESO./COMM./REPORT NO. #55, Draft 2

SUBJECT MATTER Honoapiʻiki

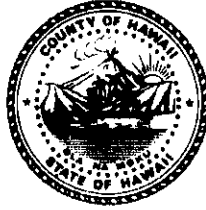
NAME Rob Skahane
(Please print clearly)

ADDRESS P.O. Box 570 PHONE 227-1116

Naa/Ch. H. 76777

REPRESENTING Kaui Preservation
(Please Indicate Whether Self or Organization)

GARY S. SAFARIK
Councilmember
District 5 Puna Makai



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

Phone: (808) 961-8267
Facsimile: (808) 961-8912
Email: gsafarik@co.hawaii.hi.us

April 20, 2005

MEMORANDUM

TO: Stacy K. Higa, Chair
Hawai'i County Council

FROM:  Gary S. Safarik, Councilmember
Hawai'i County Council

RE: Council Meeting Scheduled For April 20, 2005

Please excuse me from today's Council Meeting scheduled for 9:00a.m. I am unable to attend due to a family emergency. I apologize for any inconvenience this may cause.

Thank you for your understanding in this matter.

GSS/lg
cc: Council Services