

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

July 31, 2001

1:30 p.m.

Council Chamber, 8th Floor

200 South High Street, Wailuku, Maui, Hawai'i

website: <http://www.co.maui.hi.us/committees/COW/index.html>

e-mail: cow.committee@co.maui.hi.us

COMMITTEE MEMBERS

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G. Riki Hokama, Vice-Chair

Alan M. Arakawa

Robert Carroll

Jo Anne Johnson

Patrick S. Kawano

Michael J. Molina

Wayne K. Nishiki

Charmaine Tavares

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, and for tentative scheduling of agenda items, please contact the Committee Staff (Richelle Kawasaki or Pauline Martins) at: Office of Council Services, 200 South High Street, Wailuku, HI 96793, 808-270-7838, 1-800-272-0026 (toll-free from Moloka'i), 1-800-272-0098 (toll-free from Lana'i), 808-270-7686 (fax).

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted prior to the discussion of each agenda item. Oral testimony shall be limited to three minutes. An additional minute to conclude oral testimony may be granted subject to discretion of the Committee Chair. If oral testimony is incomplete, an additional three minutes will be given after all others have been heard. If written testimony is submitted at the meeting, 15 copies are requested. If written testimony is e-mailed or faxed, please submit at least 24 hours before the meeting so that copies can be provided to Council members in a timely manner.

INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Office of Council Services at least three days in advance.

DOCUMENTS ON FILE WITH THE COMMITTEE, which may include correspondence relating to the agenda items below, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec. 2.64.010). Please contact the Office of Council Services to make arrangements for inspection or photocopying of documents.

TO LEARN MORE ABOUT COUNCIL-RELATED ISSUES, tune in to Akaku: Maui Community Television (see attached Akaku Taping and Playback Schedule).

COW-2(1)

NOMINATIONS TO BOARDS AND COMMISSIONS [VARIOUS]

DESCRIPTION:

By letter dated June 26, 2001, the Mayor requested consideration of the following nominations to the following boards, committees, and commissions (for terms expiring on March 31, 2006, unless otherwise indicated):

MORE →

ANIMAL CONTROL BOARD

John Wayne Enriques, expiring on March 31, 2003
Stephen Sussman, expiring on March 31, 2004
Judith Neustadter Fuqua, expiring on March 31, 2004
Herman Andaya, expiring on March 31, 2004
William Cleghorn, expiring on March 31, 2003

CIVIL SERVICE COMMISSION

William Kennison (replacing Simeon Solomon), for a term expiring on March 31, 2005

COMMISSION ON PERSONS WITH DISABILITIES

Charlotte Smith

HANA ADVISORY COMMITTEE

Daniel Omer
John Romain

LIQUOR CONTROL COMMISSION

Donald Fujii

STATUS: The Mayor also transmitted personal history forms for the nominees. The Council must approve or disapprove of the nominations by August 31, 2001 or they will be deemed approved. The Committee will consider whether to recommend approval or disapproval of each nomination. The Committee may also consider other related action.

COW-35 PERSONNEL BENEFITS OF LEGISLATIVE OFFICERS AND EMPLOYEES

DESCRIPTION: By County Communication No. 01-187, the Council Chair transmitted a proposed resolution entitled "RELATING TO PERSONNEL BENEFITS OF LEGISLATIVE OFFICERS AND EMPLOYEES". The purpose of the proposed resolution is to provide the Council Chair with the authority to clarify and implement personnel leave and other benefit policies for legislative officers and employees who are excluded from collective bargaining agreements and to continue personnel leave and other benefit policies that were in effect as of June 30, 2001, retroactively if necessary, until the policies are clarified or amended by the Council or Council Chair.

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution. The Committee may consider other related action, including the possible filing of County Communication No. 01-187.

COW-11(10) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [PALAVILALA FIFITA VS. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0044 (2)]

DESCRIPTION: By letter dated July 18, 2001, Deputy Corporation Counsel Victoria J. Takayesu requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF CIVIL NO. 01-1-0044 (2) PALAVILALA FIFITA VS. COUNTY OF MAUI, ET AL." and transmitted a copy of the complaint. The complaint alleges personal injury. The purpose of the proposed resolution is to authorize settlement of the case.

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence from the Department of the Corporation Counsel.

NOTE: With reference to this agenda item, one or more executive meetings pursuant to Section 92-5(a)(4), HRS, are anticipated to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

COW-11(4) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [GUY P. SOUZA, CASE NO. 7-98-02028]

DESCRIPTION: By letters dated June 15, 2001 and July 13, 2001, Deputy Corporation Counsel Judith M. E. Williams requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF GUY P. SOUZA V. COUNTY OF MAUI, CASE NO. 7-98-02028". The purpose of the proposed resolution is to authorize settlement of a workers' compensation case.

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence from the Department of the Corporation Counsel.

NOTE: With reference to this agenda item, one or more executive meetings pursuant to Section 92-5(a)(4), HRS, are anticipated to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

COW-11(6) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [GUY SOUZA, SR., VS. YORK INTERNATIONAL COMPANY, ET AL., CIVIL NO. 00-1-0314 (1)]

DESCRIPTION: By letter dated July 12, 2001, Deputy Corporation Counsel Victoria J. Takayesu requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF CIVIL NO. 00-1-0314 (1) GUY SOUZA, SR., VS. YORK INTERNATIONAL COMPANY, ET AL." and transmitted a copy of the complaint. The complaint alleges that the plaintiff was injured in a slip-and-fall accident. The purpose of the proposed resolution is to authorize settlement of the case.

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence from the Department of the Corporation Counsel.

NOTE: With reference to this agenda item, one or more executive meetings pursuant to Section 92-5(a)(4), HRS, are anticipated to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

**COW-11(7) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS
[DERECK H. AVEIRO V. MAUI POLICE DEPARTMENT, ET AL. CIVIL
 NO. CV00-00300 DAE LEK AND GUY P. SOUZA V. MAUI POLICE DEPARTMENT,
 ET AL., CIVIL NO. CV00-00301 DAE LEK]**

DESCRIPTION: By letter dated July 16, 2001, Deputy Corporation Counsel Victoria J. Takayesu requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF CONSOLIDATED CASES CIVIL NO. CV00-00300 DAE LEK, DERECK H. AVEIRO V. MAUI POLICE DEPARTMENT, ET AL. AND CIVIL NO. CV00-00301 DAE LEK, GUY P. SOUZA V. MAUI POLICE DEPARTMENT, ET AL." and transmitted a copy of the first amended complaint. The first amended complaint alleges that the two plaintiffs were subjected to racial discrimination while employed as police officers. The purpose of the proposed resolution is to authorize settlement of the consolidated cases, superseding Resolution No. 01-56.

STATUS: By Resolution No. 01-56, the Council provided initial settlement authority in the case. The Committee will consider whether to recommend adoption of the proposed resolution. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence from the Department of the Corporation Counsel.

NOTE: With reference to this agenda item, one or more executive meetings pursuant to Section 92-5(a)(4), HRS, are anticipated to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

**COW-46(8) SPECIAL COUNSEL AND/OR INDEMNIFICATION [BARTON J. ADAMS V.
 RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK]**

DESCRIPTION: By letter dated February 27, 2001, Deputy Corporation Counsel Victoria J. Takayesu requested the Committee's consideration of the possible approval of special counsel and/or indemnification for various defendants in Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK ("the case"), and transmitted a copy of the complaint in the case. The complaint alleges that several current and former employees of the Department of the Prosecuting Attorney participated in the malicious prosecution of the plaintiff from 1990 to 1995. By memorandum dated May 23, 2001, Deputy Corporation Counsel Gregory J. Garneau transmitted a proposed resolution entitled "INDEMNIFYING DAVELYNN TENGAN, RICHARD BISSEN, LARRY BUTRICK, RICHARD PRIEST, AND ROBERT RIVERA, IN CIVIL NO. 97-01549 SPK, BARTON J. ADAMS V. RICHARD SCHWAB, ET AL.". The purpose of the proposed resolution is to require that the County accept responsibility for the payment of any damages assessed in the case against the individual defendants identified in the proposed resolution. By memorandum dated July 3, 2001, Deputy Corporation Counsel Gregory J. Garneau requested a meeting on this item.

STATUS: On April 6, 2001, the Council adopted Resolution No. 01-67, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of Resolution No. 01-67 is to authorize the employment of Michael N. Tanoue, Esq. as special counsel for former Deputy Prosecuting Attorney Joseph E. Cardoza in the case. On June 12, 2001, the Committee deferred consideration of this matter pending further discussion. The Committee will consider whether to recommend adoption of the proposed resolution transmitted on May 23, 2001 or, alternatively, to authorize the employment of special counsel for the individual defendants identified in the proposed resolution. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence from the Department of the Corporation Counsel.

NOTE: With reference to this agenda item, one or more executive meetings pursuant to HRS § 92-5(a)(4) are anticipated to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

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