

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

August 14, 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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Patrick S. Kawano

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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-38

PROPOSED RESOLUTION ADOPTING THE REPETITIVE LOSS PROPERTIES FLOODPLAIN MANAGEMENT PLAN

DESCRIPTION:

By County Communication No. 01-206, the Planning Director transmitted a proposed resolution entitled "ADOPTING THE COUNTY OF MAUI REPETITIVE LOSS PROPERTIES FLOODPLAIN MANAGEMENT PLAN". The purpose of the proposed resolution is to adopt a County of Maui Repetitive Loss Properties Floodplain Management Plan.

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 County Communication No. 01-206.

MORE →

COW-11(1) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [CLAIM OF MERCEDES TECH]

DESCRIPTION: By correspondence dated August 6, 2001 and August 7, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "CONDITIONALLY APPROVING A PROPOSED SETTLEMENT OF MERCEDES TECH'S CLAIM" and transmitted a synopsis of the claim. The claim alleges loss of property. The purpose of the proposed resolution is to authorize settlement of the claim.

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(3) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [MALIA C. CHUN VS. COUNTY OF MAUI, RICHARD T. BISSEN, JR., ET AL., CIVIL NO. CV00-00556 SOM/BMK]

DESCRIPTION: By correspondence dated August 7, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF MALIA C. CHUN VS. COUNTY OF MAUI, RICHARD T. BISSEN, JR., ET AL., CIVIL NO. CV00-00556 SOM/BMK, ALLEGING VIOLATIONS OF HER CONSTITUTIONAL RIGHTS AND/OR RELATED STATE CLAIMS" and transmitted a copy of the complaint. The complaint includes allegations of civil rights violations, mental and emotional distress, violations of equal protection, and breach of employment agreement. 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-46(8) SPECIAL COUNSEL AND/OR INDEMNIFICATION [BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK]

DESCRIPTION: By correspondence dated February 27, 2001, the Department of the Corporation Counsel 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 correspondence dated May 23, 2001, the Department of the Corporation Counsel 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 correspondence dated July 3, 2001, the Department of the Corporation Counsel requested a meeting on this item. By correspondence dated August 6, 2001, the Department of the Corporation Counsel transmitted the following:

1. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR RICHARD T. BISSEN, JR., IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of the proposed resolution is to authorize the employment of special counsel for Richard T. Bissen, Jr., Prosecuting Attorney, in the Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK case;
2. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR LARRY BUTRICK IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of the proposed resolution is to authorize the employment of special counsel for Larry Butrick, former Prosecuting Attorney, in the Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK case;
3. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR RICHARD PRIEST IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of the proposed resolution is to authorize the employment of special counsel for Richard Priest, former Deputy Prosecuting Attorney, in the Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK case;
4. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR ROBERT RIVERA IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of the proposed resolution is to authorize the employment of special counsel for Robert Rivera, former Deputy Prosecuting Attorney, in the Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK case; and
5. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR DAVELYNN TENGAN IN BARTON J. ADAMS V. RICHARD SCHWAB, ET AL., CIVIL NO. 97-01549 SPK". The purpose of the proposed resolution is to authorize the employment of special counsel for Davelynn Tengan, Deputy Prosecuting Attorney, in the Barton J. Adams v. Richard Schwab, et al., Civil No. 97-01549 SPK case.

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 and July 31, 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 resolutions transmitted on August 6, 2001. 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.

COW-46(9) SPECIAL COUNSEL [WORKERS' COMPENSATION CLAIM FOR THE DEPENDENTS OF GENE V. WILLIAMS, CASE NOS. 7-99-02488 AND 7-99-04066; DOA: 08/08/99]

DESCRIPTION: By correspondence dated July 11, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN GENE V. WILLIAMS; CASE NOS. 7-99-02488 AND 7-99-04066; DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, LABOR APPEALS BOARD". The purpose of the proposed resolution is to authorize the employment of special counsel in Workers' Compensation Case Nos. 7-99-02488 and 7-99-04066 (Gene V. Williams).

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-30 RULES OF THE COUNCIL

DESCRIPTION: By County Communication No. 01-59, the Council Chair transmitted a copy of Resolution No. 01-4, entitled "ADOPTING THE RULES OF THE COUNCIL". Resolution No. 01-4 was adopted at the Council meeting of January 2, 2001.

STATUS: On February 15, 2001, the Committee deferred consideration of this matter pending further discussion. The Committee will consider possible amendments to the Rules of the Council (Resolution No. 01-4), including but not limited to those transmitted by the Director of Council Services by memorandum on February 15, 2001. The Committee may also consider other related action, including the possible filing of County Communication No. 01-59.