

MEETING RECESSED to Wednesday, October 17, 2001 at 2:30 p.m., Council Chamber.

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

October 16, 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

Dain P. Kane, Chair

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-1(1)

HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) [2002 LEGISLATIVE PACKAGE]

DESCRIPTION:

By correspondence dated October 10, 2001, the Chair of the Committee transmitted the proposed 2002 HSAC Legislative Package, which includes the following proposals:

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1. A proposal that provides that the State and counties providing lifeguard services or any lifeguard employed by the State or a county shall not be liable for civil damages resulting from providing lifeguard services at any public beach, including any portion of adjacent land or ocean (SB796, SD1, HD1) (2001 Legislative Session).
2. A proposal that exempts counties from the definition of "government agency" except for the procurement code and health and human services contracts. Allows the comptroller to determine a publication on each island to which the public can go to as one source for notices from a government agency (HB1023, SB1448) (2001 HSAC Legislative Package).
3. A proposal that limits counties' liability for injuries to persons participating in hazardous recreational activities, including those who assist the participant and spectators who reasonably should have known that the activity created a substantial risk of injury, for damages or injury arising out of that activity; and provides for exceptions. (HB1024, SB1449) (HB1363 Carryover Bill) (2001 HSAC Legislative Package).
4. A proposal that extends to the counties the limitation of liability currently afforded to private landowners who make their land and water areas available to the public for recreational purposes. (County of Kauai)
5. A proposal that enables the respective counties to impose and collect fines for violations of the statewide traffic code, in addition to the fines imposed by the State under Chapter 291C, Hawaii Revised Statutes. (County of Maui)
6. A proposal that designates a percentage of liquor license fees for the funding of education, prevention, and treatment programs designed to address alcohol abuse. (County of Maui).

The Chair also requested that the Committee consider an amendment to the 2002 HSAC Legislative Policy Statement to authorize the HSAC Executive Committee to add items to the 2002 HSAC Legislative Package during the legislative session if the measures promote the counties' home-rule authority and/or increase the counties' revenues.

STATUS:

The Committee previously met on September 18, 2001. The Committee will consider whether to recommend approval of the proposed 2002 HSAC Legislative Package and the proposed amendment to the 2002 HSAC Legislative Policy Statement. The Committee may also consider other related action, including the possible filing of the above-referenced correspondence.

COW-8

MAUI COUNTY LEGISLATIVE PACKAGE

DESCRIPTION:

The Committee is in receipt of the following:

1. County Communication No. 00-188, from the Council Chair, enabling direct referrals related to the 2001 Maui County Legislative Package to the prior Council's Governmental Relations and Finance Committee.
2. County Communication No. 01-148, from the Council Chair, enabling direct referrals related to the Maui County Legislative Package to the Committee of the Whole.

The Committee has received the following proposals for the 2002 HSAC Legislative Package:

1. A proposal to allow each county to authorize its Council to delegate its responsibility to accept the dedication or surrender of roadways and roadway lots (Councilmember Molina).
2. A proposal to amend Chapter 663 of the Hawaii Revised Statutes, to immunize the State and counties for injuries occurring at public beaches, except when caused by gross negligence or wanton acts (Councilmember Carroll).
3. A proposal to allow the counties to impose and collect additional fines for violations of State traffic laws (Councilmember Tavares); and
4. A proposal to designate a percentage of revenues from liquor license fees for alcohol-abuse prevention and treatment (Councilmember Tavares).

The Committee is also in receipt of the 2001 Maui County Legislative Package and a copy of the proposed 2002 HSAC Legislative Package, referenced in the previous item as COW-1(1).

STATUS: The Committee will consider whether to recommend approval, with or without revisions, of the above-listed proposals for inclusion in the 2002 Maui County Legislative Package. The Committee may also consider other related action, including the possible filing of County Communication No. 00-188 and the above-referenced correspondence.

COW-11(1) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS [H.S.T., INCORPORATED'S CLAIM NO. 2000-124]

DESCRIPTION: By correspondence dated October 2, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF CLAIM NO. 2000-124; CLAIM OF H.S.T., INC." and transmitted a copy of the claim. The claim alleges property damage. 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 with or without revisions. 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(11) SPECIAL COUNSEL [ATAHAN, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 95-0160 (1)]

DESCRIPTION: By correspondence dated October 1, 2001, the Deputy Corporation Counsel or Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL ROBBINS & RHODES IN ATAHAN, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 95-0160 (1), FOR A TOTAL COMPENSATION LIMIT OF \$200,000". The purpose of the resolution is to authorize additional compensation for special counsel Robbins & Rhodes in Atahan, et al. v. County of Maui, et al., Civil No. 95-0160 (1).

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution with or without revisions. 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 [MAALAEA KAI ENTERPRISES, INC., ET AL. VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3) AND KEVIN M. HOGAN, ET AL. VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)]

DESCRIPTION: By correspondence dated October 3, 2001 and October 5, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF MAALAEA KAI ENTERPRISES, INC., ET AL. vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3), KEVIN M. HOGAN, ET AL., vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)" and

transmitted a copy of the complaints. The complaints include allegations of negligence, nuisance, trespass, civil conspiracy, pollution, and punitive damages. The purpose of the proposed resolution is to authorize settlement of the consolidated cases.

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution with or without revisions. 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(13) SPECIAL COUNSEL [MAALAEA KAI ENTERPRISES, INC., ET AL. VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3) AND KEVIN M. HOGAN, ET AL. VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)]

DESCRIPTION: By correspondence dated October 9, 2001, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN MAALAEA KAI ENTERPRISES, INC., ET AL. VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3); KEVIN M. HOGAN, ET AL., VS. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)". The purpose of the resolution is to authorize the employment of special counsel to represent the County in the consolidated cases Maalaea Kai Enterprises, Inc., et al. vs. Oahu Construction Company, Ltd., et al., Civil No. 98-0630 (3) and Kevin M. Hogan, et al. vs. Oahu Construction Company, Ltd., et al., Civil No. 99-0132 (3).

STATUS: The Committee will consider whether to recommend adoption of the proposed resolution with or without revisions. 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.