

**RECESSED to Thursday, August 1, 2002, at 2:30 p.m. in the Council Chamber.**

## **COMMITTEE OF THE WHOLE**

**Council of the County of Maui**

### **Meeting Agenda**

**Date: July 30, 2002 (1:30 p.m.) [Council Chamber, 8<sup>th</sup> Floor, Kalana O Maui Bldg., 200 South High Street, Wailuku, Maui, Hawai'i]**

**NOTE: Executive meetings, if any, will be in the Committee Room, 7<sup>th</sup> Floor, Kalana O Maui Bldg., while the public meeting is in recess**

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

**e-mail: [cow.committee@co.maui.hi.us](mailto: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**

**Danny A. Mateo**

**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. 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.*

#### **COW-11(4) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (CRAIG STORY, ET AL. V. SAL S. SARIBAY, SR., ET AL., CIVIL NO. 00-1-0488 (3))**

**DESCRIPTION:** By correspondence dated July 10, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CRAIG STORY, ET AL., V. SAL S. SARIBAY, SR., ET AL., CIVIL NO. 00-1-0488 (3)" and transmitted a copy of the complaint. The complaint alleges personal injury due to a motor vehicle/bicycle accident caused by a County employee as well as failure to properly investigate an accident. The purpose of the proposed resolution is to authorize settlement of the case.

**STATUS:** The Committee may 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.

**MORE →**

**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  
(BONNIE K. BURKE V. MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. CV98-00184 SOM BMK)**

**DESCRIPTION:** By correspondence dated July 2, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF CIVIL NO. CV98-00184 SOM BMK, BONNIE K. BURKE VS. MAUI POLICE DEPARTMENT, ET AL." and transmitted a copy of the first amended complaint. The complaint alleges sexual harassment and racial discrimination against a former police officer. The purpose of the proposed resolution is to provide additional settlement authority.

**STATUS:** By Resolution No. 00-121, the prior Council provided initial settlement authority. The Committee may 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(14) SPECIAL COUNSEL (BONNIE K. BURKE V. MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. CV98-00184 SOM BMK)**

**DESCRIPTION:** By correspondence dated July 2, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR THE EMPLOYMENT OF SPECIAL COUNSEL TORKILDSON, KATZ, FONSECA, JAFFE, MOORE & HETHERINGTON IN BURKE V. MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. CV98-00184 SOM BMK". The purpose of the proposed resolution is to authorize additional compensation in the amount of \$30,000 (for a cumulative compensation limit of \$335,000) for special counsel Torkildson Katz Fonseca Jaffe Moore & Hetherington in Burke v. Maui Police Department, et al., Civil No. CV98-00184 SOM.

**STATUS:** The Committee may 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-56 NEW LANAI POLICE STATION SITE**

**DESCRIPTION:** By County Communication No. 02-86, the Mayor transmitted the matter of authorizing an exchange of real property for the new Lanai Police Station site. By correspondence dated July 12, 2002, the Mayor transmitted a proposed resolution entitled "AUTHORIZING THE EXCHANGE OF COUNTY OF MAUI REAL PROPERTY FOR PROPERTY OWNED BY CASTLE & COOKE RESORTS, LLC, FOR PURPOSES OF DEVELOPING A NEW POLICE STATION IN LANAI CITY, LANAI, COUNTY OF MAUI". The purpose of the proposed resolution is to authorize the Mayor to execute the appropriate deeds and agreement to exchange the old Lanai Police Station property, located at Lanai City, Lanai, Hawaii, identified for real property tax purposes as TMK No. (2) 4-9-006:004, comprising of approximately 15,000 square feet, for the new Lanai Police Station property and abutting road widening lots, owned by Castle & Cooke Resorts, LLC, located at Lanai City, Lanai, Hawaii. The new Lanai Police Station lot is identified for real property tax purposes as TMK No. (2) 4-9-014:001 and 011 (portion) (Lot 1161) and comprised of approximately 1 acre. One road widening lot, located along Fraser Avenue, is identified for real property tax purposes as TMK No. (2) 4-9-014:001 (portion) (Lot 1162) and is comprised of approximately 0.013 of an acre. The other road widening lot, located along 9<sup>th</sup> Street, is identified for real property tax purposes as TMK No. (2) 4-9-014:001 & 011 (portions) (Lot 1163) and is comprised of approximately 0.012 of an acre.

**STATUS:** The Committee may 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 County Communication No. 02-86.

**COW-58 PROPOSED RESOLUTION APPROVING THE ACQUISITION OF THE PROPERTY AT HANA, MAUI, HAWAII, FROM GORDON BRUCE JOYCE AND CHINYERE ADELINE JOYCE FOR THE MAUI POLICE DEPARTMENT**

**DESCRIPTION:** By County Communication No. 02-118, the Director of Finance transmitted a proposed resolution entitled "APPROVING THE ACQUISITION OF THE PROPERTY AT HANA, MAUI, HAWAII, FROM GORDON BRUCE JOYCE AND CHINYERE ADELINE JOYCE FOR THE MAUI POLICE DEPARTMENT". The purpose of the proposed resolution is to approve the acquisition of property located at 31 Keanini Drive, Hana, Maui, Hawaii, identified for real property tax purposes as TMK No. (2) 1-4-013:029 and comprised of approximately 12,499 square feet from Gordon Bruce Joyce and Chinyere Adeline Joyce for the purposes of providing housing for police personnel stationed in Hana.

**STATUS:** The Committee may 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 County Communication No. 02-118.

**COW-41 CHARTER COMMISSION RECOMMENDATIONS; PROPOSED CHARTER AMENDMENTS**

**DESCRIPTION:** The Committee is in receipt of the following:

1. County Communication No. 02-25, from the Council Chair, relating to the matter of Charter Commission recommendations.

2. County Communication No. 02-75, from Councilmember Johnson, transmitting a draft resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO REPRESENTATION OF THE COUNCIL IN LEGAL DISPUTES WITH THE EXECUTIVE BRANCH". The purpose of the draft resolution is to propose an amendment to the Charter to enable the Council to authorize attorneys within the legislative branch to represent the Council in litigation against executive-branch officials.
3. County Communication No. 02-112, from the Chair of the Committee of the Whole, relating to the matter of proposed Charter Amendments.
4. County Communication No. 02-123, from the Chair of the Maui County Charter Commission, transmitting the 2001-2002 Revised Final Report of the Maui County Charter Commission and a summary of their decisions.
5. Committee Report No. 02-43, from the Planning Committee, recommending adoption of a resolution proposing amendments to the revised Charter of the County of Maui (1983), as amended, relating to the Department of Planning.
6. Correspondence dated April 18, 2002, from Councilmember Tavares, transmitting a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO BOARDS AND COMMISSIONS". The purpose of the proposed resolution is to propose an amendment to the Charter to allow the Council to nominate and approve the appointment of an individual to fill a vacancy on a board or commission if the Mayor fails to submit the name of a nominee within the times provided for by the Charter.
7. Correspondence dated June 20, 2002, from Councilmember Tavares, transmitting a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE COUNCIL AND DEPARTMENT OF PLANNING AND THE COASTAL ZONE MANAGEMENT LAW". The purpose of the proposed resolution is to propose an amendment to the Charter that would transfer authority for issuing Special Management Area (SMA) permits from the respective planning commissions to the Council.
8. Correspondence dated June 20, 2002, from Councilmember Johnson, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE ADMINISTRATION OF SUBDIVISION ORDINANCES". The purpose of the draft resolution is to propose an amendment to the Charter to transfer authority for subdivision approvals from the Director of Public Works and Waste Management to the Planning Director.
9. Correspondence dated June 20, 2002, from Councilmember Johnson, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE CODE OF ETHICS AND TESTIFYING BEFORE COUNTY BOARDS". The purpose of the draft resolution is to propose an amendment to the Charter to clarify that County officers and employees have the right to testify before the Council and County boards and commissions.
10. Correspondence dated June 21, 2002, from Councilmember Nishiki, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO RESTRICTIONS ON THE COUNCIL AND COUNCIL MEMBERS". The purpose of the draft resolution is to propose an amendment to the Charter to bring the Charter into conformity with the Uniform Information Practices Act (UIPA), Chapter 92F, Hawaii Revised Statutes, by deleting the requirement that Council members route requests for public records through the Mayor.

11. Correspondence dated June 21, 2002, from Councilmember Nishiki, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE BOARD OF ETHICS AND THE CODE OF ETHICS". The purpose of the draft resolution is to propose an amendment to the Charter to strengthen government ethics by requiring County officials to engage in "fair and equal treatment"; authorize the Board of Ethics to employ independent staff; and require the Board of Ethics to make reasonable efforts to efficiently disseminate its opinions to the public, officers, and employees, including dissemination through the Internet.
12. Correspondence dated June 21, 2002, from Councilmember Nishiki, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO INITIATIVE". The purpose of the draft resolution is to propose an amendment to the Charter to increase citizen power by easing the requirements for proposing ordinances by initiative by decreasing the signature requirements from 20% of registered voters to 10% of voters in the last general election and by eliminating the 30-day window of opportunity to gather signatures.
13. Correspondence dated June 21, 2002, from Councilmember Johnson, transmitting a draft resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE POWERS, DUTIES AND FUNCTIONS OF THE OFFICE OF THE MAYOR". The purpose of the draft resolution is to propose an amendment to the Charter that would delete the provision of the Charter allowing the Mayor to have a voice but no vote in the proceedings of all boards and commissions.
14. Other related documents.

**STATUS:**

At its meeting of July 2, 2002, the Committee deferred consideration of this item pending further discussion. The Committee may consider whether to recommend passage of the draft and proposed resolutions on first reading, with or without revisions. The Committee may also consider other related action, including the possible filing of County Communication Nos. 02-25, 02-75, 02-112, 02-123; Planning Committee Report No. 02-43; and other related documents.