

**COMMITTEE OF THE WHOLE**  
Council of the County of Maui

**Meeting Agenda**

**Date: August 13, 2002 (1:30 p.m.) [Council Chamber, 8<sup>th</sup> Floor, Kalana O Maui Bldg.,  
200 South High Street, Wailuku, Maui, Hawai'i]**

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**

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**G. Riki Hokama, Vice-Chair**

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**Robert Carroll**

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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. 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.*

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**COW-46(13) SPECIAL COUNSEL (CONSOLIDATED CASES OF MAALAEA KAI ENTERPRISES, INC., ET AL. V. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3) AND KEVIN M. HOGAN, ET AL. V. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3))**

**DESCRIPTION:** By correspondence dated July 22, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL WATANABE ING & KAWASHIMA 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 proposed resolution is to authorize \$60,000 in additional compensation for special counsel Watanabe Ing & Kawashima, in the consolidated cases Maalaea Kai Enterprises, Inc., et al. v. Oahu Construction Company, Ltd., et al., Civil No. 98-0630 (3) and Kevin M. Hogan, et al. v. Oahu Construction Company, Ltd., et al., Civil No. 99-0132 (3).

**STATUS:** By Resolution No. 01-187, the Council authorized employment of special counsel Watanabe Ing & Kawashima for \$45,000. 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.

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**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-2(1) NOMINATIONS TO BOARDS AND COMMISSIONS (VARIOUS)**

**DESCRIPTION:** By correspondence dated July 17, 2002, the Mayor requested consideration of the following nominations to various boards, committees, and commissions (for terms expiring on March 31, 2007, unless otherwise indicated). The Mayor also transmitted personal history forms and applications for the nominees.

- A. BOARD OF CODE APPEALS
  - 1. Daniel Lovejoy (replacing John Garcia), expiring on March 31, 2004.
- B. BOARD OF ETHICS
  - 1. Kit Lauer (replacing Donald Couch), expiring on March 31, 2003.
- C. COMMISSION ON CHILDREN AND YOUTH
  - 1. Warren Gouveia (replacing Sieglinde Gangl), expiring on March 31, 2003.
- D. COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES
  - 1. Reagan Kaho' ohanohano (replacing Mark Nikaido), expiring on March 31, 2006.
- E. HANA ADVISORY COMMITTEE
  - 1. Francine Tolentino (replacing Patricia Eason).
- F. KULA AGRICULTURAL PARK COMMITTEE
  - 1. Michelle Masuda-Koga
  - 2. Chris Speere
- G. MAUI PLANNING COMMISSION
  - 1. Patricia Eason (replacing Francine Tolentino).
- H. SUBDIVISION ENGINEERING STANDARDS COMMITTEE
  - 1. Paul Chung (replacing Ferdinand Cajigal), expiring on March 31, 2004.

**STATUS:** The Council must approve or disapprove of the nominations by September 16, 2002, or they will be deemed approved, except for the nominees to the Kula Agricultural Park Committee, for which there is no time limit for Council approval. The Committee may consider whether to recommend approval or disapproval of the nominations. The Committee may also consider other related action.

## **COW-11(3) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (MARCELO RIEL, CLAIM NO. 2002-003/1776834-0197)**

**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 CLAIM NO. 2002-003/1776834-0197, CLAIM OF MARCELO RIEL" and transmitted a copy of the claim. The claim alleges damages due to tree roots. The purpose of the proposed resolution is to authorize settlement of the claim.

**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-11(5) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS  
(COUNTY OF MAUI V. JOHN LIMAHAI, ET AL., CIVIL NO. 00-1-0012 (3))**

**DESCRIPTION:** By correspondence dated July 18, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "APPROVING A PROPOSED FINAL SETTLEMENT RELATING TO COUNTY OF MAUI v. JOHN LIMAHAI, ET AL., CIVIL NO. 00-1-0012 (3)" and transmitted a copy of the complaint. The complaint alleges the County of Maui wishes to acquire the fee simple interest in a parcel of real property situated at Lahaina, Maui, Hawaii, identified for real property tax purposes as TMK No. (2) 4-6-006:018, for the Waianee Street Widening project. 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.

**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(14) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS  
(CONSOLIDATED CASES OF GENOA LOPEZ, ET AL. V. COUNTY OF MAUI, ET AL.  
AND COUNTY OF MAUI V. PHONG VU-TRAN, ET AL., CIVIL NO. 01-1-0100 (3);  
PHONG X. VU-TRAN V. RICHARD STASZYN, ET AL., CIVIL NO. 01-1-0342 (3);  
PEARL AH HO V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0389 (3);  
VALENTINA LOPEZ, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0390 (3);  
AND DOREEN PASCUA, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0558 (3))**

**DESCRIPTION:** By correspondence dated August 5, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENTS OF GENOA LOPEZ, ET AL. V. COUNTY OF MAUI, ET AL., AND COUNTY OF MAUI V. PHONG VU-TRAN, ET AL., CIVIL NO. 01-1-0100 (3); PHONG X. VU-TRAN V. RICHARD STASZYN, ET AL., CIVIL NO. 01-1-0342 (3); PEARL AH-HO V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0389 (3); VALENTINA LOPEZ, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0390 (3); DOREEN PASCUA, ET AL. V. COUNTY OF MAUI, ET AL.; CIVIL NO. 01-1-0558 (3)" and transmitted a copy of four complaints, a first-amended complaint, and a third-party complaint. The complaints allege damages due to a vehicular accident on April 4, 1998, involving a County employee. 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.

**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(12) SPECIAL COUNSEL (CRAIG STORY, ET AL. V. SAL S. SARIBAY, SR., ET AL., CIVIL NO. 00-1-0488 (3))**

**DESCRIPTION:** By correspondence dated August 1, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL HENDERSON, GALLAGHER & KANE, IN CRAIG STORY, ET AL., V. SAL S. SARIBAY, SR., ET AL., CIVIL NO. 00-1-0488 (3)". The purpose of the proposed resolution is to authorize the retention of special counsel in Craig Story, et al. v. Sal S. Saribay, Sr., et al., Civil No. 00-1-0488 (3).

**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-46(15) SPECIAL COUNSEL (MAUI COUNTY BOARD OF ETHICS (BOE) MATTERS ALLEGING VIOLATIONS OF THE MAUI COUNTY CHARTER, CODE OF ETHICS, BY COUNCILMEMBER JO ANNE JOHNSON)**

**DESCRIPTION:** By correspondence dated July 29, 2002, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL TO ADVISE THE MAUI COUNTY BOARD OF ETHICS ON COMPLAINT NOS. 02-12 AND 02-13 ALLEGING VIOLATIONS OF THE MAUI COUNTY CHARTER, CODE OF ETHICS, BY COUNCILMEMBER JO ANNE JOHNSON". The purpose of the proposed resolution is to authorize a Deputy Corporation Counsel from Hawaii County, as special counsel to advise the Maui County Board of Ethics on Complaint Nos. 02-12 and 02-13 alleging violations of the Maui County Charter, Code of Ethics, by Councilmember Jo Anne Johnson.

**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-59 COUNCILMEMBER JO ANNE JOHNSON'S REQUEST FOR SPECIAL COUNSEL TO DEFEND HER BEFORE THE BOARD OF ETHICS**

**DESCRIPTION:** By County Communication No. 02-122, Councilmember Johnson requested consideration of the authorization of special counsel to defend her against Complaint No. 02-2 and other matters before the Maui County Board of Ethics. By Committee Report No. 02-87, the Committee of the Whole recommended adoption of a proposed resolution entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL TO ADVISE AND REPRESENT COUNCILMEMBER JO ANNE JOHNSON BEFORE THE BOARD OF ETHICS ON COMPLAINT NOS. 02-2 THROUGH 02-11". At the Council meeting of July 19, 2002, Committee Report No. 02-87 was recommitted to the Committee of the Whole. By correspondence dated August 6, 2002, Councilmember Johnson transmitted a proposed resolution entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL TO ADVISE AND REPRESENT COUNCILMEMBER JO ANNE JOHNSON BEFORE THE BOARD OF

ETHICS ON COMPLAINT NOS. 02-2 THROUGH 02-13". The purpose of the proposed resolution is to authorize the retention of Anthony Ranken, Esq. as special counsel to advise and represent Councilmember Johnson regarding twelve complaints before the Board of Ethics.

**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. 02-122 and Committee Report No. 02-87.

**NOTE:** With reference to this agenda item, one or more executive meetings pursuant to Sections 92-5(a)(2) and/or 92-5(a)(4), HRS, are anticipated to consider the, hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved and 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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