

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, AGRICULTURE,  
AND RECREATION COMMITTEE**

August 25, 2009

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Economic Development, Agriculture, and Recreation Committee, having met on August 6, 2009, makes reference to County Communication No. 09-192, from Councilmember Wayne Nishiki, relating to the matter of prohibiting shark tours and related activities.

By correspondence dated July 27, 2009, Councilmember Nishiki transmitted a draft bill entitled "A BILL FOR AN ORDINANCE RELATING TO SHARK TOUR OPERATIONS".

The purpose of the draft bill is to promote the health, safety, and general welfare of Maui County residents by prohibiting shark tour operations.

According to public testimony: (1) sharks carry great cultural, historical, and spiritual significance for many Native Hawaiians and others who value the Hawaiian culture; (2) sharks, called manō, are regarded by some people in Maui County as their `aumakua, a protective ancestral spirit; and (3) shark tours are disrespectful to the Hawaiian culture, disrupt the natural behavior of sharks, and raise public-safety concerns for ocean users.

Your Committee notes that State and Federal law prohibit the feeding of sharks in waters surrounding the State of Hawaii and that there are no known shark tour operators in Maui County.

Your Committee acknowledges that the County does not have jurisdiction over the waters surrounding Maui County. The proposed bill is intended to prohibit the maintenance of an office; the collection, distribution, marketing, or advertising of tickets for sale; or other business activity conducted by a person in Maui County for the purpose of charging residents or visitors to venture into ocean waters to feed and view sharks for entertainment. The proposed bill is further intended as a preventative measure.

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, AGRICULTURE,  
AND RECREATION COMMITTEE**

August 25, 2009

Page 2

Committee

Report No. \_\_\_\_\_

Your Committee voted to recommend passage of a revised draft bill which incorporates the following: (1) adds a definition of “feed” to mean “to introduce or attempt to introduce any food or other substance into the water”; and (2) expands the definition of shark tour operations to clarify that the purpose of such operations is “to feed or otherwise attract sharks for viewing”.

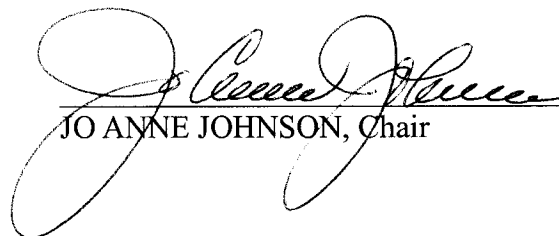
Your Committee voted 5-0 to recommend passage of the revised draft bill on first reading and filing of the communication. Committee Chair Johnson, Vice-Chair Kaho`ohalahala, and members Baisa, Molina and Pontanilla voted “aye”.

Your Committee is in receipt of a proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions. The proposed bill also revises the “Prohibition” section to read “It is unlawful to engage in shark tour operations” in response to concerns expressed by the Department of the Prosecuting Attorney.

Your Economic Development, Agriculture, and Recreation Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2009), attached hereto, entitled “A BILL FOR AN ORDINANCE RELATING TO SHARK TOUR OPERATIONS”, be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-192 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
JO ANNE JOHNSON, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2009)

A BILL FOR AN ORDINANCE RELATING TO SHARK TOUR OPERATIONS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Findings and purpose. The Council finds that: sharks have been revered throughout Hawaiian history; sharks, called manō in Hawaiian, continue to carry great cultural, historical, and spiritual significance for many Native Hawaiians and others who value the Hawaiian culture; the manō is regarded by some people in Maui County as their `aumakua, a protective ancestral spirit; and the General Plan directs the County government to preserve Maui County's cultural resources. The Council further finds that shark tours – the practice of charging residents and visitors to venture into ocean waters to feed or otherwise attract sharks for viewing – is: disrespectful of Hawaiian culture; raises public-safety concerns for swimmers, surfers, and other ocean users; and may be disruptive of ocean ecology and, consequently, Maui County's natural environment. The Council also finds that the health, safety, and general welfare of Maui County residents will be promoted by prohibiting shark tour operations.

SECTION 2. Title 6, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER 6.02

PROHIBITION OF SHARK TOUR OPERATIONS

Sections:

- 6.02.010 Definitions.
- 6.02.020 Prohibition.
- 6.02.030 Violation-Penalty.

**6.02.010 Definitions.** For purposes of this chapter, the following terms are defined:

"Feed" means to introduce or attempt to introduce any food or other substance into the water.

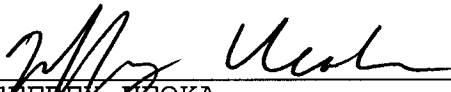
"Shark tour operations" means the maintenance of an office, the collection, distribution, marketing, or advertising of tickets for sale, or other business activity conducted by a person in Maui County for the purpose of charging residents or visitors to venture into ocean waters to feed or otherwise attract sharks for viewing; provided, that this term does not include educational or cultural expeditions or endeavors for which a participation fee is not required.

**6.02.020 Prohibition.** It is unlawful to engage in shark tour operations.

**6.02.030 Violation-Penalty.** Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than one year or both."

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
JEFFREY DEOKA  
Deputy Corporation Counsel  
County of Maui

S:\ALL\JTU\ORDS\6.02.wpd