

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

November 3, 2009

9:00 a.m.

Council Chamber, 8th Floor
200 South High Street, Wailuku, Hawaii

website: www.mauicounty.gov/committees/COW

e-mail: cow.committee@mauicounty.us

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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 (Kirstin Hamman or Camille Sakamoto) at: Office of Council Services, 200 South High Street, Wailuku, HI 96793, 808-270-7838, 1-800-272-0026 (toll-free from Molokai), 1-800-272-0098 (toll-free from Lanai), 808-270-7686 (fax).

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted. If written testimony is submitted at the meeting, 16 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-1(17) LITIGATION MATTERS (SPECIAL COUNSEL AUTHORIZATION: MAGLIATO, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF KEONE ANTHONY MAGLIATO VS. FORREST TANIGUCHI A/K/A FOREST TANIGUCHI, ET AL.; CIVIL NO. 09-1-0043(3))

DESCRIPTION: The Committee is in receipt of correspondence dated September 21, 2009, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN MICHAEL MAGLIATO, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF KEONE ANTHONY MAGLIATO VS. FORREST TANIGUCHI A/K/A FOREST TANIGUCHI, ET AL., CIVIL NO. 09-1-0043(3)". The complaint alleges the wrongful death of Keone Anthony Magliato resulting from injuries suffered in a vehicle collision on Kauhikoa Road, a County roadway, near the intersection of Kauhikoalani in Haiku, Maui, on October 27, 2008. The purpose of the proposed resolution is to authorize the employment of Ortiz & Katano, A Law Corporation, as special counsel in the case for a total compensation of \$130,000.

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.

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NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), 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; and Section 92-5(a)(8), HRS, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

COW-1(18) LITIGATION MATTERS (SPECIAL COUNSEL AUTHORIZATION: CALEB J. SANDERS VS. COUNTY OF MAUI, ET AL.; CIVIL NO. 09 1-0287(3))

DESCRIPTION: The Committee is in receipt of correspondence dated September 21, 2009, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN CALEB J. SANDERS VS. COUNTY OF MAUI, ET AL., CIVIL NO. 09 1 0287(3)". The complaint alleges that on April 25, 2007, because of the County's negligence, the Plaintiff suffered injuries from a fall at Kalama Park in Kihei, Maui. The purpose of the proposed resolution is to authorize the employment of Ortiz & Katano, A Law Corporation, as special counsel in the case for a total compensation of \$50,000.

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.

NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), 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; and Section 92-5(a)(8), HRS, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

COW-1(19) LITIGATION MATTERS (SPECIAL COUNSEL ADDITIONAL COMPENSATION: IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS ON BEHALF OF MARTELL IRISH AND DEREK KAAUKAI, GRIEVANTS, AND COUNTY OF MAUI, EMPLOYER; SHOPO NOS. M-2005-008 AND M 2005-009)

DESCRIPTION: The Committee is in receipt of correspondence dated September 21, 2009, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS ON BEHALF OF MARTELL IRISH AND DEREK KAAUKAI, GRIEVANTS, AND COUNTY OF MAUI, EMPLOYER; SHOPO NOS. M-2005-008 and M-2005-009". The arbitration involves grievances challenging the terminations of Martell Irish and Derek Kaaukai as police officers. The purpose of the proposed resolution is to authorize \$1,743.72 in additional compensation for Ortiz & Katano, A Law Corporation, as special counsel in the case for a total compensation of \$26,743.72.

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.

NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), 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; and Section 92-5(a)(8), HRS, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

**COW-2(2) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(ANIMAL CONTROL BOARD)**

DESCRIPTION: The Committee is in receipt of correspondence dated October 13, 2009, from the Council Chair, transmitting correspondence dated October 9, 2009, from the Mayor, informing the Council that her correspondence dated January 30, 2009, nominating Allan Almeida to the Animal Control Board incorrectly indicated Mr. Almeida's term was to expire on "March 31, 2014" when it should have read "March 31, 2012". (The Council previously approved the appointment of Mr. Almeida for a term expiring on March 31, 2014 by Committee of the Whole Report No. 09-23).

STATUS: The Committee may consider approving a correction to the expiration date of Mr. Almeida's term of membership on the Animal Control Board. The Committee may also consider other related action.

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