

# COMMITTEE OF THE WHOLE

Council of the County of Maui

## Meeting Agenda

November 5, 2009

9:00 a.m.

Council Chamber, 8<sup>th</sup> Floor  
200 South High Street, Wailuku, Hawaii

website: [www.mauicounty.gov/committees/COW](http://www.mauicounty.gov/committees/COW)

e-mail: [cow.committee@mauicounty.us](mailto:cow.committee@mauicounty.us)

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### VOTING MEMBERS

Michael J. Molina, Chair

Danny A. Mateo, Vice-Chair

Gladys C. Baisa

Jo Anne Johnson

Sol P. Kaho'ohalahala

Bill Kauakea Medeiros

Wayne K. Nishiki

Joseph Pontanilla

Michael P. Victorino

*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.*

*TO LEARN MORE ABOUT COUNCIL-RELATED ISSUES, tune in to Akaku: Maui Community Television.*

**COW-2(9)**

### **NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (MAUI PLANNING COMMISSION)**

**DESCRIPTION:**

The Committee is in receipt of correspondence dated October 16, 2009 (received October 16, 2009), from the Mayor, requesting consideration of the nomination of Orlando Tagorda (replacing John B. Guard) to the Maui Planning Commission, for a term expiring on March 31, 2011; and transmitting a copy of Mr. Tagorda's application form.

**STATUS:**

The Council must approve or disapprove the nomination by December 15, 2009, or the nomination will be deemed approved. The Committee may consider whether to recommend approval or disapproval of the nomination. The Committee may also consider other related action.

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**COW-1(11) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: EVELYN GOO, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 08-00172 DAE BMK; and IN THE MATTER OF MAUI'S BEST GIFT AND CRAFT FAIR, LLC, APPEAL OF THE NOTICE OF VIOLATION, DOCKET NOS. BVA 2005-0013, BVA 2005-0024, and BVA 2005-0027)**

**DESCRIPTION:** The Committee is in receipt of correspondence dated October 27, 2009, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF EVELYN GOO, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 08-00172 DAE BMK; AND IN THE MATTER OF MAUI'S BEST GIFT & CRAFT FAIR, LLC APPEAL OF THE NOTICE OF VIOLATION ISSUED BY THE DIRECTOR OF PLANNING IN REGARD TO THE USE OF PROPERTY LOCATED AT 270 LAHAINALUNA ROAD, LAHAINA, MAUI, HAWAII TMK (2) 4-6-010:025, DOCKET NOS. BVA 2005-0013, BVA 2005-0024 AND BVA 2005-0027". The complaint filed in Federal court alleges interference with contractual relations and prospective economic advantage, breach of the duty of good faith and fair dealing, and violation of plaintiffs' constitutional rights through the maintenance of illegal customs and policies. The purpose of the proposed resolution is to authorize settlement of the cases.

**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, 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-3(2) HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) (2010 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE)**

**DESCRIPTION:** The Committee is in receipt of correspondence dated October 29, 2009, from Councilmember Joseph Pontanilla, HSAC Treasurer, transmitting and requesting the Committee's consideration of the following proposals for inclusion in the 2010 HSAC Legislative Package:

- (1) A proposed State resolution entitled "RESOLUTION REQUESTING THAT THE STATE REFRAIN FROM UTILIZING THE WIRELESS ENHANCED 9-1-1 SPECIAL FUND FOR PURPOSES OTHER THAN AS DESIGNATED BY ACT 159 (2004) AND REMOVE THE SPENDING CAP ON THE FUND". The purpose of the proposed resolution is to request that the Legislature ensure the availability of adequate funds for wireless enhanced 9-1-1 services by refraining from utilizing the funds for other purposes and removing the spending cap.
- (2) A proposed State resolution entitled "RESOLUTION IN SUPPORT OF ALLOWING COUNTIES ACCESS TO THE STATE DEPARTMENT OF TAXATION'S INCOME TAX DATABASE". The purpose of the proposed resolution is to urge the Legislature to enact legislation allowing the counties to access the State's income tax database, enabling the counties to efficiently provide real property tax relief to eligible taxpayers.
- (3) A proposed State resolution entitled "RESOLUTION REQUESTING THE STATE CONSIDER TRANSFERRING THE DUTIES, FUNCTIONS AND RESPONSIBILITIES OF THE STATE LAND USE COMMISSION TO EACH RESPECTIVE COUNTY PLANNING COMMISSION". The purpose of the proposed resolution is to reduce the redundancy of governmental functions by transferring the duties, functions, and responsibilities of the State Land Use Commission to the planning commissions of the counties.
- (4) A proposed State resolution entitled "RESOLUTION URGING THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND TO CONDUCT A FEASIBILITY STUDY TO ESTABLISH A CAPTIVE INSURANCE PROGRAM FOR HEALTH INSURANCE AND ESTABLISH SUCH A PROGRAM". The purpose of the proposed resolution is to urge the Hawaii Employer-Union Health Benefits Trust Fund to conduct a feasibility study to establish a captive insurance program for health insurance, and establish such a program if the study recommends it.

- (5) A proposed State resolution entitled “URGING THE GOVERNOR, CHIEF ELECTION OFFICER, AND HAWAII STATE LEGISLATURE TO PROVIDE APPROPRIATE LEVELS OF SERVICES FOR THE 2010 ELECTIONS”. The purpose of the proposed resolution is to urge the Governor and State Office of Elections to reimburse the counties for past due expenses and provide the appropriate levels of services for the 2010 elections.
- (6) A proposed State bill entitled “A BILL FOR AN ACT RELATING TO TAXATION”, and a justification sheet for the bill. The purpose of the proposed bill is to provide the counties with access to the State’s income tax databases, enabling the counties to efficiently provide real property tax relief to eligible taxpayers.
- (7) A proposed State bill entitled “A BILL FOR AN ACT RELATING TO LAND USE”, and a justification sheet for the bill. The purpose of the proposed bill is to abolish the State Land Use Commission and land use districts.
- (8) A proposed State bill entitled “A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES”, and a justification sheet for the bill. The purpose of the proposed bill is to add a trustee to the Employer-Union Health Benefits Trust Fund Board of Trustees to represent county public employers.
- (9) A proposed State bill entitled “A BILL FOR AN ACT MAKING AN APPROPRIATION RELATING TO ELECTIONS”, and a justification sheet for the bill. The purpose of the proposed bill is to appropriate \$37,978 to the State Elections Office to reimburse the county clerks for expenses related to the 2008 elections.

**STATUS:**

The Committee may consider whether to recommend approval of the proposals for inclusion in the 2010 HSAC Legislative Package, with or without revisions. The Committee may also consider other related action.