

**COUNCIL OF THE COUNTY OF MAUI**

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**A G E N D A**

Regular Meeting of December 3, 2010

9:00 a.m.

Council Chamber

8th Floor, Kalana O Maui Building  
200 South High Street, Wailuku, Hawaii

COUNCIL OF THE  
COUNTY CLERK

website: <http://www.mauicounty.gov/county/clerkSub/Agenda.php>.

e-mail: [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)

**ORAL OR WRITTEN TESTIMONY**

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted. Each testifier shall be allowed to speak for three minutes on each item. If additional time is requested, the testifier shall be allowed one minute to conclude the testimony on the item. No further oral testimony by the testifier on the item shall be permitted. An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify.

If written testimony is submitted at the meeting, 15 copies are requested. If written testimony is e-mailed or faxed (808-270-7171), it must be received at least 24 hours prior to the meeting; provided, that if a meeting will be held on a Monday, written testimony shall be received by 12:00 noon on the business day preceding the meeting.

A. ROLL CALL

B. OPENING REMARKS: COUNCILMEMBER MICHAEL P. VICTORINO

C. PLEDGE OF ALLEGIANCE

D. TESTIMONY ON CEREMONIAL RESOLUTIONS

E. CEREMONIAL RESOLUTIONS:

NO. \_\_\_\_\_ - "CONGRATULATING JEANNE UNEMORI SKOG FOR BEING SELECTED AS A HO'OKELE AWARD 2010 RECIPIENT"

NO. \_\_\_\_\_ - "EXPRESSING APPRECIATION TO MAYOR CHARMAINE TAVARES"

NO. \_\_\_\_\_ - "EXPRESSING APPRECIATION TO COUNCILMEMBER JO ANNE JOHNSON"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONYG. MINUTES:

NONE.

H. COMMITTEE REPORTS:NO. 10-130 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending the Fiscal Year 2011 Budget for the County of Maui to appropriate \$122,125 for the Lanai Senior Center project, for necessary adaptations that were not contemplated in the project's original plan; and
2. **FILING** of communication.

NO. 10-131 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending the Fiscal Year 2011 Budget for the County of Maui, as it pertains to the Affordable Housing Fund, to grant \$200,000 to the Family Life Center, Inc. for the purchase of Mokuhau Apartments and to grant \$700,000 to Lokahi Pacific for improvements at Kenolio Leilani Subdivision; and
2. **FILING** of communication.

NO. 10-132 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending Appendix A of the Fiscal Year 2011 Budget for the County of Maui, Part I, Grant Revenue – Schedule of Grants by Departments and Programs, Department of Police, by adding a grant of \$1,639,000 for the COPS Hiring Program; and
2. **FILING** of communication.

NO. 10-133 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending Appendix A of the Fiscal Year 2011 Budget for the County of Maui, Grant Revenue – Schedule of Grants by Departments and Programs, Department of Police, by adding a \$13,000 grant for the Bulletproof Vest Partnership; and
2. **FILING** of communication.

H. COMMITTEE REPORTS (continued):NO. 10-134 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending Fiscal Year 2011 Budget for the County of Maui, Section 2, Estimated Revenues, by increasing Special Assessments by \$850,000 and by increasing Total Estimated Revenues by \$850,000; and Section 4.E, from Park Assessment Funds, by adding an \$850,000 appropriation for the West Maui Community Plan Area, Parks and Recreation, West Maui Skate Park; and
2. **FILING** of communication.

NO. 10-135 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending the Fiscal Year 2011 Budget for the County of Maui, to increase estimated bond proceeds by \$2,500,000, and to appropriate the same amount for the Lahaina Watershed Flood Control;
2. **FIRST READING** of bill amending Ordinance No. 3749 Bill No. 37 (2010) to increase the authorization for the issuance of general obligation bonds to provide \$2,500,000 in funding for the Lahaina Watershed Flood Control project; and
3. **FILING** of communication.

NO. 10-136 - COMMITTEE OF THE WHOLE:

Recommending **FILING** of correspondence dated May 5, 2009, from the Department of the Corporation Counsel, requesting indemnification of Thomas M. Phillips in Brian Murphy v. The State of Hawaii, et al.; Civil No. 08-1-0622(1).

NO. 10-137 - COMMITTEE OF THE WHOLE:

Recommending **FILING** of correspondence dated August 4, 2010, from the Department of the Corporation Counsel, requesting indemnification of County employees Randall Burgess, Kamuela Mawae, and Donna Gomes in Elmer Stephen Wereb, et al. v. County of Maui, et al.; Civil No. CV09-00198 JMS LEK.

H. COMMITTEE REPORTS (continued):NO. 10-138 - COMMITTEE OF THE WHOLE:

Recommending **ADOPTION** of resolution to authorize settlement of Stacey Pounder v. County of Maui, et al.; Civil No. 09-1-0202(1).

*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.*

NO. 10-139 - COMMITTEE OF THE WHOLE:

Recommending **ADOPTION** of resolution to authorize settlement of Julie Matsuda-Zaner, et al. v. County of Maui, et al.; Civil No. 10-1-0033(1).

*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.*

NO. 10-140 - ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending **FILING** of communication relating to the waiver of the requirement to provide comfort stations and a parking area for a privately owned and maintained park, comprising approximately 4,308 square feet in the Lokahi Kuhua Subdivision, and located in the vicinity of the intersection of Paeohi Street and Kopili Street, Lahaina, Maui.

NO. 10-141 - ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending **FILING** of communication relating to the dedication of a park located in the Wailuku Country Estates Subdivision, comprising approximately 98,595 square feet, and located in the vicinity of the intersection of Maoi Street and Hewahewa Drive, Wailuku, Maui; and to approve the waiver of the requirement to provide comfort stations in the subject park.

H. COMMITTEE REPORTS (continued):NO. 10-142 - LAND USE COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution referring to the Maui Planning Commission draft bills to amend the Paia-Haiku Community Plan from Heavy Industrial to Public/Quasi-Public, and change the zoning from Urban Reserve District to P-1 Public/Quasi-Public District, respectively, for approximately 29,628 square feet of property situated at 297 Baldwin Avenue, Paia, Maui, Hawaii, to allow for the development of the proposed Heritage Hall; and
2. **FILING** of communication.

NO. 10-143 - LAND USE COMMITTEE:

Recommending the following:

1. **FIRST READING** of Bill No. 90 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 109 Maka`ena Place, Kula, Maui, Hawaii;
2. **FIRST READING** of Bill No. 91 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 109 Maka`ena Place, Kula, Maui, Hawaii;
3. **FIRST READING** of Bill No. 92 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 143 Maka`ena Place, Kula, Maui, Hawaii;
4. **FIRST READING** of Bill No. 93 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 143 Maka`ena Place, Kula, Maui, Hawaii;
5. **FIRST READING** of Bill No. 94 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 189 Maka`ena Place, Kula, Maui, Hawaii;
6. **FIRST READING** of Bill No. 95 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 189 Maka`ena Place, Kula, Maui, Hawaii;
7. **FIRST READING** of Bill No. 96 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 271 Maka`ena Place, Kula, Maui, Hawaii;
8. **FIRST READING** of Bill No. 97 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 271 Maka`ena Place, Kula, Maui, Hawaii;

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H. COMMITTEE REPORTS (continued):

9. **FIRST READING** of Bill No. 98 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 288 Maka`ena Place, Kula, Maui, Hawaii;
10. **FIRST READING** of Bill No. 99 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 288 Maka`ena Place, Kula, Maui, Hawaii;
11. **FIRST READING** of Bill No. 100 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 236 Maka`ena Place, Kula, Maui, Hawaii;
12. **FIRST READING** of Bill No. 101 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 236 Maka`ena Place, Kula, Maui, Hawaii;
13. **FIRST READING** of Bill No. 102 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 174 Maka`ena Place, Kula, Maui, Hawaii;
14. **FIRST READING** of Bill No. 103 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 174 Maka`ena Place, Kula, Maui, Hawaii;
15. **FIRST READING** of Bill No. 104 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 88 Maka`ena Place, Kula, Maui, Hawaii;
16. **FIRST READING** of Bill No. 105 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 88 Maka`ena Place, Kula, Maui, Hawaii;
17. **FIRST READING** of Bill No. 106 (2008), Draft 1, amending the State Land Use District classification from Agricultural to Rural for property situated at 64 Maka`ena Place, Kula, Maui, Hawaii;
18. **FIRST READING** of Bill No. 107 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 64 Maka`ena Place, Kula, Maui, Hawaii;
19. **FIRST READING** of Bill No. 108 (2008), amending the State Land Use District classification from Agricultural to Rural for property situated at 26 Kula Highway, Kula, Maui, Hawaii;
20. **FIRST READING** of Bill No. 109 (2008), Draft 1, granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 26 Kula Highway, Kula, Maui, Hawaii;
21. **RECORDATION** of the "Unilateral Agreement and Declaration for Conditional Zoning" for each of the ten parcels; and
22. **FILING** of communication.

H. COMMITTEE REPORTS (continued):NO. 10-144 - LAND USE COMMITTEE:

Recommending the following:

1. **FIRST READING** of proposed bill to amend the State Land Use District classification from Agricultural to Rural for property situated at 132 Maka`ena Place, Kula, Maui, Hawaii;
2. **FIRST READING** of proposed bill granting a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 132 Maka`ena Place, Kula, Maui, Hawaii;
3. **RECORDATION** of the "Unilateral Agreement and Declaration for Conditional Zoning"; and
4. **FILING** of communication.

NO. 10-145 - PLANNING COMMITTEE:

Recommending **REFERRAL** of communication relating to agricultural impact fees to the Council Chair for the term beginning January 2, 2011.

NO. 10-146 - WATER RESOURCES COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill adopting an update of the Water Use and Development Plan pertaining to the Central Maui District; and
2. **FILING** of communications.

I. COMMUNICATIONS:1. COUNTY COMMUNICATIONS:

NO. 10-264 - CHIEF OF POLICE, informing of the Police Department's intent to expend \$50,000 in Federal Forfeiture Funds for their Employee Development Program to be used to fund training and related expenses.

NO. 10-265 - MAYOR, informing of a vacancy on the *Council on Aging* due to the resignation of Marlene Young.

1. COUNTY COMMUNICATIONS (continued):

NO. 10-266 - CHAIR, COMMITTEE OF THE WHOLE, informing of his intention to offer the following motions:

1. A motion to DISCHARGE the Committee of the Whole from further consideration of County Communication No. 10-250, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE ARMY FOR THE SOUTH MAUI WATERSHED SECTION 22 STUDY";
2. A motion to WAIVE the requirement of committee referral and report as provided for in Rule 6(F) of the Rules of the Council;
3. A motion to PASS ON FIRST READING AND ORDER TO PRINT the proposed bill;
4. A motion to FILE County Communication No. 10-250; and
5. A motion to FILE this communication.

NO. 10-267 - COUNCILMEMBER KAHO`OHALAHALA, transmitting a proposed resolution entitled "RECOGNIZING UNITED STATES PUBLIC LAW 103-150; THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OF 1948; THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS OF 1966; AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF 1966"; and requesting that the following motions be offered:

1. A motion to ADOPT the proposed resolution; and
2. A motion to FILE this communication.

NO. 10-268 - BUDGET DIRECTOR, transmitting the Capital Improvement Projects Implementation Report for Fiscal Year 2011, First Quarter ending September 30, 2010.

NO. 10-269 - DIRECTOR OF PARKS AND RECREATION, transmitting copies of the semiannual report regarding park dedications for each community plan area for the period April 1, 2010 through September 30, 2010.

NO. 10-270 - DIRECTOR OF PARKS AND RECREATION, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 10, MAUI COUNTY CODE, AND TITLE 13, MAUI COUNTY CODE, AUTHORIZING PARKS SECURITY OFFICERS TO ISSUE PARKING CITATIONS AND PROHIBITING UNAUTHORIZED COMMERCIAL ACTIVITY IN PARKS".



2. GENERAL COMMUNICATIONS:

NONE.

J. RESOLUTIONS:

NONE.

K. ORDINANCES - SECOND AND FINAL READING:

NONE.

L. UNFINISHED BUSINESS:

M. ANNOUNCEMENTS

**NOTE: ITEMS LISTED ON THE AGENDA MAY BE INSPECTED AT THE OFFICE OF THE COUNTY CLERK, 200 SOUTH HIGH STREET, WAILUKU, HAWAII, PRIOR TO THE MEETING DATE. PHOTOCOPIES MAY BE ORDERED, SUBJECT TO CHARGES IMPOSED BY LAW (MAUI COUNTY CODE, SECTION 2.64.010). PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK TO MAKE ARRANGEMENTS FOR INSPECTION OR PHOTOCOPYING OF DOCUMENTS.**

**INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE SHOULD CALL THE OFFICE OF THE COUNTY CLERK AT 270-7748, AT LEAST THREE DAYS IN ADVANCE.**