

POLICY COMMITTEE
Council of the County of Maui

Meeting Agenda

Wednesday, June 29, 2011
9:00 a.m.
Council Chamber, 8th Floor
200 South High Street, Wailuku, Hawaii

website: <http://www.mauicounty.gov/committees/POL>

OFFICE OF THE
COUNTY CLERK
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VOTING MEMBERS

- G. Riki Hokama, Chair**
- Robert Carroll, Vice-Chair**
- Gladys C. Baisa**
- Elle Cochran**
- Donald G. Couch, Jr.**
- Danny A. Mateo**
- Joseph Pontanilla**
- Michael P. Victorino**
- Mike White**

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 (Carla Nakata or Tammy Frias) 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. 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. These time limits may be suspended pursuant to the Rules of the Council, provided a suspension would apply equally to all testifiers and all items. 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 An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify. To ensure its distribution prior to the meeting, written testimony must be received in the Office of Council Services 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. If written testimony is submitted at the meeting, 16 copies are requested.

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.

POL-2(2) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (MOLOKAI PLANNING COMMISSION)

DESCRIPTION: The Committee is in receipt of correspondence dated June 7, 2011 (received June 8, 2011), from the Mayor, transmitting a draft resolution entitled "APPOINTMENT OF MEMBER TO THE MOLOKAI PLANNING COMMISSION", along with a completed application form for the nominee. The purpose of the draft resolution is to approve or disapprove the appointment of Janice Kalanihulia to the Molokai Planning Commission, for a term expiring on March 31, 2014, to fill an existing vacancy due to the resignation of Napua Leong.

STATUS: The Council must approve or disapprove the nomination by August 7, 2011, or the nomination will be deemed approved. The Committee may consider whether to recommend adoption of the draft resolution, with or without revisions. The Committee may also consider other related action.

**POL-2(15) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(HANA ADVISORY COMMITTEE; CIVIL SERVICE COMMISSION)**

DESCRIPTION: The Committee is in receipt of correspondence dated June 1, 2011 (received June 3, 2011), from the Mayor, transmitting a draft resolution entitled "APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI", along with completed application forms for the nominees. The purpose of the draft resolution is to approve or disapprove the appointment of the Mayor's following nominees to various boards, committees, and commissions, for terms expiring as indicated:

A. HANA ADVISORY COMMITTEE

1. Ian Ballantyne, for a term expiring on March 31, 2015.

B. CIVIL SERVICE COMMISSION

1. Jon Santos (replacing Barbara Haliniak), for a term expiring on March 31, 2012.

STATUS: The Council must approve or disapprove the nominations by August 2, 2011, or the nominations will be deemed approved. The Committee may consider whether to recommend adoption of the draft resolution, with or without revisions. The Committee may also consider other related action.

**POL-2(32) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(COUNCIL ON AGING)**

DESCRIPTION: The Committee is in receipt of the following:

1. County Communication No. 09-15, from Michael J. Molina, Chair, Committee of the Whole, relating to nominations to boards, committees, and commissions.
2. Correspondence dated June 9, 2011 (received June 9, 2011), from the Mayor, transmitting a draft resolution entitled "APPOINTMENT OF MEMBER TO THE COUNCIL ON AGING", along with a completed application form for the nominee. The purpose of the draft resolution is to approve or disapprove the appointment of Lawrence Ankrum, Jr., to the Council on Aging, for a term expiring on March 31, 2013, to fill an existing vacancy due to the resignation of Marlene Young.

STATUS: The Council must approve or disapprove the nomination by August 8, 2011, or the nomination will be deemed approved. The Committee may consider whether to recommend adoption of the draft resolution, with or without revisions. The Committee may also consider the filing of County Communication No. 09-15 and other related action.

POL-1(11) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: RICHARD BAYLY V. COUNTY OF MAUI; CASE NO. 7-09-01881)

DESCRIPTION: The Committee is in receipt of the following:

1. Correspondence dated May 19, 2011, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution to authorize settlement of a workers compensation claim in Richard Bayly vs. County of Maui, Case No. 7-09-01881.

2. Correspondence dated June 2, 2011, from the Department of the Corporation Counsel, transmitting a revised proposed resolution entitled "AUTHORIZING SETTLEMENT OF RICHARD BAYLY VS. COUNTY OF MAUI, CASE NO. 7-09-01881", incorporating nonsubstantive revisions. The purpose of the revised proposed resolution is to authorize settlement of the claim.

STATUS: The Committee may consider whether to recommend adoption of the revised proposed resolution, with or without further 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.

POL-1(12) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: IN THE MATTER OF THE COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX DOCKET NO. UIC-09-2011-0002)

DESCRIPTION: The Committee is in receipt of the following:

1. Correspondence dated June 6, 2011, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF IN THE MATTER OF COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX DOCKET NO. UIC-09-2011-0002", and attaching the proposed consent agreement as Exhibit "A". The U.S. Environmental Protection Agency ("EPA") alleges that the County violated certain provisions of the Safe Drinking Water Act and certain terms of the County's Underground Injection Control Permit issued by the EPA for the operation of the Lahaina Wastewater Reclamation Facility. The purpose of the proposed resolution is to authorize settlement of the matter under the terms set forth in the proposed consent agreement.
2. Correspondence dated June 17, 2011, from the Department of the Corporation Counsel, 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 ENVIRONMENTAL PROTECTION AGENCY FOR THE SETTLEMENT OF ALLEGED SAFE DRINKING WATER ACT VIOLATIONS AT THE LAHAINA WASTEWATER RECLAMATION FACILITY". The purpose of the proposed bill is to authorize the Mayor to enter into the proposed consent agreement between the County and the EPA to resolve the allegations by the EPA under the terms set forth in the consent agreement.

STATUS: The Committee may consider whether to recommend passage of the proposed bill on first reading, 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.

POL-1(7) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION AND SPECIAL COUNSEL ADDITIONAL COMPENSATION: THE COUNTY OF MAUI V. MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED, FINANCIAL INDUSTRY REGULATORY AUTHORITY DISPUTE RESOLUTION ARBITRATION NO. 10-00687; AND COUNTY OF MAUI V. MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED; MERRILL LYNCH & CO., INC., UNITED STATES DISTRICT COURT CIVIL NO. CV10-00077 LEK)

DESCRIPTION:

The Committee is in receipt of the following:

1. Correspondence dated April 6, 2011, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution to authorize additional compensation for Goodsill Anderson Quinn & Stifel, A Limited Liability Law Partnership LLP (“Goodsill”), as special counsel in matters relating to auction rate securities.
2. Correspondence dated June 20, 2011, from the Department of the Corporation Counsel, requesting consideration of a revised proposed resolution entitled “AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL GOODSILL ANDERSON QUINN & STIFEL, A LIMITED LIABILITY LAW PARTNERSHIP LLP, IN MATTERS RELATING TO AUCTION RATE SECURITIES” (“Additional Compensation Resolution”). The purpose of the revised proposed Additional Compensation Resolution is to authorize \$150,000 in additional compensation for Goodsill, as special counsel in matters relating to auction rate securities, for a total compensation of \$437,350.
3. Correspondence dated June 20, 2011, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled “AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI V. MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED, ARB. NO. 10-00687, BEFORE THE FINANCIAL INDUSTRY REGULATORY AUTHORITY; AND COUNTY OF MAUI V. MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED; MERRILL LYNCH & CO., INC.; BEFORE THE UNITED STATES DISTRICT COURT, DISTRICT OF HAWAII, CIVIL NO. CV10-00077 LEK” (“Settlement Resolution”) and transmitting a copy of the complaint in Civil No. CV 10-00077 LEK. The complaint alleges damages arising out of Merrill Lynch’s violations of the Exchange Act, fraud, fraudulent and/or negligent misrepresentations, and breach of fiduciary duty in connection with the sale of student loan auction rate securities to the County. The purpose of the proposed Settlement Resolution is to authorize settlement of the cases.

STATUS:

The Committee may consider whether to recommend adoption of the revised proposed Additional Compensation Resolution and the proposed Settlement 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.