

COUNCIL OF THE COUNTY OF MAUI

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A G E N D A

Regular Meeting of July 22, 2011
9:00 a.m.
Council Chamber
8th Floor, Kalana O Maui Building
200 South High Street, Wailuku, Hawaii

OFFICE OF THE
COUNTY CLERK

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

e-mail: 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 An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify.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 KUMU HULA KEALI'I REICHEL AND HALAU KE'ALAOKAMAILE FOR HONORS WON AT THE 48TH ANNUAL MERRIE MONARCH FESTIVAL 2011"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONY

G. MINUTES:

Public Hearing of May 5, 2011
Regular Meeting of May 10, 2011
Public Hearing of May 24, 2011

H. COMMITTEE REPORTS:NO. 11-57 - INFRASTRUCTURE MANAGEMENT COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution accepting the dedication of road widening Lot 1-B, consisting of 86 square feet, at the intersection of Haiku Road and West Kuiaha Road, Haiku, identified as TMK: (2) 2-7-09:012, from Peter C.V. Marciel Revocable Living Trust; and
2. **FILING** of communication.

NO. 11-58 - INFRASTRUCTURE MANAGEMENT COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution accepting the dedication of road widening Lot 6-D, consisting of 761 square feet along Alaku Place, Kihei, Maui, identified as TMK: (2) 3-9-13:003, from Sky Lewis, for the Kamaole Homesteads Subdivision; and
2. **FILING** of communication.

NO. 11-59 - INFRASTRUCTURE MANAGEMENT COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to establish a crosswalk on a portion of Kanani Road in Kihei, approximately 450 feet east of South Kihei Road fronting Kalama Heights, an independent senior living community; and
2. **FILING** of communication.

NO. 11-60 - LAND USE COMMITTEE:

Recommending **FILING** of communication to grant a request from Castle & Cooke Resorts, LLC to amend the Lanai Project District 2 (Koele) Phase I (Section 19.71.055(D), Maui County Code) to allow for the unrestricted use of up to 150,000 gallons per day of groundwater from the high level aquifer for the irrigation of the Koele Golf Course.

H. COMMITTEE REPORTS (continued):NO. 11-61 - LAND USE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill granting a request from Nona Lani Cottages LLC, to amend the Kihei-Makena Community Plan and Land Use Map from Multi-Family to Hotel for approximately 2.27 acres situated at 455 South Kihei Road, Kihei, Maui, Hawaii ("property") to establish consistency between the community plan designation and the past and present vacation rental use;
2. **FIRST READING** of bill granting a request from Nona Lani Cottages LLC to conditionally change the zoning for the property from R-2 Residential District to H-1 Hotel District, to establish consistency between the zoning and the past and present vacation rental use; and
3. **FILING** of communication.

NO. 11-62 - PLANNING COMMITTEE:

Recommending **FILING** of communication relating to permitting solar energy facilities in the agricultural zoning district.

NO. 11-63 - PLANNING COMMITTEE:

Recommending the following:

1. **FILING** of communications relating to granting the Planning Director and the Director of Public Works administrative authority to assess traffic impact fees in six community plan areas on the island of Maui; and
2. **FILING** of Bill No. 77 (2006) relating to amending the Fiscal Year 2007 Budget, Revenues – Rates, Fees and Assessments ("Appendix B") to establish traffic impact fees in Kihei-Makena and West Maui.

NO. 11-64 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution approving the following Hawaii State Association of Counties officers for Fiscal Year 2012: (a) Councilmember Mel Rapozo (County of Kauai) as President; (b) Councilmember Stanley Chang (City and County of Honolulu) as Vice-President; (c) Councilmember K. Angel Pilago (County of Hawaii) as Secretary; and (d) Councilmember Joseph Pontanilla (County of Maui) as Treasurer.

H. COMMITTEE REPORTS (continued):

NO. 11-65 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution approving the appointment of Janice Kalanihuia (replacing Napua Leong) to the Molokai Planning Commission, for a term expiring on March 31, 2014.

NO. 11-66 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution approving the appointment of the following members to the boards, committees, and commissions for the County of Maui for terms expiring as indicated:

- A. HANA ADVISORY COMMITTEE
 - 1. Ian Ballantyne, for a term expiring on March 31, 2015; and
- B. CIVIL SERVICE COMMISSION
 - 1. Jon Santos (replacing Barbara Haliniak), for a term expiring on March 31, 2012.

NO. 11-67 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution approving the appointment of Lawrence Ankrun, Jr. (replacing Marlene Young) to the Council on Aging, for a term expiring on March 31, 2013.

NO. 11-68 - POLICY COMMITTEE:

Recommending the following:

- 1. **ADOPTION** of resolution authorizing settlement of The County of Maui v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Arb. No. 10-00687, Financial Industry Regulatory Authority; and County of Maui v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated; Merrill Lynch & Co., Inc.; United States District Court, District of Hawaii, Civil No. CV10-00077 LEK; and
- 2. **ADOPTION** of resolution authorizing additional compensation for Special Counsel Goodsill Anderson Quinn & Stifel A Limited Liability Law Partnership LLP, in matters relating to auction rate securities.

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.

H. COMMITTEE REPORTS (continued):

NO. 11-69 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution authorizing settlement of Richard Bayly v. County of Maui, Case No. 7-09-01881.

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. 11-70 - POLICY COMMITTEE:

Recommending **FIRST READING** of bill authorizing the Mayor of the County of Maui to enter into an intergovernmental agreement with the United States Environmental Protection Agency regarding the Lahaina Wastewater Reclamation Facility.

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.

NO. 11-71 - WATER RESOURCES COMMITTEE:

Recommending **ADOPTION** of resolution to grant an extension for the Council to pass the Lanai Water Use and Development Plan by ordinance.

I. COMMUNICATIONS:

1. COUNTY COMMUNICATIONS:

NO. 11-185 - CHIEF OF POLICE, informing of the receipt of \$20,177.00 in Forfeiture Funds from the Department of the Attorney General, State of Hawaii.

NO. 11-186 - PROSECUTING ATTORNEY, informing of the Department of the Prosecuting Attorney's intent to expend approximately \$50,000 in Forfeiture Funds for training, computers and equipment.

1. COUNTY COMMUNICATIONS (continued):

- NO. 11-187 - PROSECUTING ATTORNEY, transmitting a copy of a grant award letter from the Department of Budget and Finance for the Defendant/Witness Trial Program.
- NO. 11-188 - DIRECTOR OF FINANCE, transmitting 26 contracts/grants for May 2011.
- NO. 11-189 - DIRECTOR OF WATER SUPPLY, transmitting copies of the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ended June 2011.
- NO. 11-190 - COUNCILMEMBER PONTANILLA, transmitting a draft resolution entitled "APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE HAWAII ASSOCIATION OF COUNTIES AND PACIFIC GATEWAY CENTER FOR THE COUNTIES OF HAWAII: SISTER-CITIES SUMMIT 2011" and informing of his intention to offer the following motions:
1. A motion to WAIVE the requirement of committee referral and report as provided for in Rule 7(E) of the Rules of the Council;
 2. A motion to ADOPT the draft resolution;
 3. A motion to TRANSMIT the record of the Council's action to the HSAC Executive Committee; and
 4. A motion to FILE this communication.
- NO. 11-191 - MAYOR, informing the Council of the status of union contract negotiations.
- NO. 11-192 - BUDGET DIRECTOR, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2012 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE-SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS".
- NO. 11-193 - BUDGET DIRECTOR, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3749 BILL NO. 37 (2010) RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI".
- NO. 11-194 - COUNCILMEMBER WHITE, relating to axis deer on Maui.

1. COUNTY COMMUNICATIONS (continued):

- NO. 11-195 - DIRECTOR OF ENVIRONMENTAL MANAGEMENT, transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF DONATION OF VARIOUS ITEMS FROM THE DEPARTMENT OF HEALTH, STATE OF HAWAII, TO THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, COUNTY OF MAUI, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE".
- NO. 11-196 - DIRECTOR OF PUBLIC WORKS, transmitting the following:
1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO OUTDOOR LIGHTING STANDARDS"; and
 2. A draft amendment to companion rules entitled "AMENDMENTS TO CHAPTER 901 STREET LIGHTING STANDARDS".
- NO. 11-197 - COUNCILMEMBER COUCH, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 10.48.040, MAUI COUNTY CODE, PERTAINING TO PROHIBITED PARKING ON SOUTH KIHEI ROAD NEAR KEAWAKAPU BEACH, KIHEI".
- NO. 11-198 - COUNCILMEMBER VICTORINO, relating to prohibiting of passengers riding in a bed of a vehicle.
- NO. 11-199 - PLANNING DIRECTOR, relating to an application submitted by Sunrise Center, Inc., transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING SUNRISE CENTER, INC. A CONDITIONAL PERMIT TO OPERATE THE HALE AKUA GARDEN FARM RETREAT CENTER, WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT HUELO, HAWAII", and related documents.
- NO. 11-200 - COUNCIL CHAIR MATEO, transmitting a letter from Grant Chun, Vice President, Maui, A&B Properties, Inc., submitting an annual compliance report in accordance with Condition 19 of Ordinance No. 3559, change in zoning from Agricultural, M-2 Heavy Industrial, and R-1 Residential Districts to M-1 Light Industrial District, Conditional zoning, for property situated at Kahului, Maui, Hawaii. (Maui Business Park Phase II Project).
- NO. 11-201 - COUNCILMEMBER COUCH, transmitting a copy of the Simi Valley Municipal Code's Noise Ordinance.

2. GENERAL COMMUNICATIONS:

NONE.

J. RESOLUTIONS:

NONE.

K. ORDINANCES - SECOND AND FINAL READING:

BILL NO. 36 (2011) - "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.450, MAUI COUNTY CODE, RELATING TO HOME EXEMPTION QUALIFICATION"

BILL NO. 37 (2011) - "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.450, MAUI COUNTY CODE, PERTAINING TO REAL PROPERTY TAX HOME EXEMPTION"

BILL NO. 38 (2011) - "A BILL FOR AN ORDINANCE AMENDING SECTION 2.56.060, MAUI COUNTY CODE, RELATING TO FINANCIAL DISCLOSURE STATEMENTS"

L. UNFINISHED BUSINESS:

NONE.

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.