

POLICY COMMITTEE
Council of the County of Maui

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Meeting Agenda

OFFICE OF THE
COUNTY CLERK

Monday, November 26, 2012
9:00 a.m.

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

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

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 modified pursuant to the Rules of the Council, provided a modification 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 An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify.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 to ensure distribution at the meeting.

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-60

**PURCHASE OF LAND LOCATED AT PULEHU ROAD FOR THE
EXTENSION OF THE CENTRAL MAUI LANDFILL (KAHULUI)**

DESCRIPTION:

The Committee is in receipt of the following:

1. County Communication 12-225, from the Director of Environmental Management, transmitting a proposed resolution to authorize the purchase, for \$813,000, of approximately 28.486 acres described as Lot 2-A-1 of the Central Maui Sanitary Landfill Subdivision (TMK: (2) 3-8-003:019 (portion)), located at Pulehu Road in Kahului, as a possible location for the extension of the Central Maui Landfill, pursuant to Chapter 3.44, Maui County Code.

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2. Correspondence dated November 16, 2012, from the Department of the Corporation Counsel, transmitting a revised proposed resolution entitled "AUTHORIZING THE PURCHASE OF LAND LOCATED AT PULEHU ROAD, KAHULUI, ISLAND AND COUNTY OF MAUI, PURSUANT TO CHAPTER 3.44, MAUI COUNTY CODE". The revised proposed resolution incorporates nonsubstantive revisions.

STATUS: The Committee may consider whether to recommend adoption of the revised proposed resolution, with or without further revisions. The Committee may also consider the filing of County Communication 12-225 and other related action.

**POL-27(2) COMMUNITY PLAN ADVISORY COMMITTEE SELECTION
(MOLOKAI COMMUNITY PLAN ADVISORY COMMITTEE)**

DESCRIPTION: The Committee is in receipt of the following:

1. County Communication 11-164, from the Planning Director, requesting that the process to establish Community Plan Advisory Committees for the Molokai and Lanai Community Plan Areas be initiated.
2. Correspondence dated November 19, 2012, from the Chair of the Policy Committee, transmitting a proposed resolution entitled "APPOINTMENTS TO THE MOLOKAI COMMUNITY PLAN ADVISORY COMMITTEE", along with completed application forms for the nominees. The purpose of the proposed resolution is to appoint the following 9 members to the 13-member Molokai Community Plan Advisory Committee, as authorized by Section 2.80B.080(C), Maui County Code: Frances Cobb-Adams, Lori L. Buchanan, Zhantell Dudoit, Lance ("Kip") Dunbar, Gregory E. Jenkins, Debra N. Kelly, Shannon M. Kino, Clement M. Reyes, Jr., and Robert A. Stephenson.

STATUS: The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions. The Committee may also consider the filing of County Communication 11-164 and other related action.

NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(2), Hawaii Revised Statutes, to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held.

POL-20 MAUI COUNTY GRANTS

DESCRIPTION: The Committee is in receipt of the following:

1. County Communication 09-120, from the Director of Housing and Human Concerns, transmitting a proposed bill to limit the role of the County's Grants Review Committee to advising the Mayor on requests for Community Partnership, Youth Center, Youth Program, and Culture and the Arts Grants; establish that advice to the Mayor on requests for Real Property Grants shall be provided by the agency that administers the property; and incorporate other adjustments to the County grants procedures.
2. Miscellaneous Communication, dated May 26, 2011, from the County Clerk, referring the matter relating to County grants and disbursements, including amendments to Chapter 3.36, Maui County Code, relating to the Maui County Grants Program, and the Budget and Finance Committee Chair's correspondence dated May 6, 2011, relating to the General Budget Provisions.
3. Miscellaneous Communication, dated May 25, 2012, from the County Clerk, referring the matter relating to a needs capacity and duplication of services study for all County grantees.
4. Correspondence dated January 23, 2012, from the Budget Director, transmitting a revised proposed bill to amend the procedures and administration of the Maui County Grants Program, specify that all grants of County funds are subject to Chapter 3.36, and eliminate the grants review committee.

5. Correspondence dated November 19, 2012, from the Chair of the Policy Committee to the Budget Director, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, RELATING TO THE MAUI COUNTY GRANTS PROGRAM". The revised proposed bill incorporates further revisions to the Budget Director's revised proposed bill, including setting a maximum amount of total grant funds for any fiscal year, not to exceed five percent of the general fund for that fiscal year.

STATUS: The Committee may discuss the administration of the Maui County Grants Program and General Budget Provisions relating to grants. The Committee may recommend passage of the revised proposed bill referenced in paragraph 5, above, on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 09-120, the Miscellaneous Communication dated May 26, 2011, and the Miscellaneous Communication dated May 25, 2012, and other related action.

POL-4(2) MAUI COUNTY LEGISLATIVE PACKAGE (2013 MAUI COUNTY LEGISLATIVE PACKAGE)

DESCRIPTION: The Committee is in receipt of the following:

1. County Communication 11-33, from the Council Chair, relating to matters pertaining to the Maui County Legislative Package.
2. Correspondence dated September 5, 2012, from Councilmember Gladys C. Baisa, transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2013 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL AUTHORIZING COUNTY LIQUOR COMMISSIONS TO PROVIDE FUNDING FOR ALCOHOL ABUSE TREATMENT AND PREVENTION". The purpose of the proposed resolution is to approve for inclusion in the 2013 Maui County Legislative Package a State bill authorizing the County liquor commissions to provide funding for alcohol abuse treatment and prevention.

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.

POL-1(23) LITIGATION MATTERS (SPECIAL COUNSEL AUTHORIZATION: HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI; CIVIL 12-00198 SOM BMK)

DESCRIPTION: The Committee is in receipt of correspondence dated November 16, 2012, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL BINGHAM MCCUTCHEN, LLP IN HAWAII WILDLIFE FUND ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK" and transmitting a copy of the complaint. The complaint alleges violations of the Federal Clean Water Act arising out of the County's operation of injection wells at the Lahaina Wastewater Reclamation Facility. The purpose of the proposed resolution is to authorize the employment of Bingham McCutchen, LLP as special counsel in the case, for a total compensation not to exceed a flat fee of \$250,000.

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, 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(8) LITIGATION MATTERS (STATUS: CHERYL CABEBE, ET AL. V. NEW SAND HILLS, LLC, ET AL.; CIVIL 09-1-0245(1); KAREN GOO, ET AL. V. MAYOR CHARMAINE TAVARES, ET AL.; PENDING BEFORE THE INTERMEDIATE COURT OF APPEALS AS 30142)

DESCRIPTION: The Committee is in receipt of correspondence dated August 21, 2012, from the Department of the Corporation Counsel, requesting an opportunity to present an update on these cases. The cases relate to height restrictions applicable to the Wailuku-Kahului Project District 1 (Maui Lani).

STATUS: The Committee may receive a status report on these cases. The Committee may also consider the filing of the correspondence and 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.

NOTE: THE COMMITTEE CHAIR HAS RECOMMENDED THAT THE FOLLOWING COMMUNICATIONS BE REFERRED TO THE COUNCIL CHAIR FOR THE TERM BEGINNING JANUARY 2, 2013, PURSUANT TO RULE 23 OF THE RULES OF THE COUNCIL.

POL-10 PROPOSED CHARTER AMENDMENTS

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
08/25/2009	CC 09-229	Chair, Committee of the Whole, relating to proposed Charter Amendments.

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
10/21/2011	Sub-item (8)	PLANNING COMMISSION REVIEW OF LAND USE ORDINANCES

Memo from Councilmember Couch, dated 10/21/2011, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO SECTION 8-8.4 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PLANNING COMMISSION REVIEW OF LAND USE ORDINANCES".

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
01/03/2012	Sub-item (9)	PENALTIES

Memo from Councilmember Couch, dated 01/03/2012, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PENALTIES".

POL-13 KULA RIDGE AFFORDABLE HOUSING AGREEMENT

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
06/17/2011	CC 11-177	Director of Housing and Human Concerns, transmitting a proposed resolution entitled "APPROVING THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION RESIDENTIAL WORKFORCE HOUSING AGREEMENT".
10/07/2011	CC 11-254	Council Chair, transmitting copy of letter from Clayton Nishikawa, Kula Ridge LLC, submitting a status update on the Kula Ridge Affordable Housing Subdivision project in accordance with Modification 13 of Resolution 10-57, "APPROVING WITH MODIFICATION THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES".
11/02/2012	CC 12-237	Council Chair, transmitting copy of letter from Clayton Nishikawa, Kula Ridge LLC, submitting a status update on the Kula Ridge Affordable Housing Subdivision project in accordance with Modification 13 of Resolution 10-57.

POL-29 MANAGEMENT OF RECORDS

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
11/06/2009	CC 09-314	Council Chair, transmitting a letter (dated 10/23/2009) from the Department of the Corporation Counsel, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO MANAGEMENT OF RECORDS".

POL-37 REPORT ON SETTLEMENT OF CLAIMS

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
08/21/2012	CC 12-172	Director of Finance, transmitting two reports on the settlement of claims as of June 30, 2012.

POL-43 PROPOSED PUBLIC SAFETY COMPLEX (PUUNENE)

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
02/02/2012	CC 12-29	Council Chair, transmitting a letter (dated 01/18/2012) from Albert "Alapaki" Nahale-a, Chairman, Hawaiian Homes Commission, State Department of Hawaiian Home Lands, relating to a proposed Public Safety Complex in Puunene, Maui.

**POL-46 DEDICATION OF REAL PROPERTY FROM OLD STABLE, LLC
(SPRECKELSVILLE)**

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
03/16/2012	CC 12-66	Director of Housing and Human Concerns, transmitting a proposed resolution entitled "AUTHORIZING THE ACCEPTANCE OF A DEDICATION OF REAL PROPERTY FROM OLD STABLE, LLC TO THE COUNTY OF MAUI, PURSUANT TO SECTION 3.44.015.C, MAUI COUNTY CODE".

**POL-50 PROPOSED TRANSFER OF GRANTS MANAGEMENT PROGRAM
FROM DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO
DEPARTMENT OF FINANCE**

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
05/24/2012	MISC	County Clerk, reporting that on 05/24/2012, the Council referred the matter relating to the proposed transfer of the Grants Management Program from the Department of Housing and Human Concerns to the Department of Finance.

**POL-52 KAPAAKEA CEMETERY AND HOOLEHUA VETERANS CEMETERY
(MOLOKAI)**

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
06/06/2012	CC 12-121	Director of Public Works, relating to the status of acquiring additional land for the Kapaakea Cemetery and additional niches at the Hoolehua Veterans Cemetery, Molokai, and transmitting related documents.

POL-55 ROADS IN LIMBO IN MAUI COUNTY AND STATEWIDE

<u>DATE REFERRED</u>	<u>REFERENCE</u>	<u>SUBJECT</u>
08/21/2012	CC 12-181	Director of Public Works, transmitting copies of the following, and requesting review, discussion and guidance on the Council's willingness to participate in the acceptance of these roads:

1. Senate Resolution 17, S.D.1, entitled "REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO IN MAUI COUNTY"; and

- 2. Senate Concurrent Resolution 49, S.D.1, H.D.1, entitled “REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO STATEWIDE”.

POL-57 ANIMAL CONTROL

<u>DATE REFERRED</u> 09/21/2012	<u>REFERENCE</u> CC 12-201	<u>SUBJECT</u> Councilmember Baisa, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL”.
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POL-62 U.S. FISH AND WILDLIFE SERVICE PROPOSAL TO ADD TO THE FEDERAL ENDANGERED SPECIES LIST AND DESIGNATE CRITICAL HABITAT FOR MOLOKAI, LANAI, KAHOO LAWE, AND MAUI

<u>DATE REFERRED</u> 11/02/2012	<u>REFERENCE</u> CC 12-236	<u>SUBJECT</u> Councilmember Couch, transmitting information (and compact disc) on a proposal from the U.S. Fish and Wildlife Service to add 38 species to the Federal Endangered Species List and to designate critical habitat for 135 species found on Molokai, Lanai, Kahoolawe, and Maui.
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POL-64 AFFORDABLE HOUSING FUND PROGRAM ANNUAL PLAN FOR FISCAL YEAR 2013

<u>DATE REFERRED</u> 11/16/2012	<u>REFERENCE</u> CC 12-242	<u>SUBJECT</u> Director of Housing and Human Concerns, transmitting copy of the Department’s Affordable Housing Fund Plan recommendations for Fiscal Year 2013.
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