

COUNCIL OF THE COUNTY OF MAUI

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A G E N D A

Regular Meeting of December 21, 2012
9:00 a.m.

OFFICE OF THE
COUNTY CLERK

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

Remote Testimony Sites: Hana Council District Office – Hana Community Center, 5091 Uakea Road, Hana, Hawaii
Lanai Council District Office – Lanai Community Center, 8th Street, Lanai City, Hawaii
Molokai Council District Office – 100 Ainoa Street, Kaunakakai, Hawaii

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 An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify.

REMOTE TESTIMONY SITES: Oral testimony may be received by telephone from each of the Council district offices noted above. If the audio connection between the meeting site in the Council Chamber and any of the remote testimony sites is lost, the meeting in the Council Chamber will still continue. Members of the public interested in information about offering testimony on an agenda item from a remote testimony site may contact the Office of the County Clerk (808-270-7748) prior to the meeting. While oral testimony is being received the district offices cannot provide other services. The audio connection will be terminated after all oral testimony has been received.

If written testimony is submitted at the meeting site, 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.

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- A. ROLL CALL
 - B. OPENING REMARKS: COUNCIL CHAIR DANNY A. MATEO
 - C. PLEDGE OF ALLEGIANCE

D. TESTIMONY ON CEREMONIAL RESOLUTIONS

E. CEREMONIAL RESOLUTIONS:

NO. _____ - "CONGRATULATING THE MOLOKAI MIDDLE SCHOOL ROBOTICS TEAM ON CAPTURING THE FIRST PLACE CHAMPION'S AWARD AT THE HAWAII FIRST LEGO LEAGUE CHAMPIONSHIP"

NO. _____ - "EXPRESSING APPRECIATION TO COUNCIL VICE-CHAIR JOSEPH PONTANILLA"

NO. _____ - "EXPRESSING APPRECIATION TO COUNCIL CHAIR DANNY A. MATEO"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONY

G. MINUTES:

NONE.

H. COMMITTEE REPORTS:

NO. 12-147 - BUDGET AND FINANCE COMMITTEE:

Recommending **REFERRAL** of matters to the Council Chair for the term beginning January 2, 2013, relating to: (1) Quarterly report from the Budget Director; (2) Cost of Government Commission's annual report, 2011-2012; (3) authorizing a performance audit of Department of Water Supply; (4) authorizing a performance audit of Department of Public Works; (5) authorizing a performance audit of Maui County's grants; (6) advertising inside County transit buses; (7) alternative capital improvement project funding sources; (8) the County's debt; (9) disparity of real property assessments for agricultural versus non-agricultural lands; (10) taxicab rate of fare and baggage charges; (11) proposed creation of a Treasury Program and proposed transfer of real property tax collections from Real Property Tax Division to Treasury Program; (12) real property tax agricultural use dedication; (13) Maui Bus system fee structure; (14) Countywide vehicle procurement standards; (15) Bill 97 (2010), relating to real property tax review boards; (16) Fiscal Year 2012 financial audits; (17) Fiscal Year 2013 budget appropriations for Real Property Tax Division (computer equipment and personnel); and (18) County budget and operations projections report.

H. COMMITTEE REPORTS (continued):

NO. 12-148 - ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending **REFERRAL** of communication relating to a lease and license of County-controlled parcels to Friends of Moku`ula, Inc., to the Council Chair for the term beginning January 2, 2013.

NO. 12-149 - LAND USE COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2013, relating to: (1) the Community Plan designation for a 5.171-acre parcel at the site of the previously proposed Ka Ono Ulu commercial development and a nearby 7-acre parcel in Kihei, Maui; (2) a Community Plan amendment and change in zoning for a 0.375-acre parcel identified by Tax Map Key (2) 2-6-009:017, Paia, Maui; and (3) a Community Plan amendment and change in zoning for property situated at 101 A, B, and C Kuau Place, Paia, Maui.

NO. 12-150 - PLANNING COMMITTEE:

Recommending **FILING** of communication relating to proposed bill to (1) establish definitions for "garage sale, rummage sale, or yard sale" and "home-based business"; (2) allow certain accessory uses and structures to be permitted in residential districts; (3) permit home-based businesses as a special use in residential districts; and (4) establish development standards.

NO. 12-151 - PLANNING COMMITTEE:

Recommending **FILING** of communication transmitting draft bills relating to bed and breakfast operations and transient vacation rentals.

NO. 12-152 - PLANNING COMMITTEE:

Recommending **REFERRAL** of matters to the Council Chair for the term beginning January 2, 2013, relating to: (1) fee structure for Department of Planning; (2) maximum wall height in agricultural districts; (3) compliance with Makena Resort change in zoning conditions relating to access for parks and recreation; (4) repetitive loss properties floodplain management plan, and related status reports; (5) annual compliance report for change in zoning conditions, Makena Resort area; (6) transient vacation rentals in planned developments approved on or before April 20, 1981; (7) transfer of development rights; (8) Honua`ula annual compliance report; (9) Lanai City Country Town Business District design guidelines and standards 2011; (10) allowable number of short-term rental homes in the Kihei-Makena Community Plan area; (11) traffic impact fees; and (12) deadline for a community plan advisory committee to forward its recommended revisions.

H. COMMITTEE REPORTS (continued):

NO. 12-153 - POLICY COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution authorizing the exchange of approximately 0.652 acre of County-owned land with approximately 0.630 acre of land owned by Alexander & Baldwin, LLC, consistent with the realignment of Hansen Road, Puunene, Maui; and
2. **FILING** of communication.

NO. 12-154 - POLICY COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2013, relating to: (1) proposed Charter amendments, including a proposal relating to planning commission review of land use ordinances and a proposal relating to penalties; (2) the Kula Ridge affordable housing subdivision residential workforce housing agreement, and related status updates on the project; (3) Maui County grants; (4) selection of the Molokai Community Plan Advisory Committee; (5) management of records; (6) reports from the Director of Finance on settlement of claims; (7) the proposed public safety complex in Puunene; (8) the dedication of real property in Spreckelsville from Old Stable, LLC; (9) the proposed transfer of the grants management program; (10) the Kapaakea Cemetery and Hoolehua Veterans Cemetery, Molokai; (11) roads in limbo in Maui County and statewide; (12) animal control; (13) a U.S. Fish and Wildlife Service proposal to add to the Federal endangered species list and designate critical habitat for Molokai, Lanai, Kahoolawe, and Maui; and (14) the Affordable Housing Fund Program annual plan for Fiscal Year 2013.

NO. 12-155 - WATER RESOURCES COMMITTEE:

Recommending **REFERRAL** of matters to the Council Chair for the term beginning January 2, 2013, relating to: (1) the contact between the County and Munekiyo and Hiraga, Inc., for consulting services for Hamakuapoko Wells 1 and 2, pumps, and water mains environmental assessment for the Department of Water Supply; (2) a report from the Director of Water Supply on the Lanai Water System Acquisition Appraisal; (3) establishing a Lanai Water Advisory Committee; and (4) access through the Hans Michel property for maintenance and operation of Kanaha Valley Stream intake, wells, and tank.

I. COMMUNICATIONS:

1. COUNTY COMMUNICATIONS:

NO. 12-253 - DIRECTOR OF FINANCE, transmitting 54 contracts/grants for October 2012.

1. COUNTY COMMUNICATIONS (continued):

- NO. 12-254 - MAYOR, informing of a vacancy on the Maui County Commission on Persons with Disabilities due to the resignation of Ramoda Anand.

- NO. 12-255 - MAYOR, informing of a vacancy on the Salary Commission due to the resignation of Johanna Amarin.

- NO. 12-256 - DIRECTOR OF WATER SUPPLY, transmitting copies of the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ended November 2012.

- NO. 12-257 - DIRECTOR OF WATER SUPPLY, transmitting copies of the water use reports for October 2012.

- NO. 12-258 - CHAIR, POLICY COMMITTEE, proposing an amendment to the 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 ", attached to Policy Committee Report No. 12-145.

- NO. 12-259 - CHAIR, POLICY COMMITTEE, informing of his intention to offer the following motions:
 - 1. A motion to DISCHARGE the Policy Committee from further consideration on a proposed resolution entitled "APPOINTMENT OF A MEMBER TO THE MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES";
 - 2. A motion to WAIVE the requirement of committee referral and report as provided for in Rule 7(E) of the Rules of the Council;
 - 3. A motion to ADOPT the proposed resolution;
 - 4. A motion to AMEND the proposed resolution by placing the nominee's name and term on Exhibit "B" for approval or Exhibit "C" for disapproval, as appropriate; and
 - 5. A motion to FILE this communication.

- NO. 12-260 - DEPUTY CORPORATION COUNSEL, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.005, MAUI COUNTY CODE, RELATING TO DEFINITIONS".

1. COUNTY COMMUNICATIONS (continued):

NO. 12-261 - COUNCIL CHAIR MATEO, transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.510.050, MAUI COUNTY CODE, TO REQUIRE NOTIFICATION TO THE COUNCIL OF UNFULFILLED CONDITIONS OF ZONING".

NO. 12-262 - COUNCIL CHAIR MATEO, transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.68.040, MAUI COUNTY CODE, RELATING TO CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY AMENDMENTS".

2. GENERAL COMMUNICATIONS:

NONE.

J. RESOLUTIONS:

NONE.

K. ORDINANCES - SECOND AND FINAL READING:

BILL NO. 95 (2012) - "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE HAWAII AIR NATIONAL GUARD, 292ND COMBAT COMMUNICATIONS SQUADRON, REGARDING THE USE OF THE DEPARTMENT OF POLICE'S FIRING RANGE LOCATED AT THE UKUMEHAME FIRING RANGE, LAHAINA, MAUI, FOR ANNUAL MILITARY SMALL ARMS TRAINING AND CERTIFICATION"

BILL NO. 96 (2012) - "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR CONSTRUCTION OF THE KEAWE STREET EXTENSION PROJECT AND INTERSECTION IMPROVEMENTS LOCATED AT LAHAINA, MAUI, HAWAII"

BILL NO. 97 (2012) - "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2013 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE - SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF FINANCE"

ORDINANCES - SECOND AND FINAL READING (continued):

BILL NO. 98 (2012) - "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2013 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE - SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF HOUSING AND HUMAN CONCERNS"

BILL NO. 99 (2012) - "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2013 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF HOUSING AND HUMAN CONCERNS, HUMAN CONCERNS PROGRAM; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"

BILL NO. 100 (2012) - "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO THE REAL PROPERTY TAX CLASSIFICATION OF CONDOMINIUM UNITS"

BILL NO. 101 (2012) - "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO THE MAUI ISLAND PLAN"

L. UNFINISHED BUSINESS:

COMMITTEE REPORT:

NO. 12-145 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution authorizing the employment of Bingham McCutchen, LLP as special counsel in Hawaii Wildlife Fund, et al. v. County of Maui, Civil 12-00198 SOM BMK, for a total compensation not to exceed a flat fee of \$250,000.

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: 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.