

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

RECEIVED

Meeting Agenda

2013 AUG -6 PM 12: 52

**Monday, August 12, 2013
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/committees/PIA>

VOTING MEMBERS

G. Riki Hokama, Chair

Donald G. Couch, Jr., Vice-Chair

Gladys C. Baisa

Robert Carroll

Elle Cochran

Stacy Crivello

Don S. Guzman

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 (Kirstin Hamman 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 An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify.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 site, 16 copies are requested to ensure distribution at the meeting.

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 Council Services 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.

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.

**PIA-2(12) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(MAUI COUNTY CULTURAL RESOURCES COMMISSION)**

- DESCRIPTION:** The Committee is in receipt of correspondence dated July 2, 2013 (received July 2, 2013), from the Mayor, transmitting a proposed resolution entitled "APPOINTMENT OF A MEMBER TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION", along with a completed application form for the nominee. The purpose of the proposed resolution is to approve or disapprove the nomination of Bridget Mowat to the Maui County Cultural Resources Commission, for a term expiring on March 31, 2016, to fill a vacancy due to the resignation of Irene Kaahanui.
- STATUS:** The Council must approve or disapprove the nomination by August 31, 2013, or the nomination will be deemed approved. The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions. The Committee may also consider other related action.

PIA-1(6) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: MARIE J. KOSEGARTEN V. DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB AND TIMOTHY T. TATE; CIVIL CV 10-00321 LEK/KSC)

- DESCRIPTION:** The Committee is in receipt of correspondence dated July 23, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF MARIE J. KOSEGARTEN V. THE DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI, BENJAMIN M. ACOB, AND TIMOTHY T. TATE, CIVIL NO. CV 10-00321 LEK/KSC" and transmitting a copy of the second amended complaint. The complaint alleges the plaintiff was the subject of discrimination and unlawful employment practices during her employment as a Deputy Prosecuting Attorney for the County. The purpose of the proposed resolution is to authorize settlement of the case.
- 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 ("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.

PIA-1(19) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF PIILANI GARDENS, LLC; CLAIM 2012-011)

- DESCRIPTION:** The Committee is in receipt of correspondence dated July 2, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC" and transmitting a copy of the claim. The claim alleges damages to the irrigation system at Piilani Garden Apartments resulting from the use of contaminated reclaimed water on or about September 2011. The purpose of the proposed resolution is to authorize settlement of the claim.
- 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.

PIA-1(20) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF JAMES. J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.; CLAIM 2012-1000-15)

DESCRIPTION: The Committee is in receipt of correspondence dated July 1, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1000-15, JAMES J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC." and transmitting a copy of the claim. The claim alleges the County overcharged Waiehu Golf Shop, Inc. for electricity and related matters while it operated a concession at the Waiehu Golf Course. The purpose of the proposed resolution is to authorize settlement of the claim for \$30,000.

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.

PIA-1(21) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF ELEANOR KONDO, GARY KONDO, AND STATE FARM MUTUAL INSURANCE COMPANY; CLAIM 2012-058)

DESCRIPTION: The Committee is in receipt of correspondence dated July 10, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-058 OF STATE FARM MUTUAL INSURANCE COMPANY ON BEHALF OF ITS INSURED, ELEANOR KONDO AND GARY KONDO" and transmitting a copy of the claim. The claim alleges damages to the vehicle of Eleanor and Gary Kondo resulting from a collision with a County vehicle that occurred on April 13, 2011, on Haleakala Highway. The purpose of the proposed resolution is to authorize settlement of the claim for \$8,076.89.

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 ("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.

PIA-1(22) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: AMERICAN CIVIL LIBERTIES UNION OF HAWAII, ET AL. V. COUNTY OF MAUI; CIVIL CV13-00307 LEK KSC)

DESCRIPTION: The Committee is in receipt of correspondence dated July 22, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF AMERICAN CIVIL LIBERTIES UNION OF HAWAII, ET AL. V. COUNTY OF MAUI, CIVIL NO. CV13-00307 LEK KSC" and transmitting a copy of the complaint. The complaint alleges that on or about January 21, 2013, the County violated Mele Stokesberry's and Charles M. Carletta's constitutional rights to free speech. The purpose of the proposed resolution is to authorize settlement of the case for \$15,000.

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.

PIA-1(23) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1))

DESCRIPTION: The Committee is in receipt of correspondence dated August 1, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF KAY BURKE V. COUNTY OF MAUI, CIVIL NO. 09-1-0127(1)" and transmitting a copy of the complaint. The complaint alleges that on January 24, 2009, Kay Burke suffered physical injuries when she tripped and fell on a sidewalk, which was maintained by the County, fronting the Maui Vista Condominium along South Kihei Road, Kihei. The purpose of the proposed resolution is to authorize settlement of the case.

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 ("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.

PIA-1(25) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF ERIC STEVENSON AND LIBERTY MUTUAL FIRE INSURANCE COMPANY; CLAIM 2012-1022-21)

DESCRIPTION: The Committee is in receipt of correspondence dated July 31, 2013, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1022-21 OF LIBERTY MUTUAL FIRE INSURANCE COMPANY ON BEHALF OF ITS INSURED, ERIC STEVENSON" and transmitting a copy of the claim. The claim alleges damages to the vehicle of Eric Stevenson when a County refuse truck collided with his vehicle while it was parked at Kupuna Street, Kihei, on November 1, 2012. The purpose of the proposed resolution is to authorize settlement of the claim for \$8,371.82.

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.

PIA-3(3) HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) (2014 HSAC LEGISLATIVE PACKAGE)

DESCRIPTION: The Committee is in receipt of the following:

1. Correspondence dated July 12, 2013, from the Council Chair, transmitting a correspondence dated July 3, 2013, from HSAC President Mel Rapozo advising of the 2014 HSAC Legislative Package timetable.
2. Correspondence dated August 2, 2013, from the Council Chair, transmitting the following:
 - a. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2014 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE HOUSE BILL 230 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 HSAC Legislative Package a State bill authorizing the county liquor commissions to provide funding for alcohol abuse treatment and prevention.

- b. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2014 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO EXEMPT THE LEGISLATIVE BODIES OF THE COUNTIES FROM THE SUNSHINE LAW". The purpose of the proposed resolution is to approve for inclusion in the HSAC Legislative Package a State bill to exempt the legislative bodies of the counties from the Sunshine Law.
- c. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2014 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ENABLE GOVERNMENTAL AGENCIES TO MAINTAIN ROADS IN LIMBO". The purpose of the proposed resolution is to approve for inclusion in the HSAC Legislative Package a State bill to enable governmental agencies to maintain roads in limbo.

STATUS: The Committee may consider whether to recommend adoption of the proposed resolutions, with or without revisions. The Committee may also consider other related action.

PIA-41**COUNCIL INVESTIGATION OF OLD WAILUKU POST OFFICE**

DESCRIPTION: The Committee is in receipt of a Miscellaneous Communication, dated July 9, 2013, from the County Clerk, transmitting certified copies of the following:

1. Resolution 13-83, entitled "AUTHORIZING THE POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE TO CONDUCT A FORMAL INVESTIGATION OF THE DEPARTMENT OF MANAGEMENT; DEPARTMENT OF FINANCE; BUDGET OFFICE, OFFICE OF THE MAYOR; DEPARTMENT OF PUBLIC WORKS; AND DEPARTMENT OF THE CORPORATION COUNSEL", which was adopted by the Council on July 5, 2013. The Resolution authorizes the Policy and Intergovernmental Affairs Committee to conduct an investigation into the potential misuse of County funds appropriated for the rehabilitation of the Old Wailuku Post Office.
2. Policy and Intergovernmental Affairs Committee Report 13-78.

STATUS: The Committee may consider its options for initiating an independent financial or performance audit, and establish procedures and guidelines for the Committee's investigation. The Committee may also consider the filing of the Miscellaneous Communication and other related action.