

# **COUNCIL OF THE COUNTY OF MAUI**

## **A G E N D A**

Regular Meeting of April 4, 2008  
9:00 a.m.  
Council Chamber  
8th Floor, Kalana O Maui Building  
200 South High Street, Wailuku, Hawaii

website: <http://www.mauicounty.gov/county/clerkSub/Agenda.php>.  
e-mail: [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)

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### **ORAL OR WRITTEN TESTIMONY**

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted. The Council shall receive oral testimony first from persons whose testimony forms are submitted prior to the convening of the meeting. Initially, three (3) minutes will be granted on each item, and at the discretion of the Council Chair, an additional minute may be granted to conclude the testimony; or an additional three (3) minutes on each item will be granted to those who are unable to conclude their testimony, after all others desiring to speak have been heard.

Thereafter, persons whose testimony forms are submitted after the meeting convenes, but before the testimony portion ends, will be allowed to present oral testimony for three minutes on each item. The Chair may grant an additional minute to conclude the testimony.

If written testimony is submitted at the meeting, 15 copies are requested. If written testimony is e-mailed or faxed (808-270-7171), please submit at least 24 hours before the meeting so that copies can be provided to Council Members in a timely manner.

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- A. **ROLL CALL**
  - B. **OPENING REMARKS:** COUNCILMEMBER MICHAEL P. VICTORINO
  - C. **PLEDGE OF ALLEGIANCE**
  - D. **TESTIMONY ON CEREMONIAL RESOLUTION**

E. CEREMONIAL RESOLUTION:

NO. \_\_\_\_\_ - "RECOGNIZING THE MONTH OF APRIL 2008 AS COMMUNITY ACTION MONTH IN MAUI COUNTY"

NO. \_\_\_\_\_ - "RECOGNIZING THE WEEK OF APRIL 13 – 19, 2008, AS ANIMAL CONTROL APPRECIATION WEEK IN MAUI COUNTY"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONY

G. MINUTES:

Regular Council Meeting of January 11, 2008

H. COMMITTEE REPORTS:

NO. 08-43 - BUDGET AND FINANCE COMMITTEE:

Recommending **FILING** of communication relating to a draft report on the Consolidated Annual Performance and Evaluation Report (CAPER) for Program Year 2006 (July 1, 2006 through June 30, 2007), and a report on the Annual Action Plan (AAP) of the Consolidated Plan for Program Year 2007 (July 1, 2007 through June 30, 2008).

NO. 08-44 - BUDGET AND FINANCE COMMITTEE:

Recommending **FILING** of communication relating to compliance with the Community Development Block Grant timeliness regulations for program year 2006.

NO. 08-45 - BUDGET AND FINANCE COMMITTEE:

Recommending **FILING** of communications relating to Quarterly Reports and Capital Improvement Project Reports from the Director of Finance for Fiscal Year 2008 (as of September 30, 2007 and December 31, 2007).

NO. 08-46 - BUDGET AND FINANCE COMMITTEE:

Recommending **FILING** of communication relating to the proposed South Maui Police Station.

H. COMMITTEE REPORTS (continued):NO. 08-47 - BUDGET AND FINANCE COMMITTEE:

Recommending **FILING** of communications relating to the Capital Improvement Projects Implementation Reports for Fiscal Year 2008 (First and Second Quarter).

NO. 08-48 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **ADOPTION** of proposed resolution authorizing the filing of an application with the Department of Housing and Urban Development, United States of America, for a grant under the Community Development Block Grant Program; and
2. **FILING** of communication.

NO. 08-49 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to amend Appendix A of the Fiscal Year 2008 Budget for the County of Maui as it pertains to the Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds; and
2. **FILING** of communication. ((Emergency Fund in the amount of \$1,700,000 for storm damages in December 2007)

NO. 08-50 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to amend Fiscal Year 2008 Budget for the County of Maui by decreasing Charges for Current Services by \$3,800,000; increasing Carryover/Savings in the Solid Waste Fund by \$3,100,000; decreasing Total Estimated Revenues by \$700,000; and decreasing the appropriation for the Hana Landfill scrap metal clean-up, Landfill Disposal Program-Solid Waste Fund, by \$700,000; and
2. **FILING** of communication.

H. COMMITTEE REPORTS (continued):NO. 08-51 - LAND USE COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution approving the action of the Board of Variances and Appeals granting a variance to allow Pacific Biodiesel, Inc. to process waste cooking oil into biodiesel within the Interim District at the Central Maui Landfill, Phase III, located off of Pulehu Road at Kahului, Maui, Hawaii (TMK: (2) 3-8-03:019); and
2. **FILING** of communication. (Department of Public Works and Environmental Management)

NO. 08-52 - LAND USE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to change the zoning from Agricultural, M-2 Heavy Industrial, and R-1 Residential Districts to M-1 Light Industrial District (Conditional Zoning) for the Maui Business Park Phase II Project for property situated at Kahului, Maui, Hawaii (TMK: (2) 3-8-01:002 (portion), (2) 3-8-06:004 (portion), and (2) 3-8-79:013);
2. **RECORDATION** of the Unilateral Agreement and Declaration for Conditional Zoning; and
3. **FILING** of communication. (Robert Sasaki, President, A & B Properties, Inc.)

NO. 08-53 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution indemnifying Tammy Osurman, a County Zoning Inspector, in Lothar Kuster v. Michael W. Foley, et al., Civil No. CV 07-00264 SOM BMK.

*With reference to this agenda item, one or more executive meetings pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, are anticipated 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. 08-54 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution authorizing a proposed settlement of Troy Mattos, et al. v. Darren Agarano, et al., Civil No. CV 07-00220 DAE BMK.

*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; and Section 92-5(a)(8), Hawaii Revised Statutes, 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. 08-55 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution authorizing a proposed settlement of Hanohano, LLC v. County of Maui, et al., Civil No. CV 06-1-0148(1).

*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. 08-56 - PUBLIC WORKS AND FACILITIES COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution urging the Legislature to pass Senate Bill No. 958, which will impose a ten-year moratorium on developing, testing, propagating, cultivating, growing, and raising genetically-engineered taro in the State; and
2. **FILING** of communication.

NO. 08-57 - WATER RESOURCES COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending Title 14, Maui County Code, relating to public services by adding a new chapter entitled "Water Rates and Fees"; and
2. **FIRST READING** of bill amending the Fiscal Year 2008 Budget as it pertains to revenues – fees, rates, assessments and taxes for the water fund by establishing a \$300 filing fee for appeals, refundable at the discretion of the Board of Water Supply.

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I. COMMUNICATIONS:

1. COUNTY COMMUNICATIONS:

NO. 08-87 - DIRECTOR OF FINANCE, transmitting 33 contracts for February 2008.

NO. 08-88 - MAYOR, transmitting the proposed Fiscal Year 2009 Budget and the following proposed bills entitled:

1. "A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET FOR THE COUNTY OF MAUI FOR THE FISCAL YEAR JULY 1, 2008 TO JUNE 30, 2009";
2. "A BILL FOR AN ORDINANCE RELATING TO THE CAPITAL PROGRAM FOR THE FISCAL YEAR ENDING JUNE 30, 2009";
3. "A BILL FOR AN ORDINANCE AMENDING TITLE 16, MAUI COUNTY CODE, PERTAINING TO ELECTRICAL, PLUMBING AND BUILDING PERMITS";
4. "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PERTAINING TO RECREATIONAL AREA REGULATIONS";
5. "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A STATE DRINKING WATER TREATMENT REVOLVING FUND LOAN FOR THE MOLOKAI SOURCE DEVELOPMENT";
6. "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A STATE DRINKING WATER TREATMENT REVOLVING FUND LOAN FOR THE KAMAOLE WATER TREATMENT PLANT IMPROVEMENTS";
7. "A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF FORTY NINE MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND DOLLARS (\$49,834,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI FOR THE PURPOSE OF PROVIDING FUNDS TO PAY ALL OR A PART OF THE COST OF APPROPRIATIONS FOR PUBLIC IMPROVEMENTS OF AND FOR THE COUNTY OF MAUI; FIXING THE FORM, DENOMINATIONS AND CERTAIN OTHER FEATURES OF SUCH BONDS AND PROVIDING FOR THEIR SALE; AUTHORIZING THE DIRECTOR OF FINANCE TO DETERMINE CERTAIN DETAILS OF THE BONDS; AUTHORIZING THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS; AND PROVIDING FOR OTHER ACTIONS RELATED TO THE ISSUANCE, SALE AND DELIVERY OF SAID BONDS"; and

1. COUNTY COMMUNICATIONS (continued):

8. "A BILL FOR AN ORDINANCE DETERMINING THAT PART OF THE PROCEEDS OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI HERETOFORE ISSUED IS IN EXCESS OF THE AMOUNTS REQUIRED FOR THE PURPOSES FOR WHICH SUCH BONDS WERE INITIALLY ISSUED, OR MAY OR SHOULD NOT BE APPLIED TO THOSE PURPOSES, AND DIRECTING SUCH PROCEEDS TO OTHER PUBLIC IMPROVEMENTS OR AUTHORIZED PURPOSES OF THE COUNTY OF MAUI".

- NO. 08-89 - CHAIR, REAL PROPERTY TAX BOARD OF REVIEW, transmitting the Real Property Tax Board of Review 2006-2007 Annual Report.
- NO. 08-90 - CHAIR, SALARY COMMISSION, informing of salary increases for Department Directors and Deputies.
- NO. 08-91 - COUNCILMEMBER MOLINA, transmitting correspondence from Mr. Sean Brunwin, relating to the Conditional Permit for the Hale Alana Vacation Rental in Kihei.
- NO. 08-92 - COUNCILMEMBER JOHNSON, transmitting information relating to photovoltaic energy.
- NO. 08-93 - COUNCIL CHAIR, transmitting a letter from Jon Shimizu, Vice President of Development, Castle & Cooke Resorts, LLC, providing a status report in compliance with Ordinance No. 3137, amending the State Land Use District Classification from Rural to Urban for property situated at Manele, Lanai, Hawaii. (The Terraces at Manele)
- NO. 08-94 - COUNCILMEMBER BAISA, relating to the matter of real property title issue.
- NO. 08-95 - DIRECTOR OF HOUSING AND HUMAN CONCERNS, transmitting the "2008 Affordable Sales Price Guidelines" and "2008 Income Limits & Affordable Rent Guidelines".

2. GENERAL COMMUNICATIONS:

NONE

J. RESOLUTIONS:

NONE

K. ORDINANCES - SECOND AND FINAL READING:

NONE.

L. UNFINISHED BUSINESS:

ORDINANCES - SECOND AND FINAL READING:

BILL NO. 34 (2008) - "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT KAEO, HONUULA, MAKENA, MAUI, HAWAII"

BILL NO. 35 (2008) - "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM HOTEL TO SINGLE-FAMILY FOR PROPERTY SITUATED AT KAEO, HONUULA, MAKENA, MAUI, HAWAII"

BILL NO. 36 (2008) - "A BILL FOR AN ORDINANCE TO ESTABLISH R-3 RESIDENTIAL DISTRICT ZONING (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KAEO, HONUULA, MAKENA, MAUI, HAWAII"

M. ANNOUNCEMENTS

**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.**