

COUNCIL OF THE COUNTY OF MAUI

A G E N D A

Regular Meeting of November 7, 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

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: VICE-CHAIR DANNY A. MATEO
 - C. PLEDGE OF ALLEGIANCE
 - D. TESTIMONY ON CEREMONIAL RESOLUTIONS

E. CEREMONIAL RESOLUTIONS:

NO. _____ - "CONGRATULATING ROBERT G. STRAUB FOR WINNING THE 2008 NATIONAL ASSOCIATION OF COUNTY PARK AND RECREATION OFFICIALS LIFETIME AWARD (PROFESSIONAL)"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONYG. MINUTES:

1. Regular Council Meeting of April 4, 2008
2. Public Hearing of April 10, 2008

H. COMMITTEE REPORTS:

NO. 08-134 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution authorizing acceptance of a payment of \$5,870,100 from Keaka LLC, Makena MF-2&3, LLC to the County of Maui Affordable Housing Fund, pursuant to Section 2.96.040.B.2, Maui County Code, and the subsequent disbursement to Hale Mahaolu and its affiliate Hale Mahaolu Ehiku, Inc.;
2. **FIRST READING** of bill amending the Fiscal Year 2009 Budget for the County of Maui as it pertains to Appendix A, Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds for Fiscal Year 2009, Affordable Housing Fund; and
3. **FILING** of communication. (Hale Mahaolu Ehiku Project, Kihei, Maui)

NO. 08-135 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to amend the Fiscal Year 2008 Budget to: (1) increase the appropriation for the Hana Police Cottage Construction project by \$171,000; (2) remove the appropriations for the Wailuku Police Station Communication Center Renovation project in the amount of \$300,000 and the Wailuku Police Station Parking Racks Installation project in the amount of \$150,000; and (3) increase the appropriation for Countywide Police Facilities by \$279,000; and
2. **FILING** of communication.

H. COMMITTEE REPORTS (continued):NO. 08-136 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill amending the Fiscal Year 2009 Budget for the County of Maui as it pertains to Appendix A, Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds for Fiscal Year 2009, Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund; and
2. **FILING** of communication. (\$480,000 for the acquisition of Kawaikapu Ranch on Molokai; \$220,776 for the acquisition of Nu`u Lands and Wetlands on Maui; and \$350,000 for the acquisition of Keanae Taro Lo`i on Maui)

NO. 08-137 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill authorizing the Mayor to enter into intergovernmental agreements for a Drinking Water Treatment Revolving Loan Fund for the Napili Well "A" Site Improvements; and
2. **FILING** of communication.

NO. 08-138 - LAND USE COMMITTEE:

Recommending **ADOPTION** of resolution referring to the Maui Planning Commission draft bills to, respectively, enact a State Land Use District Classification amendment from Agricultural to Urban (TMK: (2) 1-4-06:025 and (2) 1-4-06:001 (por.)), enact a Community Plan Amendment from Multi-Family to Park (TMK: (2) 1-4-06:001 (por.)), and establish PK-2 Community Park District Zoning (TMK: (2) 1-4-06:025 and (2) 1-4-06:001 (por.)) for property situated at Hana, Maui, Hawaii for the proposed expansion of, and improvements to, Pa`ani Mai Park.

NO. 08-139 - LAND USE COMMITTEE:

Recommending the following:

1. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 109 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:005, Leonard Paul Gomes, Jr.);
2. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 109 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:005, Leonard Paul Gomes, Jr.);

H. COMMITTEE REPORTS (continued):

3. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 143 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:006, Sibyl P. Padgett);
4. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 143 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:005, Sibyl P. Padgett);
5. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 189 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:007, Frank D. Padgett);
6. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 189 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:007, Frank D. Padgett);
7. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 271 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:008, Patricia H. Masumoto);
8. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 271 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:008, Patricia H. Masumoto);
9. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 288 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:010, Louis G. Cambra, Jr. and Irene S. Cambra);
10. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 288 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:010, Louis G. Cambra, Jr. and Irene S. Cambra);
11. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 236 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:011, Steve J. Sadler and Patty J. Sadler);
12. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 236 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:011, Steve J. Sadler and Patty J. Sadler);

H. COMMITTEE REPORTS (continued):

13. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 174 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:012, Robert D. Kimball and Marlu Kimball);
14. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 174 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:012, Robert D. Kimball and Marlu Kimball);
15. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 88 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:014, Eugene Paul Carvalho, Cherylann Puaala Carvalho, Frank Carvalho, Jr., and Ricky T. Carvalho);
16. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 88 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:014, Eugene Paul Carvalho, Cherylann Puaala Carvalho, Frank Carvalho, Jr., and Ricky T. Carvalho);
17. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 64 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:015, Frank Carvalho and Mary Carvalho);
18. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 64 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:015, Frank Carvalho and Mary Carvalho);
19. **FIRST READING** of bill to amend the State Land Use District Classification from Agricultural to Rural for property situated at 26 Kula Highway, Kula, Maui, Hawaii (TMK: (2) 2-3-32:016, Robert A. Watanabe and Astrid I. Watanabe);
20. **FIRST READING** of bill to change zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for property situated at 26 Kula Highway, Kula, Maui, Hawaii (TMK: (2) 2-3-32:016, Robert A. Watanabe and Astrid I. Watanabe);
21. **RECORDATION** of the Unilateral Agreement and Declaration for Conditional Zoning for each of the ten properties; and
22. **FILING** of communication. (Makaena Place Subdivision, Kula)

H. COMMITTEE REPORTS (continued):NO. 08-140 - POLICY COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution supporting the recovery of the Hawaii State Mammal, the critically endangered endemic Hawaiian Monk Seal; and
2. **FILING** of communication.

NO. 08-141 - POLICY COMMITTEE:

Recommending the following:

1. **APPROVAL** of Marilyn Tau`a to the *Hana Advisory Committee*; Feliciano Sales to the *Maui County Commission on Persons with Disabilities*; Gene Abbott to the *Maui County Grants Review Committee*; and Fern Duvall II to the *Maui County Outdoor Lighting Standards Committee*; and
2. **TRANSMITTAL** of a copy of the committee report to the Mayor.

NO. 08-142 - POLICY COMMITTEE:

Recommending the following:

1. **APPROVAL** of the following proposals and corresponding justification sheets for inclusion in the 2009 Hawaii State Association of Counties (HSAC) Legislative Package:
 - a. a proposed State bill entitled "A BILL FOR AN ACT RELATING TO HOUSING";
 - b. a proposed State bill entitled "A BILL FOR AN ACT RELATING TO PROCUREMENT";
 - c. a proposed State bill entitled "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS BY COUNTIES"; and
 - d. a proposed State bill entitled "A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS"; and
2. **TRANSMITTAL** of a copy of the committee report to the HSAC Executive Committee.

H. COMMITTEE REPORTS (continued):NO. 08-143 - POLICY COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution disapproving the Kula Ridge Residential Workforce Housing Subdivision pursuant to Section 201H-38, Hawaii Revised Statutes (HRS);
2. **FILING** of resolution approving the Kula Ridge Residential Workforce Housing Subdivision pursuant to Section 201H-38, HRS; and
3. **FILING** of resolution approving with modification the Kula Ridge Residential Workforce Housing Subdivision pursuant to Section 201H-38, HRS. (TMK: (2) 2-3-01:174, Kula).

I. COMMUNICATIONS:1. COUNTY COMMUNICATIONS:

- NO. 08-238 - DIRECTOR OF FINANCE, transmitting the report of short term investments for the quarter ended September 30, 2008.
- NO. 08-239 - DIRECTOR OF HOUSING AND HUMAN CONCERNS, transmitting a communication from Maude Cumming, Executive Director of the Family Life Center requesting that their application for funding through the Affordable Housing Fund for the FLC Affordable Rental Harbor Project I be withdrawn.
- NO. 08-240 - MAYOR, informing of a vacancy on the Committee on the Status of Women due to the resignation of Shirley Hartley.
- NO. 08-241 - MAYOR, informing of a vacancy on the Subdivision Engineering Standards Committee due to the resignation of Ty Takeno.
- NO. 08-242 - MAYOR, informing of a vacancy on the Maui Planning Commission due to the resignation of Joan Pawsat.
- NO. 08-243 - MAYOR, informing of a vacancy on the Subdivision Engineering Standards Committee due to the resignation of Edward Lewicke.
- NO. 08-244 - MAYOR, informing of a correction in the term expiration date for Howard Kihune Jr. to the Traffic Safety Council.

1. COUNTY COMMUNICATIONS (continued):

NO. 08-245 - DIRECTOR OF FINANCE, transmitting two reports on settlement of claims as of September 30, 2008.

NO. 08-246 - COUNCIL CHAIR, pertaining to County Communication No. 08-181, transmitting a draft resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL TO ESTABLISH SOLAR ENERGY FACILITIES AS PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT" and informing of his intention to offer the following motions:

1. A motion that the Planning Committee be DISCHARGED from further consideration of County Communication No. 08-181;
2. A motion that the requirement of committee referral and recommendation as provided for in Section 5(H) of the Rules of the Council be WAIVED;
3. A motion to ADOPT the proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL TO ESTABLISH SOLAR ENERGY FACILITIES AS PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT";
4. A motion to file County Communication No. 08-181; and
5. A motion that this communication be FILED.

NO. 08-247 - COUNCILMEMBER VICTORINO, transmitting a Unilateral Agreement and Declaration for Conditional Zoning relating to the Change in Zoning for a portion of Makena Resort and requesting that the following motions be made:

1. A motion that the Land Use Committee be DISCHARGED from further consideration of the Change in Zoning for a portion of Makena Resort; and
2. A motion to RESCHEDULE the Friday, November 21, 2008 Council meeting to Thursday, November 20, 2008.

NO. 08-248 - BUDGET DIRECTOR, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2009 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE DEPARTMENT OF POLICE" and related documents.

NO. 08-249 - DIRECTOR OF FINANCE, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 3.48.305 AND 3.48.450, MAUI COUNTY CODE, PERTAINING TO BED AND BREAKFAST REAL PROPERTY TAX CLASSIFICATION".

1. COUNTY COMMUNICATIONS (continued):

NO. 08-250 - BUDGET DIRECTOR, requesting a time extension to submit the Capital Improvement Project Implementation Report as of September 30, 2008.

NO. 08-251 - COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM MANAGER, transmitting copies of the following documents:

1. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM REQUEST FOR PROPOSALS 2009 CONSOLIDATED/ANNUAL ACTION PLAN JULY 1, 2009 – JUNE 30, 2010;
2. CDBG PROGRAM PROJECT EVALUATION & RATING SYSTEM;
and
3. CDBG PROGRAM YEAR 2009 ANNUAL ACTION PLAN SUBMISSION SCHEDULE.

NO. 08-252 - PLANNING DIRECTOR, relating to an application filed by William and Maris Van Der Lee, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO ESTABLISH R-3 RESIDENTIAL DISTRICT ZONING FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII", and related documents.

NO. 08-253 - PLANNING DIRECTOR, relating to an application filed by Grand Kahana Investment, LLC, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING GRAND KAHANA INVESTMENTS, LLC A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A REAL ESTATE AND MANAGEMENT OFFICE WITHIN THE COUNTY HOTEL DISTRICT, FOR PROPERTY SITUATED AT LAHAINA, MAUI, HAWAII", and related documents.

NO. 08-254 - PLANNING DIRECTOR, transmitting the following documents:

1. Resolution No. 01-141 entitled "ADOPTING THE COUNTY OF MAUI REPETITIVE LOSS PROPERTIES FLOODPLAIN MANAGEMENT PLAN";
2. County of Maui, Repetitive Loss Properties Floodplain Management Plan, Updated 2008; and
3. County of Maui, Repetitive Loss Properties Floodplain Management Plan, Annual Evaluation Report, October 2008.

1. COUNTY COMMUNICATIONS (continued):

NO. 08-255 - DIRECTOR OF PUBLIC WORKS, transmitting a proposed resolution entitled "AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY INTERESTS AT LAHAINA, MAUI, HAWAII FOR LAHAINA WATERSHED FLOOD CONTROL PROJECT".

NO. 08-256 - DIRECTOR OF HOUSING AND HUMAN CONCERNS, transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF A \$120,000 DONATION FROM LANDTEC, INC. TO THE COUNTY OF MAUI FIRST-TIME HOMEBUYERS' REVOLVING FUND".

NO. 08-257 - DIRECTOR OF WATER SUPPLY, reporting on waterline easement conveyances for the first quarter of Fiscal Year 2009.

2. GENERAL COMMUNICATION:

NONE

J. RESOLUTIONS:

NONE

K. ORDINANCES - SECOND AND FINAL READING:

BILL NO. 80 (2008) - "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3571 (2008) RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI"

BILL NO. 81 (2008) - "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2009 BUDGET FOR THE COUNTY OF MAUI, AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2009, AFFORDABLE HOUSING FUND"

BILL NO. 82 (2008) - "A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5 RURAL DISTRICT ZONING FOR PROPERTY SITUATED AT HANA, MAUI, HAWAII"

BILL NO. 83 (2008) - "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII"

K. ORDINANCES - SECOND AND FINAL READING (continued):

BILL NO. 84 (2008) - "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII"

BILL NO. 85 (2008) - "A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL, AND AMENDING CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS"

L. UNFINISHED BUSINESS:COMMITTEE REPORTS:

NO. 08-133 - PUBLIC WORKS AND FACILITIES COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution accepting a non-exclusive perpetual beach access easement over and across the property situated at 101 North Kihei Road in Kihei including the following elements: (1) a 10-foot-wide walkway for public beach access; and (2) a 10-foot-wide-by-20-foot-long daytime drop-off area for beach users with disabilities; and
2. **FILING** of communication.

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.