

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

October 17, 2006

9:00 a.m.

Council Chamber, 8th Floor

200 South High Street, Wailuku, Hawaii

website: <http://www.co.maui.hi.us/committees/COW/>

e-mail: cow.committee@mauicounty.us

COMMITTEE MEMBERS

Michael J. Molina, Chair

Dain P. Kane, Vice-Chair

Michelle Anderson

Robert Carroll

G. Riki Hokama

Jo Anne Johnson

Danny A. Mateo

Joseph Pontanilla

Charmaine Tavares

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 (Richelle Kawasaki or Clarita Balala) 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. If written testimony is submitted at the meeting, 16 copies are requested. If written testimony is e-mailed or faxed, please submit at least 24 hours before the meeting so that copies can be provided to Council members in a timely manner.

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.

COW-1(42) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (EDWARD ALVES AND FAIRMONT SPECIALTY GROUP, CLAIM NO. 2006-031)

DESCRIPTION: The Committee is in receipt of correspondence dated October 4, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2006-031 BY EDWARD ALVES AND FAIRMONT SPECIALTY GROUP", and transmitting a copy of related documents. The claim alleges damages related to an automobile collision with a County vehicle on or about February 21, 2006. The purpose of the proposed resolution is to authorize settlement of the case for \$8,782.69.

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 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.

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COW-1(41) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (BERT KAMAKA V. COUNTY OF MAUI, CASE NO. 7-03-02452)

DESCRIPTION: The Committee is in receipt of correspondence dated October 3, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF BERT KAMAKA VS. COUNTY OF MAUI, CASE NO. 7-03-02452". The claim alleges work-related injuries sustained by a County employee on June 12, 2003. 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 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; and pursuant to Section 92-5(a)(8), Hawaii Revised Statutes, to deliberate 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.

COW-5(16) SPECIAL COUNSEL AUTHORIZATION (TRINIDAD K. ALCONCEL, ET AL. V. COUNTY OF MAUI, CIVIL NO. CV05-00280 SPK BMK)

DESCRIPTION: The Committee is in receipt of correspondence dated October 9, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL MARR HIPP JONES & WANG, IN TRINIDAD K. ALCONCEL, ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00280 SPK BMK". The purpose of the proposed resolution is to authorize \$125,000 in additional compensation for Marr Hipp Jones & Wang as special counsel in the case for a total compensation 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 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.

COW-5(15) SPECIAL COUNSEL AUTHORIZATION (JACK HENRY WILLIAMS, JR., ET AL. V. COUNTY OF MAUI, CIVIL NO. CV05-00278 DAE LEK)

DESCRIPTION: The Committee is in receipt of correspondence dated October 9, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL MARR HIPP JONES & WANG, IN JACK HENRY WILLIAMS, JR., ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00278 DAE LEK". The purpose of the proposed resolution is to authorize \$125,000 in additional compensation for Marr Hipp Jones & Wang as special counsel in the case for a total compensation 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 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.

COW-4(14) INDEMNIFICATION AUTHORIZATION (SARAH C. WHITE, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF STEFAN BOURNAKEL, DECEASED, AND AS NEXT FRIEND OF NICOS ROBERT BOURNAKEL, A MINOR V. CAROLANN SABATINO, ET AL., CIVIL NO. CV04-00500 ACK/LEK)

DESCRIPTION: The Committee is in receipt of correspondence dated October 10, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING FRANKLYN L. SILVA AND WAYNE M. PAGAN IN SARAH C. WHITE, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF STEFAN BOURNAKEL, DECEASED, AND AS NEXT FRIEND OF NICOS ROBERT BOURNAKEL, A MINOR V. CAROLANN SABATINO, ET AL., CIVIL NO. CV04-00500 ACK/LEK", and transmitting a copy of the Verified Fourth Amended Complaint. The complaint alleges that Stefan Bournakel died as a result of a motor vehicle accident caused by Carolann Sabatino on Pulehu Road on February 13, 2004. The complaint further alleges that Ms. Sabatino had consumed alcohol on navigable waters as part of a sightseeing tour, and that the named County employees were negligent because they did not enforce Section 08-101-69(a) of the Rules Governing the Sale and Manufacture of Liquor for the County of Maui with respect to tour or cruise vessel licenses. The purpose of the proposed resolution is to indemnify Franklyn L. Silva, the Director of the Department of Liquor Control, and Wayne M. Pagan, the Deputy Director of the Department of Liquor Control, in this 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 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.

COW-57 ACQUISITION OF REAL PROPERTY AT 167 PONANA STREET, KIHAI, MAUI, HAWAII

DESCRIPTION: The Committee is in receipt of County Communication No. 06-206, from the Mayor, transmitting a proposed resolution entitled "APPROVING THE ACQUISITION OF REAL PROPERTY AT KIHAI, MAUI, HAWAII". The purpose of the proposed resolution is to authorize the acquisition of a 4,650 square foot parcel of land located at 167 Ponana Street, Kihei, Maui (TMK: (2) 3-9-50:048) for \$350,900 as a keystone property for the Kihei Greenway.

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 No. 06-206 and other related action.

COW-6(3) MAUI COUNTY LEGISLATIVE PACKAGE (2007 MAUI COUNTY LEGISLATIVE PACKAGE)

DESCRIPTION: The Committee is in receipt of correspondence dated August 30, 2006, from Councilmember Robert Carroll, transmitting a draft bill and justification sheet relating to time share zoning.

STATUS: The Committee may consider whether to recommend that the proposal, with or without revisions, comprise the 2007 Maui County Legislative Package. The Committee may also consider other related action.

COW-59 ACCEPTANCE OF DONATION FROM WAL-MART FOUNDATION TO THE COUNTY

DESCRIPTION: The Committee is in receipt of County Communication No. 06-235, from the Fire Chief, transmitting a proposed resolution entitled “AUTHORIZING ACCEPTANCE OF DONATION OF \$1,500 FROM WAL-MART FOUNDATION TO THE COUNTY OF MAUI, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE”. The purpose of the proposed resolution is to authorize the acceptance of a donation of \$1,500 to purchase approximately 100 smoke detectors to be placed on fire trucks and dispersed at residences.

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 No. 06-235 and other related action.

COW-58 REPEALING CHAPTER 8.20, MAUI COUNTY CODE, PERTAINING TO SMOKING

DESCRIPTION: The Committee is in receipt of County Communication No. 06-213, from the Director of Finance, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE REPEALING CHAPTER 8.20, MAUI COUNTY CODE, PERTAINING TO SMOKING”. The purpose of the proposed bill is to repeal Chapter 8.20, Maui County Code, pertaining to smoking, due to the passage by the Hawaii State Legislature of Act 295 (2006), which prohibits smoking in places open to the public and places of employment. This statewide smoking prohibition will be effective November 16, 2006:

STATUS: The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without revisions. The Committee may also consider the filing of County Communication No. 06-213 and other related action.