

# COMMITTEE OF THE WHOLE

Council of the County of Maui

## Meeting Agenda

September 3, 2003

1:30 p.m.

Council Chamber, 8<sup>th</sup> Floor  
200 South High Street, Wailuku, Hawaii

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

e-mail: [cw.committee@co.maui.hi.us](mailto:cw.committee@co.maui.hi.us)

### **COMMITTEE MEMBERS**

**Robert Carroll, Chair**

**Dain P. Kane, Vice-Chair**

**G. Riki Hokama**

**Jo Anne Johnson**

**Danny A. Mateo**

**Michael J. Molina**

**Wayne K. Nishiki**

**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 (Carla Nakata or Pauline Martins) 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, 15 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-2(3)**

### **SPECIAL COUNSEL AND/OR INDEMNIFICATION AUTHORIZATION (INDEMNIFYING DANA WINGAD IN TIMOTHY GILBERT V. DANA WINGAD, CIVIL NO. 03-1-0308 (3))**

**DESCRIPTION:**

The Committee is in receipt of correspondence dated August 25, 2003, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING DANA WINGAD IN CIVIL CASE NO. 03-1-0308 (3), TIMOTHY GILBERT v. DANA WINGAD", and transmitting a copy of the complaint filed on August 1, 2003. The purpose of the proposed resolution is to indemnify former Maui County police officer Dana Wingad in Gilbert v. Wingad, Civil No. 03-1-0308 (3), Circuit Court of the Second Circuit, State of Hawaii. The complaint alleges negligent battery, assault and battery, emotional distress and civil rights violations arising from an incident at Hapa's Brew Haus in Kihei on January 20, 2002.

**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-2(4)      SPECIAL COUNSEL AND/OR INDEMNIFICATION AUTHORIZATION  
(INDEMNIFYING JOHN BUCK III IN THE EPILEPTIC FOUNDATION OF MAUI, ET AL.  
V. CITY AND COUNTY OF MAUI, ET AL., CASE NO. CV 02-00343 ACK/KSC)**

**DESCRIPTION:** The Committee is in receipt of correspondence dated August 25, 2003, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING JOHN BUCK, III, IN CASE NO. CV 02-00343 ACK-KSC, THE EPILEPTIC FOUNDATION OF MAUI, ET AL., VS. CITY AND COUNTY OF MAUI, ET AL.", and transmitting a copy of the Second Amended Complaint filed on April 10, 2003 (complaint). The purpose of the proposed resolution is to indemnify current County of Maui employee John Buck III, in The Epileptic Foundation of Maui, et al. v. City and County of Maui, Department of Parks and Public Recreation, et al., CV 02-00343 ACK/KSC, United States District Court for the District of Hawaii. The complaint alleges civil rights violations and discriminatory practices in public accommodations arising from the use of County parks.

**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-9      FLOOD CLAIMS AND LAWSUITS (JANUARY 2002, OCTOBER 2002  
AND FEBRUARY 2003)**

**DESCRIPTION:** The Committee is in receipt of County Communication No. 03-81, from the Department of the Corporation Counsel, transmitting various flood claims and lawsuits with supporting documents, involving the following: Marie A. Achi; Clayton and Janet Alexander; David Barrett; Chuck and Lisa Burke; Zachary and Henrietta Helm; Donovynne E. and Tanya Moleta; Naomi Malone; Troy and Rebecca Richardson; and Ronald D. Vaught.

**STATUS:** The Committee may consider whether to recommend any legislative action relating to the claims of Zachary and Henrietta Helm, and Donovynne E. and Tanya Moleta. The Committee may also consider other related action, including the possible filing of County Communication No. 03-81.

**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-1(8)      SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (DAVID  
AULD-RUANE V. COUNTY OF MAUI, CASE NOS. 8-91-04304 AND 8-93-04088)**

**DESCRIPTION:** The Committee is in receipt of the following:

1. Correspondence dated May 30, 2003, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DAVID AULD-RUANE V. COUNTY OF MAUI, CASE NOS. 8-91-04304 AND 8-93-04088". The claims allege work-related injuries sustained on February 8, 1991 and August 16, 1993. The purpose of the proposed resolution is to authorize settlement of the cases.

2. Correspondence dated August 27, 2003, from the Committee Chair, transmitting:
  - (a) correspondence dated July 29, 2003, to the Department of the Corporation Counsel, requesting clarification on the procedures for handling recommendations for settlements of workers' compensation claims in excess of \$3,000 by insurance adjuster John Mullen & Company, Inc.; and
  - (b) correspondence dated August 21, 2003, from the Department of the Corporation Counsel, responding to the request.

**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-1(5)      SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS  
(ROBERT L. TAM HO V. COUNTY OF MAUI, CASE NO. 7-01-00177)**

**DESCRIPTION:** The Committee is in receipt of correspondence dated May 30, 2003, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF ROBERT L. TAM HO VS. COUNTY OF MAUI, CASE NO. 7-01-00177". The claim alleges a work-related injury sustained on January 30, 2001. 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.

**COW-1(3)      SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (LAKI  
KAAHUMANU, ET AL. V. COUNTY OF MAUI, CASE NO. CV01-00689 ACK/LEK)**

**DESCRIPTION:** The Committee is in receipt of correspondence dated August 27, 2003, from the Department of the Corporation Counsel, requesting consideration of plaintiffs' written settlement demand in Kaahumanu, et al. v. County of Maui, CV01-00689 ACK/LEK, United States District Court for the District of Hawaii.

**STATUS:** The Committee may consider whether to recommend any legislative action with respect to settlement of the case.

**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-16      REQUEST FOR SPECIAL COUNSEL IN MATTERS RELATING TO  
COUNTY WATER POLICIES**

**DESCRIPTION:** The Committee is in receipt of the following:

1. County Communication No. 03-211, from the Council Chair, transmitting a draft resolution relating to the employment of special counsel to represent the Council in the matter of the Mayor's announcement halting the issuance of water meter reservations;

2. Correspondence dated August 28, 2003, from the Council Chair, transmitting a revised draft resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL TO ADVISE AND REPRESENT THE COUNCIL IN MATTERS RELATING TO COUNTY WATER POLICIES". The purpose of the revised draft resolution is to authorize the employment of special counsel to advise and represent the Council on County water policies, including the Mayor's announcement that, effective July 21, 2003, no new water meter reservations would be issued, and the subsequent promised allocation of one million gallons per day for affordable housing projects being planned around Central and South Maui. The proposed authorization contemplates an hourly rate not to exceed \$150 and total compensation not to exceed \$10,000.

**STATUS:** The Committee may consider whether to recommend adoption of the revised draft resolution, with or without further revisions. The Committee may consider other related action, including the possible filing of County Communication No. 03-211.

**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.