

COUNCIL OF THE COUNTY OF MAUI

A G E N D A

Regular Meeting of December 19, 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: COUNCILMEMBER JOSEPH PONTANILLA
 - C. PLEDGE OF ALLEGIANCE
 - D. TESTIMONY ON CEREMONIAL RESOLUTIONS

E. CEREMONIAL RESOLUTIONS:

NO. _____ - "EXTENDING CONDOLENCES TO THE FAMILY OF THE LATE STATE REPRESENTATIVE ROBERT H. NAKASONE"

NO. _____ - "EXPRESSING APPRECIATION TO COUNCILMEMBER MICHELLE ANDERSON"

NO. _____ - "EXPRESSING APPRECIATION TO COUNCIL CHAIR G. RIKI HOKAMA"

F. PRESENTATION OF WRITTEN OR ORAL TESTIMONY

G. MINUTES:

NONE

H. COMMITTEE REPORTS:

NO. 08-155 - BUDGET AND FINANCE COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2009.

NO. 08-156 - LAND USE COMMITTEE:

Recommending **FILING** of communication relating to a request from Linda Gallagher, on behalf of CB Laana, Charles Brent, and S. Lumjuan, for a Conditional Permit to operate a transient vacation rental and/or a Bed and Breakfast Home Permit for The Spyglass House, on approximately 16,335 square feet within the P-1 Public/Quasi-Public District, located at 367 Hana Highway, Kuau, Maui, Hawaii (TMK: (2) 2-6-09:017).

NO. 08-157 - LAND USE COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2009.

NO. 08-158 - PLANNING COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2009.

H. COMMITTEE REPORTS (continued):NO. 08-159 - POLICY COMMITTEE:

Recommending **FILING** of communication relating to a proposed resolution to authorize a grant of a 50-year lease for a property consisting of approximately two acres situated at 95 Mahalani Street, Wailuku (TMK: (2) 3-8-46:016) to Ka Lima O Maui, Ltd., for a nominal amount.

NO. 08-160 - POLICY COMMITTEE:

Recommending **REFERRAL** of communication relating to the acquisition of land at Lipoa Point to the Council Chair for the term beginning January 2, 2009.

NO. 08-161 - POLICY COMMITTEE:

Recommending **ADOPTION** of resolution authorizing additional compensation for special counsel Bronster Hoshibata, a Law Corporation, in Molokai Properties, Ltd., formerly known as Molokai Ranch, Ltd., vs. Department of Health, State of Hawaii, et al., Civil No. 08-1-1877-08 EEH; County of Maui vs. Molokai Properties, Ltd., formerly known as Molokai Ranch, Ltd., et al., Civil No. 08-1-0493(1); and County of Maui vs. State of Hawaii, Department of Health, Civil Nos. 08-1-0533(1) and 08-1-0534(1).

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.

NO. 08-162 - POLICY COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution to authorize the acceptance of a donation from the Rotary Club of Lahaina Sunrise to the Department of Police of a brand new Onsite 200 Radar Speed Dolly, approximately valued at \$4,000; and
2. **FILING** of communication.

NO. 08-163 - POLICY COMMITTEE:

Recommending **REFERRAL** of communication relating to a resolution authorizing proceedings in eminent domain for acquisition of real property interests at Lahaina to the Council Chair for the term beginning January 2, 2009. (Lahaina Watershed Flood Control Project)

H. COMMITTEE REPORTS (continued):

NO. 08-164 - PUBLIC WORKS AND FACILITIES COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2009.

NO. 08-165 - PUBLIC WORKS AND FACILITIES COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution authorizing certain individuals, including Park Security Officers, to issue citations for violations of Chapter 13.04, Maui County Code, relating to recreational area regulations; and clarifying the penalties for such violations; and
2. **FILING** of communication.

NO. 08-166 - PUBLIC WORKS AND FACILITIES COMMITTEE:

Recommending the following:

1. **ADOPTION** of resolution authorizing the transfer, by Quitclaim Deed, of the remaining County-owned parcels from Subdivision File No. 4.962 situated at Kelawea, Lahaina, identified as TMK: (2) 4-5-31:(Portion of Road), described as Lots 261, 262, and 45, and Boundary "15" and "20"; and TMK: (2) 4-5-34:Portions of Lahainaluna Road, Liloa Street, North Hakau Place, and South Hakau Place, described as Portion of Lot 47, Portion of MRS-2, Portions of Lots 259, 260, and 263 together with Abutter's Rights of Vehicle Access, to the State Department of Transportation, for the purpose of constructing the Lahaina Bypass, Federal Aid Project No. NH-030-1(35); and
2. **FILING** of communication.

NO. 08-167 - WATER RESOURCES COMMITTEE:

Recommending **REFERRAL** of communications to the Council Chair for the term beginning January 2, 2009.

I. COMMUNICATIONS:

1. COUNTY COMMUNICATIONS:

NO. 08-284 - DIRECTOR OF FINANCE, transmitting 68 contracts for November 2008.

1. COUNTY COMMUNICATIONS (continued):

NO. 08-285 - MAYOR, informing of the following vacancies:

1. Committee on the Status of Women due to the resignation of Valarie Simonsen; and
2. Council on Aging due to the resignation of Peter Durkson.

NO. 08-286 - COUNCILMEMBER PONTANILLA, transmitting a proposed resolution entitled "APPROVING THE HANA AFFORDABLE HOUSING STUDY, PURSUANT TO SECTION 3.35.100(A), MAUI COUNTY CODE, PERTAINING TO THE AFFORDABLE HOUSING FUND" and informing of his intention to offer the following motions:

1. A motion to WAIVE the requirement of committee referral and recommendation as provided for in Section 5(H) of the Rules of the Council;
2. A motion to ADOPT the proposed resolution; and
3. A motion to FILE this communication.

NO. 08-287 - CHAIR, POLICY COMMITTEE, informing of his intention to offer the following motions:

1. A motion to DISCHARGE the Policy Committee from further consideration of correspondence dated December 10, 2008, from the Department of the Corporation Counsel, relating to a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS ON MAUI, EMPLOYER; SHOPO NOS. M-2005-008 AND M-2005-009";
2. A motion to WAIVE the requirement of committee referral and recommendation as provided for in Section 5(H) of the Rules of the Council;
3. A motion to ADOPT the proposed resolution;
4. A motion to CONVENE an executive meeting, if necessary, 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;
5. A motion to FILE the correspondence dated December 10, 2008; and
6. A motion to FILE this communication.

1. COUNTY COMMUNICATIONS (continued):

- NO. 08-288 - COUNCIL CHAIR, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A BEACH ACCESS EASEMENT LOCATED ALONG NORTH KIHEI ROAD PURSUANT TO SECTION 3.44.014 (C), MAUI COUNTY CODE, IN SATISFACTION OF CONDITION OF ZONING NO. 3 OF ORDINANCE NO. 3060 (2002)" and informing of his intention to offer the following motions:
1. A motion to WAIVE the requirement of committee referral and recommendation as provided for in Section 5(H) of the Rules of the Council;
 2. A motion to ADOPT the proposed resolution; and
 3. A motion to FILE this communication.
- NO. 08-289 - COUNCIL CHAIR, transmitting a report from the State Department of Accounting and General Services regarding certain State appropriations for capital improvement projects involving the County for the period ending September 30, 2008.
- NO. 08-290 - PLANNING DIRECTOR, relating to applications submitted by Royal Main Properties, LLC, transmitting copies of documents and two proposed bills entitled:
1. "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII"; and
 2. "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO R-1 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII".
- NO. 08-291 - PLANNING DIRECTOR, relating to an application filed by Tam Yau Estates, LLC, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT PUKALANI, MAUI, HAWAII", and related documents.
- NO. 08-292 - COUNCIL CHAIR, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 3.44, MAUI COUNTY CODE, AND AMENDING TITLE 3, MAUI COUNTY CODE, PERTAINING TO ACQUISITION AND DISPOSITION OF REAL PROPERTY".

1. COUNTY COMMUNICATIONS (continued):

NO. 08-293 - DIRECTOR OF PUBLIC WORKS, transmitting a proposed resolution entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT MAKENA, MAUI, HAWAII TO STEPHEN ANDREW FINN, FOR UNDERGROUND PRIVATE WASTEWATER SYSTEM PURPOSES".

NO. 08-294 - DIRECTOR OF WATER SUPPLY, transmitting copies of the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ended November 2008.

2. GENERAL COMMUNICATION:

NONE

J. RESOLUTIONS:

NONE

K. ORDINANCES - SECOND AND FINAL READING:

BILL NO. 72 (2008) - "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII"

BILL NO. 112 (2008) - "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"

BILL NO. 113 (2008) - "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM MULTI-FAMILY TO BUSINESS/COMMERCIAL FOR PROPERTY SITUATED AT MAKENA, MAUI, HAWAII"

BILL NO. 114 (2008) - "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM A-1 APARTMENT DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII"

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

BILL NO. 115 (2008) - "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO ZONING AS IT PERTAINS TO BED AND BREAKFAST HOMES"

BILL NO. 116 (2008) - "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2009 BUDGET FOR THE COUNTY OF MAUI, AS IT PERTAINS TO REVENUES – FEES, RATES, ASSESSMENTS AND TAXES FOR REFUSE DISPOSAL FEES"

L. UNFINISHED BUSINESS:

COUNTY COMMUNICATION:

NO. 08-277 - COUNCIL CHAIR, transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF \$122,510 FROM TITLE GUARANTY ESCROW SERVICES, INC. FOR THE COUNTY OF MAUI'S SHARED APPRECIATION PORTION OF THE SALE OF PROPERTY OWNED BY RICHARD AND BETH ANNE MANCUSO, 27 UAHAA, LOT 138, WAILUKU, HAWAII, PURSUANT TO CHAPTER 3.56 OF THE MAUI COUNTY CODE" and informing of his intention to offer the following motions:

1. 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;
2. A motion to ADOPT the proposed resolution; and
3. A motion that this communication be FILED.

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.