

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

March 1, 2005

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@co.maui.hi.us

COMMITTEE MEMBERS

Michael J. Molina, Chair

Dain P. Kane, Vice-Chair

Michelle Anderson

Robert Carroll

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Jo Anne Johnson

Danny A. Mateo

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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.

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COW-4(1)

INDEMNIFICATION AUTHORIZATION (EDWARD A. SMITH V. MR. RICHARD BEERMAN, ET AL.; CIVIL NO. CV05-00024 HG KSC)

DESCRIPTION:

The Committee is in receipt of correspondence dated February 10, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING RICHARD BEERMAN IN CIVIL NO. CV05-00024 HG KSC, EDWARD A. SMITH VS. MR. RICHARD BEERMAN, ET AL." and transmitting a copy of the complaint. The complaint alleges that Edward A. Smith's constitutional and civil rights were violated. The purpose of the proposed resolution is to indemnify Fire Captain Richard Beerman 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.

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COW-1(5) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (CLAIM OF KAMEYA FAMILY LLC, CLAIM NO. 2004-094)

DESCRIPTION: The Committee is in receipt of correspondence dated February 1, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2004-094 BY KAMEYA FAMILY LLC" and transmitting a copy of the claim. The claim requests reimbursement for repair work on an allegedly collapsed sewer line. 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(16) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (TIMOTHY GILBERT V. COUNTY OF MAUI, ET AL. AND TIMOTHY GILBERT V. DANA WINGAD, ET AL., CIVIL NO. 03-00489 HG BMK)

DESCRIPTION: The Committee is in receipt of correspondence dated February 22, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF TIMOTHY GILBERT VS. COUNTY OF MAUI, ET AL., AND TIMOTHY GILBERT VS. DANA WINGAD, ET AL., CIVIL NO 03-00489 HG BMK" and transmitting a copy of the first amended complaint. The complaint alleges damages due to civil rights violations, assault and battery, and negligent infliction of emotional distress. 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(15) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (PIETRO PORCELLA V. COUNTY OF MAUI, ET AL., CIVIL NO. 03-1-0264 (3))

DESCRIPTION: The Committee is in receipt of correspondence dated February 4, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF PIETRO PORCELLA V. COUNTY OF MAUI, ET AL., CIVIL NO. 03-1-0264 (3)" and transmitting a copy of the complaint. The complaint alleges damages due to a foot injury on or about August 23, 2002, at Kite Beach in Kahului, Maui. 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(9) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS
(FREDERICK MEDEIROS V. COUNTY OF MAUI, CASE NO. 7-02-03189)**

DESCRIPTION: The Committee is in receipt of correspondence dated February 4, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF FREDERICK MEDEIROS V. COUNTY OF MAUI, CASE NO. 7-02-03189". The claim alleges work-related injuries sustained on September 27, 2002. 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-14 MONTANA BEACH CONDOMINIUM PROJECT (PAIA)

DESCRIPTION: The Committee is in receipt of the following:

1. County Communication No. 01-193, from former Councilmember Alan M. Arakawa, requesting consideration of the matter of the development of single-family homes near Baldwin Beach in Paia, Maui.
2. Correspondence dated February 4, 2005, from the Department of the Corporation Counsel, transmitting a proposed resolution entitled "AUTHORIZING SETTLEMENT OF ALL CASES RELATING TO THE MONTANA BEACH CONDOMINIUM PROJECT, PAIA, MAUI, HAWAII". The purpose of the proposed resolution is to settle all cases relating to the Montana Beach Condominium Project in Paia, Maui.

STATUS: The Committee may consider whether to recommend passage of the proposed resolution, with or without revisions. The Committee may also consider the filing of County Communication No. 01-193 and 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-16 INCREASED AMOUNT FOR SETTLEMENT OF CLAIMS AND OTHER
CIVIL LITIGATION**

DESCRIPTION: The Committee is in receipt of County Communication No. 05-86, from Councilmember Molina, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.16.020, MAUI COUNTY CODE, RELATING TO SETTLEMENT OF CLAIMS AND OTHER CIVIL LITIGATION". The purpose of the proposed bill is to raise the threshold for Council approval of the settlement of claims and other civil litigation.

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. 05-86 and other related action.