

# **Council of the County of Maui**

## **A G E N D A**

Regular Meeting of November 3, 2017

9:00 AM

### **Meeting Site:**

Council Chamber, 8th Floor, 200 South High Street, Wailuku, Hawaii

### **Remote Testimony Sites:**

Hana Council District Office - Hana Community Center, 5091 Uakea Road, Hana, Hawaii

Lanai Council District Office - Lanai Community Center, 8th Street, Lanai City, Hawaii

Molokai Council District Office - 100 Ainoa Street, Kaunakakai, Hawaii

website: [www.co.maui.hi.us/Archive.aspx?AMID=226](http://www.co.maui.hi.us/Archive.aspx?AMID=226)

email: [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)

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### **ORAL OR WRITTEN TESTIMONY**

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted. Each testifier shall be allowed to speak for up to three minutes on each item. If approved by the presiding officer and announced prior to any oral testimony being taken, the testifier may be allowed one minute to conclude the testimony on the item. The time limits for testimony at a Council meeting may be modified, if the modification is initiated by the presiding officer and approved by a majority of the Council; provided that a modification would apply equally to all testifiers and all items. No further oral testimony by the testifier on the item shall be permitted. An individual's request to testify may be deemed withdrawn if the individual does not answer when called to testify.

REMOTE TESTIMONY SITES: Oral testimony may be received from each of the Council district offices noted above. If the connection between the meeting site in the Council Chamber and any of the remote testimony sites is lost, the meeting in the Council Chamber will still continue. Members of the public interested in information about offering testimony on an agenda item from a remote testimony site may contact the Office of the County Clerk (808-270-7748) prior to the meeting. While oral testimony is being received the district offices cannot provide other services. The connection will be terminated after all oral testimony has been received.

If written testimony is submitted at the meeting site, 15 copies are requested. If written testimony is e-mailed or faxed (808-270-7171), it must be received at least 24 hours prior to the meeting; provided, that if a meeting will be held on a Monday, written testimony shall be received by 12:00 noon on the business day preceding the meeting.

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### **A. ROLL CALL**

**B. OPENING REMARKS:**

COUNCILMEMBER DON S. GUZMAN

**C. PLEDGE OF ALLEGIANCE****D. TESTIMONY ON CEREMONIAL RESOLUTIONS****E. CEREMONIAL RESOLUTIONS:**

NONE.

**F. PRESENTATION OF WRITTEN OR ORAL TESTIMONY****G. MINUTES:**

[M-170822](#) Regular Meeting of August 22, 2017

[M-170908](#) Regular Meeting of September 8, 2017

[M-170922](#) Regular Meeting of September 22, 2017

**H. COMMUNICATIONS:****1. COUNTY COMMUNICATIONS:**

[CC 17-422](#) PROSECUTING ATTORNEY, informing of the intent to expend \$34,710.05 in State Forfeiture Funds to reimburse previous years expenditures for travel and training.

[CC 17-423](#) PROSECUTING ATTORNEY, informing of the intent to expend \$3,440.78 in Forfeiture Funds to reimburse travel related expenditures incurred in June of Fiscal Year 2017.

[CC 17-424](#) ECONOMIC DEVELOPMENT DIRECTOR, transmitting three contracts from the State of Hawaii, Workforce Development Council noting Program Year 2017 Workforce Innovation and Opportunity Act allocations in the amount of \$539,033.

[CC 17-425](#) ACTING DIRECTOR OF FINANCE, transmitting 59 contracts/grants for September 2017.

[CC 17-426](#) ACTING MAYOR, informing of a vacancy on the Maui County Arborist Committee due to the resignation of Casey Foster.

[CC 17-427](#) ACTING MAYOR, informing of the appointment of Hanna Mounce and Chris Haynes to the Maui County Arborist Committee.

- [CC 17-428](#) DIRECTOR OF WATER SUPPLY, transmitting the State of Hawaii's Commission on Water Resources Management water use reports for August 2017 for all registered well reporters in the County of Maui.
- [CC 17-429](#) CHAIR, LAND USE COMMITTEE, transmitting proposed amendments to the resolution entitled "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", attached to Committee Report No. 17-154.
- [CC 17-430](#) ACTING DIRECTOR OF FINANCE, transmitting a report of short-term investments for the quarter ended September 30, 2017.
- [CC 17-431](#) ACTING DIRECTOR OF FINANCE, reporting on transfer/loans from the General Fund and Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of September 30, 2017.
- [CC 17-432](#) BUDGET DIRECTOR, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES - FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF PLANNING, GENERAL FUND, CHARGES FOR CURRENT SERVICES, FEES - DEPARTMENT OF PLANNING".
- [CC 17-433](#) COUNTY AUDITOR, transmitting Audit Report No. 15-02, "Audit of Premium Pay/Overtime of the Department of Fire and Public Safety."
- [CC 17-434](#) COUNCILMEMBER COCHRAN, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.96 AND 3.35, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY AND AFFORDABLE HOUSING FUND".
- [CC 17-435](#) COUNCILMEMBER SUGIMURA, relating to the Blue Zones Project.
- [CC 17-436](#) DIRECTOR OF PARKS AND RECREATION, transmitting the following:
1. A proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO HAWAIIAN KAMALI'I, INC.";
  2. A proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO NA KAI EWALU CANOE CLUB"; and
  3. A copy of Hawaiian Kamali'i Inc.'s existing extended lease.
- [CC 17-437](#) DIRECTOR OF ECONOMIC DEVELOPMENT, transmitting the Office of Economic Development Grant Performance Report for Fiscal Year 2016.
- [CC 17-438](#) COUNCILMEMBER SUGIMURA, relating to "Enterprise Zones (EZ) Program".
- [CC 17-439](#) DIRECTOR OF WATER SUPPLY, relating to the Upcountry Water Service Priority List.

## **2. GENERAL COMMUNICATIONS:**

NONE.

### **I. COMMITTEE REPORTS:**

#### **Budget and Finance Committee**

[CR 17-149](#) Recommending **ADOPTION** of resolution to urge the Mayor to issue a request for proposals to sell the 55 County-owned lots in the Fairways at Maui Lani subdivision at a discounted price of \$8,000,000 with affordability restrictions.

[CR 17-150](#)

1. **FIRST READING** of bill to (1) classify real property as "Short-Term Rental" for tax valuation purposes, for lodging and dwelling units occupied by transient tenants for periods of less than six consecutive months, including properties granted a short-term rental home permit, transient vacation rental permit, or conditional permit allowing transient vacation rental use, unless classified as "time share," "hotel and resort," or "commercialized residential;" and (2) classify real property as "hotel and resort" for tax valuation purposes, for lodging and dwelling units occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units, and employ more than twenty full-time persons, unless classified as "time share" or "commercialized residential;" and
2. **FILING** of communication.

[CR 17-151](#)

Recommending the following:

1. **FIRST READING** of bill to (1) amend Section 3.48.305, Maui County Code, relating to the classification of land and building pertaining to planned developments where transient vacation rentals are permitted and to condominium property regimes; and (2) add a new section relating to condominium units or planned developments dedicated for long-term residential use; and
2. **FILING** of communication.

#### **Housing, Human Services, and Transportation Committee**

[CR 17-152](#)

Recommending the following:

1. **FIRST READING** of bill to amend the County's Residential Workforce Housing Policy, Chapter 2.96, Maui County Code, including provisions relating to deed restriction and application selection process for ownership units; and
2. **FILING** of communication.

### **Infrastructure and Environmental Management Committee**

#### **CR 17-153**

Recommending the following:

1. **FIRST READING** of bill to remove references to specific fee amounts from the Electrical, Plumbing, and Building Codes, and instead refer to the fees established in the annual budget ordinance; and
2. **FILING** of communication.

### **Land Use Committee**

#### **CR 17-154**

Recommending the following:

1. **ADOPTION** of resolution approving with modifications the 100 Percent Affordable Hana Housing Project in Hana, Maui, Hawaii, pursuant to Section 201H-38, Hawaii Revised Statutes, on 7.226 acres at 4356 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 1-3-004:001;
2. **FILING** of resolution approving the 100 Percent Affordable Hana Housing Project, pursuant to Section 201H-38, Hawaii Revised Statutes; and
3. **FILING** of resolution disapproving the 100 Percent Affordable Hana Housing Project, pursuant to Section 201H-38, Hawaii Revised Statutes.

#### **CR 17-155**

Recommending the following:

1. **FIRST READING** of bill granting a request from GTH Land Company, Inc. for a State Land Use District Boundary Amendment from Agricultural District to Rural District (Conditional Boundary Amendment) for 7.226 acres at 4356 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 1-3-004:001, to facilitate the development of a Chapter 201H, Hawaii Revised Statutes, project referred to as the 100 Percent Affordable Hana Housing Project;
2. **RECORDATION** of the unilateral agreement; and
3. **FILING** of communication.

### **Parks, Recreation, Energy, and Legal Affairs Committee**

#### **CR 17-156**

Recommending **FIRST READING** of bill to authorize the Mayor to enter into an intergovernmental agreement with the State Department of Defense, the National Cemetery Administration of the U.S. Department of Veterans Affairs, the State Historic Preservation Division of the Department of Land and Natural Resources, and the Advisory Council on Historic Preservation, in the form of the Memorandum of Agreement attached thereto as Exhibit "1," to set forth guidelines to maintain the Maui Veterans Cemetery in Makawao, Maui, Hawaii, at Shrine Status.

[CR 17-157](#) Recommending **ADOPTION** of resolution to authorize settlement of Dukie J. Racadio v. County of Maui, et al., Civil 14-1-0451(2)

With reference to this agenda item, one or more executive meetings are anticipated 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.

### **Policy, Economic Development, and Agriculture Committee**

[CR 17-158](#) Recommending **ADOPTION** of resolution approving the appointment of Alalani Hill as the native Hawaiian traditional and customary practices expert to the Maui Planning Commission for a term expiring March 31, 2018.

[CR 17-159](#) Recommending **ADOPTION** of resolution to include in the 2018 Hawaii State Association of Counties Legislative Package, State bills, attached as exhibits to the resolution, as follows:

1. A State bill to clarify County zoning authority by distinguishing single-family residential use from single-family vacation rental use and to allow amortization by ordinance for single-family transient vacation rentals over a reasonable period.
2. A State bill to provide a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
3. A State bill to provide a taxpayer who hires an elderly individual a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
4. A State bill to eliminate the cap for distribution of transient accommodations tax revenues to the counties.
5. A State bill to establish a tax credit of 25 percent of the total cost, including installation, of an automatic fire suppression system in any new detached one- or two-family dwelling unit in a structure used only for residential purposes, with a sunset date of June 30, 2025.
6. A State bill to increase revenue for each county's affordable housing fund through a one-percent conveyance tax on the sale of condominiums or single-family residences with a value of more than \$2,000,000.
7. A State bill to amend the transient accommodations tax ("TAT") law to require online travel companies and other transient accommodations remarketers to pay TAT on their portion of proceeds from the booking of accommodations to increase TAT revenue to the benefit of every county in the State.

8. A State bill to amend the Sunshine Law to allow certain government records to be shared among public board members where no commitment relating to a vote on the matter is made or sought.
9. A State bill to implement Act 183, Session Laws of Hawaii 2005, in accordance with the State's constitutional duty to protect important agricultural lands, by providing funds to the counties for the identification and mapping of important agricultural lands.
10. A State bill to allow a representative of each county council to be present as a non-voting participant in negotiations with bargaining units if the relevant county has employees in the particular bargaining unit.
11. A State bill to make permanent the protections in Act 170, Session Laws of Hawaii 2002, which provided the State, counties, and lifeguards immunity from liability against damages arising from the acts or omissions of lifeguards while performing emergency lifeguard services.
12. A State bill to provide for identification by the judiciary of fines paid for uncontested traffic infractions and to allow for specified portions of those fines to be paid to the counties.
13. A State bill to appropriate funds to the Department of Health for the purchase of an ambulance vehicle and the operational costs for one ambulance unit, including equipment, supplies, and personnel costs for State-certified emergency medical services personnel, for a 24-hour, 7-days-a-week, ambulance unit for the County of Kauai.
14. A State bill to establish unmanned aerial vehicle laws and rules that complement federal rules and regulations.
15. A State bill to amend the permitted interaction for board members attending an informational meeting, pursuant to Section 92-2.5(e), Hawaii Revised Statutes, to provide that the limitation on number of attendees shall not apply to members of a county council.
16. A State bill to allow persons with disabilities to indicate their disability on their identification cards.
17. A State bill to provide a fair, consistent, and predictable priority allocation of transient accommodations tax revenues, including an allocation to the counties of 45 percent of the amount of revenues remaining after all other allocations are made.

**J. RESOLUTIONS:**

**NONE.**

**K. ORDINANCES - SECOND AND FINAL READING:**

[Bill 86 \(2017\)](#) "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY OF MAUI FOR MAKENA BEACH PARK"

[Bill 87 \(2017\)](#) "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE - SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF PUBLIC WORKS (STATE OF HAWAII DEPARTMENT OF HEALTH)"

[Bill 88 \(2017\)](#) "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES - SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2018, HAWAIIAN CULTURAL RESTORATION REVOLVING FUND"

[Bill 89 \(2017\)](#) "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY"

[Bill 90 \(2017\)](#) "A BILL FOR AN ORDINANCE TO TRANSFER A CONDITIONAL PERMIT FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC FOR THE CONTINUED OPERATION OF A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT ON PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII"

**L. UNFINISHED BUSINESS:**

NONE.

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.