

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

August 25, 2009

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on August 6, 2009, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated June 9, 2009, the Department of the Corporation Counsel requested consideration of the possible settlement of Wade H. Saunders' Claim No. 2007-080. Attached to the request is a copy of the claim and related documents. Also attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2007-080 OF WADE H. SAUNDERS". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$10,358.17.

Your Committee notes that the claim alleges that on October 13, 2007, Mr. Saunders was injured at D.T. Fleming Beach Park in Kapalua, Maui.

A Deputy Corporation Counsel explained that Mr. Saunders sustained an injury and permanent disfigurement when the bench he was sitting on fell off of its base.

The Director of Parks and Recreation indicated that the Department is now conducting regular checks of benches located within County parks to ensure their safety and make any necessary repairs. The Department suspects that individuals may have used all-terrain vehicles (ATVs) to drive on the park benches within D.T. Fleming Park, causing the subject bench to loosen. The Department has since gated the park to prohibit access by ATVs.

Your Committee voted 7-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Mateo, and members Baisa, Kaho'ohalahala, Nishiki, Pontanilla, and Victorino voted "aye". Members Johnson and Medeiros were excused.

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

August 25, 2009  
Page 2

**Committee  
Report No.** \_\_\_\_\_

Your Committee of the Whole RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2007-080 OF WADE H. SAUNDERS" be ADOPTED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

# Resolution

No. \_\_\_\_\_

## AUTHORIZING SETTLEMENT OF CLAIM NO. 2007-080 OF WADE H. SAUNDERS

WHEREAS, Wade Saunders filed Claim No. 2007-080 on November 8, 2007, against the County of Maui for bodily injuries related to a fall at D.T. Fleming Beach Park, on October 13, 2007; and

WHEREAS, the County of Maui and Wade Saunders, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim by way of a negotiated settlement; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of attempts to reach resolution of this claim by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

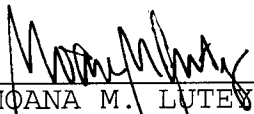
1. That it hereby approves settlement of Claim No. 2007-080 in the amount TEN THOUSAND THREE HUNDRED FIFTY EIGHT AND 17/100 DOLLARS (\$10,358.17); and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Wade Saunders; and

**Resolution No. \_\_\_\_\_**

2. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Parks and Recreation, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
MOANA M. LUTEY  
Deputy Corporation Counsel  
County of Maui

S:\ALL\MML\Claims\2007 Claims\Saunders, Wade\reso.wpd