

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

December 3, 2010

**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 November 18, 2010, 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 May 5, 2009, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING THOMAS M. PHILLIPS IN BRIAN MURPHY V. THE STATE OF HAWAII, ET AL., CIVIL NO. 08-1-0622(1)". The purpose of the proposed resolution is to indemnify Chief of Police Thomas M. Phillips in the case.

Attached to the request is a copy of the complaint filed on October 31, 2008.

Your Committee notes that the complaint alleges that the plaintiff, Brian Murphy, has suffered injuries as a result of actions taken by the Department of Police and Chief of Police Thomas M. Phillips.

Your Committee further notes the following: (1) under general legal principles, the County may be responsible for the tortious acts of its employees; and (2) Sections 52D-8 and 52D-9, Hawaii Revised Statutes, require the counties to provide legal representation for police officers when the officers are sued for acts committed in the performance of their duties.

By correspondence dated August 16, 2010, the Department of the Corporation Counsel advised your Committee that the complaint had been dismissed, and that Council approval of the resolution is, therefore, no longer needed. Subsequently, the Department transmitted a copy of a document entitled "Order of Dismissal" in the case, dated July 14, 2009.

Your Committee voted 7-0 to recommend the filing of the correspondence dated May 5, 2009. Committee Chair Molina, Vice-Chair Mateo, and members Baisa,

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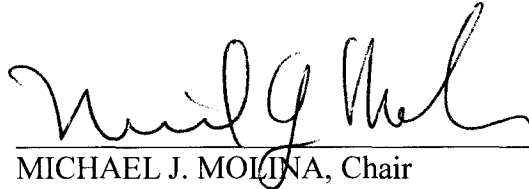
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Medeiros, Nishiki, Pontanilla, and Victorino voted “aye”. Committee members Johnson and Kaho`ohalahala were excused.

Your Committee of the Whole RECOMMENDS that the correspondence dated May 5, 2009, from the Department of the Corporation Counsel, be FILED.

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



MICHAEL J. MOLINA, Chair