

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 15, 2011

Committee
Report No. _____

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

Chair and Members:

Your Policy Committee, having met on March 22, 2011, makes reference to County Communication No. 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated February 14, 2011, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim of Robert Nakasato, Claim No. 2009-008. Attached to the request is a copy of the claim and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2009-008 OF ROBERT NAKASATO". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim.

Your Committee notes that the claim alleges damages caused by a blocked sewer pipe, resulting in raw wastewater backing up and flooding portions of Mr. Nakasato's residence at 172 Lehua Street, Kahului, Maui, Hawaii, on January 26, 2009.

A Deputy Corporation Counsel provided an overview of the case. She stated that her Department had received documentation for damages arising from the sewer blockage, totaling \$17,343.93. She provided a breakdown of those damages, which were due to decontamination, restoration of damaged areas, and cost of materials. She advised that Mr. Nakasato had submitted a claim for reimbursement, and requested authority to settle the claim for the total substantiated amount.

The Deputy Director of Environmental Management confirmed that the blockage occurred on the County's portion of the sewer line.

There being no need for an executive meeting, your Committee recommended that the proposed resolution be amended to delete references to terms authorized in an executive meeting, and to instead authorize settlement in the amount of \$17,343.93.

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 7-0 to recommend adoption of the

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 15, 2011
Page 2


Committee
Report No. _____

proposed resolution, incorporating your Committee's revisions. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Victorino, and White voted "aye". Committee members Mateo and Pontanilla were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2009-008 OF ROBERT NAKASATO", be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 2009-008 OF ROBERT NAKASATO

WHEREAS, Robert Nakasato filed Claim No. 2009-008 on January 28, 2009, against the County of Maui for damages caused by the blocked sewer pipe at 172 Lehua Street, Kahului, Maui, on January 26, 2009; and

WHEREAS, the County of Maui and Robert Nakasato, 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, the Department of the Corporation Counsel has requested authority to settle this claim for SEVENTEEN THOUSAND THREE HUNDRED FORTY-THREE AND 93/100 DOLLARS (\$17,343.93); 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:

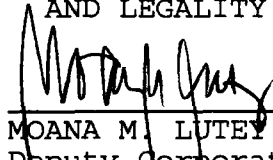
1. That it hereby approves settlement of Claim No. 2009-008 for SEVENTEEN THOUSAND THREE HUNDRED FORTY-THREE AND 93/100 DOLLARS (\$17,343.93); and

Resolution No. _____

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

3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Environmental Management, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

S:\ALL\MML\Claims\nakasato\reso.wpd