

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

October 21, 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 September 14, 2011 and October 5, 2011, makes reference to County Communication 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated August 8, 2011, the Department of the Corporation Counsel requested consideration of the possible settlement of Stacey Pounder v. County of Maui, et al., Civil 09-1-0202(1). Attached to the request is a copy of the Amended Complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF STACEY POUNDER V. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0202(1)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case for a greater amount than was previously authorized.

Your Committee notes that the complaint alleges that on September 12, 2008, Ms. Pounder suffered injuries as a result of the County's failure to maintain, in a reasonably safe manner, a metal-plate-covered concrete water meter junction box, located at the Eddie Tam Memorial Center, Makawao, Maui, Hawaii.

Your Committee further notes that the Council previously authorized settlement of the case by Resolution 10-76. By correspondence dated April 4, 2011, the Department of the Corporation Counsel transmitted a request for additional settlement authority, which the Council denied (Policy Committee Report 11-43).

A Deputy Corporation Counsel provided an overview of the case. She noted that the plaintiff had made a further settlement offer, and requested the opportunity to discuss the matter in an executive meeting, closed to the public.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes ("HRS"); and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential under a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), HRS.

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Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee decided against authorizing settlement of the case for a greater amount than was previously authorized, and voted 9-0 to recommend filing of the correspondence from the Department of the Corporation Counsel. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Mateo, Pontanilla, Victorino, and White voted "aye".

Your Committee notes that filing of the correspondence does not resolve the ongoing claim, but merely disposes of the matter pending before your Committee.

Your Policy Committee RECOMMENDS that the correspondence dated August 8, 2011, attached hereto, from the Department of the Corporation Counsel, transmitting a proposed resolution entitled "AUTHORIZING SETTLEMENT OF STACEY POUNDER V. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0202(1)", be FILED.

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



G. RIKI HOKAMA, Chair