

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

October 5, 2012

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 19, 2012, makes reference to County Communication 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated August 24, 2012, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim of Janet I. Nalda-Lyons, Claim 2011-035. Attached to the request is a copy of the claim and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2011-035 OF JANET I. NALDA-LYONS". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$28,444.28.

Your Committee notes that the claim alleges damages arising out of an incident on May 24, 2011, at the Wahikuli Beach Park, Lahaina, Maui, when a rock propelled by a Toro mower operated by a County employee hit Ms. Nalda-Lyons' left knee.

A Deputy Corporation Counsel provided a brief overview of the case 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 pursuant to a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), HRS.

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 voted 7-0 to recommend adoption of the proposed resolution to authorize the settlement of the claim for \$28,444.28. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Pontanilla, Victorino, and White voted "aye". Committee members Couch and Mateo were excused.

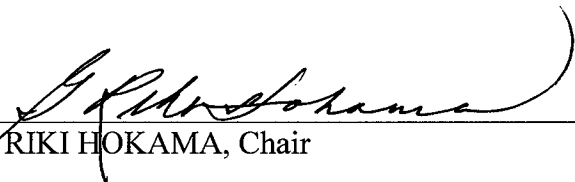
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Your Policy Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2011-035 OF JANET I. NALDA-LYONS", be ADOPTED.

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



G. RIKI HOKAMA, Chair

pol:cr:12001(27)aa:cmn

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
CLAIM NO. 2011-035 OF JANET I. NALDA-LYONS

WHEREAS, Janet I. Nalda-Lyons filed Claim No. 2011-035 on June 7, 2011, against the County of Maui for damages arising out of an incident on May 24, 2011, when a rock propelled by a Toro mower operated by the County hit her left knee at the Wahikuli Beach Park, Lahaina, Maui; and

WHEREAS, the County of Maui, Toro Company, and Janet I. Nalda-Lyons, 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:

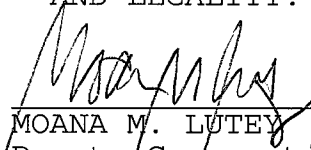
1. That it hereby approves settlement of Claim No. 2011-035 in the amount of TWENTY-EIGHT THOUSAND FOUR HUNDRED FORTY-FOUR AND 28/100 DOLLARS (\$28,444.28); and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Janet I. Nalda-Lyons; and

Resolution No. _____

3. 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

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