

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

February 15, 2013

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on January 28, 2013, makes reference to County Communication 13-41, from the Council Chair, regarding litigation matters.

By correspondence dated January 18, 2013, the Department of the Corporation Counsel requested consideration of the possible settlement of United Public Workers, Local 646 and County of Maui, Holiday Pay Class Action Grievance, Case CU-03-71. Attached to the request is a copy of the grievance form and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF UNITED PUBLIC WORKERS, LOCAL 646 AND COUNTY OF MAUI, HOLIDAY PAY CLASS ACTION GRIEVANCE, CASE NO. CU-03-71". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes that Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of \$7,500.

Your Committee further notes that the grievance alleges that certain County employees were improperly denied holiday pay while on leaves of absence before, during, or after a holiday observance.

A Deputy Corporation Counsel provided an overview of the case, noting that the case involves application of the collective bargaining agreement between the County and employees in the Unit 1 bargaining unit represented by the United Public Workers Union ("UPW"). The UPW alleges that the County failed to award Unit 1 employees with holiday pay when a holiday occurred while the employees were on leave without pay, in violation of the collective bargaining agreement. The Deputy Corporation Counsel requested the opportunity to discuss the matter in an executive meeting, closed to the public.

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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.

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 6-0 to recommend adoption of the proposed resolution. Committee Chair Hokama, Vice-Chair Couch, and members Carroll, Cochran, Crivello, and Guzman voted "aye". Committee members Baisa, Victorino, and White 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 nonsubstantive revisions.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF UNITED PUBLIC WORKERS, LOCAL 646 AND COUNTY OF MAUI, HOLIDAY PAY CLASS ACTION GRIEVANCE, CASE NO. CU-03-71", be ADOPTED.

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



G. RIKI HOKAMA, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
UNITED PUBLIC WORKERS, LOCAL 646 AND COUNTY OF MAUI,
HOLIDAY PAY CLASS ACTION GRIEVANCE, CASE NO. CU-03-71

WHEREAS, Grievant United Public Workers, Local 646 filed a class action grievance on August 22, 2003, Case No. CU-03-71, against the County of Maui, claiming that all Unit 1 employees on leaves of absence without pay before, during, or after a holiday observance were entitled to holiday pay; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Policy and Intergovernmental Affairs Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement by the

Resolution No. _____

Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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

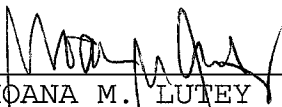
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy and Intergovernmental Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Personnel Services, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui