

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

MINUTES

August 12, 2013

Council Chamber, 8th Floor

CONVENE: 9:07 a.m.

PRESENT: Councilmember G. Riki Hokama, Chair
Councilmember Donald G. Couch, Jr., Vice-Chair
Councilmember Gladys C. Baisa, Member (Out 12:27 p.m.)
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member
Councilmember Stacy Crivello, Member (In 11:26 a.m.)
Councilmember Don S. Guzman, Member
Councilmember Michael P. Victorino, Member (12:01 p.m.)
Councilmember Mike White, Member

STAFF: Kirstin Hamman, Legislative Attorney
Tammy M. Frias, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Michael J. Molina, Executive Assistant, Office of the Mayor (Item PIA-2(12))
John D. Kim, Prosecuting Attorney, Department of the Prosecuting Attorney (Item PIA-1(6))
Michael M. Miyamoto, Deputy Director, Department of Environmental Management (Items PIA-1(19), 1(25))
Rowena M. Dagdag-Andaya, Deputy Director, Department of Public Works (Items PIA-1(21), 1(23))
Gary A. Yabuta, Chief, Department of Police (Item PIA-1(22))
Moana M. Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel (Items PIA-1(6), 1(19), 1(21), 1(25))
Shinken Naitoh, Deputy Corporation Counsel, Department of the Corporation Counsel (Items PIA-1(6), 1(22))
Thomas W. Kolbe, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-1(6))
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-1(20))
Richard B. Rost, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-1(23))
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel (Items PIA-1(6), 1(19), 1(20), 1(21), 1(22), 1(23), 1(25))

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Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS: Rosemary Robbins (Item PIA-41)
Jim Smith (Item PIA-41)
Additional attendees (5)

PRESS: *Akaku--Maui County Community Television, Inc.*

CHAIR HOKAMA: . . .*(gavel)*. . . Policy Committee shall come to order. This is our regular meeting of the 12th of August 2013. Present this morning is our Vice-Chairman Mr. Couch.

VICE-CHAIR COUCH: Good morning, Chair.

CHAIR HOKAMA: Good morning. And we have our Committee Members Mr. Carroll, Ms. Cochran--

COUNCILMEMBER COCHRAN: Aloha.

CHAIR HOKAMA: --Ms. Baisa --

COUNCILMEMBER BAISA: Good morning.

CHAIR HOKAMA: --Mr. White --

COUNCILMEMBER WHITE: Good morning.

CHAIR HOKAMA: --Mr. Guzman --

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: --Mr. Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR HOKAMA: At this time, Ms. Crivello is excused. She plans to join us at a later date during this meeting. At this time, we shall take public testimony on any of the items that have been agendaized for today's meeting. The Members are aware we had to deal with some weather issues on the prior scheduled meeting and, therefore, this agenda is quite heavy for the Committee, and the Chair asks the Members to please bear with the Committee's requirements for today, please. At this time, we shall take Committee testimony. We have two people who have signed up in the Chambers and will also check with our district offices. Those wishing to provide testimony you have three minutes to provide your comments on each item that you have requested to speak. We shall assist you with your time. At the three minute mark, the Chair shall indicate that your

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three minutes are up and if you need to, will allow you a closing comment before we move on to the next testifier. So, at this time, we'll ask Rosemary Robbins if you would please come forward and share your testimony with us, please.

...BEGIN PUBLIC TESTIMONY...

MS. ROBBINS: Good morning, everybody.

CHAIR HOKAMA: Good morning.

MS. ROBBINS: Glad to be here. In the absence of Stacy this morning, I would like to quote her from the June County Council meeting. She reminded us that due diligence in collaboration make for a healthier community. So I'm here this morning to speak to PIA-41, page 5 on today's agenda. From the history going back to the earlier part of the first decade of this millennium, the Upcountry Oversight Advisory Committee required by the EPA before the EPA would cut us, the County, a check for a half a million dollars to address the problems in the Upcountry water. Those of us who worked on that committee were pretty disappointed and agitated about the fact that that money was designated for certain purposes and two problems arose out of that. The money was not given to the committee. We were not a 501C (3). So the money was given to the County and we did the work from that angle of it. The money that was appropriated was not, in total, spent on the purpose but which that money had been given to Maui thanks to Senator Inouye. And the second thing was that for some of the requests that we had for expenditures from that money were denied. So the County got the money, didn't necessarily use it for its intended purposes, and then just said to those of us who were doing the work, the research and all, we don't want to spend it that way. Not a good feeling for the people Upcountry when that happened. So we need to do better. And when we look at the County Charter we used last fall in November of 2012 election we were aware that pono was an issue and the people wanted it. We were aware that transparency was an issue and the people wanted it. So, all of us have had the opportunity to experience the fact that the community at-large feels that those values are important. I picked up another copy of this this morning. I managed to leave mine at home with the piano bench and I had writing all over it but just to be aware everybody. This is the new 2013 edition of the Charter of the County of Maui. Anybody can buy this; it's \$2.00. It's available on the 7th floor and so it's . . . well done, very well done, thanks to the people all of whom that might have been involved in that. I'm concerned because the further we get away from addressing the fears perhaps by the people involved in reviewing what went on in here, the higher the wall is going to go up between the County Council and the Administration. It's a wall we don't need. We need to be able to work together and we need to be able to work with pono. We need to be able to trust one another. So I'm very supportive of the fact that much sooner than later this Item 41 go through, and I thank all of you who will be working on that. Thank you.

CHAIR HOKAMA: Thank you, Ms. Robbins. Any questions for the lady on her testimony provided this morning? Having none; Ms. Robbins, thank you very much for your comments.

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MS. ROBBINS: You're welcome.

CHAIR HOKAMA: I'll ask Mr. Smith if he can come forward, please, and share his testimony with us. He will also be testifying on Item 41.

MR. SMITH: Chairperson Hokama, Members of the Committee, my name is Jim Smith. Thank you very much for your diligence. I have submitted written testimony that was faxed in. I now have provided an oral testimony that I will read. I wanted to take note of an old school spelling on the second from last paragraph of the word "lost". Okay. I'm going to begin reading it now. A legislative oversight is the reason my vote means something to me and you, as elected members of Council. When I perceive a use of power affecting me in a wrong way, I . . . whether I am right or wrong, Member White from Makawao-Haiku-Paia residents' area has a duty to respond to my concern in particular as a constituent. This is legislative oversight. Its engine is the vote. Procedural safeguards protect citizens from abusive power. They are not administrative directives but rules adopted pursuant to Hawaii Revised Statutes 91. They preserve constitutional rights as meaningful. We know them as law. Oversight and procedural safeguards are different and I hope that the distinction, okay, will be identified and recognized in this Committee. Secondly, you have before you Resolution 13-83. It's third "Resolved" located on Page 2 allows this Committee to summon any other elected appointed or employed County member. On January 26th, Mayor Lingle (Linda Lingle), signed Bill 93, a bill for an ordinance relating to the Old Wailuku Post Office parking. The ordinance set up a distinction between government employee parking and public parking as a policy. It allocated one stall to the Department of the Prosecuting Attorney. This public policy was wrongfully nullified when it was decided to demolish the public facility known as the Old Wailuku Post Office by Decree and not legislative act. Was the Council informed prior to demolition that these parking spaces would be destroyed? The Prosecuting Attorney's office and its employees lost use of this parking facility by admittedly wrong acts. When did the Prosecuting Attorney's office know of the intent to demolish this building? Did the Prosecuting Attorney approve of such action? If so, on what basis? Other employees lost parking spaces. Did any employee object? Were all affected parties informed? When and by whom were they informed? There are other more specific questions that should be asked of the Prosecuting Attorney and affected employees. I request this Committee summon the Prosecuting Attorney of the County of Maui in this investigation. Thank you very much.

CHAIR HOKAMA: Are you done, Mr. Smith?

MR. SMITH: Yes, I am.

CHAIR HOKAMA: Thank you very much for your testimony. Are there any questions for Mr. Smith on testimony provided to the Committee this morning? Having none? Mr. Smith, thank you very much for your comments to the Committee.

MR. SMITH: Thank you.

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CHAIR HOKAMA: At this time, I will ask the Hana office and our employee Dawn Lono if there's anyone wishing to provide testimony in Hana?

MS. LONO: Good morning, Chair, there's no one in Hana waiting to testify.

CHAIR HOKAMA: Thank you very much. Lanai . . . Denise, is there anyone wishing to provide testimony?

MS. FERNANDEZ: Good morning, Chair. There's no one waiting to testify on Lanai.

CHAIR HOKAMA: Okay. Molokai, is there anyone wishing to provide testimony this morning, please?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai, and there's no one here waiting to testify.

CHAIR HOKAMA: Thank you, Ella. Is there anyone wishing to provide testimony in the Chambers that have not been already recognized for testimony? Seeing none coming forward, Members, with no objections the Committee shall close public testimony for today's Committee meeting of August 12th with no objections.

COUNCILMEMBER COCHRAN: No objections.

VICE-CHAIR COUCH: No objections.

CHAIR HOKAMA: Thank you very much. Testimony is closed. And thank you, ladies, at the District offices.

...END OF PUBLIC TESTIMONY...

**ITEM PIA-2(12): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(MAUI COUNTY CULTURAL RESOURCES COMMISSION) (CC 13-42)**

CHAIR HOKAMA: Let us move forward. I am going to, Members, with no objections defer the first item (2-12). I'm going to give Ms. Crivello some time if she can make it within a reasonable amount so we can take up the nomination of the Cultural Resource Commission with the Molokai nominee before Committee with Ms. Crivello's participation. So with no objections, we'll defer this at this time.

COUNCILMEMBER COCHRAN: No objections.

VICE-CHAIR COUCH: Mr. Chair?

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CHAIR HOKAMA: Yes.

VICE-CHAIR COUCH: Defer it to the end of calendar or . . .

CHAIR HOKAMA: Yeah, I'm going to push it toward the end of calendar.

VICE-CHAIR COUCH: Oh, okay. So we're not deferring it from the meeting?

CHAIR HOKAMA: No, no, not from the meeting at all. We'll just allow Ms. Crivello some time to be able to participate.

COUNCILMEMBER COCHRAN: No objections.

VICE-CHAIR COUCH: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: SC).

CHAIR HOKAMA: Okay.

ACTION: DEFER item to the end of the calendar.

ITEM PIA-1(6): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: MARIE J. KOSEGARTEN V. DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB AND TIMOTHY T. TATE; CIVIL CV 10-00321 LEK/KSC) (CC 13-41)

CHAIR HOKAMA: We have a lot of litigation matters, Members, so the Chair apologizes. We'll bring up Policy Item 1(6), which is under Litigation Matters. This is Settlement Authorization (Marie J. Kosegarten v. Department of the Prosecuting Attorney, County of Maui; Benjamin M. Acob and Timothy T. Tate; Civil CV 10-00321 LEK/KSC). We are in receipt of a communication dated July 23, 2013, from the Department of the Corporation Counsel, proposing a resolution for authorize settlement regarding the case your Chair has just stated for the record. And at this time, let's see . . . we have a lot of attorneys here so who shall be speaking on this case?

MS. LUTEY: I will.

CHAIR HOKAMA: Deputy, if you will please lead the Committee in these decisions?

MS. LUTEY: Thank you. Good morning, everyone.

CHAIR HOKAMA: Good morning.

MS. LUTEY: This matter is litigation that was brought against the County of Maui and a couple of individuals alleging gender discrimination and retaliation, et cetera. Others . . . just a few claims

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ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

ITEM PIA-1(19): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF PIILANI GARDENS, LLC; CLAIM 2012-011) (CC 13-41)

CHAIR HOKAMA: Under Item 1(19), this is also under the heading of Litigation Matters (Settlement Authorization: Claim of Piilani Gardens, LLC; Claim 2012-011). We are in receipt of correspondence dated July 2, 2013, from the Department of the Corporation Counsel with a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC". Corporation Counsel, if you would lead us through this one, please?

MS. LUTEY: Thank you. This is also mine. In this matter, the claimant is alleging that our R-1 water system has caused damage to her personal property. There is a potential for litigation in this matter so I would like to discuss the potential for settlement in executive session.

CHAIR HOKAMA: Okay. Thank you very much. You've heard the request for executive session. This shall be allowed under Section 92-5(a)(4) of the Hawaii Revised Statutes, to consult with counsel on questions and issues pertaining to powers, duties, privileges, immunities, and liabilities of the County, the Council, and this Committee. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session on Item 1(19) as per your mentioning. Thank you.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: We have a motion by Mr. Couch, seconded by Mr. Victorino for executive session on Item 1(19). Is there any further discussion? If not, all in favor of the motion, please say "aye"?

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say "no"? Motion passes with 7 ayes; Ms. Baisa and Ms. Crivello excused.

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VOTE: **AYES:** **Chair Hokama, Vice-Chair Couch, and Councilmembers Carroll, Cochran, Guzman, Victorino, and White.**

NOES: **None.**

EXC.: **Councilmembers Baisa and Crivello.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **APPROVE; RECESS open meeting and CONVENE executive meeting.**

ITEM PIA-1(20): **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF JAMES. J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.; CLAIM 2012-1000-15) (CC 13-41)**

CHAIR HOKAMA: We're under Policy Item 1(20) also under Litigation Matters. We have another settlement authorization request. This is the Claim of James J. Stone, Attorney at Law, on behalf of Waiehu Golf Shop, Inc., Claim 2012-1000-15. The Committee has received correspondence dated July 1, 2013, from Corporation Counsel, with a proposed resolution requesting authorization of settlement on Claim 2012-1000-15, James J. Stone, Attorney at Law, on behalf of Waiehu Golf Shop Incorporated. Okay, we have Mr. Ueoka. This is your case, if you would give the Committee your comments, please.

MR. UEOKA: Um . . . request to go into executive session to further discuss this matter, please, Mr. Chair.

CHAIR HOKAMA: Okay. We've heard the request for executive session by the Deputy of Corporation Counsel, Members. Any questions at this time, if not, the Chair shall be open to a motion for executive session under Section 92-5(a)(4), Hawaii Revised Statutes, to consult with counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of this County, the Council, and the Committee. Mr. Couch?

VICE-CHAIR COUCH: Mr. Chair, I move to go into executive session on Item 1(20) as for the reasons stated and your comments.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: Thank you. I have a motion made by Mr. Couch, seconded by Mr. Victorino for executive session on Item 1(20). Any further discussion? Having none, all in favor of the motion please say "aye"?

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CHAIR HOKAMA: Okay. Thank you very much for that. Members, questions for Corporation Counsel on this? We are in open session and they have not requested executive session for this case. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. And thank you for . . . it's just basically subrogation for what has already been paid out by both parties, right?

MS. LUTEY: Right.

COUNCILMEMBER VICTORINO: And there was no question in the report that I read that we were at fault that we had crossed the line and had caused this damage to their vehicle.

MS. LUTEY: That's correct.

COUNCILMEMBER VICTORINO: There was no medical or no physical injuries to the parties at that time?

MS. LUTEY: No.

COUNCILMEMBER VICTORINO: Okay. Thank you, Mr. Chair. I'll await your recommendation. Thank you.

CHAIR HOKAMA: Okay. Mr. Guzman, questions?

COUNCILMEMBER GUZMAN: Not at this time.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No, thank you.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. On behalf of us non-lawyers, subrogation and non-insurance people, what is that?

MS. LUTEY: It's basically if the insurance company pays out on a claim where liability is actually owned by another party, in other words us as opposed to their insured, they can ask us for reimbursement.

VICE-CHAIR COUCH: Okay. Thank you. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: No questions.

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ITEM PIA-1(22): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: AMERICAN CIVIL LIBERTIES UNION OF HAWAII, ET AL. V. COUNTY OF MAUI; CIVIL CV13-00307 LEK KSC) (CC 13-41)

CHAIR HOKAMA: May we please move to Litigation Matters - Item 1(22). This is a settlement authorization (the American Civil Liberties Union of Hawaii, et al., v. County of Maui; Civil CV13-00307 LEK/KSC). This Committee has received correspondence dated July 22, 2013, from our Corporation Counsel with a proposed resolution entitled "AUTHORIZING SETTLEMENT OF AMERICAN CIVIL LIBERTIES UNION OF HAWAII, ET AL.V. COUNTY OF MAUI, CIVIL NO. CV 13-00307 LEK KSC". And who shall be speaking for the Department today? Mr. Wong, you?

MR. WONG: Chair, I have with me Deputy Shinken Naitoh will be doing the presentation this morning.

CHAIR HOKAMA: Okay. Thank you. Mr. Naitoh, if you would please?

MR. NAITOH: Good morning. This is a Federal lawsuit against the County of Maui and it is an ongoing litigation matter and request that any questions and discussion be held in executive session.

CHAIR HOKAMA: Okay. You've heard Deputy Naitoh's request, Members, for executive session. Is there any questions for him in open session at this time? You've heard that this is a Federal complaint that we're dealing with. Okay, if not, the Chair is open to executive session under Section 92-5(a)(4) of the Hawaii Revised Statutes which allows this Committee to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and this Committee. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session in Item 1(22) pursuant to HRS Section 92-5(a)(4).

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR HOKAMA: Thank you, gentlemen. We have a motion made by Mr. Couch; seconded by Mr. Victorino. Any further discussion? Having none, all in favor of the motion please say "aye"?

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say "no"? Motion passes with 7 ayes, 2 excused - Ms. Baisa and Ms. Crivello.

VOTE: AYES: Chair Hokama, Vice-Chair Couch, and Councilmembers Carroll, Cochran, Guzman, Victorino, and White.

NOES: None.

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EXC.: **Councilmembers Baisa and Crivello.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **APPROVE; RECESS open meeting and CONVENE executive meeting.**

ITEM PIA-1(23): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1)) (CC 13-41)

CHAIR HOKAMA: Let me direct you to Policy 1(23) . . . also under the heading of Litigation Matters (Settlement Authorization: Kay Burke v. County of Maui; Civil 09-1-0127(1)). This is a request from Corporation Counsel, dated August 1, 2013, with a proposed resolution requesting settlement. Deputy Rost, if you would please give us your comments on this item, please?

MR. ROST: Thank you, Mr. Chair. This lawsuit is a trip and fall. The Plaintiff, Kay Burke, tripped on the sidewalk adjacent to South Kihei Road. She fell and injured herself. This case remains in active litigation so if we enter into details, we're going to request executive session.

CHAIR HOKAMA: Okay, thank you. Members, any questions for Mr. Rost in open session? It is a request for executive session. The Chair under Section 92-5(a)(4), Hawaii Revised Statutes as well as Hawaii Revised Statutes Section 92-5(a)(8), the Chair will recommend executive session on Item 1(23). Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session on Item 1(23), pursuant to Section 92-5(a)(4) and 92-5(a)(8) of the Hawaii Revised Statutes.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR HOKAMA: Thank you, gentlemen. We have a motion made by Mr. Couch, seconded by Mr. Victorino to enter into executive session on Policy Item 1(23). Any further discussion, Members? Having none, all in favor of the motion please say "aye"?

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say "no"? Motion passes with 7 ayes; 2 excused.

VOTE: AYES: Chair Hokama, Vice-Chair Couch, and Councilmembers Carroll, Cochran, Guzman, Victorino, and White.

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NOES: None.

EXC.: Councilmembers Baisa and Crivello.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

ITEM PIA-1(25): **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF ERIC STEVENSON AND LIBERTY MUTUAL FIRE INSURANCE COMPANY; CLAIM 2012-1022-21) (CC 13-41)**

CHAIR HOKAMA: We have one more item under Litigation Matters, Members, that is under Policy Item 1(25). This is also a settlement authorization request (Claim of Eric Stevenson and Liberty Mutual Fire Insurance Company; Claim 2012-1022-21). This Committee is in receipt of correspondence dated July 31, 2013, from Department of the Corporation Counsel with a proposed resolution requesting authorized settlement of Claim 2012-1022-21, in regards to Liberty Mutual Fire Insurance Company on behalf of its insured Eric Stevenson. Ms. Lutey?

MS. LUTEY: Thank you. This is another matter I believe we can handle in open session. What happens in this particular claim is that on November 1st, 2012, Mr. Stevenson's truck was parked on Kupuna Street in Kihei when it was struck by a refuse truck trying to turn onto that street. Liberty Mutual Insurance Company is Mr. Stevenson's insurance company. They're requesting \$8,371.82 in reimbursement for the repairs done to Mr. Stevenson's vehicle. And Mr. Stevenson's vehicle is . . . I'm sorry, his deductible was \$250.00 which he is also seeking reimbursement for which makes the total request for settlement at \$8,621.82.

CHAIR HOKAMA: Thank you, Ms. Lutey. Members, we are in open session. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair. I have two questions. One, on the resolution it only shows \$8,371.82. Is that a mistake because she just said \$8,600 because of the \$250.00 deductible by Mr. Stevenson or his deductible that he has to pay up front?

CHAIR HOKAMA: Right.

COUNCILMEMBER VICTORINO: So I guess that's my first question. And the second question . . . and I think this is something important, when we have vehicles parked on the street, and I don't want to get into deep details but I know we put refuse cans out on the side of the road. We're not allowed to put 'em on the road. Has anybody looked into this matter I guess you know because this is not the first time I've seen this type of claim. And it's awfully expensive - 8,000 . . . 600

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bucks. You do that by ten, 12 times a year that's a lot of money we can put for other things. Is there any restrictions for these people when we have refuse days to make their vehicles not parked on the street or not in an area where we're able to pick up the cans?

MS. LUTEY: I'm not aware of any of that type of restriction.

COUNCILMEMBER VICTORINO: Okay.

MS. LUTEY: However, I do know that if they can't reach your can because of a parked vehicle they just won't pick up your trash.

COUNCILMEMBER VICTORINO: Okay.

MS. LUTEY: But Chair, if I could just address the amount discrepancy. I'm sorry but the resolution is actually incorrect. It should be \$8,621.82.

COUNCILMEMBER VICTORINO: Okay.

MS. LUTEY: I apologize for that.

COUNCILMEMBER VICTORINO: So that will be changed, Mr. Chair, to the total of \$8,600?

CHAIR HOKAMA: Yeah, we'll make the appropriate revisions, Mr. Victorino.

COUNCILMEMBER VICTORINO: Okay. That's the only questions I have. Thank you, Ms. Lutey.

CHAIR HOKAMA: Okay. Mr. Guzman?

COUNCILMEMBER GUZMAN: No.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No questions.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And along those lines of Mr. Victorino's questions I do know that if that's a . . . I believe it's an automated trash pick-up service and on the can it says no parking near it. Was that truck legally parked?

MS. LUTEY: It's my understanding from the police report that it was.

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VICE-CHAIR COUCH: Okay. All right, maybe we have to look into that further in a different committee because there is on the cans themselves it has a "No Parking" sign but it doesn't say how far.

MS. LUTEY: I'm not aware of any restrictions but likewise have not researched it on what the distance needs to be. I just know that the policy of the Department is not to pick up your trash if it can't be done safely.

VICE-CHAIR COUCH: Okay.

MS. LUTEY: In this situation, he's trying to turn onto the street and hits the vehicle.

VICE-CHAIR COUCH: And again, Mr. Chair, that may be with our standards . . . subdivision standards or whatever if there's people parked on both sides of the car, I noticed that it was 40 minutes after the restriction because from 4 a.m. to 6 a.m. no one is supposed to park on the streets at all. So if people are . . . especially that street. I know that street, it's fairly narrow at that point and something we may need to discuss in Infrastructure Management Committee or somewhere around about what is valid parking and what isn't. And if somebody is not really parking legally and gets smacked, I know we try not to smack them, but there might be some interesting circumstances there. That's my concern.

CHAIR HOKAMA: I understand what you're saying. So . . .

VICE-CHAIR COUCH: Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: No questions.

CHAIR HOKAMA: Mr. Carroll?

COUNCILMEMBER CARROLL: No questions.

CHAIR HOKAMA: Yeah, when I read this item like you, Mr. Couch, first my thing was what was the time of the incident because we have restrictions on overnight street parking. We also have restrictions on no parking within 30 feet of any stop sign. We all know we got a lot of bad parking people out there. So, I was also wondering whether or not our employee was to what degree at fault was the employee versus the owner of the vehicle. But you folks are quite assured that this is the way it is, Ms. Lutey?

MS. LUTEY: Yes, Mr. Chair.

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CHAIR HOKAMA: Okay. Anything else, Members? If not, the Chair will go with the request from Corporation Counsel. We shall revise the resolution to the new amount of \$8,621.82 is that correct?

MS. LUTEY: Yes, Mr. Chair.

CHAIR HOKAMA: We'll have that revised. And the Chair will recommend a motion to . . .

VICE-CHAIR COUCH: Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Couch?

VICE-CHAIR COUCH: Small recess, please. Short recess.

CHAIR HOKAMA: Recess?

VICE-CHAIR COUCH: Yes.

CHAIR HOKAMA: . . . *(gavel)* . . .

RECESS: 9:45 a.m.

RECONVENE: 9:46 a.m.

CHAIR HOKAMA: Okay, we'll enter into session, Members. . . . *(gavel)* . . . Okay, the Chair is going to revise his recommendation to the Committee. One, the Chair is still recommending supporting the request of Corporation Counsel to move forward the proposed settlement resolution, revised proposed resolution to Council. The Chair, in the committee report, will also have the subject of off-street parking concerns . . .

VICE-CHAIR COUCH: On-street.

CHAIR HOKAMA: On-street parking concerns, thank you, Mr. Couch, be recommended for refer . . . the subject to be referred to Committee on Infrastructure Management for consideration under that Committee's jurisdiction. That is your Chair's recommendation.

VICE-CHAIR COUCH: You ready?

CHAIR HOKAMA: I'm ready.

VICE-CHAIR COUCH: Okay. All right. Mr. Chair, I move to adopt resolution authorizing settlement of Claim No. 2012-1022-21, do we have any other numbers besides 12 and 0, sorry, of Liberty Mutual Fire Insurance Company on behalf of its insured Eric Stevenson.

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COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: We have a motion by Mr. Couch, seconded by Mr. Victorino. Okay, Members, this is two things now . . . recommending the revised resolution recommendation to Council for adoption and the subject matter being considered for referral to, I believe, Ms. Cochran's committee.

MS. HAMMAN: Mr. Chair, can Staff just clarify, would that be on-street parking along Kupuna Street or just on-street parking in general?

CHAIR HOKAMA: I would rather have it general because it's just more than Kupuna Street.

VICE-CHAIR COUCH: Yeah.

CHAIR HOKAMA: The problem. Is that okay, Mr. Couch?

VICE-CHAIR COUCH: Yes, Mr. Chair. And I didn't say revised resolution.

CHAIR HOKAMA: That was the Chair's . . . because we're going to need to revise the reso for the corrected amount.

VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: Okay, any further discussion, Members? Having none, all in favor of the motion, please say "aye"?

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say "no"?

VICE-CHAIR COUCH: No.

CHAIR HOKAMA: Okay. Motion passes with six ayes; one no - Mr. Couch; and two excused - Ms. Crivello and Ms. Baisa. Thank you very much, Members

VOTE: AYES: Chair Hokama and Councilmembers Carroll, Cochran, Guzman, Victorino, and White.

NOES: Vice-Chair Couch.

EXC.: Councilmembers Baisa and Crivello.

ABSENT: None.

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ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending ADOPTION of revised resolution and REFERRAL of the matter relating to on-street parking to the Infrastructure and Environmental Management Committee.

CHAIR HOKAMA: Okay, at this time, Members, we shall stand in recess. We shall prepare for executive session to take care of the needs of the various cases that we've agreed to enter into executive session. This Committee shall stand in recess. . . .(gavel). . .

RECESS: 9:49 a.m.

RECONVENE: 12:27 p.m.

CHAIR HOKAMA: . . .(gavel). . . of August 2013, Members, thank you. We have not concluded all the requirements of executive session but the timing of this Committee slot has reached its deadline.

ITEM PIA-1(22): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: AMERICAN CIVIL LIBERTIES UNION OF HAWAII, ET AL. V. COUNTY OF MAUI; CIVIL CV13-00307 LEK KSC) (CC 13-41)

CHAIR HOKAMA: So at this time, Members, with no objections, the Chair shall ask for a deferral on Item 1(22), which is under Litigation Matters (Settlement Authorization: American Civil Liberties Union of Hawaii, et al. v. County of Maui; Civil CV 10-00307 LEK KSC).

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GCB, MPV).

ACTION: DEFER pending further discussion.

ITEM PIA-1(6): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: MARIE J. KOSEGARTEN V. DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB AND TIMOTHY T. TATE; CIVIL CV 10-00321 LEK/KSC) (CC 13-41)

CHAIR HOKAMA: And the Chair will also ask for the Committee's approval to defer Policy Item 1(6) also under Litigation Matters (Settlement Authorization: Marie J. Kosegarten v. Department of the Prosecuting Attorney, County of Maui; Benjamin M. Acob and Timothy T. Tate; Civil CV 10-00321 LEK/KSC) for deferral also. Any objections, Members?

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COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GCB, MPV).

ACTION: DEFER pending further discussion.

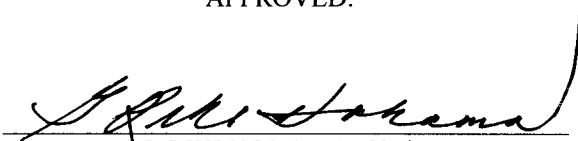
CHAIR HOKAMA: Okay, Members, with do have slots open for Wednesday. Currently, we had asked you earlier when we knew that the morning had opened but to meet at 1:30. There is a consideration that we can meet sooner, which is 10 a.m., Wednesday, which would mean we can start sooner and, hopefully, conclude sooner so that all of you can then do your other requirements for personal and professionally. So the Chair is going to ask, is there a problem for us to reconvene this meeting on Wednesday at 10:00 a.m.?

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: We have seven so seven will make themselves present. We shall stand in recess until Wednesday, August 14, 2013 in this Chamber till 10:00 a.m. Okay, we are in recess. . . .(gavel) . . .

RECESS: 12:30 p.m.

APPROVED:



G. RIKI HOKAMA, Chair
Policy and Intergovernmental Affairs Committee

pia:min:130812

Transcribed by: Jo-Ann Sato