

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

July 24, 2015

**Committee  
Report No. \_\_\_\_\_**

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

Chair and Members:

Your Committee of the Whole, having met on July 6, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated June 16, 2015, the Department of the Corporation Counsel requested consideration of the possible settlement of In the Matter of the Grievance Arbitration Between State of Hawaii Organization of Police Officers, on Behalf of Marvin Kalani Miles, and County of Maui, Maui Police Department, SHOPO Case M-2012-004 (“SHOPO grievance”); and Marvin Kalani Miles v. Maui Police Chief Gary Yabuta, et al., Civil 14-1-0345(2) (“Circuit Court case”). Attached to the request are a copy of the complaint in the Circuit Court case and a proposed resolution entitled “AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF MARVIN KALANI MILES AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2012-004; AND OF MARVIN KALANI MILES VS. MAUI POLICE CHIEF GARY YABUTA, ET AL., CIVIL NO. 14-1-0345(2).”

The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the SHOPO grievance and the Circuit Court case.

Your Committee notes the Circuit Court complaint alleges general and special damages related to Mr. Miles’ termination of employment with the Department of Police on May 31, 2012.

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

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A Deputy Corporation Counsel provided a brief overview of the cases. Because the cases involve ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

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 6-2 to recommend adoption of the proposed resolution to authorize the settlement of the cases under the terms proposed in the executive meeting. Committee Chair Guzman and members Baisa, Carroll, Cochran, Couch, and Victorino voted "aye." Committee Vice-Chair Crivello and member White voted "no." Committee member Hokama was excused.

Your Committee of the Whole RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF MARVIN KALANI MILES AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2012-004; AND OF MARVIN KALANI MILES VS. MAUI POLICE CHIEF GARY YABUTA, ET AL., CIVIL NO. 14-1-0345(2)," be ADOPTED.

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

  
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DON S. GUZMAN, Chair

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF MARVIN KALANI MILES AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2012-004; AND OF MARVIN KALANI MILES VS. MAUI POLICE CHIEF GARY YABUTA, ET AL., CIVIL NO. 14-1-0345(2)

WHEREAS, the State of Hawaii Organization of Police Officers (“SHOPO”) filed a grievance arbitration on behalf of Marvin Kalani Miles, SHOPO Case No. M-2012-004; and

WHEREAS, Plaintiff Marvin Kalani Miles (“Plaintiff”) filed a lawsuit in the Second Circuit Court on May 30, 2014, Civil No. 14-1-0345(2), against Maui Police Chief Gary Yabuta, Maui Police Department, and County of Maui (“County Defendants”), claiming general and special damages related to his employment with the County, and thereafter said case was removed to the United States District Court on June 17, 2014; and

WHEREAS, the matter was remanded back to Circuit Court on November 18, 2014; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial and/or arbitral determination of the parties' respective rights and liabilities, will attempt to reach a resolution of both matters identified by way of a negotiated settlement; and

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WHEREAS, the Department of the Corporation Counsel has requested authority to settle these cases under the terms and conditions set forth in an executive meeting before the Committee of the Whole; and

WHEREAS, having reviewed the facts and circumstances regarding these cases and being advised of attempts to reach resolution of these cases by way of a negotiated settlement or Offer of Judgment by the 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 these cases under the terms set forth in an executive meeting before the Committee of the Whole; and

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

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

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

5. That certified copies of this resolution be transmitted to the Mayor, the Chief of Police, the Director of Finance, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



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THOMAS W. KOLBE  
Deputy Corporation Counsel  
County of Maui