

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

September 18, 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 August 25, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated June 23, 2015, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 2014-2020-15 of GEICO, on behalf of its insured, Laurie McCarthy. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-2020-15 OF GEICO, ON BEHALF OF ITS INSURED, LAURIE McCARTHY," and a copy of the claim. The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$8,682.01.

Your Committee notes the claim alleges damages to Laurie McCarthy's vehicle resulting from a collision with a coconut tree lying across Honoapiilani Highway, Lahaina, Maui, Hawaii, on January 3, 2014.

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

The Department of the Corporation Counsel transmitted a revised proposed resolution incorporating nonsubstantive revisions.

A Deputy Corporation Counsel provided a brief overview of the claim. She noted the County owned and maintained the tree. Prior to the incident, the Department of Parks and Recreation had been informed the tree was diseased and needed to be removed.

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A representative of the Department of Parks and Recreation said a contractor trimming coconut trees in the park noticed a cavity in the tree, which was adjacent to a guardrail along the highway. He said the Department was trying to consolidate work at the park to make it more cost effective, and did not believe an emergency purchase order to have the tree removed immediately was necessary. The tree fell a few weeks after it was identified as diseased.

Your Committee requested the procedures be examined for evaluating diseased trees and the time frame for responding to notification that a tree is diseased.

Your Committee voted 9-0 to recommend adoption of the revised proposed resolution to authorize the settlement of the matter for \$8,682.01. Committee Chair Guzman, Vice-Chair Crivello, and members Baisa, Carroll, Cochran, Couch, Hokama, Victorino, and White voted "aye."

Your Committee of the Whole RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-2020-15 OF GEICO, ON BEHALF OF ITS INSURED, LAURIE McCARTHY," be ADOPTED.

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



DON S. GUZMAN, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
CLAIM NO. 2014-2020-15 OF GEICO, ON
BEHALF OF ITS INSURED, LAURIE McCARTHY

WHEREAS, GEICO filed Claim No. 2014-2020-15 on June 3, 2014, against the County of Maui for damages to Laurie McCarthy's vehicle resulting from a collision with a coconut tree lying across Honoapiilani Highway, Lahaina, Maui, Hawaii on January 3, 2014; and

WHEREAS, Laurie McCarthy is insured for such damage by GEICO; and

WHEREAS, GEICO, as subrogee of this claim, has alleged that the County of Maui is liable for the expenses paid by GEICO; and

WHEREAS, the County of Maui and GEICO, 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. 2014-2020-15 in the amount of \$8,682.01; and

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2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by GEICO; and

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

RISK - 2014-0072