

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

June 17, 2016

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 May 31, 2016, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated May 18, 2016, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF CLINTON GOUVEIA AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2014-009." The purpose of the proposed resolution is to authorize the Department to settle the case.

As noted in Committee Report 15-158, the case involves the termination of Clinton Gouveia, a former police officer, in 2013. The Department of Police terminated Mr. Gouveia because it determined he had assaulted a suspect using excessive force, including the use of a Taser, and failed to report such conduct on the police report. Mr. Gouveia was prosecuted for assault but acquitted. The grievance action followed.

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

Your Committee further notes the Council previously authorized settlement of this case by Resolutions 15-138 and 16-12.

A Deputy Corporation Counsel provided a brief overview of the case. She said arbitration is ongoing. She also noted the Department of the Corporation Counsel was prepared to present a counteroffer from the plaintiff to the Council's prior authorization.

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Because the case is in active arbitration and involves the consideration of information that must be kept confidential, 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; 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), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 5-0 to recommend adoption of the proposed resolution. Committee Chair Guzman, Vice-Chair Crivello, and members Cochran, Couch, and Hokama voted "aye." Committee members Baisa, Carroll, Victorino, and White were excused.

Your Committee of the Whole **RECOMMENDS** that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF CLINTON GOUVEIA AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2014-009," be **ADOPTED**.

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



DON S. GUZMAN, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF IN THE MATTER OF THE GRIEVANCE ARBITRATION BETWEEN THE STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, ON BEHALF OF CLINTON GOUVEIA AND COUNTY OF MAUI, MAUI POLICE DEPARTMENT, SHOPO CASE NO. M-2014-009

WHEREAS, the State of Hawaii Organization of Police Officers (“SHOPO”) has filed a grievance on behalf of former Maui Police Department Officer Clinton Gouveia, SHOPO Case No. M-2014-009; and

WHEREAS, by Resolutions 15-138 and 16-12, the Council previously authorized settlement of the case; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the grievance under the terms and conditions proposed in an executive meeting before the Committee of the Whole; 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 Committee of the Whole; 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

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3. That it hereby authorizes the Director of Finance to satisfy the 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 Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



CHRISTIE M. TRENHOLME
Deputy Corporation Counsel
County of Maui