

**PARKS, RECREATION, ENERGY, AND LEGAL
AFFAIRS COMMITTEE
Council of the County of Maui**

M I N U T E S

Council Chamber

July 3, 2018

CONVENE: 1:41 p.m.

PRESENT: Councilmember Kelly T. King, Vice-Chair
Councilmember Alika Atay
Councilmember Stacy Crivello
Councilmember Yuki Lei K. Sugimura
Councilmember Mike White

EXCUSED: Councilmember Don S. Guzman, Chair
Councilmember Robert Carroll
Councilmember Elle Cochran
Councilmember Riki Hokama

STAFF: Carla Nakata, Legislative Attorney
Pauline Martins, 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.: Moana M. Lutey, Deputy Corporation Counsel, Department of the
Corporation Counsel
Caleb P. Rowe, Deputy Corporation Counsel, Department of the
Corporation Counsel
Richelle Thomson, Deputy Corporation Counsel, Department of the
Corporation Counsel
Lionel Montalvo, Deputy Chief, Department of Fire and Public
Safety

OTHERS: None

PRESS: *Akaku Maui Community Television, Inc.*

VICE-CHAIR KING: . . . *(gavel)* . . . Good afternoon. This is the Parks, Recreation, Energy, and Legal Affairs Committee. I am the Vice Chair Kelly King. Mr. Guzman, who Chairs this Committee normally, has been taken ill today. He made a valiant effort this morning to attend the morning meeting, but he was too sick to continue, so we have a bare

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE
Council of the County of Maui**

July 3, 2018

quorum here. And I understand we have one Member who needs to leave at 2:30 p.m. so we're down to 45 minutes, Committee Members, and so if there are no objections, I'm going to defer the fourth item on this agenda so we don't have to have Department of Environmental Management come and sit through this meeting and then leave when we lose quorum. We'll take up the first three items which are litigation matters. Today we have in Chambers, you have Councilmember Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

VICE-CHAIR KING: Good afternoon. Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good afternoon.

VICE-CHAIR KING: Good afternoon. Councilmember Alika Atay.

COUNCILMEMBER ATAY: Good afternoon.

VICE-CHAIR KING: Good afternoon. And Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good afternoon.

VICE-CHAIR KING: So Ms. Crivello, you still have to leave at 2:30 p.m., I understand?

COUNCILMEMBER CRIVELLO: I have a flight home for the holiday.

VICE-CHAIR KING: But that's the right time - 2:30 p.m.?

COUNCILMEMBER CRIVELLO: Yes.

VICE-CHAIR KING: Okay. So we have 45 minutes to try to get through the first three items on our agenda. I want to introduce the Administration who's here - Interim Fire Chief Lionel Montalvo. We won't have Department of Environmental Management here, or Fred Redell. We were going to have Fred Redell, the Energy Commissioner, for the fourth item, but we won't need him as well. We have from Corp Counsel, Deputy Corporation Counsel Moana Lutey. Thank you for being here. And I guess we will have up here later on, Deputy Corp Counsel Caleb Rowe and Deputy Corp Counsel Richelle Thomson. She was in the room a little bit earlier. So the staff today is Pauline Martins and Carla Nakata from Office of Council Services. Thank you for being here. We have on the line, our three District Offices. My understanding is there's no one waiting to testify in Hana, Molokai, or Lanai. Okay. So if there is, if someone does show up before we close testimony, please contact the staff - Ms. Fernandez, Ms. Alcon, and Ms. Lono. Do we have any individuals signed up to testify in the Chambers?

MS. NAKATA: No, Madam Chair.

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE
Council of the County of Maui**

July 3, 2018

VICE-CHAIR KING: Okay. So if there are no objections, we'll close testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

VICE-CHAIR KING: Okay, testimony is closed. Please, for all those left in the Chambers, please silence your noisemakers.

**PRL-1(36) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: ISLAND
INSURANCE COMPANY, LIMITED, ON BEHALF OF ITS INSURED, GEORGE
AND DONNA BROWN; CLAIM 30178459821-0001) (CC 17-6)**

VICE-CHAIR KING: We're going to go ahead and get started with the first item, which is PRL-1(36), Litigation Matters, Island Insurance Company, Limited, on behalf of its insured, George and Donna Brown, Claim 30178459821-0001. This is, the Administration who will be addressing this is our Interim Fire Chief, Mr. Lionel Montalvo, and our Corp Counsel Moana Lutey. So the agenda item is basically considering whether to recommend adoption of the proposed resolution with our without revisions, and we also may consider the filing of the correspondence and other related action. This is authorizing settlement of claim 30178459821-0001 of Island Insurance Company, Limited, on behalf of George and Donna Brown. The purpose of the proposed resolution is to authorize settlement of the claim for \$8,603.10. The claim alleges damages to George and Donna Brown's vehicle resulting from a collision involving a County of Maui firetruck on May 10, 2017 in Lahaina, Maui, Hawaii. So I'll ask Ms. Lutey if you could please brief us on this item. I think we can take care of this in open session.

MS. LUTEY: Yes, thank you, Chair. I likewise believe that this can be handled in open session. I've provided you with all of the documentation relevant to settlement of this matter, and the basic facts are that Ladder 3 was traveling in Lahaina on Front Street making a left turn onto Market Street for a medical emergency. His lights and sirens were on, and vehicles coming in the opposite direction came to a stop. Unfortunately, as the truck made the turn, the back end of the vehicle smashed into the front driver's side portion of the Leaf. And so when we looked at repairing it as opposed to declaring it a total loss, the cost were so close, that it was deemed a total loss. The repair estimate is—I believe you have documentation on this—it was \$8,500 and the actual cash value is \$9,500. So we went with actual cash value, reduced it by 10 percent for the salvage, which the claimants chose to keep, so that reduced the amount by \$955.90, which makes the total settlement value of this vehicle at \$8,603.10 and that's what I'm requesting in settlement authority.

VICE-CHAIR KING: Okay, thank you, Ms. Lutey. Any questions, Committee Members? Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So no one got hurt, or it was just the vehicle, right?

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE
Council of the County of Maui**

July 3, 2018

MS. LUTEY: There were no physical injuries reported at the time, just vehicular property damage.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR KING: Ms. Lutey, so you said the low estimate was \$8,500?

MS. LUTEY: The actual cash value of the vehicle is \$9,559; but when you keep salvage, we reduce it. And in this case that's a 10 percent reduction and so the total value is \$8,603.10.

VICE-CHAIR KING: Okay. But you gave us another figure of \$8,500, which was an estimate of repair or?

MS. LUTEY: Oh! No, that's the repair estimate was \$8,511.

VICE-CHAIR KING: Okay. But you went with the other figure that was higher?

MS. LUTEY: Right. This is actually standard insurance practice. So it's a subrogation claim from the insurance company. So the insurance company has actually already paid their insured for it, and then are asking us to reimburse them for the \$8,600 that I'm requesting authority for.

VICE-CHAIR KING: Okay. Any other further questions? If not, I will entertain a motion to— well we don't need to convene an executive session. So I'll entertain a motion to recommend the adoption of the proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30178459821-0001 OF ISLAND INSURANCE COMPANY, LTD., ON BEHALF OF GEORGE AND DONNA BROWN."

COUNCILMEMBER WHITE: So moved.

COUNCILMEMBER SUGIMURA: Second.

VICE-CHAIR KING: Moved by Mr. White seconded by Ms. Sugimura. Any discussion? No discussion? All those in favor, say "aye."

COUNCIL MEMBERS VOICED AYE.

VICE-CHAIR KING: All those opposed?

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE
Council of the County of Maui**

July 3, 2018

VOTE: **AYES:** **Vice-Chair King, Councilmembers Atay, Crivello,
Sugimura and White.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Chair Guzman, Councilmembers Carroll,
Cochran, and Hokama.**

MOTION CARRIED.

ACTION: ADOPTION OF RESOLUTION.

VICE-CHAIR KING: Okay. The measure passes with five “ayes,” zero “noes,” and we have four excused—Mr. Carroll, Ms. Cochran, Mr. Hokama, and Mr. Guzman. Thank you, Members. Thank you, Ms. Lutey. Thank you for being here, Mr. Montalvo. It’s a pretty cut-and-dried issue.

PRL-1(37) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: PAULA BURNS V. COUNTY OF MAUI; DISABILITY COMPENSATION DIVISION CASE 7-17-00866) (CC 17-6)

VICE-CHAIR KING: Okay. Our next item is PRL-1(37), Litigation Matters, and this is regarding Paula Burns. Our Deputy Corp Counsel will be here shortly, Mr. Caleb Rowe. Okay, the item description. We are in receipt of correspondence dated June 5, 2018 from the Department of Corp Counsel requesting consideration of a proposed resolution entitled “AUTHORIZING SETTLEMENT OF PAULA BURNS V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 7-17-00866.” The claim alleges Pala Burns sustained work-related injuries on December 12, 2016. The purpose of the proposed resolution is authorize settlement of the case, and I will turn it over to Mr. Rowe.

MR. ROWE: Thank you, Chair. So Ms. Burns is a 43-year-old Park Caretaker I. She injured her lower back on December 12, 2016 while she was trying to lift a 50-pound box of toilet tissue paper in the base yard storage room at the Eddie Tam Memorial Center. While lifting, she felt her back give out. This injury was witnessed by her supervisor. The County did accept liability for this claim, and currently what we are seeking to do is get a wash agreement, whereby, we are no longer responsibility for any future medical or indemnity payments. Because these do involve medical matters, I would ask that any further discussion take place in executive session.

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE
Council of the County of Maui**

July 3, 2018

**PRL-1(38) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DONNA TAKITANI
V. COUNTY OF MAUI; DISABILITY COMPENSATION DIVISION CASES
7-15-01931 AND 7-16-00277) (CC 17-6)**

VICE-CHAIR KING: The PRL-1(38), Litigation Matters, Donna Takitani. The Committee is in receipt of correspondence dated June 21, 2018 from the Department of Corp Counsel requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DONNA TAKITANI V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NOS. 7-15-01931 AND 7-16-00277." The claims allege DONNA TAKITANI sustained work-related injuries on November 9, 2015 and January 14, 2016. The purpose of the proposed resolution is to authorize settlement of the two cases. Again, Mr. Rowe, you can give us a brief explanation.

MR. ROWE: Thank you, Chair. Ms. Takitani was a maintenance supervisor with the Department of Parks and Recreation. She has since retired. The first injury occurred on November 9, 2015. Ms. Takitani was trying to move a maintenance cart. The maintenance cart was locked in first gear, and as Ms. Takitani attempted to shift into reverse, the cart jerked forward and she braked suddenly, and it caused a whiplash-like injury to her cervical, thoracic, and lumbar spines. She had another injury shortly after that on January 14, 2016. Ms. Takitani was helping another employee at Parks spray yellow jacket nests around the dugout officials' booth and fence pipes near the Eddie Tam baseball and softball fields. While spraying, the yellow jackets began to fly in her direction, so she tried running away from them. In the process of running away from them, she fell backwards and onto her left side. This fall caused injury to her buttocks, back, hip, neck, and left shoulder. The County has accepted liability for both of these claims. What we are seeking to do is do a global settlement, whereby, we not only settle the issue of permanent partial disability, but also seek to get her to waive all future medical and indemnity benefits. Again because this involves sensitive medical information, I would like to ask for an executive session.

VICE-CHAIR KING: Okay. Do we have any questions that can be asked in open session? Seeing none, the Chair will entertain a motion to convene and executive meeting session pursuant to Section 92-5(a)(4) Hawaii Revised Statutes to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8) Hawaii Revised Statutes to deliberate or make a decision upon a matter that requires consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

COUNCILMEMBER WHITE: So moved.

COUNCILMEMBER SUGIMURA: Second.

VICE-CHAIR KING: Moved by Mr. White seconded by Ms. Sugimura. All those in favor?

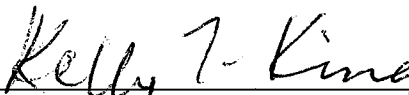
**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**
Council of the County of Maui

July 3, 2018

VICE-CHAIR KING: Okay, we will defer that item. We've finished the rest of our business, and we are adjourned. Thank you, Committee Members. . . . *(gavel)* . . .

ADJOURN: 2:15 p.m.

APPROVED BY:



KELLY T. KING, Vice-Chair
Parks, Recreation, Energy, and Legal
Affairs Committee

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Transcribed by: Pauline Martins