

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

July 6, 2007

Committee
Report No.

07-59

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

Chair and Members:

Your Policy Committee, having met on June 12, 2007, makes reference to County Communication No. 07-11, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated May 25, 2007, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Trinidad K. Alconcel, et al. v. County of Maui, Civil No. CV05-00280 SPK BMK and Jack Henry Williams, Jr., et al. v. County of Maui, Civil No. CV05-00278 DAE LEK. Attached to the request is a copy of each of the complaints and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF TRINIDAD K. ALCONCEL, ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00280 SPK BMK AND JACK HENRY WILLIAMS, JR., ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00278 DAE LEK". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the cases.

Your Committee notes that the complaints allege violations of the Fair Labor Standards Act by the Department of Police and Department of Fire and Public Safety, respectively.

At its meeting, your Committee met with the Deputy Chief of Police; the Assistant Fire Chief; a Deputy Corporation Counsel; and Steven M. Nakashima, Esq. from Marr Hipp Jones and Wang, LLLP.

There was no public testimony. The Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting. She noted that the settlement offer would provide a joint settlement of the two cases. She further noted that the settlement of these cases would not prevent similar complaints from being filed.

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Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Deputy Chief of Police; the Assistant Fire Chief; a Deputy Corporation Counsel; and Steven M. Nakashima, Esq. from Marr Hipp Jones and Wang, LLLP.

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 to recommend adoption of the proposed resolution to authorize the settlement of the matter under the terms proposed in the executive meeting.


Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF TRINIDAD K. ALCONCEL, ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00280 SPK BMK AND JACK HENRY WILLIAMS, JR., ET AL. VS. COUNTY OF MAUI, CIVIL NO. CV05-00278 DAE LEK" be ADOPTED.

Adoption of this report is respectfully requested.

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
TRINIDAD K. ALCONCEL, ET AL. VS. COUNTY OF MAUI,
CIVIL NO. CV05-00280 SPK BMK AND
JACK HENRY WILLIAMS, JR., ET AL. VS. COUNTY OF MAUI,
CIVIL NO. CV05-00278 DAE LEK

WHEREAS, Plaintiffs Trinidad K. Alconcel, et al. filed a Complaint for Declaratory Judgment against the County of Maui in the United States District Court for the District of Hawaii on April 20, 2005, Civil No. CV05-00280 SPK BMK, claiming violations of the Fair Labor Standards Act; and

WHEREAS, Plaintiffs Jack Henry Williams, Jr., et al. filed a Complaint for Declaratory Judgment against the County of Maui in the United States District Court for the District of Hawaii on April 20, 2005, Civil No. CV05-00278 DAE LEK, claiming violations of the Fair Labor Standards Act; and

WHEREAS, the County of Maui, to avoid incurring additional expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of these cases by way of a negotiated settlement; and

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

WHEREAS, having reviewed the facts and circumstances regarding these cases and being advised of attempts to reach

Resolution No. _____

resolution of these cases by way of a negotiated settlement 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 Policy Committee; and

2. That it hereby authorizes the Director of Finance to execute a Release and Settlement Agreement on behalf of the County in these cases, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of Civil Nos. CV 05-00280 SPK BMK and CV 05-00278 DAE LEK, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

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

APPROVED AS TO FORM
AND LEGALITY:



CHERYL TIPTON
Deputy Corporation Counsel
County of Maui