

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

October 5, 2007

Committee
Report No.

07-109

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

Chair and Members:

Your Policy Committee, having met on September 18, 2007, makes reference to County Communication No. 07-11, from the Council Chair, regarding the settlement of claims and lawsuits.

By correspondence dated August 7, 2007, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING SETTLEMENT OF LYNN S. POTRATZ, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 04-1-0390(3)". The purpose of the proposed resolution is to authorize settlement of the case for \$11,000.

Your Committee notes that the complaint alleges general and special damages arising from injuries sustained on September 27, 2002, at the Pukalani Field, in Pukalani, Maui.

Your Committee notes that it previously reported on this matter through Committee Report No. 07-41, which recommended that a proposed resolution entitled "AUTHORIZING SETTLEMENT OF LYNN S. POTRATZ, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 04-1-0390(3)" be adopted. At its meeting of April 10, 2007, the Council adopted Committee Report No. 07-41 (Resolution No. 07-46).

At its meeting, your Committee met with the Director of Parks and Recreation and two Deputy Corporation Counsel.

There was no public testimony.

A Deputy Corporation Counsel noted that while the Council had previously adopted a resolution approving a settlement in this case for up to \$10,000, the settlement conference negotiated a settlement of \$11,000. The Department of the Corporation Counsel is, therefore, requesting that your Committee approve the increased settlement amount.

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Your Committee voted to recommend adoption of the proposed resolution.

Your Policy Committee RECOMMENDS that Resolution No. _____,
attached hereto, entitled "AUTHORIZING SETTLEMENT OF LYNN S. POTRATZ,
ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 04-1-0390(3)", be ADOPTED.

Adoption of this report is respectfully requested.

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
LYNN S. POTRATZ, ET AL. VS. COUNTY OF MAUI, ET AL.,
CIVIL NO. 04-1-0390(3)

WHEREAS, Plaintiffs Lynn S. Potratz and James Potratz filed a lawsuit in the Circuit Court of the Second Circuit on October 13, 2004, Civil No. 04-1-0390(3), against the County of Maui, claiming general damages and special damages, arising from an incident on September 27, 2002, at the Pukalani field where Plaintiff Lynn Potratz allegedly stepped in a hole lined with PVC pipe and injured herself; and

WHEREAS, by resolution no. 07-46, Council previously approved settlement of this case for TEN THOUSAND DOLLARS (\$10,000); and

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

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this litigation for the total amount of ELEVEN THOUSAND DOLLARS (\$11,000); and

Resolution No. _____

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case 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 authorizes the Department of the Corporation Counsel to negotiate settlement in this case in the total amount of ELEVEN THOUSAND DOLLARS (\$11,000); and

2. That it hereby authorizes the Director of Finance 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

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said 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, and the Corporation Counsel.

Resolution No. _____

APPROVED AS TO FORM AND LEGALITY:



Laureen L. Martin
Deputy Corporation Counsel
County of Maui

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