

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 10, 2007

Committee
Report No.

07-41

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

Chair and Members:

Your Policy Committee, having met on February 13, 2007 and March 13, 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 January 12, 2007, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Lynn S. Potratz, et al. v. County of Maui, et al., Civil No. 04-1-0390(3). Attached to the request is a copy of the complaint and 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 the Department of the Corporation Counsel to settle the case.

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

By correspondence dated February 12, 2007, the Department of the Corporation Counsel requested that this item be deferred due to scheduling conflicts in another civil matter.

At its meeting of February 13, 2007, your Committee deferred consideration of the matter without discussion.

At its meeting of March 13, 2007, your Committee met with the Director of Parks and Recreation and a Deputy Corporation Counsel.

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.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 10, 2007
Page 2

Committee
Report No. 07-41

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) and Section 92-5(a)(8), Hawaii Revised Statutes.

At its executive meeting, your Committee met with a Deputy Corporation Counsel.

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 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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COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 10, 2007
Page 3

Committee
Report No. 07-41



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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, 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 or Offer of Judgment; and

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

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 or Offer

Resolution No. _____

of Judgment 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:

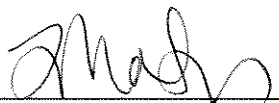
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy Committee; and

2. That it hereby authorizes the Director of Finance to execute a Release and Settlement Agreement on behalf of the County in 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.

APPROVED AS TO FORM AND LEGALITY:



Laureen L. Martin
Deputy Corporation Counsel
County of Maui