

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

October 6, 2006

**Committee
Report No.**

_____06-114_____

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 September 12, 2006, makes reference to County Communication No. 05-24, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated August 23, 2006, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of James Lonczak v. County of Maui, et al., Civil No. 05-1-0004(1). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF JAMES LONCZAK VS. COUNTY OF MAUI, ET AL., CIVIL NO. 05-1-0004(1)". The purpose of the proposed resolution is to authorize additional settlement authority to the Department of the Corporation Counsel to settle the case for \$21,000.

Your Committee notes that the complaint alleges damages due to injuries sustained at the Waiehu Golf Course.

Your Committee further notes that the Council authorized initial settlement of this matter by Resolution No. 06-73.

By correspondence dated September 1, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "AUTHORIZING SETTLEMENT OF JAMES LONCZAK VS. COUNTY OF MAUI, ET AL., CIVIL NO. 05-1-0004(1)". The revised proposed resolution states that this resolution will supersede Resolution No. 06-73.

At its meeting, your Committee met with the Golf Course Superintendent, Department 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, indicating that Mr. Lonczak injured his shoulder at the Waiehu Golf Course when he slipped and fell on a footpath while it was raining. In

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arbitration, it was decided that Mr. Lonczak should receive \$45,000; however, a jury trial was requested. The Department of the Corporation Counsel requested settlement authority, which was granted by the Council through Resolution No. 06-73. The settlement amount authorized by the Council and offered to Mr. Lonczak was rejected. He subsequently requested \$21,000 to settle the case.

The Deputy Corporation Counsel recommended that the Council approve authorization to settle the case for \$21,000 because there are always risks related to awards made as a result of jury trials. She noted that if Mr. Lonczak is able to receive more than the \$45,000 arbitration award in a jury trial, the County would also be responsible for \$15,000 in attorney's fees.

Your Committee discussed whether the County has taken steps to improve the surface of the footpath on which Mr. Lonczak slipped. The Deputy Corporation Counsel said that the County has applied a non-skid surface over the concrete path, which had already been cross-cut to improve traction and drainage.

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the revised proposed resolution to authorize the settlement of the matter for \$21,000.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING SETTLEMENT OF JAMES LONCZAK VS. COUNTY OF MAUI, ET AL., CIVIL NO. 05-1-0004(1)" be **ADOPTED**.

Adoption of this report is respectfully requested.

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