

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

February 17, 2006

Committee
Report No.

_____ 06-20

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 January 31, 2006, makes reference to County Communication No. 05-23, from the Council Chair, regarding indemnification authorization.

Your Committee is in receipt of correspondence dated January 23, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING BEAU H. K. SPENSER IN CIVIL NO. 05-1-0391(1), KITTY ATCHLEY V. COUNTY OF MAUI, ET AL.". Attached to the request is a copy of the complaint filed on September 26, 2005. The purpose of the proposed resolution is to indemnify Beau H. K. Spenser, a County employee, in the referenced lawsuit.

Your Committee notes that this case includes allegations of damages arising from a motor vehicle accident involving a County vehicle operated by a County employee on June 23, 2002 in Kahului, Maui.

At its meeting, your Committee met with the Director of Water Supply, the Administrative Officer from the Department of Water Supply, and a Deputy Corporation Counsel.

There was no public testimony. The Deputy Corporation Counsel provided a brief overview of the case. She stated that the County employee was not on duty at the time of the motor vehicle accident, and therefore, a question exists as to whether the employee was in the "course and scope of employment". Nevertheless, the Deputy Corporation Counsel stated that the County is still responsible for bodily coverage. Therefore, indemnification of the employee is warranted.

Your Committee discussed the statute of limitations in this case. The Deputy Corporation Counsel stated that although the statute of limitations is two years, the period is extended each time a no-fault payment is made. Therefore, the statute of limitations has not expired even though the motor vehicle accident occurred in 2002.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

February 17, 2006
Page 2

Committee
Report No. 06-20

Your Committee discussed the County's policy on utilizing County vehicles during non-working hours. The Director of Water Supply stated that the Department has allowed its employees to use County vehicles to make personal stops en route to and from work. Your Committee questioned whether a Countywide policy exists. The Deputy Corporation Counsel was not aware of such a policy.

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.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "INDEMNIFYING BEAU H. K. SPENSER IN CIVIL NO. 05-1-0391(1), KITTY ATCHLEY V. COUNTY OF MAUI, ET AL." be ADOPTED.

Adoption of this report is respectfully requested.

cow:cr:0604(8)aa:ske

