

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

September 1, 2006

Committee
Report No.

06-99

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 August 15, 2006, makes reference to County Communication No. 05-23, from the Council Chair, regarding indemnification authorization.

Your Committee is in receipt of correspondence dated July 11, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING JACK SPOTTSWOOD, JOAN MORRIS, AND NAVAYO CAISERMAN IN CONSTANCE C. DEANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 06-1-0175(1)". Attached to the request is a copy of the first amended complaint. The purpose of the proposed resolution is to indemnify Jack Spottswood, Joan Morris, and Navayo Caiserman, County employee lifeguards, in the case.

Your Committee notes that this case includes allegations that the death of Stuart R. Deans was caused by the negligent conduct of the defendants.

By correspondence dated July 24, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "INDEMNIFYING JACK SPOTTSWOOD, JOAN MORRIS, AND NAVAYO CAISERMAN IN CONSTANCE C. DEANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 06-1-0175(1)". The revised proposed resolution incorporates a nonsubstantive change to the title of the resolution.

At its meeting, your Committee met with the Division Chief of the Aquatics Division, Department of Parks and Recreation; a Lifeguard from the 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. She noted that investigation of the incident has not revealed any indication that the lifeguards did not act appropriately and that they in fact, had gone above and beyond the call of duty in trying to assist the decedent. She further stated that

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the first amended complaint does not specify whether the lifeguards are being sued as individuals.

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.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "INDEMNIFYING JACK SPOTTSWOOD, JOAN MORRIS, AND NAVAYO CAISERMAN IN CONSTANCE C. DEANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 06-1-0175(1)" be ADOPTED.

Adoption of this report is respectfully requested.

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