

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

March 11, 2005

**Committee
Report No.**

05-21

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 March 1, 2005, 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 February 4, 2005, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Pietro Porcella v. County of Maui, et al., Civil No. 03-1-0264 (3). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF PIETRO PORCELLA V. COUNTY OF MAUI, ET AL., CIVIL NO. 03-1-0264 (3)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case for \$21,666.

Your Committee notes that the complaint alleges damages due to a foot injury on or about August 23, 2002, at Kite Beach in Kahului, Maui.

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

Your Committee discussed the location of Kite Beach in the vicinity of Kanaha Beach Park. Your Committee also discussed the ownership of Kanaha Beach Park. The Department of the Corporation Counsel noted that Kite Beach is under the care and control of the County by way of an executive order by the State of Hawaii, but ownership of the property remains with the State of Hawaii.

Your Committee discussed the continued presence of metal on Kite Beach.

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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), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Deputy Director of Parks and Recreation, the Corporation Counsel, and 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 case for \$21,666.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF PIETRO PORCELLA V. COUNTY OF MAUI, ET AL., CIVIL NO. 03-1-0264 (3)" be ADOPTED.

Adoption of this report is respectfully requested.

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