

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

March 11, 2005

**Committee  
Report No.**

05-26

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. 05-23, from the Council Chair, regarding indemnification authorization.

Your Committee is in receipt of correspondence dated February 10, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING RICHARD BEERMAN IN CIVIL NO. CV05-00024 HG KSC, EDWARD A. SMITH VS. MR. RICHARD BEERMAN, ET AL.". Attached to the request is a copy of the complaint, filed January 12, 2005. The purpose of the proposed resolution is to indemnify Richard Beerman, a Captain with the Department of Fire and Public Safety, in the referenced lawsuit.

Your Committee notes that this case alleges that Edward A. Smith's constitutional and civil rights were violated.

At its meeting, your Committee met with the Deputy Fire Chief, and two Deputy Corporation Counsel.

There was no public testimony. A Deputy Corporation Counsel provided a brief overview of the case.

Your Committee discussed the facts of the case. A Deputy Corporation Counsel noted that Captain Beerman was on duty at the time of the incident and that all research indicates that he conducted himself appropriately. Therefore, indemnification is appropriate.

A Deputy Corporation Counsel indicated that the Plaintiff in this case has filed a number of lawsuits against the County and the County intends to litigate these cases vigorously. She indicated that although settlement can be a very

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useful tool, a determination has been made that this tool is not an appropriate way to proceed in this case.

Your Committee recommended that the proposed resolution be revised to correctly reference the Department of Fire and Public Safety rather than the Department of Fire Control.

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 is in receipt of a revised proposed resolution, approved as to form and legality, incorporating your Committee's suggested revisions.

Your Committee of the Whole RECOMMENDS that Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "INDEMNIFYING RICHARD BEERMAN IN CIVIL NO. CV05-00024 HG KSC, EDWARD A. SMITH VS. MR. RICHARD BEERMAN, ET AL." be ADOPTED.

Adoption of this report is respectfully requested.

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