

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

March 23, 2005

**Committee
Report No.**

05-47

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 9, 2005, makes reference to County Communication No. 05-25, from the Council Chair, regarding proposed contracts for special counsel.

Your Committee is in receipt of correspondence dated March 1, 2005, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL GASS WEBER MULLINS, LLC, IN MEGAN KAINA, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 04-00608 DAE LEK". Attached to the request is the resume of J. Ric Gass, Esq. The purpose of the proposed resolution is to authorize the employment of Gass Weber Mullins, LLC, as special counsel in the referenced lawsuit, with an hourly rate not to exceed \$175 and total compensation not to exceed \$150,000.

Your Committee notes that this case includes allegations of wrongful death.

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

There was no public testimony. A Deputy Corporation Counsel provided a factual overview of the case. She noted that the police officers involved in this case have been indemnified by the County. She provided background information on the special counsel.

Your Committee discussed the County's insurance coverage, which has a deductible amount of \$500,000. A Deputy Corporation Counsel stated that the Department of the Corporation Counsel is requesting special counsel in this matter, rather than turning the case over to the insurance company, so that the County can maintain control over the case, and illustrate the fact that the County is not adverse to litigating such matters.

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Your Committee discussed whether the proposed special counsel has reviewed the case. A Deputy Corporation Counsel indicated that the proposed special counsel has been provided with the basic facts of the case, and based upon those facts, has done a cursory review of the case. The proposed special counsel has not been provided with any documents regarding the case.

Your Committee discussed the proposed special counsel's flat fee. A Deputy Corporation Counsel indicated that the proposed special counsel is requesting \$115,000 to handle the case. However, she explained that a total of \$150,000 in compensation is being requested to cover travel expenses, expert witnesses, and expenses related to lay witnesses. She also noted that the Department of the Corporation Counsel intends to handle the bulk of the depositions in the case, and will be willing to handle jury questions and receive the verdict, if necessary.

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 "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL GASS WEBER MULLINS, LLC, IN MEGAN KAINA, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 04-00608 DAE LEK" be ADOPTED.

Adoption of this report is respectfully requested.

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MICHAEL J. MOLINA **Chair**

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