

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

March 13, 2020

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on February 18, 2020, February 21, 2020, and February 25, 2020, makes reference to County Communication 19-29, from Council Chair Kelly Takaya King, relating to litigation matters.

By correspondence dated September 5, 2019, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30181452447-0003 OF KEVIN BARHAM."

The purpose of the proposed resolution is to authorize the Department to settle the claim.

The Department also transmitted a copy of the claim and documentation relating to the personal injury claim.

Your committee notes the claim alleges personal injuries sustained by Mr. Kevin Barham in a collision with a Maui County fleet vehicle on November 1, 2018.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the claim. He said the incident occurred on Honoapiilani Highway in Lahaina, Maui, Hawaii. The County vehicle was being driven by an employee of the Department of Police.

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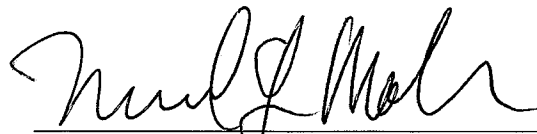
A Deputy Corporation Counsel requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 6-1 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Kama, King, Paltin, and Sugimura voted "aye." Committee member Hokama voted "no." Committee members Lee and Sinenci were excused.

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30181452447-0003 OF KEVIN BARHAM," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30181452447-0003
OF KEVIN BARHAM

WHEREAS, Kevin Barham filed Claim No. 30181452447-0003 on November 20, 2018, against the County of Maui for bodily injuries he allegedly sustained on Honoapiilani Highway, Lahaina, Maui, Hawaii, on November 1, 2018 from a collision involving a Maui County Police fleet vehicle; and

WHEREAS, the County of Maui and Kevin Barham, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a proposed resolution of this claim by way of negotiated settlement, and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of attempts to reach resolution of this claim by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of Claim No. 30181452447-0003 under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and

Resolution No. _____

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release and Indemnity Agreement" by Kevin Barham; and

3. That certified copies of this Resolution be transmitted to the Mayor; the Director of Finance; the Chief of Police; and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Caleb P. Rowe', is written over a horizontal line.

CALEB P. ROWE
Deputy Corporation Counsel
County of Maui
RISK 2018-0601