

COUNCIL OF THE COUNTY OF MAUI
**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

November 3, 2017

**Committee
Report No.** _____

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on October 17, 2017, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated October 5, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of Dukie J. Racadio v. County of Maui, et al., Civil 14-1-0451(2), and an opportunity to provide a status update on the case. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF DUKIE RACADIO v. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)." The purpose of the proposed resolution is to authorize the Department to settle the case.

By correspondence dated October 10, 2017, the Department also transmitted a copy of the Complaint filed in the case. The Complaint alleges disability discrimination relating to Dukie J. Racadio's termination as a police officer on or about December 31, 2013.

Your Committee notes the Council (2015-2017 Council term) previously reported on this matter through Committee Report 16-6, which recommended a proposed resolution authorizing settlement of the case be adopted. At its meeting of January 22, 2016, the Council adopted Resolution 16-2.

COUNCIL OF THE COUNTY OF MAUI
PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE

Page 2

Committee
Report No. _____

Your Committee also notes it previously reported on this matter through Committee Report 17-75, which recommended a proposed resolution authorizing settlement of the case be adopted. At its meeting of June 2, 2017, the Council adopted Resolution 17-95.

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 case. The Deputy said the case was brought by a former Maui police officer, alleging disability discrimination based on a medical condition. The lawsuit has been pending for some time and trial is scheduled for November 6, 2017. The Deputy said the mediator has presented a final settlement offer from Mr. Racadio. He requested the opportunity to present the offer in an executive meeting.

Because the case involves ongoing litigation and confidential medical information, the Deputy 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; and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), 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 5-0 to recommend adoption of the proposed resolution. Committee Chair Guzman and members Carroll, Crivello, Sugimura, and White voted "aye." Committee Vice-Chair King and members Atay, Cochran, and Hokama were excused.

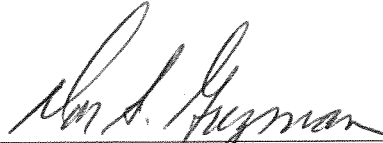
COUNCIL OF THE COUNTY OF MAUI
**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

Page 3

**Committee
Report No. _____**

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DUKIE RACADIO v. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)," be ADOPTED.

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



DON S. GUZMAN, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
DUKIE RACADIO v. COUNTY OF MAUI, ET AL.,
CIVIL NO. 14-1-0451(2)

WHEREAS, Plaintiff Dukie J .Racadio filed a lawsuit in the Second Circuit Court of the State of Hawaii, Civil No. 14-1-0451(2), against the County of Maui on August 1, 2014, asserting a discrimination claim, following termination from employment with the Maui Police Department owing to a disqualifying medical condition; and

WHEREAS, by Resolutions 16-2 and 17-95, the Council previously authorized settlement of the case; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, seeks to reach a resolution of this case by way of a negotiated settlement or Offer of Settlement; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under terms set forth and discussed in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and


WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Settlement by the Department of the Corporation Counsel, the Council wishes to discuss the

terms of settlement; now, therefore,

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

1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and
3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and
4. 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:



BRIAN A. BERRY
Deputy Corporation Counsel
County of Maui