

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

July 6, 2018

**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 February 13, 2018, March 13, 2018, April 6, 2018, and June 12, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated February 7, 2018, the Department of the Corporation Counsel requested consideration of the following:

1. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL COX FRICKE LLP IN DAVID TAYLOR V. ALAN ARAKAWA, ET AL.; CIVIL NO. 18-1-0056(1)." The purpose of the proposed resolution is to authorize the employment of Cox Fricke LLP as special counsel to represent Alan Arakawa in his individual capacity in David Taylor v. Alan Arakawa, et al., Civil 18-1-0056(1), for a total compensation not to exceed \$75,000.
2. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI, SUGITA & GODA, LLP IN DAVID TAYLOR V. ALAN ARAKAWA, ET AL.; CIVIL NO. 18-1-0056(1)." The purpose of the proposed resolution is to authorize the employment of Kobayashi, Sugita & Goda, LLP as special counsel to represent the County of Maui and Alan Arakawa in his capacity as Mayor of the County of Maui in the case, for a total compensation not to exceed \$75,000.

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

Page 2

**Committee**  
**Report No. \_\_\_\_\_**

The Department also transmitted a copy of the Complaint filed on January 30, 2018 in the case. The Complaint alleges David Taylor was removed from his position as Director of Water Supply starting as early as November 15, 2017, in violation of the Revised Charter of the County of Maui (1983), as amended. The Complaint further alleges wrongful termination in violation of Mr. Taylor's due process rights under the Hawaii Constitution and misuse of his professional engineering license, among other things.

By correspondence dated February 23, 2018, the Department of the Corporation Counsel requested consideration of the following:

1. A revised proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI, SUGITA & GODA, LLP IN DAVID TAYLOR V. ALAN ARAKAWA, ET AL., CIVIL NO. 18-1-0056(1)." The purpose of the revised proposed resolution is to authorize the employment of Kobayashi, Sugita & Goda, LLP as special counsel to represent Alan Arakawa in his individual capacity in the case, for a total compensation not to exceed \$50,000.
2. A revised proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL COX FRICKE LLP IN DAVID TAYLOR V. ALAN ARAKAWA, ET AL., CIVIL NO. 18-1-0056(1)." The purpose of the revised proposed resolution is to authorize the employment of Cox Fricke LLP as special counsel to represent the Maui County Council and its members as material witnesses who will be deposed by the Plaintiff in the case, for a total compensation not to exceed \$25,000.

By correspondence dated March 23, 2018, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DAVID TAYLOR V. ALAN ARAKAWA, ET AL., CIVIL NO. 18-1-0056(1)." The purpose of the proposed resolution is to authorize settlement of the case.

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

Page 3

**Committee**  
**Report No. \_\_\_\_\_**

Your Committee notes Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended, authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Charter Section 3-6(6) further requires that any such employment specify the compensation, if any, to be paid for the services.

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.

At each meeting, a Deputy Corporation Counsel provided a brief overview of the case. Your Committee deferred the proposed and revised proposed resolutions to authorize the employment of special counsel.

At its meeting of June 12, 2018, Mr. Taylor's attorney provided your Committee with a copy of correspondence dated January 23, 2018, from the Prosecuting Attorney to the Mayor, informing the Mayor that the Department of the Prosecuting Attorney had reviewed a report by the Department of Police relating to criminal allegations of a violation of Section 14.07.090, Maui County Code, by the Director of Water Supply. The Prosecuting Attorney said the Department was declining to file any criminal violation charges against Mr. Taylor.

A Deputy Corporation Counsel requested your Committee consider settlement options and the proposed settlement resolution. The Deputy said he had received a copy of the invoices of fees and costs charged by Mr. Taylor's attorneys and he wanted to discuss revised settlement terms with your Committee. The Deputy also said a further mediation is scheduled for July 6, 2018, at the request of Mr. Taylor's attorneys.

Because the case involves ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

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

Page 4

**Committee  
Report No.** \_\_\_\_\_

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 8-0 to recommend adoption of the proposed resolution authorizing settlement. Committee Chair Guzman, Vice-Chair King, and members Carroll, Cochran, Crivello, Hokama, Sugimura, and White voted "aye." Committee member Atay was excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DAVID TAYLOR V. ALAN ARAKAWA, ET AL., CIVIL NO. 18-1-0056(1)," be ADOPTED.

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

  
\_\_\_\_\_  
DON S. GUZMAN, Chair

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF DAVID  
TAYLOR V. ALAN ARAKAWA, ET AL., CIVIL NO. 18-1-0056(1)

WHEREAS, Plaintiff David Taylor filed a lawsuit in the Circuit Court of the Second Circuit, State of Hawaii, against Alan Arakawa, individually and in his capacity as the Mayor of the County of Maui, et al., on January 30, 2018, asserting defamation and wrongful termination claims, among other things, following Plaintiff's placement on paid administrative leave from employment as Director of Water Supply of the County of Maui; and

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

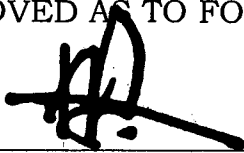
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

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 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 Deputy Director of Water Supply, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY



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BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui