

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

March 22, 2019

**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 26, 2019, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated January 25, 2019, the Department of the Corporation Counsel requested consideration of the possible settlement of David J. Chevalier and Patricia A. Chevalier v. County of Maui, et al., Civil 18-1-0353(3). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DAVID J. CHEVALIER AND PATRICIA A. CHEVALIER V. COUNTY OF MAUI, ET AL., CIVIL NO. 18-1-0353(3)." The purpose of the proposed resolution is to authorize the Department to settle the case as it relates to the claims against the County of Maui.

The Department also transmitted a copy of the complaint. The complaint alleges declaratory and injunctive relief related to the administration of the Upcountry water meter priority list, the subdivision approval process, and the issuance of various permits.

Your Committee notes Section 3.16.020(F), Maui County Code, authorizes the Department to recommend to the Council offers to adjust, settle, or compromise any claim, or to recommend to the Council that the County make an offer of settlement or judgment in any case in which the County is a party.

A Deputy Corporation Counsel provided a brief overview of the case. She said the plaintiffs and landowner defendants own several neighboring plots of land in Kula, Maui. They applied for Upcountry

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

Page 2

Committee
Report No. _____

water meters for their property and were placed on the Upcountry priority list because of a lack of available water and infrastructure to service all properties Upcountry. The Deputy said the landowner defendants were offered eight water meters in 2004, contingent upon completion of required improvements, and offered an additional three meters the following year. The landowner defendants were subsequently granted several extensions of their water meter reservations. The Department has since refused to grant additional extensions.

The plaintiffs sued the County and the landowner defendants, among others. The complaint included 15 counts, including claims relating to the Department's creation and management of the Upcountry water meter priority list.

The Deputy outlined the procedural history of the case. She said the parties agreed to enter into mediation to resolve all issues in the lawsuit, which led to the Department's request to present a proposed settlement.

Because the case involves ongoing litigation, 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.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 9-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."


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

Page 3

**Committee
Report No. _____**

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DAVID J. CHEVALIER AND PATRICIA A. CHEVALIER V. COUNTY OF MAUI, ET AL., CIVIL NO. 18-1-0353(3)," be ADOPTED.

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



MICHAEL J. MOLINA, Chair

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Resolution

AUTHORIZING SETTLEMENT OF DAVID J. CHEVALIER AND
PATRICIA A. CHEVALIER V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 18-1-0353(3)

WHEREAS, Plaintiffs David J. Chevalier and Patricia A. Chevalier filed a lawsuit in the Circuit Court of the Second Circuit, State of Hawaii, on August 29, 2018, Civil No. 18-1-0353(3), against the County of Maui, seeking declaratory and injunctive relief related to the administration of the Upcountry water meter priority list, the subdivision approval process, and the issuance of various permits; 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 Government, Ethics, and Transparency 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

Resolution No. _____

negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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

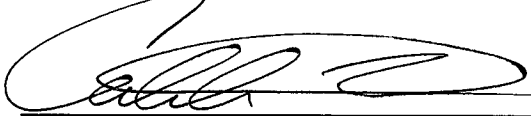
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Government, Ethics, and Transparency Committee; and

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 Director of Water Supply, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui
LIT 5894