

COUNCIL OF THE COUNTY OF MAUI

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

July 19, 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 July 2, 2019, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated June 13, 2019, the Department of the Corporation Counsel requested consideration of the possible settlement of Kelly Pauole v. County of Maui Police Department, et al., Civil 18-1-0007(2). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF KELLY PAUOLE VS. COUNTY OF MAUI POLICE DEPARTMENT CIVIL NO. 18-1-0007(2)." The purpose of the proposed resolution is to authorize the Department to settle the case.

The Department also transmitted a copy of the First Amended Complaint. The First Amended Complaint alleges employment discrimination and retaliatory acts by the Department of Police against Plaintiff Kelly Pauole.

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 is set for trial in November 2019 and the parties are currently engaged in discovery. He also said the County has received a settlement demand from Mr. Pauole's attorney that he wished to present in an executive meeting.

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Because the case involves ongoing litigation and confidential medical issues, 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 Section 92-5(a)(8), Hawaii Revised Statutes, 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.

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 and members Hokama, Kama, Lee, Paltin, and Sinenci voted "aye." Committee Vice-Chair Rawlins-Fernandez voted "no." Committee members King and Sugimura were excused.

Your Committee revised the proposed resolution by removing the phrase "under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel" from the second and third BE IT RESOLVED paragraphs.

Your Committee is in receipt of a revised proposed resolution, entitled "AUTHORIZING SETTLEMENT OF KELLY PAUOLE VS. COUNTY OF MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. 18-1-0007(2)," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

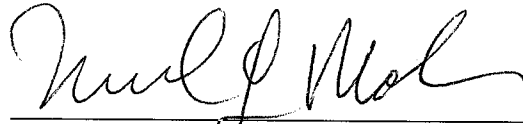
Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF KELLY PAUOLE VS. COUNTY OF MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. 18-1-0007(2)," be ADOPTED.

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



MICHAEL J. MOLINA, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
KELLY PAUOLE VS. COUNTY OF MAUI POLICE DEPARTMENT, ET AL.,
CIVIL NO. 18-1-0007(2)

WHEREAS, Plaintiff Kelly Pauole filed a lawsuit in the Circuit Court of the Second Circuit in the State of Hawaii on March 20, 2018, Civil No. 18-1-0007(2), against the County of Maui Police Department, claiming employment discrimination and seeking special and general damages; 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 Governance, 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 negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

Resolution No. _____

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 Governance, 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; and
3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case; 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:



THOMAS KOLBE
Deputy Corporation Counsel
County of Maui
Lit 5838