

COMMITTEE OF THE WHOLE

September 6, 1991

COMMITTEE
REPORT NO.

91-211

Honorable Chairman and Members
of the County Council
County of Maui
Wailuku, Hawaii 96793

Chairman and Members:

Your Committee of the Whole, having met on August 8, 1991, makes reference to the following:

1. County Communication No. 91-138, from Councilmember Goro Hokama, requesting that the minutes of the March 1, 1991 Council meeting and minutes of the Council's Executive Session be referred to the Committee of the Whole.
2. A Miscellaneous Communication, from the County Clerk, transmitting a copy of the minutes of the March 1, 1991 Council meeting.
3. County Communication No. 91-169, from Council Chair Howard S. Kihune, recommending the following:
 - a. That the Council retain Jeffrey S. Portnoy and the law firm of Cades Schutte Fleming & Wright as Special Counsel for legal services regarding the appointment and confirmation of the corporation counsel and the prosecuting attorney;
 - b. That the Council Chair be authorized to execute and administer a contract with the Special Counsel; and
 - c. That the matter be referred to the Council Chair for the appointment of a special committee to make such decisions as the Special Counsel may require, provided, that the special committee shall report to the Committee of the Whole after the special counsel has prepared an overview of the issues involved.

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Your Committee of the Whole notes that the Committee on Special Counsel Matters was established pursuant to the Council's approval of the recommendations contained in County Communication No. 91-169. In a report dated July 3, 1991, the Committee on Special Counsel Matters reported to your Committee of the Whole. A copy of the report is attached hereto as Exhibit "1."

The Chair of your Committee distributed 1 copies of the following documents:

1. an article entitled "Lingle: Will appoint a new prosecutor" which appeared in the March 14, 1991 Honolulu Advertiser newspaper;
2. a March 20, 1991 letter to the Council Chair from Warren Price III, Attorney General of the State of Hawaii, acknowledging receipt of the Council Chair's letter regarding the appointment and confirmation of the corporation counsel and prosecuting attorney; and
3. a legal opinion dated March 27, 1991 from a Deputy Corporation Counsel to the Chair of your Committee of the Whole, regarding the appointment and confirmation of the corporation counsel and the prosecuting attorney.

At its August 8, 1991 meeting, your Committee met in executive session with the Special Counsel, Jeffrey S. Portnoy of the law firm of Cades Schutte Fleming & Wright. Your Committee also met with the Corporation Counsel in executive session.

After the executive session, your Committee noted that there was a question as to whether it could waive the attorney-client privilege regarding the Special Counsel's written report and release it to the public. Based on the discussion in executive session, your Committee decided to recommend that the Council waive the privilege with respect to the Special Counsel's report, and release it to the public.

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Your Committee of the Whole RECOMMENDS the following:

1. That the Council WAIVE its attorney-client privilege regarding the Special Counsel's written report on the appointment and confirmation of the corporation counsel and the prosecuting attorney, and that the Council Chair be AUTHORIZED to release the report to the public;
2. That County Communication No. 91-138 be FILED;
3. That the Miscellaneous Communication be FILED; and
4. That County Communication No. 91-169 be FILED.


Adoption of this report is respectfully requested.

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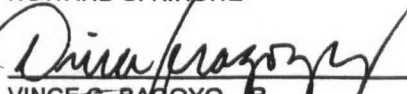
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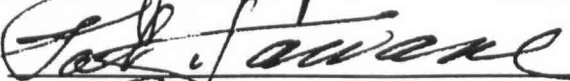
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GORO HOKAMA Chair


HOWARD S. KIHUNE Vice-Chair

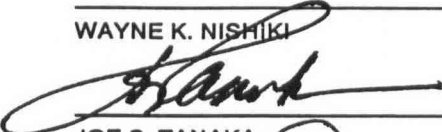

VINCE G. BAGOYO, JR. Member


PATRICK S. KAWANO Member


ALICE L. LEE Member


RICARDO MEDINA Member

WAYNE K. NISHIKI Member


JOE S. TANAKA Member


LEINAALA TERUYA DRUMMOND Member

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the foregoing COMMITTEE REPORT was adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of September, 19 91 by the following vote:

MEMBERS	Howard S. KIHUNE Chair	Patrick S. KAWANO Vice-Chair	Vince G. BAGOYO, JR.	Goro HOKAMA	Alice L. LEE	Ricardo MEDINA	Wayne K. NISHIKI	Joe S. TANAKA	Leinaala TERUYA DRUMMOND
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	No	Aye	No


COUNTY CLERK