

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

June 21, 2002

**Committee
Report No.**

02-63

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

Chair and Members:

Your Budget and Finance Committee, having met on February 26, 2002, March 12, 2002, and June 4, 2002, makes reference to County Communication No. 02-42, from Councilmember Charmaine Tavares, relating to the West Maui Heritage Foundation's (WMHF) plans to improve and enhance property near Malu Ulu Olele Park.

Your Committee notes that the property is the site of a proposed shopping center, owned by JDI, called Harbor Village.

Your Committee further notes that the property is near Moku`ula, a culturally significant property that is planned for restoration and preservation. Moku`ula was the island and residence of the Monarchy in the 1850s, and Loko o Mokuhinia was the pond which surrounded Moku`ula.

By correspondence dated February 25, 2002, Peter McKenney of the WMHF transmitted a draft copy of the plan entitled "A PROGRAM TO HELP SAVE LAHAINA'S OPEN SPACES AND LOKO O MOKUHINIA" and additional information regarding the project.

At its meeting of February 26, 2002, your Committee met with the Director of Finance; the First Deputy Corporation Counsel; and Peter W. McKenney, President/Director, and Donald G. Malcolm, Board Member, WMHF.

Your Committee received testimony from 18 members of the public who spoke in support of the WMHF's vision to purchase the JDI/Harbor Village land. However, several testifiers urged Council members to proceed cautiously in their deliberations on this matter. They suggested that the WMHF needs to clarify its plans for the use of the land, address cultural and archaeological concerns, and address the organization's long-term viability.

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Your Committee received the following documents:

1. Written testimony from Akoni Akana, Friends of Moku`ula, Inc.;
2. Written testimony and attachments from Ke`eaumoku Kapu, President, Kuleana Ku`ikahi, LLC; and
3. Petitions signed by approximately 250 members of Na Kupuna O Hawaii Nei and Makua, supporting total protection, preservation and perpetuation of Kaua`ula Valley, received from Ke`eaumoku Kapu.

Peter McKenney of the WMHF provided your Committee with an updated document entitled "A PROGRAM TO HELP SAVE LAHAINA'S OPEN SPACES AND LOKO O MOKUHINIA". He stated that the WMHF proposes to undertake a program to help preserve open space, control flooding and erosion in the hills above Lahaina, and purchase the historic Lahaina site about to be developed by JDI. This JDI property is located on Front Street, next to the County parking lot and near Malu Ulu Olele Park and Moku`ula. The site is referred to by the proposed development name of JDI/Harbor Village, a proposed shopping center set to include retail shops and a restaurant in a one-story building and a two-story building with a total of more than 18,000 square feet in floor space.

Mr. McKenney informed your Committee that the WMHF is requesting (1) a \$500,000 County grant as partial down payment on the property; and (2) a 35-year lease to operate the County parking lot. He further stated that the WMHF has preliminary commitments to match the County grant and a preliminary bank loan commitment to cover the purchase of the JDI/Harbor Village property. Operation of the parking lot will provide income in order to repay the loan. Excess cash flow generated from the parking lot will be used to develop open space projects to control flooding and erosion in the hills mauka of the highway.

Your Committee expressed concerns: (1) that the WMHF needs to consult with the cultural groups, Friends of Moku`ula, Kuleana and Na Kupuna, to address their concerns; (2) that questions need to be answered regarding the proposed 35-year length of the lease for the parking lot and its relationship to

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concession rights pursuant to Chapter 102, Hawaii Revised Statutes (HRS), as amended by Act 303 (2001) which generally requires a bidding process prior to the awarding of a contract conferring concession rights, including operating a parking lot on property owned or controlled by the State; and (3) whether their proposed plan is the best for the community.

Your Committee noted that since the land on which the County parking lot is located was obtained by an Executive Order from the State, permission would be required from the State Department of Land and Natural Resources regarding a lease agreement with the WMHF.

After a brief discussion, your Committee deferred consideration of the matter.

By correspondence dated February 28, 2002, the Chair of your Committee requested that the Department of the Corporation Counsel respond to questions regarding concession rights, legal concerns regarding a 35-year lease, and protection of land as open space.

By correspondence dated March 10, 2002, Akoni Akana, Executive Director of the Friends of Moku`ula, Inc. (FOM) provided an update on recent discussions that FOM and other community groups had with Peter McKenney and members of the WMHF on February 28, 2002.

By correspondence dated February 12, 2001 (received March 12, 2002), Donna Willard of Hui O Kameahou provided written testimony opposing the WMHF's proposal due to a vague plan and failure to meet with the community.

At its meeting of March 12, 2002, your Committee met with the Director of Finance; the First Deputy Corporation Counsel; and Peter W. McKenney, President/Director, and Donald G. Malcolm, Board Member, WMHF.

Your Committee received public testimony from one member supporting the vision of the project.

Mr. McKenney informed your Committee that he had met with several of the community organizations, including the Lahaina Town Action Committee, Na

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Kupuna O Maui, Kuleana Ku`ikahi LLC, West Maui Taxpayers, and the Friends of Moku`ula, that expressed concerns over WMHF's proposed plan to purchase the JDI/Harbor Village project. He stated that it was important that the community work together on this plan and support whatever develops. He further suggested that a deferral of the matter might provide additional time to address the concerns of the community and consider any other proposals that the community may make. However, Mr. McKenney expressed concerns that the delay may put the WMHF's external sources of funding as well as the purchase from JDI in jeopardy.

Your Committee requested that the WMHF clearly state that there are multiple parts to their proposal when it meets with the community. One part is the purchase of the JDI/Harbor Village property; the second part is the plan to improve certain drainage or water flow conditions on the mauka lands above the highway. Your Committee expressed concerns that the two parts were being considered as one.

Your Committee requested that the Director of Finance review possible options for consideration regarding this property, including the possibility of the County purchasing the property.

After a brief discussion, your Committee deferred consideration of the matter to allow time for the WMHF to work with community groups, and the Director of Finance to review and report back to Committee on the available options regarding the purchase of the property.

By correspondence dated June 3, 2002, the Chair of your Committee transmitted the following:

1. A synopsis of "Harbor Village" Property Acquisition, including fact sheets and a map of the related properties; and
2. A draft resolution entitled "APPROVING THE ACQUISITION OF THE HARBOR VILLAGE PROPERTY AT LAHAINA, MAUI, HAWAII, FROM JDI LIMITED PARTNERS". The purpose of the proposed resolution is to authorize the Director of Finance to

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negotiate the purchase of approximately 18,912 square feet in Lahaina (known as Harbor Village Property) for \$3.9 million.

At its meeting of June 4, 2002, your Committee met with the Director of Finance and the First Deputy Corporation Counsel.

The Director of Finance informed your Committee that due to various concerns that arose during the discussion of the WMHF plan regarding concession rights, State property, and community issues, he reviewed various options regarding the subject property. The Director provided an overview of a document he prepared entitled "Harbor Village' Property Acquisition Feasibility Study". The document includes three scenarios regarding the Harbor Village property and adjoining properties, known as the Roman Catholic Church Lot and the Richardson Lot. These scenarios are summarized as follows:

1. Scenario #1 proposes to purchase the Harbor Village property for \$4 million and convert the current County Parking Lot at Prison and Front Street into paid parking;
2. Scenario #2 proposes to purchase the Harbor Village property for \$4 million, condemn the Roman Catholic Church Lot for \$297,000, blacktop the Church Lot at a cost of \$60,000, and convert both the County Lot and the Church Lot into paid parking; and
3. Scenario #3 proposes to purchase the Harbor Village property for \$4 million, condemn the Roman Catholic Church Lot for \$297,000, condemn the Richardson Lot for \$436,000, improve both the Richardson and Church lots into parking lots for \$350,000, and convert all lots into paid parking.

The Director of Finance informed your Committee that since the potential lease rent on both the Roman Catholic Church Lot and the Richardson Lot is about equal to the debt service on the purchase of the lots, the scenarios propose acquisition as opposed to leasing the lots. He stated that after the properties are purchased, the County would issue a Request for Proposals to nonprofit organizations to operate the parking lots at a minimum lease to cover

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the debt service. He noted that the terms of the lease could be for 1, 5 or 15 years.

Your Committee was informed that the County had obtained an appraisal of the JDI/Harbor Village property in October 2001. The range of values of the property with all its current entitlements and development expenditures to date is \$4 to \$4.25 million. The range of values without any special entitlements or expenditures for on-going development is \$3.25 to \$3.44 million. The Director stated that JDI expressed an interest to sell the property to the County for \$3.9 million plus additional development expenses that were continuing to be incurred.

Your Committee requested that the Director continue to pursue acquisition of the two additional lots, the Roman Catholic Church Lot and the Richardson Lot, by negotiation or friendly condemnation.

In addition, your Committee encouraged the Director to pursue the acquisition of the sliver of property between the County Parking Lot and the Harbor Village Lot, which is owned by the State.

After discussion, your Committee voted to recommend that the draft resolution be revised to: (1) add a donation/ gift clause similar to the language that was included in the documents for the purchase of South Maui park lands; (2) add the appraised value range as of October 26, 2001; (3) add the additional development expenses as represented by the owners; and (4) authorize the Corporation Counsel to make revisions to change the owners from JDI Limited Partners to SGG, LLC and TERRY, LLC; and (5) make any technical changes as necessary.

Your Committee notes that the Administration will need to return to the Council for an amendment to the Budget Ordinance and an amendment to the Bond Ordinance once the negotiations have been completed.

Your Committee is in receipt of a proposed resolution entitled "AUTHORIZING THE COUNTY'S ACQUISITION AND POSSIBLE DONATION ACCEPTANCE OF REAL PROPERTY KNOWN AS THE HARBOR VILLAGE PROPERTY IN LAHAINA, MAUI, HAWAII, approved as to form and legality by

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the Department of the Corporation Counsel, incorporating your Committee's recommended revisions to the draft resolution.

Your Budget and Finance Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING THE COUNTY'S ACQUISITION AND POSSIBLE DONATION ACCEPTANCE OF REAL PROPERTY KNOWN AS THE HARBOR VILLAGE PROPERTY IN LAHAINA, MAUI, HAWAII" be ADOPTED.

Adoption of this report is respectfully requested.

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G. RIKI HOKAMA **Chair**

PATRICK S. KAWANO **Member**

ALAN M. ARAKAWA **Member**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

WAYNE K. NISHIKI **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**