

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

November 1, 2002

Committee

Report No. 02-147

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 October 1, 2002 and October 15, 2002, makes reference to County Communication No. 02-179, from the Mayor transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION".

The purpose of the proposed bill is to amend the Fiscal Year (FY) 2003 Capital Improvement Project (CIP) appropriation for Countywide Land Acquisition to add Maui Coastal Land Trust (MCLT).

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2002 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION".

The purpose of the proposed bill is to amend the FY 2002 CIP appropriation for Countywide Land Acquisition to add MCLT.

By correspondence dated September 26, 2002, your Committee Chair requested that the Budget Director revise the project description in each proposed bill to indicate that funds will be a grant to MCLT for acquisition of property in Project District 4, and prepare proposed bills amending the CIP ordinance for each fiscal year to include the new project descriptions.

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By correspondence dated September 30, 2002, the Budget Director transmitted two revised proposed bills as follows:

1. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION".

The purpose of the revised proposed bill is to amend the FY 2003 CIP appropriation for Countywide Land Acquisition. The revision includes a grant up to \$1 million to the MCLT for the acquisition of real property at TMK: 3-2-10:1, TMK: 3-2-10:2, TMK: 3-2-12:1, and TMK: 3-2-13:10.

2. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2002 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION".

The purpose of the revised proposed bill is to amend the FY 2002 CIP appropriation for Countywide Land Acquisition. The revision includes a grant up to \$1 million to the MCLT for the acquisition of real property at TMK: 3-2-10:1, TMK: 3-2-10:2, TMK: 3-2-12:1, and TMK: 3-2-13:10.

By correspondence dated September 30, 2002, Teresa McHugh, Project Manager of The Trust for Public Land, expressed support for the grant to the MCLT.

At its meeting of October 1, 2002, your Committee met with the Budget Director; an Executive Assistant to the Mayor; the Planning Director; and Dale B. Bonar, Executive Director of the MCLT.

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Mr. Bonar provided an overview of the grant request. He informed your Committee that the MCLT is a 501(c)(3) charitable organization, whose mission is to acquire, preserve and protect the coastal lands of Maui. He stated that the MCLT is requesting your Committee's support for the two budget amendments that will make available \$2 million in CIP land acquisition funds for the purchase of the old Waihe`e Dairy site.

Mr. Bonar stated that the property is approximately 300 acres of coastal dunes and wetlands. The cultural and archaeological significance of the property is extensive and well known within the community. He stated that after the acquisition of the property, the real mission of the MCLT is to steward this land in perpetuity.

Your Committee was informed that the acquisition of this site is supported by a consortium of interested partners, including the Hawaii State Department of Land and Natural Resources, the United States (U.S.) Fish & Wildlife Service, the U.S. Environmental Protection Agency, the U.S. Department of the Interior, the U.S. Department of Agriculture, Ducks Unlimited, and local community and cultural groups. Mr. Bonar stated that the MCLT has recently been notified that it will receive \$2 million in Federal funds from the U.S. Fish & Wildlife Service.

Your Committee received testimony from seven members of the public who spoke in support of the MCLT's request for County funds to assist in the purchase of the old Waihe`e Dairy site.

Your Committee received the following documents:

1. Written testimony from Dale B. Bonar, Executive Director of the MCLT, dated October 1, 2002; and
2. A document entitled 'WAIHE`E PRESERVE: A PROJECT OF THE MAUI COASTAL LAND TRUST', dated October 1, 2002 from Dale B. Bonar, Executive Director of the MCLT.

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An Executive Assistant to the Mayor informed your Committee that the release of the grant funds to the MCLT is contingent upon the successful negotiation of the purchase agreement.

The Planning Director provided a brief background of the property's zoning. He stated that the site is part of Project District 4 in the Wailuku-Kahului Community Plan, which was approved in 1992. There are three sub-district uses: (1) park; (2) open space; and (3) public/quasi-public. He further stated that the concept of the project fits within the use of the project district as specified in Chapter 19.81 of the Maui County Code.

Your Committee expressed concerns regarding the ability of the MCLT to act as the property's steward over the long term since the MCLT is a relatively new organization. Therefore, your Committee informed the Administration that it would like to see a draft grant agreement in order to ensure that safeguards exist regarding the long-term stewardship of the land.

After discussion, your Committee deferred consideration of the matter pending further discussion and receipt of a draft grant agreement.

By correspondence dated October 7, 2002, the Chair of your Committee requested that the Chair of the State Department of Land and Natural Resources (DLNR), provide a written response to concerns and questions regarding the MCLT's acquisition of the Waihe'e Preserve, and invited the Chair of the DLNR or a representative to attend the October 15, 2002 Committee meeting.

At its meeting of October 15, 2002, your Committee met with the Budget Director, an Executive Assistant to the Mayor, the Planning Director, and a Deputy Corporation Counsel.

Your Committee received testimony from a resident of the Waihe'e area, who spoke in support of the grant to MCLT.

Your Committee received the following documents:

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1. Excerpts from the U.S. Fish & Wildlife Service Recovery Lands Acquisition Grant received via facsimile from Paul Conry, Wildlife Program Manager, State DLNR;
2. Draft "COUNTY OF MAUI GRANT AGREEMENT", received from the Department of the Corporation Counsel; and
3. Sample "GRANT DEED OF CONSERVATION EASEMENT AND DEVELOPMENT RIGHTS", received from the Department of the Corporation Counsel.

Your Committee was informed that the grant from the U.S. Fish & Wildlife Service states that the "Hawaii DLNR will hold a perpetual conservation easement on the Preserve, ensuring permanent public oversight of the land trust".

The Deputy Corporation Counsel provided an overview of the draft grant agreement and sample grant deed of conservation easement and development rights. She stated that the deed of conservation easement addresses the concerns regarding the uses of the land, reporting requirements, and the assignment and succession rights in the event MCLT is no longer a viable entity.

After extensive discussion, your Committee voted to recommend passage on first reading of the revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2002 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION", which appropriates up to \$1 million for a grant to the MCLT for acquisition of real property known as the Waihe'e dairy site.

Your Committee deferred consideration of the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION", because it did not want to restrict acquisition options that may be available in other areas of the County.

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Your Budget and Finance Committee RECOMMENDS that Bill No. _____ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2002 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE CAPITAL IMPROVEMENT PROJECT APPROPRIATION FROM THE GENERAL FUND FOR COUNTYWIDE LAND ACQUISITION" be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

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G. RIKI HOKAMA **Chair**

DANNY A. MATEO **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**