

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

March 5, 2010

**Committee
Report No.** _____

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 December 15, 2009 and February 16, 2010, makes reference to County Communication No. 09-288, from the Director of Finance, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO DISPOSAL OF COUNTY PERSONAL PROPERTY".

The purpose of the proposed bill is to amend Chapter 2.72, Maui County Code, relating to disposal of County property, to specifically limit its applicability to County personal property, and to authorize the disposal of County personal property by sale, grant, exchange or discard.

By correspondence dated December 15, 2009, the Director of Council Services suggested that your Committee consider clarifying the requirements to grant personal property, clarifying the requirements to dispose of personal property, directing the proceeds from any sale to the appropriate fund instead of the General Fund, and clarifying the estimation of value.

Your Committee received a revised proposed bill from the Department of the Corporation Counsel, incorporating revisions recommended by your Committee. The revised proposed bill clarifies the requirements to grant or dispose of personal property and directs the proceeds from any sale to the appropriate fund instead of the General Fund. The revised proposed bill also establishes provisions to ensure that personal property is not disposed of in a manner that confers a special benefit upon any officer or employee of the County, creates internal control procedures for the disposal of County personal property, and requires an agency submitting an application to dispose of personal property to estimate its fair market value and cost of sale.

Your Committee voted 8-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Pontanilla, Vice-Chair Mateo, and members Baisa, Johnson, Kaho'ohalahala, Molina, Nishiki, and Victorino voted "aye". Committee member Medeiros was excused.

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Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill No. _____ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE RELATING TO DISPOSAL OF COUNTY PERSONAL PROPERTY", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-288 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



JOSEPH PONTANILLA, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE RELATING TO
DISPOSAL OF COUNTY PERSONAL PROPERTY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 2.72, Maui County Code, is amended to read
as follows:

"Chapter 2.72

DISPOSAL OF COUNTY PERSONAL PROPERTY*

Sections:

- 2.72.010 Generally.
- [2.72.020 Procedure for sale.]
- 2.72.020 Definitions.
- [2.72.030 Powers of mayor.]
- 2.72.030 Agency submittals.
- 2.72.040 [Powers of director of finance.]
Determination of method of disposal.
- 2.72.050 Sale of personal property.
- 2.72.052 Exchange of personal property.
- 2.72.054 Grant of personal property.
- 2.72.056 Other disposal of personal property.
- 2.72.060 Proceeds and records.
- 2.72.070 Report to the council.
- 2.72.075 Miscellaneous provisions.
- 2.72.080 Rule making authority.

* For provisions on the disposal of real and personal property, see Charter § 8-4.3(9).

2.72.010 **Generally.** No personal property belonging to the county shall be sold, exchanged, granted, or otherwise disposed of except as authorized or approved in accordance with the provisions of this chapter.

[2.72.020 **Procedure for sale.** Whenever any officer or employee of the county having the control of such property is desirous of selling, exchanging or otherwise disposing of the same, he shall make written application to the director of finance for permission to make such sale, exchange or other disposition of such property, which application shall, contain the following statement verified by oath:

- A. Name and official position of applicant;
- B. Kind of property and full description thereof;
- C. Purposes for which such property is used;
- D. Estimated value of such property;
- E. Reason for selling, exchanging or otherwise disposing of such property.]

2.72.020 Definitions. As used in this chapter, unless the context clearly indicates a different meaning, the following words and terms shall be defined as follows:

"Director" means the director of finance.

"Personal property" means all property other than real property or fixtures permanently attached thereto.

[2.72.030 Powers of mayor. The mayor shall have the authority to sign such orders, instruments, and other documents as approved by the director of finance.]

2.72.030 Agency submittals. Whenever an agency having the control of personal property needs authorization to sell, exchange, grant, or otherwise dispose of the same, the agency shall submit a written application to the director that contains the following statement verified by oath:

A. Name and official position of officer or employee submitting the application on behalf of the agency;

B. Kind of personal property and full description thereof;

C. Purposes for which the personal property is used;

D. Estimated value of the personal property, including any costs of selling the property;

E. Reason for selling, exchanging, granting or otherwise disposing of the personal property; and

F. Other information required by the director.

2.72.040 [Powers of director of finance.] Determination of method of disposal. Upon receipt of [such] an application[,] pursuant to section 2.72.030, the director [of finance] shall consider the same and may call for further statements in connection therewith; [he shall have power in his discretion to grant or refuse a permission sought for.] the director may approve or disapprove the application, or may authorize another method of disposal. If the director [of finance deemed it advisable or necessary to dispose of such] finds that it is advantageous to the county to sell the personal property, [he] the director shall [appraise the same] estimate its fair market value, set an upset price, and

offer it for sale. [The director of finance shall set the upset price of such property.]

2.72.050 Sale of personal property. A. The director [of finance], from time to time, shall offer for sale [such] personal property by a public auction or call for sealed bids, unless sale by public auction or call for sealed bids shall be waived by a vote of at least six members of the council, in which case the sale off[such] personal property without public auction or without calling for sealed bids shall be authorized.

B. In the event [such] personal property is sold by public auction, notice of such public auction shall be published in a newspaper of general circulation within the county at least once, not less than one week prior to such sale, stating the date, place and time of auction, the personal property offered for sale, and its upset price.

C. In the event [such] personal property is sold by a call for sealed bids, publication of a call for bids shall be made at least once, not less than one week prior to the time of the opening of such bids, stating the date, place and time of auction, the personal property offered for sale, and its upset price. All bids shall be sealed and delivered to the director [of finance] and shall be opened by [him] the director at the time and place stated in the call for bids. The director [of finance] may reject any or all bids and waive any defects when in [his] the director's opinion such rejection or waiver will be for the best interest of the public.

D. If the personal property description and upset price are readily available to the public in an electronic form, the notice for public auction or call for sealed bids may omit the personal property description and upset price information, provided that directions for accessing the information electronically are included.

2.72.052 Exchange of personal property. The director may authorize the trade-in of personal property when procuring goods. For legislative branch procurements, authorization may be granted by the council chair. Personal property offered for trade-in shall be identified in the procurement documents.

2.72.054 Grant of personal property. The director may authorize the grant of personal property, for which the county no longer has use, to a non-profit organization, school, or government entity. Such personal property shall be granted pursuant to a grant agreement contract recommended by the agency having

custody or control of the personal property, subject to approval by the mayor for personal property held by an executive branch agency, or approval by the council chair for personal property held by a legislative branch agency. The director may require the agency to submit information and documents pertaining to the grant. Information on the grant shall be included in the annual report submitted by the director to the county council.

2.72.056 Other disposal of personal property. The director may authorize the disposition of personal property that is worthless, including personal property with an estimated fair market value that is less than the estimated cost of selling it. The director shall establish standards and requirements so that worthless personal property is properly delivered to a recycling facility, placed in a landfill, or destroyed and discarded.

2.72.060 Proceeds and records. All moneys received from the sale [or other disposition] of any personal property shall be [credited as a realization of the office, board, or, department having the control of the property.] deposited into the appropriate fund as determined by the director. The records of all proceedings of the [sale or other] disposition of any personal property shall be kept in the office of the director [of finance].

2.72.070 Report to the council. The director [of finance] shall file[, whenever it disposes or sells any county property, a] an annual report with the council. The report shall contain a detailed statement of the [director of finance's] director's action with reference to the disposition of any personal property.

2.72.075 Miscellaneous provisions. A. Agencies, and their officers and employees, shall not knowingly dispose of property in a manner that confers a special benefit upon any officer or employee of the county.

B. The director may establish, require, and enforce necessary internal control procedures to ensure compliance with this chapter, including a requirement that certified statements be submitted to the director immediately after the disposal of personal property with the scope of this chapter.

C. The director may require an agency submitting an application for authority to dispose of personal property, to estimate its fair market value and cost of sale. If an estimate of fair market value is required, and the director or the agency having control of the


personal property finds that it is not advantageous to the county to obtain an independent or expert appraisal, then the agency shall make an estimate based on an investigation that is reasonable under the circumstances. The factors considered in making the estimate shall be disclosed in writing, along with the estimate. An officer or employee shall not be held liable for providing an estimate of fair market value in good faith.

2.72.080 Rule making authority. The director may adopt administrative rules to implement this chapter."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


TRACI FUJITA VILLAROSA
First Deputy Corporation Counsel
County of Maui

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