

COUNCIL OF THE COUNTY OF MAUI

# INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

September 6, 2013

Committee  
Report No. \_\_\_\_\_

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

Chair and Members:

Your Infrastructure and Environmental Management Committee, having met on August 12, 2013, makes reference to County Communication 13-27, from the Director of Environmental Management, transmitting a proposed resolution entitled "AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY INTERESTS AT WAILUKU, MAUI, HAWAII".

The purpose of the proposed resolution is to authorize proceedings in eminent domain to acquire a perpetual, non-exclusive subsurface easement for sewer line purposes on a portion of TMK: (2) 3-4-043:001, consisting of approximately 671 square feet, as part of the Consent Decree Sewer Rehabilitation Project in Wailuku, Maui, Hawaii.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, incorporating a missing Exhibit "1", the property description.

Your Committee notes resolutions authorizing eminent domain proceedings must pass two readings by a majority vote of the Council, pursuant to Section 101-13 of the Hawaii Revised Statutes; Section 4-2(7) of the Revised Charter of the County of Maui (1983), as amended; and Section 3.44.015(E) of the Maui County Code.

According to the Department of Environmental Management, recent rehabilitation of the County sewer system has required a slight realignment of the existing underground sewer line. A Deputy Corporation Counsel informed your Committee that negotiations to acquire the necessary non-exclusive subsurface easement have not been successful. Therefore, the Department of the Corporation Counsel considers it necessary to request authorization for proceedings in eminent domain.

The Director of Environmental Management stated the appraised value of the subject easement is \$16,600. He explained the County obtained a Temporary Right of Entry and Work Performance Agreement to complete the pipeline improvement, but

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subsequent efforts to obtain the easement through purchase have been rejected by the owner.

Your Committee voted 7-0 to recommend passage of the revised proposed resolution on first reading and filing of the communication. Committee Chair Cochran, Vice-Chair Crivello, and members Carroll, Couch, Guzman, Hokama, and White voted "aye".

Your Infrastructure and Environmental Management Committee  
RECOMMENDS the following:

1. That Resolution \_\_\_\_\_, as revised herein and attached hereto, entitled "AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY INTERESTS AT WAILUKU, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-27 be FILED.

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



\_\_\_\_\_  
ELLE COCHRAN, Chair

# Resolution

No. \_\_\_\_\_

AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN  
FOR THE ACQUISITION OF REAL PROPERTY  
INTERESTS AT WAILUKU, MAUI, HAWAII

WHEREAS, the Department of Environmental Management, County of Maui, requires an easement for a sewer line installed as part of a project known as the Consent Decree Sewer Rehabilitation Project, in Wailuku, Maui, Hawaii; and

WHEREAS, the Consent Decree Sewer Rehabilitation Project requires that the County of Maui obtain a perpetual, non-exclusive subsurface easement for sewer line purposes, comprising 671 square feet on property identified as a portion of Tax Map Key Number (2)3-4-043:001 in Wailuku, Maui, Hawaii; and

WHEREAS, said easement is required for the public purpose of placement of a public sewer line; and

WHEREAS, based upon appraisals of the subject real property interests, the estimated fair market value of the easement described in Exhibit "1" is SIXTEEN THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$16,600.00); and

WHEREAS, Sections 46-1.5(6), 46-61, and 46-62, Hawaii Revised Statutes ("HRS"), and Chapter 101, HRS, authorize counties to exercise the power of condemnation by eminent domain when it is in the public interest to do so; and

WHEREAS, pursuant to Section 101-13, HRS "[w]henver any county deems it advisable or necessary to exercise the right of eminent domain in the furtherance of any governmental power, the proceedings may be instituted . . . after the . . . county council . . . of the county has authorized such suit by resolution duly passed . . . ."; and

WHEREAS, Section 101-13, HRS also provides that the resolution "be published in a newspaper with the eyes and noes, at least one day (Sundays and legal holidays excepted), before final action upon it."; now, therefore,

