

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740
FAX: (808) 270-7152

May 17, 2004

MEMO TO: Robert Carroll, Vice-Chair
Maui County Council

FROM: Traci Fujita Villarosa *TFV*
First Deputy Corporation Counsel

SUBJECT: Open Space Funding
(No PAF or other file number provided)

The purpose of this memorandum is to provide legal advice regarding the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund ("Open Space Fund"). Due to your need for an expedited response, we provide this abbreviated opinion.

By memorandum dated May 17, 2004 you asked whether a bill amending the Fiscal Year 2005 Budget to add an appropriation from the Open Space Fund for a grant to purchase Mu'olea Point can be considered by the Budget & Finance Committee in June 2004, and pass first reading in June 2004 and second reading in July 2004. You inquired whether first and second readings on such a bill must occur within Fiscal Year 2005 or whether it is legally permissible for one of the readings to occur in Fiscal Year 2004.

It is our understanding that time is of the essence because matching federal funds available for the Mu'olea Point land acquisition will lapse if County funds are not encumbered by July 31, 2004.

The Maui County Code authorizes the Council to make appropriations from the Open Space Fund to provide grants to any qualified non-profit land conservation organization.¹ The Fiscal Year 2005 Budget must be passed by Council on or before May 31,

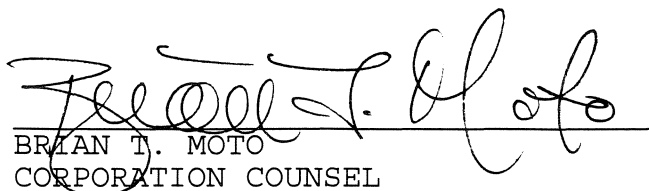
¹ Section 3.88.040, Maui County Code.

2004 or the budget submitted by the Mayor shall be deemed enacted.²
The Fiscal Year 2005 Budget will take effect on July 1, 2004.³

Given that the Fiscal Year 2005 Budget will be enacted by May 31, 2004, the Budget & Finance Committee may consider and make a recommendation on a bill amending the Fiscal Year 2005 Budget in June 2004 and Council may consider the bill for first reading in June 2004 and for second reading in July 2004. Such bill would then take effect after the Fiscal Year 2005 Budget takes effect on July 1, 2005.

We are not aware of any Charter or Maui County Code provision that prohibits Council from considering and acting upon a budget amendment before the beginning of the budget fiscal year.

APPROVED FOR TRANSMITTAL:



BRIAN T. MOTO
CORPORATION COUNSEL

S:\ALL\TFV\Budget & Finance\muolea point.wpd

² Section 9-5.2, Revised Charter of the County of Maui (1983), as amended.

³ Sections 9-1 and 9-5(3), Revised Charter of the County of Maui (1983), as amended; Section 23, A Bill for an Ordinance Relating to the Operating Budget for the County of Maui for the Fiscal Year July 1, 2004 to June 30, 2005.