

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
FACILITIES COMMITTEE**

July 25, 2008

**Committee  
Report No.**

08-81

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

Chair and Members:

Your Public Works and Facilities Committee, having met on February 20, 2008 and July 2, 2008, makes reference to County Communication No. 08-8, from the Director of Public Works, transmitting a proposed resolution entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII TO A&B PROPERTIES, INC. FOR UNDERGROUND SEWER LINE PURPOSES".

The purpose of the proposed resolution is to authorize a grant of a non-exclusive easement to A&B Properties, Inc. (A&B Properties) of approximately 11,757 square feet across, through, and under County property, described as a portion of Haleakala Highway, Kahului, Maui, located adjacent to TMK: (2) 3-8-79:013, 015, 016 and 020, for sewer line purposes.

Your Committee notes that pursuant to Sections 3.44.020, 3.44.030, and 3.44.070, Maui County Code, the Council may, finding that it is in the public interest to do so, waive public hearing, public auction, and appraisal, and grant an easement by resolution approved by two-thirds of its members.

At its meeting of February 20, 2008, your Committee met with the Director of Public Works; the Director of Environmental Management; an Engineer, Wastewater Reclamation Division, Department of Environmental Management; the Corporation Counsel; and a Deputy Corporation Counsel.

There was no public testimony.

The Director of Public Works described the four parcels to be served by the proposed sewer line easement, two of which were intended for an airport hotel. He stated that A&B Properties' original intent was to dedicate the sewer lines running through the subject easement to the County. He further stated that the County will not accept sewer lines unless all downstream improvements have also been dedicated. The Director explained that an agreement to accept these downstream improvements has not been

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reached and that A&B Properties is pursuing an after-the-fact sewer line easement for the portion of the sewer line within Haleakala Highway. The Director distributed a map outlining the existing and proposed sewer lines in the area.

The Director of Environmental Management stated that although her Department has no jurisdiction over private sewer lines, she was in attendance to answer questions regarding the point of connection between the private and County sewer lines.

Your Committee questioned the means by which such private sewer lines are maintained, and questioned the public benefit to be derived from such a private sewer line.

The Engineer stated that the easement document clarifies that A&B Properties is responsible for sewer line maintenance. He explained that A&B Properties often contracts out such maintenance work. In the event of an emergency, the County would be available to do the repairs, and A&B Properties would be required to reimburse the County for any such costs.

In response to your Committee's inquiry about the public benefit to be derived from a private sewer line, the Deputy Corporation Counsel agreed with your Committee that the provision of restroom facilities could be considered a public benefit.

Your Committee deferred consideration of the matter pending further discussion.

At its meeting of July 2, 2008, your Committee met with the Director of Public Works; the Director of Environmental Management; the Wastewater Reclamation Division Chief, Department of Environmental Management; and a Deputy Corporation Counsel.

There was no public testimony.

The Director of Public Works described the parcels to be served by the proposed sewer line easement as well as the relation between the sewer lines and the existing County wastewater system. He stated that the Department of Environmental Management's Wastewater Reclamation Division has reviewed the proposed easement document and found it to be satisfactory.

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Your Committee questioned the feasibility of granting the subject easement without clarifying the status of the downstream wastewater system. Your Committee stated its concern with the broader issue of privately owned and maintained utilities, but acknowledged that the issue before them was of a more limited scope.

The Wastewater Reclamation Division Chief clarified that the downstream wastewater system is similar to various privately owned and maintained wastewater systems currently regulated by the State Department of Health.

The Deputy Corporation Counsel stated that the proposed easement document is relatively standard, and that it defines the responsibility for maintenance with A&B Properties and allows the County to enforce such provisions.

The Director of Public Works stated that if the resolution was not adopted, the Department would ask that the sewer lines be removed from the County property.

Your Committee voted to recommend adoption of the proposed resolution and filing of the communication.

Your Public Works and Facilities Committee **RECOMMENDS** the following:

1. That Resolution No. \_\_\_\_\_, attached hereto, entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII TO A&B PROPERTIES, INC. FOR UNDERGROUND SEWER LINE PURPOSES", be ADOPTED; and
2. That County Communication No. 08-8 be FILED.

Adoption of this report is respectfully requested.

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**BILL KAUAKEA MEDEIROS** Co-Chair

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**DANNY A. MATEO** Member

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**MICHAEL P. VICTORINO** Co-Chair

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**JOSEPH PONTANILLA** Member

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**G. RIKI HOKAMA** Member