

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

December 19, 2006

Committee
Report No.

06-171

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

Chair and Members:

Your Public Works Committee, having met on November 21, 2006, makes reference to County Communication No. 06-243, from the Council Chair, transmitting a proposed resolution entitled “DESIGNATING THE DIRECTOR OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT AS THE AUTHORIZED REPRESENTATIVE TO GRANT PERMISSION TO INSTALL UTILITY POLES PURSUANT TO CHAPTER 12.16, MAUI COUNTY CODE”.

The purpose of the proposed resolution is to renew for a period of two years the designation of the Director of Public Works and Environmental Management as the Council’s authorized representative to approve the location of utility poles in the County rights-of-way in cases where the number of poles to be installed does not exceed six, and the height of such poles does not exceed the height of existing poles.

By correspondence dated November 14, 2006, the Chair of your Committee requested that the Department of the Corporation Counsel revise the proposed resolution to change the expiration date, from two years from the date the resolution is adopted, to June 30, 2007. The June 30, 2007, expiration date is intended to avoid any conflict in the Department’s operations that may occur as a result of the recent amendment to the Revised Charter of the County of Maui (1983), as amended, which divides the Department of Public Works and Environmental Management into two separate departments, a Department of Public Works and a Department of Environmental Management. This Charter amendment, proposed by Resolution No. 06-61, will take effect on July 1, 2007.

By correspondence dated November 15, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled “DESIGNATING THE DIRECTOR OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT AS THE AUTHORIZED REPRESENTATIVE TO GRANT PERMISSION TO INSTALL UTILITY POLES PURSUANT TO CHAPTER 12.16, MAUI COUNTY CODE”, incorporating your Committee’s requested revision.

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At its meeting, your Committee met with the Director of Public Works and Environmental Management, and a Deputy Corporation Counsel.

Your Committee received public testimony from one individual who said that public input should always be sought in cases where utility poles are to be installed. He suggested that all such cases should be considered and approved by the Council. He further stated that, at a minimum, the Director should be required to publish a public notice advising the public of utility pole installations, and that any dissenting comment should trigger a public hearing.

The Director reviewed the history of the authority that has been granted to the Director by two previous resolutions, each authorizing certain utility pole installations for a two-year period. He stated that since the last authorization had expired in February 2005, the Department has approved 11 requests.

The Deputy Corporation Counsel stated that the proposed resolution could be interpreted as providing retroactive authorization for utility poles that were installed since the previous authority expired in February 2005.

Your Committee discussed the applicability of this legislation to Hawaiian Homelands, as well as whether a requirement to notify surrounding property owners should be added to the proposed legislation or to future legislation.

The Deputy Corporation Counsel affirmed that the requirement for Council approval of utility pole installations applies to utility poles on Hawaiian Homelands within the County rights-of-way.

The Director stated that this temporary authorization until June 30, 2007 will allow the issues of public notification and Council oversight to be discussed if another extension is requested, or a permanent grant of such authority is considered by the next Council.

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

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Your Public Works Committee RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "DESIGNATING THE DIRECTOR OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT AS THE AUTHORIZED REPRESENTATIVE TO GRANT PERMISSION TO INSTALL UTILITY POLES PURSUANT TO CHAPTER 12.16, MAUI COUNTY CODE", be ADOPTED; and

2. That County Communication No. 06-243 be FILED.

Adoption of this report is respectfully requested.

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JOSEPH PONTANILLA Chair

G. RIKI HOKAMA Member

MICHAEL J. MOLINA Vice-Chair

DANNY A. MATEO Member

ROBERT CARROLL Member