

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

September 3, 2004

Committee

Report No. 04-144

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 August 3, 2004 and August 19, 2004, makes reference to the following:

1. County Communication No. 04-162, from the Budget Director, transmitting the following:
 - a. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2005 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II. SPECIAL PURPOSE REVENUES".

The purpose of the proposed bill is to amend Appendix A, Part II. Special Purpose Revenues - Schedule of Revolving Special Funds for Fiscal Year 2005 by appropriating \$1 million from the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund ("Open Space Fund") for the purchase/acquisition of real property known as Mu'olea Point, comprised of approximately 70 acres in Hana, Maui, and identified as Tax Map Key ("TMK") No. (2) 1-5-017:001 to conserve, protect and preserve coastal land open space. The property overlooks Kauakio Bay, between Hana and Kipahulu, and is bisected by the Papahawahawa Gulch.

- b. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2005 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE OFFICE OF THE MAYOR".

The purpose of the proposed bill is to amend Appendix A, Part I. Grant Revenues – Schedule of Grants by

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Departments and Programs for Fiscal Year 2005, to add a grant in the amount of \$2,011,800, from the United States (U. S.) Department of Commerce, National Oceanic and Atmospheric Administration (“NOAA”) for the Mu’olea Point land acquisition, TMK No. (2) 1-5-07:1.

- c. A proposed resolution entitled “AUTHORIZING THE ACCEPTANCE OF A GRANT OF FUNDS FROM THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA), RELATING TO THE LAND ACQUISITION OF MU’OLEA POINT, HANA, MAUI, HAWAII”.

The purpose of the proposed resolution is to authorize the acceptance of grant funds in the amount of \$2,011,800 from NOAA for the purchase of Mu’olea Point, TMK No. (2) 1-5-017:1.

2. County Communication No. 04-179 from the Mayor, transmitting a proposed resolution entitled “APPROVING THE ACQUISITION OF REAL PROPERTY AT MU’OLEA, HANA, MAUI, HAWAII, FROM THE TRUST FOR PUBLIC LAND FOR THE COUNTY OF MAUI”.

The purpose of the proposed resolution is to authorize the purchase/acquisition of Mu’olea Point, TMK No. (2) 1-5-007:001, comprising a total area of approximately 73.259 acres.

By correspondence dated July 27, 2004, B. Martin Luna, on behalf of The Trust for Public Land (“TPL”), transmitted a video presentation entitled “A Walk Through Mu’olea Point”.

From July 27, 2004 through August 19, 2004, your Committee received correspondence from seven individuals in support of and two individuals providing comments on the acquisition of property at Mu’olea Point.

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At its meeting of August 3, 2004, your Committee met with the Budget Director; three Executive Assistants in the Office of the Mayor; the Corporation Counsel; and Joshua Stanbro, Project Manager, Hawaiian Islands Program, TPL.

Your Committee received written testimony from 2 individuals, a petition containing 123 signatures, and oral testimony from 14 members of the public, all in support of the acquisition of Mu'olea Point. A board member of the Ho'onipa'a No Hana Foundation stated that his foundation would welcome the opportunity to manage Mu'olea Point as a cultural preserve, but would need funding resources for ongoing management of the land. A Trustee from the Office of Hawaiian Affairs ("OHA") stated that TPL has requested \$342,000 from OHA for the acquisition of Mu'olea Point. She said that OHA needed the support of 6 of its 9 board members, and was waiting for the Maui County Council to act before making a decision.

Your Committee received the following documents:

1. A copy of a news article from the August 2, 2004 edition of the *Honolulu Star-Bulletin* entitled "Heiau land hangs in balance", submitted by Joshua Stanbro, TPL.
2. Documents submitted by the Office of the Mayor, including a map entitled "Mu'olea Point Purchase" and four photographs of Mu'olea Point.

Your Committee notes that the attachments to the aforementioned County Communications consisted of over 600 pages of documents, and that several of the attachments contained inconsistencies regarding the legal description of Mu'olea Point and the acquisition price.

Your Committee further notes that the acquisition of Mu'olea Point is a two-step process. First, TPL has exercised an option to purchase the property at an appraised value of \$4,050,000. Second, TPL intends to sell Mu'olea Point to the County for \$3,008,000. Funding would come from a NOAA grant in the amount of \$2,011,800 and from the Open Space Fund in the amount of \$996,200 (originally estimated at \$1 million). TPL is fund-raising for the difference between what TPL is paying for the property and what the County is paying TPL.

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The first Executive Assistant informed your Committee that the Geographic Information System Division in the Department of Management and the Real Property Tax Division in the Department of Finance, has confirmed that Mu'olea Point is comprised of two parcels with two TMK numbers, rather than one parcel. This error was due to the subdivision and reorganization of Mu'olea Point subsequent to the initial appraisal and title report in 2001.

The second Executive Assistant provided an overview of the Federal grant process. She indicated that the NOAA grant was a Congressional-directed award obtained through the efforts of Representative Ed Case.

The third Executive Assistant explained that the initial concept was that the County would serve as a pass-through for the Federal grant, and the remainder of the purchase price would be obtained by TPL. He noted that TPL, who is having challenges in its fund-raising efforts, requested \$1 million from the County's Open Space Fund. He further noted that the Administration's intent is to preserve the property for historical and cultural purposes, rather than using it as a park.

Mr. Stanbro informed your Committee that TPL Board of Trustees had recently approved an emergency loan for a period of six months, which extends the time period for completing the acquisition. He reiterated that the appraised value of the property is \$4,050,000 and that the County will purchase the property from TPL for \$3,008,000 (which includes the \$2,011,800 NOAA grant). The landowners' land value donation and TPL's fundraising will make up the difference between the purchase prices. He further clarified that monies received from OHA and the State will reduce TPL's fundraising requirements. The County's purchase price will not change.

Your Committee authorized two members of your Committee, Councilmember Carroll and Councilmember Tavares, to meet with representatives of the Hana community regarding a long-term management plan for Mu'olea Point, and to report back to your Committee.

Your Committee deferred the matter pending further discussion.

By correspondence dated August 3, 2004 to Colette Y. Machado, Trustee, OHA, the Chair of your Committee provided an update regarding your

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Committee's meeting, and requested a status report of OHA's meeting on August 5, 2004.

By correspondence dated August 4, 2004, Colette Y. Machado informed your Committee that OHA would defer action on TPL's \$342,000 request until OHA's September meeting.

By correspondence dated August 18, 2004, Joshua Stanbro, TPL, provided supporting information for the acquisition of Mu'olea Point, including: (1) a fact sheet; (2) a detailed funding history; (3) a summary spreadsheet of funding; (4) a list of foundations applied to; and (5) a membership list of TPL's Hawaii fundraising cabinet.

At its meeting of August 19, 2004, your Committee met with the Budget Director; three Executive Assistants in the Office of the Mayor; a Deputy Corporation Counsel; and Joshua Stanbro, Project Manager, Hawaiian Islands Program, TPL.

Your Committee received testimony from two members of the public expressing support for the acquisition of Mu'olea Point. The Executive Director of the Kipahulu Ohana ("Ohana") explained that the Ohana has a cooperative agreement with the U. S. Department of the Interior, National Park Service, to provide resource management and interpretive activities at Haleakala National Park, which supports the Ohana's experience in nonprofit management of public lands.

Your Committee received correspondence dated August 19, 2004 and an oral presentation from Councilmembers Tavares and Carroll. They provided a synopsis of a community meeting held in Hana on August 3, 2004 regarding a "Mu'olea Management Plan" ("Plan"). With the exception of OHA, representatives from all of the interested parties attended the meeting. The focus of the meeting was to agree on a plan/process to accomplish the goal of formulating a Plan, identify participants for the Plan's committee, establish the process, and conduct preliminary discussions on the vision for Mu'olea Point. The community members agreed on the membership of the Plan's committee. Names of individuals who will serve on the committee will be determined at the next meeting anticipated in mid-September. Once the goals and vision are

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identified, objectives and priorities will need to be established, along with funding requirements, if any, and recommendations for possible funding sources.

Your Committee noted that there are many possible sources for funding ongoing management of the property, with the County being only one option.

An Executive Assistant clarified that the property is comprised of 73.259 acres. In addition, he stated that the correct TMK numbers for Mu'olea Point are (2) 1-5-007:001 and (2) 1-5-007:012.

Mr. Stanbro explained the documents attached to his communication dated August 18, 2004, and clarified that TPL is still attempting to raise funds for a stewardship grant for the community group that will be tasked with ongoing management of the property. In addition, he stated that TPL would provide resource support to the group.

In response to a question regarding correspondence dated August 3, 2004, from Ms. Mahealani Ventura-Oliver, entitled "CONSTRUCTIVE NOTICE TO COUNTY COUNCIL, MAUI COUNTY", the Deputy Corporation Counsel informed your Committee that the letter is an attempt to provide public notice of Ms. Ventura-Oliver's possible claim on behalf of a Sovereign Nation. He stated that private parties have been successful against this type of notice.

The Deputy Corporation Counsel explained that there are two systems of land registration and recognition within the State of Hawaii. The "Regular System" recognizes deeds or claims filed with the Bureau of Conveyances, which will appear on a Title Report. The "Torrens System" requires approvals by the State Land Court. The Mu'olea Point parcels are referenced by Land Court Application Number, and the Title Report shows no claims on behalf of the Sovereign Nation. He further noted that the Agreement of Sale requires that the seller provide a standard title insurance policy in the amount of the purchase price, which provides some protection to the County.

Your Committee notes that Mu'olea Point consists of two parcels of land. The first parcel is known as Lot H, comprised of approximately 6.314 acres, Land Court Application No. 1852, and identified as TMK No. (2) 1-5-007:012. The second parcel is known as Lot 23, comprised of approximately 66.945 acres,

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Land Court Application No. 1652, and identified as TMK No. (2) 1-5-007:001. The total area is approximately 73.259 acres.

Your Committee further notes that funding from the Open Space Fund is reduced from \$1 million to \$996,200 as a result of an increase to the grant anticipated from the NOAA.

Your Committee requested that the proposed resolutions and proposed bills be revised to incorporate the correct TMK numbers, lot numbers, acreage, and the amount appropriated from the Open Space Fund.

Your Committee voted to recommend adoption of the two revised proposed resolutions, passage of the two revised proposed bills on first reading, and filing of the communications.

Your Committee is in receipt of two revised proposed resolutions and two revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel, incorporating the changes requested by your Committee.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING THE ACCEPTANCE OF A GRANT OF FUNDS FROM THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA), RELATING TO THE LAND ACQUISITION OF MU'OLEA POINT, HANA, MAUI, HAWAII", be ADOPTED;
2. That Bill No. _____ (2004), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2005 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE OFFICE OF THE MAYOR", be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill No. _____ (2004), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING

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APPENDIX A OF THE FISCAL YEAR 2005 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II. SPECIAL PURPOSE REVENUES”, be PASSED ON FIRST READING and be ORDERED TO PRINT;

4. That Resolution No. _____, as revised herein and attached hereto, entitled “APPROVING THE ACQUISITION OF REAL PROPERTY AT MU’OLEA, HANA, MAUI, HAWAII, FROM THE TRUST FOR PUBLIC LAND FOR THE COUNTY OF MAUI”, be ADOPTED;
5. That County Communication No. 04-162 be FILED; and
6. That County Communication No. 04-179 be FILED.

Adoption of this report is respectfully requested.

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G. RIKI HOKAMA **Chair**

DANNY A. MATEO **Member**

WAYNE K. NISHIKI **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**