

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

August 19, 2003

Committee
Report No.

03-80

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

Chair and Members:

Your Government Relations Committee, having met on July 28, 2003, makes reference to County Communication No.03-188, from the Mayor, transmitting the following:

1. A proposed resolution entitled "APPROVING THE ACQUISITION OF REAL PROPERTY AT WAILUKU, MAUI, HAWAII, FROM MARKET-WELLS HUI II, LLC FOR THE COUNTY OF MAUI".

The purpose of the proposed resolution is to authorize the acquisition of approximately 27,249 square feet of property located at the intersection of Wells Street and Market Street, identified as TMK: (2) 3-4-008:020, commonly known as the Old Wailuku Swimming Pool, for \$700,000.

2. A copy of an agreement entitled "AGREEMENT FOR THE PURCHASE OF OLD WAILUKU SWIMMING POOL".

The purpose of the agreement is to set forth the terms of the sale of the Old Wailuku Swimming Pool from Market-Wells Hui II, LLC, a Hawaii Limited Liability Company, hereinafter referred to as the "Seller" to the County of Maui. Upon the execution of the agreement, the Seller shall open an Escrow account.

In his communication, the Mayor asked that the Council consider this matter prior to the proposed closing date of August 29, 2003.

At its meeting, your Committee met with the Mayor, the Director of Finance, the Deputy Director of Parks and Recreation, the Aquatics Chief from the Department of Parks and Recreation, and a Deputy Corporation Counsel.

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There being no public testimony, your Committee proceeded to discuss the matter. The Mayor stated that there are several justifications for acquiring the pool, including: (1) the pool is heavily used by students of Wailuku Elementary School, Iao Intermediate School and the surrounding community; (2) the pool is appropriately located within an existing sports complex, with tennis courts and a gymnasium nearby; and (3) the cost of developing a pool elsewhere in Wailuku, including at the park on Malako Street near Wailuku Elementary School or the former Golden Jade property on Kaohu Street, would be at least \$1 million.

The Director of Finance noted that an appraisal was conducted by Andrew Rothstein and was submitted on April 25, 2003.

A Committee member expressed a concern about additional capital improvements needed after the purchase of the pool. The Deputy Director of Parks and Recreation noted that aside from ongoing maintenance, there are no major capital expenditures anticipated for the pool at this time. The Mayor noted that in the event the dressing rooms in the Wailuku Gym should fall into disrepair, it might be necessary to construct dressing rooms at the pool in the future.

A Council member asked if it would be possible to ask a developer to construct a pool at his next project in Wailuku to fulfill his park development requirement. The Mayor noted that as the location of the current pool is ideal for the schools and the community, he would prefer purchasing the subject property.

Another Council member raised several concerns, including: (1) what the appraised value of the property was; (2) whether the Seller would be granted any tax credits; and (3) details of penalties that would be levied upon the County if Council approval is not granted by the August 29, 2003 deadline.

The Mayor noted that as negotiations are ongoing until Council approval is obtained, he would prefer to disclose the appraised value in executive session. He further noted that the Seller would not receive any tax credits upon selling the subject property.

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The Deputy Corporation Counsel provided an overview of the financial obligations of the current agreement between the County and the Seller. He stated that upon signing the agreement, the County made a deposit of \$500 in an escrow account. Among other things, the agreement stipulates the sale price, a closing date of August 29, 2003, and a provision that states that the sale and closing on the property are subject to Council approval.

The Deputy Corporation Counsel further stated that if the Council has not authorized the purchase by that date, an extension may be granted, if the County pays 10 percent of the purchase price as a non-refundable deposit. If the Council fails to authorize the purchase, the extension fee would be lost. Conversely, if the Council does not authorize the purchase and the County does not seek an extension, both parties will pay only their share of the escrow fees.

A Council member asked about the possibility of State assistance in paying a portion of the purchase price. The Mayor stated that as the State Legislature did not include any funding for the purchase of the pool in the State's budget, it does not appear that the State will be contributing toward the purchase of the pool.

A Council member and a Committee member requested the opportunity to convene an executive meeting to discuss the appraisal of the subject property.

Your Committee voted to convene an executive meeting for the purpose of deliberating on the authority of persons designated by the board to negotiate the acquisition of public property, pursuant to Subsection 92-5(a)(3), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Mayor, the Director of Finance, the Deputy Director of Parks and Recreation, the Aquatics Chief from the Department of Parks and Recreation, and a Deputy Corporation Counsel.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received, your Committee voted to recommend adoption of the proposed resolution to authorize the acquisition of the Old Wailuku Swimming Pool for the purchase price of \$700,000.

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Your Government Relations Committee RECOMMENDS the following:

1. That Resolution No. _____, attached hereto, entitled "APPROVING THE ACQUISITION OF REAL PROPERTY AT WAILUKU, MAUI, HAWAII, FROM MARKET-WELLS HUI II, LLC FOR THE COUNTY OF MAUI", be ADOPTED; and
2. That County Communication No. 03-188 be FILED.

Adoption of this report is respectfully requested.

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DAIN P. KANE **Chair**

MICHAEL J. MOLINA **Member**

G. RIKI HOKAMA **Vice-Chair**

CHARMAINE TAVARES **Member**

DANNY A. MATEO **Member**