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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

October 7, 2016

Mr. Randol Leach, Chair
Maui County Board of Ethics
c/o Department of the Corporation Counsel
Wailuku, Hawaii 96793

Dear Mr. Leach:

SUBJECT: REQUEST FOR AN ADVISORY OPINION (EAR-67)

The County of Maui recently acquired 267.74 acres in an area of Maui known as Hamakualoa and seeks to develop a master plan for management of the land. Please see the attached article for additional information.

I anticipate Mayor Alan M. Arakawa will issue an executive order to direct County agencies to work on the Hamakualoa master plan and to designate Councilmember Elle Cochran and me as co-chairs of a newly created body to lead the effort to develop the plan. As I understand the Mayor's initiative, Councilmember Cochran and I would be granted the authority to direct Administration personnel in this effort.

The adoption of a Hamakualoa master plan would necessitate the Council's enactment of various pieces of legislation.

I appreciate the Mayor's offered grant of authority, but I am concerned about Section 3-8(2) of the Revised Charter of the County (1983), as amended, which reads as follows:

"Neither the council nor its members shall give orders to any county employees or county officers other than those appointed pursuant to Section 3-7 or Article 5, either publicly or privately. Any willful violation of the provisions of this subsection by a member of the council shall be sufficient grounds for the councilmember's removal from office by impeachment."

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May I please request that you provide an advisory opinion in response to the following questions:

Does the Board of Ethics have the power to initiate impeachment of a Councilmember for violation of Section 3-8(2)? If so, would the Board consider it a violation of Section 3-8(2) if a Councilmember serving on the body referenced above were to give orders to Administration personnel after being expressly authorized by the Mayor to do so?

To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Sharon Brooks at ext. 7137, or Pauline Martins at ext. 8039).

Sincerely,



DON S. GUZMAN, Chair
Economic Development, Energy,
Agriculture, and Recreation Committee

ear:ltr:067a02:scb

Attachment

10/1/16 AP St. News 19:42:25

AP State News
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October 1, 2016

Maui County buys land with access to Jaws surf break

WAILUKU, Hawaii

WAILUKU, Hawaii (AP) — Maui County is pursuing plans for about 270 acres near a surf break.

Councilmembers approved the nearly \$9.5 million deal in early September using the Open Space, Natural Resources and Scenic Views Preservation Fund.

The land includes four lots and an access easement to the so-called Jaws surf break.

Councilmembers Don Guzman and Elle Cochran were asked to create plans for what officials call the Hamakualoa Open Space Park Preserve.

"I said you know what, the community wants this. We need to utilize our Open Space Fund and capture it and buy this land and preserve it for generations to come," Guzman told Hawaii News Now.

An Organic Agricultural Park at the preserve would be the first for the community.

"There are questions that remain about public access for sporting events at Jaws, water issues, land maintenance as well as other concerns," said Mayor Alan Arakawa, according to Maui News. "However, the council felt strongly enough about this purchase that they approved \$9.5 million to be included in the budget, coupled with the fact that many members of our community say they want to start farming organically."

Water access and land maintenance are among the other concerns for the site.

The site used to be a pineapple plantation and was owned by Alexander & Baldwin.

--- **Index References** ---

Company: CANADIAN NATURAL RESOURCES LTD; MATSON INC

Industry: (Energy & Fuel (1EN13); Real Estate (1RE57); Utilities (1UT12); Water Utilities (1WA58); Zoning (1ZO58))

Region: (Americas (1AM92); Hawaii (1HA58); North America (1NO39); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Open Space Fund) (Don Guzman; Alan Arakawa)

Word Count: 223

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