

COUNCIL OF THE COUNTY OF MAUI

# PARKS AND RECREATION COMMITTEE

August 21, 2001

**Committee**  
**Report No.**

01-144

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

Chair and Members:

Your Parks and Recreation Committee, having met on July 30, 2001 and August 1, 2001, makes reference to County Communication No. 01-204, from the Mayor, transmitting the following:

1. A proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the Wahikuli State Wayside Park; Launiupoko State Wayside Park; Papalaua State Wayside Park, a.k.a. Ukumehame Beach Park, Part A and Part B; and Kihei Beach Reserve from the State (hereinafter referred to as "subject parks").

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PERTAINING TO PARKS AND RECREATIONAL FACILITIES CUSTODIAL DEPOSITS AND CAMPING AREAS".

The purpose of the proposed bill is to permit camping at Papalaua Wayside Park, Honomanu Beach Park, and Waihee Beach Park.

By memorandum dated July 25, 2001, your Committee Chair transmitted letters from Buck Buchanan; and Neola Caveny and Daniel Grantham, Hawaii Chapter Sierra Club, Maui Group, expressing support for camping and creating more camp sites.

By memorandum dated July 27, 2001, your Committee Chair transmitted a copy of Chapter 15, Hawaii County Code, entitled "PARKS AND RECREATION".

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By memorandum dated July 30, 2001, your Committee Chair transmitted news clippings, general information about camping sites in Maui, and an electronic mail from Patrick Mook, Sonia Isotov and Sam Clark, relating to proposed regulations for campgrounds.

At its meeting of July 30, 2001, your Committee met with the Chief of Planning and Development, Department of Parks and Recreation; and a Deputy Corporation Counsel.

Your Committee received testimony from two individuals. The first testifier indicated that a minimum level of management is desired for the proposed campgrounds. He further stated that the County should consider the following regulations:

1. limiting the duration of camping to three days;
2. prohibiting the cutting of kiawe trees and requiring campers to bring their own wood for fires;
3. designating fire rings; and
4. increasing the number of portable toilets and trash cans.

The second testifier recommended a camping duration of up to seven days because she prefers to spend her vacation camping. She also indicated that, in Maui, people manage people, meaning that fellow campers police the parks and beaches to help others recognize the need to keep the campsites clean.

Both testifiers suggested that requiring permits in advance of camping would create a burden, especially since many families make the decision to camp at the last minute.

The Chief of Planning and Development (Chief) provided an overview of a site visit he made to Papalaua State Wayside Park. He stated that he walked the beach and observed about 20 to 25 campers. He further stated that none of the campers appeared to be homeless and the campsites were clean. The campers

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told the Chief that they would prefer minimal management and more frequent pumping of the portable toilets.

In response to an inquiry from your Committee, the Deputy Corporation Counsel stated that tort liability laws passed by the State Legislature in 1999 help to address potential liability suits. By placing proper signage at the beaches, warning users of beach and ocean conditions, the County creates a defense for potential lawsuits. He further stated that although this law does not preclude the chance of being sued, it helps with the defense. The Deputy Corporation Counsel distributed a copy of the aforementioned State Tort Law, Section 663-10.5, 1999 Hawaii Session Laws, Act 237.

Your Committee noted its desire to receive a report reviewing the highlights of a meeting held on July 12, 2001 with the Mayor and various community groups to discuss the camping issues and regulations in the County.

Your Committee deferred the matter for further consideration.

By memorandum dated July 31, 2001, your Committee Chair transmitted an electronic mail from David Wilson, providing recommendations for regulating campgrounds.

At its meeting of August 1, 2001, your Committee met with the Chief of Planning Development, Department of Parks and Recreation; the First Deputy Corporation Counsel; and a Deputy Corporation Counsel.

Your Committee received testimony from three individuals. One testifier recommended that the County adopt a "smart growth" philosophy when considering camping sites. He stated that a campground master plan should be developed that would include campsites of all districts of Maui County. He further stated that these campgrounds should be tied into the "King's Highway" trail so that campers can hike to different sites throughout the island. He suggested that certain campsites should have both basic and luxury facilities available. Finally, he stated that a committee should be appointed to take testimony throughout the island, on an informal basis, regarding the development of a campground master plan.

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The other two testifiers stated their support for the adoption of the resolution accepting the subject parks from the State. However, they suggested that the County pursue funding from the State to help pay for the operation and maintenance of the subject parks.

The First Deputy Corporation Counsel provided a brief overview of the history of the subject parks' conveyance from the State. He stated that in 1991 the State conveyed numerous parks to the various counties. However, the Attorney General did not provide the conveyance documents to the counties until 1996. The First Deputy Corporation Counsel further stated that the Council previously reviewed the acceptance of the subject parks; however, because of liability questions and the lack of funding resources for operation and maintenance purposes, no action was taken.

In response to an inquiry from your Committee, the First Deputy Corporation Counsel stated that because of recent State statutes passed by the Legislature, liability concerns are not as much of an issue as they were during the previous consideration of the acceptance of the subject parks. The First Deputy Corporation Counsel further stated that the action of the Administration to take possession of the personnel and equipment from the State does not constitute a de facto possession of the subject parks by the Council.

The First Deputy Corporation Counsel stated that the determination to accept the subject parks is a policy decision of the Council, and if the County accepts the subject parks, it will have greater control with regard to regulating camping and determining locations for campsites.

Your Committee noted its desire to obtain an opinion from the Department of the Corporation Counsel regarding the County's potential liability if a long-term management lease for the subject parks was arranged with the State.

Your Committee reiterated concerns about indemnification and liability issues and the lack of funding from the State to operate and maintain the subject parks. Your Committee Chair recommended that language be added to the resolution to convey your Committee's sentiments relating to the County's acceptance of the subject parks without resolution of indemnification and liability

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issues, and relating to the State's unfunded mandate in the transfer of ownership of the subject parks to the County.

Your Committee expressed the need to accept the responsibility of transferring the subject parks to the County especially since the County has been operating and maintaining them for a number of years.

As a result, your Committee recommended the adoption of a revised proposed resolution, incorporating the language as proposed by your Committee Chair.

Your Committee deferred consideration of the proposed bill pertaining to permitting camping at certain parks pending more public testimony and the Council's passage of the proposed resolution accepting the subject parks from the State.

Your Committee is in receipt of a revised proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE". The revised resolution incorporates the language expressing the aforementioned concerns raised by your Committee.

Your Parks and Recreation Committee **RECOMMENDS** that Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE" be **ADOPTED**.

Adoption of this report is respectfully requested.

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**JO ANNE JOHNSON** Chair

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**MICHAEL J. MOLINA** Member

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**ROBERT CARROLL** Vice-Chair

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**CHARMAINE TAVARES** Member

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**PATRICK S. KAWANO** Member