

# PARKS AND RECREATION COMMITTEE

Council of the County of Maui

## MINUTES

May 2, 2001

### Council Chamber

**CONVENE:** 1:33 p.m.

**PRESENT:** Councilmember Jo Anne Johnson, Chair  
Councilmember Patrick S. Kawano, Member (In 1:35 p.m.)  
Councilmember Michael J. Molina, Member  
Councilmember Charmaine M. Tavares, Member  
Councilmember Alan M. Arakawa, Non-member

**EXCUSED:** Councilmember Robert Carroll, Vice-Chair

**STAFF:** Jan Inouye-Ogata, Legislative Analyst  
Karean Y. Zukeran, Substitute Committee Secretary

**ADMIN.:** Floyd S. Miyazono, Director, Department of Parks and Recreation  
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the  
Corporation Counsel

**OTHERS:** John Higham, Vice President, Amfac Land Company, Inc.

**PRESS:** Brian Perry, *The Maui News*

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CHAIR JOHNSON: . . .(*gavel*). . . Parks and Rec. Committee will come to order. And we have present today. . .Council. . .member. . .Mike Molina; Councilmember Charmaine Tavares. . .sitting in, Councilmember Alan Arakawa; excused is Patrick Kawano and Robert Carroll. Also, we have present from Parks and Rec. . .the Director, Floyd Miyazono; Deputy Corp. Counsel Ed Kushi. We have Camille Sakamoto, Committee Secretary; and Jan Inouye Ogata, our Committee Analyst. Since we have no one signed up for public testimony today, we're gonna dispense with that. We have only one item on the agenda today. And that is the. . .item number. . .and I'm just gonna go, it's land use . . .

COUNCILMEMBER ARAKAWA: Two.

CHAIR JOHNSON: . . . it's PR Number 2. And it's the proposed resolution accepting dedication of land. . .which is pursuant to Section 3.44.015 of Maui County Code. And the purpose of this proposed reso is to accept the dedication of land in the

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Wainee Subdivision from Pioneer Mill Company, and to authorize the Mayor to execute all necessary documents.

**ITEM NO. 2: PROPOSED RESOLUTION ACCEPTING DEDICATION OF LAND  
(LOT 3 OF THE WAINEE SUBDIVISION FROM PIONEER MILL COMPANY, LTD.;  
TMK 2-4-6-015:001; 15.429 ACRES)**

CHAIR JOHNSON: We also have present with us, at our invitation, Mr. Higham. . .who is from the. . .Amfac Company. And so. . .what I'd like to do is, at this point. . .oh, I'm sorry. I'm going to correct my. . .my information just given to me. . .it's Karen [sic] Zukeran, not Camille Sakamoto, who's our Committee Secretary today. Camille is absent. So, thank you. That's corrected for the record. Uh. . .I would like, at this point, to have an overview by the Director of Parks and Rec. And I, if you wouldn't mind, Mr. Miyazono?

MR. MIYAZONO: Okay, thank you. . .Madam Chairman. Before you, I have. . .there's a resolution accepting dedication of land . . .

. . . of approximately 15.429 acres, relative to the Wainee park expansion project. There is, if you look at your handout, there is also some title searches that were made. Basically the. . .the only. . .con, concern was small, small kind of concern that we do have is easements. But these are just easements and. . .utility easements and roadway easements. We will. . .at that, at that particular time, I will refer to Mr. Ed Kushi. Due to his diligent research, he could. . .explain to you the explanation and the description of each of the easements. I understand that you have a . . .

. . . a photograph, anyway, depicting the four different easements there. So the purpose of this dedication is so. . .the intent--maybe what I could do is just somewhat give a background of this project. Um. . .this project was part of a dedication, as part of a North Beach Resort development project. And the. . .and during the. . .SMA hearing, during the Planning Department, which was held sometime in 1988, at that particular time, it was part of a condition for Amfac to dedicate approximately 13 acres to the Parks and Recreation at Wainee. . .at its current site. And with that be required also to develop the park. The park development consists of the following: grading. . .grassing. . .the installation and construct. . .construction of a restroom. . .some walkways; as well as a parking area to. . .to accommodate approximately 50 cars, maximum of 50 cars. Currently. . .the. . .the owner of the property, Amfac is currently. . .just about completed with the project. Approximately 80 percent, 85 percent of the project is completed. What needs to be done at this point in time is. . .to remove some of the rocks on the premises. Then they are planning to plant the grass within the next two to three weeks from now. After that, there is a three-month warranty period to make certain before. . .the County can actually go in and start their

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improvements. There were also County funds that were allocated for this particular projects and improvements. They were . . . during the fiscal year . . . in '99, 2000, there was \$500,000 allocated for this project. And there were also, as you recalled a few months back, there were also \$300,000 that was granted from the Department of Interior to the . . . to the Department of Parks and Recreation. So currently we have a contractor that, that is willing to hold his price. Basically, our intent after the . . . the, Amfac completes with their commitment or obligation, the Parks Department, with approximately \$800,000 is planning to . . . install a well. And that will also include the . . . proper type of plumbing. . . also be required to . . . install, I guess . . . dugouts and walkways and putting all the different amenities into the park itself. So we are asking for your humble support in the acceptance of this . . . particular resolution. So what I'd like to do . . . I'll turn it over to Mr. Ed Kushi so that he could explain all of the . . . four easements that we have on that particular site. Ed?

CHAIR JOHNSON: Thank you, Mr. Miyazono. And, Mr. Kushi?

MR. KUSHI: Okay, Madam Chairperson and Members of the . . . this Committee, first of all, I'd like to confirm what handouts that you have. I believe you have two . . . reduced maps . . .

. . . which I, which were taken . . . copied by . . . *(laughter)* . . . myself and . . . inked in by myself last night. But it's taken from the subdivision map which was approved by the County sometime in April of . . .

. . . I believe it was August . . . or September of, of the year 2000. Uh . . . also, I believe you also have a copy of . . . uh . . . a Director's Report . . . from the many, Maui Planning Commission, dated July 24<sup>th</sup>, 1999 . . . 1990. You should, you should also . . .

. . . you should also have a . . . Supplemental Director's Report, dated July 19<sup>th</sup>, 1988.

. . . Then you should also have a . . . a document entitled "Agreement for Selecting Location of Future Park Space", dated April 22<sup>nd</sup>, 1998. And lastly, you should have a prelim, preliminary report . . .

. . . dated as of September 22<sup>nd</sup>, year 2000.

**NOTE:** *Silence and very long pause.*

MR. KUSHI: . . . Okay . . . the documents are, basically support, backup documents to . . . show you the reason and the authority that the County . . . or the, why the County is . . . had requested of the developer . . . the Applicant . . . for park space.

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I'd like to turn your attention to the . . .to scaled-down maps. First one entitled a "Location Map". On the, the top of it kinda describes the . . .the project location. What it was was a one . . .one parcel. . .about 87-acres-plus. Amfac subdivided it into three lots--Lot 1, Lot 2, and Lot 3. As you recall, Lot 2 is a 5-acre parcel that this body just recently adopted for the homeless shelter. As part of that subdivision, they carved out Lot 3, which is a . . .expanded on your second handout. . .Lot 3. . .which is a gross area of 15.429 acres, less an easement of 1.492 acres, net area being 13.937 acres. The park space of 13-plus acres or . . .(inaudible). . . was required pursuant to SMA. . .as well as the zoning.

. . . Let me describe the easements. Firstly. . .the Easement Number 1, an area of 1.492 acres, which is part of this Lot 3. . .is in favor of the remaining Lot 1. . .for access to the highway, as well as the Homeless Shelter, Lot 2.

. . . Going back to the Location Map. Easement Number 2 is a . . .small parcel of. . .about 7,600-plus square feet. . .which borders Easement 1 and Mill Street. Easement 3 is on Mill Street itself. It's a rectang. . .rectangular area. . .about 9,300 square feet. As you note, Shaw Street, which goes across H'piilani Highway. . .is a County public road. The reason for Easement 2, as well as Easement 3 is basically to align Easement 1 with. . .Shaw Street, as well as. . .provide for access over, across Mill Street which is, to our understanding, is a private road. Easement Number 4. . .on the lower small area of 720 square feet, is a waterline easement. . .in favor of this Lot 3.

. . . The proposed deed incorporates all of these easements. And. . .as far as the Title Report is. . .is concerned, I've reviewed it. If you look at it, there's several mortgages on there. We've confirmed that these morg. . .mortgages have been released. . .and they were released prior to your consideration of the Homeless Shelter. So all in all, I, I feel that. . .from my review, that this. . .this property is ready to be. . .considered and accepted.

CHAIR JOHNSON: Okay. Do the Members have any questions?

**NOTE:** *Silence.*

CHAIR JOHNSON: . . . Uh, I, I have one question. And that would be . . .

. . . apropos of what Mr. Miyazono was bringing out--that there still are, I guess, some of the . . .items that are not yet quite completed with regard to the . . .

. . . Amfac's obligation for the park. . .you know, in terms of the soil fill, I think he and I had a conversation the other day. . .would it be appropriate for us to make certain that prior to acceptance of this, that we actually have those items completed?

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... Does it need to be conditioned, or is it understood?

MR. MIYAZONO: I personally feel that . . .

... I don't think it needs to be a condition. Uh. . .the subcontractor to the general contractor is working very diligently to, to extract all of the lot, you know, large rocks right now. So they have given us a time-line of two weeks. And soon after that--we gotten, also, commitment from the contractor that the . . .landscape contractor will be there immediately after that and will, will start planting the grass in. So I, I somewhat feel that due to the . . .good faith on the contractor, as well as from Amfac. . .that, that we feel pretty comfortable that it should be hopefully completed within the next three to four months. And after that, we could start going in.

CHAIR JOHNSON: Okay, well, my, my only concern and perhaps Corp. Counsel could address this is that should it, should we accept it and all of the work is not satisfactorily completed, would it leave the County in a vulnerable position as far as accepting a land and then. . .not having the ability to enforce. . .because we had already accepted it?

MR. KUSHI: Madam Chair, our position will be this. . .the County Code, under the Subdivision Ordinance, it says that upon acceptance of the park dedication requirements, the County shall there, thereafter be responsible for maintenance and, and whatever and ownership. However, if the Department Director is saying that. . .that these improvements were a condition of the SMA permit--

CHAIR JOHNSON: Uh-huh.

MR. KUSHI: --that the developer willingly and. . .entered into and was forced to, as a condition. . .I see no reason why not to accept the property. If the developer fails to. . .go through with this. . .obligations, go back to the Planning Commission and. . .let them deal with the nonperformance of conditions.

CHAIR JOHNSON: Okay. And, and in the nonperformance of conditions, would that mean that the project which this was tied, for which it was an exaction or a satisfaction, could that then halt that particular project if there was failure on the part of the. . .SMA applicant, you know, to complete those conditions?

MR. KUSHI: I'm not sure what stage the project is, but . . .

... I can't really answer that with, without seeing, seeing all the conditions. But the Planning Commission has authority to review its. . .permits and its conditions.

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CHAIR JOHNSON: Okay. Uh . . .

MR. KUSHI: Aside from, you know, placing a bond on. . .having the applicant provide a bond to complete the improvements. . .I don't know what else you can do.

CHAIR JOHNSON: Okay. Uh. . .are there any other questions by any other Committee Members?

. . . Alan?

COUNCILMEMBER ARAKAWA: . . . Fine.

CHAIR JOHNSON: Well, it's, it's--

COUNCILMEMBER ARAKAWA: . . .*(inaudible)*. . .

CHAIR JOHNSON: --it's fine, you know, even though you're not a Committee Member, just ask.

COUNCILMEMBER ARAKAWA: You mention that you're gonna have to dig a well, Floyd?

MR. MIYAZONO: Yes, that's true.

COUNCILMEMBER ARAKAWA: And in this, it all. . .but in the documentation, it says there's a water easement.

MR. MIYAZONO: The water easement is for domestic water, for drinking water. The well will be utilized for irrigation.

COUNCILMEMBER ARAKAWA: So, I, I can assume that there isn't adequate. . .source with the existing water. . .easement to provide water for the park.

MR. MIYAZONO: Yes. To our understand, yes, should be adequate.

COUNCILMEMBER ARAKAWA: . . . It's, it's *not* adequate, that's why we're gonna dig the well?

MR. MIYAZONO: . . . Well, the. . .from the standpoint of the cost, because there are some, some water to be used, you know, we do have an existing well system there. I think it would be most appropriate from the standpoint of cost and operation that we do dig a well, as compared to utilizing domestic water for irrigation purposes.

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COUNCILMEMBER ARAKAWA: . . . Okay. No, I'm just curious because you've mentioned. . .quite sizable amount of money that would have to go to digging the well.

. . . So . . .

MR. MIYAZONO: Well, yeah, I really don't know what the exact amount is, but you know, in long run, from the standpoint of operational cost. . .I think it's the best way to go, as compared to utilizing domestic water. . .for irrigation purposes.

COUNCILMEMBER ARAKAWA: Okay. But, we would, so we're gonna be covered on both sides--we have the drinking water available for the area for people to drink, and we're gonna have the well water for irrigation.

MR. MIYAZONO: That's true.

COUNCILMEMBER ARAKAWA: And when we dig that well . . .

. . . well, that's okay, you, you'll be, you'll be sizing it appropriately, I, I assume.

MR. MIYAZONO: Yes.

COUNCILMEMBER ARAKAWA: Okay. That was my question, Madam Chairman.

CHAIR JOHNSON: Okay. Any other Committee Members? Charmaine, you have anything?

COUNCILMEMBER TAVARES: No.

CHAIR JOHNSON: Okay. . .it's the. . .and, and just to clarify just for the record, also I have been able to . . .

. . . gain the in, assurance from. . .Amfac and also. . .just by looking at the documentation that title insurance will be. . .given upon the acceptance by the County of this property. So even though you have a warranty deed before you, the title insurance will be given.

COUNCILMEMBER ARAKAWA: Yeah, one. . .one more question.

CHAIR JOHNSON: Yes, Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Floyd. . .in the easements that are there, that are, that run with the property, is the Parks Department gonna have any problems dealing with those easements. . .that you can foresee?

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MR. MIYAZONO: . . . No, I don't see any problem with it.

COUNCILMEMBER ARAKAWA: Okay. That's fine, then.

**NOTE:** *Silence and very long pause.*

COUNCILMEMBER ARAKAWA: . . . Then, so . . .with the, with the agreement that Amfac was gonna develop this project out . . .

. . . what they are putting into this project, you're also mentioning that you're gonna have to spend more money to get it up to . . .a standard that you want. Where, where does that agreement with Amfac end as to how much they have to develop versus what you have to put in?

MR. MIYAZONO: Well, their development is . . .basically to put in the irrigation system and the grassing. We have been working quite closely with their contractor to make certain that the work is according to our standards, comply with the Parks standards. That, that is the reason why we are working with them very closely re, you know, relative to the removal of those large rocks. And not until those large rocks are removed will we actually give them the approval to start planting the grass. So basically that's where the status we are. So that's the only thing that needs to be taken cared of. And once that has been completed, then of course, there's a three-month period, I mean a . . .warranty period or maintenance period where the contractor or the landscape contractors make, responsible to make certain that . . .it is at a point, after three months, where it's gonna be acceptable by the Parks Department.

COUNCILMEMBER ARAKAWA: Okay. So that . . .at that acceptable point . . .and remember this is a condition of one of the other developments that they have, another beach development. So at that point, they're gonna cover the value of the exchange as far as the Parks Department is concerned?

MR. MIYAZONO: To my understanding. They have also completed other requirements like the restroom, the parking lot . . .and the other amenities. So the only one that really remains is actually the grassing itself.

COUNCILMEMBER ARAKAWA: Okay. So as, as far as the Parks Department is concerned, what . . .the developer, what Amfac is doing satisfies the . . .park requirement. . .portion of the North Beach project.

MR. MIYAZONO: Yes, that's correct.

COUNCILMEMBER ARAKAWA: . . . To that value. Okay.

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CHAIR JOHNSON: Um, perhaps--

COUNCILMEMBER ARAKAWA: Thank you.

CHAIR JOHNSON: --it would be appropriate at this time, since Mr. Higham has come from . . .all the way from Honolulu, would . . .would you care to say anything, Mr. Higham. . .address. . .any of the issues that are being brought forward? Just state your name for the record, and you can just speak right into the microphone. And then, perhaps, if anyone has any questions, they could also ask you.

MR. HIGHAM: Good afternoon, my name is John Higham. I've Vice President of Amfac. Um. . .as Mr. Miyazono said, we are about 80 percent complete. We have enjoyed working with the Parks Department in completing this project. I think it'll benefit the entire community. We look forward to completing all of the requirements. . .and getting this grassed as soon as possible. And I, it's our understanding that that fulfills all the obligations that was under that SMA permit.

CHAIR JOHNSON: Okay. Do, do any of the Members have any questions of Mr. Higham?

**NOTE: Silence.**

CHAIR JOHNSON: . . . Alan?

COUNCILMEMBER ARAKAWA: No, I'm just--

CHAIR JOHNSON: Okay.

COUNCILMEMBER ARAKAWA: --making sure that we're getting an equitable--

CHAIR JOHNSON: Okay, fine. And . . .

COUNCILMEMBER ARAKAWA: --exchange.

CHAIR JOHNSON: And this was in satisfaction, according to my understanding, in satisfaction of the park. . .portion of their requirement.

MR. KUSHI: Madam Chair. . .just to clarify. . .Councilman Arakawa's understanding, is that full, this 13 acres fulfills one of several conditions for parks.

CHAIR JOHNSON: Uh-huh.

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MR. KUSHI: The other conditions on the SMA included a five-acre beach park, a three-acre beach access or--

CHAIR JOHNSON: Uh-huh.

MR. KUSHI: --something down the beach. So I'm not sure where that stands, but this alone would not satisfy the entire. . .park requirements.

CHAIR JOHNSON: I, I can address that issue. And those are already in place. That was done as, at an earlier. . .earlier portion of this project. That was, that's basically the center portion of North Beach. And, and. . .that's correct, is that not, Mr. Higham?

MR. HIGHAM: That's. . .basically correct. The south park or what's called Kahekili Park was completed some time ago.

CHAIR JOHNSON: Uh-huh.

MR. HIGHAM: The north park, the five-acre park on the northern end has not yet been done. And there's, I think, also an. . .uh . . .

. . . I forget the language, but it's a 150-foot setback area along the shoreline that is set aside, but there's no real improvements to that. So we've completed the south park. And as the development proceeds, we will complete the five-acre one on the north-end as well.

CHAIR JOHNSON: And so that should be completed by the. . .by the time certificate of occupancy is issued for Kaanapali Ocean Resorts, is that correct?

MR. HIGHAM: I, I'm not sure that there's a timetable that, that requires it to be done at any given time. Um. . .my understanding is that both of those parks is. . .were to remain private or to be maintained by private owners. They weren't to be conveyed to the, the County. We'd be glad to give them to you . . .(laughter). . . but I don't think that the County option. . .wanted to. . .to take them over. So we're currently maintaining the Kahekili Park and will continue to do so. And I guess we'll work with the County as far as the timing of the north park.

CHAIR JOHNSON: Okay. Alan?

COUNCILMEMBER ARAKAWA: Yeah, you know, Madam Chairman, I, I do think we, we need to put a time frame on that. Um. . .and that's. . .because there have been other developments that have been done whereby no timing has been put on. . .no time limit. And we especially saw that in the affordable housing requirement where there was no time limit. So I--

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CHAIR JOHNSON: I'm gonna have--

COUNCILMEMBER ARAKAWA: --I'd like to make sure--

CHAIR JOHNSON: --Mr. Kushi. . .yes--

COUNCILMEMBER ARAKAWA: Yeah, I'd like to make sure that there is a time. . .maximum time before that park can be developed.

CHAIR JOHNSON: What I'll do is I'll have Mr. Kushi address that because I don't know if at this, if at this juncture. . .we can compel. Because this is part of the SMA. . .requirement. So I would like Mr. Kushi to address that--do we have any authority to impose a time-line at this point?

MR. KUSHI: Um. . .I would suggest that you write a letter to the Planning Commission. . .to review its conditions and. . .and it's under their jurisdiction.

CHAIR JOHNSON: Okay.

COUNCILMEMBER ARAKAWA: And it, it can be worked out with the developers with satisfaction, but I would like to see a date . . .

CHAIR JOHNSON: A date . . .

COUNCILMEMBER ARAKAWA: . . . maximum date. Otherwise, we may be, 50 years from now, still discussing why we don't have a park there and the developer could be long gone. So. . .it's just from. . .past experience.

CHAIR JOHNSON: Okay. And, Mr. Higham, you have no problem with working in that. . .kind of direction--to come up with some kind of a time frame?

MR. HIGHAM: I have no problem at all. I, I would like to point out that we're, with the completion of Wainee Park, we will have completed. . .16 acres of park and we have not yet got any development on North Beach. So. . .it, the way I look at it is we're well ahead of the game. But, it's our intent to complete all of those requirements.

CHAIR JOHNSON: You're point is well taken. If there are no more questions, then. . .I just thank you very much, Mr. Higham, for coming. Do you have anything--

MR. HIGHAM: Thank you.

CHAIR JOHNSON: --further, Mr. Kushi?



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**ACTION: Recommending ADOPTION of resolution and FILING of communication.**

**ADJOURN: 1:59 p.m.**

APPROVED:



JO ANNE JOHNSON, Chair  
Parks and Recreation Committee

pr:min:010502:cs

Transcribed by: Camille Sakamoto