

**PARKS AND AGRICULTURE COMMITTEE**  
Council of the County of Maui

**MINUTES**

**November 18, 2004**

**Council Chamber**

**CONVENE:** 1:34 p.m.

**PRESENT:** Councilmember Jo Anne Johnson, Chair  
Councilmember Robert Carroll, Vice-Chair  
Councilmember Michael J. Molina, Member  
Councilmember Joseph Pontanilla, Member

**ABSENT:** Councilmember Charmaine Tavares, Member

**STAFF:** Shelly K. Espeleta, Legislative Analyst  
Clarita L. Balala, Committee Secretary

**ADMIN.:** John Buck, Deputy Director, Department of Parks and Recreation  
Patrick Matsui, Planning and Development Division Chief, Department of  
Parks and Recreation  
Glen Ueno, Assistant Engineering Program Manager, Development  
Services Administration, Department of Planning  
John D. Kim, Deputy Corporation Counsel, Department of the  
Corporation Counsel

**OTHERS:** Dennis Boehlje, Land Use/Project Planner, Betsill Brothers Construction,  
Inc.

**PRESS:** AKAKU – Maui Community Television, Inc.

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CHAIR JOHNSON: . . .*(gavel)*. . . The Parks and Agriculture Committee meeting of November 18, 2004 will come to order. In attendance today we have Vice-Chair of the Committee, Robert Carroll. We also have in attendance Councilmember Michael Molina, Councilmember Joseph Pontanilla, and Councilmember Tavares has made it known that she will not be able to attend the meeting today. From the Administration, we have Deputy Director, Mr. John Buck. We have also Mr. J.D. Kim, who is Deputy Corporation Counsel. We have also Ms. Clarita Balala and also Ms. Shelly Espeleta.

In the audience we do have available Mr. Glen Ueno. He's an Assistant Engineering Program Manager for the Development Services Administration.

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And in the audience we also do have a resource individual from the Betsill Brothers Construction Company, which is Mr. Dennis Boehlje. He's the Land Use and Project Planner.

**ITEM NO. 11: REQUEST FOR WAIVER OF PARK DEDICATION REQUIREMENTS FOR KENOLIO MAUKA SUBDIVISION (KIHEI)**

CHAIR JOHNSON: Today, Members, we have only one item scheduled on our agenda and that is Parks and Agriculture 11 and is a request for the waiver of park dedication requirements for Kenolio Mauka Subdivision, which is located in Kihei.

At this time, Clarita, did we have any individuals signed up to testify?

MS. BALALA: No.

CHAIR JOHNSON: Okay. Well, prior to the closing of the meeting, I will keep testimony open for the present time. But at this point I think it would be appropriate for the Parks Department if you could give us a brief overview, John, of what the particular waiver is being requested for and why you support it. Or would you prefer, John, to have the developer come forward and just give a brief summary?

MR. BUCK: Madam Chair, I'm going to have to play dumb 'cause I was hoping that Pat would be here. I think the waiver is . . . they do have an 1,800 square foot park in the development and there's also a balance of . . . they're going to pay I think \$12,000 cash. I think the waiver has to do with the restroom and the size of the park and the park location, it doesn't really make sense to have a restroom up in that area. I think that's a waiver. The developer maybe can probably a little bit more up on it. I apologize. I just had some figures of what the requirement is and what's in the park and the additional cash that they would be contributing to the County. I have that in front of me and if I'm not mistaken, the developer can correct me, I think they agreed to maintain the park.

CHAIR JOHNSON: Okay. At this point, Members, is there any objection to bringing Mr. Boehlje forward so that he can at least give us some background on this?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Thank you. And Dennis, if you're more comfortable, you can sit over here. If it's easier for you, you can stand there.

MR. BOEHLJE: This is fine.

CHAIR JOHNSON: Alright, thank you very much.

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MR. BOEHLJE: Dennis Boehlje, Land Use Planner with Betsill Brothers Construction.

CHAIR JOHNSON: Excuse me, Dennis, could you just plug the mike up? Thank you.

MR. BOEHLJE: This is the Kenolio Mauka Subdivision was a . . . is a ten-unit subdivision. Originally, we had not planned to have a park area. We were going to pay in new fees, but with meeting with the Kihei Community Association, they desired a small area, some kind of tot lot, some small pocket park. So we did provide it in this project. It is only 1,830 something square feet so it's not a large area by any means. Obviously, there is not much room on the park. It's intended only for the use of the inhabitants of this subdivision although it is open to the public. But any parking on-site would greatly limit its utility and provision of restrooms just wanted deemed necessary. And the various departments of the County who needed to act on this all favored that recommendation. I'll be glad to answer any questions.

CHAIR JOHNSON: Thank you. Members, do you have any questions at this point in time or questions for the representative? Councilmember Molina.

COUNCILMEMBER MOLINA: Okay, thank you, Madam Chair. Good afternoon, sir. Again, your justification for going this way was more because of the KCA's recommendation?

MR. BOEHLJE: Yeah, they did desire some kind of pocket park. Something for the neighborhood where they could gather if they wanted to. So, but being of limited size and the whole subdivision is of limited size, they didn't want us to set aside a full lot, another developable piece, I guess.

COUNCILMEMBER MOLINA: How much additional parking will be available for this park, if any?

MR. BOEHLJE: Well, the only parking available is the street parking.

COUNCILMEMBER MOLINA: I see, yeah. Okay, thank you.

CHAIR JOHNSON: Thank you. Are there any other questions, Members? Just to clarify, I believe that Mr. Buck's question was basically in regard to the maintenance.

MR. BOEHLJE: Oh.

CHAIR JOHNSON: If you would address that issue?

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MR. BOEHLJE: Yes. This project ultimately . . . well, I think it already has been turned over to the homeowners association and this park therefore is maintained by the association.

CHAIR JOHNSON: Okay and then in terms of the park fees, Mr. Buck is correct then in the amount that he stated, some \$12,000 additional?

MR. BOEHLJE: That's correct. That amount has been paid.

CHAIR JOHNSON: Alright. Thank you very much. Are there any other questions?

MR. BUCK: Madam Chair, I just wanted to just make a statement that there has been a lot of concerns addressed by the KCA as far as some of these subdivisions coming up in regards to the small parks. Just because of the drive time over in loading and unloading and just getting manpower up there, the Department when it's considered a small park . . . our practice has been it's not worth for us to maintain it so we usually ask for cash. And in this case is that I think we originally, and Mr. Matsui can correct me, originally I think we want to take the full cash payment because we did not want to maintain the park. But they came forward and said they would maintain the park for us. Because basically the concept of the park assessment is to try to provide open land in various neighborhoods, you know, open space or park land. Our practice has been if it becomes to costly for us to maintain, then we would take the cash and put it someplace else in the district. And again in this case, the developer or the homeowners association will maintain it. So that gets rid of the long-term liability or concerns the department has as far as maintenance.

CHAIR JOHNSON: Thank you very much. Are there any further questions? Yes, Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. One last question in regards to the maintenance of the park. Have you I guess . . . you have someone in mind already who will be maintaining the park and how often will they be maintaining?

MR. BOEHLJE: Actually, I can't answer that because it has been turned over to the homeowners association and I know that they . . . that their . . . I have heard discussions that they had hired somebody to do weekly maintenance, but I don't know who it is and what's involved in the details.

COUNCILMEMBER MOLINA: Okay, thank you.

CHAIR JOHNSON: Thank you very much, Dennis. If there are no further questions, thank you. Also, Mr. Pat Matsui has joined us. Thank you, Pat. And do you have any comments or questions because you were the individual that was primarily working on this with regard to I think because Kihei Community

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Association is not here today, were you able to visit with them or do you have any knowledge of that, Pat?

MR. MATSUI: No. I just wanted to confirm that, you know, the park was at the request of the Kihei Community Association. And it's been their consistent policy for all subdivisions. However small the park is, they ask for a park . . . a pocket park or whatever park. So we've been looking at privately maintained parks because, you know, we don't have the manpower to maintain those parks.

CHAIR JOHNSON: Thank you very much. Any questions, Members? Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. In regards to . . . I know we've done some other parks in regards to excluding certain things. When we say small parks, do you have any idea what size park should we be accepting and maintaining? I know you've had cases like, this is not the first one, so that we don't get into always coming to the Council to accept or reject, you know, a request that somehow or some way we could if it's like 2,000 square feet or less that homeowners association would take care of that as part of the agreement. Of course, part of the agreement also would be paying the park fee. What I'm trying to get at is, you know, coming to the Committee for every small park that we have that needs to be exempt.

MR. MATSUI: Number one, the ordinance requires in addition to land that they provide landscaping, irrigation, grassing, and a restroom and parking, unless it's waived by the County Council. So everyone of these small parks, you know, we are going to be coming to you to get a waiver because, you know, it doesn't make sense to put a restroom on such a small park.

COUNCILMEMBER PONTANILLA: I agree.

MR. MATSUI: Especially if it's just going to be used by the neighborhood. You know, they can walk to the park and go home and use the bathroom, and there's no need for off-street parking. So those kinds of parks by ordinance we gotta come back to you anyway. As far as the size, what we kind of look at is, you know, if the park is large enough that you could have a little league field or a small soccer field or anything like that that's larger that people outside of the community might be coming to use for practice, then it's something that we look at taking over. Because number one, like a soccer field, you cannot mow it with just your little push mowers. You need the large riding mowers that we have so, you know, we have the equipment for that. Plus, you know, we want control of that larger park to schedule Little League and Pee Wee League, and you know, soccer and the other types of activities. So that's kind of our benchmark that we look at. You know, if you can put some kind of an active recreational facility on it, then that's what we would take over, and you know, become a public park that we would

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maintain. And then at that time, again, we look at do you need a restroom, do you need off-street parking, and usually something that size, you do need something like that.

COUNCILMEMBER PONTANILLA: So when a development like this comes before like say the Planning Commission, I don't know if you guys do make any presentation to the Planning Commission in regards to the park itself, meaning that, you know, the same question, if it's 2,000 feet or less square foot or less, you know, the requirements would be just this. But if we need to come through ordinance . . . because of the ordinance that you need to come to the Council, then it's something that maybe we can take a look at, Chair? Similar to I guess utility poles and make that department make that determination.

CHAIR JOHNSON: Thank you. Is that all, Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Yeah, thank you.

CHAIR JOHNSON: Thank you. The Chair would also like to I guess just put on the record that sometimes even though there's small parks, there are occasions when you're looking like let's say the Mala area. It's a small area, but it's really popular with local people. So it might be appropriate in some situations even though the square footage of the site is very limited that there may be a need that has a greater public purpose where it may be appropriate to put a rest area or restroom, particularly if you're looking at shoreline areas. Maybe a very small area, but if it's depending on its isolation I think that each case kind of has to be looked at. I know it's kind of the way that Councilmember Molina deals with some of the easements. I think also the waterline easements we discuss these issues and I believe that in the utility easements too, he's taking it not on a per case basis where it may be sometimes appropriate rather than trying to pass it on the floor of the Council to bring it into Committee so that the Committee's aware of it. So that would be the only comment that I would have, but certainly if there are circumstances where it's recommended specifically by a community association perhaps that could be something that we could look at. Because I think that they know best what the needs of the community are. Are there any further questions? I wanted to defer to Ms. Espeleta who just had a comment to make about the drafting of the particular resolution. Shelly, would you just state for the record, what your intent is?

MS. ESPELETA: Chair, basically the resolution just needs to be worked on its clarity in regards to some . . . for instance, the first paragraph in including Ho`oiki Place as to the address of the park location. And basically, other nonsubstantive revisions throughout the resolution that if I could ask to work with Corporation Counsel on revising it.

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CHAIR JOHNSON: Okay, thank you. And I wanted Shelly to let you know that there were a few technical situations that had arisen when they were going through the actual resolution itself. So we intend to make those corrections. Before I make my recommendation, I would like to offer Mr. Ueno, do you have any comments at all that you wish to make at this time?

MR. UENO: No.

CHAIR JOHNSON: Alright. Thank you very much. I will at this time also close public testimony on this particular item. It is, therefore, the Chair's recommendation that we approve or that we pass onto the County Council the resolution "APPROVING THE WAIVER OF CERTAIN PARK REQUIREMENTS FOR A PRIVATELY OWNED PARK PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE, FOR THE KENOLIO MAUKA SUBDIVISION, KIHEI, MAUI, HAWAII" and that this correspondence attached be filed.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR JOHNSON: So it's been moved by Vice-Chair Carroll and seconded by Councilmember Molina. Is there any discussion? Are there any comments, J.D., that you have? Okay. Very well and the nonsubstantive changes will be worked on just as to style and technical corrections. So having no further comments on the part of the Members, I would just like to call for the vote at this time. All those in favor please signify by saying aye.

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: All those opposed? There's no one opposed to this and the Chair concurs.

**VOTE:       AYES:     Councilmembers Molina, Pontanilla, Vice-Chair Carroll, and Chair Johnson.**

**NOES:       None.**

**ABSTAIN:   None.**

**EXC.:       Councilmember Tavares.**

**MOTION CARRIED.**

**ACTION:     Recommending ADOPTION of revised resolution and filing of communication.**

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CHAIR JOHNSON: I would like to thank everyone for attending today. And I would also like to thank the representative. Kihei Community Association did indicate in a call to me that they were unable to attend but they basically supported the information that was given to us by both Mr. Matsui and also Mr. Buck. So I'd like to thank you.

Because we're reaching the end of our Council term, I believe we only have . . . is it one more meeting following this meeting? So it would be my intention at that meeting then to take care of whatever pending business which is generally referring whatever items we're going to refer and filing the remainder. So that would be the only order of business. So are there any announcements? I would just like to say for the record . . . (*turkey sounds*) . . . Happy Holidays because I know we are not going to be having . . . we'll have our Council meeting tomorrow but I'll bring my little friend along to the Council meeting as well. But I just want to say to everyone in the audience . . .

MR. BUCK: Did he get pardoned?

CHAIR JOHNSON: Yes?

MR. BUCK: Did he get pardoned?

CHAIR JOHNSON: He got pardoned, yes. Anyway, I thank you very much and to all those in the viewing audience, Happy Holidays and have a safe, very safe holiday. And this meeting is adjourned . . . (*gavel*) . . .

**ADJOURN:** 1:52 p.m.

APPROVED:

  
JO ANNE JOHNSON, Chair  
Parks and Agriculture Committee

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Transcribed by: Clarita L. Balala