

PARKS AND AGRICULTURE COMMITTEE
Council of the County of Maui

MINUTES

August 5, 2004

Council Chamber

CONVENE: 1:35 p.m.

PRESENT: Councilmember Jo Anne Johnson, Chair
Councilmember Robert Carroll, Vice-Chair
Councilmember Michael J. Molina, Member
Councilmember Joseph Pontanilla, Member (In: 1:42 p.m.)
Councilmember Charmaine Tavares, Member

STAFF: Tamara R. Koller, Legislative Analyst
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
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the
Corporation Counsel

CHAIR JOHNSON: ...*(gavel)*... The Parks and Agriculture Committee meeting of August 5th, 2004 will please come to order. We have present with us this afternoon Vice-Chair and Councilmember Robert Carroll. We have Councilmember Michael Molina, Councilmember Charmaine Tavares.

COUNCILMEMBER TAVARES: Good afternoon.

CHAIR JOHNSON: Good afternoon. And Councilmember Pontanilla is excused. He will be a few minutes late. We have with us from the Administration, Mr. John Buck, who is Deputy Director. We have also Corporation Counsel, Mr. Ed Kushi. We have with staff, Clarita Balala, Ms. Tamara Koller is just running copies, and Ms. Shelly Espeleta. So thank you, Members.

ITEM NO. 2: SEMI-ANNUAL REPORT REGARDING PARK DEDICATIONS

CHAIR JOHNSON: We have one item on our agenda this afternoon and it is PA-2, which is a semi-annual report regarding park dedications. At first, I would like to offer an opportunity for anyone in the public to come forward and testify. Seeing

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no one at this point in time, I'm not going to close public testimony in case someone would come in to the meeting and want to testify. So just remind me and we will close testimony later on.

COUNCILMEMBER TAVARES: I guess this isn't exciting is it?

CHAIR JOHNSON: This is something that really I believe under PA-2 is really critical to kind of look at what we're getting, where we're going to give the Committee a sense of direction with regard to the park dedications. And I think that, you know, with this semi-annual report regarding the park dedications it would give us a better idea, I believe, of the effectiveness of our ordinances and what direction we're actually moving in. So the Committee is in receipt of County Communication No. 04-166 from the Director of Parks and Recreation, transmitting a document entitled "Park Dedication Requirements Semi-Annual Report to the County Council dated October 1st . . . from October 1, 2003 thru March 31, 2004" pursuant to Section 18.16.320(L) of the Maui County Code. And so without further delay, I would open the discussion with comments and an explanation or any overview that you would care to give, Mr. Buck.

MR. BUCK: I would like to wait to . . . Tamara to come back with the copy of my report because you have the . . . what we collected as far as the park assessment fees, but the report I have also shows . . . you're asking for what it would have been under the Ordinance 3158, whatever, I don't have it in front of me. You will see that in some instances where we collected \$40 it should have been like in the hundred thousands. So I would like to bring that report back. Could we just wait until Tamara comes back with that copies?

CHAIR JOHNSON: Yes. And we also have joining us, Mr. Pat Matsui. What the Chair will do is take a five-minute recess so we will reconvene at 1:42. Is it 1:42? Yes, 1:42. So we'll be in recess until 1:42 . . . *(gavel)* . . .

RECESS: 1:37 p.m.

RECONVENE: 1:42 p.m.

CHAIR JOHNSON: . . . *(gavel)* . . . Parks and Agriculture Committee meeting of August 5th, 2004, will reconvene. Mr. Buck, would you proceed now that we've got the copies and the Council Members have the copies.

MR. BUCK: You have the copies in front of you. I think just for the record that maybe I should highlight maybe three different projects and three different areas. Under the Behnke, Kepler, and Theros Families Subdivision, we collected \$40. Under Ordinance 3158, that would have been 31,000. If we look under the Wailuku/Kahului on the same first page, 37 units, we collected \$4,414, got a .42 easement. Under Ordinance No. 3158, we would have collected 191,475. And

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the one that really sticks out is on the West Maui, Honolua Ridge, Phase I Subdivision, 25 units. We got cash. They only paid \$625. We should have received, if it was under the Ordinance No. 3158, 273,000.

CHAIR JOHNSON: And what does that tell us, Mr. Buck?

MR. BUCK: The developers got away cheap.

CHAIR JOHNSON: Councilmember Tavares,--

COUNCILMEMBER TAVARES: Yeah.

CHAIR JOHNSON: --would you like to ask a question?

COUNCILMEMBER TAVARES: Could you get more into detail about where it says amount? What is that amount reflecting? Is under another ordinance, what was actually collected? Or why are the amounts so small for what was collected?

MR. MATSUI: Backtracking a little bit.

COUNCILMEMBER TAVARES: Yeah, please.

MR. MATSUI: The formula that we used or the ordinance under which it falls under is based on the preliminary subdivision date or if it's not a subdivision, like if it's an apartment or like non-subdividable land, like condos, it's the building permit date. Okay, so for most subdivisions, you know, preliminary subdivision date is the one that triggers what ordinance we're under.

The first ordinance is 1996, January 18th. So anything that was before January 18th, 1996, the formula was the 245 square feet times the formula. Then after January 1996, the formula was upped from 245 square feet to 500 square feet, okay. And then that was based on again that formula of, what was that, apartment, undeveloped residential, developed residential, and a 40 percent discount, okay.

Then the next point was April 11, 2001. That's when that was based on the assessed real property valuation, okay. On that one, you know, couple things that made it low. One is, you know, it was on the value of the property so it's based on unimproved property, okay, if it was residential, okay. The other one, if it's ag, they have these ag exemptions so it doesn't show the fair market value of the property. So a lot of these \$40 and \$200, that's based on like the ag exemption where the property might be like 10 cents a square foot with the ag exemption, although it's worth, you know, a million dollars an acre, you know, market.

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So since we changed the ordinance, now we go to that formula by community plan so each community plan has a different number and the trigger date on that is February 6, '04. Okay, so as you look down the column, some of these . . . each one may be a different formula 'cause what we're showing is not the preliminary subdivision date, but the final subdivision date.

COUNCILMEMBER TAVARES: Okay.

MR. MATSUI: So some guys are way back from '96. Some guys are, you know. So every time we get a request, we gotta go back to when they got preliminary and then that's the formula we use.

COUNCILMEMBER TAVARES: Okay. Thank you for that explanation. We needed a little review of what that was because I saw the dates all looked kind of recent. So we have in effect fixed the problem as of February 6, 2004?

MR. MATSUI: I would say yes.

COUNCILMEMBER TAVARES: Yeah, okay. Thank goodness.

CHAIR JOHNSON: Are there any other questions? Mr. Buck, my question, you know, just would be because these amounts were so small, would the land formula have been any better had we accepted land or would it not have made any difference? You know, because I don't know, I can't recall what the land formula was.

COUNCILMEMBER TAVARES: Five hundred square feet, if it was after.

CHAIR JOHNSON: Five . . .

COUNCILMEMBER TAVARES: After 1996.

CHAIR JOHNSON: Yeah, but what I'm saying is let's say so if we took land instead of taking the cash, that we would have gotten 500 square feet--

COUNCILMEMBER TAVARES: Per unit.

CHAIR JOHNSON: --per unit.

MR. MATSUI: Yeah, that's correct, yeah.

CHAIR JOHNSON: So would that have been any better? I mean if you look at the values of it now even if we had taken the land, you know . . .

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COUNCILMEMBER TAVARES: Madam Chairman, I think it would have been to at what point was it the prerogative of the department to determine whether it was cash or land. I can't remember when that was changed.

CHAIR JOHNSON: That was changed I think, Pat, in 2001, if I'm not mistaken?

MR. MATSUI: That's correct.

CHAIR JOHNSON: Yeah, that was the 2001 date so you're correct.

COUNCILMEMBER TAVARES: Yeah.

CHAIR JOHNSON: And based on that, obviously, it's the choice, you know, of the developer in some of these instances. Do you have any other comments about, you know, let's say with regard to the semi-annual report? Any indications of where we stand in terms of the overall, you know, requirements? And obviously, we don't have the new report because that will come in I guess during the next . . . you're doing this semi-annually so the cutoff date under this was what date, Mr. Buck?

MR. MATSUI: It will be the end of the third quarter.

CHAIR JOHNSON: End, okay. So end of the third quarter we'll get the next report. You have any preliminary indication how we're doing? Obviously, we're going to be doing better, hopefully. Yes, if you could answer.

MR. MATSUI: A lot of 'em you'll be seeing like a lot of like in Kihei, the Kihei Community Association been insisting the developer give land. So we have all these lot of small pocket parks and our policy has been privately owned, privately maintained. So, you know, that's . . . we're getting that from that . . . those. More recently, there's a lot of like I guess condos. So those are getting the full impact because the cutoff date is the building permit approval so they all will fall under the present ordinance which is the, you know, the high amount. But, you know, it just kind of varies for the other subdivisions when the preliminary subdivision approval is granted.

CHAIR JOHNSON: Okay. And on this report because I know that, if I'm not mistaken, some of the let's say requirements where we've actually waived park assessment, when we waive it totally by another action, will you also include that in these reports? Let's say if we have a 201G or like the elderly housing that we approved over by Ooka's, you know, when they ask for a complete exemption of all park requirements, will that be reflected? So that at least even if you put, and it was suggested by staff that maybe a legend down at the bottom kind of showing which ordinance it's under might be helpful or showing, you know, developer's choice. You know, just kind of a summary, but would you be

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indicating when that occurs if they're not even being subjected to park requirements?

MR. MATSUI: You know, we could . . . we could include that, if that's what you want, but you can kind of tell by the amounts like take for instance the Paia/Haiku Arafiles Subdivision, there was two lots, and the fee was \$1,300 and so that came in under . . . prior to April 2, '01, where they had a formula, okay. There's also one more thing is that if a property was subdivided and they had used the three-lot exemption earlier, then any subsequent subdivision of those lots would not have a three-lot subdivision. So like this Arafiles, that one particular lot, was part of a subdivision that already had that three-lot credit so now they subdividing one lot into two lots so they've created one more residential lot. So the formula is one lot times 1,354.

CHAIR JOHNSON: Okay.

MR. MATSUI: So you can kind of figure out what that is, yeah.

CHAIR JOHNSON: Committee members, would you want to see included the amounts? Even though we may have waived it in another arena in terms of the park assessment like let's say when we do affordable housing and they ask for release of park requirements or I believe we did the elderly housing let's say for example by Ooka's, would you like to see that included in this report? So that we can have an analysis or do you feel it's not important? Councilmember Tavares.

COUNCILMEMBER TAVARES: Madam Chair, if it's not a difficulty for the department to note those, you know, in their report, then I would say it would be interesting information, but if it's an extra hassle for them to have to go back and look at it, I don't know how their . . . how Pat keeps the records of the subdivisions. If it's something that could be entered in easily, then, you know, it would be useful information. But, if not, I think we can do it like this as we ask questions about the subdivisions.

CHAIR JOHNSON: Right. Pat, would it be a huge problem for you to just simply include those units and then what we would've collected or what was waived?

MR. MATSUI: Well, how we compile this is, you know, Finance has a record. Every time we collect money we send it to them so they have this ledger and so we go back to that and use that as a basis. Now for those projects that never had any, you know, the waiver was . . . it was waived, you know, we wouldn't have the record. So it would just have to be from somebody's memory that oh, okay, this one came on board, and you know, so we would have to go back on the file, and you know, it's a lot more extra work for us.

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CHAIR JOHNSON: Then my inclination would be . . . Staff, is there any way that we could make a request, you know, maybe Human Services, or you know, because generally when 201E's or 201G's come before us or anything for exemption, is there any way that they could . . . we could make a request just stating that we would like some kind of an update, maybe even annual so that we would be able to have an indication of what, what was waived? Tamara.

COUNCILMEMBER TAVARES: It's just the 201G's, right?

COUNCILMEMBER PONTANILLA: 201G's.

CHAIR JOHNSON: 201G's.

MS. KOLLER: Madam Chair, we can look into that. I just wanted to point out that the ordinance that amended this section of the Code, the one that you have in front of you, 3158, in Item L on page 7, it's very specific as to what this particular report is requesting. It's possible that there may be some . . . something that we can check with Housing and Human Concerns. We'll have to look and see what the best format is.

CHAIR JOHNSON: Yeah. And that's why I don't want to deviate from, you know, what we've got here and also I think with adding additional burden on to Parks, I don't want to do that at this point in time. The suggestion though of putting some kind of a legend, Mr. Matsui, would that be difficult so that, you know, maybe if one asterisk or two asterisks or whatever, would that be a problem?

MR. MATSUI: We can show you what ordinance it falls under so what, you know, essentially what formula we're using, we can add another column.

CHAIR JOHNSON: Well, yeah. You can either do that or if you just put, you know, because they're only going to fall into three categories, right? There's going to be the new ordinance, there would be the old one, and then what we had in the interim, which was a formula change. So if you'd just put a little legend down at the bottom and either denote one, two, or three, you know, asterisks.

MR. MATSUI: Actually, there's four.

CHAIR JOHNSON: Or four? Oh, there's four?

MR. MATSUI: Four categories.

CHAIR JOHNSON: I leave that up to you. It's just a suggestion.

MR. MATSUI: Okay.

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CHAIR JOHNSON: And you can deal with it however you wish.

MR. MATSUI: Okay.

CHAIR JOHNSON: Okay. Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. Just a question. Do we know how many preliminary approvals that were already given that we're looking forward to as far as, you know, the amounts that based on the old formula and I guess the new formula? Do we know how many of those we got?

MR. MATSUI: From our standpoint, you know, we're just one of the stops along the line. We don't keep a running tab. You might ask Public Works, but I'm not sure if they do have a running tab or if they would have to go back to research all of that information.

COUNCILMEMBER TAVARES: How many got preliminary, but not final?

COUNCILMEMBER PONTANILLA: Yeah. How many preliminary, how many not final, all of those things?

MR. MATSUI: They might have a record because like if you have preliminary, you have so much time to submit for final.

COUNCILMEMBER PONTANILLA: Uh-huh.

MR. MATSUI: And if you don't, then you have to apply for a renewal. So they might be able to track the renewals.

COUNCILMEMBER PONTANILLA: So if they apply for renewal, can we go with this new Ordinance 3158?

MR. MATSUI: If the subdivision approval lapses, then yes, they have to come in for a new preliminary and that would be based on this ordinance.

COUNCILMEMBER PONTANILLA: Thank you, Chair.

CHAIR JOHNSON: Do you want a letter sent to Public Works?

COUNCILMEMBER PONTANILLA: Yeah, just to get those numbers to see.

CHAIR JOHNSON: Staff, do you understand what Councilmember Pontanilla's requesting? Okay, so we will send a letter, Councilmember Pontanilla,--

COUNCILMEMBER PONTANILLA: Okay, thank you.

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CHAIR JOHNSON: --requesting if they have that information available and if so, if they can transmit it to this Committee. Any other questions? Councilmember Tavares.

COUNCILMEMBER TAVARES: Yeah. So according to this chart that you provided for us, then there was . . . there were no park lands dedicated as a result of these . . . of any subdivisions during this time period?

MR. MATSUI: No, it does not include the park land. It was just the cash.

COUNCILMEMBER TAVARES: Okay. So you guys are going to re-look at that Section L because it asks for--

CHAIR JOHNSON: It asks for cash and land . . .

COUNCILMEMBER TAVARES: --cash and land and corresponding improvement.

MR. MATSUI: Okay, I think we missed the land part.

COUNCILMEMBER TAVARES: Okay. Because I think we were trying . . . when we did this and as I'm noting it here, it's probably not that clear how we stated this ordinance amendment, but it was all the ways that people can satisfy park dedications so we wanted a report of all those different ways, which ones used, you know, you used land, which one you used cash, which ones you used combination of or an improvement in another park. So it was kind of all of those.

CHAIR JOHNSON: Yeah.

MR. BUCK: And that land, do you want it if it's privately owned, privately maintained or just land?

COUNCILMEMBER TAVARES: No, just the land. The square feet or whatever it is.

CHAIR JOHNSON: And if you wanted to include, Mr. Buck, the information as to whether it's privately maintained, that's fine. Again, you could use a legend. But Councilmembers because, you know, we have another part of the information that's coming we can do this one or two ways. We can either file this part of the report today or we can defer it, leave it open, and then because it's already in Committee, just have them transmit the remaining part of the information. It's up to you. You know, it's just gonna be . . .

COUNCILMEMBER TAVARES: Well, why don't we . . . oh, excuse me, Madam Chair, why don't we just file this report because the third quarter report, you know, the report due for third quarter will be next . . . after next March I guess it is.

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CHAIR JOHNSON: And they can include it.

COUNCILMEMBER TAVARES: And they can just include it all together. I mean this is new so I, you know, would expect that there might be some confusion about what should be in it or not. And I think in the meantime, maybe we can have our staff work on amending this L Section so that it clearly mirrors what's in the ordinance regarding the park dedication so that there's not any kind of confusion as to what part of what is applicable.

CHAIR JOHNSON: Right. That's a very good suggestion. Alright, Members, are there any other questions?

COUNCILMEMBER TAVARES: Thank you.

CHAIR JOHNSON: Thank you. I just want to really thank John and Pat and whoever worked on just doing the analysis because I think that bringing this into Committee . . . one of the reasons I wanted to look at was so that we could have an analysis and a comparison to know if we were moving in the right direction because that's the whole purpose of the report. I believe that's our intent for this Committee. So I want to thank the Members and the Chair would entertain a motion at this point in time to file this particular item.

COUNCILMEMBER TAVARES: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR JOHNSON: It's been moved by Councilmember Tavares, seconded by Councilmember Molina to file PA-2 and all of the attached documents. Tamara, . . . oh yes. And at this point in time before we take a vote, I close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Without objection. Alright, thank you very much for reminding us.

COUNCILMEMBER TAVARES: Madam Chair.

CHAIR JOHNSON: Yes.

COUNCILMEMBER TAVARES: Before you take the vote, could we get back to that legend that you want to see in the next report.

CHAIR JOHNSON: Uh-huh.

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CHAIR JOHNSON: So thank you very much. Any announcements? At this point in time, thank you all for attending the meeting and this meeting of August 5th is adjourned . . .(gavel). . .

ADJOURN: 2:05 p.m.

APPROVED:


JO ANNE JOHNSON, Chair
Parks and Agriculture Committee
pa:min:040805

Transcribed by: Clarita L. Balala