

COUNCIL OF THE COUNTY OF MAUI

PARKS AND AGRICULTURE COMMITTEE

January 16, 2004

**Committee
Report No.**

04-8

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

Chair and Members:

Your Parks and Agriculture Committee, having met on November 6, 2003 and December 8, 2003, makes reference to County Communication No. 97-328, from Councilmember Wayne K. Nishiki, relating to the effectiveness of Section 18.16.320, Maui County Code, regarding park dedications.

Your Committee notes that County Communication No. 97-328 was referred to the Council's Parks and Recreation Committee (1997-1998 Council term) at the Council meeting of October 17, 1997.

At its meeting of December 2, 1998, the Parks and Recreation Committee met to discuss the disposition of all items on its agenda and recommended that County Communication No. 97-328 be referred to the Council Chair for the term beginning January 2, 1999.

At its meeting of December 18, 1998, the Council referred County Communication No. 97-328 to the Council Chair for the term beginning January 2, 1999 (Committee Report No. 98-236).

At its meeting of January 11, 1999, the Council referred County Communication No. 97-328 to the Council's Human Services and Parks Committee (1999-2000 Council term).

At its meeting of November 15, 2000, the Human Services and Parks Committee recommended that County Communication No. 97-328 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 97-328 to the Parks and Recreation Committee (2001-2002 Council term) (County Communication No. 01-20).

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Your Committee further notes that the Parks and Recreation Committee previously reported on this matter in Committee Report No. 01-132, which recommended that a bill entitled "A BILL FOR AN ORDINANCE TO AMEND SECTION 18.16.320 OF THE MAUI COUNTY CODE RELATING TO DEDICATION OF PARKS AND PLAYGROUNDS" pass first reading and be ordered to print. The purpose of the proposed bill is to revise the formula for determining the amount of money required in lieu of providing park lands. The revised formula requires that subdividers pay to the County a sum of money equal to the number of square feet multiplied by 100 percent of the certified real property tax assessment in effect at the time of final subdivision approval. At its meeting of August 3, 2001, the Council adopted Committee Report No. 01-132. Ordinance No. 2981 was effective on August 24, 2001.

At its meeting of December 4, 2002, the Parks and Recreation Committee recommended that County Communication No. 97-328 be referred to the Council Chair for the term beginning January 2, 2003, for a recommendation as to referral or other disposition.

At its meeting of January 10, 2003, the Council referred County Communication No. 97-328 to your Parks and Agriculture Committee (County Communication No. 03-11).

By correspondence dated October 30, 2003, your Committee's Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE RELATING TO PROPERTY VALUATION FOR PAYMENTS IN LIEU OF PARK DEDICATIONS." The purpose of the draft bill is to establish that the "certified market value real property appraisal" shall determine a property's valuation for purposes of calculating required payments in lieu of park dedications. Establishing a property's valuation based on the certified market value real property appraisal rather than the certified real property tax assessment in effect at the time of final subdivision approval would enable the County to realize additional revenues.

By correspondence dated October 30, 2003, your Committee's Chair requested that the Director of Parks and Recreation prepare a report to illustrate concerns (with examples by district and type of subdivision) regarding the current formula for determining the amount of money required in lieu of providing park lands.

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By correspondence dated November 5, 2003, Bob McNatt, Vice President/Land Planning & Development of Maui Land & Pineapple Company, Inc., expressed concerns relating to the draft bill.

At its meeting of November 6, 2003, your Committee met with the Director of Parks and Recreation; the Deputy Director of Parks and Recreation; the Chief of Planning and Development, Department of Parks and Recreation; the Director of Finance; the Deputy Director of Planning; and a Deputy Corporation Counsel.

Your Committee received testimony from five members of the public providing suggestions for improving the draft bill, and stating concerns about: (1) the subjective use of a market appraisal at the time of final subdivision approval; and (2) the unfairness to properties with higher assessments.

The suggested improvements to the draft bill included: (1) developing an assessment on a per bedroom basis or the square footage of the unit; (2) providing flexibility in the legislation that would permit the dedication of park lands to another community plan area where parks are needed; (3) using the real property tax assessment as the basis for the formula; (4) using the island-wide assessment, rather than the current market value, to calculate park dedication fees; (5) basing park dedication fees on the demand caused by the development; and (6) including an interconnected system of parks, greenways, and natural areas when evaluating land dedications.

One testifier who represented the Kihei Community Association expressed the importance of locating parks in the neighborhoods where residents can walk to the parks.

Your Committee notes that the draft bill incorporates the Department of Parks and Recreation's recommendation to use the "certified market value real property appraisal" to determine a property's valuation for purposes of calculating park assessment fees in lieu of park dedications.

The Chief of Planning and Development provided a copy of a report, comparing recent park assessment fees collected with the park assessment fees that would have been collected prior to the enactment of Ordinance No. 2981. According to the report, the average amount of fees collected is considerably

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less than what would have been collected prior to the enactment of Ordinance No. 2981.

The Chief provided additional recommendations to revise the draft bill as follows: (1) require that the subdivider make the same improvements for park land dedications (i.e., grading, grass planting, automatic irrigation, parking areas, adequate drainage, and comfort stations) as required for privately-owned and maintained parks (Subsection 18.16.320.B.2.e); (2) clarify that the Director of Parks and Recreation shall approve excess credit for land dedications (Subsection 18.16.320.F); (3) require that, at the time of dedication of park lands, the subdivider shall state the intention to use any excess lands for future credits, and shall confirm that the Director of Parks and Recreation has approved said excess credit (Subsection 18.16.320.F); and (4) clarify that the park dedication requirements shall apply to subdivisions in Project Districts to resolve any conflict within the various sections of the Maui County Code (Subsection 18.16.320.A "Subdivision").

The Deputy Corporation Counsel provided a comparison chart of the pertinent park dedication provisions for each of the counties within the State of Hawaii. He indicated that the City and County of Honolulu requires the dedication of 50 square feet per dwelling unit for subdivisions of four lots or less and 350 square feet per unit for subdivisions of nine lots or more. The County of Hawaii requires 458 square feet per unit for multi-family units and 763 square feet per unit for single-family units. The County of Kauai requires the dedication of 162 square feet per unit for multi-family units and 270 square feet per unit for single-family units. The County of Maui falls in the mid-range, requiring 500 square feet per lot or unit, in excess of three units.

The Deputy Corporation Counsel reported that all counties within the State provide for cash payments in lieu of the dedication of land based on the fair market value of the land that would have been dedicated. The counties also provide for an appraisal process in the event the applicant and the county disagree on the fair market value of the land.

Your Committee requested that a reporting requirement be added to the draft bill to enable the Council to respond on a timely basis if the revised formula does not address the various concerns.

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Your Committee authorized your Committee's staff to work with the Department of the Corporation Counsel and your Committee's Chair to further refine the draft bill.

Your Committee deferred the matter pending further discussion.

By correspondence dated November 17, 2003, George Rixey and Gary Elster of the Kihei Community Association, expressed concerns regarding the Kai Makani project and the Mai Poina Oe Lau Beach Park.

By correspondence dated December 2, 2003, your Committee's Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE RELATING TO PROPERTY VALUATION FOR PAYMENTS IN LIEU OF PARK DEDICATIONS". The purpose of the draft bill is to revise the formula required for calculating payments in lieu of park dedications to multiply the number of square feet by the average value per square foot of lands classified as improved residential, apartment, and unimproved residential, determined at subdivision approval in accordance with the most recent certified assessment for real property tax purposes in the respective community plan area where the subdivision is located.

At its meeting of December 8, 2003, your Committee met with the Director of Parks and Recreation; the Deputy Director of Parks and Recreation; the Division Chief of Planning and Development, Department of Parks and Recreation; the Director of Public Works and Environmental Management; the Accounting System Administrator, Department of Finance; the Planning Program Administrator, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received oral testimony from one member of the public correcting his written testimony by stating that he now supports the proposed revisions for calculating payments in lieu of park dedications.

Your Committee reviewed a new draft bill that incorporates your Committee's recommendation to revise the formula for payment of money in lieu of providing park lands. The revision reverts to the formula established prior to the enactment of Ordinance No. 2981, but excludes the 45 percent discount applied to the assessed valuation of the subdivided lands, and is computed for each community plan area. The draft bill also includes the recommendations

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received at your Committee's previous meetings from the Department of Parks and Recreation.

The Director of Parks and Recreation reiterated concerns expressed by your Committee relating to the need for more park land, especially in areas experiencing dramatic growth, such as South Maui.

Your Committee noted that the proposed amendment, which excludes the 45 percent discount, is necessary to respond to the increasing demand for more park lands. Your Committee emphasized that payments in lieu of providing park lands can no longer be discounted if it is the County's intent to purchase more park lands. The payments must be equivalent to the value of the subdivided lands.

Your Committee also noted that using the taxable assessed value by community plan region recognizes the extreme differences in various areas of the County.

After discussion, your Committee voted to revise the draft bill to: (1) clarify the definition of "subdivisions" to include subdivisions within project districts and dwelling units/apartments relating to condominium property regimes; (2) clarify that privately-owned and maintained parks and playgrounds specify whether or not the parks are open to the public; (3) change the quarterly report regarding park dedications to a semiannual report, and include improvements to existing park facilities in the report; (4) specify that the ordinance shall apply to building permits filed or subdivisions that receive preliminary subdivision approval after the effective date of the ordinance; and (5) make nonsubstantive changes for clarity and consistency.

Your Committee voted to recommend passage of the revised bill on first reading and filing of the communication.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND SECTION 18.16.320, MAUI COUNTY CODE, RELATING TO PROPERTY VALUATION FOR PAYMENTS IN LIEU OF PARK DEDICATIONS", approved as to form and legality by the Department of the Corporation Counsel, incorporating the amendments recommended by your Committee.

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Your Parks and Agriculture Committee RECOMMENDS the following:

1. That Bill No. _____ (2004), attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND SECTION 18.16.320, MAUI COUNTY CODE, RELATING TO PROPERTY VALUATION FOR PAYMENTS IN LIEU OF PARK DEDICATIONS" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That Communication No. 97-328 be FILED.

Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Chair

JOSEPH PONTANILLA Member

ROBERT CARROLL Vice-Chair

CHARMAINE TAVARES Member

MICHAEL J. MOLINA Member