

COUNCIL OF THE COUNTY OF MAUI

PARKS AND RECREATION COMMITTEE

December 17, 2002

Committee
Report No. 02-202

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 November 13, 2002 and December 4, 2002, makes reference to a Miscellaneous Communication dated May 21, 2001, from the County Clerk, referring the matter relating to fees for ocean recreational activity business permits (permits) to your Committee (referred by your Budget and Finance Committee through Committee Report No. 01-78, As Amended).

Your Committee notes that it previously reported on this matter through Committee Report No. 02-51, which recommended that a proposed resolution, entitled "URGING THE DEPARTMENT OF FINANCE TO DISCONTINUE THE ISSUANCE AND RENEWAL OF OCEAN RECREATIONAL ACTIVITIES BUSINESS PERMITS AT CERTAIN COUNTY PARKS IN KIHEI", be adopted. At its meeting of April 5, 2002, the Council adopted Committee Report No. 02-51(Resolution No. 02-54).

Your Committee also notes that it previously reported on this matter through Committee Report No. 02-104, which recommended that a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 5.24, MAUI COUNTY CODE, PERTAINING TO OCEAN RECREATIONAL ACTIVITY BUSINESS PERMITS", be passed on first reading and be ordered to print. At its meeting of August 20, 2002, the Council adopted Committee Report No. 02-104 (Bill No. 48 (2002)).

By correspondence dated October 29, 2002, your Committee Chair requested that the Department of Parks and Recreation provide preliminary funding estimates for the administration and enforcement of permits.

At its meeting of November 13, 2002, your Committee met with the Director of Parks and Recreation, the Director of Finance, and a Deputy Corporation Counsel.

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Your Committee received testimony from two individuals who stated that they supported maintaining the current ocean recreational activity business permit fee (permit fee) of \$250, that a beach park enhancement revolving fund (revolving fund) be established for the purpose of collecting permit fees to be utilized for the enhancement of beach parks, and that park rangers be hired to enforce rules and regulations at County beach parks. One testifier requested that an appeals process be established to allow ocean recreational activities businesses (operators) the opportunity to appeal decisions rendered by the Director.

Your Committee received the following items at the meeting:

1. Correspondence dated November 13, 2002, from your Committee Chair, transmitting correspondence dated November 11, 2002, from Martin Kirk, Member, Maui Committee on Ocean Recreation Permits, Ocean Tourism Coalition.
2. Correspondence dated November 13, 2002, from the Director of Parks and Recreation, providing appropriation requests for potential capital improvement projects to be considered during the Fiscal Year 2004 Budget deliberations.

The Director of Finance stated that the moratorium on the issuance of permits has been lifted by the Administration. However, the permits currently being issued have an expiration date of December 31, 2002. The limited term of the permit is to allow the Department of the Corporation Counsel to draft a proposed bill that would transfer the authority for issuance of permits to the Department of Parks and Recreation. He also stated that no permits are being issued at Cove Park and the southern portion of Kalama Park in Kihei. Furthermore, he noted that the Department of Police is monitoring the restriction on commercial activity during the weekends and holidays at Launiupoko Beach Park and Cove Park.

The Director of Parks and Recreation indicated that the Department is recommending the creation of three park rangers and support personnel to

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monitor beach parks and campsites. He noted that funding for the new positions and equipment is estimated to be \$122,808.

Your Committee expressed concerns about the amount of commercial activity and public use of certain County parks. Your Committee felt that use of County beach parks should be assessed prior to the issuance of additional permits. Your Committee noted that the Department of Parks and Recreation should identify beach parks that are experiencing extensive use and provide recommendations for establishing controls to prevent overuse by the public and operators.

Your Committee also noted that there currently is no limit on the number of beach parks at which an operator can conduct business. Your Committee felt that consideration should be given to limiting the number of beach parks an operator is authorized to conduct commercial activity.

Your Committee also expressed a desire to create a revolving fund for the deposit of fees, fines, and forfeitures. Funds from the revolving fund would be used for the administration and enforcement of permits, and for the enhancement and maintenance of County beach parks.

Your Committee requested that (1) the Department of Parks and Recreation provide a cost estimate for conducting a park assessment study; and (2) the Department of the Corporation Counsel submit a proposed bill establishing a revolving fund.

Your Committee deferred the matter pending further discussion.

By correspondence dated November 27, 2002, the Director of Parks and Recreation transmitted cost estimates for conducting a park assessment study for County beach parks.

At its meeting of December 4, 2002, your Committee met with the Director of Parks and Recreation, the Director of Finance, and a Deputy Corporation Counsel.

Your Committee received testimony from two individuals.

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One testifier indicated that operators contribute to the County through park beautification efforts, water safety, and beach patrols. She stated that the operators help to enhance the experience of visitors to the island and are partly responsible for Maui's designation as the number one island tourist destination in the world. She noted that the operators are present at County beach parks on a daily basis, therefore, they can provide your Committee with necessary information to assess the demands on such facilities. She urged your Committee not to authorize funding for an impact study on County beach parks.

The other testifier extended apologies for a letter that was distributed at your Committee's meeting of November 13, 2002. He stated that the letter may have caused confusion as it relates to two groups, the Maui Committee on Ocean Recreation Permits, Ocean Tourism Coalition, and the "working group" formed by the Department of Parks and Recreation. He noted that the letter was not intended to reflect the views of the "working group". The testifier further stated that with proper enforcement of existing ordinances, commercial activities at beach parks can operate without conflicting with the public enjoyment of the beaches. He further noted that operators contribute to the community by providing free clinics to local Maui children to introduce them to new sporting activities such as surfing, windsurfing and kite boarding. He felt that the operators and County can work together to manage the valuable assets of Maui.

The Director stated that the cost estimate for performing a beach park assessment study is \$28,050; however, he noted that the estimate did not include travel, lodging and taxes.

Your Committee noted that a beach park assessment study that would review issues relative to carrying capacity limits at County beach parks should be performed by the Department of Parks and Recreation. Your Committee felt that carrying capacity is a matter that requires further review; however, they felt that the estimated cost for the study is prohibitive.

In response to an inquiry by your Committee, the Director stated that he supported the creation of a revolving fund for the purpose of administering and enforcing the issuance of permits.

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Your Committee noted concerns about creating a revolving fund. Your Committee felt that revolving funds may be difficult to administer, especially if funds deposited are not adequate to implement the programs for the purpose they were created.

Your Committee further noted that the permit fee of \$250 should be discussed further during deliberations on the Fiscal Year 2004 Budget. Your Committee felt that the permit fee should reflect additional charges for the use of numerous beach parks by an operator.

Your Committee voted to refer the Miscellaneous Communication and the following matters to the Council Chair for the Council term beginning January 2, 2003:

1. the permit fee of \$250 for consideration during Fiscal Year 2004 Budget deliberations; and
2. the creation of park rangers for enforcement and patrol of County beach parks and campsites.

Your Parks and Recreation Committee RECOMMENDS the following:

1. That the matter of ocean recreational activity business permit fees of \$250 be REFERRED to the Council Chair for the term beginning January 2, 2003 for consideration in the Fiscal Year 2004 Budget Session;
2. That the matter of creating park rangers for patrol and enforcement of County parks, facilities and campsites be REFERRED to the Council Chair for the term beginning January 2, 2003; and
3. That the Miscellaneous Communication be REFERRED to the Council Chair for the term beginning January 2, 2003.

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Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Chair

MICHAEL J. MOLINA Member

ROBERT CARROLL Vice-Chair

CHARMAINE TAVARES Member

DANNY A. MATEO Member