

COUNCIL OF THE COUNTY OF MAUI
PARKS AND ECONOMIC
DEVELOPMENT COMMITTEE

February 17, 2006

Committee
Report No.

_____ 06-24

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

Chair and Members:

Your Parks and Economic Development Committee, having met on February 2, 2006 (site inspection and meeting), makes reference to County Communication No. 05-328, from the Director of Parks and Recreation, transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF A DONATION FROM LAUNIUPOKO ASSOCIATES LLC TO THE DEPARTMENT OF PARKS AND RECREATION, COUNTY OF MAUI, PURSUANT TO SECTION 13-8, CHARTER OF THE COUNTY OF MAUI (2003), AND CHAPTER 3.56, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept a donation of \$25,250 from Launiupoko Associates, LLC to the Department of Parks and Recreation for County parks programs.

Your Committee notes that Launiupoko Associates, LLC entered into an agreement with the County entitled "Agreement Regarding Park Dedication" (Agreement) dated October 6, 2004 in connection with Launiupoko Associates, LLC's development of the Mahanalua Nui Subdivision, Phase IV, situated at Launiupoko, Lahaina. The purpose of the Agreement is to establish certain payments and commitments to satisfy Launiupoko Associates, LLC's requirements with respect to park dedications under Maui County Code, Section 18.16.320(C). Furthermore, the Agreement memorializes Launiupoko Associates, LLC's voluntary, independent commitments for the purpose of improving public parking at Launiupoko Wayside Park.

Your Committee further notes that, pursuant to the Agreement, Launiupoko Associates, LLC has made a voluntary donation to the County in the amount of \$25,250 for County parks programs, and an additional payment to the County in the sum of \$9,750 to satisfy the in-lieu payment requirement, pursuant to Maui County Code, Section 18.16.320(C). Furthermore, Launiupoko Associates, LLC has made a commitment in cooperation with Makila Land Co., LLC to set aside approximately 0.8 acres of land currently owned by Makila Land Co., LLC to be used as public parking for Launiupoko Wayside Park.

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Your Committee further notes that pursuant to Section 13-8 of the Revised Charter of the County of Maui (1983), as amended, “the council, on behalf of the county may accept gifts or donations of money, securities or other personal property or of real estate or any interest in real estate”.

At its site inspection, your Committee met with the Deputy Director of Parks and Recreation; the Deputy Director of Public Works and Environmental Management; David Minami, Site Manager, West Maui Land Company, Inc.; and a Deputy Corporation Counsel.

Your Committee notes that West Maui Land Company, Inc. is a land management company that oversees landowners Launiupoko Associates, LLC and Makila Land Co., LLC.

There was no public testimony.

The Deputy Director of Parks and Recreation provided a brief overview of the area. He stated that under a prior formula, the park assessment for the Mahanalua Nui Subdivision, Phase IV, was approximately \$78. As a result, Launiupoko Associates, LLC voluntarily agreed to a monetary donation of \$25,250 to the County for parks programs. Launiupoko Associates, LLC, in voluntary cooperation with Makila Land Co., LLC, also set aside 0.8 acres of land owned by Makila Land Co., LLC for public parking at Launiupoko Wayside Park.

Although the Agreement identifies 50 parking spaces, Mr. Minami stated that there are 51 spaces in the area, including parking spaces designated for disabled persons. He stated that the parking area is open to the public, and is being privately maintained by Makila Land Co., LLC and Launiupoko Associates, LLC, which may include one or more homeowners’ associations, at no expense to the County under a ten-year agreement.

Your Committee questioned the level of safety for cars parked in the area. Mr. Minami stated that although no theft problems are known to exist, the area is occasionally inhabited by homeless individuals and abandoned appliances and vehicles. He further stated that West Maui Land Company, Inc. has been using their own resources to remove abandoned items when necessary. He expressed an interest in working in cooperation with the County to address this issue.

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Your Committee suggested erecting a sign on the Honoapiilani Highway to notify the public of the parking area. The Deputy Director of Parks and Recreation stated his intention to check with the State Department of Transportation as to who has jurisdiction over the highway.

Your Committee deferred the matter pending further discussion.

At its meeting, your Committee met with the Deputy Director of Parks and Recreation; the Deputy Director of Public Works and Environmental Management; a Deputy Corporation Counsel; and Heidi Bigelow, Project Coordinator/Office Manager, West Maui Land Company, Inc.

There was no public testimony.

Ms. Bigelow provided a brief overview of the matter. She stated that the parking area has been irrigated, landscaped, and maintained since the inception of the Agreement in 2004. She stated that both Launiupoko Associates, LLC and Makila Land Co., LLC have addressed the occasional occurrences of abandoned vehicles and appliances in the area. She further stated that at the time the Agreement was drafted, consideration for abandoned vehicles and appliances was not included. Ms. Bigelow inquired as to whether the County could assist in coordinating a drop-site to deposit abandoned items; however, she maintained that because the park is privately owned and maintained, the removal of the items would still be the responsibility of the landowner.

The Deputy Corporation Counsel noted that paragraph 4(c) of the Agreement specifically states that the maintenance of the parking area shall be performed by the landowner or their designees at no expense to the County. Your Committee suggested that an organization such as the Community Work Day program be contacted to assist the landowner with coordinating a drop-site for abandoned items removed from the parking area.

Your Committee questioned the future of the parking area after the ten-year agreement lapses. Ms. Bigelow noted that the ten-year agreement will lapse in October 2014. She further stated that the Agreement was made for ten years in the event the Honoapiilani Highway was relocated. Should the highway be relocated, West Maui Land Company, Inc.'s long-term plans call for the Launiupoko Wayside Park to be expanded and thus, the parking area may be relocated or expanded. She added, however, that the intention of both Launiupoko Associates, LLC and Makila Land Co., LLC is for the area to remain as parking for Launiupoko Wayside Park should the highway remain in its present location.

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The Deputy Director of Parks and Recreation added that the ten-year maintenance agreement is a standard requirement when the County accepts land dedications. The ten-year agreement generally allows for the maintenance of the area to be handled by a homeowners' association, thereby, addressing the manpower shortage facing the County. He added that the intent of the ten-year agreement was not to take the parking area away from public use, but to address the maintenance issue associated with the parking area.

Your Committee suggested erecting signage on Honoapiilani Highway and at the entrance of the parking area to notify the public of the additional parking for the Launiupoko Wayside Park. The Deputy Director of Parks and Recreation noted that the signage should state that the parking is for park use only.

Your Committee discussed enforcement of the parking area. The Deputy Corporation Counsel stated that although the parking area is privately owned and maintained, Hawaii Revised Statutes, Chapter 520, as amended, allows for County enforcement. The Deputy Director of Parks and Recreation added that enforcement would include patrolling for illegal commercial ocean recreational activity because such activity is not allowed at Launiupoko Wayside Park.

Your Committee questioned the County's liability associated with the parking area. The Deputy Corporation Counsel noted that paragraph 4(e) of the Agreement states that the liability or duty of care for the landowner and its lessee, among others, would be limited, pursuant to Hawaii Revised Statutes, Sections 520-3, 520-4, and 520-5.

Your Committee inquired as to the assessed value of the land that the County is accepting. The Deputy Corporation Counsel and Ms. Bigelow were both unaware of the approximate assessed value of the land. Ms. Bigelow stated that should the assessed value of the land be in question, West Maui Land Company, Inc., on behalf of Launiupoko Associates, LLC and Makila Land Co., LLC, may be willing to enter into a ten-year lease with the County for a dollar per year.

Your Committee voted to incorporate nonsubstantive revisions to the proposed resolution.

Your Committee voted to recommend adoption of the revised proposed resolution and filing of the communication.

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Your Committee is in receipt of a revised proposed resolution, entitled "AUTHORIZING ACCEPTANCE OF A DONATION FROM LAUNIUPOKO ASSOCIATES, LLC TO THE DEPARTMENT OF PARKS AND RECREATION, COUNTY OF MAUI, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE", incorporating nonsubstantive revisions.

Your Parks and Economic Development Committee RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING ACCEPTANCE OF A DONATION FROM LAUNIUPOKO ASSOCIATES, LLC TO THE DEPARTMENT OF PARKS AND RECREATION, COUNTY OF MAUI, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE"; and
2. That County Communication No. 05-328 be FILED.

Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Chair

ROBERT CARROLL Member

CHARMAINE TAVARES Vice-Chair

DANNY A. MATEO Member

MICHELLE ANDERSON Member