

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

December 15, 2003

**Committee  
Report No.**

03-161

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

Chair and Members:

Your Public Works and Traffic Committee, having met on February 6, 2003, July 3, 2003, September 18, 2003, and November 20, 2003, makes reference to County Communication No. 03-33, from the Director of Public Works and Environmental Management, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10.48, MAUI COUNTY CODE, PERTAINING TO STOPPING, STANDING AND PARKING".

The purpose of the proposed bill is to prohibit parking along both sides of South Kihei Road from its intersection with Okolani Drive to the cul-de-sac at Keawakapu Beach Park.

By correspondence dated February 3, 2003, your Committee's Chair transmitted correspondence dated February 2, 2003, from Stephen and Mona Campbell, urging passage of the proposed bill.

By correspondence dated February 5, 2003, Mary Lou Whitman urged the passage of the proposed bill.

At its meeting of February 6, 2003, your Committee met with the Director of Public Works and Environmental Management; an Assistant Chief and a Community Police Officer, Department of Police; the Acting South Maui District Supervisor, Department of Parks and Recreation; and a Deputy Corporation Counsel.

Your Committee received testimony from one individual representing the Wailea Community Association (WCA) who supported the proposed bill and expressed concerns, relating to pedestrian safety along South Kihei Road. He noted that because shoreline-access parking is very limited, beachgoers park along the cul-de-sac at Keawakapu Beach Park and portions of South Kihei Road, especially on weekends when Keawakapu Beach Park is very crowded.

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Pedestrians must walk on the roadway because vehicles are parked along the shoulder of South Kihei Road.

Your Committee received an overview of the matter from the Director. He stated that the proposed parking restrictions were requested by the WCA. He noted that residents in the area raised concerns, regarding pedestrians walking on South Kihei Road, as a result of vehicles parking along the shoulder of the road. He also stated that the Keawakapu Beach Park parking lot has a total of 22 parking stalls, which are inadequate for the demand. He further noted that overflow beach parking occurs along South Kihei Road.

The Director further noted that the disposition of the unimproved shoulder of the road, adjacent to the paved right-of-way, is uncertain. He indicated that prior to your Committee's consideration of the proposed bill, the proprietorship of the subject property should be determined. The Director further indicated that the surrounding property owners have placed stones along the makai shoulder of the road to keep cars from parking in the area. He noted that his Department needs to ascertain whether the stones are encroaching on the public right-of-way and whether the County granted permission to place the stones at this location. The Director requested that the matter be deferred.

A Community Police Officer stated that as a result of residential construction, parking was a problem in the area. However, he noted that construction activity has decreased over the past few months. He further noted that pedestrians walk on the roadway because vehicles are parked on the shoulder and no improved sidewalk exists along the public right-of-way. He indicated that additional parking is necessary for Keawakapu Beach Park. He stated that any new parking should be limited to day use to prevent individuals from congregating in the area during the evening hours.

The South Maui District Supervisor stated that: (1) additional parking is necessary along the mauka portion of South Kihei Road; (2) the ownership of the shoulder of the road must be determined; and (3) a sidewalk should be installed on the makai portion of the road. He also confirmed that beach parking overflows onto South Kihei Road during the weekends.

Your Committee noted concerns about the stones, which may have been placed on the public right-of-way without County approval. Your Committee

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expressed a desire to determine the ownership of the unimproved shoulders of South Kihei Road. Your Committee felt that the property owners along South Kihei Road should be advised of regulations that restrict the obstruction of public rights-of-way. Your Committee also expressed concerns relating to the availability of parking for Keawakapu Beach Park, especially during the weekends. Your Committee felt that additional shoreline access parking should be created.

Your Committee requested the following information from the Department of Public Works and Environmental Management: (1) the ownership of the property along the unimproved shoulders of South Kihei Road; (2) the width of the right-of-way along South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park; (3) whether the stones placed on the shoulder of the road are within the public right-of-way, and if it is determined that the stones are on the public roadway, the Department should notify the surrounding property owners that the impediments must be removed; (4) cost estimates for additional shoreline access parking along the mauka side of South Kihei Road and a sidewalk on the makai side of the road; (5) any other requests for parking restrictions or timed parking in the area; and (6) any improvements required for drainage in the area.

Your Committee deferred the matter pending receipt of further information.

By correspondence dated February 15, 2003, Christine Ann Phillips and Ray Phillips noted concerns about the removal of stones along South Kihei Road, and expressed opposition to restricting parking along the mauka portion of the roadway.

By correspondence dated March 3, 2003, the Director of Public Works and Environmental Management indicated the following: (1) the shoulder adjacent to the paved portion of South Kihei Road is within the County's 60-foot right-of-way; (2) the residents along South Kihei Road will be advised to remove the stones placed along the shoulder of the road; and (3) the estimated cost of roadway enhancements range from \$30,000 to \$65,000.

By correspondence dated March 14, 2003, your Committee's Chair responded to concerns noted by Christine Ann Phillips and Ray Phillips, regarding stone placement and parking restrictions along South Kihei Road.

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By correspondence dated June 19, 2003, the Director of Public Works and Environmental Management transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.48 OF THE MAUI COUNTY CODE, PERTAINING TO STOPPING, STANDING AND PARKING". The purposes of the revised proposed bill are to: (1) prohibit parking on the makai side of South Kihei Road from its intersection with Okolani Drive to the cul-de-sac at Keawakapu Beach Park; (2) prohibit parking from 7:00 p.m. to 7:00 a.m. on the mauka side of South Kihei Road from its intersection with Okolani Drive to the cul-de-sac at Keawakapu Beach Park; (3) establish a separate subsection in the Maui County Code for parking restrictions in the Kihei District; and (4) enact non-substantive changes.

By correspondence dated June 30, 2003, your Committee's Chair transmitted correspondence dated June 30, 2003, from Jennifer Gidwani, stating that parking should be permitted along both sides of South Kihei Road for purposes of shoreline access.

By correspondence dated July 2, 2003, your Committee's Chair transmitted photographs of stones placed along South Kihei Road.

At its meeting of July 3, 2003, your Committee met with the Deputy Director of Public Works and Environmental Management; the Director of Parks and Recreation; a Maintenance Supervisor, South Maui District, Department of Parks and Recreation; a Captain and Community Police Officer, Department of Police; and a Deputy Corporation Counsel.

Your Committee received testimony from five individuals. One testifier representing the WCA requested that parking restrictions be established along South Kihei Road. He stated that parking should be permitted from the cul-de-sac at Keawakapu Beach Park to the driveway of the Wailea Ekahi condominiums with restricted parking along the remainder of the road. He noted that road improvements should include a sidewalk on the makai side of the road and paved areas where parking is permitted. He further noted that vehicles that park along the mauka side of the road, from the driveway of the Wailea Ekahi condominiums to Okolani Drive, are damaging the landscaping.

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The other four testifiers expressed their opposition to establishing parking restrictions along South Kihei Road. They noted that parking is necessary for shoreline access and individuals visiting residents in the area. They stated that parking was an issue during the construction of one of the homes in the neighborhood. However, since the project has been completed, parking is no longer an issue.

Your Committee received an overview of the matter from the Deputy Director of Public Works and Environmental Management. He stated that the revised proposed bill restricts parking in the following areas: (1) on the makai side of South Kihei Road; and (2) along the mauka side of the road from the cul-de-sac to the driveway of the Wailea Ekahi condominiums from 7:00 p.m. to 7:00 a.m. He noted that the revised proposed bill incorporates revisions noted during your Committee's previous meeting. He also noted that the stones that were placed on the shoulder of the road have been removed. However, two residents along the makai side of the road have recently replaced the stones. He indicated that letters would be sent to these residents asking for the removal of the stones.

A Community Police Officer stated that because of the extensive use of Keawakapu Beach Park by residents and visitors, additional parking is required along South Kihei Road. He noted that parking should be permitted on the mauka side of the road and a sidewalk installed on the makai side. He stated that the area occasionally experiences "cruising and vandalism". Therefore, parking should be limited to shoreline access only, with restricted parking in the evening. He noted that restricting parking during the evening hours would assist the Department of Police in preventing potential criminal activity.

In response to an inquiry by your Committee, the Community Police Officer stated that parking along the unimproved shoulder, between the paved roadway and the residential property line, is prohibited. He noted that pursuant to Subsection 10.04.430, Maui County Code (MCC), the unimproved shoulder of a roadway is defined as a "sidewalk". Your Committee felt that additional parking along the roadway should be encouraged to address the demand from individuals utilizing Keawakapu Beach Park.

In response to an inquiry by your Committee, the Deputy Director stated that the Department of Public Works and Environmental Management is able to design a curb, drainage and sidewalk for South Kihei Road. However, funding

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for the project has not been appropriated in the current fiscal year's budget. Your Committee felt that roadway enhancements should include additional parking and improved pedestrian safety.

The Captain advised your Committee that the definition of a "sidewalk" is the area from the pavement on the roadway to the residential property line. However, he noted that determining the exact location of the shoulder of the road might be problematic. He indicated that it might be difficult for the responding police officer to determine the exact boundary of the property line. Since it may be difficult to establish the demarcation of residential property lines on South Kihei Road, the Captain recommended that other options be pursued. He suggested that the Departments of Police, Public Works and Environmental Management, and Parks and Recreation meet with community representatives to develop a solution to the parking issue and submit recommendations to your Committee. Your Committee concurred that a coordinated effort to address the matter should be pursued.

Your Committee requested that the Department of Public Works and Environmental Management (1) coordinate a meeting with the Department of Police, the Department of Parks and Recreation and residents along South Kihei Road to provide recommendations to address the parking issue; (2) submit a map delineating the total width of the public right-of-way, the paved roadway and the unimproved shoulder along South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park; and (3) provide a conceptual plan, including cost estimates, for the installation of sidewalks, curbs and gutters along the subject roadway.

Your Committee requested that the Department of the Corporation Counsel (1) review Chapters 10.04 and 10.48, MCC, and provide an opinion on whether these laws prohibit vehicles from parking along unimproved shoulders of public rights-of-way; and (2) provide an opinion on the implications of permitting parking along unimproved shoulders of public rights-of-way.

Your Committee requested that the Department of Parks and Recreation (1) install a sign at the Keawakapu Beach parking lot indicating that additional parking is available at the corner of Kilohana Drive and South Kihei Road; and (2) conduct a preliminary assessment of user demands for Keawakapu Beach Park and parking lot.

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Your Committee deferred the matter pending further discussion.

By correspondence dated August 22, 2003, the Director of Parks and Recreation and the Director of Public Works and Environmental Management submitted an overview and recommendations from a meeting held with various County departments and community representatives. The recommendations are as follows:

1. Restrict parking along the makai side of South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park.
2. Restrict parking along the mauka side of South Kihei Road from the driveway of Wailea Ekahi condominiums to Okolani Drive.
3. Restrict parking along the mauka side of South Kihei Road, from the cul-de-sac at Keawakapu Beach Park to the driveway of Wailea Ekahi condominiums, from 10:00 p.m. to 7:00 a.m.
4. Install a sidewalk and seven parallel parking stalls along the mauka side of South Kihei Road, from the cul-de-sac at Keawakapu Beach Park to the driveway of Wailea Ekahi condominiums.
5. Install no-parking signs along the makai side of South Kihei Road and the cul-de-sac at Keawakapu Beach Park.

By correspondence dated August 28, 2003, your Committee's Chair requested that the Department of Parks and Recreation provide additional information, relating to the proposed parking recommendations for South Kihei Road.

By correspondence dated August 28, 2003, your Committee's Chair requested the Department of Public Works and Environmental Management provide: (1) additional information relating to the proposed parking recommendations for South Kihei Road; and (2) a revised proposed bill reflecting the proposed parking restrictions.

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By correspondence dated September 9, 2003, the Director of Public Works and Environmental Management provided cost estimates for roadway and sidewalk enhancements along South Kihei Road.

By correspondence dated September 10, 2003, the Director of Public Works and Environmental Management transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.48, MAUI COUNTY CODE, PERTAINING TO STOPPING, STANDING AND PARKING". The purposes of the revised proposed bill are to: (1) prohibit parking on the makai side of South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park; (2) prohibit parking on the mauka side of South Kihei Road, from the cul-de-sac at Keawakapu Beach Park to the driveway of the Wailea Ekahi condominiums, from 10:00 p.m. to 7:00 a.m.; (3) prohibit parking on the mauka side of South Kihei Road from the driveway of Wailea Ekahi condominiums to Okolani Drive; (4) establish a separate subsection in the Maui County Code for parking restrictions in the Kihei District; and (5) enact non-substantive changes.

At its meeting of September 18, 2003, your Committee met with the Director and Deputy Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; the South Maui District Supervisor, Department of Parks and Recreation; a Captain and a Community Police Officer, Department of Police; and a Deputy Corporation Counsel.

Your Committee received testimony from three individuals.

The first testifier indicated that additional parking should be created from the driveway of the Wailea Ekahi condominiums to Okolani Drive. She stated that parking is necessary for individuals who wish to visit residents along the makai portion of South Kihei Road.

The next testifier indicated that the proposed roadway enhancements would address the various parking issues along South Kihei Road. He noted that the proposal increases parking, provides improvements for pedestrian access, and restricts parking along the makai portion of the road.

The final testifier stated that the roadway and pedestrian enhancements, submitted by the Department of Public Works and Environmental Management,



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are consistent with the discussion held with community representatives. He noted that the proposed improvements would enhance parking, address pedestrian safety, and establish restrictions to prevent loitering in the area.

The Director provided your Committee with an overview of the matter. He stated that representatives from the Departments of Police, Parks and Recreation, and Public Works and Environmental Management met with representatives from the WCA and residents along the makai portion of South Kihei Road. He noted that the meeting was very productive and resulted in various recommendations. The Director explained the recommendations as noted in his correspondence dated August 22, 2003.

The Director noted that the proposed improvements are estimated to cost \$20,000 and will take approximately five months to implement.

The Deputy Director of Parks and Recreation stated that the Department supports the proposed roadway enhancements. He noted that the improvements to the cul-de-sac would assist with access for emergency response vehicles. He also noted that the landscaping on the mauka portion of South Kihei Road, from the driveway at Wailea Ekahi condominiums to Okolani Drive, will be provided by the adjacent property owner and will be designed to encourage pedestrian traffic.

Your Committee noted that the Keawakapu Beach Park shoreline access parking is very limited. Your Committee expressed concerns that the creation of seven parking stalls would not adequately address the parking demand. Your Committee expressed a desire to create additional parking for the purpose of shoreline access. Your Committee felt that additional parking should be established on the makai side of South Kihei Road.

In response to an inquiry by your Committee, the Deputy Director of Public Works and Environmental Management estimated that the cost of installing parking on both sides of South Kihei Road is approximately \$40,000. He also noted that the Department would review the request and provide a more detailed estimate for your Committee's consideration.

A Community Police Officer stated that additional parking should be linked to the closing of Keawakapu Beach Park. He noted that restrictions for shoreline access parking should be established from 7:00 p.m. to 7:00 a.m. He indicated

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that such restrictions would assist with enforcement and prevention of loitering in the area.

Your Committee requested the following information from the Department of Public Works and Environmental Management: (1) a proposal for additional parking stalls along the makai portion of South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park; (2) a cost estimate for the parking improvements along the mauka and makai portions of the road, which includes the realignment of the proposed sidewalk and crosswalk; and (3) a revised proposed bill that includes parking on the makai side of South Kihei Road, establishes shoreline access parking, and creates parking restrictions that coincide with the opening and closing of Keawakapu Beach Park.

Your Committee deferred the matter pending further discussion.

By correspondence dated October 17, 2003, the Director of Public Works and Environmental Management provided a site map that identifies the creation of additional parking on the mauka and makai portions of South Kihei Road.

By correspondence dated October 31, 2003, the Director of Public Works and Environmental Management transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.48, MAUI COUNTY CODE, PERTAINING TO STOPPING, STANDING AND PARKING". The purposes of the revised proposed bill are to: (1) prohibit parking on the makai side of South Kihei Road from Okolani Drive to the cul-de-sac at Keawakapu Beach Park from 10:00 p.m. to 7:00 a.m.; (2) prohibit parking on the mauka side of South Kihei Road from the cul-de-sac at Keawakapu Beach Park to the driveway of Wailea Ekahi condominiums from 10:00 p.m. to 7:00 a.m.; (3) prohibit parking on the mauka side of South Kihei Road from the driveway of Wailea Ekahi condominiums to Okolani Drive; (4) establish a separate subsection in the Maui County Code for parking restrictions in the Kihei District; and (5) enact non-substantive changes.

At its meeting of November 20, 2003, your Committee met with the Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; a Captain and a Community Police Officer, Department of Police; a Deputy Corporation Counsel; and Frank "Bud" Pikrone, General Manager, WCA.

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Your Committee received testimony from two individuals who expressed their support for the revised proposed bill and the creation of additional parking along South Kihei Road. One testifier suggested that parking restrictions should be established from 7:00 p.m. to 7:00 a.m.

The Director provided your Committee with an overview of the matter. He stated that the proposed plan submitted by the Department provides 16 parallel parking stalls on the makai side of South Kihei Road, 7 parking stalls and a sidewalk on the mauka portion of the road, and a crosswalk near the cul-de-sac at Keawakapu Beach Park parking lot. He noted that the estimated cost of road, sidewalk and crosswalk improvements is \$45,000. He recommended that the enhancements be funded as a Capital Improvement Project in the Fiscal Year 2005 Budget. He also noted that a revised proposed bill has been prepared incorporating changes as recommended by your Committee.

The Deputy Director stated that the Department of Parks and Recreation supports the revised proposed bill; however, he noted a concern relating to the enforcement of Subsection 10.48.040.G.2., relating to the restriction of parking for the sole purpose of access to the shoreline for recreational purposes. He noted that identifying the purpose for which a vehicle is parked may be difficult.

In response to an inquiry by your Committee, the Community Police Officer concurred that determining the purpose for which the vehicle is parked may be problematic. However, he noted that establishing parking restrictions for shoreline access/recreational purposes is necessary for enforcement. He indicated that the Department of Police will work with the community to assist in enforcing this provision.

The Deputy Corporation Counsel stated that the provision restricting parking to shoreline access and recreational purposes is enforceable. She also noted that the recreational-purpose provision does not apply to the parking on the mauka side of South Kihei Road.

The Deputy Director of Parks and Recreation advised your Committee that the guideline utilized by the Department for closure of parks is 7:00 p.m. He stated that the time is discretionary and may vary depending on the time of year or usage of the park. However, he noted that because certain parks do not have

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lighting, they must be closed at sunset for purposes of public safety. Your Committee noted that parking restrictions along South Kihei Road should be coupled with the closing of Keawakapu Beach Park.

Mr. Pikrone stated that the WCA provides security, maintenance and landscaping of parking areas and public rights-of-way in the Wailea area. He noted that WCA will provide the same services to the proposed parking along South Kihei Road.

In response to an inquiry by your Committee, the Director stated that he will review the matter further to determine if the stones originally placed on the shoulder of the road have been removed. Your Committee noted that individuals that place obstructions along public rights-of-way should be warned then fined if the obstruction is not removed.

Your Committee concurred with the proposed parking and pedestrian enhancements submitted by the Department of Public Works and Environmental Management.

Your Committee noted that a funding source for the parking enhancements be determined. Your Committee recommended that the Department of Public Works and Environmental Management consider various funding options to expedite the installation of the improvements. Your Committee noted that park assessment funds may be a possible funding source since the improvements are related to the use of a County beach park.

Your Committee requested that the Department of the Corporation Counsel: (1) revise Subsection 10.48.040.G.2. and 3. of the revised proposed bill by replacing "ten p.m." with "seven p.m."; and (2) determine whether revenue from the park assessment fund can be utilized to construct the parking enhancements along South Kihei Road.

Your Committee requested that the Department of Public Works and Environmental Management (1) determine a funding source for the installation of the proposed parking and roadway enhancements; (2) identify improvements that can be implemented immediately, if funding is not readily available to complete the parking and roadway enhancements; (3) provide comments or recommendations regarding the creation of fines for the placement of

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obstructions along public rights-of-way; and (4) ascertain whether the stones, which were placed along the shoulder of the road, have been removed.

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

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's suggested revisions.

Your Public Works and Traffic Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2003), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.48, MAUI COUNTY CODE, PERTAINING TO STOPPING, STANDING AND PARKING", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 03-33 be FILED.

Adoption of this report is respectfully requested.

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MICHAEL J. MOLINA Chair

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DAIN P. KANE Member

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CHARMAINE TAVARES Vice-Chair

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JOSEPH PONTANILLA Member

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G. RIKI HOKAMA Member