

MINUTES

PARKS AND ECONOMIC DEVELOPMENT COMMITTEE

Council of the County of Maui

Council Chamber

December 8, 2005

CONVENE: 1:36 p.m.

PRESENT: Councilmember Jo Anne Johnson, Chair
Councilmember Charmaine Tavares, Vice-Chair
Councilmember Danny A. Mateo, Member

EXCUSED: Councilmember Michelle Anderson, Member
Councilmember Robert Carroll, Member

STAFF: Shelly Espeleta, Legislative Analyst
Pauline Martins, Committee Secretary

ADMIN.: Cindy Young, Deputy Corporation Counsel, Department of the Corporation
Counsel
Patrick Matsui, Chief of Planning and Development, Department of Parks and
Recreation
John Buck, Deputy Director, Department of Parks and Recreation

PRESS: *Akaku--Maui County Community Television, Inc.*

CHAIR JOHNSON: The Parks and Economic Development Committee meeting of December 8th will come to order. We have in attendance this afternoon, Members Danny Mateo and Vice-Chair of the Committee, Charmaine Tavares. Excused are the other remaining Committee Members for today. We also have with us from the Parks Department, the Deputy Director Mr. John Buck and Mr. Matsui from Parks Planning. Cindy Young is sitting in today for Corporation Counsel. We have Ms. Pauline Martins as Secretary and Ms. Shelly Espeleta. Members, today, we have on our agenda only one item, which is the park dedications semiannual report. The committee is in receipt of County Communication No. 05-365, from the Director of Parks and Recreation, and it's transmitting the report, which is the semiannual report from April 1, 2005 to September 30, 2005. So what I would like to have the committee focus on today is just receiving the information from the Parks Deputy Director but also to have us understand how our park assessment ordinance is working because I think on this report in particular, there are some good examples. So it will give you an opportunity to see how our park assessment is working and where we're moving or where the County is moving in terms of direction as far as accepting either land dedications, money, or a combination, thereof. Pauline, do we have anyone signed up to testify today?

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MS. MARTINS: No.

CHAIR JOHNSON: For a little bit, I will keep public testimony open just in case.

PED-22 PARK DEDICATIONS SEMIANNUAL REPORT (C.C. No. 05-365)

CHAIR JOHNSON: Other than that, Mr. Buck, would you or Mr. Matsui like to go through the report with us?

MR. BUCK: Yes, Madam Chair. The report's probably self-explanatory. I think with the new changes, I think there is an increase. However, if you have any questions, Mr. Matsui is here to give you more detailed answers.

CHAIR JOHNSON: Okay. Members, you have the copy of the report in front of you and . . . uh . . . I guess, were there any questions? I know that there was money and in fact, I don't see it on here but do we have any idea, Mr. Matsui, in each one of these where we've got the semiannual report, do we know what the total amount of money that's currently in the park assessment for the regions that are itemized on this report? Or do you not have that information today?

MR. MATSUI: Madam Chairman, we don't have that information. You would need to get it from the Department of Finance--

CHAIR JOHNSON: Okay.

MR. MATSUI: --because we transmit all of the money to them and they put it in the respective accounts.

CHAIR JOHNSON: Okay. Members, I do have questions of my own but if you have any questions right now, what I would like to do . . . there was . . . uh . . . I guess, two phases of a subdivision. Mr. Matsui, on 4/29/2005, Lanikeha Phase I, I guess the collected fee for 67 units was \$10,935 and that was under the Ordinance No. 4. Also Lanikeha Phase II, which was 7/26/2005, it was 64 units that was \$871,680 that also was underneath the Ordinance No. 4. Could you explain why there's such a wide disparity between the amount collected in Phase I versus Phase II?

MR. MATSUI: I'm trying to look at . . . uh . . . reference the report. Oh, I see. Okay. Okay. Okay. On the previous report of March 31st (the quarter ending March 31, 2005), Lanikeha Phase I with 67 units and we collected \$732,000. On this . . .

CHAIR JOHNSON: And that report, we don't have in front of us. Do we, Mr. Matsui?

MR. MATSUI: No. That would have been the report previous to this one (the quarter). Okay, but . . . um . . . Lanikeha Phase . . . in this report, Lanikeha Phase I has 68 units. So initially, when they came in they had 67 units but they increased it by one. So the initial payment was \$732,000 for the 67 units. This additional unit cost them another \$10,935 and that's based on the park assessment at that time for West Maui.

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CHAIR JOHNSON: Okay. So that's where the comment underneath it "previously collected fee", you meant you had previously collected the fee for the 67 units?

MR. MATSUI: Yes.

CHAIR JOHNSON: And I know that staff checked on the receipt of the previous report and members, because for some reason, we didn't get that report that was the one that was missing, which would give us continuity, that will be transmitted to our committee . . . or at least to the Council and then to the committee. But . . . uh . . . so roughly then, what you're looking at is \$10,935 for each unit?

MR. MATSUI: Yes, that's correct.

CHAIR JOHNSON: All right. If this had been applicable underneath let's say a previous ordinance, have you done any analysis as to what we would have collected before versus what is coming in now underneath this most recent formula?

MR. MATSUI: No, I would not hazard to guess but . . . uh . . . it would have been substantially less though. Under the old ordinance, it was by the real property tax assessment and as you know, the real property tax assessment lagged behind. And many times, the assessment was based on the . . . without taking account the new zoning. So you might be having a residential development and it was assessed on Ag rates, so it was substantially less. The only place where it was substantially more was in Wailea, where you have a residential development in a hotel zone and it was like beachfront, so that . . . you know, the square footage assessment on that was really, really high. And that one came out to, I think, about \$30,000 per lot. As you know now, Kihei is more like 12, 10, 11 thousand per lot. But that was just in that one instance of Wailea, where you have a residential development in a hotel zoned property.

CHAIR JOHNSON: And they were getting assessed a different rate?

MR. MATSUI: That's correct. Yeah.

CHAIR JOHNSON: Okay. With regard to the Ukumehame Subdivision, that is only 79,000 or 73,960. Is that because it's under an earlier ordinance?

MR. MATSUI: Yes. If you look under the last column (ordinance used for calculation), yeah?

CHAIR JOHNSON: Uh-huh.

MR. MATSUI: And then on the footnote, it gives you the . . . there's . . . um . . . four different ordinances depending on when the subdivision received preliminary approval and . . . um . . . so it will tell you which ordinance you're under. So the Ukumehame Subdivision was Ordinance No. 3, which was 8/24/01, that ordinance which was based on the real property tax assessment.

CHAIR JOHNSON: Okay. But if that were being done--

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MR. MATSUI: Yeah.

CHAIR JOHNSON: --at the formula that we're currently using, it would be closer to what we're getting from the other subdivisions?

MR. MATSUI: Well right now, yeah. For Lahaina, it's up to like . . . um . . . 13,000 per unit.

CHAIR JOHNSON: Uh-huh.

MR. MATSUI: So 13,000--

CHAIR JOHNSON: Times 43.

MR. MATSUI: --times 43, that's . . . uh . . .

MR. BUCK: It's half a million.

MR. MATSUI: Yeah, almost half a million dollars, so yeah.

CHAIR JOHNSON: Yeah, so . . . uh . . . that makes a huge difference.

MR. MATSUI: Yes.

CHAIR JOHNSON: And members, one of the reasons why I wanted to take a look at this is to make sure that we're going in the right direction and also to understand . . . uh . . . if we're taking, and it seems that we're taking mostly money and not . . . other than the Lokahi Kuhua Subdivision, we took property in that case. And that's the one affordable project, is that correct . . . in Lahaina?

MR. MATSUI: That's correct. Lokahi Kuhua was affordable. They did not have quite enough square footage in the park to completely satisfy the park dedication, so the balance of the square footage that they were short, that's what we charged. So they ended up paying us \$2,100 plus giving us that privately-owned, privately-maintained park.

CHAIR JOHNSON: And I look at, you know, and I don't know numbers and of course our member from Hana is not here, but if you look on the next page, I was just curious about this because this is one case where I, I guess, we would look at it differently unless there is structures that are built on this, but Hana Agricultural Park (to me) should not be paying anything. They are paying \$4,830 for park assessment and yet on an Ag park, I guess, what I'm unclear about is whether or not this is in satisfaction of a park dedication. Councilmember Tavares?

VICE-CHAIR TAVARES: Yeah, I think that the park dedication is tied into dwelling units. So if there's a dwelling unit, it doesn't matter what the use of the land is, there's a park assessment . . . because with the dwelling unit comes people that need recreation and whatever, whatever.

MR. BUCK: Yeah.

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CHAIR JOHNSON: Okay.

VICE-CHAIR TAVARES: So it's tied into the units rather than the zoning.

CHAIR JOHNSON: Okay. Because in this particular case then, Mr. Matsui, I'm assuming that there is a dwelling on that property and that's what triggered this?

MR. MATSUI: That's correct. It's an agricultural subdivision but as you know, you have one house that's allowed per unit per lot.

CHAIR JOHNSON: Well this is misleading because if it's Hana Agricultural Park,--

MR. MATSUI: You . . .

CHAIR JOHNSON: --that to me implies that it's a County Ag park. But that's not what this is? It's a private subdivision?

MR. MATSUI: Yes, it's a private subdivision.

CHAIR JOHNSON: Oh, okay. Okay. I was thinking it was--

MR. MATSUI: Yeah.

CHAIR JOHNSON: --just another Ag park that we were adding.

MR. MATSUI: Yeah. I would like to note that . . . um . . . you're correct in we are asking for . . . or we're requiring a lot more money. Our policy has kind of evolved, where we would not accept any parkland unless it's an active park. If it's less than an active park then we ask for money.

CHAIR JOHNSON: Yeah. Councilmember Tavares?

VICE-CHAIR TAVARES: That's another subject for, I think, another meeting.

CHAIR JOHNSON: Yeah.

MR. MATSUI: Right.

CHAIR JOHNSON: Yeah. And by looking at this report, I think you can see members that we're heading the direction of looking at money as opposed to maybe some of our pocket parks.

VICE-CHAIR TAVARES: Right.

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CHAIR JOHNSON: And you know, if I could ask you too, Mr. Matsui, when you get like let's say in the Lokahi Kuhua Subdivision, for example, where you have a small limited income community and there is park space there, when you come across small subdivisions like this, is it usual for you to take land in that case as opposed to taking money because obviously, if you add the money in, it's gonna add to the cost of the units and particularly because these are all affordable.

MR. MATSUI: Yeah, we've kind of . . . um . . . for affordable housing, we've deferred and you know, tried to defer the costs and not ask for money but, you know, ask for land. If it's 201G, a lot of `em ask for a deferral or a--not a deferral--waiver from the park dedication requirement. As with Lokahi, we did kind of look favorably to trying to help them with their cash situation.

CHAIR JOHNSON: Councilmember Mateo, you have any questions?

COUNCILMEMBER MATEO: No, I don't.

CHAIR JOHNSON: Okay. My final question would be on the Ukumehame Subdivision, for example, because we have actually proceeded to acquire a portion of the land and because this is under an older agreement that we have, what would have been the amount of land that we would have received underneath the formula? Or would you have to go back and look at that because--

MR. MATSUI: No.

CHAIR JOHNSON: --I would be looking at land as opposed to the money.

MR. MATSUI: We would have . . . it would have been 43 times 500, so . . . um . . .

CHAIR JOHNSON: 500 square feet?

MR. MATSUI: Yeah. Like 20, it would be roughly about 20,000 square feet.

CHAIR JOHNSON: So that's not even an . . .

MR. MATSUI: It should be half an acre.

CHAIR JOHNSON: Half an acre. Oh, so it . . . I see why. Okay. Members, if there's no further questions, you know, and I was hoping that we would get into a little bit more discussion but because we have limited participation today, you know, it's fine. And also because we had bare quorum but what I would like to get into is what Ms. Tavares had been speaking about and perhaps for another discussion, what we're gonna do, I really feel is look at where we're going with some of our park dedications and is this the direction that the committee wants to go in in terms of accepting land versus accepting money, and I don't know. Ms. Tavares, did you have any further comments?

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VICE-CHAIR TAVARES: Yeah. Madam Chair, if you would generate, I guess, a communication that puts that . . . uh . . . whatever it is under the subdivision code, put that whole section, I think it's titled "parks and playgrounds" right now, put that whole section in for discussion and then we can get to some of the items that you're concerned about, and I think it's about time we changed the title of that section. "Parks and playgrounds" was appropriate in 1973. It is not really appropriate now and we need to look at another title that more, I think, more closely describes what it is that we're looking for for our community.

CHAIR JOHNSON: Thank you. Thank you very much. Members, do you have anything further in terms of any questions or anything that you would like on let's say our next report? Because what I'd like to do is if there is information that we want included in terms of any future reports that we receive, do you want the park assessment for each one of the regions included?

VICE-CHAIR TAVARES: Madam Chair, we . . . um . . . routinely gather that information at the Budget--

CHAIR JOHNSON: Budget. Okay.

VICE-CHAIR TAVARES: --because that money can't be spent anyway unless there's a budget amendment that comes down that has to be initiated by the Administration. So . . . um . . . you know, it just means more work for them to figure it out. So you know, I'm fine with . . . we get it at Budget, so we know what we're up against or what we can deal with as far as the balances in each of the community plan areas.

CHAIR JOHNSON: That's fine. And the only reason I ask is because I thought if there were any trans or if let's say particular areas were accumulating through the park assessment reports a large cash sum, we might indicate through committee report or at least just advising the Parks Department that, you know, where are we going with this and what are the reasons because sometimes it's not obvious to us.

VICE-CHAIR TAVARES: Uh-huh.

CHAIR JOHNSON: Did you have any comments, Mr. Buck, on anything further? Okay, members. Yes, Councilmember Tavares?

VICE-CHAIR TAVARES: Yeah, I think, Madam Chair, if there were a situation where the department or the Administration felt that the park assessment was too low that they would bring it forward to us for reconsideration. If they . . . the Department feels it's too high, which I don't think they'll ever think anything is too high as far as receiving revenue, it would be the outside community that would be petitioning us to review or revisit because they felt the assessment was too high. So I think that unless the Department feels that it's inadequate for a certain region or whatever, I would leave it to their discretion to present something through the Administration to us for consideration.

CHAIR JOHNSON: Right. I appreciate that and to follow up on that particular comment, have you been receiving comments one way or the other about the park assessment or are people just recognizing that it's a part of their construction costs, Mr. Matsui?

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MR. MATSUI: Seems like after discussions with developers, you know, if we're upfront and tell `em what we want (whether it's land or money) and especially like in Kihei and Lahaina, where it's so high, if we say we want money upfront, you know, they are fine with that. It's if way down the line because I guess they do a financing kind of scenario and if we tell `em upfront this is what's gonna be, they'll plug it in but it's when down the road we go no we changed our mind. We don't want parks; we want money; which we haven't been so you know, we're very upfront with them and we haven't had them say no, you know.

CHAIR JOHNSON: So it doesn't seem they're grumbling about the amounts that we have currently?

MR. MATSUI: No. No.

CHAIR JOHNSON: Okay.

MR. MATSUI: We . . . um . . .

CHAIR JOHNSON: That's interesting.

MR. MATSUI: We did have one that they've . . . um . . . they're at the Board of Adjustment and Appeals. They are appealing our decision in Kihei, and that was (on their part) was an assumption where they never did come to us and say this is what we want to dedicate. They're in the final subdivision and we said we didn't want that park because it's right across the regional park or the district park. We said "hey, give us the money and we'll use that to go develop ball fields across the street". We felt that made a lot of sense, but they didn't feel that way, so it's at the Board of Adjustment and Appeals. Well, it's called something else now. Right?

VICE-CHAIR TAVARES: Variance and Appeals.

CHAIR JOHNSON: Variance.

MR. MATSUI: Okay. And that's . . . there's a hearing gonna be January or something.

CHAIR JOHNSON: That's very interesting because I was not aware that--I know that they can appeal anything basically rather than going to court. But from the perspective of the land dedication and it's satisfying the requirement under Parks, I'm curious and perhaps Corporation Counsel, I don't know if you could answer this . . . but when Council (because we are the ones that accept the land dedication), if we don't accept it and let's say they take it before the Board of Variances and Appeals, how does that really work? Does that mean that BVA has final authority?

MR. MATSUI: I've discussed that with our Corp. Counsel (Jane Lovell) and what she said was, you know, as long as our decision is not arbitrary and capricious and we can show rationale and some consistency in our policy, you know, they cannot rule against us.

VICE-CHAIR TAVARES: Right.

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CHAIR JOHNSON: Okay. Because the policy is being uniformly applied then to all people.

VICE-CHAIR TAVARES: Right.

MR. MATSUI: Right.

CHAIR JOHNSON: All right. I understand what you're saying. So is that--Corporation Counsel, do you have any comment?

MS. YOUNG: Yes. With respect to your question regarding why this would go to the Board of Variances and Appeals, 18.16.320(J) provides for an appeal from the Director of . . . the decision of the Director of Parks and Recreation. Too, that an appeal can be made to the Board of Variances and Appeals if one disagrees with the decision of the Director.

CHAIR JOHNSON: Okay. And in this case, this was land that they had given or you wanted money, Mr. Matsui?

MR. MATSUI: They wanted to give us land and we told them we wanted the money.

CHAIR JOHNSON: Well, I . . .

VICE-CHAIR TAVARES: It's Parks decision.

CHAIR JOHNSON: Yeah. And it's Parks' decision. Mr. Buck?

MR. BUCK: Basically, when you take a look at that subdivision, to get their park requirement, what they did was chop some of the lots down around the park to make the dedication for the park, and there was a green drainageway they wanted to make real fancy and they wanted to get the parks credits for that. We figured no, we needed the cash because of the park across the street basically. But there were some where they kind of finagled the lot sizes to get their park dedication in.

CHAIR JOHNSON: Yeah. And Councilmember Mateo?

COUNCILMEMBER MATEO: Thank you, Chairman. So Mr. Buck, then in that particular scenario then the value of the lot was equal to the amount of the money that's being requested.

VICE-CHAIR TAVARES: More or less.

MR. MATSUI: Right. The formula is 500 square feet per lot or . . . um . . . in Kihei, I think it's about 12,000 now per lot. So that . . . um . . . the formula that (by ordinance), it's kind of given the value of 500 square feet is \$12,000.

COUNCILMEMBER MATEO: Well my concern . . . I just was thinking that the value of land in Kihei would have been a lot higher perhaps than the actual asking for cash but what do I know.

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VICE-CHAIR TAVARES: The formula takes that into consideration.

MR. MATSUI: Right.

CHAIR JOHNSON: And that's why we kind of came up with this actual formula, that's why we're looking at these larger amounts because before, I think it was on the middle measure--because we had three different changes that we made--it was actually lowered. The last formula that we had resulted . . . and that did not work, so we went back to the drawing board and created a little bit different formula so we worked on that for a while. But I really appreciate you explaining that, Mr. Matsui, because I had not thought that anyone could challenge. I mean I just figured it's your decision--either land or money--and I mean I guess they can challenge it any way they want; but whether they'll win is another situation. Members, I also will close public testimony at this time.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Okay. Is there anything further? Seeing no further business, this item, without objection--Shelly, we will be filing that item. Shall we take a vote on that, Shelly? Do we need to take a vote? Or just, without objection, file? Okay. We'll be filing this item then if there are no objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (PRESENT: JOHNSON, MATEO, AND TAVARES)

ACTION: FILE.

CHAIR JOHNSON: Okay. Seeing no further business on the agenda today, I want to thank you, members. I appreciate your attendance at today's meeting since we were bare quorum. Thank you very much and thank you to staff and also to Administration. This meeting is adjourned.

ADJOURN: 2:03 p.m.

APPROVED BY:


JO ANNE JOHNSON, Chair
Parks and Economic Development Committee

ped:min:051208

Transcribed by: Pauline Martins