

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

April 21, 2017

**Committee
Report No. _____**

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

Chair and Members:

Your Budget and Finance Committee, having met on February 14, 2017, March 7, 2017, and March 29, 2017, makes reference to County Communication 16-273, from Councilmember Riki Hokama, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES."

The purpose of the proposed bill is to establish a policy for the Department of Parks and Recreation, relating to awarding and administering of concessions and sponsorships, including contracts for pouring rights, advertising, vending machines, and parking; and the establishment of a fund for the deposit of all funds received from concessions and sponsorships.

Your Committee notes the Council's Budget and Finance Committee (2015-2017 Council term) met on November 15, 2016, and November 29, 2016.

By correspondence dated February 22, 2017, the Department of the Corporation Counsel transmitted a revised proposed bill to simplify the bill by deleting the concession language and referencing Chapter 3.40, Maui County Code, instead.

Your Committee noted the bill provides enabling legislation to allow the County to generate additional revenue for the operation of parks programs, maintenance of parks facilities, and parks improvements. Your Committee noted County costs continue to escalate and the demand for parks programs and facilities continues to grow as well.

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The Deputy Director of Parks and Recreation informed your Committee the goal of the bill is to reduce reliance on general funds by the Department. The concept of utilizing concessions and sponsorships to fund parks expenses is utilized in other jurisdictions nationwide. Sponsorships can come from a variety of sources including corporations, trusts, and individuals. Your Committee noted not all parks facilities are appropriate for concessions and sponsorships.

The Deputy Director contemplated a request for proposal process in which sponsorships for naming rights are awarded. Sponsorship agreements with a value in excess of \$5,000 will be reviewed and approved by Council resolution. Your Committee expressed concern naming rights may affect park facilities that have been or may be named by the Public Works Commission. The Deputy Director clarified name sponsorships would enhance and not replace the names of parks facilities. The Deputy Corporation Counsel advised your Committee the bill should be revised for consistency with Chapter 2.98, Maui County Code, which includes criteria for naming parks and facilities.

The Deputy Director said State and County concession laws are already in existence. The Department has already awarded concessions under the existing concession laws for the golf course restaurant, golf course pro shop, and the food concession at Hana Bay. The concession language in the bill codifies a working relationship between the Director of Parks and Recreation and the Director of Finance.

The Deputy Director also clarified temporary concessions are an exception to the permanent concession requirements in that temporary concessions are processed through parks permits rather than through Chapter 3.40, Maui County Code. The Deputy Corporation Counsel clarified temporary concessions are generally processed in conjunction with another permitted parks activity. Your Committee was informed the bill would not affect temporary youth sports league fundraising at parks facilities.

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Your Committee noted the definition of “director” means the Director of the Department of Parks and Recreation or the director’s authorized representative and is set forth in Section 13.04A.030, Maui County Code.

Your Committee also noted there was no definition of “person” in Section 13.04A.030, Maui County Code, and the definitions of “concessionaire” and “sponsor” should be revised to include entities such as businesses.

Your Committee suggested language be added to the bill to clarify the types of sponsorships set forth in the bill are not exhaustive and other types of sponsorships are possible.

Your Committee expressed concern that appropriations from the County parks special revolving fund are preauthorized in the bill. Your Committee discussed revising the bill to require that each appropriation from the special revolving fund be approved by the Council.

Your Committee noted Commercial Ocean Recreational Activities (CORA) are processed under Article VII of Chapter 13.04A, Maui County Code, and the bill does not repeal the CORA provisions. The Director of Parks and Recreation stated that if CORA fees were brought up to state fee standards, the County could generate approximately \$250,000 per year. Currently the County collects about \$87,000 per year. Depending upon the extent the County utilizes the provisions in the bill, the Director said the County could collect a million dollars per year in revenue. The Director informed your Committee initially the Department is considering utilizing facilities that are already in existence and would not require up-front investment from the County.

Your Committee voted 7-2 to recommend passage of the revised proposed bill on first reading. Committee Chair Hokama, Vice-Chair White, and members Atay, Cochran, Crivello, Guzman, and Sugimura voted “aye.” Committee members Carroll and King voted “no.”

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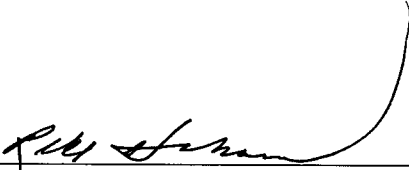
Your Committee also voted 9-0 to recommend filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Atay, Carroll, Cochran, Crivello, Guzman, King, and Sugimura voted "aye."

By correspondence dated April 5, 2017, from the Department of the Corporation Counsel, your Committee is in receipt of a further revised proposed bill, approved as to form and legality, incorporating amendments made by your Committee and nonsubstantive revisions related to references of repealed Section 13.04A.140, Maui County Code.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 16-273 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



RIKI HOKAMA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The purpose of this ordinance is to establish a policy for the Department of Parks and Recreation's awarding and administering of concessions and sponsorships and the establishment of a fund for the deposit of all funds received from concessions and sponsorships.

SECTION 2. Section 13.04A.030, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Concession” has the same meaning as defined in section 3.40.030 of this code.

“Concessionaire” means a person or entity having a concession agreement with the County under this chapter.

“Sponsor” means a person or entity that provides value to the department and is recognized or acknowledged by the department in exchange for the contribution.

“Sponsorship agreement” means the document setting forth the terms of the agreement between the sponsor and the department.”

SECTION 3. Chapter 13.04A, Maui County Code, is amended by adding a new article to be appropriately designated and to read as follows:

“Article VIII. Concessions, Sponsorships, and Donations.

13.04A.410 Policy. Concessions, sponsorships, and donations are to improve and enhance existing and future County parks and recreational facilities and to provide for maximum programming opportunities to increase the community benefit and overall use.

13.04A.420 Concessions. A. Concession awards and grants shall be processed in accordance with chapter 3.40 of this code.

B. Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

1. The director of finance, in consultation with the director and in conjunction with the requirements of subsection C, shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.

2. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40 of this code.

3. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7) of this code by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.

C. Facilities. Subject to written approval by the director of finance, on or before March 1 of each year, the director shall designate parks and buildings within the County parks and recreational areas that are suitable for concession facilities and sponsorships.

13.04A.430 Sponsorships. A. The director may enter into an agreement, exclusive or non-exclusive, with a sponsor, subject to the requirements of Chapter 102, Hawaii Revised Statutes, where applicable, that may include, but shall not be limited to:

1. Naming rights for a County park or recreational facility.

a. Naming rights shall enhance, not replace, the names designated in chapter 12.40 of this code.

b. Naming rights under a sponsorship shall be exempt from the requirements of chapter 2.98 of this code except for section 2.98.040(C) establishing criteria and standards for naming parks and facilities.

2. Advertising rights at or in a County park, recreational facility, program, or event. Advertising shall include, but not be limited to the following:

a. Sponsor signs and banners;

b. Sponsor logos on publicity materials, including programs, posters, advertisements, and tickets;

- c. Acknowledgment in news releases and media;
 - d. Verbal announcements;
 - e. On-site displays;
 - f. Product sampling and other merchandizing;
 - g. Exclusivity for product or service; or
 - h. Hospitality, including designated parking, seating, and tickets.
3. Sponsorship of a signature event or festival.
 4. Acknowledgement or recognition in media releases and promotional materials of a program or event.
 5. Recognition on the program or event website.
 6. Purchasing or providing funds for park components in return for acknowledgement or recognition.
 7. An adopt-a-park or adopt-a-facility program.
- B. All messages conveyed by sponsors, in relation to sponsorship agreements, shall not include:
1. Political campaign speech;
 2. Religious speech that advocates or opposes a religion or religious belief; or
 3. Entities that practice or promote discrimination based on race, color, creed, religion, sex, national origin, sexual orientation, gender identity, disability, marital status, socioeconomic status, or age.
- C. Unless authorized in accordance with law, sponsors shall not use the County name, seal, or other insignia.
- D. Sponsorships and all messages conveyed shall be consistent with the image, values, and objectives of the County.
- E. Value. Sponsorship agreements shall be valued by the director in an amount commensurate with the relative value of the benefit conferred upon the sponsor.
- F. Approval. All sponsorship agreements shall be subject to review by the corporation counsel and those with a value in excess of \$5,000 shall be subject to council approval by resolution. Notwithstanding the foregoing, all sponsorship agreements involving naming rights shall be subject to criteria and standards set forth in section 2.98.040(C) and shall be by two-thirds council approval by resolution.
- G. All advertising shall comply with all applicable laws, including those relating to signs and shall be submitted to the director prior to approval in sufficient detail to determine content and final general appearance.
- H. Reports. On or before March 1 of each year, the director shall provide to the council a detailed report on the financial

activities, revenues, and status of each sponsorship award during the prior year.

13.04A.440 Donations. Notwithstanding the requirements of chapter 3.56 of this code, the director may accept donations with a value not exceeding \$5,000. All donations valued in excess of \$5,000 shall be subject to council approval by resolution.

13.04A.450 Indemnity; Insurance. All concessionaires and sponsors shall be required to execute an indemnity agreement with the County and maintain insurance policies with coverage in amounts determined by the County.

13.04A.460 County parks special revolving fund. A. There is established and created a fund to be known as the "County parks special revolving fund," into which all proceeds received by the department under this article shall be deposited.

B. Notwithstanding the general budget provisions of the annual budget ordinance relating to special purpose revenues, all proceeds collected by the department under this article shall require council approval to expend for purposes relating to the implementation of this chapter, such as the provision of salaries, operations, the purchase of equipment, payment of debt service, and the maintenance of County property.

13.04A.470 No right to use. Nothing in this article shall be construed as conveying a right to use any real or personal property under the control and management of the department."

SECTION 4. Section 3.40.010, Maui County Code, is amended to read as

follows:

"3.40.010 Establishment of policy. Pursuant to section 8-4.3.10, Revised Charter of the County of Maui (1983), as amended, the following is declared to be the policy of the County governing the leasing, renting, and letting of real property and the awarding of concessions of the [county,] County, except as otherwise provided in [section 13.04A.140.] article VIII of chapter 13.04A of this code."

SECTION 5. Section 13.04A.030, Maui County Code, is amended by amending the definition of "community class permit" to read as follows:

"Community class permit" means lessons, instruction, or classes offered to the general public and conducted by an instructor

approved by the department. Class participation charges or fees are allowed within the limits established by the department. Temporary refreshment concessions in accordance with section [13.04A.140] 13.04A.420(B) are prohibited.”

SECTION 6. Section 13.04A.140, Maui County Code, is repealed.

[13.04A.140 Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

A. The director of finance shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.


B. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40.

C. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7), by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.]

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui
bf:misc:129abill03