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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

March 20, 2018

RECEIVED

2018 MAR 22 AM 11: 22

OFFICE OF THE
COUNTY CLERK

Mr. Danny A. Mateo, County Clerk
Office of the County Clerk
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Mateo:

SUBJECT: **KAHANA BAY SPECIAL IMPROVEMENT
DISTRICT NO. 1**

May I request the attached proposed bill, entitled "ESTABLISHMENT OF THE COUNTY OF MAUI KAHANA BAY SPECIAL IMPROVEMENT DISTRICT NO. 1," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike White".

MIKE WHITE
Council Chair

paf:tntf:17-122g

Attachment

COUNTY COMMUNICATION NO. 18-133

ORDINANCE NO. _____

BILL NO. _____ (2018)

ESTABLISHMENT OF THE COUNTY OF MAUI
KAHANA BAY SPECIAL IMPROVEMENT DISTRICT NO. 1

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

SECTION 1. The purpose of this ordinance is to establish the County of Maui Kahana Bay Special Improvement District No. 1 to provide for and finance supplemental services and improvements in and to Kahana Bay as authorized by Chapter 3.70, Maui County Code. This ordinance also allows shoreline improvement, restoration, and protection projects to be provided and financed by a special improvement district.

SECTION 2. Section 3.70.030, Maui County Code, is amended to read as follows:

“3.70.030 Types of supplemental services and improvements. A. A district may be established to provide and finance supplemental services and improvements as follows:

1. To provide and finance additional maintenance, security, or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of such district to restore or promote business activity whether or not in conjunction with improvements authorized by this section, including:

- a. Services to enhance the security of persons and property within the district.
- b. Landscaping services.
- c. Enhanced sanitation services.
- d. Services promoting and advertising activities within the district.

e. Marketing education for businesses within the district.

f. Decorations and lighting for seasonal and holiday purposes.

2. To provide and finance, to the extent permitted by law, supplemental improvements located on or within the County or the district which will restore or promote business activity in the district, including:

a. Construction and installation of landscaping, planting, and park areas.

b. Construction of lighting facilities.

c. Construction of safety fixtures, equipment, and facilities.

d. Construction of improvements to enhance security of persons and property within the district.

e. Construction of pedestrian overpasses and underpasses and connections between buildings.

f. Closing, opening, widening, or narrowing of existing streets.

g. Construction of ramps, sidewalks, plazas, and pedestrian malls.

h. Rehabilitation or removal of existing structures.

i. Removal and relocation of utilities and utility vaults.

j. Construction of parking lot and parking garage facilities.

k. Construction of fixtures, equipment, facilities, and appurtenances, as may enhance the movement, convenience, and enjoyment of the public and be of economic benefit to district properties, such as bus stop shelters, benches and street furniture, booths, kiosks, display cases and exhibits, signs, receptacles, canopies, pedestrian shelters, and fountains.

l. Construction of shoreline improvement, restoration, and protection projects.

3. To provide for the operation, maintenance, removal, and replacement of any supplemental service or improvement.

B. Any supplemental service or improvement undertaken by a district shall conform with all applicable laws, rules, and regulations.”

SECTION 3. Title 3, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 3.71

**COUNTY OF MAUI KAHANA BAY
SPECIAL IMPROVEMENT DISTRICT NO. 1**

Sections:

3.71.010	Establishment of district no. 1.
3.71.020	Name of district.
3.71.030	Term of district.
3.71.040	List of parcels.
3.71.050	Boundaries of district.
3.71.060	Mission statement.
3.71.070	District association and district board.
3.71.080	Supplemental services and improvement area.
3.71.090	Incidental expenses.
3.71.100	Budget.
3.71.110	Sources of funding.
3.71.120	County services.
3.71.130	Indemnification and insurance.

3.71.010 Establishment of district no. 1. There is established the County of Maui Kahana Bay special improvement district no. 1. Such district is established under the terms of chapter 3.70 of this title.

3.71.020 Name of district. The name of this special improvement district shall be the “County of Maui Kahana Bay special improvement district no. 1” (“district”). It shall commonly be referred to as the “Kahana Bay special improvement district”.

3.71.030 Term of district. The initial term of the district is for five years, which shall automatically renew annually unless an ordinance terminating the district is adopted, in which case operations of the district cease, except that the term of the district shall not expire until all debt service on bonds and incidental expenses and supplemental services expenses are fully paid or irrevocable provision for such payment has been made.

3.71.040 List of parcels. The list of parcels by tax map key number to be assessed within the district are attached hereto as “exhibit 1”, and incorporated herein. Exhibit “1” may be updated

from time to time to reflect the tax map key numbers assigned to parcels of land within the district by the department of finance, real property tax division.

3.71.050 Boundaries of district. The boundaries of the district are shown on the map attached hereto as “exhibit 2”, and incorporated herein. The district shall include the area generally bounded by Pohaku Park, tax map key number (2)4-3-009:099, tax map key number (2)4-3-009:059, tax map key number (2)4-3-009:060, tax map key number (2)4-3-009:061, tax map key number (2)4-3-009:076, tax map key number (2)4-3-009:077, tax map key number (2)4-3-009:078, tax map key number (2)4-3-009:079, Honoapiilani Highway between tax map key number (2)4-3-009:079 and tax map key number (2)4-3-010:011, tax map key number (2)4-3-010:011, Lower Honoapiilani Highway between tax map key number (2)4-3-010:013 and tax map key number (2)4-3-005:034, tax map key number (2)4-3-005:034, tax map key number (2)4-3-005:082, tax map key number (2)4-3-005:077, tax map key number (2)4-3-005:078, tax map key number (2)4-3-005:079, tax map key number (2)4-3-005:080, tax map key number (2)4-3-005:030, Lower Honoapiilani Highway between tax map key number (2)4-3-005:015 and tax map key number (2)4-3-005:888, tax map key number (2)4-3-005:888, and the shoreline between tax map key number (2)4-3-005:888 and Pohaku Park. In addition, coastal waters and submerged lands extending one hundred and fifty feet seaward of the shoreline between tax map key number (2)4-3-005:888 and Pohaku Park are part of the district.

3.71.060 Mission statement. The mission statement of the Kahana Bay special improvement district is as follows:

The Kahana Bay special improvement district is dedicated to enhancing the quality of life in Kahana Bay by ensuring the coordinated management and long-term sustainability for Kahana Bay. The Kahana Bay special improvement district shall work in partnership with government and the private sector to develop and implement programs that promote the overall vitality of Kahana Bay by strengthening their roles on behalf of all residents of the County of Maui.

3.71.070 District association and district board. A. The district association established for the Kahana Bay special improvement district (“district association”) shall be incorporated under chapter 414D, Hawaii Revised Statutes. The district association shall be organized to select the board of directors of the district association (“district board”), which will execute the

responsibilities and activities prescribed in this chapter on behalf of the district association.

B. The district association may be organized exclusively for charitable and educational purposes as specified in section 501(c)(3) of the Internal Revenue Code of 1954, as amended.

C. The district association shall have two classes of voting membership and one class of non-voting membership. The voting classes shall be composed of:

1. Fee simple owners and ground lessees of record of real property located within the district.

2. Commercial tenants leasing space within the district who have registered as such commercial tenants with the district board in accordance with the district association's articles or bylaws. The nonvoting class shall include landowners who are exempt from paying assessments, the nonvoting members of the district board, and others with an interest in the mission of the district.

D. District association shall be governed by the district board. The district board shall have a total of nine members, who shall be elected or appointed in accordance with the articles of incorporation of, and in the manner prescribed by the bylaws of, the district association and as follows:

1. The fee simple owners and ground lessees of record of real property located within the district (which shall constitute a majority of the board) shall elect six voting board members, one of which shall be a kuleana lands or single family residential property owner. For the purposes of this section "kuleana lands" means those lands granted to native tenants pursuant to L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges", as originally enacted and as amended.

2. The mayor, or the mayor's designee, shall be a voting member.

3. The councilmember of the council district within which the majority of the Kahana Bay special improvement district area is located, or the councilmember's designated representative, shall be a voting member.

4. The County's director of the department of public works or such director's designated representative, shall be a nonvoting member.

5. The County's director of the department of finance, or such director's designated representative, shall be a nonvoting member.

6. The County’s director of parks and recreation, or such director’s designated representative, shall be a nonvoting member.

3.71.080 Supplemental services and improvement area.

The following supplemental services are intended to be provided and financed by the district:

A. Development of a Kahana Bay management plan to direct the coordinated management of Kahana Bay among various public and private stakeholders toward the long-term sustainability of Kahana Bay.

B. Implementation of the Kahana Bay management plan, including coordination of contributions of private funding to specific Kahana Bay improvement projects, such as construction of shoreline improvement, restoration, and protection projects.

C. The designs, plans, and specifications for all Kahana Bay improvement projects shall be approved by the appropriate government agencies in accordance with all applicable laws.

3.71.090 Incidental expenses. The incidental expenses of the district that shall be paid with special assessments and other revenues of the district include management and administration expenses, other operating support expenses, and expenses incurred in the establishment and management of the district.

3.71.100 Budget. A. The Kahana Bay special improvement district’s fiscal year shall be from July 1 of each year through June 30 of the following year (“fiscal year”). The first fiscal year shall be from July 1, 2018 through June 30, 2019. A proposed budget for each fiscal year (“budget”) shall set forth the total amount proposed to be expended for the supplemental services and incidental expenses for such Fiscal Year.

B. The proposed budget for the first fiscal year is as follows. The board shall, as soon as reasonably practicable after the commencement of the term of the district, adopt the actual budget for the first fiscal year, which shall not exceed the proposed budget set forth below.

REVENUES (Assessments):

Private landowners	\$500,000
Total revenues	\$500,000

EXPENSES:

Supplement services

Kahana Bay management plan development	\$50,000
Kahana Bay restoration, improvement and protection contribution	\$375,000

Incidental expenses

Kahana Bay special improvement District setup	\$45,000
County administrative expenses	\$30,000

Total expenses **\$500,000**

C. The board shall, at least sixty days prior to the beginning of each subsequent fiscal year, adopt a budget for the fiscal year. Each budget shall:

1. Reasonably itemize the purposes for which monies are proposed to be expended by the district association.

2. Specify the amount, if any, proposed to be expended by the district association for debt service, if any.

3. Set forth the total amount proposed to be expended.

D. The total annual expenditures in any fiscal year's budget shall be no greater than the aggregate amount of all monies that the district association proposes to collect for that fiscal year from all funding sources permitted under this chapter and any surplus from the previous fiscal year.

E. The district association shall make no expenditure other than in accordance with and pursuant to:

1. A budget which has been approved by the board.

2. The provisions of law, if any, providing for the satisfaction of outstanding obligations of the district association.

F. The board may revise the line items within any budget; provided, however, that debt service obligations for the subject fiscal year shall be satisfied. If, in any fiscal year, the revenues and surplus of the district are not equal to or greater than, in the aggregate, the amount required to cover the expenditures for that fiscal year, the board may choose not to implement any or all the non-debt service expenditures set forth in the budget.

3.71.110 Sources of funding. A. The sources of funding for all supplemental services, improvements, and incidental expenses shall be set forth in this section.

B. Assessments.

1. Except when funds are otherwise available and except to the extent exempted by law, a special assessment ("assessments") sufficient to pay for the costs of the supplemental services and incidental expenses will be annually levied against each parcel of land in the district.

2. The assessment for each parcel of land in the district for the first fiscal year shall be based on a rate of \$1 for every \$1,000 of "assessed value" of each such parcel of land, as indicated on the County's real property tax assessment list prepared for the tax year corresponding with the applicable fiscal year. "Assessed value" means the gross value of a parcel of land assessed by the department of finance, including the assessed value of any improvements on that parcel of land.

3. The assessments for subsequent fiscal years shall be made in accordance with section 3.70.180 of this title.

4. The following parcels of land shall not be assessed:

a. Parcels of land owned by the United States or the State of Hawaii; provided, however, that property and leases of government property subject to real property taxation under sections 3.48.530, 3.48.535, and 3.48.540 of this title shall be assessed.

b. Parcels of land that are exempt from the payment of real property taxes under section 3.48.495(B)(3) of this title because of use for church purposes, but only so long as such parcels are exempt from the payment of real property taxes.

c. Parcels of land that are exempt from the payment of real property taxes set forth in Chapter 239, Hawaii Revised Statutes, but only so long as such parcels are exempt from the payment of real property taxes.

5. Parcels of land owned by the County shall be assessed. The assessment on County land for each fiscal year shall be determined by the department of finance.

6. Parcels of land that are exempt from the payment of real property taxes but that are not exempt from the levy of special assessments shall be assessed as if such parcels were not exempt from the payment of real property taxes, and the department of finance shall determine the assessed value of such parcels for such purpose.

7. The County, through its department of finance, shall notify landowners of the assessment in accordance with section 3.70.210 of this title. After the first fiscal year's notice

of assessment, notices of assessment shall be given annually as of a date to be set by the director of finance.

8. The method of apportionment means that assessment costs shall be calculated and apportioned equitably among assessable properties based on proportionate benefits to the property received from the improvement and may include:

- a. Square footage.
- b. Front or abutting footage.
- c. Increased value.
- d. Number of dwelling units.
- e. Distance from the improvement.
- f. Traffic generation or other impact generation factors.
- g. Any combination of the above.

The apportionment formula shall be determined to best fit the conditions of the special improvement district and may require various methods of apportionment be used from time to time.

C. Donations. The district board, on behalf of the district association, may accept grants and donations from private and public entities and individuals.

D. The district association may obtain revenues from any other sources of funding in accordance with law.

E. Bonds are not planned at this time to finance supplemental improvements in the district.

3.71.120 County services. As its contribution to the success of and in support of the district association's mission statement, the County shall, on behalf of and for the district association:

A. Provide the initial set-up for the assessments, which expense shall be paid for by the association up to \$30,000.

B. Annually process the assessments.

C. Levy and collect the assessments and disburse the assessments to the district association.

D. Enforce and foreclose on the lien of the assessments in accordance with section 3.70.200(c) of this title.


3.71.130 Indemnification and insurance. A. The district association shall indemnify, defend, and hold harmless the County and its officers and employees against any claim arising out of an act or omission of the district association or its board, directors, officers, employees, contractors, or agents in implementing this ordinance or otherwise performing the duties of the district.

B. The district association shall obtain and maintain in force insurance against liability arising out of an act or omission of the district association or its board, directors, officers, or employees in implementing this ordinance or otherwise performing the duties of the district and shall name the County as an additional insured. The department of the corporation counsel shall determine the appropriate level of insurance coverage sufficient to protect the County. This subsection shall not be construed as preventing the district association from obtaining and maintaining in force other classes or types of insurance.”

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JEFF UEOKA
Department of the Corporation Counsel
County of Maui
2018-0254
2018-03-16 Proposed Ordinance

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Pacific Ocean

Lakes/Rivers from US Census Dept, may not match parcels exactly



Kāhāna Beach			
Parcel: 430100010000 Acres: 1.02			
Name	KAHANA BEACH	Land Value	\$4,603,400.00
Site	21 LOWER HONOAPIILANI RD UNIT NO C4	Building Value	\$0.00
Sale	\$\$2,500,000 on 04-2000 Vacant= Qual=	Misc Value	\$0.00
Mail	CONDO MASTER	Just Value	\$0.00
	00000	Assessed Value	\$4,603,400.00
		Exempt Value	\$0.00
		Taxable value	\$4,603,400.00



The Maui County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER MAUI COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

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EXHIBIT "2"